

DEPARTMENTS OF LABOR, HEALTH AND HUMAN
SERVICES, EDUCATION, AND RELATED AGENCIES
APPROPRIATIONS FOR 2011

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

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

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Part 7

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**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, EDUCATION, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
2011**

THURSDAY, MARCH 4, 2010.

COMBATING HEALTH CARE FRAUD AND ABUSE

WITNESSES

**WILLIAM CORR, DEPUTY SECRETARY, DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

**GARY GRINDLER, ACTING DEPUTY ATTORNEY GENERAL, DEPART-
MENT OF JUSTICE**

**DAN LEVINSON, INSPECTOR GENERAL, DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

**OMAR PEREZ, SPECIAL AGENT, OFFICE OF INSPECTOR GENERAL, DE-
PARTMENT OF HEALTH AND HUMAN SERVICES**

OPENING STATEMENT BY CHAIRMAN OBEY

Mr. OBEY. Well, good morning or good afternoon or whatever it is. Let me thank our four witnesses for appearing here today, and let me simply make a few short remarks before I turn it over to them. We are going to have a couple of votes in about an hour to hour and a half, so you can bet that they will be timed to provide maximum ability to screw up this hearing. But nonetheless, we will try to have some sense of order before that creates chaos. This committee has a very special responsibility and a special meetings. And it is our job to, among others, to try to help meet the needs of people who qualify for programs covered by our appropriation bill, and those programs are desperately needed by millions of Americans.

But in doing that, what else we also have a concurrent obligation to try to see to it that taxpayer money is used effectively not wasted on fraud or abuse or anything else. There isn't any specific line item in the budget for waste, fraud and abuse, so ugliness is in the eye of the beholder, I guess. But nonetheless, we have an obligation to try to limit it as much possible.

That is why this committee increased funding to nearly \$1.1 billion for program integrity activities designed to reduce improper payments, fraud and abuse. That is nearly double the previous year's amount. The potential savings to the taxpayer, we are told, many times larger than the investments. A large part of that appropriation went to the Social Security Administration who worked on a backlog of continuing disability reviews to determine whether benefits are being properly paid. It is expected to provide a \$6,000,000,000 return to the taxpayers over the next 10 years.

Some went to the Labor Department to conduct more eligibility assessments under the unemployment insurance program.

The other major use of the appropriation is in preventing, detecting and prosecuting fraud and abuse in Medicare, Medicaid and other health care programs, which is the many focus of our hearing today.

The program integrity fund is in last year's Labor-HHS bill included \$311,000,000 specifically for that purpose. The appropriations were provided to the Centers for Medicare and Medicaid Services to review and audit claims, looking for patterns that suggest improper payment or fraud and to expand program integrity efforts in areas like Medicare Advantage and prescription drug plans, the HHS Inspector General to conduct investigations of schemes to defraud Medicare and Medicaid and the Department of Justice for investigations by the FBI for criminal prosecution of wrongdoers and for civil litigation that recovers funds for taxpayers and the Medicare trust fund. Among other uses, \$41,000,000 of those funds was used for joint HHS and Justice Department strike teams that are now operating in seven cities.

We are holding this hearing to ask the agencies involved how they are using the amounts provided in the fiscal 2010 bill to combat health care fraud and abuse. What specific activities are being undertaken? What is being done that could not have been done without this increased investment, what savings to the taxpayers and recoveries to the Medicare trust fund can be expected as a result? Do the witnesses expect the savings to exceed the cost of the effort by any appreciable amount?

I understand the administration is asking for a \$250,000,000 increase in health care program integrity funding for 2011. That may very well be justifiable, but frankly, before we consider the administration's request for next year, this committee wants to have a better understanding of exactly how previously provided funds are being used and have been used and what benefits have accrued to the taxpayer by the prior appropriation of that money.

I should also note that health care fraud and abuse covers a wide range of misdeeds. Wrongdoers come in all shapes and sizes from individuals operating out of a store front somewhere to large health institutions and drug companies. We need to be going after fraudulent schemes of all types and crooks of all sizes, big and small. I would hope that the primary focus is on the whales rather than the minnows. But they are all stealing from taxpayers and from patients.

Let me say a few words about our panel of witnesses. Last year, the Obama administration established the Health Care Fraud and Prevention Task Force or HEAT, which brings together high level lenders from the department of HHS and the Department of Justice to share information and coordinate strategy. Our first two witnesses are the cochairs of that task force, Bill Corr, the Deputy Secretary of HHS and Gary Grindler, the Acting Deputy Attorney General. Both of their departments receive substantial funds from the appropriation we are discussing today.

In addition, we have Dan Levinson, the HHS Inspector General whose investigators and auditors are on the front lines of the war against health care fraud.

And finally for review from the field, we have one of those investigators. He is Omar Perez, a special agent from the HHS IG's Office and one of the leaders of the Miami Health Care Fraud Strike Force.

The administration's funding requests for next year would increase these by 13 cities to operate in 20 cities.

We appreciate all four of you appearing here today. Before we hear from you, let me first turn to the committee's ranking member for today, Mr. Rehberg. I expected to turn to a good looking fellow by the name of Todd Tiahrt, but I have been grossly disappointed.

For the record, I am only kidding.

Mr. REHBERG. That is probably because I took a shot at a cockroach on the way. I am sorry I did that.

Mr. Chairman, it is always a pleasure to be in your company and back with you for this year's hearing.

I am particularly interested in this topic, and I presume all of my colleagues are as interested as I am in rooting out the waste, fraud and abuse in the entitlement programs run by CMS. As we all know, the Federal Government is hemorrhaging money. Last year we tallied up by far the highest deficit in the history of the country. While we ran that deficit, we heaped another trillion dollar plus of debt on our children and grandchildren.

While Republicans and Democrats can disagree on the level of Federal spending that has been going on recently, it is my hope that we can all agree that to the extent we spend money, it would be spent on the purposes for which it was intended. We must hold agencies accountable for improper payments, and we must identify, pursue and prosecute those who would defraud the American taxpayer.

As I was preparing for this hearing, I came across a series of alarming statistics, many of which I am sure we will hear from our witnesses. According to the OMB report, Medicare improper payments totaled an estimate of \$10,800,000,000 in 2007. On November 16, 2009, The Washington Post reported more than \$47,000,000,000 in improper payments were made.

I understand that there has been a change in how these improper payments are categorized, but that still seems like a pretty substantial increase, regardless of whether or not the methodology has changed. I am glad to see that the administration is taking this problem seriously. It would be my hope that savings that are recovered are being used to shore up the Medicare trust funds and not immediately spent on something else. In any case, I am interested to hear from the witnesses.

Thank you, Mr. Chairman. Again, it is a pleasure to be in your company.

Mr. OBEY. Thank you. Why don't we begin with Mr. Corr and let me ask you to summarize your statement and, we will get to the questions.

OPENING STATEMENT BY MR. CORR

Mr. CORR. Mr. Chairman, Mr. Rehberg, thank you very much for the opportunity to appear today. Mr. Chairman I provided a rather lengthy statement. I will summarize. I realize it was quite long but we have a lot we wanted to tell you. As you both noted very clearly,

the health care fraud is a national problem. It is a Federal and State as well as private insurance program problem. Fraud is on the rise and the criminals who perpetrate it have become more organized and more sophisticated. We are responding with every tool at our disposal, and we are asking for new tools where our authorities are insufficient, and additional funds where current resources are not enough to get the job done.

In the last year, we have launched major new operations against criminal and civil health care fraud. We are employing new technologies to identify fraud and prevent it where possible, including the construction of sophisticated new computer databases.

At the Centers for Medicare and Medicaid Services, we are consolidating program integrity functions to make them more efficient, and for the first time have appointed a deputy administrator whose sole focus is the prevention of fraud and other improper payments. We are shifting program operations to the greatest areas of waste, fraud and abuse and we are coordinating anti fraud programs across the Federal and State governments and seeking partnerships throughout the private sector. We are doing more than ever before, but we are just getting started.

The President signaled health care fraud is a priority of his administration with his fiscal year 2009 budget last May when he established a joint task force between HHS and the Department of Justice to strike against fraud hot spots in targeted cities across the country. Our joint operation, as you noted, known as Project HEAT is working well and we seek your support to expand it.

This subcommittee was instrumental in securing an additional \$311,000,000 in discretionary funds to fight waste, fraud and abuse in the current fiscal year. We immediately poured that money into our program integrity operations and have seen immediate returns on the investment. The discretionary dollars funded a new approach to health care fraud involving innovative uses of claims data.

First, working with law enforcement, we used new methods of analyzing the data to identify spikes in claims and geographic regions and among types of services. In some cases, we see spikes 1,000 percent higher than the national average. Then we have targeted regions and specific types of claims using analytic tools and concentrated law enforcement efforts involving the Department of Justice, the HHS office of Inspector General and CMS experts as well as State and local law enforcement agencies.

We now have evidence that this approach works. Deputy Attorney General Grindler and Inspector General Levinson will tell you about the criminals we have put in jail, and I can tell you how your investments in program integrity have saved dollars on the front end.

We use the funds to crack down on durable medical equipment fraud, one of our largest problems. For example, by enforcing new standards of participation in Medicare, conducting onsite visits and investigating the fraud itself, since October 1, 2009, 6,000 suppliers have dropped out of the program and we revoked enrollment on another 10,000 suppliers. That is 16,000 less potential abusers. With the new discretionary funds, we expanded site visits to high risk DME suppliers in seven States. The result, 265 supplier numbers

pulled, two payment suspensions, and \$5,400,000 in claims denied in the last 5 months.

We also used discretionary funds to focus on home health care fraud in high risk areas like Florida and Texas. In just 3 months in south Florida, we conducted inspections of 300 beneficiaries and discovered 200 of them did not meet the definition of a homebound patient. The added scrutiny saved \$2,200,000 in the Miami area alone.

We already knew targeting fraud works. Within 1 year after first establishing the Miami strike force, DME claims dropped by \$1,600,000,000.

Our contractors focusing on part C and part D of the Medicare program have reviewed thousands of cases and referred hundreds of fraud cases to Federal and State law enforcement agencies. If we are achieving major savings in one metropolitan area, we know additional investments will save or recover substantial sums. That is why the Obama administration is requesting a record \$1,700,000,000 in fiscal year 2011 for Project HEAT and other initiatives to fight waste, fraud and abuse.

The President's latest health insurance reform proposal includes aggressive new program integrity authorities. These proposals range from imposing tougher disclosure requirements to identifying high risk providers who have defrauded the taxpayers. Details of these proposals are in my written testimony and submitted for the record.

As the President indicated yesterday, he is committed to passage of health reform in the next few weeks. Without it, insurance premiums will continue to increase and the deficit will rise. The President is committed to health reform that addresses these problems and fixes our broken health insurance system.

Only 5 weeks ago, HHS Secretary Sebelius and the Attorney General convened a national summit on health care fraud. The summit inspired a new framework of strategic principles to improve our program integrity operations. Strategic principle one, we will tailor additional interventions toward the areas where fraud and abuse are greatest. We will redirect resources to significant areas of fraud, waste and abuse and our experience in Florida shows that this strategy works. Second principle, continuous improvement of program integrity operations for Medicare and Medicaid. We are already consolidating program integrity policies at CMS and revamping specific contractor functions relating to the control of improper payments. Our contractors process 3,600,000,000 claims each year.

We need to help them do a better job of weeding out fraud and improper claims. The third strategic principle is to strengthen prevention of improper payments at the front end of our claims payment system. Due to prompt pay requirements in statute for Medicare and Medicaid, currently our systems are primarily focused on processing claims. Oftentimes, improper payments are not discovered until after expenditures have been made, which are required within 30 days for clean claims in the Medicare program.

We are constantly in a pay and chase mode. We are steadily working to shift our emphasis to prevention. Part of this involves redesigning our computer processing networks, but it also involves

stricter provider enrollment criteria and the conduct of onsite visits of providers.

Fourth strategic principle is to establish new partnerships with the private sector, to share information and methods to detect and prevention fraud. The public and private sectors have many common problems, and we should find common solutions.

As we move forward, we must keep in mind that these programs are designed to provide health care to needy, disabled and aging Americans. We also need to remember that the vast majority of health care providers are honest people who do the right thing and are able to help millions of people every day. So we must strive to strike the right balance between providing health care and preventing improper payments.

The fiscal year 2011 budget the President includes \$1,700,000,000 for the HCFAC or the Health Care Fraud and Abuse Control program, including mandatory and discretionary resources. Of this total, the discretionary request is \$561,000,000, which is a \$250,000,000 increase over fiscal year 2010. The request is part of a multi-year strategy to implement our strategic principles and goals, and the budget assumes this funding level will grow each year for the next 10 years and save the American taxpayers \$25,000,000,000.

In summary, Mr. Chairman, across the Nation, health care fraud and improper payments have undermined the integrity of our public and private health insurance programs. As a result, taxpayer dollars have been stolen, fraud has driven up health care costs, and in a few cases patients have been endangered. Reversing the problem will require a long-term, sustainable approach. We believe we have the right approach to succeed in overturning fraud and abuse. We want to work with you as we move forward, and we ask for your guidance and support. Thank you, Mr. Chairman.

Mr. OBEY. Thank you very much.

Written Statement by William Corr, JD follows:



**STATEMENT OF
WILLIAM CORR, J.D.
DEPUTY SECRETARY**

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ON

HEALTH CARE FRAUD

BEFORE THE

**SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES,
EDUCATION, AND RELATED AGENCIES**

COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 4, 2010

Chairman Obey, Ranking Member Tiahrt, and Members of the Subcommittee, thank you for the invitation to discuss the Administration's commitment to combat health care fraud.

Health care fraud is a national problem, prevalent in federal and state as well as private insurance programs. From our work in this area, it appears that fraud is on the rise and the criminals who perpetrate it have become more organized and sophisticated. Unfortunately, no one knows exactly how much health care fraud costs this country, but we estimate it to be in the billions of dollars each year. We are responding by coordinating anti-fraud efforts across the government, and we will establish new partnerships with the private sector as part of our approach to the problem.

Last May, the President established a joint task force between the Department of Health and Human Services (HHS) and the Department of Justice (DOJ) to strike against fraud hot spots in targeted cities across the country and develop new policies and approaches to combat health care fraud. Our joint operation, known as the Health Care Fraud Prevention and Enforcement Action Team or Project HEAT, has been enormously successful so far, and you will hear today of our plans to expand strike forces into additional cities.

Fraud can result in improper payments. But fraud is not the only cause of wasteful spending in federal health care programs. Payments for unnecessary medical services, for claims with insufficient documentation, for ineligible patients and to ineligible providers, are examples of improper expenditures that squander taxpayer dollars and drive up health care costs.

The Obama administration is focused on reducing all improper payments in federal programs, whether the result of criminal intent, greed or inefficiencies. So the Fiscal Year (FY) 2011 Budget Request to the Congress covers all types of fraud and abuse, as well as other categories of improper payments. With this funding request, we will be adding resources to law enforcement and program oversight, as well as to program integrity operations in the Centers for Medicare & Medicaid Services (CMS).

To demonstrate our commitment, the FY 2011 Budget includes a record \$1.7 billion to fight waste, fraud, and other improper payments. This includes \$561 million in discretionary funding, a \$250 million increase over FY 2010. Projecting this discretionary investment over 10 years, together with new program authorities and administrative actions proposed in the budget, will save nearly \$25 billion in Medicare and Medicaid expenditures over 10 years.

Further, the President's health insurance reform proposal released on February 22nd envisions aggressive, new program integrity authorities. The President's proposal builds on the unprecedented array of new authorities to fight waste, fraud, and abuse outlined in both the House and Senate health insurance reform bills by incorporating a number of additional proposals. These proposals range from imposing tougher disclosure requirements to identifying high-risk providers who have defrauded the taxpayers.

National Summit on Health Care Fraud

Since last May, when the joint HHS-DOJ task force was established, we have dramatically increased our activity to improve our law enforcement and program integrity efforts. These efforts led to the National Summit on Health Care Fraud, held January 28, 2010. The Summit brought together federal and state officials, law enforcement experts, private insurers, computer technology professionals, health care providers and beneficiaries for an unprecedented meeting to identify the scope of fraud, identify weaknesses in current systems and propose new solutions.

The fraud Summit helped publicize our approach to enhance federal inter-agency cooperation to target fraud and identify methods to bolster these efforts, including better and faster ways of analyzing claims data to detect fraud, prosecute perpetrators, and utilize our civil and administrative remedies to recover and return money to the Medicare Trust Fund, Medicaid programs, and other victims. The Summit has also inspired a new framework of strategic principles to improve CMS program integrity operations.

Strategic Principles for Program Integrity Operations

The first strategic principle is to tailor additional interventions towards the areas where fraud and abuse are greatest. This would involve providing CMS the administrative and statutory authority to redirect resources to significant areas of fraud, waste, and abuse. For example, we have already identified Durable Medical Equipment (DME) and Home Health Care as areas highly vulnerable to waste, fraud, and abuse. As a result, CMS has instituted stricter DME supplier and home health provider enrollment requirements in an effort to reduce the number of fraudulent providers participating in these programs. We need to make the Medicare and Medicaid programs flexible enough to shift resources to scrutinize claims and providers in high risk areas. Current authorities limit our ability to scrutinize claims. As a start, with the new funding request, we will redirect contracting resources to areas of greatest vulnerability.

The second strategic principle is to improve program integrity operations for Medicare and Medicaid. It calls for consolidation and coordination of program integrity policies at CMS and an overhaul of specific contractor functions relating to program integrity efforts for Medicare and Medicaid. They need to work in concert. These programs, combined, process 3.6 billion payments a year. Contractors who work under statutory deadlines requiring the prompt payment of claims process these claims and perform post-payment reviews. We need to coordinate these Medicare and Medicaid Program integrity policies and utilize state of the art technology at both the State and Federal levels to detect fraud and improper payments before the claims are paid. We need to take on the tough job of overhauling the claims processing system, and with the commitment of the President and the help of the Congress, we intend to do just that.

The third principle is to strengthen prevention of improper payments at the front end of our claims payment systems. Due to prompt pay requirements in Medicare, currently our systems are primarily focused on processing claims. Oftentimes, improper payments are

not discovered until after expenditures have been made. We are constantly in a pay and chase mode. We are steadily working to shift our emphasis to prevention. Part of this involves redesigning computer processing networks, but it also involves stricter provider enrollment criteria to conduct on-site visits of providers.

The fourth strategic principle is to establish new partnerships with the private sector to share information and methods to detect and prevent fraud. The public and private sectors have common problems, and we should seek common solutions.

Implementing these strategic principles will be an incremental process. This is a ship that cannot be turned around all at once and we must be mindful of the potential impact of these changes on providers and beneficiaries. We must keep in mind that these programs are designed to provide health care to needy, disabled, and aging Americans. We also need to remember that the vast majority of health care providers are honest people who do the right thing and are able to help millions of people everyday. So we strive to strike the right balance between providing health care and preventing improper payments.

Immediate Steps and Accomplishments

In the short term, thanks to this Committee's support of the President's budget request to combat health care fraud in FY 2009 and FY 2010, we have the resources to take some immediate steps such as strengthening CMS' provider enrollment efforts and initiating several projects to focus on areas of high programmatic vulnerability such as durable medical equipment, home health, and infusion therapy by doing more prepayment medical review and in person interviews to ensure that the services were actually provided. The Administration has taken steps to significantly improve oversight of the Medicare Part C and Part D programs. We have invested in critical data infrastructure, enhanced field operations at CMS, the Office of Inspector General (OIG), and DOJ, and initiated new efforts to reduce improper payments. These funds have made a difference and we expect to see even more results in the coming months.

Our FY 2011 Budget request and the continued commitment of the Administration and the Department will build on these successes. Our request would invest the new appropriations on the following priorities.

Health Care Fraud Prevention and Enforcement Action Team (HEAT)

As discussed above, Project HEAT is one of our key initiatives. The Project's goals include: exposing systemic vulnerabilities that have been exploited by fraudsters; identifying geographic locations most vulnerable to Medicare and Medicaid fraud; using information gleaned from data and law enforcement experience to enact fraud prevention programs; providing additional resources to our civil enforcement efforts under the False Claims Act and other legal tools to increase the money that is recovered on behalf of government health care programs; improving data sharing, including access to real-time data , to detect patterns of fraud; and strengthening partnerships between the public and private health care sectors and among Federal agencies.

Strike Force Teams

A central feature of the HEAT initiative is the use of Strike Force teams. Strike Forces are multi-agency units of Federal and State investigators, prosecutors, and analysts designed to identify, investigate, and prosecute Medicare fraud. Strike Forces combine sophisticated data analysis techniques and community policing approaches to identify fraud quickly and target enforcement resources effectively. Strike Force teams include DOJ prosecutors, HHS OIG and the Federal Bureau of Investigation (FBI) investigators, and often local law enforcement, and these teams are supported by a CMS data analysis team and CMS program experts.

Since May 2009, this Administration has expanded Strike Force cities from two to seven locations. In addition to Miami and Los Angeles, Strike Force teams were launched in Houston and Detroit in May 2009 and then Brooklyn, Baton Rouge, and Tampa in December 2009.

In a short time, Strike Forces have proven their value. Since the first Strike Force team was launched in Miami in March 2007, Strike Force prosecutions have resulted in more than 270 convictions, indictments of more than 500 defendants, and more than \$240 million in court-ordered restitutions, fines, and penalties.

The Strike Force model also has accelerated the time frame for indicting criminals compared to the traditional criminal health care fraud case. Through a more efficient and coordinated process between our two Departments, the average length of time to secure a conviction has been nearly cut in half.

More Effective Partnership Between DOJ and HHS

The unprecedented and new partnership that HEAT has created between HHS and DOJ is breaking down bureaucratic silos to create a more efficient and coordinated effort against health care fraud.

The most critical area where this enriched partnership is already paying dividends is improved data sharing. DOJ, HHS OIG, and CMS are developing new tools and techniques to identify fraudulent activity by analyzing suspicious patterns in emerging claims data. In addition, we are improving the historical collection of Medicare claims data. Where it used to be scattered among several databases belonging to different contractors, we are combining all Medicare paid claims into a single, searchable database.

While we have come a long way in sharing this data with our partners and getting this information into the hands of law enforcement quickly, we need to do even better. We are working with our law enforcement partners to provide real-time data access, which will help stop fraudulent schemes and practices before they take root. With access to real time data and the comprehensive single searchable database, investigators will be able to use cutting edge technology and data mining techniques to identify potential fraud with unprecedented speed and efficiency.

This accomplishment means that we no longer have to wait for tips to come in. Instead, we are using tools that can show when claims for one kind of treatment may be many times higher in one county as compared to the county next door, with no reasonable explanation. For example, we were recently able to see that Miami Dade County, home to two percent of Medicare home health patients, had ninety percent of all home health patients receiving more than \$100,000 in care each year. By comparison, the average annual cost per Medicare beneficiary nationally is \$5,400. While there are legitimate situations where a home health agency should receive an increased payment for a patient with unusually high costs, what was happening in Miami Dade County appeared to be an abuse of Medicare's payment rules. To respond to this vulnerability, CMS instituted a cap on home health payments for high cost patients (called outliers) effective January 1, 2010. Through prompt actions such as this, CMS will reduce inappropriate home health payments.

Reducing Improper Payments

As I have said, reducing fraud is part of the Administration's overall goal of stopping all improper payments. Toward this end, on November 20, 2009, the President issued an Executive Order to reduce improper payments and eliminate waste in Federal programs. This Executive Order not only applied to Medicare, Medicaid, and the Children's Health Insurance Program (CHIP), but to programs across the Federal government. While improper payment rates are not necessarily an indicator of fraud in Medicare or any other Federal program, they are an indicator of errors that need to be fixed. Improper payments include overpayments, underpayments, payments without proper documentation, and payments to ineligible participants.

HHS is working diligently to implement the requirements of the Executive Order. We have recently imposed a stricter methodology for calculating the Medicare fee-for-service (FFS) error rate. While this new, stricter methodology resulted in an increase in the FY 2009 error rate compared to previous error rates, we believe this more honest assessment of payment errors in Medicare FFS provides CMS with more complete information that can be used to focus corrective actions. Pursuant to the Executive Order, we will continue to refine our methodology to reflect the most relevant and accurate Medicare FFS error rates.

To reduce improper payments in Medicare FFS, we are taking action to ensure that providers are submitting all required documents to support a claim, that providers' signatures are legible, and that beneficiary claim histories are no longer being used to fill in missing treatment documentation. CMS will also be spending more time working with providers through increased training, education, and outreach to eliminate errors.

The development and implementation of Electronic Health Records (EHR) should also have a positive impact on reducing the error rate for Medicare FFS. After EHRs are fully implemented there will be fewer errors for illegible or missing signatures. Further, documentation errors are the most frequent reason for claim denials. The expectation is

that the EHR will contain all the documentation to support the claim. In addition, EHRs should be easier to retrieve and submit when requested because the process will be electronic, as compared to manual photocopying which can lead to omissions, causing errors because of missing documentation.

The Health Care Fraud and Abuse Control (HCFAC) Program

The FY 2011 President's Budget includes \$1.7 billion for the HCFAC program, including mandatory and discretionary sources. Of this total, the discretionary HCFAC request is \$561 million, a \$250 million increase over FY 2010. This proposal is the largest one-year increase in HCFAC since its inception in 1997 and reflects the strong commitment the Administration is making to program integrity. Further, the \$561 million request is part of a multi-year strategy to implement our strategic principles and goals, and the Budget assumes this funding level will grow over each of the next 10 years.

Not only is this increase necessary to succeed in the fight against health care fraud, but we are confident this investment will more than pay for itself. Since its inception and through FY 2008, HCFAC has resulted in the return of \$13.1 billion to the Medicare trust funds and CMS. The return-on-investment from various HCFAC activities ranges from 6 to 1 for audit, investigative, and prosecutorial work performed by OIG and DOJ to 14 to 1 for the Medicare Integrity Program's prepayment edits and claims audits. The CMS actuaries conservatively estimate that the discretionary investment included in the Budget will yield about \$10 billion in Medicare and Medicaid program savings over the next 10 years.

The discretionary HCFAC request in our budget is part of a larger, government-wide effort to invest in program integrity activities that reduce improper payments and return funds to the Federal treasury. The Administration proposes to protect dollars requested for HCFAC and other program integrity activities in the budget process through allocation adjustments, a mechanism used by past administrations and Congresses. This budget mechanism ensures that this funding will not supplant other Federal spending on these activities or be diverted to other purposes.

Building on the momentum initiated last May, the entire \$250 million increase in our Budget advances the goals of the HEAT initiative. Specifically, the increase will support:

- 1) Strike Forces: Our request will support 13 new Strike Force cities, bringing the total number of Strike Force cities to 20.
- 2) Increased Prevention and Detection: CMS will make additional investments to its One Program Integrity database, which will facilitate efforts to share data with law enforcement in real-time and continue to break down bureaucratic silos. Further, CMS will hire new analysts to mine data, monitor billing patterns, and identify potential cases of fraud.

3) **Expanded Law Enforcement Strategies:** This investment will expand existing criminal and civil health care fraud investigations and prosecutions, particularly related to emerging fraud schemes in areas such as pharmaceutical services, medical devices, and durable medical equipment. It will allow the use of cutting-edge technology in the analysis of electronic evidence to better target and accelerate enforcement actions. Finally, the increase will expand Medicare and Medicaid audits and OIG's enforcement, investigative, and oversight activities.

4) **New Authorities:** The increase covers the costs of implementing new authorities included in the Budget that eliminate statutory and regulatory impediments to effective health care fraud prevention and enforcement. These proposals are described in greater detail in the next section.

New Program Integrity Authorities

The President's Budget includes seven legislative and administrative proposals that will strengthen efforts to fight Medicare and Medicaid fraud and abuse. This package of proposals will save nearly \$15 billion over 10 years. The legislative proposals in the President's Budget, and additional program integrity proposals, were included in the President's health reform proposal released on February 22.

Legislative Proposals Included in the Budget

Extrapolate Medicare Advantage Plan Sample Error Rate to Entire Plan Payment in Risk Adjustment Audits: Historically, CMS has only recovered overpayments from risk adjustment errors found in the audited sample. This proposal would require that CMS recover risk adjustment overpayments by extrapolating sample error rates to all audited plans through risk adjustment validation (RADV) audits. The plan payment will only be adjusted based on a statistically valid sample of beneficiaries. This proposal saves \$7.6 billion over ten years.

Track Drug Utilizers and Prescribers to Reduce Over-utilization under Medicaid: While some States currently track high utilizers of prescription drugs in the Medicaid program, they are currently not required to do so by law. This proposal will improve Medicaid integrity and beneficiary quality of care by requiring States to monitor high-risk billing activity to identify prescribing and utilization patterns that may indicate fraud, abuse or excessive utilization of certain prescription drugs and remediate any preventable episodes of care. This proposal saves \$4.2 billion over ten years.

Establish a CMS-IRS Data Match to Identify Fraudulent Providers: A recent pilot program showed a correlation between individuals not paying taxes and defrauding the Medicare program. This proposal would authorize CMS to work collaboratively with IRS to determine which individuals and entities have not filed Federal tax returns, without disclosing protected tax information. By requiring IRS to disclose to CMS the entities that have evaded filing taxes and matching the data against provider billing data, this proposal will enable CMS to better detect potentially fraudulent providers in the Medicare program. It will also ensure that only providers who pay their taxes and comply

with the law are able to be Medicare providers. This proposal saves \$1.2 billion over ten years.

Modify Medical Review Limitations: Contractors are currently hindered in their efforts to lower improper payments by statutory limits placed on prepayment medical review. This proposal would lift medical review limitations to allow greater flexibility in identifying fraudulent providers. It will also allow a provider to remain on prepayment review for longer than one year if there is not significant improvement to that provider's error rate. This proposal saves \$73 million over ten years.

Administrative Proposals Included in the Budget

Consolidate Medical Review: This proposal will continue CMS efforts to streamline contracting and build on existing contracting reforms. It will consolidate medical review into specialized Medicare Administrative Contractors (MACs) to improve consistency and efficiency by reducing duplication of effort. This proposal saves \$1.5 billion over 10 years.

Consolidate Medicare Provider Enrollment Activities: Consolidating provider enrollment into a smaller number of specialized MACs will have many benefits: significantly reduced administrative costs, more consistent application of CMS policy, improved program oversight, and, in the end, only the best equipped contractors handling provider enrollment due to increased competition. This saves \$140 million over 10 years.

Expand Medicare Revocations for Abuse of Billing Privileges: This proposal will expand CMS authority to revoke billing privileges for providers who commit certain types of fraud, waste, and abuse. Under this expanded authority, CMS could verify whether providers' claims are valid through the review of beneficiary statements and provider attestations to determine if services or equipment were actually delivered. While this proposal does not produce significant savings, it is expected to lead to more revocations of abusive providers' billing privileges in the Medicare program.

Other Program Integrity Proposals in the President's Health Reform Proposal

The President's health insurance reform proposal, released on February 22, builds on the aggressive program integrity proposals included in the House and Senate health insurance reform bills by adding legislative proposals from the FY 2011 Budget and other Congressional health insurance reform plans. These proposals: establish a comprehensive Medicare and Medicaid sanctions database to allow law enforcement to access information related to past sanctions on providers and suppliers; prevent fraudulent health care providers from discharging overpayment amounts owed the Secretary through bankruptcy; strengthen the Secretary's ability to exclude individuals who knowingly submit false or fraudulent claims from participating in Medicare; and add strong sanctions, including jail time, for individuals who purchase, sell, or distribute Medicare beneficiary identification numbers or billing privileges under Medicare or Medicaid – if done knowingly, intentionally, and with intent to defraud. The proposals will also help States reduce health care errors, enhance patient safety, encourage efficient resolution of disputes, and improve access to liability insurance through tort reform.

Conclusion

As a Nation, we have allowed health care fraud and improper payments to begin to undermine the integrity of our public and private health care insurance programs. As a result, taxpayer dollars have been stolen, fraud has driven up health care costs, and in a few cases, patients have been endangered. Reversing the problem will require a long-term, sustainable approach. We believe we have the right approach to succeed in overturning fraud and abuse. We want to work with you as we move forward, and we ask for your guidance and support.



WILLIAM V. CORR, J.D.
Deputy Secretary
U.S. Department of Health and Human Services

Bill Corr serves as Deputy Secretary of the Department of Health and Human Services. He was nominated by President Obama and confirmed by the Senate on May 6, 2009.

Bill returned to the Department after serving as executive director of the Campaign for Tobacco-Free Kids, a privately funded organization established to focus the nation's attention and action on reducing tobacco use among both kids and adults. Mr. Corr joined the Campaign in March 2000.

From March 1998 until 2000, Mr. Corr served as Chief Counsel and Policy Director for U.S. Senate Minority Leader Tom Daschle. His responsibilities for the Minority Leader included developing and coordinating policy positions for Senate Democrats, as well as with the White House and House Minority Leadership.

Before working for the Senate Minority Leader, Mr. Corr served as the Chief of Staff for the Department of Health and Human Services. In that capacity, he was principle advisor to Secretary Donna E. Shalala on all major policy and management issues and initiatives. He also was the Deputy Assistant Secretary for Health for the Department from 1993 to 1996 and Counselor to the Secretary from January 1996 until he became Chief of Staff.

From 1989 until 1993, Mr. Corr served as Chief Counsel and Staff Director for the Subcommittee on Antitrust, Monopolies and Business Rights of the U.S. Senate Committee on the Judiciary under Chairman Howard M. Metzenbaum. He also assisted Senator Metzenbaum as a member of the Senate Labor and Human Resources Committee. Mr. Corr's major legislative and oversight responsibilities included the Brady Bill, the Nutrition Labeling and Education Act, prescription drug and state insurance regulation, the S&L industry and several Supreme Court nominations.

Mr. Corr also served from 1977 to 1989 as Counsel to the Subcommittee on Health and the Environment of the U.S. House of Representatives Committee on Energy and Commerce under Chairmen Paul Rogers (1977 to 1978) and Henry A. Waxman. In that capacity his primary areas of responsibility included access to health care and food and drug regulation.

Before his career on Capitol Hill, Mr. Corr worked in the Appalachian Mountain area of Tennessee and Kentucky from 1974 to 1977. During that time, he directed four private, nonprofit, community-run primary health care centers and assisted other communities in establishing and operating similar centers.

Mr. Corr holds a B.A. in Economics from the University of Virginia and a J.D. from Vanderbilt University School of Law. He and his wife, Susan Steinmetz, reside in Arlington, Virginia and have two daughters.

December 2009

Mr. OBEY. Mr. Grindler.

Mr. GRINDLER. Thank you, Mr. Chairman, Chairman Obey, Ranking Member Rehberg and other members of the subcommittee. Thank you for inviting me here today to testify about the administration's fiscal year 2011 budget request to support the joint efforts of the Department of Justice and the Department of Health and Human Services to fight and deter health care fraud.

As you know, every year, the Federal Government spends hundreds of billions of dollars to provide health care for some of our Nation's most vulnerable populations, the elderly, the poor and the disabled. While most medical providers and health care companies are doing the right thing in their dealings with Medicare and Medicaid, it is indeed a sad fact that there are unscrupulous individuals who will attempt to game the system for their personal gain. It is for these reasons that the Attorney General and Secretary Sebelius have made the fight against health care one of paramount importance to both Departments.

As referenced by the Chairman in his opening remarks, in May 2009 they announced the creation of HEAT, a senior level joint task force which I oversee along with Deputy Secretary Corr. This task force is designed to marshal the combined resources of both agencies in new ways to combat all facets of the health care fraud problem. The goals of HEAT are clear, to prevent and deter fraud through increased prepayment reviews and audits, to strengthen enforcement efforts through the expansion of the Medicare fraud strike force and expanded capacity for false claims cases, to leverage our partnership and include increasing private sector outreach, improving coordination with State and local antifraud efforts, and expanding education on health care fraud to health care providers, and finally, to identify and eliminate statutory and regulatory impediments to our health care fraud prevention and enforcement efforts.

I believe that our two agencies have a proven track record of success and the HEAT program, as we will discuss in the question session, has been very successful. Through fiscal year 2008, we have returned more than \$15,000,000,000 to the Federal Government with \$13,100,000,000 of that amount being returned to the Medicare trust fund. And the remaining amounts—

Mr. OBEY. Would you say those numbers again.

Mr. GRINDLER. \$15,000,000,000 returned to the Federal Government through fiscal year 2008, with \$13,100,000,000 of that amount being returned to the Medicare trust fund, with the remaining amounts primarily being returned to Federal agencies in the form of restitution and compensatory damages.

Since January of 2009, we have recovered more than \$2,300,000,000 in health care fraud matters brought under the False Claims Act. As important as these recoveries to Medicare and other Federal health programs are, equally important is the significant deterrent effect that our enforcement efforts have had. For example, 12 months after we started and launched our first Medicare fraud strike force operation in the Miami area in 2007, there was an estimated reduction of \$1,750,000,000 in durable medical equipment claims submissions. And this is an example of success that isn't measured in terms of getting dollars back. This is an example

of success where fraud going forward, we believe, was stopped as a result of the strike force efforts. In addition to these strike force activities, our other enforcement efforts run the gamut from a solo provider who bills Medicare for services not rendered to more sophisticated and far reaching schemes.

Just last week the former owner of City of Angels Hospital in Los Angeles was sentenced to more than 3 years in jail and ordered to pay more than \$4,000,000 in restitution for scamming our Medicare system by preying upon homeless people.

In my written testimony I have outlined our fiscal year 2011 budget which includes an increase to the Department of Justice of \$60,000,000 in discretionary HCFAC resources bringing the total fiscal year 2011 discretionary request for DOJ to \$90,000,000. The Department intends to use this funding to increase the number of strike forces from the current seven cities to as many as 20 locations throughout the Nation. In addition to the strike forces, these additional discretionary dollars will be used to focus additional attention on illegal activities, including alleged fraud by pharmaceutical and medical device manufacturers. Of course the largest expenditure of funds by the Department of Justice in the area of health care fraud enforcement funding is on our people. The expertise and commitment of our litigators, prosecutors, strike force team members, and analysts are the reasons the Department of Justice's health care fraud strategies have been so successful and why we expect them to be successful in the future. The return on investment we have achieved with those resources is approximately \$4 per every \$1 spent from the HCFAC account. And this is testament to the hard work and dedication of the career professionals in the Department of Justice. Our ability to effectively investigate and prosecute health care fraud is directly related to our ability to retain personnel year to year.

Mr. Chairman, my written testimony outlines in much greater detail the important work of the Department of Justice and its various components to bring justice to those who would prey on vital government programs. I thank you and the subcommittee for inviting me to testify today and I look forward to your questions.

Written statement by Gery Grindler follows:



Department of Justice

STATEMENT OF
GARY GRINDLER
ACTING DEPUTY ATTORNEY GENERAL

BEFORE THE
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES,
EDUCATION AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

ENTITLED
"COMBATING HEALTH CARE FRAUD"

PRESENTED
MARCH 4, 2010

GARY GRINDLER
ACTING DEPUTY ATTORNEY GENERAL
Before the House Appropriations Subcommittee on Labor, Health and Human Services,
Education, and Related Agencies – March 4, 2010

INTRODUCTION

Chairman Obey, Ranking Member Tiahrt, and Members of the Subcommittee, thank you for inviting me here today to testify about the Administration's Fiscal Year 2011 Budget request to support the joint efforts of the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) to fight and deter health care fraud. Under the leadership of the Attorney General, I supervise the Department of Justice's day-to-day efforts to marshal our resources in combating health care fraud, recovering Medicare funds stolen through fraud and abuse, and coordinating with our partners at HHS.

We have a paramount duty to the taxpayers to ensure that health care dollars are not stolen through fraud. Every year, hundreds of billions of dollars are spent to provide health security for American seniors, children, and the disabled. While most medical or pharmaceutical providers are doing the right thing, when Medicare or Medicaid fraud occurs, it costs the American taxpayer billions of dollars that could be spent on patient care.

It is those wrongdoers who we must stop. We have a duty to our citizens who receive treatment paid for by Medicare, Medicaid, and other government programs to see to it that taxpayer funds are well spent and that beneficiaries are receiving proper medical care. We know that when Medicare and Medicaid fraud occurs, it can corrupt the medical decisions health care providers make with respect to their patients and thereby put the public health at risk. For these reasons, the Department of Justice, through its Civil, Criminal, and Civil Rights Divisions, along with U.S. Attorneys' Offices and the FBI – the entities responsible for enforcing laws against all forms of health care fraud – has redoubled its efforts to protect the public and ensure the integrity of patient care.

Our coordinated law enforcement and litigation efforts have resulted in an impressive return on investment of \$4 per every dollar spent. In fact, we have returned at least \$13.1 billion to the Medicare Trust Fund since funding under Health Care Fraud Abuse and Control Program was established by the HIPAA statute in 1996. Just as important is the significant *deterrent* effect that our enforcement efforts have had. For example, 12 months after we launched a Medicare Fraud Strike Force operation in the Miami area in 2007 – our very first Strike Force operation – there was an estimated reduction of \$1.75 billion in durable medical equipment (DME) claim submissions and a reduction of \$334 million in DME claims paid by Medicare compared to the preceding 12-month period. The Strike Force's success translates into real dollars that can be used to pay for legitimate and desperately needed medical treatment for thousands of Americans.

**FIGHTING HEALTH CARE FRAUD IS A PRIORITY
OF THE DEPARTMENT OF JUSTICE**

At the recent National Summit on Health Care Fraud, experts in both the public and private sectors concluded that a reliable measurement of fraud did not exist, and there was no evidence that fraud in Medicare and Medicaid was greater than that among private insurers. However, we believe health care fraud in this country constitutes billions of dollars in losses to taxpayers and private industry, that it drives up the cost of health care, and requires an urgent response from every level of government and the private sector. The Department of Justice, in coordination with the Department of Health and Human Services, and other federal and state law enforcement agencies, recognizes both the urgency in the need to recover those funds and the need to ensure that such fraud does not reoccur.

Because coordination across agencies is an integral part of preventing and prosecuting health care fraud, Attorney General Holder and Secretary Sebelius together have pledged to fight waste, fraud and abuse in Medicare and Medicaid. To improve that coordination, in May 2009, they announced the creation of the Health Care Fraud Prevention and Enforcement Action Team (HEAT) – a senior-level, joint task force, which I oversee along with my HHS counterpart, Deputy Secretary of HHS William Corr – that is designed to marshal the combined resources of both agencies in new ways to combat all facets of the health care fraud problem. With the creation of the HEAT team, we recommitted to making fighting Medicare and Medicaid fraud a Cabinet-level priority for both DOJ and HHS.

The goals of the HEAT initiative are clear:

- 1) To prevent and detect fraud through increased prepayment reviews and audits; site visits to providers; more effective anti-fraud edits; real-time sharing of claims data; new data mining techniques; and expanded use of suspension and debarment authorities;
- 2) To strengthen enforcement efforts through expansion of the Medicare Fraud Strike Force teams; increased investigative and prosecutorial resources for institutional health care fraud cases; using cutting-edge technology and data analysis to better target and accelerate enforcement actions; expanded capacity for False Claims Act, Food, Drug & Cosmetic Act, and Anti-Kickback cases; and increased enforcement of emerging fraud schemes, such as pharmaceutical, device, home health, and durable medical equipment cases;
- 3) To leverage partnerships through private sector outreach, better coordination with State and local anti-fraud efforts; and provider and beneficiary education on health care fraud; and

- 4) To provide more effective legal authorities by identifying and eliminating statutory and regulatory impediments to our health care fraud prevention and enforcement efforts.

We have had some remarkable successes thus far. The Department of Justice believes that a targeted data-driven criminal enforcement strategy in key geographic locations has a substantial impact on deterring fraud and abuse, protecting patients and the elderly from scams, and ensuring that those who steal taxpayer funds are held accountable. Based on the success of our Medicare Fraud Strike Force model, we expanded Strike Force operations last summer from two to four cities, and in December we added three more cities. Strike Forces are now operating in seven locations: South Florida, Los Angeles, Detroit, Houston, Brooklyn, Baton Rouge and Tampa. These expanded efforts have already produced substantial results, including several takedowns of numerous health care fraud perpetrators which I will discuss in more detail later in my testimony. In total, since the announcement of the HEAT Initiative last May, Strike Force prosecutors have filed over 60 cases charging more than 200 defendants, negotiated more than 50 guilty pleas, and litigated six jury trials obtaining convictions of six defendants. Also, during Fiscal Year 2009, federal prosecutors in districts throughout the country filed criminal charges in 481 health care fraud cases involving charges against 803 defendants and obtained 583 convictions for health care fraud offenses. In addition, they opened 1014 new criminal health care fraud investigations involving 1786 subjects.

The HEAT initiative also has an important civil fraud enforcement component. In FY 2009, False Claims Act health care recoveries exceeded \$1.6 billion, the eighth year that the Department obtained in excess of \$1 billion in civil health care fraud recoveries. During that same time period, the Department opened 886 new civil health care fraud matters and filed complaints in 283 civil health care fraud cases. Last fall, Pfizer Inc. and its subsidiary Pharmacia & Upjohn Company Inc. agreed to pay \$2.3 billion to resolve criminal and civil liability arising from the illegal promotion of certain pharmaceutical products. This is the largest health care fraud settlement in the history of the Department of Justice, the largest criminal fine of any kind imposed in the U.S., and the largest ever civil fraud settlement against a pharmaceutical company.

In addition to our litigation and prosecution efforts, we have enhanced training programs on enforcement measures for prosecutors and investigators, and we have increased compliance training for providers to prevent honest mistakes and help stop potential fraud before it happens. Because health care fraud drives up the cost of health care for all of us, we also are actively engaged in efforts to educate the public about ways they can assist us to detect, prevent and prosecute fraud. HEAT's website – www.hhs.gov/medicare-fraud.gov – is an easy way for beneficiaries to report suspected fraud to the HEAT task force. And on January 28, 2010, in an effort to enhance public-private partnerships, we hosted a National Health Care Fraud Summit that brought together Federal and State policy officials, private sector leaders including insurance companies and providers, law enforcement, beneficiary advocates, and other key stakeholders.

While the HEAT Initiative is new, the collaborative efforts between the DOJ and the HHS are not. In 1997, Congress established the Health Care Fraud and Abuse Control (HCFAC) Program under the joint direction of the Attorney General and HHS's Inspector General, to

coordinate federal, state and local law enforcement activities with respect to health care fraud and abuse.

Since the inception of the HCFAC program, our Departments have returned more than \$15 billion to the Federal government, with \$13.1 billion of that amount being returned to the Medicare Trust Fund and the remaining amounts primarily being returned to federal agencies in the form of restitution and compensatory damages. These efforts have resulted in more than 5600 criminal convictions for health care fraud offenses.

The litigating components of DOJ, as well as the FBI, are actively engaged in investigating and litigating a wide range of civil and criminal health care fraud cases involving public and private plans, and we work closely with HHS, other federal agencies, as well as state agencies and private insurers.

In addition, the President has recently released a health insurance reform proposal that builds on provisions proposed by the House and the Senate health reform bills, as well as Republican bills, to crack down on fraud, waste, and abuse. These efforts include further authorities and initiatives at CMS and other federal agencies to provide proper oversight of Medicare. For example, the President's Proposal speeds access to claims data to identify potentially fraudulent payments more quickly. It also establishes a system for using technology to provide real-time data analysis of claims and payments under public programs to identify and stop fraud, waste, and abuse, among other efforts. It assists in reducing the number of individuals and agencies participating in Federal health programs who have a history of fraudulent activities. It improves coordination and information sharing in anti-fraud efforts. The Proposal would also expand the use of the Recovery Audit Contractors (RACs) to the Part D program to increase scrutiny over MA and Part D prescription drug plans by having them audit anti-fraud plans, audit reinsurance payments, and review member enrollment data submitted to CMS. It would also give CMS needed authority to deny plan bids to provide better plan choices to beneficiaries. If adopted, we anticipate these efforts will improve our enforcement efforts and stand ready to work with Congress to implement health insurance reform legislation.

FISCAL YEAR 2011 BUDGETARY RESOURCES

In Fiscal Year 2011, the President's Budget request includes an increase of \$60 million in discretionary HCFAC resources for DOJ, bringing the total FY 2011 discretionary request for DOJ to \$90 million. In addition to these discretionary resources, the Department also receives mandatory funding for HCFAC purposes, although these mandatory resources will not increase in FY 2011. One goal of DOJ is to increase the number of Strike Forces, and part of the additional \$60 million in discretionary funding that has been requested will be used, among other things, to expand the current number of Strike Forces from 7 to as many as 20 locations throughout the Nation. New Strike Force locations are chosen based on thorough analysis of Medicare claims data, which helps us identify hot spots of unexplained high-billing levels in concentrated areas, and a review of the most effective allocation of investigative and prosecutorial resources. The cost associated with Strike Forces expansion resulting in 20 locations by end-of-year FY 2011 is an estimated \$46 million. In addition to the Strike Forces, these additional discretionary dollars will expand DOJ's capacity to handle and expedite

resolution of civil False Claims Act, including failure of care cases; Food, Drug, and Cosmetic Act; and Anti-Kickback Act cases; as well as enable the Department to improve infrastructure for increased data sharing and analysis as part of the Strike Force teams and other criminal and civil enforcement, enhance Automated Litigation Support to expedite case development; and increase the recovery of assets for restitution and forfeiture. In addition, new HEAT-related initiatives may be considered to address emerging health care fraud schemes.

The Department of Justice's largest expenditure of health care fraud enforcement funding is on our people. The expertise and commitment of our litigators, prosecutors, Strike Force team members, law enforcement agents, and investigators are the reasons DOJ's health care fraud strategies are so successful. The majority of discretionary HCFAC funding is spent on personnel costs. Because most of DOJ's FY 2011 enforcement activities rely on the hiring of additional personnel, ensuring that those resources continue to be provided in the outyears is DOJ's top priority as it relates to funding for health care fraud. Our ability to effectively investigate and prosecute health care fraud is directly related to our ability to retain personnel from year-to-year.

CRIMINAL DIVISION'S EFFORTS TO FIGHT HEALTH CARE FRAUD AND ABUSE

The Department of Justice's efforts to fight health care fraud have succeeded in part because of strategic thinking about how to respond to this growing problem. The Medicare Fraud Strike Force (Strike Force) – launched by the Criminal Division in collaboration with the United States Attorneys Offices (USAOs) and HHS in 2007 – is an example of the Department's recent strategic thinking about how to bolster our efforts to combat health care fraud.

The Strike Force's mission is to supplement the criminal health care fraud enforcement activities that are ongoing in each of the USAOs by targeting emerging or migrating schemes along with chronic fraud by criminals operating as health care providers or suppliers. Federal agents and analysts review Medicare data and then gather and develop additional investigative intelligence to identify potential targets who are operating as health care providers or suppliers and may be billing for totally fictitious or medically unnecessary services.

Technology is enabling Strike Force investigators to expedite cases and identify patterns of fraud. That said, there is more that needs to be done and a key focus of the HEAT initiative is to make sure that investigators and prosecutors are getting real-time access to claims data in a useable format so that we can develop these cases quickly and effectively.

Typically in each Strike Force city, three to five teams of federal, state, and local investigators, work under the guidance of Criminal Division prosecutors and Assistant United States Attorneys to investigate fraudulent activity and, where appropriate, bring criminal and civil cases against the most serious perpetrators, although Miami has had as many as eight teams. Our goal is to bring these cases as quickly and responsibly as possible once the fraud is identified to assure that viral fraud schemes do not spread between regions within our country.

The Strike Force was first launched in Miami to target durable medical equipment (DME) and HIV infusion fraud in March 2007. In March 2008, we expanded the Strike Force to a second phase, partnering with the United States Attorney's Office for the Central District of

California and HHS to combat DME fraud in the Los Angeles metropolitan area. The Strike Force model for criminal health care fraud prosecutions has now become a permanent component of the United States Attorneys' Office in both the Southern District of Florida and the Central District of California. In May 2009, we expanded the Strike Force to Houston and Detroit, and in December of last year we added three more cities – Brooklyn, Tampa, and Baton Rouge – bringing the total number of Strike Force locations to seven.

The Strike Force has proven to be extremely cost-effective and efficient. We have obtained a significant number of indictments with a modest annual investment in the Criminal Division and the U.S. Attorneys for these efforts, and the Strike Force cases proceed expeditiously. After developing evidence to support arrests of individual targets and suspects, court processing of Strike Force cases from indictment to disposition and sentencing can occur within a matter of months. While variations in case processing time occur from district to district, the median time from indictment to sentencing for more than 200 defendants sentenced in Miami Strike Force cases to date has been about six months. Strike Force defendants are also more likely to receive prison sentences and longer terms of imprisonment than more traditional criminal health care fraud defendants. During the three fiscal years since the Strike Force's inception, over 94 percent of all Strike Force defendants were convicted and sentenced to terms of imprisonment compared to 64 percent of all criminal health care fraud defendants. The average prison term for Strike Force defendants was 45 months, which was about 10 percent longer than the overall national average for federal health care fraud defendants over this same period.

The HEAT Initiative has produced significant enforcement results since last May following our expansion of Strike Force locations and the scope of targeted schemes to include fraudulent physical and occupational therapy clinics, home health agencies, and enteral nutrition and feeding supplies, in addition to DME and HIV infusion:

- On June 24, 2009, the Criminal Division and United States Attorney's Office for the Eastern District of Michigan announced seven indictments charging 53 people in schemes involving physical, occupational, and infusion therapy to defraud Medicare of more than \$50 million in the Detroit metropolitan area.
- On June 26, 2009, the Criminal Division and United States Attorney's Office for the Southern District of Florida indicted eight Miami-area residents in connection with a \$22 million scheme to submit false claims to Medicare from two fraudulent providers for purported home health services.
- On July 29, 2009, the Criminal Division and United States Attorney's Office for the Southern District of Texas announced the unsealing of seven indictments charging 32 people in schemes involving false billing for "arthritis kits," which consist of sets of orthotic braces that are purportedly used for the treatment of arthritis-related conditions, power wheelchairs and enteral feeding supplies to defraud Medicare of more than \$16 million in the Houston metropolitan areas.
- On October 21, 2009, Strike Force prosecutors in the Central District of California announced arrests of 20 defendants, most of them residing in the Los Angeles area, for participating in Medicare fraud schemes that resulted in more than \$26 million in

fraudulent billings to the Medicare program. The same day, Houston Strike Force prosecutors announced charges against six additional defendants in a new case and a superseding indictment involving fraudulent billings for “arthritis kits.”

- On December 15, 2009, the Departments of Justice and HHS announced indictments of another 30 individuals charged by Strike Force prosecutors in Miami, Detroit, and Brooklyn with submitting more than \$61 million in fraudulent billings to Medicare for various schemes involving unnecessary medical tests, durable medical equipment, home health services, and injection and infusion treatments. DOJ and HHS also announced plans to expand Strike Force operations to the Eastern District of New York, Middle District of Louisiana, and Middle District of Florida.
- On January 14, 2010, 13 defendants were indicted in Detroit for a home health care scheme to defraud the Medicare program of more than \$14.5 million.

Typically, defendants in Strike Force indictments include physicians, nurses and other medical professionals, along with DME company or medical clinic owners, executives and/or employees, who are charged with participating in schemes to submit claims for services or products that were medically unnecessary and oftentimes, never provided. In many if not most cases, defendants paid kickbacks to medical professionals and beneficiaries for use of their Medicare information to support fictitious claims for items or services that were never provided. In other cases, defendants have been charged with aggravated identity theft for stealing physician or beneficiary information to support fraudulent claims. In some cases, indictments allege that beneficiaries were deceased at the time they allegedly received the items or services. Finally, a few cases have involved actions which put patients at risk of harm or injury by subjecting them to infusion or injection treatments that they did not need.

In addition to providing a leadership role in launching new Strike Force teams and training investigative agents and prosecutors, Criminal Division attorneys have litigated 17 of 20 trials in Strike Force cases located in four districts, obtaining guilty verdicts against 23 defendants over the past three years.¹

Since its inception nearly three years ago, Strike Force prosecutors from the Criminal Division and USAOs together have:

- filed more than 250 cases charging over 500 defendants who collectively billed the Medicare program more than one billion dollars;
- taken more than 260 guilty pleas;
- litigated 20 jury trials resulting in convictions of 25 defendants and only five acquittals;
- obtained sentences to imprisonment for 94% of defendants convicted; and
- imprisoned defendants received an average sentence of 45 months.

¹ Assistant United States Attorneys and HHS Office of Inspector General attorneys detailed to the Strike Force have assisted in several of these trials. AUSAs in the Central District of California and Southern District of Florida have litigated the other three jury trials in Strike Force cases, to date.

The Strike Force is just one tool designed to fight the most aggressive criminal schemes. We maintain 93 United States Attorney's Offices throughout the nation with criminal and civil prosecutors who work on health care fraud cases along with attorneys in the Department's Criminal, Civil and Civil Rights Divisions, and are aided significantly by FBI field offices around the country.

CIVIL DIVISION'S HEALTH CARE FRAUD EFFORTS

The primary enforcement tool possessed by the Department of Justice to pursue civil remedies in health care fraud matters is the False Claims Act (FCA), 31 U.S.C. §§ 3729-3733. In addition to the Department of Justice being able to go after false claims directly, lawsuits are often brought by private plaintiffs, known as "relators," under the *qui tam* provisions of the FCA. The *qui tam* provisions allow private citizens to sue, on the government's behalf, companies and others that defraud the government. The government then can intervene in appropriate cases to pursue the litigation and recovery against the defendant. Since the False Claims Act was substantially amended in 1986 and through FY 2008, the Civil Division, working with United States Attorneys, has recovered \$24 billion on behalf of the various victim federal agencies. Of that amount, \$15.9 billion was the result of fraud against federal health care programs – primarily the Medicare program.

The Department's settlement with Pfizer, Inc., which was agreed to in 2009, was historic. In that matter, Pfizer paid \$2.3 billion to resolve criminal and civil liability arising from illegal promotion of certain pharmaceutical products. Pfizer's subsidiary, Pharmacia & Upjohn Company Inc., pled guilty to a felony violation of the Food, Drug, and Cosmetic Act for its off-label promotion of Bextra, an anti-inflammatory drug, with the intent to defraud or mislead. The company paid a criminal fine of \$1.195 billion, the largest criminal fine ever imposed in the United States. Pharmacia & Upjohn also forfeited \$105 million, for a total criminal resolution of \$1.3 billion. Further, Pfizer paid \$1 billion to resolve allegations under the federal and state civil False Claims Acts that the company illegally promoted four drugs – Bextra; Geodon, an anti-psychotic drug; Zyvox, an antibiotic; and Lyrica, an anti-epileptic drug – and caused false claims to be submitted to government health care programs for uses that were not medically accepted indications and therefore not covered by those programs. The civil settlement also resolved allegations that Pfizer paid kickbacks to health care providers to induce them to prescribe these, as well as other, drugs. The federal share of the civil settlement was \$668.5 million and the state Medicaid share of the civil settlement was \$331.5 million.

In addition to these matters, the Civil Division, as a part of our health care fraud enforcement efforts, investigates and pursues False Claims Act matters that are predicated on claims that doctors and others were paid kickbacks or other illegal remuneration to induce referrals of Medicare or Medicaid patients in violation of the Physician Self-Referral laws, commonly referred to as the "Stark" laws, the Anti-kickback Statute, and the civil monetary penalties statute. These statutes have been extremely important in protecting the integrity of our health care system and have proven useful in going after fraudsters. For example, in January of this year, DOJ secured a \$10 million consent judgment against two former hospital executives of City of Angels Hospital in Los Angeles who scammed our Medicare system by preying upon homeless people. In that case, the two hospital executives paid kickbacks to recruiters employed

at homeless shelters in order to deliver homeless clients to the hospital for medical services, many of which were medically unnecessary.

The insidious effect of kickbacks permeates almost every corner of the health care system, including nursing homes. In January, DOJ filed a civil False Claims Act complaint against drug manufacturer Johnson & Johnson (J&J), and two of its subsidiaries, for paying millions of dollars in kickbacks to Omnicare, Inc. ("Omnicare"), the nation's largest provider of institutional pharmacy services. In that lawsuit, the United States alleges that J&J paid kickbacks to Omnicare to induce Omnicare to purchase and to recommend J&J drugs, including the antipsychotic drug Risperdal, for use in nursing homes.

The civil enforcement efforts by the Department of Justice also focus on cases addressing substandard care delivered to federally insured beneficiaries. The most notable example is the recent \$24 million recovery from FORBA, Inc., a dental management company that operates a nationwide chain of pediatric dental clinics known as Small Smiles. The government alleged that the clinics often performed unnecessary and painful dental procedures on their low-income pediatric patients in order to maximize Medicaid reimbursement. Investigations of the individual dentists are now ongoing.

Another way the Civil Division fights health care fraud is through the criminal prosecutions by the Office of Consumer Litigation (OCL). OCL prosecutes drug and device manufacturers and responsible individuals believed to be illegally promoting and distributing misbranded and adulterated drugs or devices in violation of the Federal Food, Drug and Cosmetic Act. Unlawful conduct by pharmaceutical and device manufacturers subverts our health care system which relies on the sound medical judgment of practitioners, and it puts patients at risk. OCL works with the United States Attorneys on these complex criminal matters in conjunction with law enforcement agencies, including the Federal Bureau of Investigation (FBI), HHS Office of Inspector General and the Food and Drug Administration's Office of Criminal Investigations.

Finally, the Civil Division houses the Elder Justice and Nursing Home Initiative to coordinate and support law enforcement efforts to combat elder abuse, neglect and financial exploitation of this population. Too often, our most vulnerable citizens are the ones victimized by fraud, neglect, and exploitation schemes, so special attention is needed to prevent and prosecute this misconduct. When abuse and/or neglect is detected, the Elder Initiative coordinates the Department's litigation against long-term care providers, including nursing homes that fail to provide the quality of care to which our Medicare and Medicaid beneficiaries are entitled and for which the government pays. Over the years, the Department, through the Elder Initiative, has worked with the HHS Inspector General and his office to recover fraudulently received money from long-term care facilities and to force these nursing homes to improve the care they provide to their residents.

For example, in January of this year, five Missouri nursing homes pled guilty to felony health care fraud related to their failure to provide adequate care to Medicare and Medicaid residents living in those homes. As part of the plea deal, the nursing homes admitted that at various times their staffing levels were insufficient to provide adequate nursing care, that they

failed to provide wound care, that their residents failed to receive prescribed medications, that they falsified records to hide these failures, and that they submitted fraudulent claims to Medicare and Medicaid for services that were not provided or were worthless. As part of the global resolution, the defendants paid over \$1.6 million in criminal and civil fines and penalties

The Department recognizes that the face of health care fraud is ever-changing. As such, it is absolutely critical that the Department have the resources to keep apace with innovative or developing fraud trends, while at the same time, continuing to aggressively investigate and litigate our traditional health care fraud cases. As part of the HEAT initiative, we intend to devote additional resources to ensure that we adequately and expeditiously investigate these *qui tam* whistleblower cases and make the government's intervention decision as expeditiously as possible. These cases often allege extremely sophisticated fraud schemes that can only be ferreted out by teams of attorneys, auditors, investigators, and expert consultants. These cases require that we develop electronic databases in order to effectively contain and retrieve substantial documentary proof, that we retain top notch experts, and that we sufficiently staff these complex cases to counter the teams of attorneys we often face on the other side. The HCFAC funding requested in FY 2011, will permit the Department to expand its capacity--through additional attorneys, investigators, and litigation support--to more expeditiously move these cases already under investigation and to address those that continue to be filed each and every day. At the same time, we are mindful of the need to proactively attack new fraud schemes before they take root.

Likewise, the request will help insure that our personnel are properly trained to identify, investigate, and prosecute health care fraud. As new health care fraud schemes continually evolve, law enforcement cannot afford to fall behind. It is for that reason that the Department provides substantial training to its attorneys, agents, and our law enforcement partners in those efforts. For example, the Civil Division provides specific training and guidance in connection with the investigation and litigation of pharmaceutical and device fraud matters and it also has provided training through the auspices of the Executive Office of United States Attorneys (EOUSA) in multiple areas of expertise.

UNITED STATES ATTORNEYS' ENFORCEMENT EFFORTS

The 93 United States Attorneys and their AUSAs are the nation's principal prosecutors of federal crimes, including health care fraud. Each district has a designated Criminal Health Care Fraud Coordinator and a Civil Health Care Fraud Coordinator charged with overseeing the USAOs' commitment to fighting health care fraud wherever it occurs. The USAOs play a major role in this Department priority by investigating and litigating affirmative civil cases and criminal cases to recover funds wrongfully taken from the Medicare Trust Fund and other taxpayer-funded health care systems as a result of fraud civil and criminal AUSAs investigate and litigate a wide variety of HCF matters including, false billings by doctors and other providers of medical services, overcharges by hospitals, Medicaid fraud, kickbacks to induce referrals of Medicare or Medicaid patients, fraud by pharmaceutical and medical device companies, and failure of care allegations against nursing home and mental health facility owners. The USAOs partner with the Civil Division in investigating and resolving significant cases, including the landmark Pfizer settlement, the FORBA recovery, the City of Angels resolution, and the

Omnicare litigation, as detailed above. In addition, the USAOs are partnering with the Criminal Division in the Medicare Fraud Strike Force Initiative.

Other notable health care fraud successes of U.S. Attorneys' Offices which illustrate the kinds of cases the USAOs handle across the nation include:

- In the Northern District of California, the former CEO of InterMune, Inc. was convicted of wire fraud for the creation and dissemination of false and misleading information about the efficacy of InterMune's Actimmune (Interferon gamma-1b) as a treatment for idiopathic pulmonary fibrosis ("IPF"). The CEO has not been sentenced yet, but faces a maximum sentence of 20 years.
- In the Southern District of Texas, a hospital group based in McAllen, Texas, has agreed to pay the United States \$27.5 million to settle claims that it violated the False Claims Act, the Anti-Kickback Statute and the Stark Statute between 1999 and 2006, by paying illegal compensation to doctors in order to induce them to refer patients to hospitals within the group.
- In the District of New Hampshire, four pharmaceutical companies, Mylan Pharmaceuticals, Inc., UDL Laboratories, Inc., AstraZeneca Pharmaceuticals LP, and OrthoMcNeil Pharmaceutical, Inc., entered into settlement agreements for a total of \$124 million to resolve claims that they violated the False Claims Act by failing to pay appropriate rebates to state Medicaid programs for drugs paid for by those programs.

In FY 2009, the USAOs received dedicated approximately \$75.4 million, including approximately \$42.8 million from the HCFAC allocation, to combat health care fraud. This funding supported attorneys, paralegals, auditors and investigators, as well as the litigation needs of resource-intensive health care fraud cases. In September 2009, utilizing discretionary HCFAC funding, EOUSA provided an additional 37 contract paralegals and data analysts to the USAOs, to support the existing MFSFs, as well as, the complex document intensive health care fraud investigations.

The increased HCFAC discretionary funding requested for FY 2011 is critical to the ability of the USAOs to continue providing attorney, paralegal, and data analyst resources to the existing and potential new Strike Force operations, as well as continue their efforts in investigating and litigating the more traditional, complex HCF cases including those involving pharmaceutical companies, medical device manufacturers, mental health facilities, nursing homes, hospitals and individual health care providers. The USAOs, working with their colleagues within the Department, have recovered more than \$4 billion in these complex health care fraud investigations since January 2009. At the end of FY 2009, the USAOs reported that there were several dozen pharmaceutical, as well as, other complex health care fraud investigations pending - with potential significant recoveries - and following the landmark settlements of the last year, a large number of additional *qui tams* have been filed in the first few months of FY 2010. These cases not only represent potential recoveries in the billions of dollars, but the opportunity to change the current corporate culture that is so harmful to the financial health of the federal, state and private health care programs. This funding for attorney and

support personnel, as well as, for litigation expenses including, the creation of databases to house billions of documents, expert analysis of Medicare and Medicaid data, and medical consultants to unravel the sophisticated fraud schemes is essential to the successful resolution of these important cases.

In addition to supporting the investigation and litigation of pending cases, this funding would provide the AUSAs with the opportunity to pro-actively pursue the large dollar frauds, i.e., pharmaceutical and medical device fraud. Combining the knowledge and experience gained from numerous investigations with sophisticated data analysis, the AUSAs, with their colleagues in the Civil Division, could identify high dollar, over utilized, and inappropriately promoted drugs, procedures, and other services.

Finally, the Executive Office for United States Attorneys' Office of Legal Education (OLE) recognizes the importance of the continuing education of AUSAs and other DOJ attorneys, as well as paralegals, investigators, and auditors in the investigation and prosecution of HCF. In 2009, OLE offered a Health Care Fraud Seminar for AUSAs and DOJ attorneys, which was attended by over 100 attorneys, as well as, a Medicare Fraud Strike Force Seminar for investigators and attorneys who work in the current Strike Force locations, and an Affirmative Civil Enforcement Conference, which included health care fraud issues, for paralegals, auditors, and investigators. As the USAOs receive additional attorney, paralegal, investigator, and auditor resources, additional training opportunities will be essential.

FBI'S HEALTH CARE FRAUD INVESTIGATIONS

Health care fraud investigations are among the highest priority investigations within the FBI's White Collar Crime Program, along with Public Corruption and Corporate Fraud. Through national initiatives focusing on Internet pharmacy, durable medical equipment, and infusion therapy fraud, the FBI is utilizing sophisticated investigative techniques—from undercover operations to wiretaps—not only to collect evidence for prosecution, but also to find and stop criminals before they take action.

The FBI is actively pursuing health care fraud in every region. It has task forces and working groups to address health care fraud in every one of its 56 field offices, and it is shifting resources to regions where increased fraud trends are detected. FBI's field office-level task forces and working groups are comprised of HHS-OIG, U.S. Attorneys' Offices, state and local law enforcement agencies and, in many districts, private insurance company special investigative units and Medicare contractors that refer suspected fraud activity that is investigated jointly by the law enforcement agencies that are involved in the task force or working group. These task forces and working groups, which meet regularly, provide a structure to address the unique health care fraud in each region. The FBI's Headquarters-based Health Care Fraud Program supports these field offices and serves as a veritable fusion center, sharing information on inter-region trends and providing training to include lessons learned and best practices.

In the past few years, the number of pending FBI health care fraud investigations has steadily increased to over 2400. It should be noted that in FY 2009 alone, FBI-led investigations in federal and state cases resulted in indictments and informations charging 840 defendants with health care fraud violations, and 555 convictions for health care fraud.

In July of 2009, working in concert with our partners, the FBI arrested more than 30 suspects in a major Medicare anti-fraud operation that spanned the country. In New York, Louisiana, Boston, and Houston, more than 200 agents worked on a \$16 million fraud that ensnared several physicians. In January 2010, a FBI case in Miami resulted in a defendant being sentenced to 22 years in prison for his ownership of medical clinics involved in infusion therapy fraud in Miami. In short, the FBI and its partners are uniquely positioned to combat this particular crime problem every step of the way.

CIVIL RIGHTS DIVISION'S WORK TO FIGHT FRAUD, WASTE AND ABUSE

The Civil Rights Division plays a critical role in the Department's protection of the nation's health care system. The Special Litigation Section of the Civil Rights Division is the Department component responsible for the Civil Rights of Institutionalized Persons Act (CRIPA) and its role is to ensure that the civil rights of residents in public, state or locally-run, institutions (including facilities for persons with developmental disabilities or mental illness, and nursing homes) are fully protected. CRIPA authorizes the Department to seek injunctive relief to remedy a pattern or practice of violations of the Constitutional or federal statutory rights possessed by residents in such facilities. The review of conditions in facilities for persons who have mental illness, facilities for persons with developmental disabilities, and nursing homes comprises a significant portion of the program.

The Americans with Disabilities Act requires that services be provided to residents of such facilities in the most integrated setting appropriate to their needs. It is through that prism that the Department's Civil Rights Division evaluates residential placements in each of its health care investigations. Thus, in the context of public health institutions, the Department's CRIPA work goes hand-in-hand with its work under Title II of the ADA to uphold individuals' federal rights to receive adequate supports and services in the most integrated setting appropriate to their needs. The Department recognizes that unnecessary institutionalization is discrimination that diminishes individuals' ability to lead full and independent lives. As a result of our CRIPA and ADA enforcement activities, thousands of unnecessarily institutionalized individuals have been able to live safely in the community with adequate supports and services.

As part of the Department's Institutional Health Care Abuse and Neglect Initiative, the Civil Rights Division conducts reviews of conditions in health care facilities. In FY2009, it pursued 19 investigations regarding conditions in 23 healthcare public facilities. Also in FY 2009, the Division addressed conditions and practices at 13 state facilities for persons with intellectual and developmental disabilities, eight state facilities for persons with mental illness, and three state operated nursing homes. The Division entered five settlement agreements regarding these 24 facilities. The Division was unable to settle one case involving a facility for persons with developmental disabilities, and that case is currently in contested litigation.

Looking forward, the Civil Rights Division is expanding its health care enforcement efforts through additional outreach, increased litigation and participation as *amicus* in existing court cases. The Division is hiring additional personnel and taking other steps to expand the number of attorneys and paralegals assigned to these enforcement priorities. In the months

ahead, these efforts should lead to a further expansion of the Division's work in this important area.

CONCLUSION: LOOKING FORWARD

As I hope is clear from this discussion, the Department of Justice, together with our partners at the Department of Health and Human Services and other federal and state agencies, has made combating health care fraud a significant priority and has devoted resources and attention at the highest levels of the Department to the HEAT initiative in order to be smarter and more effective about how we detect, deter and prosecute health care fraud. As we have seen time and time again, the only way we can be truly effective in protecting the integrity of our public health programs is by combining the full panoply of our federal resources, our expertise, and our information across agency and jurisdictional lines. The Department of Justice looks forward to working with Congress as we continue this important mission to prevent, deter, and prosecute health care fraud.



United States Department of Justice

Office of the Deputy Attorney General



Gary Grindler serves as the Acting Deputy Attorney General for the U.S. Department of Justice. He rejoined the Department in 2009 as Deputy Assistant Attorney General in the Criminal Division before being appointed in 2010 by the Attorney General to serve as the Acting Deputy Attorney General.

Prior to his return to the Department, Grindler was a partner at King & Spalding LLP in the firm's Special Matters/Government Investigations Practice Group where he focused on white collar criminal defense, internal corporate investigations, money laundering and search warrant compliance, Foreign Corrupt Practices Act, False Claims Act and whistleblower cases, and complex

civil litigation.

Grindler has previously served in a number of roles at the Justice Department, including as Principal Associate Deputy Attorney General and Counselor to the Attorney General, Deputy Assistant Attorney General in the Civil Division, and as an Assistant U.S. Attorney in the Southern District of New York and the Northern District of Georgia. He also represented the President of the United States in his official capacity when depositions were taken in two Independent Counsel prosecutions arising out of the Whitewater investigation.

Grindler was also a partner in his own litigation firm, Chilivis & Grindler, where he focused on civil litigation and white collar criminal defense. Prior to that he was an associate at Powell, Goldstein, Frazer & Murphy LLP in the firm's litigation department.

Grindler has been selected for inclusion in the 2006-2009 editions of The Best Lawyers in America in the area of white collar criminal defense and on the 2008-2009 Washington, D.C., Super Lawyers lists. In 2000, he received the Edmund J. Randolph Award in recognition of his outstanding contributions to the Department of Justice. He received both his undergraduate and law degrees from Northwestern University.

Mr. OBEY. Thank you. Mr. Levinson.

Mr. LEVINSON. Good afternoon Mr. Chairman and members of the subcommittee. Thank you for the opportunity to appear before you today and for your commitment to furthering OIG's mission to protect the integrity of HHS programs and the health of their beneficiaries. Medicare and Medicaid fraud, waste, and abuse cost the taxpayers billions of dollars each year and put the programs' beneficiaries at risk. You have asked me to discuss our efforts in fighting fraud and to address how we utilize our resources to protect American taxpayers and beneficiaries.

OIG combats fraud and abuse through a nationwide program of investigations, audits, evaluations, and enforcement and in compliance activities. OIG invests in people. Our new funds are used to hire the professionals who enable us to expand the scope and depth of our work.

Two thousand and nine marked the first year that this subcommittee increased funding through the HCFAC discretionary allocation. The \$19 million supported approximately 140 full-time staff. This year, we received an additional \$11 million in HCFAC funding. With these funds we are hiring 45 new staff.

Currently, our office employs over 1,500 people comprised of over 45 percent audit, 34 percent investigations, 10 percent program evaluators; legal technical and other support making up the rest. New staff will array similarly except for a higher percentage of investigators to expand our Medicare fraud strike forces. Based on historical production rates, these 45 new staff will investigate an estimated 165 more health care fraud cases and conduct approximately 20 more Medicare and Medicaid audits and evaluations.

Our program integrity activities are a sound investment. Last year, OIG investigations yielded \$4 billion in settlements and court ordered fines, penalties and restitution. OIG audits identified nearly \$500 million in receivables. We uncovered scores of program vulnerabilities and recommended effective remedies. So far this year, OIG work is producing billions of dollars in expected recoveries as well as improvements to program integrity and fraud deterrence.

Based on early successes in Miami and Los Angeles, we launched strike forces in two new cities, Detroit and Houston, last May. In December, we extended our strike force coverage to Brooklyn, Tampa and Baton Rouge. With the enhanced funds, we are doubling our strike force staff to 42.

Collectively, the strike forces have resulted in about 270 convictions, indictments of more than 500 defendants, and more than \$240 million in court-ordered restitution, fines, and penalties.

Miami is ground zero for Medicare fraud. There we have uncovered rampant fraud among durable medical equipment suppliers, infusion clinics and home health agencies.

Early results from our Detroit and Houston strike forces demonstrate that this model is successful in other fraud hot spots. In the 9 months since we launched in Detroit and Houston, these teams have secured indictments of more than 100 defendants.

For 2011, the increases in funds requested by the President's budget would enable OIG to expand our strike force presence from seven to 20 cities, supported by 130 new staff. We fully expect our

new strike force teams to root out fraud with similar success as our existing teams. We also direct our HCFAC resources to investigate civil fraud cases. In our biggest settlement to date, in September, as the deputy AG noted, Pfizer agreed to pay \$2.3 billion to resolve its liability for illegally promoting its drugs; the largest criminal fine in American history.

In January, FORBA agreed to pay \$24 million to settle allegations that its Smiles Dental Clinics were performing unnecessary and often cruel treatments on children to maximize Medicaid reimbursement. Criminal investigations of individual dentists are underway.

Investments in OIG also help prevent fraud and waste. Our HCFAC-funded evaluations this year will recommend improvements to Medicare contractor operations, services provided to nursing home residents and reimbursement for drugs. We are also auditing payments to hospitals, home health agencies, and Medicare Advantage and Part D plans leading to potential recovery of misspent funds and actions to improve payment integrity.

Unfortunately, fraud persists. Continuous strong monitoring results show us there is a need for more oversight and more enforcement.

Each year, we turn away viable allegations that we do not have resources to investigate. The funds provided by this subcommittee and our proposed increase for next year will enable us to expand our efforts to continue to protect these important programs.

Thank you for your support for this mission, and I welcome your questions.

Mr. OBEY. Thank you very much.

[Written statement by Daniel R. Levinson follows:]

Testimony of:
Daniel R. Levinson
Inspector General
U.S. Department of Health & Human Services

Good afternoon Chairman Obey, Ranking Member Tiahrt, and other distinguished Members of the Subcommittee. I am Daniel Levinson, Inspector General for the U.S. Department of Health & Human Services (HHS). I thank you for the opportunity to appear before you today to discuss the Office of Inspector General's (OIG) efforts to combat health care fraud, waste, and abuse in Medicare and Medicaid. I also thank you for your continued commitment to furthering our shared goal of safeguarding the fiscal integrity of these programs against those who would divert resources that are vital to so many Americans.

Medicare and Medicaid fraud, waste, and abuse cost the taxpayers billions of dollars each year and put the programs' beneficiaries' health and welfare at risk. The growing numbers of people served by these programs and the increased strain on Federal and State budgets caused by the economic recession further exacerbate the impact of these losses. It is critical that we strengthen oversight of these essential programs and reduce their vulnerability to fraud, waste, and abuse.

My testimony today will describe the nature and scope of the health care fraud, waste, and abuse that we have identified; strategies and recommendations to fight these problems; and OIG's role in fraud prevention, detection, and enforcement, including our highly productive collaboration with our colleagues in HHS and the Department of Justice (DOJ). It will also describe how we have deployed our resources and the results we have achieved, as well as our plans for the new appropriations requested in the President's Budget for fiscal year (FY) 2011.

OIG's Mission to Protect the Medicare and Medicaid Programs and Beneficiaries

OIG fights health care fraud, waste, and abuse through a nationwide program of investigations, audits, evaluations, and enforcement and compliance activities. Our FY 2010 appropriation included approximately \$232 million in funding dedicated to protecting the integrity of Medicare and Medicaid.¹ In recognition of the value and impact of OIG's oversight and enforcement activities, the President's Budget for FY 2011 requests approximately \$272 million in Medicare and Medicaid integrity funding for OIG, a net increase of \$40 million. With this increased funding, OIG will expand its activities in support of the joint HHS-DOJ Health Care Fraud Prevention and Enforcement Action Team (known as HEAT and described in more detail below), including expanding the OIG-DOJ Medicare Fraud Strike Forces to 13 new locations.

OIG's funding is used to hire and support investigators, auditors, evaluators, attorneys, and management and support staff to carry out our mission and functions. OIG is comprised of more than 1,500 professionals who perform comprehensive oversight and enforcement activities for HHS programs, including:

¹ OIG's total appropriation for FY 2010 was approximately \$282 million, which also included \$50 million to oversee the more than 300 other HHS programs.

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- Office of Investigations: conducts criminal, civil, and administrative investigations of health care fraud, which result in convictions, monetary recoveries, and exclusions of providers and suppliers from Federal health care programs;
- Office of Audit Services: conducts and oversees audits of Medicare and Medicaid payments and operations, identifies improper payments and program vulnerabilities, and recommends audit disallowances and program improvements;
- Office of Evaluation and Inspections: conducts evaluations of the Medicare and Medicaid programs to identify program integrity vulnerabilities and make recommendations to prevent fraud, waste, and abuse and to promote economy, efficiency, and effectiveness; and
- Office of Counsel to the Inspector General: represents OIG in all civil and administrative fraud cases and, in connection with these cases, negotiates and monitors corporate integrity agreements; provides guidance to the health care industry to promote compliance; and provides legal support to OIG operations.

OIG's program integrity activities are a sound investment.

In FY 2009, OIG investigations resulted in \$4 billion in settlements and court-ordered fines, penalties, and restitution, and in 671 criminal actions. OIG audits resulted in almost \$500 million in receivables through recommended disallowances. We also produced equally important but less quantifiable gains in deterrence and prevention of fraud, waste, and abuse. OIG has recommended numerous actions to address program integrity vulnerabilities. For example, we found that Medicare's average spending per beneficiary for inhalation drugs was five times higher in South Florida, an area rife with Medicare fraud, than in the rest of the country, and that a disproportionately high rate of these claims in South Florida exceeded the maximum dosage guidelines. OIG's recommendations included adding new claims edits to prevent fraudulent or excessive payments, including edits to detect dosages exceeding coverage guidelines. Many other recommendations to prevent and deter fraud, waste, and abuse are described in our annual *Compendium of Unimplemented OIG Recommendations*, the latest edition of which will be published later this month.

OIG Work Highlighting the Nature and Scope of Health Care Fraud, Waste, and Abuse

Fraud is a serious problem requiring a serious response.

Although there is no precise measure of health care fraud, we know that it is a serious problem that demands an aggressive response. We must not lose sight of the fact that the vast majority of health care providers are honest and well-intentioned; nonetheless, a small minority of providers intent on abusing the system can cost billions of dollars. We believe that the \$4 billion in settlements and court-ordered returns in FY 2009 resulting from OIG fraud investigations is just the tip of the iceberg. More disturbing, even if the rate of fraud remains constant, as health care expenditures continue to rise, the financial impact of health care fraud will continue to increase.

OIG investigations uncover a range of fraudulent activity. Health care fraud schemes commonly include billing for services that were not provided or were not medically necessary, billing for a higher level of service than what was provided ("upcoding"), misreporting costs or other data to increase payments, paying kickbacks, and/or stealing providers' or beneficiaries' identities. The

perpetrators of these schemes range from street criminals, who believe it is safer and more profitable to steal from Medicare than trafficking in illegal drugs, to Fortune 500 companies that pay kickbacks to physicians in return for referrals.

Many OIG investigations target fraud committed by criminals who masquerade as Medicare providers and suppliers but who do not provide legitimate services or products. The rampant fraud among durable medical equipment (DME) suppliers in South Florida is a prime example. In these cases, our investigations have found that criminals set up sham DME storefronts to appear to be legitimate providers, fraudulently bill Medicare for millions of dollars, and then close up shop and reopen in a new location under a new name and repeat the fraud. The criminals often pay kickbacks to physicians, nurses and even patients to recruit them as participants in the fraud scheme.

The Medicare program is increasingly infiltrated by violent criminals, and our investigations are also finding an increase in sophisticated and organized criminal networks. Some of these fraud schemes are viral, i.e., schemes are replicated rapidly within geographic and ethnic communities. Health care fraud also migrates – as law enforcement cracks down on a particular scheme, the criminals may shift the scheme (e.g., suppliers fraudulently billing for DME have shifted to fraudulent billing for home health services) or relocate to a new geographic area. To combat this fraud, the Government's response must also be swift, agile, and organized.

Health care fraud is not limited to this blatant fraud among sham providers. Major corporations such as pharmaceutical and medical device manufacturers and institutions such as hospitals and nursing facilities have also committed fraud, sometimes on a grand scale. OIG has a strong record of investigating these corporate and institutional frauds, which often involve complex billing frauds, kickbacks, accounting schemes, illegal marketing, and physician self-referral arrangements. In addition, we are seeing an increase in quality of care cases involving allegations of substandard care.

Waste and abuse cost taxpayers billions of dollars and must be addressed.

Waste of funds and abuse of the health care programs also cost taxpayers billions of dollars. In FY 2009, CMS estimated that overall, 7.8 percent of the Medicare fee-for-service claims it paid (\$24.1 billion) did not meet program requirements. Although these improper payments do not necessarily involve fraud, the claims should not have been paid. For our part, OIG reviews specific services, based on our assessments of risk, to identify improper payments. For example, an OIG audit uncovered \$275.3 million in improper Medicaid payments (Federal share) from 2004 to 2006 for personal care services in New York City alone. An OIG evaluation of payments for facet joint injections (a pain management treatment) found that 63 percent of these services allowed by Medicare in 2006 did not meet program requirements, resulting in \$96 million in improper payments.

OIG's work has also repeatedly demonstrated that Medicare and Medicaid pay too much for certain services and products and that aligning payments with costs could produce substantial savings. For example, OIG reported that Medicare reimbursed suppliers for pumps used to treat pressure ulcers and wounds based on a purchase price of more than \$17,000, but that suppliers

paid, on average, approximately \$3,600 for new models of these pumps. Likewise, in 2006, Medicare allowed approximately \$7,200 in rental payments over 36 months for an oxygen concentrator that cost approximately \$600 to purchase. Beneficiary coinsurance alone for renting an oxygen concentrator for 36 months exceeded \$1,400 (more than double the purchase price).

OIG's Strategy and Recommendations for Combating Fraud, Waste, and Abuse

Combating health care fraud requires a comprehensive strategy of prevention, detection, and enforcement. OIG has been engaged in the fight against health care fraud, waste, and abuse for more than 30 years. Based on this experience and our extensive body of work, we have developed five principles of an effective health care integrity strategy. OIG uses these principles in our strategic work planning to assist in focusing our audit, evaluation, investigative, enforcement, and compliance efforts most effectively.

*1. **Enrollment:** Scrutinize individuals and entities that want to participate as providers and suppliers prior to their enrollment in the health care programs.*

The first step in preventing health care fraud and abuse is to stop those who would defraud or abuse the programs from gaining entry to them. The concept is simple but the execution can be challenging. The Medicare program was designed to make it easy to enroll as a provider to encourage participation and ensure beneficiary access to services. However, this also makes it too easy for sham providers and suppliers to obtain Medicare billing numbers and bill for millions of dollars in fraudulent claims.

In 2006 and 2007, OIG conducted unannounced site visits to almost 2,500 Medicare DME suppliers in South Florida and Los Angeles and found that almost 600 of these suppliers (about 24 percent) did not maintain a physical facility or were not open and staffed during business hours, as required. OIG has recommended heightened enrollment screening and oversight for high-risk items and services. CMS has taken some important steps toward this end, particularly for DME providers in South Florida. Additional scrutiny for high risk areas through unannounced site visits, background checks, enhanced claims screening for new enrollees, and enhanced authorities (such as explicit authority to impose temporary enrollment moratoriums) could further discourage this type of fraud. OIG will continue to monitor the effectiveness of provider enrollment safeguards.

*2. **Payment:** Establish payment methodologies that are reasonable and responsive to changes in the marketplace and medical practice.*

Establishing reasonable and responsive payment methodologies prevents the type of waste, described above, that results when payment methodologies are misaligned with costs and market prices. OIG has identified these misalignments for various health care services and products, and we have recommended fixes. For example, capping rental of oxygen concentrators at 13 months instead of 36 months would save Medicare billions of dollars.

Applying this principle can also deter fraud. For example, an OIG evaluation found that in 2007, Medicare allowed, on average, about \$4,000 for standard power wheelchairs that cost suppliers, on average, about \$1,000 to acquire. Profit margins like these attract fraud. OIG has investigated numerous cases of fraudulent billing for power wheelchairs, and in some of these cases, the suppliers actually provide wheelchairs to beneficiaries who do not need them because the reimbursement – even after purchasing the wheelchair – is high enough to make this scam lucrative. CMS has the authority to make certain adjustments to payments for DME and other items or services, but for some changes (such as reducing the rental period for oxygen concentrators), legislative changes are needed.

3. Compliance: Assist health care providers and suppliers in adopting practices that promote compliance with program requirements.

The vast majority of health care providers and suppliers are honest and well-intentioned. They are valuable partners in ensuring the integrity of Federal health care programs. OIG seeks to collaborate with health care industry stakeholders to foster voluntary compliance efforts. Toward this end, OIG has produced extensive resources (available on our Web site at <http://oig.hhs.gov>) to assist industry stakeholders in understanding the fraud and abuse laws and designing and implementing effective compliance programs. These resources include sector-specific Compliance Program Guidance documents that describe the elements of effective compliance programs and identify risk areas, advisory opinions, and fraud alerts and bulletins. We have a self-disclosure program that encourages providers to self-report fraud uncovered within their company and to work with OIG to resolve the problem fairly and efficiently. Effective compliance programs help make honest providers our partners in the fight against health care fraud. OIG recommends that providers and suppliers should be required to adopt compliance programs as a condition of participating in the Medicare and Medicaid programs.

4. Oversight: Vigilantly monitor the programs for evidence of fraud, waste, and abuse.

Rapid detection of fraud, waste, and abuse is essential to ensuring the integrity of health care dollars. This includes using data and technology to detect potential problems as claims are submitted and before they are paid. It also includes conducting advanced data analysis to identify, track, and monitor patterns of fraud to target enforcement efforts. With appropriate protections, identifying effective ways to share information across Federal and State agencies and with private insurers can leverage resources and improve our collective effectiveness in fighting fraud, waste, and abuse. Through HEAT, progress has been made in improving law enforcement's access to Medicare data, sharing information and intelligence, and conducting data analysis to prioritize and target our fraud-fighting efforts.

5. Response: Respond swiftly to detected fraud, impose sufficient punishment to deter others, and promptly remedy program vulnerabilities.

Although it is ideal to prevent payments for fraudulent or improper claims, there will never be perfect prevention. An effective anti-fraud strategy must incorporate a strong enforcement component. Criminals balance the risk of detection and punishment against the benefits of the crime and have concluded that Medicare and Medicaid fraud are a good bet. It is imperative that

we change the calculation by increasing the risk of prompt detection and the certainty of punishment.

As part of this strategy, OIG is working closely with its partners in DOJ and in the States to accelerate and maximize the effectiveness of our law enforcement response to fraud. Medicare Fraud Strike Forces represent one very successful enforcement model. In addition, OIG investigates and DOJ prosecutes civil cases that return billions of dollars to the Medicare and Medicaid programs. OIG is also using our administrative authorities to hold responsible individuals accountable for fraud, including physicians who accept kickbacks and responsible corporate officials whose companies have committed fraud.

CMS and States must also respond swiftly to recoup misspent funds, take appropriate administrative actions (e.g., revoking billing privileges, suspending payments), and remedy program vulnerabilities. Through the HEAT initiative, described in more detail below, the Government is significantly accelerating and strengthening its response to fraud, waste, and abuse.

Resources and Tools for Health Care Oversight and Enforcement Activities

Adequate funding of the Health Care Fraud and Abuse Control (HCFAC) Program is vital to the fight against fraud, waste, and abuse.

The Health Care Fraud and Abuse Control (HCFAC) Program is a comprehensive program under the joint direction of the Attorney General and the Secretary of HHS, acting through our OIG, designed to coordinate Federal, state and local law enforcement activities with respect to health care fraud and abuse. The HCFAC Program draws funds from the Medicare Trust Fund to finance anti-fraud activities. Certain of these sums are to be used only for activities of OIG, with respect to the Medicare and Medicaid programs. The HCFAC Program is OIG's primary funding stream, and accounts for 73 percent of our FY 2010 appropriation.

From its inception in 1997 through 2008, HCFAC Program activities returned more than \$13.1 billion to the Federal Government. The HCFAC return-on-investment is \$6 for every \$1 invested in OIG, DOJ, and HHS activities through the HCFAC Account.² This return-on-investment calculation includes only actual recoveries, such as dollars returned to the Federal Government and redeposited in the Medicare Trust Fund, the Treasury or returned to other Federal "victim" agencies. Savings realized from implementation of OIG's recommendations to promote economy, efficiency, and effectiveness of Medicare and Medicaid operations create additional returns from OIG operations, but these are not captured in HCFAC return-on-investment calculations.

Thanks to this Subcommittee's support for investing in HCFAC activities, OIG's total HCFAC appropriation for FY 2010 is \$207 million, which includes \$177 million in mandatory funds and almost \$30 million in discretionary funding. OIG is directing these resources to conduct

² The \$6 to \$1 return on investment is a 3-year rolling average from 2006-2008, which is used to help account for the natural fluctuation in returns from investigative, enforcement, and audit activities.

Medicare and Medicaid investigations, audits, evaluations, enforcement, and compliance activities to support our health care program integrity strategy described above. Examples of our HCFAC-funded activities include:

- Establishment of Strike Force teams in seven cities;
- Support of Civil False Claims Act investigations and enforcement;
- Support of administrative enforcement activities;
- Evaluations of Medicare contractor operations, services provided to nursing home residents, Medicare and Medicaid reimbursement for prescription drugs, and other issues;
- Audits of payments to hospitals, home health agencies, Medicare Advantage plans, and Medicare Part D plans, among other providers;
- Monitoring of providers under corporate integrity agreements; and
- Issuance of advisory opinions and other guidance to the health care industry.

In addition to the \$30 million in discretionary HCFAC funds in FY 2010 (which will continue into FY 2011), the President's FY 2011 Budget proposes an additional \$65 million increase in HCFAC discretionary funding. This represents a net increase of \$40 million in total funding for OIG's health care integrity activities.

The proposed \$65 million increase in HCFAC discretionary funding includes \$25 million to continue funding OIG's oversight and enforcement activities that were previously funded through the Deficit Reduction Act of 2005 (DRA). The DRA provided \$25 million each year in FYs 2006-2010 to fund OIG's Medicaid integrity activities. In recognition of the continued need for OIG oversight and enforcement beyond FY 2010, the Administration included \$25 million in its request for FY 2011 for OIG to sustain health care oversight activities. The proposed budget would enable us to continue fraud-fighting efforts that would otherwise necessarily dwindle as the DRA funding ceased. Further, providing these funds under HCFAC provides the advantages of consolidating funding streams with similar purposes and expanding the authorized use of these funds to include Medicare oversight as well as Medicaid oversight. Medicare and Medicaid program integrity activities are often related. For example, many of our investigations involve an individual or entity committing fraud against both programs.

The proposed \$65 million HCFAC increase also includes \$40 million in new funding for OIG's activities in support of the HEAT initiative, including establishing Strike Force teams in 13 new locations. We estimate that almost \$25 million of this funding would be needed to support the Strike Force expansions and the remaining \$15 million would support OIG's other HEAT activities, including audits, evaluations, civil and administrative enforcement, and compliance activities.

Through HEAT, OIG is enhancing the impact of our prevention, detection, and enforcement efforts.

OIG is a key member of HEAT; indeed, HEAT's fraud and abuse prevention, detection, and enforcement activities are our primary focus and core mission. The collaboration brought about by HCFAC and enhanced by HEAT has improved coordination and communication, which has in turn led to greater impact and effectiveness of our collective fraud-fighting efforts.

Prevention. Prevention of health care fraud, waste, and abuse was written into the legislation that created OIG – it is integral to our mission and activities. OIG makes recommendations to the Centers for Medicare & Medicaid Services (CMS) to remedy program vulnerabilities that we uncover through our evaluations and audits. OIG also provides CMS with intelligence gleaned from our investigations and data analysis to help CMS target its prevention efforts effectively. In addition, OIG’s guidance and outreach to the health care industry help the well-intended health care providers avoid fraudulent or abusive conduct and promote compliance with program requirements. Further, our enforcement activities prevent fraud by stopping ongoing schemes and deterring future fraud.

HEAT has strengthened these prevention efforts. It has provided a forum for advancing OIG’s recommendations to remedy program vulnerabilities in Medicare and Medicaid. For example, senior staff from OIG and CMS are working together to plan actions that CMS can take in the short term to address some of OIG’s outstanding recommendations. In addition, HEAT has increased interagency communication about fraud trends, new initiatives, and ideas through the creation of committees and work groups comprised of experts from across HHS and DOJ who meet regularly to collaborate and develop new strategies for preventing fraud, waste, and abuse. Also, in conjunction with HEAT, OIG is considering further outreach opportunities to engage health care providers in fraud prevention.

Detection. In support of HEAT, OIG has developed and leads a data analysis team, which includes DOJ and CMS, to identify fraud patterns and trends and strategically target all of our resources. This data analysis team identified geographic concentrations of fraud to help determine in what cities to establish new Strike Force teams and analyzes fraud indicators to provide specific investigative leads to Strike Force teams.

Collaborating with our partners through HEAT has also resulted in improved data access for law enforcement. Access to “real-time” claims data – that is, as soon as the claim is submitted to Medicare – is critical to identifying fraud as it is being committed. With “real time” knowledge, we would be better able to stop the fraud more quickly and to bring the perpetrator to justice and recoup the stolen funds before the criminal or the money disappears. Timely data is also essential to our agile response as criminals shift their schemes and locations to avoid detection. Although we do not yet have access to comprehensive real-time claims data, we have made important strides in obtaining data more quickly and efficiently. On a pilot basis, CMS recently provided several OIG investigators and analysts access to a Medicare data system that includes much of the real-time claims data that law enforcement needs. OIG, DOJ, and CMS have also worked together to develop a data request template so that CMS contractors can process our data requests faster and with more efficiency.

Enforcement. OIG and DOJ jointly lead the Medicare Fraud Strike Force teams, which have expanded through HEAT from two to seven locations. The successes of these Strike Forces are described in detail below. In addition, HEAT has also led OIG and DOJ to jointly reassess our resource allocation for our civil fraud cases, which have yielded billions of dollars in returns, to ensure that we are prioritizing these resources most effectively.

Medicare Fraud Strike Forces have proven to be successful in fighting health care fraud.

The Strike Forces are an essential component of HEAT and have achieved impressive enforcement results. Collectively, Strike Forces have resulted in approximately 270 convictions, indictments of more than 500 defendants, and more than \$240 million in court-ordered restitutions, fines, and penalties. Strike Forces also deter fraud. For example, during the first year of Strike Force operations in Miami, which focused on DME fraud, submissions of DME claims decreased by 63 percent, representing a decrease of \$1.75 billion, compared to the previous year. The Strike Force model is especially effective for investigating and prosecuting health care fraud cases involving sham Medicare providers and suppliers masquerading as legitimate health care providers and suppliers.

Strike Forces are designed to identify, investigate, and prosecute fraud quickly. Strike Force teams are comprised of dedicated DOJ prosecutors and Special Agents from OIG, the Federal Bureau of Investigations, and, in some cases, State and local law enforcement agencies. These “on the ground” enforcement teams are supported by the data analysis team (described above) and by CMS program experts and contractors. This coordination and collaboration has accelerated the Government’s response to criminal fraud, decreasing by roughly half the average time from an investigation’s start to the case’s prosecution.

Under HEAT, Strike Forces have expanded from two locations (Miami and Los Angeles) to seven. In May 2009, new Strike Forces were announced in Houston and Detroit. In December 2009, Strike Forces teams became operational in Brooklyn, Tampa, and Baton Rouge.

The President’s FY 2011 Budget proposal would expand Strike Forces to 13 new locations, bringing the total number of Strike Force locations to 20. The selection of Strike Force locations is based on data analysis of Medicare claims to determine fraud hot spots.

OIG estimates that it will require almost \$25 million to establish and operate Strike Forces in 13 new locations. This funding would support an estimated 130 full-time employees dedicated to Strike Force operations and support. These 130 employees would primarily be comprised of investigative staff, including criminal investigators, supervisory investigators, computer forensic specialists, and investigative operations trainers. Additional staff supporting the new Strike Forces would include auditors, evaluators, data analysts, attorneys, and administrative and information technology (IT) staff.

With this funding, OIG is committed to working with our DOJ partners to establish Strike Forces in 13 new locations. We anticipate that it will take us through 2012 to fully launch Strike Force teams in all 13 cities, consistent with the two-year time frame for which the money would be available under the President’s proposal. However, immediately upon receiving the funding, we will begin hiring and training staff and conducting the other preparatory work, such as leasing additional space and purchasing IT and other equipment, necessary to launch and support the new Strike Force teams.

Conclusion

Health care fraud, waste, and abuse are serious problems that cost taxpayers billions of dollars every year and require focused attention and commitment to solutions. Protecting Medicare and Medicaid beneficiaries and taxpayer dollars is integral to OIG's mission. Through the dedicated efforts of my staff and our collaboration with HHS and DOJ, we have achieved substantial results in the form of recoveries of stolen and misspent funds; enforcement actions taken against fraud perpetrators; improved methods of detecting fraud and abuse; and solutions to address program vulnerabilities and prevent fraud, waste, and abuse from occurring. Working together, we are maximizing our collective effectiveness and success in this endeavor. Health care fraud, waste, and abuse are long-standing problems that require sustained commitment to combat them. On behalf of OIG, I make that commitment to you. Thank you for your attention to and support for this mission. I welcome your questions.

Biography

Daniel R. Levinson, Inspector General Office of Inspector General U. S. Department of Health and Human Services

Daniel R. Levinson has headed the Office of Inspector General for the U.S. Department of Health and Human Services (HHS) since September 8, 2004. HHS is among the largest departments in the federal government, encompassing Medicare, Medicaid, public health, medical research, food and drug safety, welfare, child and family services, disease prevention, Indian health, and mental health services. It also exercises leadership responsibilities in public health emergency preparedness and combating bio-terrorism.

As Inspector General, Mr. Levinson is the senior official responsible for audits, evaluations, investigations, and law enforcement efforts, relating to HHS programs and operations. He manages an independent and objective nationwide organization of over 1500 professional staff members dedicated to promoting economy, efficiency, and effectiveness in HHS programs and addressing fraud, waste, and abuse.

In the wider government accountability community, Mr. Levinson serves on the Executive Council of the Council of Inspectors General on Integrity and Efficiency, where he chairs the Committee on Inspection and Evaluation. He also is a member of the Recovery Act Accountability and Transparency Board. He previously served as Editor-in-Chief of *The Journal of Public Inquiry*.

Mr. Levinson has devoted most of his career to government service. Prior to his appointment at HHS, he served as Inspector General of the U. S. General Services Administration, where he oversaw the integrity of the federal civilian procurement process. Earlier in his career, he served as Chairman of the U. S. Merit Systems Protection Board, where he oversaw the integrity of the federal civilian personnel system and adjudicated a wide range of personnel appeals pursuant to the Civil Service Reform Act.

Mr. Levinson is a Phi Beta Kappa graduate of the University of Southern California, and earned a J. D. from Georgetown University, where he served as Notes and Comments Editor of *The American Criminal Law Review*. He also holds a Master of Laws degree from The George Washington University. He is a Certified Fraud Examiner and a member of the California, New York, and District of Columbia Bars.

October 2009

Mr. OBEY. Mr. Perez, we will hear from the field.

Is it Perez or Perez?

Mr. PEREZ. However you like to pronounce it.

Mr. OBEY. With me it is either Obey or Obey.

Mr. PEREZ. I did make that mistake earlier. I pronounced your name obey.

Mr. OBEY. It is O-b-e-y just like the stop sign.

Mr. PEREZ. Ranking member Rehberg and distinguished members of the subcommittee, my name is Omar Perez. I am a special agent with the U.S. Department of Health and Human Services, Office of Inspector General. And I am a member of one of the Medicare fraud strike force teams in Miami, and I am honored for the invitation and the opportunity to discuss our efforts in combating Medicare and Medicaid fraud. I am here to share my experiences as a criminal investigator on the front line in the fight against health care fraud. And in Miami, Medicare fraud is not only perpetrated by independent scattered groups but also by competitive organized businesses complete with hierarchies and opportunities for advancement.

Medicare fraud is discussed openly on the streets and is accepted as a safe and easy way to get rich quick. The money involved is staggering. People from all walks of life are gravitating toward Medicare fraud. I see high school dropouts making anywhere from \$100,000 to \$1,000,000 a year.

Typically, we would see business owners, health care providers, doctors, and Medicare beneficiaries participating in the fraud. But now, we are seeing that drug dealers and organized criminal enterprises are also joining in.

Today I will describe the typical fraud scheme, provide an agent's perspective of the strike force investigative approach; I will share some examples of some success stories and, finally, discuss the evolution of fraud in south Florida.

Now prior to the strike force, south Florida was riddled with sham DME companies, and the owners of those companies had one idea in mind: steal from Medicare. In order to perpetrate these frauds, nominee owners are recruited. And these owners place their names on corporate documents, lease agreements, corporate bank accounts, and in exchange, receive between 10- and \$20,000. They obtain lists of stolen patient information from corrupt employees of hospitals, physician offices and clinics, and they also obtain stolen physician information. With these two key pieces of information, fraudulent claims are submitted to the Medicare program for equipment that is never provided.

Once the money is deposited into the account, it is withdrawn within days using multiple check cashers. The idea is to deplete the account before Medicare discovers that fraudulent billing is occurring, and this way there is no money left in the accounts. These DME schemes are executed within a matter of months.

By the time traditional investigative referral methods come to fruition, criminals have absconded with millions of taxpayer dollars. And so we developed a streamlined investigative approach for strike force investigations. Now the model includes the following steps: obtain and analyze Medicare claims data, obtain the cor-

porate documentation, identify and obtain banking information, and identify the medical billing agents.

To highlight the successes of this strategic model, I offer the following examples. My team discovered an aberrant billing pattern for City Wide M.S. Corp, a DME company. 2½ Weeks after Rodolfo Gonzalez purchased this company, he submitted \$1,800,000 in fraudulent claims. And this included claims for 42 deceased beneficiaries. We contacted the bank and learned that over \$100,000 was still in the account.

One day later, we were advised that someone was at the bank trying to deplete that account. So we rushed to the bank. We didn't find the person there. So we went to Gonzalez's home. We found him there and on our way we spoke with the highest referring physician who told us that they had never seen any of the patients nor had they prescribed any of the equipment that City Wide had billed on behalf of this physician. So Gonzalez admitted he owned the company and he was the signer on the account and that day City Wide ceased to submit any claims to Medicare.

Gonzalez voluntarily forfeited the money that was still remaining in the account, and he was subsequently indicted and found guilty of conspiracy to commit health care fraud. He was sentenced to 48 months incarceration and ordered to pay over \$300,000 in restitution.

In yet another example, my team received a phone call from a bank advising that Reinel Pulido was at the bank inquiring about a hold that had been placed on his account. Soroa Medical was another DME company this time submitted over \$15 million and had been reimbursed over \$1.5 million. We immediately went to the bank and interviewed Pulido, who admitted to being recruited to place his name on the company documents and was paid approximately \$50,000 to do this. So we arrested him immediately.

He voluntarily forfeited the money that was remaining in the account and subsequently he was sentenced to 36 months incarceration and ordered to pay \$1.5 million in restitution.

We are finding that criminals have shifted their schemes from purchasing DME companies to establishing store front shams. The store fronts are set up by criminals who have the required equipment to pass the Medicare onsite inspections, but once the provider number is obtained, they simply pick up their equipment and all that remains is an empty store front. We have also found that criminals are now migrating to other services within the Medicare program to perpetrate this fraud. The other services impacted include home health agencies, community mental health, physical therapy and occupational therapy.

Now historically, Medicare beneficiaries and physicians were not involved, but we are now finding that in many cases they are getting paid to participate in this fraud.

Thank you for the opportunity to discuss strike force operations in south Florida and the strategies and investigative methods that we have utilized to protect taxpayer interests and I would be happy to answer any questions that the committee would have.

Mr. OBEY. Thank you all very much.

[Written statement by Omar Perez follows:]

Testimony of:
Omar Perez
Special Agent
Office of Inspector General
U.S. Department of Health and Human Services

Good afternoon Chairman Obey, Ranking Member Tiahrt and distinguished Members of the Subcommittee. I am Omar Perez, Special Agent with the U.S. Department of Health and Human Services' (HHS) Office of Inspector General (OIG). I am stationed in the Miami Regional Office, and I am a member of one of the Medicare Fraud Strike Force teams. I am honored for the opportunity and invitation to discuss OIG's efforts in combating Medicare and Medicaid fraud.

I am here this afternoon to tell you what I experience as a criminal investigator who is on the front-line in the fight against criminal health care fraud. Although the vast majority of Medicare providers are honest, my job is to focus on the ones who steal from the program. I am actively engaged in criminal health care fraud investigations, executing search and arrest warrants, seizing bank accounts, and providing Grand Jury testimony in the pursuit of criminal indictments.

In Miami, Medicare fraud is not only perpetrated by independent, scattered groups, but also by competitive, organized businesses complete with hierarchies and opportunities for advancement. Medicare fraud is discussed openly on the streets and is accepted as a safe and easy way to get rich quick.

Who commits this fraud? People from all walks of life – they say it's easy money and it's safer than dealing drugs. I see people who never finished high school living lavish lifestyles, making anywhere from \$100,000 to millions of dollars a year by committing Medicare fraud. The money involved is staggering. We see business owners, health care providers and suppliers, doctors, and Medicare beneficiaries participate in the fraud. We see drug dealers and organized criminal enterprises participate in the fraud.

How much money is involved? Too much. As an example, I will tell you a little later about one of my cases – in which \$1.8 million was billed to Medicare in a two and a half week time period.

In my testimony today, I will describe a typical Medicare fraud scheme that we investigate in Miami. I will then provide an overview of the Miami Strike Force investigative approach from an agent's perspective. I will share examples of Miami Strike Force success stories. Finally, I will discuss the evolution of fraud in South Florida.

COMMON DURABLE MEDICAL EQUIPMENT FRAUD SCHEMES PRE-STRIKE FORCE

Prior to the start of the Strike Force, South Florida was riddled with sham durable medical equipment (DME) companies. Some of these companies started out as legitimate operations with a Medicare billing number; however, they were unsuccessful as the market was saturated with illegitimate DME suppliers. As a result, these companies were sold all too often and their new owner(s) had one idea in mind: steal from Medicare.

Once in the hands of these criminals, these companies no longer provided legitimate services. In order to perpetrate the fraud, "nominee owners"¹ were recruited. The names of these nominee owners were placed on corporate documents, lease agreements, and corporate bank accounts. Those perpetrating the fraud then obtained lists of stolen Medicare beneficiary information which were compiled by individuals with access to patient information, such as employees of hospitals, clinics, and physicians' offices. The criminals also obtain lists of stolen physician Unique Physician Identification Numbers (UPIN), assigned to physicians by the Centers for Medicare & Medicaid Services (CMS) which are essential to the completion of a Medicare claim for reimbursement. With these two key pieces of information, the nominee owners would submit fraudulent claims to Medicare for DME that was never provided. The types of equipment ranged from nebulizers and corresponding medications, to incontinence supplies to motorized wheelchairs.

Once CMS paid the claims and deposited money into the company's bank account, it was withdrawn within days using multiple check cashers. The idea was to deplete the account so that once Medicare discovered the fraudulent billing, which could take 6 months to 1 year, there would be no money in the account.

MIAMI STRIKE FORCE APPROACH TO COMBATING FRAUD

The DME fraud schemes described above were executed within a matter of months. After billing Medicare for millions of dollars, companies would change ownership, bill Medicare again for millions of dollars, close and simply take over another company and repeat the process in another location. By the time traditional investigative referral methods came to fruition, criminals had absconded with millions of tax payer dollars.

A streamlined investigative approach was created for Strike Force investigations. The Strike Force model is a collaboration between the Department of Justice (DOJ) and HHS. Each Strike Force team includes agents from HHS OIG and the Federal Bureau of Investigation, as well as attorneys from DOJ. The teams are supported by investigative analysts as well as CMS program experts and contractors. Miami has five Strike Force teams dedicated to investigating HIV infusion therapy fraud, physical

¹ A nominee owner is an individual who is recruited and paid by the true owner to be the owner of record for a DME company. This process occurs to protect the identity of the true owner.

therapy/occupational therapy fraud, DME fraud, and pharmacy fraud. There are also three teams in Miami dedicated to investigating Medicare Part A Home Health Agency fraud.

The individual investigations generally follow a model that has proved highly successful in these fraud schemes. The model includes the following steps: (1) analyze and evaluate claims data; (2) obtain the Medicare enrollment application; (3) identify the medical biller; (4) identify and obtain bank information; and (5) identify the “true” owner of the clinic and/or DME company that is under investigation.

Analyze and evaluate claims data

Strike Force team members receive Medicare billing data gleaned from a wide variety of CMS data systems. We analyze the data to identify aberrant billing patterns. Before Strike Force teams were initiated, the referrals we received contained billing data that was typically between 6 months and 1 year old. Today, the data we receive provides billing information that is only 2 to 3 weeks old. In South Florida, criminals can receive several hundred thousand dollars in fraudulent payments within a matter of weeks. The ability to retrieve real-time data, meaning being able to access claims data within hours of the claims being submitted, would allow us to potentially obtain evidence immediately to substantiate fraudulent activity, thus stopping the payment of a significant amount of money and catching the criminals before they and the money disappear. What we have now is progress and better than what we had even a year ago, but with new resources I am hopeful for even more improvement.

The claims information can help us identify important information in assessing whether a fraudulent scheme is underway, including:

- total amount paid
- dates of service
- referring/ordering physicians
- beneficiaries
- claim dates
- types of procedures billed
- place of service
- provider banking information
- ownership status.

This process is called developing an investigative snapshot² of the suspected fraudulent activity.

Obtain the Medicare enrollment application and other data

² “Snapshot” refers to an excerpt of a provider’s or supplier’s billing history that includes total amount billed, claims denied, patient name, referring physicians, procedural codes billed, dates of service and place of service.

Obtaining the Medicare enrollment application is extremely important because it identifies the registered owner, his or her financial institution, and the authorized medical billing representative. For investigators, this information can generate countless leads to other co-conspirators involved in the fraudulent activity.

Identify the Medicare medical biller

The Medicare billing process begins when the medical biller electronically submits the patient's information to a Medicare claims contractor for processing and reimbursement. The medical biller could be an employee of the fraudulent company and/or a contracted third party. It is important for investigators to interview the medical biller to determine his or her level of complicity, if any, and identify who provided the billing information.

Identify the bank account and financial institution of the fraudulent business

A critical investigative step is determining the true owner of the fraudulent provider's bank account. In many instances, the true owner is not the individual who opened the bank account, withdrew or transferred funds, and/or cashed the Medicare checks. It is a significant investigative step for investigators to identify and interview all individuals with signatory control over these accounts.

Identify the "true" owner of the clinic and/or DME company

Strike Force members utilize commercial databases, bank account data, and informants in an effort to identify the true owners of the company. Once the true owner is identified, Strike Force members will attempt to interview the true owner in furtherance of the investigation.

Typically, a nominee owner is paid \$10,000 to \$20,000 for his or her role. Our sources have told us that nominee owners have been recruited in other countries and travel to South Florida solely for this purpose. After being paid, they return to their native countries.

MIAMI STRIKE FORCE SUCCESS STORIES

To highlight the successes of our streamlined investigative strategy, I offer the following examples:

My Strike Force team discovered, through data analysis, an aberrant billing pattern for City Wide M.S. Corp (City Wide), a DME company. City Wide had just been purchased by Rodolfo Gonzalez. In that month alone, Gonzalez had caused approximately \$1.8 million in fraudulent claims to be submitted to Medicare. (Prior to the change of ownership, City Wide was submitting claims of nominal value.) The Strike Force team members contacted the bank where City Wide received its electronic deposits and learned

that over \$100,000 was in the account. One day later, agents were advised that someone was trying to deplete the account. We rushed to the bank but did not find the individual there. Immediately, we went to Gonzalez's home to interview him. Prior investigative steps had revealed that the highest referring physician identified in City Wide's claims data attested he did not know the patients billed under his UPIN nor had the physician ordered the type of equipment for which City Wide was billing. When confronted, Gonzalez admitted he owned the company and was an authorized signer on the account. In an attempt to minimize his involvement in the fraud, he voluntarily forfeited the funds in the account to the Government that day. Immediately after we interviewed Gonzalez, City Wide Medicare claims ceased. Gonzalez was indicted and charged with conspiracy, healthcare fraud, and aggravated identity theft. He was found guilty by a trial jury of conspiracy to commit healthcare fraud, sentenced to 48 months incarceration, and ordered to pay \$325,442 in restitution.

In a second illustrative case, my Strike Force team received a phone call from a financial institution advising that Reinel Pulido was inquiring about a hold placed on his company's corporate bank account. Soroa Medical was a DME company that Pulido claimed he was operating for a friend. The company submitted over \$15.6 million in fraudulent claims and was reimbursed \$1,565,410. Pulido was interviewed at the bank and admitted to being recruited to place his name on all the documents related to Soroa Medical. He was paid approximately \$50,000 for becoming the nominee owner. Strike Force agents confronted Pulido with the evidence and he voluntarily forfeited the \$75,910 in his company's bank account. Pulido was arrested immediately. He was sentenced to 36 months incarceration and was ordered to pay \$1,565,410 in restitution.

THE EVOLUTION OF FRAUD IN SOUTH FLORIDA

In many instances, criminals have shifted their schemes from purchasing legitimate DME companies to instead establishing storefront shams. The storefronts are set up by criminals who have the required equipment to pass Medicare onsite inspections. Once the Medicare provider number has been issued, the individuals pick up their equipment and all that remains is an empty storefront.

Some criminals create additional layers to shield the true owners to counter Strike Force tactics. Prior to Strike Force operations, the true owner was most likely an associate of the nominee owner. Now there are many levels to a criminal enterprise; each level operating independently of the others but controlled by the same person.

We have also found that criminals are now often migrating to other services within the Medicare program to perpetrate their fraud. Other services impacted include: home health, community mental health, and physical therapy/occupational therapy. Historically, Medicare beneficiaries and physicians were not involved in criminal enterprise. Now we are finding that in many cases both are getting paid to participate in fraud.

CONCLUSION

The investigative approach and success stories referenced today represent the dedication and commitment of all OIG special agents and their collaborative partners in the fight against criminal fraud within the Medicare and Medicaid insurance programs. The HEAT initiative is an example of how combined resources, technology and collaboration can be synthesized to combat healthcare fraud in an effort to protect one of the most vulnerable segments in our society.

Thank you for the opportunity to discuss Strike Force operations in South Florida and the strategies and investigative methods utilized to protect the interest of all taxpayers. I would be happy to answer any questions that the Subcommittee may have.

Omar Perez, Special Agent
Office of Inspector General
US Department of Health and Human Services

Omar Perez joined the Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Investigations (OI) in July, 1998 as a student participating in the Outstanding Scholar Program in the New York Regional Office. He was promoted to an agent in January, 1999, and in 2000, Omar transferred to Puerto Rico to re-open OIG's field office there. While in Puerto Rico, Omar's mentorship of coworkers and work product propelled the office and doubled its size from two to four agents. He led a number of successful criminal and civil investigations and orchestrated special projects, including "Ghost Rider," which targeted fraudulent ambulance companies, and "Bad Medicine," which targeted fraud in Puerto Rico's Medicaid equivalent. He also led the first child support deadbeat parent roundup in the US Virgin Islands.

In 2005, Omar returned to New York and was accepted into OI's first Management Development Program. While participating in the program, Omar continued to mentor agents and hone his investigative skills. In 2007, he transferred to the Miami Field Office where he was assigned to one of the Miami Strike Force teams. In the two years he has served in Miami, Omar has obtained judgments, settlements and voluntary forfeitures totaling \$52,883,962. He has indicted 28 individuals, 22 of whom have been sentenced; the other 6 are fugitives.

Omar's collateral duties include serving as a Mentor, Defensive Tactics Instructor, Diversity Recruiter, and Tech Agent. He has also assisted the Protection Operations Staff on multiple overseas missions. Omar has recently represented OIG on CBS's *Nightline* and on *Univision*.

Omar graduated Summa Cum Laude from John Jay College of Criminal Justice in New York City with a Bachelor's of Science. He graduated Summa Cum Laude from the University of Phoenix where he obtained his Master's of Business Administration. Omar has been awarded numerous awards for exceptional achievement and had the honor of receiving the OIG/OI Bronze Medal Award for Employee of the Year.

Mr. OBEY. Mr. Rehberg.

RECOVERY AUDIT CONTRACTORS (RACS)

Mr. REHBERG. Mr. Chairman, as I recall, Congress is part of the Medicare Modernization Act, and later through the Tax Relief Health Care Act of 2006, established a program where recovery audit contractors assisted CMS in identifying and recouping improper payments under the Medicare program. My understanding that of that legislation is that CMS was required to implement a permanent and nationwide recovery audit contractor program by January 10 of this year. Are these RACs now fully operational? If not, what additional steps need to be taken to ensure all States are covered? And can you tell me how much funding in improper payments has been recovered to date by these RACs?

Mr. CORR.

Mr. CORR. Mr. Rehberg.

Mr. REHBERG. By the way it is Rehberg. I don't care either. It is a silent H.

Mr. CORR. Mr. Rehberg, there are four Recovery Act contractors that are responsible for taking post payment data and reviewing it to be sure that we have identified any improper payments. The focus is not so much fraud as it is on improper payments. Focus is oftentimes on hospitals to assure that the payments included on, claim forms that have been submitted were properly, those services were actually provided, there was no upcoding and no improper work done.

The four RACs are up and running. We still have, I will I have to get you a more thorough report. I apologize I don't have exactly where we are with each of the four. They are in place. We have consulted with each of the 50 States talking about what the Recovery Act contractors will be doing. They will be looking at both part A and B claims under the—

Mr. REHBERG. Do you know how much has been brought back by the RACs that are in place?

Mr. CORR. The initial, I believe, it was seven States produced, I think it was \$60,000,000 in savings in FY 2010. We are projecting substantially higher savings as we expand the program because the initial savings were developed from pilots that were done. We are projecting what will happen nationwide, but we expect within a couple of years to have hundreds of millions of dollars in savings.

Mr. REHBERG. Is there a report that is available as a result of the January 10 deadline?

Mr. CORR. We will develop one for you. We will give you an update. That would be the best way for me to give a more thorough report on exactly where we are with each of the four.

[The information follows:]

RECOVERY AUDIT CONTRACTORS PROGRAM

Deputy Secretary CORR. CMS is in the process of finalizing the FY 2009 status report, which focuses on the implementation efforts CMS and the RACs undertook in FY 2009 to implement the national RAC program. Section 302 of the Tax Relief and Health Care Act 2006 made the RAC Program permanent and required the Secretary to expand the program to all 50 states by no later than 2010. CMS expects this full report to be released soon. The CMS website and presentations given to

various stakeholders have released most of the information that will be in the report. Additional information on RACs can be found at www.cms.hhs.gov/RAC.

Mr. REHBERG. Anybody else? Of the strike teams that are going to be created to get up to the twenty sites, what is the criteria you are using? I was listening to the testimony. I read the testimony. But I didn't see anywhere where it established where the criteria was going to be. In looking at places like my colleague's community of Baton Rouge, I would not have thought of that as a hot bed of Medicare fraud. So what goes into decision making?

Mr. GRINDLER. Congressman Rehberg.

Mr. REHBERG. You are a quick study. You must be a lawyer.

Mr. GRINDLER. The approach in identifying these cities is really a data-driven approach where data that has been developed by the Department of Health and Human Services is analyzed by a group of people both from the Department of Justice and from HHS to determine whether there are trends, there are aberrational billing.

Mr. REHBERG. Could you use Baton Rouge as an example, since it is established, it is in place, what in the data told you that that location more than Houston or Seattle or Boston?

Mr. GRINDLER. I can't give you—

Mr. REHBERG. I could tell you why but he won't appreciate it.

Mr. GRINDLER. I can't give you all the specifics now other than to say that we are looking at cities in which the aberration of billing patterns seem to be most pronounced. For example, we are looking at trends that involve billing in a certain category that may exceed 1,000 percent of the national average or we may be looking at a DME provider—

Mr. REHBERG. Are you going to share with us then before they are established, the Congress, of where they are going to be established or are we just going to pick up the newspaper one day and find out where the new locations are?

Mr. GRINDLER. I think there are law enforcement reasons why we wouldn't be discussing our analysis of all the cities, but I will tell you it is a rigorous process and as part of the HEAT program, we actually have a committee that has that responsibility in order to analyze it. And that is how, initially Miami and then you have heard the other cities, Houston, LA, Brooklyn, Detroit and now Tampa and Baton Rouge, so we are looking at, and there is a ranking, but there are a lot of categories to look at. And then I will say even beyond that, there needs to be some interaction with people in those jurisdictions to try to get some specifics as to what the agents think is going on there. It is not totally number driven where you can just rank them by a data analysis and know what those cities are.

Mr. REHBERG. Mr. Chairman, if it is possible maybe we can have a classified briefing on how they use their, if they are looking for additional money from us.

Mr. OBEY. Are you cleared?

Mr. REHBERG. No but I have staff that is. It would just be interesting to know if they are asking for additional money, I don't know if they would get it or not, it would be nice to know ahead of time what criteria you use to establish—

Mr. OBEY. We will talk about it.

Mr. REHBERG. Thank you.

Mr. OBEY. Ms. McCollum.

Ms. MCCOLLUM. Thank you. Medicare and Medicaid serve 79 million Americans. Fraud, waste and abuse in these programs cost taxpayers billions of dollars. And according to an article in Health Affairs by the Chief Counsel of the office of Inspector General at HHS, Louis Morris, "The FBI estimates that fraudulent billings to public and private health care programs are 3 to 10 percent of total health care spending at \$75,000,000,000 to \$250,000,000,000 in fiscal year 2009."

This is an unbelievable amount of money being stolen or swindled from both the taxpayers, private companies and that costs every American family. So Chairman Obey, I thank you for having this hearing today. This is important. It is important to protect taxpayers dollars and the future of Medicare.

Now you have talked today about the success of the health care fraud and abuse programs, and I commend this administration for making fighting waste, fraud and abuse a priority.

My concern is that we need to get smarter and tougher in beating crooks and the companies that cheat taxpayers. A lot of attention was paid by my colleagues on the other side of the aisle, when one small nonprofit that assists those in poverty was accused of wrongdoing, it made sure that they would not receive one single penny of Federal funding.

Now Mr. Grindler, you discussed in your testimony Pfizer. Pfizer pled guilty to a felony violation of intent, intent to defraud or mislead Medicare or Medicaid, and they agreed to pay \$2,300,000,000. This was cited as the largest health fraud settlement in the history of the Department of Justice. But for Pfizer, is it was the equivalent of 3 weeks worth of sales.

Now the attorney general for Massachusetts said Pfizer violated the law over an extended period of time. The director of the defense criminal investigations service and I quote, the off-label promotion of pharmaceutical drugs by Pfizer significantly impacted the integrity of TRICARE. And that is a program for our servicemen and women. This illegal activity increases patients' costs, threatens their safety, and negatively affects the delivery of health care services to over 9 million military members, retirees and their families who rely on that system."

Assistant Attorney General for Civil Division said "Illegal conduct and fraud by pharmaceutical companies puts the public health at risk, corrupts medical decisions by health care providers and costs the government billions of dollars."

Do you gentlemen agree that these quotes are accurate?

Mr. GRINDLER. Ms. McCollum, I have to caveat my statements and extend my apologies that while the ethics experts allow me to state the outcome of the Pfizer matter, I am actually recused from the matter. So I can't give you more details. But on a more general level, I will tell you that we have tremendous focus on prosecuting both companies and individuals. And I think that the sentencings that we have been getting have been greater by at least 10 percent than what you have seen in the past. So we agree that it is a very high priority, and we need to be aggressive in this area.

Ms. MCCOLLUM. Mr. Chair, I will put into the record then the Justice Department announces the largest health care settlement in history in the record to back up my words here.

A corporate analysis described the Pfizer settlement and criminal penalties by saying, it ain't chicken feed, but it is affordable. Crime against the American people cannot continue to be affordable. In the Pfizer case, could you please tell me how many officials went to jail?

Mr. GRINDLER. I can't, but I will get someone to get you that information.

[The information follows:]

PFIZER OFFICIALS WHO RECEIVED FEDERAL SENTENCES

In May 2009, Thomas Farina, a former district sales manager at Pfizer, was found guilty of obstruction of justice for altering documents on his computer during a federal investigation of off-label sales of Bextra. Mr. Farina was sentenced to six months of home confinement with electronic monitoring and three years of probation.

In March 2009, Mary Holloway, a regional sales manager, pled guilty to violating the Food, Drug, and Cosmetic Act by inappropriately selling Bextra. In June 2009, she was sentenced to pay a \$75,000 fine and twenty-four months of probation after pleading guilty to an Information charging her with distribution of a misbranded drug.

Ms. MCCOLLUM. I believe, I could be proven wrong, but I believe we will find no one went to jail.

Mr. GRINDLER. I believe the settlement to which you refer to where you quoted assistant Attorney General Tony West was settlement with the civil fraud section of the Department.

CONTRACT ELIGIBILITY

Ms. MCCOLLUM. Civil, not criminal. So Pfizer was not found guilty of any criminal charges. Is Pfizer still eligible for government contract to be reimbursed by Medicaid and Medicare?

Mr. CORR. I am not aware of any change in, I don't know that they sell directly to the Federal Government, but I will find that out for you Congresswoman.

[The information follows:]

GOVERNMENT CONTRACTS

Deputy Secretary CORR: CMS has no direct contracting relationship with Pfizer Inc.

Ms. MCCOLLUM. Well, Mr. Chairman, I bring this up because if we really are going to get tough on small crooks and swindlers and organized crime, we have to get tough on corporate crime. We cannot make it so 3 weeks of sales becomes a cost of doing business.

So getting a Federal contract is a right, if you are taking that contract and you are using it to serve the American people. But it is not a right, it is a privilege for the most part. It is a privilege and white collar crooks need to be punished.

And I said that backwards, Mr. Chair. I am just so passionate about this. It is not a right to get a contract. It is a privilege to get a contract. And if you defraud the Federal Government, you should not even have that privilege. No one should expect to come in and just get a contract from the Federal Government, then turn around, defraud hundreds, billions of dollars, and then turn around and ask for a contract again.

So Mr. Chair, as we move forward, I would like to hear the recommendations where Congress can be tougher, what we need to do to change the level of penalties of fraud, to send a signal to small time crooks and corporate crooks who use fraud as part of their business plan that it will not be tolerated. And Mr. Chair thank you.

[The information follows:]

CONTRACT ELIGIBILITY

Ms. MCCOLLUM: I would like to hear the recommendations where Congress can be tougher, what we need to do to change the level of penalties of fraud, to send a signal to small time crooks and corporate crooks who use fraud as part of their business plan than it will not be tolerated.

Deputy Secretary CORR: Many of the most important actions or authorities needed to identify and prevent fraudulent activity in federal health care programs require statutory changes that would strengthen the Medicare and Medicaid programs. As a result, many new authorities have been sought within health reform.

For example, CMS does not prosecute crimes, but is seeking additional staff for Medicare Integrity efforts that will enable the Agency to create rapid response teams to investigate the highest priority leads received and support law enforcement as they pursue appropriate follow-up action.

Mr. OBEY. Thank you. Mr. Alexander.

Mr. ALEXANDER. Thank you, Mr. Chairman.

Fellows, when you were going through your numbers a while ago, I don't have a calculator with me, but I would think that the numbers that you mentioned about fraud would total a gazillion dollars anyway. Some of you used the words organized crime. I know Mr. Perez did. You know I have watched some of the movies, Godfather and stuff and usually "organized" means more than one, you know, two at least.

So the question is, all these problems that we have encountered, do we ever catch anybody on the inside? I mean, if somebody on the inside has to write that check and when they see that a physician in Miami has charged for the same procedure 6,000 times in one day, do they just write a check and say boy this guy is good or does a bell ever ring and say something is wrong out there?

[The information follows:]

HEALTH CARE FRAUD

Mr. ALEXANDER: So the question is, all these problems that we have encountered, do we ever catch anybody on the inside?

Deputy Secretary CORR: To successfully conduct investigations into health care fraud, HHS/OIG uses all means available, including undercover agents, informants, and cooperating individuals. However, not all situations lend themselves to agents being active participants in the organizations. These decisions are made on a case-by-case basis.

So, it is good that we can pat ourselves on the back about all these people on the outside that we are catching. But somewhere on the inside, do we ever find anybody that is playing footsies with those out there?

Mr. GRINDLER. I think the answer to that is yes, we do. And I think in the investigations we are talking about, we have prosecuted a variety of people, categories of people, including individuals who are involved with the sham companies that are stealing information about patients and physician numbers. But we are also pursuing providers and physicians. So I think we are trying to pursue as many different categories of people as we can. We are cer-

tainly using cooperators in an effort to get as high as we can in whatever entity that may be involved in this so that is our goal.

Mr. ALEXANDER. Well, for instance, we were talking about Baton Rouge. And that is fine. If we find somebody down there breaking the law, let's put them in jail. But I would also like to know if there are people inside this department that are working down there if they get caught we need to know about those too, the public needs to be aware. And names need to be brought to the attention of the public, insiders if they are, in fact, found guilty.

That is all, Mr. Chairman. Thank you.

Mr. OBEY. Mr. Ryan.

INFORMATION TECHNOLOGY INVESTMENTS

Mr. RYAN. Thank you, Mr. Chairman. I think they are going to call votes here in a second, just a couple of questions. One is, is there any technology that we can use, computer programming that you currently use now or that we should be considering as an investment? As great of as a job as you do, it is very expensive to put people in the field as opposed to maybe having a computer program that could analyze a lot of this data that is coming in, suspicious patterns that may exist, is there any of that going on? Are you making any of those investments and is that something that we should be looking into?

Mr. CORR. Mr. Ryan thank you for that question. Because as we talked earlier, pay and chase, we can do that and we are doing it very well. You have heard stories about it. But what is very important is that we get on the front end of this with prevention tools, much better enrollment practices that stop people from joining, from getting into the program. And it is HHS' responsibility to move our database to a point where it is of maximum use to law enforcement officers.

The ideal that we are working towards, and our plans have us by the end of 2011, having the capacity to have a single, integrated database for the entire country, for all benefits, for all beneficiaries, and for all providers, so that law enforcement officers will be able to see trends that develop as claim forms are filed with Medicare and Medicaid. And in this case, I am talking about the database that we run for the Medicare program. It is imperative that we develop that database. It substantially improves the law enforcement officers' ability as investigators to identify fraud, and it allows us to begin to take advantage of new technologies, new analytical tools, that will enable us to identify aberrancies in the billing as they are occurring so that we don't wait a month to find out that someone has billed us \$6,000,000 and closed up his shop and moved on.

Mr. RYAN. How far along is that database? What is your projections of getting that to a spot that it is going to be beneficial?

Mr. CORR. With the discretionary funds that this committee and the Congress have provided to us in fiscal year 2009 and in fiscal year 2010, we have been building that database. We currently have access, law enforcement has access, for post payment data.

By this summer, we have been able to do this in stages. It is a massive undertaking to organize this data and to develop the software so that law enforcement can take advantage of this. Our cur-

rent target date is by the end of FY 2011 to have that single database developed. Right now we have parts A and B and D and DME, in a post payment database. We have beneficiary information in another database that law enforcement has access to now. We have just begun to develop these resources. We are working very closely with our Inspector General and with the Department of Justice.

This is the number one request that law enforcement and our Inspector General have had of the Department is develop a database and give us access as files, as claims are filed, so that we can immediately take advantage of technology and analytical tools that allow us to identify.

Mr. RYAN. How much money are you putting behind this effort?

Mr. CORR. Our estimate this year is that we will be spending \$14,500,000—let me just be sure of my numbers, an additional \$15,000,000 to \$20,000,000 this year that would continue to build this database. And I will get you some more precise numbers so you will know exactly what it will take.

[The information follows:]

INTEGRATED DATABASE

Deputy Secretary CORR: The Administration recognizes that to meet the challenges of our evolving health care system, CMS needs to make substantial investments in its overall information technology infrastructure. CMS' data infrastructure, security apparatus, and claims processing systems are antiquated. They can neither meet the demands for "real-time" data needed to fight fraud, waste, and abuse, nor facilitate innovative solutions that reward quality instead of quantity of care through initiatives such as value-based purchasing and comparative effectiveness research. The President's FY 2011 Budget Request proposes a five-year investment, called the Health Care Data Improvement Initiative (HCDII), which will revamp its data infrastructure, making it possible for CMS to meet these future challenges. The requested \$110 million investment would fund initial planning, designing the architecture, and laying the foundation of this multi-year effort. A more complete estimate of the total needed funding will be provided in the HCDII Strategic Plan in late spring 2010.

The One Program Integrity (One PI) tool provides an easy way to search and access CMS's vast repository of data. Much like Google and Bing allow us to navigate the massive repository of information within the Internet, and provide us with the tools needed to secure data to assist with our everyday lives, the One PI portal will allow CMS and its law enforcement partners to navigate through the data within CMS's databases, providing a better tool to effectively combat fraud, waste, and abuse.

While One PI improves our ability to search for data, HCDII takes the next step in improving the underlying data and its frequency. Past experience demonstrates that current, relevant data is a highly-effective tool in detecting and preventing fraud, and prosecuting individuals who commit fraud. HCDII will play an integral part in CMS and our law enforcements' efforts to prevent fraud by providing One PI with a data infrastructure that makes near "real-time" data monitoring and analysis possible. The President's FY 2011 Budget Request builds on this concept and requests an investment of \$32 million to accelerate the development and final implementation of the One PI portal. The budget also requests continued funding of the Integrated Data Repository (IDR) at \$7 million in FY 2011, a vital interim step to revamping our data infrastructure, to serve as One PI's data backbone. It is anticipated that the addition of prepayment claims data and new data sources will be of great value to CMS and its law enforcement partners in combating fraud, waste, and abuse.

It is important that we continue to invest in our data systems and the analytical tools that go on top of them not only today, but in the future in order to best equip the government to catch fraud on the front end and enhance program integrity activities.

Mr. RYAN. That doesn't seem like all that much money for that large of an endeavor.

Mr. LEVINSON. I would like to add that as a result of this committee's funding, the discretionary dollars have been devoted in large part to training. We have been able to train 130 of our investigators and our evaluators in claims database training. That would not have happened without the funding that has been made available as a result of this committee's approval.

So it not only requires getting the systems up and running, but then understanding them. We have a level of complexity that is unusually substantial because of the volume that we deal with. And it is especially valuable for our investigators and our evaluators to have this kind of training because they use it both to identify fraud and then to be able to do the investigation in a proper and a safe way and I think it is, I would like to just drop a footnote about organized crime because that is an issue because of the significant dollars that have been in play, in these programs, organized crime is a serious issue and that involves safety.

And one of the many reasons to admire the work of Special Agent Perez and his colleagues is that they not only supply knowledge, skill, and ability to their investigative work, they put themselves in harm's way, and the strike force work in particular is dedicated to some of the street level kinds of issues in which one actually puts his own life in danger. There are people out there who would just as soon try to kill you as to try to cure you. So I think the strike force dollars especially are valuable at that level.

Mr. OBEY. Thank you. Perfect timing. We are going to have two votes, and we will take about at least half an hour maybe 45 minutes before we reconvene. So I am frankly not sure whether we should continue the hearing or not. But let me ask a few questions before we absolutely have to leave to meet the clock on the vote.

I get nervous when I hear all of this discussion about databases and computers, because unfortunately I have the experience of watching the FBI on three different cycles, screw up their computer modernization program. How do we know that the same thing isn't going to happen to you and that we will wind up wasting a huge amount of money building that system?

Mr. CORR. Mr. Chairman, we have that process underway. We would welcome the opportunity to bring in the people that are building the database and sit down with your staff or with you if you prefer and walk you through exactly what we are doing. We, as a part of the national summit, we are talking with technology experts, we are talking with the private sector, we are talking with credit card companies.

[The information follows:]

INTEGRATED DATABASE

Deputy Secretary CORR: CMS will schedule a meeting for the Committee with appropriate program experts to discuss the integrated database and existing information technology initiatives in more detail.

Mr. OBEY. So was the FBI. They still got it wrong.

Mr. CORR. I certainly appreciate your concerns and your skepticism. And we are going to do everything in our power to get it right, and we would welcome the opportunity to keep you apprised of the steps we take as we go.

HCFAC DISCRETIONARY FUNDS

Mr. OBEY. Two questions relating to the funds that we provided last year. One, what wouldn't you be able to do today that you are doing if we hadn't provided additional increase?

Mr. CORR. Mr. Chairman, the funds that this committee has provided in fiscal year 2009 and 2010 have all added to the activities that were occurring only with the mandatory funds, so everything that we have used these additional moneys for are new activities that expand our capacity.

In 2010, we have \$311 million as you know. About half of that is creating for the first time a comprehensive oversight program, program for parts C and D. With our fiscal year 2009 money, we began new systems for the first time and we are completing it this year.

Mr. OBEY. Let me interrupt you because Mrs. Lowey came in and what I would like to do is make sure that she can get a couple of questions in before we go vote, and then I am going to ask you to stay if you don't mind so I can go back and toss a few questions of my own at you.

PERFORMANCE MEASURES

Mrs. LOWEY. You are very gracious. And my absence has nothing to do with the significance of this hearing, but we have had several hearings scheduled at the same time. Let me be quick and I thank you.

As I understand from looking at the testimony, all of the witnesses, almost all, said there is no single estimate as to the total cost of fraud. Inspector General Levinson stated that 7.8 percent of Medicare fee for service claims paid in fiscal year 2009, did not meet program requirement. Sounds like the same tune we have been hearing for many years. So my question is, if Congress were to fully fund the budget request, how much of a decrease would we see on the 7.8 percent figure, and in addition to difficulties in determining the overall level of fraud, I am curious to how HHS, DOJ and others measure success?

So if you can describe the metrics that you are going to use and how you can tell us that by investing this money we are really going to do something about this because the American people are angry. They feel we spend too much money and we want to be sure that when we are spending money, we are going to get some results.

Mr. CORR. Thank you, Congresswoman. And I will be brief because I realize there is very little time. The most recent improper error rate is 7.8 percent for the Medicare program. We estimate that about half of that has to do with improper documentation by providers and with physicians not signing forms properly. Our rules require that they have proper documentation in their medical records so when we come back and do the survey to determine the error rates, I am just trying to explain to you that half of those may very well be appropriate services but they weren't properly documented or they weren't properly signed.

The other half we believe are payments that could very well be fraud or otherwise are improper, and the data systems that we are

developing, the contractor review of claim forms as they come in, we have, the moneys this committee has provided to us have been used in parts A and B with our contractors and in parts C and D to do a much more thorough job of oversight on providers to try to bring that rate down as low as we possibly can.

Mrs. LOWEY. So you have evidence that expanded government enforcement has deterred and prevented fraud?

Mr. CORR. Fraud and improper payments. In the funds for fiscal year 2010 that we have received, the CMS actuary and the Congressional Budget Office have projected a return of about \$1.50 for every dollar spent. Previous estimates of spending through our health care fraud, waste and abuse program have return on investment of \$6 for every dollar spent. It depends on whether you are talking about an administrative service that can be implemented through technology or whether it requires a great deal of staff to actually go out and evaluate records as to how high those returns are.

But we believe these efforts all have a significant return on investment and that additional funds will be put to good use and will bring down both improper payment and fraud.

Mrs. LOWEY. Now, the strike force teams appear to be successful and you have asked to expand those. At first glance, this seems to be a good idea. But I want to make sure that the existing strike forces which created in the cities with the highest levels of fraudulent claims continue to receive the support they need. Could you respond?

Mr. GRINDLER. Yes. The existing cities that have the strike forces, our plan is to continue receiving the support for their effort. In addition, though, part of what the strike force concept is to take the people that are experts in this sort of enforcement strategy and train assistant U.S. Attorneys in these cities so that as time goes on, the U.S. Attorney's offices, on their own, can be continuing this effort in perpetuity to the extent that it is needed. And then those resources will be extended to another 13 cities we hope through 2011. And in terms of the metrics there we not only have what has been a 4:1 ratio where the money collected—this is civil and criminal—is \$4 per every dollar spent.

But the other part of it is, and it is really important is the deterrent value and sometimes that is hard to measure and that is why the strike force that has real time prosecutions with sentences that are significant we think have a deterrent value and we have one example in Miami which I mentioned in my opening remarks that where if you look at what was being billed for durable medical equipment the year after the strike force had done its initial effort that billing and that category went down over \$1,000,000,000.

Now that isn't money collected, but that is deterrent, that is a measurement of deterrent and I think we can look at that kind of metric in other cities as the strike forces move forward.

Mrs. LOWEY. Thank you, Mr. Chairman, for your consideration. I will submit other questions for the record.

Mr. OBEY. I am going to suggest that we go and vote and those who can come back, God bless you, and those who can't, well, we will see you in a few minutes.

Mr. OBEY. Well, frankly I have forgotten where I was when we stopped the questioning. You have been talking today mostly about fraud affecting Medicare and Medicaid and other Federal programs. What about private insurers and private health care plans? What kind of problems do they typically face as far as fraud and abuse? Are they just as susceptible to fraud as the public programs and to what extent do your agencies get involved in investigating and prosecuting that kind of fraud?

[The information follows:]

FIGHTING FRAUD

Mr. Obey: What about private insurers and private health care plans? What kind of problems do they typically face as far as fraud and abuse? Are they just as susceptible to fraud as the public programs and to what extent do your agencies get involved in investigating and prosecuting that kind of fraud?

Deputy Secretary Corr: From the Medicaid perspective, all States are generally cooperative in fighting fraud and cooperate with our Medicaid program integrity efforts. Here are a few examples of State-Federal cooperation on this issue:

Test Audits: CMS conducted test audits in Florida, Mississippi, Texas, Washington, and the District of Columbia prior to the implementation of the national Medicaid provider audit program to gain a better understanding of audit processes and procedures as well as variation across States.

Special Field Projects: CMS has collaborated with both Florida and California to conduct special field projects to identify and investigate providers involved in suspicious or potentially fraudulent activities. The CMS Medicaid Integrity Group (MIG) and Florida Medicaid Agency jointly conducted five special field projects targeting inappropriate billing and/or suspected fraudulent activity in the areas of home health and durable medical equipment (DME). Additionally, one field project conducted jointly with the California Medicaid Agency targeted providers with suspicious billing patterns that have ties to the West Hollywood area of Los Angeles. These investigations resulted in a significant number of referrals to law enforcement for criminal prosecution, provider fines, and some provider terminations from the Medicaid program.

Medicaid Fraud & Abuse Technical Advisory Group (TAG): Wisconsin, Massachusetts, Virginia, Florida, Minnesota, Texas, Utah, and Washington are members and active participants with the TAG.

Training at Medicaid Integrity Institute: A number of states have generously supported the Medicaid Integrity Institute by contributing staff to be part of planning workgroups and to serve as faculty for multiple classes. Since February 2007, CMS has trained and educated more than 1,300 State employees on program integrity functions and activities through the Medicaid Integrity Institute. Georgia, New York, Massachusetts, South Carolina, and Texas have provided the most support to the Institute.

Technical Assistance: – A number of states have engaged CMS on numerous occasions in recent years to gain more insights and better understanding of issues related to the Medicaid Integrity Program. New York, Florida, Kentucky, Nevada and Virginia have especially engaged CMS in this area.

Mr. GRINDLER. Well, I don't have data to tell you what the difference is. I think there is probably a lower prevalence of fraud in that category, but certainly we do to the extent that we can identify insurance companies that may be engaged in fraudulent activity, we have and will—I just don't have the numbers for you, but I can try to get them for you.
[The information follows:]

INVESTIGATION AND PROSECUTION OF PRIVATE SECTOR HEALTH CARE FRAUD

The Department of Justice is involved in the investigation and prosecution of many types of private sector health care fraud and abuse. While the Department of Justice participates with the Department of Health and Human Services in investigations of Medicare fraud, the Department also works with other federal agencies such as the Department of Labor's Employee Benefits Security Administration and Office of the Inspector General by assisting their anti-fraud and abuse enforcement programs involving privately funded health care plans. Private insurance companies, self-funded health care arrangements and employer or union-sponsored employee health benefit plans are often defrauded together with the Medicare program in false billing fraudulent and provider scams. While fraud and abuse of private sector health plans may not create direct losses to federal governmental programs, such criminal activity places a financial burden on the whole health care system which raises the cost of health care coverage for all Americans.

In addition, some schemes which target private sector group health plans may result in the collapse of the group's health care coverage leaving victimized participants in these plans with devastating hardships such as personal liability for unpaid medical bills, denial of future medical treatment and the inability to obtain insurance from other carriers for pre-existing conditions. Particularly egregious are those persons who fraudulently operate unlicensed insurance companies and sell health care coverage to group health plans with no ability to ultimately pay medical claims as promised. Such entities evade state insurance regulation by falsely claiming federal preemption from state regulation under provisions of the Employee Retirement Income Security Act of 1974 (ERISA) governing employee health care plans in the private sector. These corrupt unlicensed insurers target employers, unions and professional associations offering group health care coverage for their employees and members at attractive prices which underbid legitimate insurers by falsely claiming to be exempt from costly state regulatory requirements such as minimum claims reserves and premium taxes intended for state funds guaranteeing benefits of insolvent insurers.

Mr. LEVINSON. Mr. Chairman, although HCFAC has jurisdiction only over Medicare and Medicaid, Special Agent Perez has some special experience that might shed some light on your question.

Mr. PEREZ. One of the impacts that I think the strike force teams have had in Miami is that we have pushed some of the criminal enterprises into other segments of the Medicare programs. And one of them is the Part C or the Medicare Advantage Plans. And while those plans are private insurance companies that have been awarded contracts that treat Medicare beneficiaries, what we have seen are the HIV infusion therapy schemes that have now been perpetrated against Part C plans and the scheme is very easy to do. They de-enroll Medicare beneficiaries from their Part B plan and they enroll them without their knowledge into a Medicare Advantage Plan, usually using the Internet to do that.

Once they have done that, they basically just bill for services that these patients are really not receiving. Now, unfortunately the patients in some instances are actually taking part in this fraud in that they are receiving kickbacks to go to the clinics and sign as though they have received some services. The payments range from anywhere between \$100 per visit up to \$300 per visit. So we have seen that and we actually indicted several companies and individ-

uals that have perpetrated the HIV-infusion fraud under the Part C plan.

MEDICARE TRUST FUND

Mr. OBEY. That was my next question. So you took care of that nicely. Thank you. The health care bill that passed the House, I don't want to comment on the Senate bill because I am supposed to keep my language clean. But if you take a look at the House bill, here that bill contains over \$400,000,000,000 in intended reductions and cost in Medicare over the next decade. My understanding is that Medicare will spend over the next decade somewhere between \$7,000,000,000,000 and \$8,000,000,000,000. So that would indicate it would seem that the savings that we are talking about achieving in Medicare would be somewhere around 5 percent of what the program will be outlaying over the next 10 years. You have been talking today about some pretty large numbers in terms of waste and fraud in Medicare.

Would you explain to us how increased screening and background checks on enrollment of medical providers and equipment used by Medicare will help, the revised payment rules such as requiring face-to-face encounters between patient and physician to prescribe durable medical equipment, some of those changes. Can you quantify what you expect to see saved over a decade with actions like that? The reason I ask this question is because when you talk about "Medicare cuts," people think you are talking about benefits. We are not talking about cutting benefits.

We are talking about trying to eliminate waste, duplication. And so it would be useful if we could quantify some of the pieces of that so that people get a more accurate understanding of what it is we are talking about.

Mr. CORR. Mr. Chairman, let me give you an overall number and then we will see if we can find estimates that are as refined as you just asked for by service. That may be hard. But just to give you one example of the returns in terms of a money to the trust fund, in 2008 with just mandatory spending before this committee provided additional resources, the actual returns to the Medicare trust fund were \$12,500,000,000, and there was \$1,100,000,000 spent in terms of the mandatory funds. Those monies were focused on the basic program integrity program at CMS as well as a focus on fraud. But that focus is—has been expanded significantly by the discretionary resources that the committee has made available to us.

The return on investment that I mentioned earlier, while the mandatory funds back in 2008 have been estimated to return \$6 for every dollar spent for law enforcement activities and \$14 for every dollar spent for administrative activities, in part that larger number happens because the administrative expenses are significantly lower than the cost of standing up a strike force and those activities. So that is the level of return that we have seen historically. Being conservative, our actuary and CBO have projected savings from the increases that we are now spending of anywhere from 1.5 to 1.8 dollars to every dollar spent. And we think it is going to turn out larger. But those are the conservative projections. So what those do is they take into account the comprehensive

range of activities that we are pursuing. It is very hard to take one piece out and say—except anecdotally.

For example, because of the strike force work in Miami-Dade County and because of some of the on-site work we were doing with DME providers and other activities. The billings from DME providers in Miami-Dade County went down \$1,600,000,000. So that is sort of a cost avoidance if you would. \$1,600,000,000 less was paid out because of the work that the strike forces were doing and the attention we were bringing to the issue.

So it is hard, again, to pull out one piece of this. We view this as a comprehensive effort. We need investigators and law enforcement. We need the prevention work that you just described. But we need to do a better job with physicians and other providers enrolling and we need to do a much better job with our database as credit card companies and others do, we need to bring in the absolute latest technology so that when claim forms come into CMS, we can see any kind of aberrance that is occurring across the country. And all of that together will produce these substantial returns.

Mr. OBEY. Any other comments? Senator Bill Proxmire, who used to represent Wisconsin, was a crusader against unnecessary spending at the Pentagon. And he used to be criticized by his opponents who said he was trying to weaken our defenses by cutting military budgets. And his response to that would be that he would simply ask in any audience, he would ask how many people in the audience had ever served in the Armed Services, and then he would say okay, now let me ask you, is there anyone here who has never seen any example of waste in the Army and the veterans would start to laugh because they obviously had seen a lot of it.

I would suggest the same thing in the medical area. Anybody who has ever filled out the same forms two or three times in a doctor's office or anybody who has ever seen some of the strange charges on some hospital bills would never again say that there wasn't significant waste in the health care system. Mr. Perez, would you tell us, is there anything that you think that people like you in the field need that you are not getting or that you wouldn't get even under the administration's budget request increase for next year?

Mr. PEREZ. Thanks for the question. I need to echo what I think some of the other panel members have already said in terms of access to data. And I will highlight the reason why I mention that with some examples. We need real-time data. We know that there are buildings or strip malls that house nothing but fraudulent companies. And I think any strike force team member should be able to drive and park across the street and see the name of XYZ medical billing company, open a laptop, plug in a wireless card, enter the data and actually see if XYZ has submitted any claims today or yesterday, who the physicians are that are attached to that claim, who the beneficiaries are that are attached to those claims, how much has already been billed, how much is sitting on the payment floor about to be paid out or how much has already been paid out. That would allow us to then contact the contractors or maybe even CMS and say here is what we have got, this particular provider needs to be placed on prepay review, while we create enough probable cause to actually do some enforcement action.

The reason why prepay review, I think, in that type of model would work is that the provider would have to submit documentation to justify the claims. These individuals aren't providing any service. So there is no documentation, so we are preventing monies from going out for fraudulent claims. So I think aside from that, we would—we would love to see in the field additional bodies to help support what we have currently got. And I think that one of the things that the panel is looking to get, aside from reaching out to 13 new cities, is actually beefing up the strike force teams that we currently have on the ground now.

Mr. OBEY. Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Thank you, Mr. Chairman. And I apologize for being late. Mr. CORR, I understand that you discussed the audit contractor—the Medicare recovery audit contractor program with Mr. Rehberg earlier in this hearing, but I want to come back to this issue because when I have met with my hospitals in my district a few weeks ago, they identified several major problems that they had experienced during the demonstration project in California and these problems included reviewers who lack sufficient medical background to understand the claims that they were reviewing, perverse incentives such as rewarding all denials of coverage and consequently encouraging oversampling of cases and an extremely laborious and costly appeal process.

Now that this program is being rolled out across the country, what has HHS done to address these issues? And for example, is there some standardized certification or training for new reviewers to ensure that these reviewers have adequate skills and background to properly review the records?

Mr. CORR. There certainly is the latter, Congresswoman. And as well an effort for CMS to be clear about what the standards are that will be applied as we review the expenditures of providers. I don't have personal knowledge of the specific complaints, but we certainly will look into those and find out how we—I assume we have heard that back in our work with—through our contractors and we will find out. And maybe Mr. Levinson, the IG has heard more. But we will find out about those specific problems and whether we have addressed them properly.

[The information follows:]

RECOVERY AUDIT CONTRACTOR DEMONSTRATION PROGRAM

Deputy Secretary Corr: The RAC Demonstration program, which took place from 2005 to 2008, provided CMS with valuable feedback that has informed the transition to the national RAC Program. Section 302 of the Tax Relief and Health Care Act of 2006 made the RAC Program permanent and required the Secretary to expand the program to all 50 states by no later than 2010.

CMS has made several improvements to the program based on lessons learned and concerns raised by providers in California and the other States that participated in the demonstration. For example, the following changes have been adopted:

- CMS established a new Issue Approval Process where CMS approves each RAC issue for review prior to widespread review and/or communication with providers. CMS believes this will reduce the differences in interpretation of policies and/or manuals between CMS and the RAC to ensure that accurate improper payments are identified;
- CMS has required each RAC to have a Medical Director on staff to ensure physician involvement in the review process and to give providers a contact that is a physician with whom to discuss improper payment identifications and the reason for the denial;
- CMS established a document request limit of a maximum of 200 requests per 45 days to limit the cost and administrative burden of the RAC program on Medicare providers;
- CMS established a requirement that ensures RAC pay back contingency fees if the determination is overturned at any level of appeal;
- CMS has required each RAC to have a website to inform providers about the RAC program, approved new issues, major findings, contact information, and a portal allowing providers to see specific claim details, and
- CMS established metrics for monitoring the RAC's performance on compliance, accuracy and provider service.

Providers have the right to appeal a determination made by a RAC. RACs make a determination of an improper payment based on Medicare policies, regulations, and statutes. It is possible additional documentation and/or differing interpretations could be presented upon appeal that would justify the payment. When providers win an appeal the adjustment is made using the same time period used when the claim was initially paid. Generally, payment amounts should not differ although outlier payments may cause some difference.

Ms. ROYBAL-ALLARD. I will be happy to put you in touch with my hospitals. Also during the demonstration, a round of audits, my hospitals have also told me that when a claim was challenged, that funds were immediately taken out of their CMS payment even while the claim was still in dispute and that some hospitals reported that when an appeal had been settled in their favor and often that took several months, that most but not all of their money was returned to them.

This has created a very difficult budgetary problem for California hospitals, I am sure other hospitals that are already operating with very limited funds. And I would like to know why hospitals are being considered guilty until proven innocent basically and especially given the difficult economic situation this creates for them, what possible justification is there for not returning every penny of the original billed amount when an appeal is settled in the hospital's favor?

Mr. CORR. I cannot answer the question about why if the appeal is settled in the hospital's favor, the money is not returned immediately. But I will certainly get you an answer.

Ms. ROYBAL-ALLARD. I appreciate it and I will be in touch with you in terms of the hospitals, I am talking about. Thank you, Mr. Chairman.

Mr. OBEY. Mr. Grindler, I know you have to go. So let me ask one more question to wrap it up. We have been talking about what has been happening in the last 2 or 3 years. How do all of you see this problem changing over the next 5 years or so? What fraud opportunities do you think are likely to grow? Which do you think you are going to get a better handle on?

Mr. GRINDLER. Well, I mean, it is very clear from what we have seen so far that when we prosecute in one area, people move to another area and that is why the real-time data is so important. For example, now you see people going into the home health care area. Once we were focused on DME and HIV infusion and you are also seeing movement from one city to another city, so we saw people involved in one of our strike force cities move to another of our strike force cities before we went into that city. So these are the kinds of ongoing changes that I am not sure we can predict, but that is why the importance of the real-time data is there. And I know work is being done on that challenge because then we can see it because it is an identification of an abnormal billing pattern that allows us to say in this city, this location; here is a new way that people are engaging in fraud and we have got to be able to attack immediately.

Mr. OBEY. Any others?

Mr. LEVINSON. I would certainly echo that. I mean, we see in the migration of these issues in Miami, DME, infusion therapy, home health, all of the sudden we also have it in Detroit, we have it in Tampa, Houston's DME problems shortly thereafter become Baton Rouge's DME problems. The Brooklyn strike force has important connections to what is going on in Florida as well. So these are viral issues that really require a national approach and therefore getting this real-time data straightened away and being able to stay on top of the data is crucial now and in the years ahead.

Mr. CORR. Mr. Chairman, may I add one thing very quickly?

Mr. OBEY. Sure.

PROVIDER ENROLLMENT

Mr. CORR. Just to give you a sense of—on the prevention end where we are trying to screen providers better, just to give you a sense, every month 18,000 new provider enrollment applications are submitted to Medicare and 900 DME supplier applications are submitted to Medicare. The statutes require us to allow any willing provider to provide services to Medicare beneficiaries, but even though these numbers are large, it is just all the more reason why we have to do much more effective prevention work. We have to do better screening with—in the enrollment process. And we have to, through computer technology, take full advantage of our ability as providers to immediately understand and track what they are doing. So as Mr. Perez said, when some aberration occurs, we are immediately on it. So we need both the prevention side and we need the capability to go after people once they start fraudulent activities. And that is the approach that the administration is taking, as I said earlier, all of the discretionary resources that we have received in 2009 and 2010 and are proposing in 2011 add to the work that was being done with the mandatory resources that has been available the last 13 years. So everything is add on and we are all trying to get to the place where we have a comprehensive prevention system as well as an investigation and enforcement system in place.

Mr. OBEY. Thank you.

Mr. GRINDLER. If I could add one other point on that. It is not just the mandatory money and the supplemental money, there is a base amount of money at the Department of Justice has to allocate to all of its enforcement priorities, terrorism, drugs, white collar crime, et cetera. And with the Department of Justice, United States attorneys offices already are allocating money out of their base to health care. So that is how important the Department feels about this effort. So it is not just what we get under mandatory funds and the supplement, it is our existing base that we are taking—a part of that to fight health care also.

Mr. OBEY. Mr. Rehberg.

Mr. REHBERG. Thank you, Mr. Chairman. It just seems like the numbers you are throwing out of the number of new providers is inordinately large. Are people getting into the business because it is an easy business to get into? And wouldn't it seem from a regulatory standpoint you would apply some business principles as auditors to go in and prioritize based upon the amount of time the people have been in business? When I go to like a restaurant in business since 1922, chances are they are going to pass the health inspection, but a restaurant that opened last week, maybe not. Do you prioritize within communities or is there not a flag that—

Mr. CORR. In terms of the number of new providers that can enroll and provide service?

Mr. REHBERG. Well, certainly we will want to have as many people providing services because we want to provide the services. We don't want the beneficiaries to have to sit and wait. It just seems like—is that a flag to you all that when somebody establishes the business and they have been in business for less than a year, they

ought to be audited immediately and constantly until such time as they are in business. I would think with the hospital situation, chances are they are not going to want to lose their hospital franchise, their license, their business. The same with a doctor. We don't want to punish doctors that have been in business for 20 years. It is the new ones that are coming out that are maybe scamming the system. Maybe that is wrong.

Mr. CORR. There are some benefits, Medicare benefits like durable medical equipment, infusion therapy, home health where there are much lower barriers to entrance.

Mr. REHBERG. That is my point. Why wouldn't we as regulators establish a little higher standard to be in the DME business so that me or you can't just get into the business because I don't know anything about crutches or—I do actually, but for other reasons. It just seems like you make it too easy to get into the business. It certainly is not government's job to try to keep people out, but it seems like there ought to be a little bit of a higher standard. You have to go to law school to become a lawyer. You ought to have some kind of standard to get into the provider business.

Mr. CORR. Well, we do have criteria by which—

Mr. REHBERG. But it doesn't seem to be working.

Mr. CORR. That is correct. And as special agent Perez was talking earlier about criminals coming in and buying up legitimate medical equipment suppliers.

Mr. REHBERG. You can establish a standard there that makes it very difficult to transfer the old business to the new owner.

Mr. CORR. We need to look carefully at our criteria. And in some States, there are restrictions on the number of providers that can exist. For instance in Florida, there are none. So we have thousands upon thousands of durable medical equipment suppliers. And part of the problem is—

WORKING WITH THE PRIVATE SECTOR

Mr. REHBERG. Well, punish the State of Florida for that. It would seem like it would be fairly easier to get to—let me ask another question real quickly. I apologize, Mr. Chairman. You walk faster than I do. It is because of my crutches. Private insurance, I think it was your testimony that talked about a conference or a summit or something that was held and you are not able to establish that Medicare fraud is any greater than private.

I don't want to say I don't believe it, but I have got to believe that private industry should be a little smarter because they are paying a little closer attention. Is there no way to establish any private sector improvements that they are doing within GEICO on insurance—car insurance fraud? I see most of your background is either government or law.

Do you have any business people that are actually working with you in your task forces to use business practices to try and crack down on insurance? Or maybe they are just as inefficient and bad.

Mr. CORR. Congressman, one of the goals of the summit that the Department of Justice and HHS held was to involve with the private sector. They face many of the same problems, there were extensive conversations. We will continue those conversations. We think there is a lot to learn from the private sector. They tell us

they have many of the same problems. And together we—since they are facing the same things and as was mentioned earlier, as we shut down providers in Medicare and Medicaid, they are shifting. So we are in this together with the private sector and we want to work very closely with them and will.

Mr. REHBERG. Thank you, Mr. Chairman. I would like to work with you on that. I just happen to have a new hire as of Monday. I won't call him a senior intern, but he is 71 years old. And he was formally the president of the National Association of Independent Insurers. And his background is GEICO and Allstate and all the rest of them. And he is a plethora of information. He just came most recently from the insurance industry in Florida, the number three in the minority auto insurance. And he tells me that they do have practices that could be applied to the government that are not being readily accepted by the agencies at this time. So I would like to——

Mr. CORR. We would welcome that conversation.

STATE COOPERATION

Mr. OBEY. Thank you. Just one last question. States, which States—with which States do you have the most cooperative relationships in terms of dealing with waste, fraud and abuse, whether you are talking about Medicare and Medicaid or any other avenue?

Mr. CORR. Mr. Chairman, just from a prevention standpoint, I would have to get back to you and let you know what our folks think in terms of their relationships possibly from a law enforcement perspective.

Mr. GRINDLER. What I can tell you, which doesn't give you all the details, but in some of the cities where we have the Medicare fraud strike forces, we have representatives from the State attorneys general offices that sometimes are assisting us in that effort both from an investigation point of view. So in that sense, we are trying to cooperate with States. And to the extent they are able to give us—provide us with resources that will help, we take advantage of that.

Mr. OBEY. I just know it has been my experience that some States are aggressive in dealing with problems like this and others are a good imitation of sleepy hollow. And I am just curious if you can provide for the record a more detailed analysis of where we have strong players and where we don't.

Mr. LEVINSON. Certainly we really count on the States when it comes to Medicaid fraud enforcement to be the frontline and there are many strong units around the country. For an on-the-ground look, I don't know whether the special agent might want to add something about Florida in particular.

Mr. PEREZ. I know we participated in investigations with the Medicare fraud control units which are part of the State Attorney General's office. But in the State of Florida, they also have the Florida Department of Law Enforcement or FDLE and we work investigations with that entity, as well as local police precincts in other parts of Miami-Dade County. So we do have a collaborative effort in the State of Florida to do as much as we can to try to curtail this fraud.

Mr. OBEY. I understand you have one question.

PROVIDER ENROLLMENT

Ms. ROYBAL-ALLARD. Yes. Thank you, Mr. Chairman. Just very quickly. My understanding is that under the new requirements that were issued for the suppliers, that 17 health—medical and health professionals were exempted, but pharmacists were not. And what I am being told by my pharmacists, especially those in the neighborhood pharmacies, is that the cost of the redundant licensing, the requirements, the surety bonds really outweigh their profits and many of them are thinking of just not having these products in their neighborhood pharmacies altogether.

Could you explain to me why pharmacists which have to go through licensing, like some of the other professionals that were exempted, why they were not exempted?

Mr. CORR. Congresswoman, I believe you are speaking of our requirement that durable medical equipment providers be recertified?

Ms. ROYBAL-ALLARD. Yes.

Mr. CORR. It was an attempt to get a handle on who was providing services and to be sure that people were—met our enrollment criteria. What we could do is again take some specifics and see if we can give you some answers as to why they didn't meet the requirements. It was voluntary. The vast majority of pharmacies did seek recertification under the durable medical equipment program and our sense was that we were providing coverage throughout the country that we weren't going to wind up with communities without access to durable medical equipment, but there were a number of pharmacies across the country that did not seek to be recertified. But I would be happy to take a look at the specifics and give you an answer.

PROVIDER ENROLLMENT

Deputy Secretary CORR: The Medicare Improvements for Patients and Provider Act (MIPPA) allowed CMS to exempt “eligible professionals” that were specifically defined in statute and “other persons” as specified by the Secretary. However, pharmacists bill as pharmacies, and pharmacies are considered “organizational entities.” As a result, pharmacists are not eligible for exemption from this important quality requirement.

HHS and CMS value the contribution that the pharmacists give to Medicare beneficiaries. However, we also have to make certain that the services and items that beneficiaries receive are always of the highest quality and meet all standards for safety, efficacy and timeliness. Our experts at CMS believe that it was Congress' intent to legislate quality standards for all DME providers in order to achieve these positive outcomes. To date, the vast majority of pharmacies have already been accredited. As such, beneficiaries will be able to continue to obtain their durable medical equipment and supplies from a local or national chain pharmacy.

I assure you that we are closely monitoring the implementation of the accreditation requirement so Medicare beneficiaries, especially those residing in rural areas, have access to needed items and supplies.

Ms. ROYBAL-ALLARD. All right. Thank you.

Mr. OBEY. Gentlemen. Thank you all for coming. I appreciate it.

HEALTH CARE FRAUD PREVENTION AND ENFORCEMENT
ACTION TEAM (HEAT)

Mr. Obey: From your organizations perspective, how has participating in HEAT helped you in the fight against health care fraud?

Deputy Secretary Corr: Participating in HEAT has helped CMS: 1) improve its oversight efforts to prevent waste, fraud and abuse in the Medicare and Medicaid programs; 2) improve coordination with OIG and DOJ by building upon existing partnerships to target health care fraud in the most efficient and effective ways; 3) facilitate timely data sharing between agencies so that fraud is prevented or quickly stopped; and 4) increase its capability to be an educational resource for health care providers, through compliance training, and for the public so that they can help stop fraud before it occurs.

A key success of improved coordination is the "Strike Force" city model. CMS is actively partnering with OIG and DOJ on Strike Forces in Miami, Los Angeles, Detroit, and Houston, with recent expansions in Detroit, Brooklyn, Tampa, and Baton Rouge. The Strike Forces rely on increased coordination and sophisticated data analysis to identify suspected fraud early in the claims life-cycle, which can be used to support rapid indictments. To date, these efforts have been extremely successful. Since the first Strike Force team was launched in Miami in March 2007, officials from DOJ, OIG and CMS have worked together through the criminal and civil systems to obtain 270 convictions, indictments of more than 500 defendants, and more than \$240 million in court-ordered restitutions, fines, and penalties. The President's FY 2011 budget requests funding to expand to an additional 13 cities, for a total of 20 Strike Force cities.

HEAT is also working to raise public awareness of Medicare fraud through media events and issuing fraud alerts such as the recent spotlight on Medical Identity Theft. In 2009, we held a press event focused on educating beneficiaries about the danger of identity theft and its growing role in fraud schemes. In addition, in January 2010, HHS and DOJ, as part of HEAT, hosted a Fraud Summit to foster a conversation about health care fraud and ways that the public and private sectors can collaborate. Everyone has a role to play in protecting our Medicare and Medicaid programs from fraud and other criminal activity. Some tips and a brochure can be found at www.StopMedicareFraud.gov.

Finally, collaborative working relationships have been institutionalized. Workgroups consisting of officials from HHS (including OIG, CMS, the Office of the Secretary (OS), the Office of the General Counsel (OGC), and the Food and Drug Administration), and DOJ address various aspects of the government's plan to combat fraud and abuse in public health care programs on a coordinated, ongoing basis. Since HEAT's formation, these workgroups meet regularly to identify priorities and ways to combine resources, strategize on new fraud prevention initiatives, and improve the coordination of interagency resources, data sharing, and legislative goals in the areas of fraud prevention and enforcement.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

Mr. Obey: The Departments of Justice and Health and Human Services received over \$250 million in Health Care Fraud and Abuse Control Program funds in fiscal year 2008. What did you spend those funds on?

Deputy Secretary Corr: In 2008, the Department of Health and Human Services (HHS) and Department of Justice (DOJ) certified \$255 million for the HCFAC Account and, of this total, \$201.6 million was allocated to HHS.

FY 2008 ALLOCATION OF HCFAC APPROPRIATION	
<i>(Dollars in thousands)</i>	
Department of Health and Human Services	
Office of Inspector General	\$169,736
Office of General Counsel	\$5,714
Administration on Aging	\$3,128
CMS Medicaid Oversight:	
Payment Error Rate Measurement	\$11,397
Medicaid CHIP Financial Oversight	\$11,600
HHS Subtotal	\$201,575
Department of Justice	
United States Attorneys	\$30,400
Civil Division	\$14,539
Criminal Division	\$3,080
Civil Rights Division	\$2,376
Nursing Home and Elder Justice Initiative	\$1,000
Departmental Health Care Initiatives	\$2,227
DOJ Subtotal	\$53,622
Total	\$255,197

HHS and its related agencies and entities spent approximately \$200 million of HCFAC funds in the following manner:

HHS Office of Inspector General (OIG)

Some of the HCFAC funds appropriated under HIPAA are, by law, set aside for Medicare and Medicaid activities of the HHS/OIG. In FY 2008, The Secretary and the Attorney General jointly allotted \$169.7 million to the HHS/OIG.

HHS/OIG investigations and inquires, alone or jointly with other agencies resulted in 917 prosecutions or settlements in FY 2008, of which 792, or 86 percent, were health care cases. During FY 2008, the HHS/OIG excluded a total of 3,129 individuals and entities, barring them from participating in Medicare, Medicaid, and other Federal and state health care programs. In addition, HHS collected approximately \$662.5 million in disallowances of improperly paid health care funds, based on HHS/OIG recommendations.

Office of the General Counsel (OGC)

In FY 2008, OGC was allocated approximately \$5.7 million in HCFAC funding to supplement OGC's efforts to support program integrity activities. OGC provides legal support consistent with the statutory authority of the HCFAC program. While a considerable portion of these funds supported OGC's litigation activity, both administrative and judicial, OGC also continued to focus on program integrity review in 2008. In 2008, OGC assisted with False Claims Act cases, provider and supplier suspensions and revocations, civil monetary penalties, nursing home enforcement, denial of claims and payments, and more.

Administration on Aging (AoA)

In FY 2008, AoA was allocated \$3.1 million in HCFAC funds to assist older Americans and their families to recognize and report potential errors or fraudulent situations in the Medicare and Medicaid programs. AoA and its nationwide network of agencies develop and disseminate consumer education information targeted to older Americans, with a particular focus on persons with low health literacy, individuals from culturally diverse backgrounds, persons living in rural areas, and other vulnerable populations.

HCFAC dollars specifically support infrastructure, technical assistance and the other Senior Medicare Patrol programs (SMP) support and capacity-building activities designed to enhance the effectiveness of state-wide SMPs which are funded from a separate Congressional appropriation. These SMP programs recruit retired professionals to educate and assist Medicare beneficiaries to detect and report health care fraud, error, and abuse in the Medicare and Medicaid programs. According to the most recent annual performance report from the Assistant Inspector General for Evaluation and Inspections dated May 9, 2008, over 10,300 active volunteers served the 57 SMP projects during 2007. These volunteers perform an essential function of this program, contributing over 308,000 hours to share the SMP message of fraud awareness and prevention within the senior community. Since the inception of this project, SMPs have educated approximately 3.3 million beneficiaries and received over 104,000 complex issues from beneficiaries who have detected billing or other discrepancies based on the information they have learned through the SMP program.

Centers for Medicare & Medicaid Services (CMS)

In FY 2008, CMS was allocated approximately \$23 million to fund a variety of projects related to fraud, waste, and abuse in the Medicaid program. CMS has increased its efforts to use advanced technology to detect and prevent fraud and abuse and to ensure that CMS pays the right providers, the right amount, for the right service, on behalf of the right beneficiary.

The Payment Error Rate Measurement (PERM) program was developed to comply with the requirements of the Improper Payments Information Act of 2002 (IPIA), which requires HHS to annually produce national level error rates for Medicaid and the Children's Health Insurance Program (CHIP). The FY2008 PERM money was used to pay the costs of the contractors utilized by CMS to assist with all of the activities involved in PERM including data collection, statistical sampling, medical review and error rate calculation which are ongoing costs incurred by the PERM program each year. In FY 2006, CMS measured the fee-for-service component of Medicaid. Starting with FY 2007, PERM was expanded to measure error rates for fee-for-service, managed care, and eligibility in both the Medicaid and CHIP programs. Following these advances, on November 15, 2008 CMS announced for the first time a national composite error rate for Medicaid and CHIP based on the PERM methodology first initiated in FY 2006. States participating in the FY 2007 cycles were also provided with their individual error rates. Evaluation of the error rates shows that the vast majority of Medicaid and CHIP errors were due to inadequate documentation. Other errors are due to services provided under Medicaid of CHIP to beneficiaries who were not eligible for either program or who were not eligible for services rendered. CMS expects the error rates for Medicaid and CHIP will decline in future years through program maturation and, through corrective action initiatives implemented at the state and Federal levels.

The Medicaid/Children's Health Insurance Plan (CHIP) Financial Management Project provides resources for funding specialists, including accountants and financial analysts, to work to improve CMS' financial oversight of the Medicaid and CHIP programs. Through the continued efforts of these specialists, CMS identified and resolved \$2.6 billion of approximately \$8.8 billion in cumulative questionable costs in FY 2008. Furthermore, an estimated \$1.3 billion in questionable reimbursement was actually averted due to the funding specialists' preventive work with states to promote proper state Medicaid financing. The funding specialists activities include reviews of proposed Medicaid state plan amendments that relate to reimbursement; development of financial management reviews; research regarding state Medicaid financing policy and practices; collaboration with states to resolve the Medicaid and CHIP portions of the A-133 "Single State" audits; and identification of sources of the non-Federal share of Medicaid program payments to ensure proper financing of Medicaid program costs.

Further details on the use and results of the over \$250 million for the HCFAC Account are described in the FY 2008 Annual HCFAC Program Report.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

Mr. Obey: How do you determine what the HCFAC funds should be spent on to provide the most utility for the American taxpayer?

Deputy Secretary Corr: HCFAC funds for the “Wedge” and Medicare Integrity Program (MIP) are allocated through processes that are designed to spend funds on activities that provide the most utility for the American taxpayer through the reduction of health care fraud, waste, and abuse. The “Wedge” funding refers to the HCFAC funding not directed in statute to the HHS/OIG.

The HHS Allocation of the HCFAC “Wedge”

As required by HCFAC, annual allocations of the HCFAC Wedge between HHS and DOJ are decided annually between the Secretary and Attorney General.

In allocating the HHS share of the Wedge each year, the Secretary solicits project proposals to combat fraud, waste, and abuse from across Department. Proposals must include performance metrics, deliverables, and timelines, in addition to costs, so that the projects’ impact on fighting fraud, waste, and abuse can be fully assessed. This process also ensures that projects that provide the most utility for the American taxpayer are chosen.

HHS tracks spending and results on performance metrics related to each Wedge project to ensure stated objectives are being achieved and that projects are being implemented in a timely manner and meeting projected milestones.

Medicare Integrity Program (MIP)

Since the inception of MIP in 1996, CMS has primarily allocated funds for five Program Integrity (PI) activities (Audit, Medical Review, Medicare Secondary Payer (MSP), Benefit Integrity and Provider Education) at various levels based upon an analysis of previous years’ spending and administration priorities.

CMS uses four guiding principles to make decisions: prevention, early detection, enforcement, and coordination. CMS also reviews the return on investment (ROI) and other indicators of specific activities to help determine whether to continue and/or expand a project, as well as the value each project provides to the American taxpayer. For example, CMS looks at cost avoidance where there is hard data that improper payments were not made, such as actual claims submitted and denied as a result of medical review or benefit integrity edits). CMS also looks at particular prevention activities that discourage entities that may be considering defrauding the Medicare program. For example, in FY 2008, funding for the new Medicare Administrative Contractor (MAC) and Zone Program Integrity Contractor (ZPIC) contracts was targeted areas of highest fraud and risk to the Trust Fund in their respective jurisdiction. Pilot and demonstration projects have been used to identify alternative approaches to fraud prevention and detection. The ROI, quantitative or qualitative, has been used as a factor in determining whether to continue and/or expand demonstration projects.

To summarize, when making funding decisions for the “Wedge” and MIP, internal controls and reviews are used to ensure that the funding program integrity and fraud and abuse prevention activities provides the most utility for the American taxpayer, both from a prevention and recovery standpoint.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

PROGRAM INTEGRITY ALLOCATION DECISIONS

Mr. Obey: Have you performed an assessment of the types of health care fraud and abuse and analyzed how those funds could provide the best return on investment for the taxpayer? For example, what empirical analysis was used to determine what types of fraud and abuse to target? How do you determine which localities are at greatest risk? What criteria are used besides an area where many Medicare and Medicaid participants reside?

Deputy Secretary Corr: CMS utilizes a variety of data analysis and monitoring techniques to target resources to the geographically high risk areas of the country and high risk provider/supplier types, such as DME, which are determined to be of the greatest vulnerability to the programs. This includes examining spikes in billing claims and following up on beneficiary complaints and tips. CMS and its contractors are constantly monitoring the claims submission and billing patterns of the over 1 billion claims submitted to the Medicare program each year. Trend reports are created which detail monthly, weekly, and yearly shifts in billing across provider types, service types and geographic areas. This information is used by CMS to help determine where potential vulnerabilities are emerging, the effectiveness of efforts to contain identified vulnerabilities and make resource decisions about where to invest additional efforts.

As part of its efforts to ensure the highest integrity of its programs, CMS is geographically aligning the existing benefit integrity contractors, the Program Safeguard Contractors (PSC), with the claims processing contractors, the Medicare Administrative Contractors (MAC). Under this new strategy CMS is dividing the nation into seven zones, each of which contains one or more entire MAC jurisdictions. Each zone will have a ZPIC that performs benefit integrity functions and will replace the PSCs. Each ZPIC is charged with performing the integrity functions for Medicare Parts A and B, Durable Medical Equipment (DME), Home Health and Hospice, as well as the Medicare/Medicaid Data Match project within their particular geographic zone. The ZPIC approach, predicated upon comprehensive data analysis, allows CMS to target its work in a specific way in designated FWA “hot zones.” These zones are identified by examining the areas of the country with the highest amount of improper payments, largest number of investigations, and highest number of services or dollars billed to the Medicare program. Examples of activities conducted by the ZPIC include targeted data analysis, site visits to provider locations, beneficiary interviews and innovative support to law enforcement. The ZPIC efforts focus on the following six tasks:

1. Performing Data Analysis and Data Mining
2. Conducting Medical Reviews in Support of Benefit Integrity

3. Supporting Law Enforcement in Case Development
4. Investigating Potential Fraud and Abuse for Referral to Law Enforcement
5. Recommending Recovery of Federal Funds through Administrative Action
6. Referring Cases to Law Enforcement

The three program areas identified by CMS as those with the highest vulnerabilities to the Medicare program are DME, home health, and infusion therapy. Data analysis has shown that these three service types typically have the highest amount of improper payments, are the areas most vulnerable to fraudulent activity, and are the most difficult for CMS' claims contractors to identify problems with during the automated claims payment process. As a result, a significant portion of CMS' anti-fraud efforts are targeted to areas of the country with the largest concentration of these provider types.

In addition, CMS targets its resources to geographic areas of the country where there have been large amounts of previously identified fraud. CMS' analytic tools assist it in monitoring when fraud schemes migrate to other geographic or service areas. As systems edits are created to prevent fraud, we have seen evidence of aberrant providers quickly reacting by and billing new codes, splitting the claims to evade dollar thresholds and dosage limits, and billing codes up to the maximum number of units possible.

Frequently, as CMS' contractors implement prepayment edits in one part of the country for a particular Medicare or Medicaid benefit, the fraudulent perpetrators often move to other parts of the country to perpetrate the scam or move to another provider type. Data analysis helps CMS track this movement. For instance, data analysis helped show that Strike Forces cracked down on certain types of fraud in South Florida and that those same fraud schemes later moved as far north as Detroit. HEAT responded by launching a Strike Force in Detroit. As part of the FY 2011 Budget Request, the Administration proposes to expand the Strike Forces to the twenty locations that are expected to face the most vulnerability for fraud and abuse based on data analysis.

A specific example of how this data-driven approach is currently working is CMS' DME Stop Gap Project, which began on October 1, 2009, using FY 2009 funds. This plan was developed in response to the continued escalation in DME payments, the growth in the number of DMEPOS suppliers, and Congress' postponement of DME competitive bidding. Using national data analysis, this project identified seven "high risk" DME areas (New York, North Carolina, Michigan, California, Texas, Florida and Illinois). This project will identify and take corrective action on the highest billing DME suppliers, highest ordering physicians, highest utilizing beneficiaries, and highest risk types of equipment and supplies. It is important to note that five of the seven states include Strike Force cities. CMS is utilizing new data analysis reporting to target suppliers, physicians and beneficiaries and changes in billing. Reports are run on a continual basis showing the top 100 billing physicians (who order and refer the DME), suppliers (who provide the DME), and services (the type of DME being provided) for each of the seven states. This information is then used to determine where CMS' contractors should conduct onsite visits, beneficiary and provider interviews, perform more intensive medical review, or implement system edits in order to ensure that billings are legitimate. These efforts have already

been very effective and helped identify more than 200 DME suppliers who were not legitimate and had their Medicare billing privileges revoked. They also helped identify where edits were needed for numerous suppliers, beneficiaries, and physicians to ensure claims associated with those individuals were not paid by the DME MAC. From October 1, 2009 through December 31, 2009 more than 265 suppliers' Medicare billing privileges have been revoked or deactivated, 2 payment suspensions have been implemented, and 539 suppliers, 2,191 beneficiaries and 37 physicians have been placed on prepayment review as a result of the DME Stop Gap Plan.

We must stay ahead of the individuals who deliberately seek to defraud Medicare and Medicaid. To do this we must continue vigilant program oversight, government-wide coordination, dedicated resources, better use of data analysis, and in some cases, more legal authority.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

RETURN ON INVESTMENT

Mr. Obey: Do you get a greater return on investment by targeting different types of providers, that is, hospitals vs. clinics or other treatment facilities? Non-profit versus profit-oriented organizations? Certain types of medical practitioners?

Deputy Secretary Corr: Yes. As noted above, the most egregious areas where we consistently see problems are DME, home health, and infusion therapy. Therefore, the majority of our anti-fraud and abuse efforts are targeted to these types of services and to the geographic areas with the highest prevalence of these services. To more aggressively protect Medicare and Medicaid before fraud, waste, and abuse occur in these areas, CMS has begun implementing a number of policy and program changes in these areas to help address the vulnerabilities which make these areas more susceptible to fraud. By targeting these areas, CMS has ensured a high return on investment from its efforts and has helped implement much needed program safeguards.

Over the last three years, CMS has been able to demonstrate that this targeted approach to controlling fraud and abuse has been most effective and that coordinating the prevention, detection, and enforcement aspects of these efforts results in much higher program savings. Recently, CMS issued new DME coverage guidelines, required face-to-face physician visits prior to covering power wheelchairs, increased the use of on-site visits prior to and after provider enrollment, and is moving forward with DME competitive bidding and implementing surety bond requirements for DME suppliers to keep bad actors out of the Medicare program. In addition, in 2007 CMS initiated a two-year DME demonstration project in three geographically high risk areas of the country (FL, CA, and TX). The goal of the DME demonstration was to improve the agency's ability to detect and deter potential fraudulent behavior at both the pre-enrollment stage, as well as, after DME suppliers are enrolled in the Medicare program. The DME demonstration ended in October, 2009, and the fraud prevention efforts from this

demonstration have resulted in the revocation of billing privileges for more than 1,100 suppliers previously enrolled in Medicare.

Similarly, to fight fraud in home health settings, CMS has used its demonstration authority to strengthen enrollment safeguards, resulting in revocation of billing privileges for 37 home health agencies who received over \$6 million in Medicare reimbursements in 2007. CMS is also taking a hard look at home health claims to ensure that high-volume prescribers are prescribing what is medically necessary; suppliers or other providers are in fact providing what was prescribed; and the beneficiaries with billed services have a true medical need and are not, willingly or otherwise, a part of a criminal enterprise.

Finally, another part of CMS' efforts to fight infusion fraud, includes stricter scrutiny of potential and current infusion therapy providers. When pre-enrollment screening identifies providers as potentially problematic, they undergo onsite visits and an extra level of review is conducted for their applications. For existing providers, CMS has required re-enrollment in high vulnerability areas. CMS has also increased scrutiny of claims in areas of the country where infusion therapy has appeared vulnerable to fraudulent activities. As a result, more than 28 providers have been referred to law enforcement; 410 provider numbers have been revoked; and more than \$254 million in savings have resulted from edits leading to claims denials – with total cumulative savings and costs avoided under the demonstration topping \$485 million. The infusion demonstration was in operation from October, 2007 through September, 2009.

These efforts have increased Medicare program integrity and protected the program from fraud, abuse, and waste prior to them being committed. We will continue to work with our partners and the Congress to identify opportunities in the future to protect these programs.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

Mr. Obey: Your fiscal year 2008 annual report on HCFAC activities reports a 4 to 1 return on investment for these HCFAC program funds spent by the Departments of Justice and Health and Human Services on health care fraud enforcement—that is, approximately \$4 has been recovered and returned for every dollar provided for this activity.

Deputy Secretary Corr: Before answering your specific questions, let me clarify the return-on-investment (ROI) calculation contained in the annual HCFAC report. The statute requires reporting on the spending and monetary results for what we call the HCFAC Account, which includes funding for the Office of the Inspector General, and the “Wedge,” a pot of money for health care fraud and abuse activities that is annually allocated through a negotiation process between the Department of Justice (DOJ) and the Department of Health & Human Services (HHS). The statute does not require, and the report contains little or no, reporting on spending or monetary results from other HCFAC funding streams and their associated activities. For instance, no data on spending or monetary results for the Medicare Integrity Program is included in the report. For the Federal Bureau of Investigation (FBI), spending is not included in the report.

For FY 2008, the ROI for that one year is actually 7.8 to 1, not 4 to 1. This is the highest ROI for a single year recorded in the annual HCFAC in the past ten years. This ROI is calculated by dividing total monetary results to the Federal government (not including relator payments) – deposits and transfers to the Medicare Part A Trust Fund and the Treasury, as well as restitution and compensatory damages to Federal agencies – over the annual appropriation for the HCFAC Account in a given year. To derive the 7.8 to 1 ROI figure for FY 2008, divide the monetary results, or \$1,983,598,992 (page 5 of the report) by the annual appropriation for the HCFAC Account, or \$255,197,000 (page 7 of the report). The methodology used to calculate the ROI for the annual HCFAC report has been audited and verified by the Government Accountability Office (GAO).

Because the ROI contained in the annual HCFAC report can vary from year to year depending on the number of fraud cases in the pipeline that get settled or adjudicated during that year, HHS prefers to use a three-year rolling average ROI for results contained in the report. Using a three-year rolling average (reporting years FY 2006 through FY 2008) to calculate the ROI for activities funded from the HCFAC Account yields a 6 to 1 ROI. HHS has used the 6 to 1 ROI figure as a measure of the recoveries resulting from HCFAC Account activities included in the annual report in many of its public documents and testimonies.

The 4 to 1 ROI that you cite does not reflect the monetary results and spending documented in the report. This is an alternative methodology used by DOJ that includes appropriations spending for FBI activities in the denominator of the calculation outlined above. While the report is not required and therefore does not include spending on FBI activities, DOJ incorporates FBI spending in its ROI calculations given the important role the FBI plays in achieving the monetary results reflected in the HCFAC annual report. The 4 to 1 ROI figure represents a three year rolling average for reporting years FY 2006 through FY 2008 that includes HCFAC appropriations for the FBI in the denominator for each of those years.

Mr. Obey: How does that compare to other investigative activities by your respective organizations?

Deputy Secretary Corr: For CMS, the ROI from HCFAC programs falls within the range of its overall set of program integrity activities in Medicare and Medicaid. In FY 2009, Medicare program integrity activities as a whole had an ROI of 14 to 1; over a three-year period, the MIP ROI has also average 14 to 1. In addition, Medicaid program integrity activities had a ROI of 1.75 to 1 on the federal level for FY 2009. Meanwhile, States self-reported to the Department that they recovered a total of \$1.3 billion in FY 2007.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

PERFORMANCE MEASURES

Mr. Obey: What other performance metrics can you provide to show how well you are using the resources provided for this program? For example, do you track and monitor the number of

investigations started and closed? The number of indictments and convictions? The number of Medicare and Medicaid beneficiaries directly impacted by your activities?

Deputy Secretary Corr: In 2008, CMS made 21 Part D plan compliance referrals to DOJ, and 607 Medicare FFS referrals to law enforcement. In FY 2008, 30 Medi-Medi cases were referred to law enforcement, over \$27 million in overpayments were referred for collection, and \$7 million in improper payments were caught before erroneous payments were made.

In 2008, officials from DOJ, OIG and CMS worked together through the criminal and civil systems to secure 588 criminal convictions, obtain 337 civil administrative actions against individuals and organizations that were committing Medicare Fraud, and recovered more than a billion dollars in health care fraud monies under the False Claims Act.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

HEATH CARE FRAUD PREVENTION AND ENFORCEMENT ACTION TEAM (HEAT)

Mr. Obey: The Strike Force teams are focused on stopping on-going fraud. Please help us understand how information and coordination occurred prior to the deployment of the teams, how it is now and what it will look like 3 years from now if 20 teams are operating?

Deputy Secretary Corr: Prior to the HEAT task force, HHS and DOJ coordinated information through quarterly meetings and also through regular meetings between program integrity contractors and local law enforcement offices. With the development of HEAT, multiple venues for data and case information sharing have been developed and are continuing to be developed in order to help ensure even better coordination and information sharing in the future. For example, there is now a data sharing workgroup in which HHS and DOJ share information on new projects and emerging trends identified through data analysis as well as develop better and more innovative methods of sharing this information. Examples of issues addressed by this workgroup include identification of the additional Strike Force cities; CMS' new compromised number database project; and the migratory trends identified by law enforcement of certain providers in Strike Force areas. This information is used by law enforcement to determine new areas of investigation and by CMS to target its prevention and oversight efforts.

Another way in which information is shared is through the establishment of Strike Forces. Strike Force teams in each location are staffed and supported by personnel from HHS (OIG and CMS) and DOJ, thereby enabling information to be shared on an ongoing basis with regard to emerging schemes and new areas of potential programmatic vulnerability. By leveraging programmatic information from CMS' data analysis with law enforcement intelligence about emerging schemes, all parties are better able to effectively focus their efforts.

Many other venues for sharing information are under development including the addition of a vulnerabilities sharing tab in the One Program Integrity (One PI) analytic tool that CMS, its contractors, and law enforcement will have access to as part of their access to CMS' new integrated data repository (IDR). This will allow information to be posted as new schemes or vulnerabilities are identified and will be available to all of the Strike Force teams across the country so that if a scheme or scam is migrating everyone is aware of it at the same time.

I defer to the Acting Deputy Attorney General and Inspector General for further information and perspectives from DOJ and HHS/OIG.

Mr. Obey: Please explain how this long-term initiative with HEAT, combined with the existing investments will improve prevention and detection of fraud, waste, and abuse before it occurs?

Deputy Secretary Corr: CMS is committed to stopping fraud before it occurs. The collaboration inherent in the HEAT initiative generates lessons learned that are then used to inform our efforts to prevent similar types of fraud from taking place. For example, the HEAT initiative demonstrated the importance of requiring a supplier to obtain a Medicare billing number and led to new prepayment edits to reduce payments for fraudulent services.

As a result of what we have learned from our anti-fraud efforts, CMS has strengthened Medicare enrollment requirements for providers and suppliers to ensure that only legitimate businesses are allowed to participate and bill for services in the Medicare program.

For example, durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) suppliers are now required to meet all CMS accreditation standards and to obtain a surety bond to be enrolled as a Medicare supplier. CMS' implementation of a competitive bidding process for DMEPOS suppliers is also intended to prevent high-risk or fraudulent suppliers from entering into the program.

CMS also completed three, 2-year demonstration projects in geographically high-risk areas of the country (Florida, California, and Texas) to address high-risk services and providers, specifically DMEPOS suppliers, home health agencies, and infusion therapy. The goal of these demonstrations was to improve the Agency's ability to detect and deter potentially fraudulent behavior at both the pre-enrollment stage as well as after suppliers enroll in the Medicare program. CMS is compiling data results from the demonstrations, but the preliminary results indicate the following:

- For the DME demonstration, 1,139 DME suppliers' billing privileges were revoked and there was a savings of \$69 million to the Medicare program.
- For the home health agency demonstration, 37 home health agencies had their billing privileges revoked with a savings to the Medicare program of \$6.1 million.
- In the infusion therapy demonstration, CMS successfully implemented enhanced prepayment review edits, payment suspensions, and established a beneficiary fraud hotline. The latest results indicate a cumulative savings to the Medicare trust funds of

more than \$320 million. With the allocation of new discretionary funding, CMS has now made the fraud hotline permanent and implemented these demonstration practices into its routine management of infusion therapy treatment under Medicare.

Mr. Obey: Please explain the strategy, objectives and metrics used to measure success of the HEAT initiative?

Deputy Secretary Corr: The objectives of HEAT are to fight fraud, waste, and abuse. In pursuing these objectives, we strategically use claims data to identify patterns of fraud, direct law enforcement resources to the most vulnerable areas, and implement administrative tools (e.g., claims edits, onsite visits) to remedy fraud vulnerabilities. As part of HEAT, OIG, CMS and DOJ have jointly introduced new methods of using claims data to identify regions and areas of claims most vulnerable to fraud. Methodical analysis of regional and service-level anomalies combined with law enforcement intelligence from the field have enabled us to shift administrative and law enforcement resources to high fraud areas, and this new approach puts us in a better, and more successful position to detect and reduce improper payments. The success of the HEAT initiative can be measured in a variety of ways, including in terms of law enforcement outcomes, reductions of improper claims, and disenrollment of unscrupulous providers. Some measures of success, such as convictions, are more direct, while other measures of success, such as the impacts of disenrollment of unscrupulous providers, the deterrent effects of law enforcement activities and other reductions of improper claims at the front end, are more indirect.

IMPROPER PAYMENTS

Mr. Obey: What specific actions are being implemented to pay bills right the first time as compared to pay and chase?

Deputy Secretary Corr: This Administration is making paying claims appropriately the first time a high priority in all claims processing and improper payment reduction efforts.

First, we understand the value of provider education in preventing improper payments because many overpayments are the result of billing mistakes rather than intentional fraud. CMS has several provider education efforts underway in Medicare and the Education Integrity Contractors work closely with all of Medicaid's partners and stakeholders to provide education to providers on correct coding, appropriate documentation, and other program integrity issues. When CMS identifies problem areas, it directs contractors to take action and provide additional guidance on proper billing.

Also, CMS is currently using pre-payment edits designed to prevent payment of claims for medically unlikely services or "impossible events," such as clinically unlikely edits initiated relating to infusion therapy services, which have been an area of high vulnerability to the program. Medicare Administrative Contractors (MACs) maintain more than 30,000 edits that deny approximately \$1 billion in claims annually. These edits are applied against all of the over 1 billion in claims that go through the Medicare claims processing system each year and serve as

the first line of defense for Medicare in helping to stop potentially fraudulent and improper payments.

CMS suspends payments to a provider or supplier if there is reliable information that an overpayment or fraud or willful misrepresentation exists or that the payments to be made may not be correct, although additional evidence may be needed for a determination. See 42 CFR 405.371(a). These payment suspensions are for a minimum of 180 days and may be extended under certain conditions or if CMS determines there is still a significant risk to the Medicare program by allowing payments to the provider to resume. In calendar year 2008, CMS imposed 97 new payment suspensions and extended 29 payment suspensions. In calendar year 2009, CMS imposed 108 new payment suspensions and extended 66 payment suspensions. The majority of the payment suspensions that are imposed are put into place by the PSCs or ZPICs based on data analysis, beneficiary and/or provider interviews, and other credible information. In high vulnerability areas of the country, such as Florida, suspensions are used as a valuable tool in ensuring that claims are legitimate and payable. The suspension allows CMS and its contractors time to develop an overpayment and make fraud referrals to law enforcement, if appropriate. Once an overpayment has been determined, any money withheld as a result of the payment suspension shall be first applied to the overpayment and then is applied to any other obligation to CMS or HHS.

CLEAN CLAIMS

Mr. Obey: What is the definition of a clean bill? We understand HHS is evaluating the current authorities, regulations, and procedures available to ensure only clean bills are paid, prevent fraud, and stop on-going fraud, waste and abuse. Please explain the timeline for the review, the expected next steps and a couple examples of changes that will be implemented.

Deputy Secretary Corr: A clean claim is defined in Sections 1816(c)(2) and 1842 (c)(2) of the Social Security Act as a "claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim." If the Secretary does not pay clean claims within 30 calendar days after receipt, interest is owed on such claims.

Prior to payment, Medicare fee-for-service claims (which include Parts A and B) go through thousands of automated pre-payment edits to ensure the claims are valid and payable under the law. These edits evaluate such things as whether a claim has a valid diagnosis and prevents payment for "medically unlikely" events such as a male pregnancy. The edits also ensure only Medicare-enrolled providers are paid by Medicare and, where necessary, supporting documentation is available to substantiate claims payment. The Secretary is committed to exploring new authorities, both legislative and regulatory, that will ensure that only valid claims are paid by Medicare, thus reducing the need to "pay and chase" these claims at a later time. A number of provisions within the health care reform legislation support the Secretary's ability to conduct additional and more effective prepayment review. These include extending the prompt

pay requirements so that CMS would have more than 30 days to pay a claim for certain service types such as DME, home health, and infusion where more time is needed to fully review the legitimacy of the claims or potentially expanding CMS' authority to conduct prepayment reviews.

BEST PRACTICES FOR PROGRAM INTEGRITY

Mr. Obey: Explain HHS' plan to work with the financial and health care industries to identify best practices and share information on ways to improve reduced health care fraud, waste, and abuse?

Deputy Secretary Corr: The National Summit on Health Care Fraud brought together the public and private sectors to work collaboratively to reduce fraud and improper payments. We plan to build on the success of the summit by continuing to share information and identify improved prevention practices with our partners in the private sector, including the financial industry.

Mr. Obey: What technology is Medicare using or does it plan that is similar to fraud prevention used by the financial or private sector health care industry?

Deputy Secretary Corr: In the coming months CMS will be working closely with the private sector to identify areas for greater collaboration and communication about best practices as well as ways to more effectively share information about schemes and vulnerabilities that migrate between the public and private sectors.

HHS understands the value of collaboration and education in preventing fraud, waste, and abuse.

CMS is exploring the feasibility of adapting aspects of credit-card technology to review Medicare claims for fraud during pre- and post-payment review. CMS is interested in exploring many different options to pilot new ideas, to evaluate which may work best in the fight against fraud.

Within the statutory and regulatory constraints of the Medicare program, CMS and its contractors already have many systems and procedures similar to those used by the credit card companies to detect fraud. Like credit card companies, CMS and its Medicare contractors:

- Send statements (Medicare Summary Notices) to Medicare beneficiaries informing them of what services were billed to Medicare on their behalf, the dollars submitted by and paid to the provider, and any outstanding beneficiary financial liability ("amount you owe");
- Encourage beneficiaries to review their statements and report any suspected fraud via established Fraud Hotlines;
- Allow beneficiaries to check their statements and claim and deductible status on-line (via MyMedicare.com);

- Conduct data mining to identify potentially fraudulent billing patterns and anomalies; billing for deceased beneficiaries; billing by deceased, deactivated or revoked providers; overutilization, etc.;
- Suspend payments and install system edits to deny payments if the beneficiary's or the provider's identification numbers appear to have been stolen or compromised;
- Contact providers and/or conduct site visits to providers whose Medicare identification numbers appear to have been used without their knowledge;
- Provide information to beneficiaries on how to detect, prevent and report identity theft;
- Revoke billing privileges of Medicare providers who violate enrollment and billing standards or are suspected of fraud; and
- Investigate and refer potential fraud and abuse to law enforcement for prosecution.

Because the Social Security Administration, not CMS, actually conducts Medicare enrollment and issues Medicare identification numbers ("Health Insurance Claim Numbers" or HICNs) to beneficiaries, CMS cannot issue new Medicare HICNs to beneficiaries who have been the victims of identity theft. However, there is a process whereby beneficiaries may request the Social Security Administration to issue them a new ID number. Unfortunately, unlike credit card companies, Medicare beneficiaries' identities are linked not only to their Medicare eligibility but also to their Social Security, Disability and Survivor Benefits, and in some cases, to their Medicaid benefits. Changing Medicare identification numbers has the potential to disrupt other linked payment and entitlement processes.

IMPROPER PAYMENTS

Mr. Obey: CMS reported a revised methodology of improper payments at over \$24 billion in FY 2009. Please explain what this means, what steps and timeline HHS is taking to reduce improper payment and by when?

Deputy Secretary Corr: CMS recently reported that the error rate for Medicare FFS increased from 3.6 percent in FY 2008 to 7.8 percent, or \$24.1 billion, in FY 2009. This increase is largely due to the Agency's decision to implement a stricter methodology for calculating the error rate, as recommended by the HHS/OIG. It is important to note the error rate is not necessarily "fraud," but a measurement of payments that were made that did not follow appropriate administrative procedures, such as having a legible physician signature or proper documentation. Improper payments include both overpayments made by Medicare as well as underpayments. Only a subset of these payments are likely fraudulent.

More generally, for the Medicare, Medicaid, and CHIP programs, the Department and CMS are targeting problem areas and taking the appropriate corrective action in order to decrease the program error rates. We are continuing to explore possible effective and cost-efficient approaches for identifying and reducing improper payments in these programs including more outreach and education for providers, suppliers, and States.

Specifically, CMS is taking actions to ensure:

- More stringent review of Medicare claims,
- Providers are submitting all required clinical and medical documents to support a claim,
- Providers' signatures on medical documents are legible,
- Provider's claims history are no longer to be used to fill in missing treatment documentation,
- Medical information from a health care provider be included on a claim to support durable medical equipment orders, in addition to the records from suppliers, and
- Providers are properly educated so they understand Medicare billing and coding rules.

In addition, on November 20, 2009, President Obama issued an Executive Order (EO) on reducing improper payments and eliminating waste in federal programs. This order adopts a comprehensive set of policies including: transparency and public scrutiny of significant payment errors throughout the Federal Government; focus on identifying and eliminating the highest improper payments; accountability for reducing improper payments among executive branch agencies and officials; and coordinated Federal, State, and local government officials working together to make recommendations to reduce improper payments.

HHS is participating on all OMB workgroups created by the EO and has formed an internal Department-wide workgroup to exchange information and ensure HHS representatives are consistent in their message on these workgroups. HHS worked closely with OMB and other agencies to develop implementation guidance for the EO and a federal agency-wide improper payment website. Finally, CMS is looking more closely at high-vulnerability program areas to develop supplemental measures to monitor and reduce improper payments in the Medicare FFS, Medicare Part C, and Medicaid programs.

ELECTRONIC HEALTH RECORD AND ELECTRONIC MEDICAL RECORD

Mr. Obey: What is HHS doing currently to survey technology available to authenticate the information that will be assembled in electronic medical records and electronic health records to help reduce fraud, waste, and abuse in health care? Does HHS envision information in electronic health records (EHRs) and electronic medical records (EMRs) will be authenticated in a manner to help reduce fraud, waste, and abuse? If so, explain how HHS expects to pilot or test these approaches?

Deputy Secretary Corr: The Department believes that the increased use of EHRs and EMRs by providers will help reduce waste in federal health care programs by reducing the occurrence of duplicative or unnecessary services, such as imaging tests or laboratory tests that may not need to be repeated. Also, EHRs and EMRs will help reduce avoidable medical errors, administrative burden and costs on providers, and paperwork. Claims must be filed using the national provider identification number (NPI), the required use of which was designed to help reduce fraud and abuse by ensuring CMS had full and complete information about all providers submitting claims to the Medicare and Medicaid programs. The use of the NPI number helps

associate all claims filed by a particular provider or provider organization, facilitating the detection of claims patterns which may evidence duplicative services and excessive claims. CMS' claims payment contractors utilize a number of technologies to monitor the profiles and patterns of provider data related to claims submitted by that provider to the Medicare program. Types of red flags that can then be identified include obvious aberrancies such as claims submitted on behalf of deceased patients, to more subtle address information or mismatching medical information which could be a sign that there is something amiss with the claim. Other indicators are a spike of claims, the type of claims, the types of patients, or the frequency and date on which the services occurred. There are a number of different schemes that indicate some kind of risk and the increased use of EHRs and EMRs has significantly increased CMS' ability to identify fraud and abuse quickly since the information is now submitted in real time from the provider to the claims contractor thereby eliminating significant delays in entering claims information that occurred using paper claims submission. As the use of EHRs and EMRs becomes even more commonplace and CMS is able to have more integrated claims data, there is significant potential to do even more data analysis to help prevent fraud and abuse.

Additionally, we are working on strong provider authentication which will help ensure that claims are valid by limiting access to the electronic system to those who have been properly identified and entered into the system. We have also encouraged the use of strong encryption which would prevent tampering of information en route through the breach notification regulations which include a significant incentive to use encryption standards tested and approved by the National Institute of Standards and Technology (NIST). The use of encryption also helps prevent medical identity theft, which can be a source of fraudulent claims.

DISCRETIONARY HEALTH CARE FRAUD AND ABUSE CONTROL – PARTS C AND D

Mr. Obey: In the FY 2011 budget request for Health Care Fraud Control, one of the things you're seeking an increase for is improving oversight over Medicare parts C and D. What kinds of fraud and abuse problems are you seeing with those parts of Medicare? What are you looking to do with the increased fraud control funds as far as those programs are concerned?

Deputy Secretary Corr: The MMA created the Medicare Parts C and D benefits but it did not provide a steady stream of oversight funding for these benefits. In FY 2006, CMS received one-time funding for Part C and D oversight in the Deficit Reduction Act. At that time, CMS began requesting discretionary HCFAC funding in the annual budget requests, including funding that was designated specifically for Part C and D oversight, but this funding was not approved by Congress in FY 2007 or FY 2008.

Starting in FY 2009 Congress provided HHS with HCFAC discretionary funding. In FY 2009, CMS spent \$126.2 million for Part C & D oversight activities, of which \$19.2 million funded the oversight and audit work of CMS' Medicare Drug Integrity Contractors (MEDICs). The FY 2010 CMS HCFAC operating plan includes \$158.6 million for Part C and D oversight, including staff resources.

The fraud and abuse patterns have shifted since the initiation of the program. Early in 2006 and 2007 instances of illicit enrollment and marketing behavior dominated the Part D landscape. Law enforcement and enhanced CMS oversight worked to mitigate these issues. The reduction in marketing and enrollment fraud was met with a marked increase in individual beneficiary drug seeking behavior, pharmacy fraud, pharmaceutical manufacturer off-label marketing, and complicated Parts C & D fraud schemes such as infusion fraud therapy. It is apparent that the level of fraudulent behavior is increasing consistent with the complexity and sophistication of fraudulent schemes.

In the coming year, CMS plans to devote HCFAC resources for Parts C and D to MEDICs to address new complexities facing law enforcement; contract and plan oversight functions; monitoring, plan performance assessment, and surveillance/secret shopper activities; audits of the program; and routine compliance and enforcement tracking.

HEALTH CARE FRAUD AND ABUSE CONTROL APPROPRIATIONS LANGUAGE

Mr. Obey: In the Health Care Fraud and Abuse Control account budget appendix language on page 487 of the FY 2011 Budget Request Appendix it suggest a deletion of the specific amount identified for CHIP program integrity activities. However, in the CMS budget request the request identifies a specific amount for this activity. Please provide a rational for the language change?

Deputy Secretary Corr: In putting together the FY 2011 CMS Congressional Justification and Budget Appendix language, an error was inadvertently made. The FY 2011 CMS Congressional Justification appropriations language should have been consistent with the FY 2011 Budget Request Appendix language. Corrected language for the CMS FY 2011 Congressional Justification has been submitted to the Committee and is also included here for the record as Appendix A (see insert A).

The change in consolidating funding for Medicare, Medicaid, and CHIP program integrity activities was in response to President Obama's November 20, 2009 Executive Order 13520 - Reducing Improper Payments. Section 3 (a) of the Executive Order states, "In those agencies where the majority of payments are isolated to a single component, the head of the agency shall name a second accountable official for that component whose sole responsibility would be for program integrity activities and, as appropriate, shall consolidate and coordinate all program integrity activities within the component." The consolidating of funds for all Medicare, Medicaid, and CHIP program integrity activities in the appropriation request aligns with the consolidation of CMS program integrity activities, per the Executive Order.

Corrected language for the CMS FY 2011 Congressional Justification APPENDIX A
Appropriations Language
Centers for Medicare & Medicaid Services
Health Care Fraud and Abuse Control Account

In addition to amounts otherwise available for program integrity and program management, [\$311,000,000] *\$561,000,000*, to remain available through September 30, [2011] *2012*, to be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as authorized by section 201(g) of the Social Security Act, of which [\$220,320,000] *\$376,167,000* shall be for [the Medicare Integrity Program at the] Centers for Medicare and Medicaid Services *Program Integrity Activities*, including administrative costs, to conduct oversight activities for Medicare Advantage and the Medicare Prescription Drug Program authorized in title XVIII of the Social Security Act [and], for activities listed in section 1893 of such Act *and for Medicaid and Children's Health Insurance Program ("CHIP") program integrity activities*; of which [\$29,790,000] *\$94,830,000* shall be for the Department of Health and Human Services Office of Inspector General to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act [; of which \$31,100,000 shall be for the Medicaid and Children's Health Insurance Program ("CHIP") program integrity activities]; and of which [\$29,790,000] *\$90,003,000* shall be for the Department of Justice to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act: *Provided*, That the report required by section 1817(k)(5) of the Social Security Act for fiscal year [2010] *2011* shall include measures of the operational efficiency and impact on fraud, waste, and abuse in the Medicare, Medicaid, and CHIP programs for the funds provided by this appropriation. *(Department of Health and Human Services Appropriations Act, 2010.)*

WEDNESDAY, MARCH 17, 2010.

TESTIMONY OF INTERESTED INDIVIDUALS AND ORGANIZATIONS/LABOR AND EDUCATION PRIORITIES/ESEA REAUTHORIZATION

WITNESSES

KAREN LEE, PRESIDENT, NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES

EVELYN GANZGLASS, DIRECTOR, WORKFORCE DEVELOPMENT, CENTER FOR LAW AND SOCIAL POLICY

BRIAN JOHNSON, EXECUTIVE DIRECTOR, ALLIANCE FOR WORKER FREEDOM, A SPECIAL PROJECT FOR AMERICANS FOR TAX REFORM PEG SEMINARIO, DIRECTOR OF SAFETY AND HEALTH, AFL-CIO

NANCY DONALDSON, DIRECTOR, WASHINGTON OFFICE, INTERNATIONAL LABOR ORGANIZATION

OPENING STATEMENT BY CHAIRMAN OBEY

Mr. OBEY. I think my partner in crime, Mr. Tiahrt, is stuck in traffic somewhere, but we will get this started anyway. Cannot be late on St. Patrick's Day.

Today we have two panels who will present their prospectus on the budgets for the Department of Labor and the Department of Education. The first panel will address Labor Department issues, including job training and worker protection programs to high priorities for this Subcommittee.

Our witnesses this morning include Karen Lee, President of the National Association of State Workforce Agencies and also the Employment Security Commissioner of Washington State. Ms. Lee represents the State and local agencies responsible for implementing many of the job training and employment programs being discussed today.

She is joined by Evelyn Ganzglass, Director of Workforce Development at the Center for Law and Social Policy, who is an expert on workforce investment programs and led the Employment and Social Services Policy Studies program at the National Governors Association, prior to joining CLASP.

The panel also includes Brian Johnson, Executive Director of the Alliance for Worker Freedom, which is a project of the Americans for Tax Reform. Mr. Johnson is here at the invitation of Mr. Tiahrt on behalf of our minority members.

Next is Peg Seminario, an expert on workplace safety and health issues. Ms. Seminario has led the AFL-CIO's program on safety and health for the past 20 years and served on numerous Federal agency and scientific advisory committees.

Finally, we have Nancy Donaldson, Director of the International Labor Organization's Washington Office. Ms. Donaldson has served as an advisor to the ILO since 2005 and has spent the past 25

years working to improve labor standards for both domestic and international workers.

I would ask each witness to limit your testimony to about five minutes. We will place your statements in the record. And after all five of you have made presentations, we will have time for questions from the Subcommittee.

I am going to forego any additional opening statement because we have two panels that we would like to finish this morning.

Mr. Alexander, did you want to say something before we begin?

Mr. ALEXANDER. I am glad to be here.

Mr. OBEY. Well, we are glad you are here too. All right. Did you flip a coin or should I? All right, why do you not go ahead?

Ms. LEE. Thank you, Chairman Obey and members of the Subcommittee. My name is Karen Lee and I am the Commissioner of the Washington State Employment Security Department. Today I am testifying in my role as President of the National Association of State Workforce Agencies, known as NASWA.

Years ago, after I graduated from West Point, I had the honor serving my Country and the military, and today it is my honor to serve our Country by helping workers and businesses in my State weather the great recession that we are in. And that is what State workforce agencies do; we help our Nation's workers and businesses turn hard times into better times.

We serve people through programs like the Workforce Investment Act, the Trade Adjustment Act, Wagner-Peyser, Unemployment Insurance, and so on. But the titles of those programs are not important; it is the people that we serve. And Americans are turning to us in record numbers.

In fiscal year 2009, 37 million job seekers sought assistance from State workforce agencies. That is a 40 percent increase. Some lost jobs they had held for decades, and they need help planning a new future. And some are recent military members returning from the war who need help translating their military training into civilian work.

Some customers have skill gaps or barriers, such as people of color, the disabled, and the poor; and these individuals will continue to struggle unless they get training and career guidance. Still others have great skills, but their confidence has been shaken after months of not being able to find a job.

State Workforce staff are part teacher, coach, counselor, and friend. We are the human face of government for millions of Americans at a time when people need government to be there for them, now more than ever. So on behalf of NASWA I thank this Committee for the Recovery Act funding that you provided. It would have been impossible to serve the record number of job seekers who came through our doors without additional money.

Using our stimulus dollars, we have substantially increased enrollment in worker training programs through WIA, adult and dislocated worker programs. We have expanded the capacity to provide unemployment services to the unemployed. The numbers are staggering: job search assistance to more than three million claimants in the first six months of the Recovery Act. Getting them back to work faster reduces benefit pay-outs, supports business, and improves our economic situation, so it is a smart investment.

The Recovery Act also increased funding for Wagner-Peyser employment services programs by 30 percent. And although our customer growth has outpaced the funding increase in many States, stimulus funds provided welcome relief. And I must also mention the summer youth program, which gave thousands of young adults who were disadvantaged their first chance at a paying job.

As you prepare the 2011 budget, NASWA has four requests. We first recommend a \$500,000,000 increase for Wagner-Peyser employment services. Last year, in Washington State, we conducted a study on the effectiveness of Wagner-Peyser. It was rigorous and peer reviewed. And those results showed that unemployed workers who used their job services found work faster than those who did not, and they earned more money than those who did not. That is good news for workers and our economy.

NASWA also requests \$500,000,000 for intensive re-employment services to put unemployment claimants back to work. The job market will not recover by September 30th, and we know we will not be able to meet the demand that we expect will be there.

And, lastly, you probably heard about unemployment benefits being delayed because of antiquated computer systems, and that is true; many of our systems are over two decades old. NASWA is therefore requesting \$500,000,000 to help States modernize their unemployment insurance computer systems.

Lastly, NASWA is concerned about the ongoing confusion regarding expenditures versus obligations, and this confusion has been caused by out-of-date information from the Department of Labor, and it has already cost us \$250,000,000 last year, and it was money that we could not afford to lose. We would appreciate your help in working with you and our cabinet agency so that we can resolve this issue on behalf of our job seekers.

In closing, our workforce system is a lifeline for millions of hard-working Americans who are searching and hoping for a brighter future. We appreciate the confidence that you have shown in us and we are working on your behalf. We thank this Committee for your appropriations and for all of your support. Thank you.

[Written statement for the record by Karen Lee follows:]

**NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES (NASWA)
STATEMENT ON FISCAL YEAR 2011 APPROPRIATIONS**

**SUBMITTED BY KAREN LEE
NASWA PRESIDENT AND COMMISSIONER,
WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT**

MARCH 17, 2010

**TO THE HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on appropriations for the nation's publicly-funded workforce system. The National Association of State Workforce Agencies (NASWA) submits this testimony for the record.

The mission of NASWA is to serve as an advocate for state workforce agencies' programs and policies, as a liaison to workforce system partners, and as a forum for the exchange of information and effective practices. Our organization was founded in 1937. Since 1973, it has been a private, non-profit corporation, mainly financed by annual dues from member agencies. Our members administer critical programs including the Workforce Investment Act (WIA), Veterans' Employment and Training Services (VETS), Labor Market Information (LMI), Unemployment Insurance (UI), Trade Adjustment Assistance (TAA) and Employment Service (ES).

Appropriations Request:

NASWA is requesting an increase of \$1.5 billion above the Fiscal Year (FY) 2011 budget request for the U.S. Department of Labor (USDOL). It includes the following: (1) \$500 million for Reemployment Service Grants; (2) \$500 for Wagner-Peyser employment state grants; and (3) \$500 for million for State Administration of the Federal-state unemployment insurance program to upgrade state computer systems.

The Economy and the Recovery Act

The United States is attempting to recover from the most severe recession since the 1930s. At 9.7 percent, the unemployment rate is about twice what it was in December 2007 at the beginning of the recession. Since that time, employers have shed about 8.4 million jobs. We would need persistent job growth over the next few years to regain the 8.4 million payroll jobs lost since December 2007, and we need about 11 million jobs to restore the unemployment rate prevailing before the start of the recession. Although job losses have subsided recently, employment has yet to increase significantly.

During the 12-month period ending September 30, 2009 a record 37 million workers obtained services through the nation's publicly-funded workforce system. This represents more than a 40% increase in the number of customers served from the same period a year earlier in which the workforce system served 26 million persons. Through the collective strength of the Workforce Investment Act, Veterans' Employment and Training Services, Labor Market Information, Unemployment Insurance, Trade Adjustment Assistance and Employment Service (ES) – the workforce system will be crucial to the reemployment and economic welfare of about one in five American workers.

The American Recovery and Reinvestment Act (Recovery Act) was a lifeline to workers and states. Over the last six months, NASWA has conducted a series of surveys to better learn how these funds have increased service capacity and encouraged transformation and innovation in the workforce system and have summarized our findings:

0. The workforce system is spending Recovery Act funds to provide services expeditiously, with many states having obligated much of their funding for the WIA programs.

1. Thanks to Recovery Act funds, states have substantially increased the number of customers in WIA-funded training, with a greater emphasis on longer-term training than existed prior to the Act.
2. Funding for Reemployment Services has allowed states to serve more UI claimants identified through the profiling system, over 3 million nation-wide. Many states report increases of 25 percent or more in the number of claimants receiving services such as referral to training, one-on-one career guidance, development of individual reemployment plans, job search workshops, and job finding and placement services. States have also invested RES funds for sustainable upgrades in workforce technologies.
3. The supplemental ES funding has helped states meet the overwhelming demands for workforce services, allowing them to provide over 3 million UI claimants with job finding and placement assistance, job search workshops, and assessment and career counseling.
4. The majority of states have used Recovery Act funds to substantially enhance their WIA and Wagner-Peyser Act assessment and career counseling services.
5. The Recovery Act has also allowed states to provide more supportive services and needs-related payments, such as increases in transportation spending, child care spending, and dependent care and housing.
6. However, as the demand for services exceeds funding and staffing, sustaining the current levels of services, especially as funding declines, will be very difficult.

CLARIFY LANGUAGE REGARDING OUTLAYS AND OBLIGATIONS

The issue of outlays and obligations has been the source of substantial confusion among states and Congress that led to the \$250 million rescission for WIA programs as part of the "Consolidated Appropriations Act, 2008." While we applaud Assistant Secretary Oates for creating a team of Intergovernmental Organizations to address the issue, this subject poses significant challenges for USDOL and the states. While progress is being made, the Committee may want to ask the General Accountability Office (GAO) to update its November 2002 analysis of this issue that showed states are spending their WIA funds much faster than required under the law. Given the \$250 million rescission and the infusion of funds from Recovery Act, stakeholders would benefit from the GAO recommendations.

STATES SPENDING RATES OF RECOVERY ACT FUNDS ARE ON TARGET

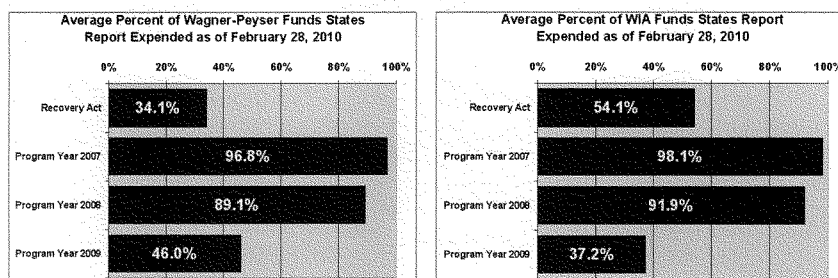
A recently completed NASWA survey shows states are spending Recovery Act funds at reasonable rates. WIA Recovery Act funds are considered to be program year 2008 funds and therefore must be expended by the end of program year 2010 (June 30, 2010). Recovery Act funds for Wagner-Peyser and Reemployment Services are available for obligation through September 30, 2010, and all funds must be expended by June 30, 2011.

States began receiving the Recovery Act funds in May 2009 and a NASWA survey shows that in the last 10 months 41 states have spent on average 54 percent and obligated 79 percent of their WIA Adult, Youth and Dislocated Worker funds provided under the Recovery Act. In the last 10 months, states, on average, report obligating 46 percent of Wagner-Peyser Act funds provided under the Recovery Act and 51 percent of Reemployment Service funds provided under the Recovery Act. Obligations for Wagner-Peyser and Reemployment Services are slower than those for the WIA program because these programs are staff-intensive and salaries for staff are obligated at a slower pace. All states report that these funds will be obligated by September 30, 2010.

In addition, many states lacked the program infrastructure required for an effective Reemployment Service program within their state due to a lack of program funding over the years. States that did not have a Reemployment Service program infrastructure before the enactment of the Recovery Act needed to engage in extensive planning to determine how they would use their share of the Reemployment Service funds. States have since built the program infrastructure to provide Reemployment Services to UI claimants.

The table to the right summarizes the results of a recent NASWA survey that shows states are spending Recovery Act funds at reasonable rates. Since states were given 26 months to spend these funds and 10 months have passed, they should have spent about 38 percent of the funds if they plan to spend the funds completely by the end of the 26th month. The spending rates for the Wagner-Peyser Act and Reemployment Services funds are close to this expectation at 36 and 35 percent, respectively, and the WIA programs are well above this expectation at 54 percent.

RECOVERY ACT FUNDS	PERCENT OF FUNDS EXPENDED AS OF FEBRUARY 28, 2010
	ACTUAL
Wagner-Peyser Employment Service (ES)	36%
Reemployment Services (RES)	35%
WIA Adult, Youth and Dislocated Worker	54%



WAGNER-PEYSER EMPLOYMENT SERVICE (ES) GRANTS

USDOL's proposed FY 2011 budget requests \$703 million for Wagner-Peyser Act employment services state grants. Since, FY 2008 funding has remained at this level while the labor force and the demand for services has grown dramatically. The Recovery Act provided a one-time additional \$150 million.

Employment services continue to serve as the core of the career one-stop delivery system established by the Workforce Investment Act of 1998 - helping individuals access job search assistance, skill assessments, career guidance, job matching and referrals, labor market information, as well as training services, all with the goal of facilitating reemployment. In addition, these state grants enable other critical programs to function at one-stop career centers including assistance to our nations veterans; administration of the Work Opportunity Tax Credit, development of labor market information and the Foreign Labor Certification program.

Employment services provided through the Wagner-Peyser Act are available to all workers—those with jobs looking for better career opportunities, those who have lost their jobs and are seeking reemployment, those seeking employment for the first time or those seeking to reenter the labor market. The Wagner-Peyser Act employment services played a key role in economic recovery from the Great Depression and the return of soldiers to civilian work after World War II. It again is playing these roles in the worst economic downturn since that time and the return of soldiers, sailors and marines from the conflicts in Iraq and Afghanistan.

NASWA appreciates the Administration's support for these services, especially as the budget notes *"the public Employment Service system is the cornerstone in the foundation of the national network of One-Stop Career Centers."*

Recommendation

NASWA recommends a \$500 million increase for Wagner-Peyser Act employment services state grants. At an average cost of only \$40 per participant, employment services are an unusually low-risk, low-cost, high-return investment for our nation's workforce. This investment has at least a 2:1 benefit-cost ratio with benefits such as higher earnings of participants, more taxes paid, and less income transfers to the unemployed. Numerous studies have concluded employment services are not only successful at job placement and retention, but also they are highly cost-effective.

Even with the Recovery Act funding, the discretionary funding for employment services has remained relatively constant (in nominal dollars) over the past two decades. With stagnant funding and purchasing power erosion by price inflation since 1984, real funding has declined by 49 percent. The Administration's Wagner-Peyser Act employment services budget proposal of \$703 million falls \$678 million short of the level of funding for these grants in 1984, after adjusting for inflation. States have supplemented employment services by adding a 25 percent state-financed supplement to Wagner-Peyser Act programs.

Investing in employment services improves the efficiency of the labor market, which benefits employers, workers, federal and state government program budgets, and our economy as a whole. State workforce agencies, with Wagner-Peyser Act grants and support from private employers, have the means to implement reemployment services, such as the advanced web-based public-private JobCentral National Labor Exchange, individual state job banks, rapid response to unpredictable worker dislocations, reemployment of unemployment insurance claimants, and labor market information.

Employer Role

The Wagner-Peyser Act funds the labor exchange system in all states, allowing matching of job seekers to employers' openings, and providing a large database of potential job applicants for employers. Although states typically assign Wagner-Peyser funded staff to perform business services; many states have also created business services units. Whether through individual staff or coordinated through units, enhanced, and often customized, services are provided to business customers that go beyond the traditional labor exchange. Many states provide basic human resource management services and information to their employer customers; this is an important resource especially to small businesses without human resource staff. Wagner-Peyser funded business consultants are available in many local one-stop career centers to provide these enhanced services, which include such things as performing job analysis, developing job descriptions and effective hiring procedures, assisting with development of employee handbooks and providing information on labor market trends, labor and human rights laws.

Workload

The demand for One-Stop Career Center on-line workforce information services, as well as staff-assisted services, has risen sharply across the country since the beginning of the recession and is expected to remain high for some period as the economy recovers. For the 12-month period ending September 30, 2009, Employment Services served 21 million American workers, far exceeding any other employment and training program. For a similar period in 2008, the program served over 15 million persons.

The FY 2011 workload summary underestimates the workload experienced by State Workforce Agencies. The Workload Summary table below projects participant use at only 17.5 million individuals in FY 2011 and the Administration, in their budget justification, acknowledges the projected workload reflects activity at regular formula funded levels and does not account for workload funded by the additional funding (\$150 million) from the Recovery Act. NASWA suggests the workload estimates should take into account both formula and Recovery Act funds and reflects, to the extent possible, the number of participants reported elsewhere by the Employment and Training Administration.

Results Under the Recovery Act

For FY 2011, the Administration's budget suggests these formula grants should focus on (1) increasing the capacity of front line staff to provide more career counseling, assessment tools and labor market information;

(2) promoting knowledge sharing through an interactive “community of practice,” (3) assisting states to effectively utilize technology to manage their job matching systems and more effectively connect their unemployment insurance systems; (4) supporting improved access to labor market and career information in real time; and (5) supporting targeted service delivery to small business. NASWA applauds the Department for establishing these goals and is eager to work with USDOL.

Under the Recovery Act, NASWA surveys show that states are making great progress in achieving these goals. Front-line capacity has been increased to serve millions of additional workers seeking assistance in the One-Stop Career Centers with career counseling and other services. In addition, states have been using their Labor Market Information (LMI) to help job seekers and have used technology more effectively through the integration of the Employment Services and unemployment insurance information technology to better serve UI claimants.

REEMPLOYMENT SERVICE GRANTS (RES)

NASWA is requesting \$500 million for Reemployment Service Grants (RES). While \$250 million was made available in the Recovery Act, additional funding was not provided in the Administration’s FY 2011 budget.

RES funding provides job search and other employment-related assistance services to unemployment insurance claimants. As was the case with prior RES grants in Program Year 2001 through Program Year 2005, these funds are to be used to provide reemployment services to UI claimants through the One-Stop Career Centers, in addition to the regular Wagner-Peyser Act employment services, in order to accelerate their return to work.

Results Under the Recovery Act

As of December, 2009, almost 3.3 million workers were receiving services under RES grants. Of this number 24 percent were receiving career guidance; 66 percent were receiving job search assistance and 30 percent were referred to WIA services. Most states have hired temporary staff to assist UI claimants with services such as job search workshops, resume assistance, and labor market information, but these temporary hires might not be able to work beyond September 30, 2010, after which RES funds may not be obligated under the Recovery Act.

Under the Recovery Act, RES funds are available for obligation through September 30, 2010 and all funds must be expended by June 30, 2011. However, the Wagner Peyser Act does not permit staff salaries to be obligated into the future, thus the temporary staff hires will no longer be available as of September 30 -- a mere 7 months from now. This is an unfortunate quirk in the law as millions of UI claimants will no longer have access to these services to assist them with their job search efforts.

NASWA data indicates states will have their funds obligated by September 30, 2010 and expended by June 30, 2011. As of February 28th, the obligation rate of these funds, at approximately 50 percent, reflects a slower rate than some Recovery Act workforce spending because staff salaries must be obligated per pay period, which usually doesn’t extend beyond two weeks.

In addition to temporary staff hires, a number of states have invested in new assessment tools, technological changes and updates that would improve their capacity to serve large numbers of UI claimants and other services. States report using these funds to purchase training, data and assessment software, as well as tangible job search materials such as handbooks and DVD’s. In addition to these relatively small, temporary investments reported, some states report making significant investments to upgrade or update their state’s electronic labor exchange; these investments require states to obligate a high percentage of their RES funds but help to ensure states make long-term investments to improve their UI-ES connection.

In addition, a number of states have reported using funds from other areas to supplement their RES resources. For example, the Recovery Act provided for a special \$500 million transfer to states from the

Employment Security Administration Account of the federal unemployment trust fund for FY 2009. These funds may also be used for staff-assisted reemployment services to UI claimants for administration of incentive provisions and outreach to individuals who may be eligible for UI benefits.

Reemployment Services is a Cost Savings for UI Trust Funds

Providing reemployment funds to help states deploy reemployment initiatives to the nation's unemployed, especially those collecting unemployment insurance (UI), should be a high priority for Congress and USDOL. An investment of \$500 million for reemployment service grants would assist 1.4 million unemployment insurance claimants get back to work. These grants provide job search tools, early intervention services, career guidance, job referrals, and training for UI claimants who currently do not receive these services. Because the average weekly benefit of unemployment compensation is approximately \$300, investing \$500 million in reemployment services alone could save the UI system about \$840 million in benefit outlays by decreasing the duration of these UI claimants by about two weeks.

The implicit reasoning is if \$500 million is spent on reemployment services at a cost of \$357 per claimant, this helps 1.4 million claimants. If their duration is reduced by two weeks, which the evidence supports, at \$300 per week in benefits the system saves \$840 million in UI benefit outlays ($1,400,000 \times 2 \times 300 = 840,000,000$). This is a net savings of \$340 million to the trust fund.

Many studies have found that attention to reemployment needs of UI claimants' results in shorter claims duration for beneficiaries. For example:

- In Washington State, staff-assisted placement services reduced UI claimants' duration of unemployment by 7.7 weeks; (Westat 2000);
- Staff-assisted job matching reduces unemployment by 3-6 weeks, which is more than enough to pay for the low-cost services in terms of reduced UI outlays and increased earnings (Lou Jacobson, CNA Corporation, February 28, 2006); and
- The most recent report, completed in December 2006, but not released by USDOL until 2008, concluded that a Wisconsin demonstration project succeeded in increasing the collaboration between the state's UI and Job Service agencies through both its data sharing component and its implementation of expanded reemployment services for unemployment insurance claimants. The Wisconsin RES study concluded that RES had the effect of reducing claimants' duration on UI by 0.6-0.9 weeks.

WIA ADULT PROGRAM

USDOL's FY 2011 budget for the WIA Adult program has proposed \$906.8 million, \$43.3 million above the FY 2010 level of 861.5 million. However, the increase of \$43.3 million will go to the *Workforce Innovation Fund* while formula grants to states would be funded at the FY 2010 level. The Recovery Act provided \$500 million more for this program.

For the 12-month period ending September 30, 2009, the WIA Adult program served 5.7 million participants compared to 2.8 million participants over a similar period in 2008. A steady increase over the last several quarters reflects the amplified demand for services as well as the effect of the new Recovery Act funds, which have boosted the program's ability to provide services. These numbers will increase over the next 12 months and as the Recovery Act funds diminish, states will be hard-pressed to deliver similar services in the next year.

Workload

The Workload Summary table taken from the Administration's *FY 2011 appropriations justification*, shows the Administration is projecting that 5.443 million participants to receive WIA Adult Services. With the

likelihood that unemployment will hold steady and considering the program's participation rate is up significantly over the four quarters ending September 30, 2009, the Administration's workload projection appears low and leaves states with the prospect of insufficient resources in the face of large demand for services.

Results Under the Recovery Act

Under the Recovery Act, every state has encouraged or required local areas to increase investments in WIA funded training through incentive programs, policies or other state efforts. Overall, as of December 31, 2009 almost all states expect to enroll a greater percent of customers in training through their WIA programs, compared to December 31, 2008. Since passage of the Recovery Act states have made a substantial effort to increase the number and proportion of customers receiving training. Some 72 percent of states reported an increase greater than 10 percent in the number of customers enrolled in training through the WIA Adult program and some 85 percent of states expect that the number of WIA Adult customers enrolled in training to reach a peak before the end of the second quarter, June 30, 2010. In addition, the majority of the states said that they had run out of funds and had waiting lists, while several other states said they expected to run out before the end of the program year, June 30, 2010.

Recommendation

While NASWA appreciates the intent of the Workforce Innovation Fund, in which the Departments of Labor and Education will award grants to encourage states and localities to work across program silos – the Committee should consider using these funds for the formula program, given the program is under severe stress and many states are likely to exhaust funds. In addition, many states have been working across “program silos” for many years and do not need the federal encouragement to do what made sense to them many years ago when they began working with economic developers and educators. States have been innovating for some time. Rather than funding further innovations, a greater effort should be made to support sharing and spreading state innovations made in some states already.

WIA DISLOCATED WORKERS

The Administration's FY 2011 budget requests a total of \$1.475 billion for Dislocated Workers of which \$1.184 billion would be dedicated to the formula program, \$229 million to the National Reserve and \$62 million for the Workforce Innovation Fund. Formula funding and the National Reserve are unchanged from last year's levels.

For the 12-month period ending September 30, 2009, the WIA Dislocated Worker program served approximately 782,291 participants. This compares to 501,286 participants for the same period a year earlier. Given the number of participants receiving services, it will be very difficult for states to provide adequate services once the Recovery Act funds are spent. The Administration's projection of 647,106 participants in the Dislocated Worker program for FY 2011 appear low given the latest data from the Employment and Training Administration indicates the program served 782,291 customers in FY 2009.

A NASWA survey shows some states have reported running out or running very low on Dislocated Worker program funds. Wisconsin, for example, has obligated its formula and Recovery Act funds for Dislocated Worker programs received from their FY 2010 allocation. They have applied for a statewide National Emergency Grant and will be applying for additional emergency grants, including a formula replenishment grant, in order to continue to provide services to existing participants in the next program year. USDOL has not yet approved funding and Wisconsin reported it may be forced to freeze enrollment at existing levels unless additional funds are received.

Results Under the Recovery Act

NASWA's survey shows that almost 80 percent of states report a substantial increase in the number of customers enrolled in training through the WIA Dislocated Worker program. In addition, almost 90 percent of states expect the number of WIA-Dislocated Worker customers enrolled in training to reach a peak before

the end of the second quarter of calendar year 2010. Some states report they expect the economy to improve by then, but for others it reflects funding constraints as ARRA investments recede.

National Emergency Grants

Several states have expressed concern with the NEG guidance provided in (TEGL 19-08) to access additional resources through a formula fund replenishment NEG. To be eligible for this type of NEG, an applicant must have disbursed 95 percent of both their regular Program Year and Recovery Act Dislocated Worker formula funds. Concerns have arisen that the 95 percent requirement does not take into account funds to cover the costs of operating their system including staff, facilities, and other operating expenses. States report it is difficult for a local area to reach the required level of disbursement because it would be on the local area would not be able to cover their regular operating costs.

New York State, for example, has exhausted their training resources and established waiting lists for individuals seeking training assistance. However, these areas, according to New York, would not qualify for NEG resources because they must also budget the remainder of their allocated funds to cover the operating costs of their local system so that they can continue to provide needed services throughout the remainder of the year. This prevents them from being able to demonstrate the required 95 percent disbursement rate even though a documented need exists.

Recommendation

While NASWA appreciates the intent of the Workforce Innovation Fund, in which the Departments of Labor and Education will award grants to encourage states and localities to work across program silos – the Committee should consider using these funds for the formula program, given the program is under heavy demand and more states are likely to exhaust funds.

WIA YOUTH PROGRAM

The Administration's FY 2011 budget requests \$1.025 billion for the WIA Youth program. However, when compared to FY 2010, Youth formula grants to states would decrease by approximately \$52.8 million because fifteen percent (\$153,750,000) of the total amount proposed for FY 2011 would be reserved for the Youth Innovation Fund. The Recovery Act provided an additional \$1.2 billion in funds for Workforce Investment Act Youth Program activities, with an emphasis on summer employment.

According to the Employment and Training Administration, the summer youth program served 347,782 as of September 30, 2009. Congress and USDOL specifically intended the Recovery Act funds for WIA Youth to operate summer youth employment programs during the summer of 2009. Although the timeframe was short, and many states and local areas had not recently operated summer youth programs, the system moved aggressively and offered summer work to thousands of young persons.

Recommendation

The Administration's budget would eliminate the opportunity for a subsequent summer youth program in 2010. Consideration should be given to allocating the Youth Innovation Funds toward formula funds to states specifically for a stand-alone summer youth program.

UNEMPLOYMENT INSURANCE (UI) PROGRAM

For FY 2010, NASWA requests an additional \$500 million above the Administration's level of \$3.5 billion for state unemployment insurance to upgrade and modernize state computer systems.

The UI program is an entry point to the nation's one-stop career center systems for workers who lose their jobs. For many workers, this may be their first interaction with the publicly-funded workforce system. It should provide timely income support, while promoting the integrity of the program and emphasizing reemployment of UI claimants. Unemployment insurance administration, in addition to Wagner-Peyser

employment services, Reemployment Service Grants (RES) for UI claimants, and Reemployment Eligibility Assessments (REA), should be fully funded for the UI program to operate more efficiently.

While NASWA is pleased the President's budget includes \$55 million for REAs, the lack of additional funding for Reemployment Service Grants for UI claimants does not achieve a balanced approach between ensuring job search efforts by claimants and providing reemployment services to claimants. Such a balanced approach has proven to be a good investment for society, government, employers and workers alike.

Additional Funding to Modernize State Information Technology

Administering unemployment benefits, which occurs at the state level, involves a number of efforts. For example, states are responsible for: (1) processing benefit payments for both state and federal claims; (2) preventing overpayments and fraud; (3) answering thousands of questions they receive from UI beneficiaries and employer taxpayers; and (4) resolving disputes between UI claimants and employers in the claims adjudication process. These are time consuming tasks made harder by a record number of claimants during the recession seeking UI and the aging computer infrastructure in states.

Because of chronic federal underfunding of the UI system, State Workforce Agencies operate UI computer systems based on outmoded and less flexible technologies than are available today. The average age of state UI computer systems is 23 years. These antiquated systems result in inefficiencies and poor system performance. NASWA is requesting \$500 million to help states modernize their UI computer systems to improve efficiency and performance.

Core IT Systems Exhaust Funding and Staffing Resources

State agencies often spend vast administrative funds and staffing resources to improve or modify their aging information technology (IT) systems. To incorporate automated claims filing technologies, such as the Internet or Interactive Voice Response systems, or to accommodate state or federal law changes, most state workforce agencies must make piece-meal alterations to their IT systems. These modifications result in a convoluted lattice-work of system "band-aids" that are difficult to navigate and nearly impossible to improve. A deterioration in the quality and accuracy of the documentation behind programming modifications coupled with increasingly inadequate UI system information has led to a degradation of the UI computer systems in most states.

State IT staff members operating these archaic systems are expected to support legacy and modernized technologies simultaneously, which requires staff with more extensive and expensive skill sets. Further compounding the plight of the states are IT retirement trends, particularly of those key staff who understand state UI systems intimately. Before the enactment of the Recovery Act, a majority of states rehired retired IT staff to make the necessary alterations to core UI systems in order to comply with complex changes in federal unemployment insurance benefit programs.

Increased Workload Results in Poor Performance

The enormous influx in workload brought on by the recession, coupled with outdated IT systems in most state UI agencies, has led to a decrease in every area of UI program performance. In the four quarters ending on September 30, 2009, the number of new initial UI claims totaled 20,638,508, an increase of over 7 million from the 13,386,029 initial claims reported during the same period one year earlier.

In the four quarters ending on September 30, 2009, the percent of intrastate payments made on time fell by about four percentage points, from 87 to 83 percent from the same period one year earlier. The detection of recoverable overpayments rate in states fell by more than three percentage points, from 56 to 53 percent in the four quarters ending on September 30, 2009 from the same period one year earlier. The entered employment rate declined by six percentage points, from 63 to 57 percent in the four quarters ending on September 30, 2009 from the same period one year earlier. Finally, the percent of employer tax liability determinations made timely fell by one percentage point, from 85 to 84 percent in the four quarters ending on September 30, 2009 from the same period one year earlier.

Solution to Problems: Modernize IT Systems

State UI agencies that have modernized their core IT systems and re-engineered their associated processes have generally seen a reduction in the amount of staffing resources needed to deliver UI services, improved performance measures in such areas as customer wait times, overpayment prevention and detection, and other quality and timeliness attributes. There are 8 states with modernized benefits applications, 4 states with modernized tax applications, and only one state with both its benefits and tax applications modernized.

Benefits of Modernized Systems

States with modernized IT systems are generally able to implement system modifications much more easily than states with systems that use old and restrictive technologies. In addition to system alterations necessary to comply with state or federal law changes, states with modernized IT systems are able to incorporate productivity-enhancing technologies such as content and case management, customer account management, automated scheduling and assignment of tasks with far greater ease than states with older core systems.

Modernized state IT systems also generally offer more robust online self-service customer account information, which reduces telephone calls to state UI call centers and thereby decreases the amount of staffing resource devoted to claims activities. These automated services also have resulted in reduced customer wait times as claimants can contact the state UI agencies through a greater number of media. Finally, the ease with which modernized systems can incorporate new technologies has led to decreased overpayments with the introduction of software to promote UI integrity.

IT Modernization Can Be Costly and Problematic

While states with modernized IT systems realize many favorable results, modernization projects are substantial undertakings, and many modernization projects are more costly than originally projected or, take more time to complete than scheduled; while some projects fail altogether. It is estimated that the cost of modernizing tax and benefit systems in an individual state would be approximately \$50 million. If this estimate is correct, the cost of modernizing all state program tax and benefit systems would range between \$2.5 billion and \$3 billion. In addition to the cost, large software development projects are not the type of undertaking that state UI agencies see as their core competency. Modernization projects demand a significant amount of agency staff involvement and expertise, thus forcing states to divert dwindling and vital staffing resources away from the delivery of UI services to customers.

A Better Way to Modernize

States have expressed the need for a different paradigm to modernize their IT systems apart from individualized state action. At the forefront of modernization methodologies is the consortium model, in which groups of states can efficiently pool their resources and share their successes; state consortium models have been hailed as a plausible and beneficial concept.

The Consortium concept promotes the idea of developing a single, common system that can be modified to state-specific configuration settings. In this way, only a fraction of the funding investment is needed, and a much greater stewardship of UI administrative resources can be achieved.

Consortium Language

NASWA appreciates the inclusion of new language in the Fiscal Year 2009 Omnibus Appropriations Act allowing the Secretary of Labor, at the request of a state participating in a consortium, to make it easier for states to form consortia and share costs on projects related to unemployment insurance (UI) programs. This language is in the Administration's budget and NASWA is hopeful Congress will include it in its appropriations language every year.

The language enabled USDOL to fund two UI IT Modernization consortium-based feasibility studies through supplemental budget requests. The first consortium includes Arizona, Wyoming, Idaho and North Dakota; the second consortium includes North Carolina, South Carolina, Georgia and Tennessee. These two-year initiatives are aimed at developing the requirements for a common UI IT system and to determine the

feasibility of building the system. NASWA's request for additional UI administrative funding will allow for the expansion and implementation of the results of these two consortium initiatives.

UI Financial Integrity and an Example of a Successful State Consortium

Payment errors due to nonmonetary disqualifications related to job separation issues make up a substantial source of unemployment insurance overpayments. In FY 2009, UI overpayments are estimated to have totaled \$11.4 billion dollars.

An example of a successful consortium project is the UI State Information Data Exchange project (SIDES). A consortium of six states, Colorado, Georgia, New Jersey, Ohio, Utah and Wisconsin, is working to reduce overpayments through improved technology. The states through USDOL funding created SIDES. Initially this system is being used to transmit UI separation information (requests and replies) over the internet between UI agencies and different size employers. Separation requests to large and multi state employers or third party administrators (TPAs) are transmitted from the state through the SIDES central broker as a batch web service to the participating employers. Employers in turn respond to these separation requests over the Internet through the SIDES central broker back to the states. In addition a SIDES Employer Website was created to handle much smaller numbers of separation requests and responses primarily dealing with small employers. States transmit the separation requests to the SIDES Employer Website and employers go online to this website, enter identification credentials and respond individually to these requests. Eleven additional states recently received funding from USDOL to participate in SIDES and will be joining the consortium over the next two years.

It is also envisioned other types of transactions such as Wage Verification between states and employers will be added to SIDES to reduce other areas of Unemployment Insurance improper payments. When fully operational, this system will improve UI timeliness, provide significant cost savings to states, dramatically improve the accuracy of information, and reduce improper benefit payments and appeals reversals.

COOPERATIVE STATISTICS PROGRAM – BUREAU OF LABOR STATISTICS (BLS)

The FY 2011 budget would reduce funding for state grants under the Current Employment Statistics (CES) program from \$19 million to \$7 million. Under the CES program, states collect and analyze data by state and metropolitan areas on employment, hours worked, and earnings from the payroll records of employers. The Administration's budget proposes to centralize the production of monthly state and metropolitan area estimates in BLS, while States would continue data analysis and dissemination and report to BLS on significant events not captured by the BLS sample.

NASWA questions these reductions in state grants because: (1) states will lose resources they use to provide information and analysis to policymakers, businesses, and workers; (2) monthly estimates in many states might be worse under a centralized approach; and (3) the centralization could lessen the credibility of the estimates by creating the impression among many stakeholders they are produced with a "black box."

BLS has not proven it can produce "similar and even better" monthly CES estimates in states with its centralized methods. It says its research shows the centralized estimates are at least as good as the current estimates, but then it qualifies its statements with modifiers such as "in the longrun" or BLS still will pay attention to states when states point to significant labor market events that the BLS survey did not capture. BLS tried to centralize the Annual Refile Survey in the 1990s, promising it could do it better and cheaper. Within one year it realized it could not and over time worked to reconstitute the Survey with the states. BLS might be able to produce monthly CES estimates cheaper than the current method, but it is unclear the estimates will be better or even as good.

VETERANS EMPLOYMENT AND TRAINING SERVICE

NASWA supports the USDOL fiscal year 2011 budget request for VETS programs including \$165 million for state grants to support the state administration of the Disabled Veterans Outreach Program (DVOP) and

Local Veterans Employment Representative (LVER) Program; \$8 million for the Transition Assistance Program (TAP); \$41 million for the Homeless Veterans Reintegration Program (HVRP); \$9.6 million for the Veterans Workforce Investment Program (VWIP) and \$2.4 million for the National Veterans Employment and Training Service Institute (NVETSI)

Recommendation

NASWA members believe annual planning required by the Jobs for Veterans Act will be improved by moving the funding for these programs from a fiscal year to a program year (July 1 to June 30). By using a program year, the plans state workforce agencies submit to USDOL Veterans Employments and Training Service (VETS) will coincide with the program years used by other workforce programs. Funding on a program year supports integrating VETS-funded programs into WIA one-stop career centers systems and planning and performing on the same calendar as other one-stop partners.

Conclusion

Mr. Chairman, NASWA understands the pressures Congress faces as it confronts the task of cutting the federal budget deficit. However, we believe current economic circumstances and the performance of the publicly-funded workforce system warrant your support for funding beyond the Administration's proposed budget. The ability of our nation's employers and workers to respond to the international challenges of today's labor market, especially in a weakened economy, depends on it. Thank you for considering our request.

Ms. GANZGLASS. Thank you for the opportunity to testify as well. I am Evelyn Ganzglass, and I am Director of Workforce Development at CLASP, the Center for Law and Social Policy. CLASP is a nonprofit organization that develops and advocates for policies at the Federal, State, and local levels that improve the lives of low-income people.

In my written testimony I focus on four points: why it is important to invest in workforce programs at this point in the economic recovery; how increased funding for the WIA system under the Recovery Act has laid the groundwork for economic recovery; what we know about the return on investment of workforce programs; and CLASP's recommendations for both funding and increasing the effectiveness of workforce programs.

In my brief five minutes, I will speak to two points: how the WIA system has used Recovery Act funds and CLASP's recommendations regarding the fiscal year 2011 appropriations for DOL.

The infusion of new money under the Recovery Act has enabled the WIA system to expand access to training, increase services to low-income adults, and augment one-stop services to meet unprecedented need for retraining and re-employment services during the economic recession.

The WIA system quickly mounted a summer youth employment program in 2009 that served more than 300,000 young people. A study by the Center for Economic Development and Business Research at Wichita State University found that for every \$1.00 of wage expenditures in that State, \$1.64 was returned to the regional economy.

In addition to providing much-needed income to these young people, the communities in which the program was operated gave them exposure to a wide variety of work environments and connected them to a host of skill-building opportunities. For example, in Sonoma County in California, Recovery Act funds were used to employ 330 community youth in environmental projects throughout the county. In Philadelphia, participants in the summer program were required to complete an academic project, for which they could receive credit. Philadelphia also piloted a GED to College program.

There is limited national data on the use of Recovery Act funds in WIA beyond the summer program, but indications are that the system has helped unemployed workers find new jobs and has helped low-income, low-skilled workers find skills and improve their long-term job prospects.

The number of participants in the adult program increased by 10 percent in the first quarter of program year 2009, compared to the last quarter of 2008, just when the Recovery Act funds came online; and the number of participants receiving training increased by 13 percent. Examples of what the system has done:

In Illinois, Illinois used discretionary Recovery Act WIA funds for a competitive grants program to upgrade the skills of incumbent workers in key sectors of the economy, such as health care, with a priority given to programs that combined basic skills remediation and occupational training. The State also issued guidance encouraging the use of needs-related payments, which was part of the Recovery Act.

In 2009, New York City more than doubled the number of people who received training through individualized training accounts.

California's Workforce Investment Boards used Recovery Act funds to increase on-the-job training contracts in key industries, and provide work experience for people who had exhausted their unemployment benefits. They mounted new programs for disadvantaged and at-risk populations, and tripled the amount of support of services to those in training. They used new contracting authority provided through the Recovery Act to partner with community colleges and State colleges for training in clean and green occupations.

Regarding the budget, we welcome the Administration's focus on increasing investments in training and improving services for low-income youth and adults. We support the proposed new investments in innovation, transitional jobs, on-the-job training, and research. But we do not think that the President's budget goes far enough to support the workforce system's role in our Nation's recovery or to address the particularly devastating effect the recession has had on the employment prospects of young people and low-income workers.

We call on Congress to sustain the level of Recovery Act investment in workforce programs. We urge you to increase funding for youth programs to \$3,000,000,000 for expanded summer and year-round programs, and for targeted grants to high-poverty communities to build pathways for youth to opportunities in growing sectors of the economy.

We believe this level of funding is warranted after years of disinvestment in the workforce system to meet skyrocketing demand for services. Failure to invest in America's workforce will undermine our economic recovery and put us at a disadvantage with other nations that invest more strategically in workforce training.

Thank you for the opportunity to testify.

[Statement for the record by Evelyn Ganzglass follows:]

**House Subcommittee on Labor, Health and Human Services,
Education and Related Agencies**

Committee on Appropriations

Hearing on Labor and Education 2011 Budget Priorities

**Hearing
March 17, 2009**

**Testimony by Evelyn Ganzglass
*Director, Workforce Development
Center for Law and Social Policy***

Thank you for the opportunity to testify. I am the Director of Workforce Development at the Center for Law and Social Policy (CLASP). CLASP is a nonprofit organization that develops and advocates for policies at the federal, state and local levels that improve the lives of low-income people.

My testimony will focus on four points:

1. Why it is important to invest in workforce programs at this point in economic recovery
2. How increased funding under the ARRA has laid the groundwork for economic recovery
3. What we know about the return on investment in workforce programs
4. CLASP's recommendations for increasing the effectiveness of the WIA

WHY IT IS IMPORTANT TO INVEST IN WORKFORCE PROGRAMS AT THIS POINT IN ECONOMIC RECOVERY

CLASP welcomes the Administration's proposals in the FY 2011 budget to promote innovation in the WIA system, demonstrate the effectiveness of Transitional Jobs strategies and expand resources for on-the-job training subsidies to spur the hiring and training of low-income and long-term unemployed workers as the economy emerges from recession. These proposals are consistent with CLASP's policy recommendations for job creation and WIA reauthorization. They will increase work and learning opportunities for low-skill, low-income youth and adults who face the greatest difficulties in the labor market.

We also welcome the Administration's commitment to WIA reauthorization and to increased collaboration between the Departments of Labor and Education to remove disincentives to serving people with barriers to employment and to encourage better outcomes for individuals at every level of the workforce system.

The Administration's FY 2011 budget signals much-needed redirection of the WIA system toward increased investment in training and improved serves for low-income youth and adults. But the budget proposal does not go far to sustain service levels enabled by Recovery Act funding to support our nation's economic recovery and promote long-term, inclusive economic growth.

The U. S. economy is undergoing an economic transformation that demands strategic investment in workforce services.

Skill deficits threaten our economic recovery.

Education and skill disparities in the U.S. workforce threaten our economic competitiveness. The Council of Economic Advisers finds that because of globalization and automation, many manufacturing and other

jobs are being replaced by positions requiring higher level skills that enable workers to flexibly complete tasks that are uncertain and interactive.¹ (See Figure 1 in Appendix I)

Based on BLS projections, Dr. Anthony P. Carnevale, director of the Georgetown University Center on Education and the Workforce, estimates that in the next decade two-thirds of the 47 million projected job openings will require some level of postsecondary education or training, including industry certification. Some 34 percent will require at least a bachelor's degree, while 30 percent will require some college or a two-year associate's degree. Only 36 percent of those 47 million jobs will require workers with only a high school diploma or less.²

Analysis by the National Center for Higher Education Management Systems shows that 45 million adults, or one quarter of the adult population, are most in need of additional education and training to perform in jobs of the future. (See Figure 2 in Appendix I)

- Of these adults, more than 26 million adults in this country between the ages of 18 and 64 have not graduated from high school and therefore do not qualify for most jobs in this economy.
- More than 10 million people have no college and speak little or no English
- More than 30 million adults have no college education and earn less than a living wage.³
- In 35 states, more than 60 percent of the population do not have an associate's degree or higher⁴

This mismatch between job requirements and workforce skills has resulted in a wage premium for education and skills. Although real wages of college graduates have declined since 2002, the wage difference between college graduates and high school graduates has remained large.⁵

Employers are experiencing skill shortages even during the recession and these shortages are likely to grow as consumer demand recovers and employers seek to hire skilled workers.

According to a survey of healthcare CIOs by Robert Half Technology, one in six healthcare CIOs are planning to increase hiring in the first quarter of 2010, and they are already having a tough time finding skilled workers in areas such as data/database management, help desk/technical support, and application development.⁶ The *Financial Times* reported that even though manufacturing has shed more than 2 million jobs in the past two years, the shortage of skilled staff, in part fueled by pending retirements, may restrict companies' ability to increase production as the economic recovery progresses.⁷

¹ Council on Economic Advisers, *Preparing the Workers of Today for the Jobs of Tomorrow*, July, 2009.

² Testimony by Tony Carnevale, director, the Georgetown Center on Education and the Workforce, before the Senate HELP committee, February 24, 2010

³ The National Center for Higher Education Management Systems based on US Census Bureau, 2008 American Community Survey data.

⁴ Presentation by Pamela Tate, President and CEO, CAEL, at ETS Adult Learning Symposium, Washington DC, March 3, 2010.

⁵ Georgetown University Center for Education and the Workforce. *College is Still the Best Option*, 2010.

⁶ Marianne McGee, "Demand for Health IT Talent Rising," *InformationWeek*, December 7, 2009.

⁷ Hal Weitzman, "US Manufacturers Face Skills Shortages," *Financial Times*, February 28, 2010.

Dislocated, skilled workers cannot readily fill skill gaps in another field without additional training. The good news is that economic recovery and increased employer demand for workers create new opportunities for employer partnerships to provide on-the-job training and work experience for workers in transition.

The recession has had a disproportionately negative effect on low-skilled workers, young people, blacks and Latinos.

BLS estimates that currently there are 5.8 million youth between ages of 16 and 24 who are out of school and out of work.⁸ Teen unemployment rates rose dramatically from 15.2 percent in January 2007 to a current rate of 25 percent for all teens and 42 percent for black teens⁹. These rates of high youth unemployment are not likely to subside in the short run.

There also has been a sharp increase in unemployment among the least educated adults since the beginning of the recession. In February 2010, the unemployment rate of individuals with less than a high school diploma was 15.6 percent –well above the 9.7 percent national average and nearly triple the rate of those with college degrees.¹⁰ (See Figure 3 in Appendix I)

Less educated workers, especially black and Hispanic workers with no postsecondary schooling, workers in many lower-skilled occupations, and workers in lower-wage jobs also have been hard hit by underemployment or involuntarily working less than full time. The Center for Labor Market Studies at Northeastern University calculated that the incidence of underemployment in the fourth quarter of 2009 was 13 times higher among workers in the bottom tenth of household income than for those in the top tenth of the income distribution.¹¹

Four in ten unemployed workers have been jobless for more than 27 weeks. Long-term unemployment can lead to deterioration of worker skills and loss of productive capacity. It also is likely to compound the economic and social difficulties of hard-hit communities. The Council of Economic Advisers' Economic Report of the President discusses forthcoming research by Lisa Kahn that "shows that teens who first enter the labor market during a recession can have trouble getting their feet onto the first rung of the career ladder, leaving them a step or more behind throughout their lives." The CEA report also points to evidence that when parents lose their jobs, their children's long-run economic opportunities suffer.¹²

⁸ Bureau of Labor Statistics: Household Data. Table A-16. Employment Status of the Civilian Noninstitutional Population 16-24 Years of Age by School Enrollment, Sex, Race, Hispanic or Latino Ethnicity. February 2010.

⁹ Bureau of Labor Statistics, Employment Situation News Release. March 5, 2010, The Employment Situation February 2010 and Bureau of Labor Statistics News Release on February 2, 2007, The Employment Situation January 2007.

¹⁰ Bureau of Labor Statistics, 2007-2009

¹¹ Sum, A., I. Khatiwada, and S. Palma, Labor Underutilization Problems in the U.S. Workers Across Household Income Groups at the End of the Great Recession: A Truly Great Depression among the Nation's Low Income Workers Amidst Full Employment among the Most Affluent, Center for Labor Market Studies, Northeastern University, February 2010.

¹² Council of Economic Advisers Economic Report of the President

Despite promising signs of economic recovery, the jobs situation is unlikely to get better for a while, especially for hard hit populations and communities.

Projections are that the nation will not recover its pre-recession job levels for another 24 months and that it may take until 2015 to recover the jobs we lost during the recession and add enough new jobs to employ the job seekers who have come into the workforce since December 2007 when the recession began.¹³ Further, the recovery is likely to take longer to reach hardest hit communities. The Congressional Budget Office (CBO) projects that the unemployment rate is expected to remain at or above 10 percent throughout 2010 and above 9 percent through 2011.¹⁴

HOW INCREASED FUNDING UNDER THE ARRA HAS LAID THE GROUNDWORK FOR ECONOMIC RECOVERY

The infusion of new money enabled the WIA system to expand access to training, increase services to low-income adults and augment one-stop services to meet unprecedented need for retraining and unemployment services during the economic recession.

The WIA system quickly mounted a summer youth employment program in 2009 that served more than 300,000 young people. A study by the Center for Economic Development and Business Research at Wichita State University on the impact of the summer jobs program on the regional economy in Kansas found that for every \$1 of wage expenditure there was \$1.64 returned to the regional economy.¹⁵ In addition to providing much needed income to these low income youth, communities exposed them to a wide variety of work environments and connected them to a host of skill-building opportunities. For example:

- The San Diego Hire a Youth program provided youth with employment opportunities in areas such as digital design, video production, website development, environmental preservation, health care, food service, recreation, marketing, law, and more.
- In Sonoma County, ARRA funds were used to employ 330 community youth in environmental projects throughout the County. The local Workforce Investment Board combined \$1.2 million of stimulus grants with Water Agency funds and private and non-profit resources to employ 27 youth work crews, with approximately 10 to 15 members each, to perform stream restoration efforts. There was also a strong educational component that helped the participants develop career skills.
- In Philadelphia, participants in the summer jobs program were required to complete an academic project for which they could receive academic credit. Philadelphia also piloted a GED to College program.
- Several communities, including Baltimore, San Francisco, Boston, Indianapolis, used ARRA funds to provide training beyond summer for older, out-of-school youth, in areas such as HVAC, solar

¹³ Anthony Carnevale testimony before the Senate HELP committee, February 24, 2010

¹⁴ CBO, The Budget and Economic Outlook 2010-2020

¹⁵ Center for Economic Development and Business Research. Summer Youth Employment Program Impact Analysis. W. Frank Barton School of Business, Wichita State University. December 2009.

installation and other energy related occupations, apprenticeships for help desk and computer technical support, and Red Cross CPR training.

There is limited national data on the use of ARRA WIA funds beyond the summer program, but there are early signs that the system has used these resources to address the needs of workers and employers during these difficult economic times.

The number of participants in the Adult Program increased by 10 percent in the first quarter of Program Year (PY) 2009 compared to the final quarter of PY 2008 and the number of participants receiving training increased by 13 percent.¹⁶ Respondents to a survey of Local Workforce Investment areas conducted by intergovernmental organizations said that implemented a variety of strategies to increase services to low-income populations, including partnering with CBOs for referrals, delivering workforce services in places where these populations are already receiving other services and increasing the provision of support services including transportation and needs-related payments.¹⁷ For example:

- In 2009 New York City more than doubled the number of people who received training through Individualized Training Accounts.
- California Workforce Investment Boards (WIBS) used ARRA funds to increase on-the-job training contracts in key industries; provided work experience for people who have exhausted their UI benefits; mounted new programs for TANF recipients, veterans and their spouses, foster youth, high school drop outs, youth at risk of gang involvement, people with limited English proficiency and other disadvantaged and at risk populations; tripled the amount of supportive services to those in training; and used new contracting authority to partner with community colleges and state colleges for training in clean and green occupations, including a certified apprenticeship to train electricians for solar residential work.
- Minnesota set a 70 percent floor for the expenditure of ARRA funds on training. Other states implemented similar policies to encourage local areas to expand investment in participant training.

ARRA WIA resources supported innovations to create better on-ramps to postsecondary education and training and promote career pathways. For example:

- Illinois used ARRA WIA discretionary funds for competitive, sector-based grants whose primary purpose was to upgrade the skills of incumbent workers that prioritized bridge programs. These programs combine basic skills remediation and occupational training. The state also issued guidance encouraging the use of needs-related payments.

¹⁶ Workforce System Results, July 1-September 30, 2009. Employment and Training Administration, U.S. Department of Labor.

¹⁷ The survey was conducted by the National Governors' Association, the National Association of State Workforce Agencies, the National Association of Workforce Boards and the US Conference of Mayors for the US Department of Labor.

- Michigan used all of its ARRA WIA funds to expand the reach of its *No Worker Left Behind* strategy, which has enrolled more than 108,000 workers in training since August 2007. The vast majority of the funds have been used to reduce Michigan's long waiting list for *No Worker Left Behind*, currently estimated at 16,000, even after significant injections of ARRA WIA funds. A portion of the ARRA WIA funds were used to support special efforts under the state's *No Worker Left Behind: Everybody In!* strategies, aimed at increasing connections between basic skills education and postsecondary training to prepare more workers for training through *No Worker Left Behind*.
- The South Bay Workforce Investment Board, in partnership with the local human services agency, is using TANF Emergency Contingency funds, to place welfare recipients into subsidized employment in the public and private sectors. Nearly 4,600 participants were enrolled as of February 2010.

However, ARRA funds are running out. Three-quarters of respondents to the intergovernmental organization survey reported either already having run out of money for training or anticipating that the demand for training would outstrip the amount they could provide with ARRA funding.

WHAT WE KNOW ABOUT THE RETURN ON INVESTMENT OF WORKFORCE PROGRAMS

There is a growing body of evidence that dollars spent on workforce development can be an excellent investment, even in tough economic times.

The returns on investment in high quality training and related services are real and significant for workers, employers and the economy. (See Appendix II for brief summaries of key workforce evaluations)

Robert LaLonde's research found that a year of education is associated with a return of about 6 percent while others have suggested that an investment in training might be expected to yield upwards of a 10 percent return.¹⁸ Pamela Tate, president and CEO of CAEL, calculated that increasing the educational attainment of the U.S. workforce would result in significant increases in personal income if current relationship between education and earnings hold.

- If those 25 to 64 year olds without a high school diploma were to earn that credential and if they earned the additional income that is usually associated with achieving a high school diploma, the United States would experience a \$191 billion increase in personal income.¹⁹

¹⁸ King, Christopher, *Does Workforce Development Work?*, The Workforce Narrative Project, January 2008.

¹⁹ US Census Bureau, 2005 American Community Survey

- If the 25 to 64 year olds with a high school diploma or less were to complete an associate's degree, and earned the income associated with it, the U.S. would experience an \$848 billion increase in personal income.

CLASP'S RECOMMENDATIONS FOR IMPROVING THE EFFECTIVENESS OF WIA SERVICES

Reauthorize WIA and make changes to improve effectiveness

CLASP's recommendations for WIA reauthorization call for a renewed emphasis on training and a more targeted approach to service delivery. This is needed because funding declines coupled with the mandate to provide universal services through a one-stop system, and a tiered service delivery model in the adult and dislocated worker programs has led the system to a focus on lower- intensity core services.

We call on Congress to:

- **Clarify that the focus of the Adult program should be on the provision of high quality education, training and related services that provide individuals with the necessary skills and experience to access jobs that pay family-supporting wages and have advancement potential.** This redirection is needed to better serve employers and improve the employment prospects and increase earnings for low-income, less-educated individuals.
- **Increase the focus and capacity to serve individuals who are low-income, have limited skills and have other barriers to economic success.** This is needed because there has been a steady decline in the share of exiters from the Adult program who received intensive or training services and individuals who are low-income or have barriers to employment. Compared to 2001 when 71 percent of the adult exiters receiving intensive or training services were low-income, only 44 percent in Program Year (PY) 2008 were low income.²⁰
- **Ensure that the WIA Adult program explicitly supports Transitional Jobs programs that enable individuals with barriers to employment to get and maintain employment.** Such programs give participants the opportunity to gain valuable work experience, develop a work history, and to earn a reference from an employer, which can be a critical factor in securing unsubsidized employment. Demonstrating success in a workplace environment can significantly increase the likelihood of getting hired for participants with a criminal record, little or no work experience, or no work history in the United States.
- **Revamp the current performance measurement system.** This is needed because the current accountability system for workforce investment programs does not support transforming the system into an effective on-ramp to postsecondary and career success for low-income, low-skilled youth and adults. It tends to give disproportionate weight to immediate employment over preparing workers for jobs in high-demand fields with opportunities for advancement. Further, the system does not adequately encourage and document continuous improvement toward effective practices that help low-skilled people achieve their career and postsecondary goals.

²⁰ Employment and Training Administration, WIASRD Databook 2008 (PY 2008 data are through March 31, 2009 only.)

- **Strengthen connections between workforce investment programs, related education and training programs and economic development.** The fragmented nature of our current workforce and education policies makes it difficult to craft seamless pathways to good jobs that pay family-sustaining wages for low-income, low-skilled adults. Federal policy change is needed to bring together different levels and types of education and training programs under a shared mission of promoting individual advancement and inclusive economic growth.
- **Use WIA reauthorization to build a stronger, more effective youth delivery system across the nation.** This will require increased investments, strengthening the capacity of Workforce Investment Boards and Youth Councils to play a strategic role in bringing together youth serving systems and resources to structure more comprehensive interventions to support youth's attainment of labor market and postsecondary success.
- **Require that 50 percent of the youth formula funding be for youth in high risk categories such as dropouts, homeless youth, young offenders, disabled youth and those in the foster care system.** In-school youth represent the majority of those served in the WIA youth title. High school dropouts and those with multiple barriers to employment are underserved. Mandating increased service levels for harder to serve youth will not only assure more focused attention on the needs of these groups but changes in program design and interventions to adequately address the barriers to their labor market success.
- **Continue authorization for targeted funding to economically distressed communities via Youth Opportunity or similar grants to focus on building comprehensive and integrated youth delivery systems in communities of high youth distress.** There is a critical need to rebuild the capacity and infrastructure of the youth delivery systems in communities where 50 to 60 percent of youth are dropping out-of-school and where youth unemployment is at perilous levels. These grants should focus on the cross-system and cross-sector collaboration to build efforts at scale to put high risk out of school youth pathways to postsecondary credentials connected to growing sectors of the regional economy.

Increase investment in vital services

The public workforce system can help build a stronger and more equitable economy. By creating on-ramps to postsecondary education and training for adults and out-of-school youth, it can contribute to achieving the President's goal of increasing U.S. competitiveness by doubling the number of community college graduates by 2020.

But, the impact of the workforce system on the economy has been, and continues to be, hampered by under-funding. Even with the nearly a doubling of resources for WIA in 2009 through the ARRA, WIA funding remains less in real terms than funding for programs under the Job Training Partnership Act,

which preceded WIA.²¹ While the size of the U.S. workforce and economy, as measured by Gross Domestic Product (GDP), has doubled since the 1970's²², federal expenditures on employment and training across agencies have dwindled over this time with a particularly sharp decline in DOL spending. Total DOL spending for employment and training declined from \$17 billion in 1979 under the Comprehensive Employment and Training Act to \$5.5 billion in 2008 (both in 2007 dollars). The United States now ranks 21st among industrialized nations in total federal expenditures on job training programs.²³

As indicated, we welcome the Administration's proposed investments in the workforce system, but the proposed increases are insufficient to adequately support either employers' need for a skilled workforce or to help hard hit workers get the skills and connections they need to succeed in the labor market.

Despite the dramatic increase in teen unemployment rates and attempts in the Senate to provide funding for summer jobs, there is no funding for summer and year round youth programming. The high rates of youth unemployment are not likely to subside in the short run and this extended period of youth joblessness and idleness will have consequences for their future labor market competitiveness as well as the nation's competitiveness in a global market.

We urge you to see this as a time for investing in developing the skills of our nation's youth by increasing the funding to the Department of Labor for youth programming to \$3 billion²⁴— for expanded summer and year-round youth activities through the WIA title I youth formula; for targeted grants to high poverty communities (similar to Youth Opportunity Grants authorized under WIA) to build pathways that will prepare low income disconnected youth for opportunities in growing areas of the economy; and for expansion of national programs of demonstrated effectiveness in serving the hard- to-serve youth populations.

We also call on you to sustain the ARRA level of investment in workforce programs to address continuing labor market problems that have a particularly devastating effect on low-income workers. While official data on spend out rates is not available, informal reports from the field indicate that most and in many cases all of the Recovery Act funds have either been spent or obligated under performance-based contracts or to pay for longer-term training in which people are already enrolled.

We believe that investments in innovation and ARRA funding levels to meet demand are warranted despite tight budgets and legitimate concerns about deficit reduction. Failure to invest in America's workforce will undermine our economic recovery and put us at a disadvantage with other nations that invest more strategically in workforce training.

²¹ *Workforce Investment Act Reauthorization, Will the Past be Prologue*, remarks delivered Gordon Berlin, President MDRC at the Recovery and Reemployment Research Conference sponsored by the DOL Employment and Training Administration, September 15, 2009.

²² Ibid.

²³ Maguire, S., J. Freely, C. Clymer and M. Conway, *Job Training That Works: Findings from the Sectoral Employment impact Study*, In Brief, issue 7, Public Private Ventures, May 2009.

²⁴ The Campaign for Youth, the Children's Leadership Council and the National Youth Employment Coalition have called for this level of investment.

APPENDIX I

Figure 1:

Task Intensity of Declining vs. Growing Occupations, 1992 - 2002

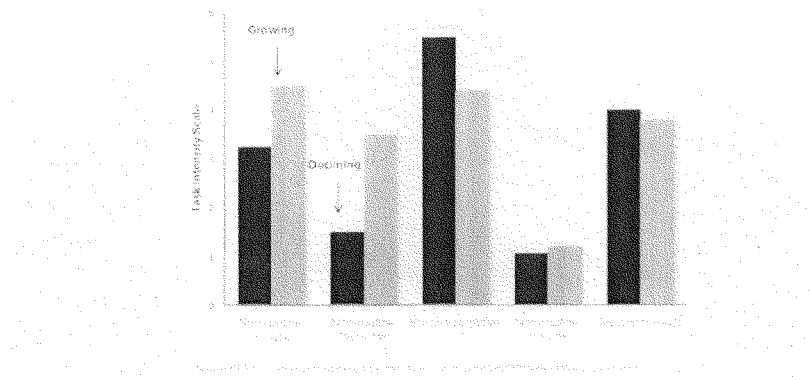


Figure 2:

The Bare Minimum: Adults Most In Need of Adult Education and Training (Ages 18-64), 2008

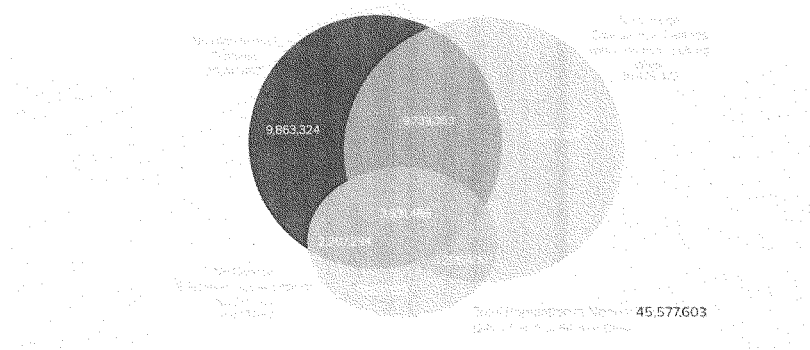
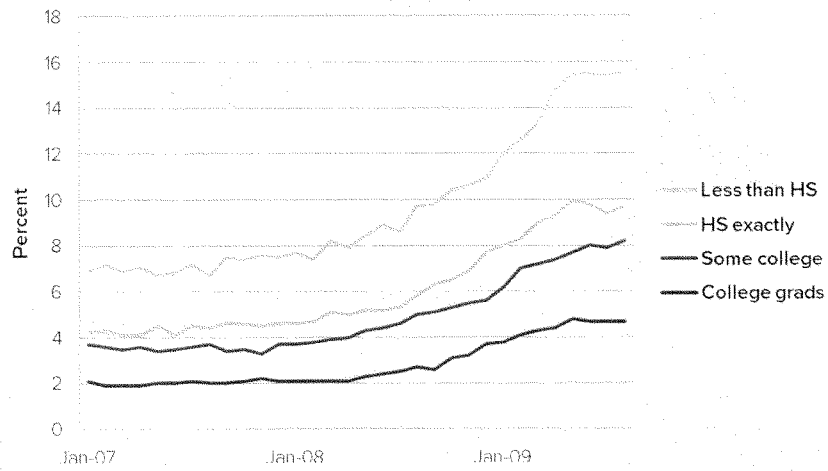


Figure 3:

Sharp Increases in Unemployment for Least Educated Adults (Source: bureau of Labor Statistics 2007-2009)



APPENDIX II

Summary of Key Evaluations of Training and Related Services

- A non-experimental net impact evaluation of the both the Adult and Dislocated Worker programs under found large and immediate impacts on earnings and employment for individuals who participate in the WIA Adult program. Although participants who obtained training services had lower initial returns, they caught up to others within ten quarters, ultimately registering larger total gains.” The employment and earnings impacts for participants for Dislocated Workers were less significant than under the WIA Adult program, but still found overall quarterly earnings of program participants (including those who received training and those who did not) ultimately exceeded those of the comparison group by up to \$400.²⁵
- Similarly, a 2005 paper by Louis Jacobson, Robert LaLonde, and Daniel Sullivan for the argued that investments *in retraining* for displaced workers can be productive for both the workers themselves and for society as a whole. Drawing on research they conducted on dislocated workers attending community college retraining in Washington State, the authors found that the individual rate of return for every dollar invested in a dislocated worker ranged from \$2.27 for older male workers to \$4.52 for younger female workers. The benefit to society, ranged from \$1.34 for older male workers to \$2.04 for both younger male and female workers.²⁶
- A recent scientific study of sector-focused training programs found that participants in these programs earned significantly more than the control group members with most of the earnings gains taking place in the second year. Program participants were more likely to work and work more consistently than control group members; and employed program participants worked more hours, earned higher hourly wages and were significantly more likely to work in jobs that offered benefits. Sector-focused programs usually target rapidly growing jobs that require limited postsecondary education but pay wages at or near the median wage in the economy and that involve intermediary organizations that bring together training providers, employers and workers.²⁷
- School-to-work strategies such as Career Academies that provide internships, job shadowing, and other career and technical information and education can have a long-term earnings payoff, especially for minority males.²⁸
- Transitional Jobs programs, which combine time-limited subsidized employment with a comprehensive set of services including intensive case management help participants overcome

²⁵ Heinrich, C., P. Mueser and K. Troske, Workforce Investment Act Non-Experimental Net Impact Evaluation, Final Report, IMPAQ international, December, 2008.

²⁶ Jacobson, L., R.J. LaLonde and D. Sullivan, *Estimating the Returns to Community College Schooling for Displaced Workers*, Journal of Econometrics, March-April 2005.

²⁷ Maguire, S., J. Freely, C. Clymer and M. Conway, *Job Training That Works: Findings from the Sectoral Employment Impact Study*, P/PV In Brief, Public/Private Ventures, May 2009.

²⁸ Workforce Investment Act Reauthorization, Will the Past be Prologue, remarks delivered Gordon Berlin, President MDRC at the Recovery and Reemployment Research Conference sponsored by the DOL Employment and Training Administration, September 15, 2009.

barriers and build work-related skills, have been found to increase the likelihood that welfare recipients will find employment and experience reduced need for public assistance. Programs also have been shown to significantly reduce the likelihood that formerly incarcerated individuals will be convicted of a crime or be admitted to prison for a new crime.²⁹

- An evaluation of California's Employment Training Panel (ETP) customized training programs found positive results for workers, companies, and the economy. Incumbent workers and new hires who completed the program experienced significant earnings gains; worker productivity rose in participating companies; and the state benefitted both from the faster growth of participating firms and savings on unemployment insurance payments due to layoff avoidance. Workers who had lower earnings received the biggest jump.³⁰
- A study of Kentucky's Bluegrass State Skills Corporation (BSSC) training programs found that the long-term impact on earnings and job creation of this economic development program was stronger than that of Kentucky's non-training tax incentives.³¹

²⁹ C. Redcross, D. Bloom, G. Azurdia, J. Zweig, and Nancy Pindus Transitional Jobs for Ex-Prisoners two Year Impacts and Costs of the Center for Employment Opportunities (CEO) Prisoner Reentry Program, MDRC Working Paper, August 2009. Bloom, D., S. Rich, C. Recross, E. Jacobs, J. Yahner and N. Pindus, Alternative Welfare-to-Work Strategies for the Hard-to-Employ, Testing Transitional Jobs and Pre-Employment Services in Philadelphia, MDRC, October 2009.

³⁰ Moore, Richard W., D. Blake, G. M.I Phillips, and D. McConaughy, Training That Works: Lessons from California's Employment Training Panel Program., W.E. Upjohn Institute for Employment Research, 2003.

³¹ Hoyt, W., C. Jepsen, and K. Troske, An Examination of Incentives to Attract and Retain Businesses in Kentucky, Kentucky Cabinet for Economic Development, 2007.

Mr. JOHNSON. Good morning, Chairman Obey, Mr. Alexander. Thank you for being here. I appreciate the opportunity to appear before this Subcommittee today to discuss the Department of Labor's priorities.

Since the era of the New Deal, the United States has been ransacked with Federal laws and regulations that burden free enterprise and businesses, while promoting the labor agenda. Despite the Obama Administration's claims to be the most transparent presidency in history, their actions speak louder than words. It is clear this Department of Labor's priorities are to protect organized labor at the expense of worker freedom and increase the regulatory burden facing American businesses today.

The Department of Labor is set to receive \$117,000,000,000 with "the majority to be used for unemployment insurance benefits and Federal workers' compensation." USA Today reported Federal employees, on average, make \$11,091 more than their private sector counterparts. For the first time in history, more than 50 percent of all union members work for the government in some level. This parallel is not a coincidence.

The majority of the \$117,000,000,000 will extend the unemployment insurance program so that workers in States with high unemployment now qualify for a maximum of 99 weeks of UI benefits. That is almost two years. By reducing the need to look for work, extended UI benefits cause unemployment workers to take longer to find new work. Heritage Foundation macroeconomic modeling shows that previous extensions of UI benefits from 26 to 46 weeks increased the unemployment rate by 0.22 percentage points. Roughly one-third of workers receiving UI benefits find work immediately once their benefits expire. This happens both when unemployment is high and low. Economic research shows that each 13-week extension of UI benefits increases the average length of time workers receiving benefits stay unemployed by approximately two weeks.

A real stimulus this Committee could provide would be an immediate freeze on any new regulations which cost businesses money and workers their jobs. No funds shall be used to create any new regulations for the Department of Labor and any other agencies.

Additional waste and lack of accountability occur within the Wage and Hour Division at DOL, which was given \$244,000,000, an increase of almost \$20,000,000 from the previous year. Wage and Hour is charged with determining the Davis-Bacon prevailing wage rate for federally-funded projects and is grossly inaccurate and irresponsibly managed. The Davis-Bacon survey is not a statistically random sample, like the Bureau of Labor Statistics' unemployment or wage surveys. Rather, the survey results indicate the prevailing wage is most often equal to the union wage, meaning unionized construction companies can decide the rate of any Federal project.

Current Wage and Hour Division methods raise public construction costs by \$8,900,000,000 per year and inflate wages, on average, 22 percent. Additionally, investigators from the Office of Inspector General found that "one or more errors existed in 100 percent of wage reports they reviewed."

While the only agency dedicated to monitoring union financial reporting fraud and abuse, the Office of Labor Management Standard, convicted 929 union officials and restored \$93,000,000 in union dues to date, had their budget increased by only \$2,000,000, and several reporting and transparency forms were retracted. This \$20,000,000 increase to the Wage and Hour should be used to expand the statistically sound and valid methodology of the Bureau of Labor Statistics National Compensation Survey and the Occupational Employment Survey to more accurately reflect market rates.

Additionally, efforts to rescind worker freedom lie in the \$25,000,000 the budget appropriates to investigate independent contractors by adding 100 contractor cops, because this Labor Department deems them "misclassified." Currently, if someone with a certain skill, trade, or experience is in demand, this person may work for more than one company using their skill as an independent contractor. Since the contractor enjoys the benefits of flexible work, setting their own schedule, and determining when, who, and where they work, they are often not given certain benefits and many do not require such. Not \$21,000,000 or one penny should be spent to outlaw a work classification these individuals freely choose.

The budget also completely zeroes out the funding of OSHA's Voluntary Protection Program, VPP, a partnership where private companies voluntarily comply with various regulations to avoid inconvenient yearly OSHA audits. Created in 1982 with mass bipartisan support, VPP has grown to 2,284 work sites, covering 921,000 workers, resulting in illness and injury rates are more than 50 percent below the industry average. In 2007, Federal VPP participants saved the Government more than \$59,000,000 avoiding injuries, and the private sector VPP saved more than \$300,000,000. Now, by defunding this program, OSHA wants to charge companies to participate, thus providing additional and unnecessary burden.

Additionally, new OSHA record-keeping rules are a backdoor attempt to implement ergonomics, further costing employers millions of dollars in compliance.

The priorities of this Labor Department seem clear: more government, more regulations, more burdens, and less transparency. Thank you.

[Written statement by Brian Johnson MPA follows:]

TESTIMONY OF
 Brian M Johnson MPA
 Executive Director, Alliance for Worker Freedom
 Federal Affairs Manager, Americans for Tax Reform

BEFORE THE
 Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
 Committee on Appropriations
 United States House of Representatives

HEARING ON
 Labor and Education Priorities/ESEA Reauthorization

March 17, 2010

Good morning Chairman Obey, Ranking Member Tiahrt and Members of the Subcommittee. I am Brian Johnson and I am the Executive Director of the Alliance for Worker Freedom. I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of Labor's priorities.

Since the era of the New Deal, the United States has been ransacked with federal laws and regulations that promote the Labor agenda. Yet surprisingly, America has turned a blind eye to this sector of society in which the freedom to say "no" has been long forgotten. Far too often, union leaders have operated under the assumption that forced membership through coercion and intimidation for the purpose of compulsory dues collection is par for the course. This power to compel workers to pay for union services guarantees a steady income stream for union leaders whom use these funds for political activity or personal gain. Since this stream of free and constant flowing income is guaranteed, union officials know they can act with impunity concerning the requests of their "members". They can invest members' pension money in high-risk ventures to try and capitalize on high rewards where the workers would never willingly sink a penny.

To this end, the recent efforts of the Department of Labor (DOL) to rescind three sets of union reporting and financial disclosure rules not only undermine worker freedom, but serve as indicators of this Administration's labor priorities. Additionally, the lack of willingness to provide increased transparency and access to union managed multi-employer defined benefit pension plans is a grave misuse of Department funds. Finally, continuing to allow the proven statistically flawed methodology implemented by the Wage and Hour Division at DOL to continue calculating prevailing wages promulgates market distortion and is detrimental to our economy.

With the passage of the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959, Congress was awarded the task of ensuring basic standards of democracy and financial responsibility occur in unions. Eventually, in 1984, the agency in charge of this task became officially known as the Office of Labor Management Standards (OLMS). This agency enforces union standards of financial integrity by monitoring fiscal disclosure reporting through forms such as the LM-2, the LM-3, and the LM-4. Potential conflicts of interest must be reported in the Form LM-30 and the status of union trusts must be disclosed in the Form T-1. To date, the OLMS has convicted over 929 union officials on charges ranging from corruption to embezzlement and has restored over \$93 million in dues to union members. OLMS is the transparency and accountability watch-dog within the Labor Department.

Despite the Obama Administration's claims to be the "most transparent Presidency in history," their actions speak louder than words. It is clear this Department of Labor's priorities are to protect organized labor at the expense of worker freedom. Forms that require labor unions to identify from whom they were buying and selling assets, the status of largely unregulated financial trusts, and any conflicting deal-making were retracted under this Department of Labor.

Unions were previously required to submit forms designed to monitor union financial activity and ensure financial accountability of union officials. However, despite the success of OIGMS in identifying union malfeasance, this Administration's largest donor was given the green light to operate in the shadows.

In late January, White House Chief of Staff Rahm Emanuel issued a memorandum to all federal departments and agencies delaying implementation of many recently finalized regulations that were slated to go into effect in 2009, including the LM-2 rule.

The LM-2 is the most detailed of the forms and was enhanced in 2003. The first filings under this new form would have been due later this year. However, last year the Obama Administration announced they wanted to delay implementation and formally withdrew the rules in October. The LM-2 was monumental in increasing union accountability and fiscal transparency. The LM-2 required completing 21 information items, 47 financial items, and 20 supporting schedules. This report was to be filed by unions with total annual receipts of \$250,000 or more (\$200,000 or more for fiscal years beginning before July 1, 2004) and those in trusteeship. The LM-3 is less detailed than the LM-2 and may be filed by unions with total annual receipts of less than \$250,000 (less than \$200,000 for fiscal years beginning before July 1, 2004) if not in trusteeship. Form LM-3 requires the completion of 23 information and 32 financial items and is still in effect. The least detailed report in this series is the LM-4 and is also still applicable. This abbreviated annual report may be filed by unions with less than \$10,000 in total annual receipts if not in trusteeship. The LM-4, because of the small amount of receipts, only requires completion of 13 information and 5 financial items.

The next reporting requirement retracted by this Administration and supported by Secretary of Labor Solis is the conflict of interest form, the LM-30. This rule was at the core of a lawsuit that the AFL-CIO filed against the Labor Department. One of the union attorneys in the case, Deborah Greenfield, is now a high-ranking deputy at the Labor Department, who also worked on the Obama transition team on labor issues.

Labor officials declined to say whether she played a role in the new policy, noting that Greenfield is abiding by all government ethics rules. In court filings, she and other union attorneys called the rules "onerous." The LM-30 was published Jan. 21, 2009 and was scheduled to take effect Feb. 20, 2009 until the Obama Administration rescinded this rule deeming the reporting of conflicts of interest unnecessary.

The establishment of the LM-2 was intended to create an additional level of transparency, however all are missing trust fund and pension management reporting. This was addressed through the creation of the Form T-1 and would have been the last piece in the transparency puzzle. However, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) sued the Department of Labor in 2004 to prevent this form from being required and won significant changes and delayed its' implementation.

The T-1 is a trust disclosure form that unions would have been required to follow if they met the following conditions. For fiscal years beginning on or after January 1, 2007, a labor organization with total annual receipts of \$250,000 or more must file Form T-1 for each trust in which it is interested, if the union's financial contribution to the trust, or a contribution made on the union's behalf or as a result of a negotiated agreement to which the union is a party, was \$10,000 or more during the reporting year and the trust had \$250,000 or more in annual receipts. A trust in which a labor organization is interested is a trust or other fund or organization (1) which was created or established by a labor organization or one or more of the trustees or one or more members of the governing body of which is selected by a labor organization and (2) a primary purpose of which is to provide benefits for the members of the labor organization or their beneficiaries.

The first T-1 reports would have been due at the end of this month if President Obama had not rescinded this rule.

According to Secretary Chao, this additional report was, “necessary to discourage circumvention or evasion of the reporting requirements...and would impose minimal burden.” Indeed, but the AFL-CIO had a different opinion and filed suit. The court ruled that the Secretary (Chao), and her request to implement the T1 filling form, “exceeded her authority by requiring general trust reporting.” This was a huge blow to the success of the OLMS and in union accountability. The labor world was shocked as Secretary Chao’s justification to require unions to report on trusts, which are financial assets, seemed clearly justified under the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), which states:

Every labor organization shall file annually with the Secretary a financial report signed by its president and treasurer or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year – (1) assets and liabilities at the beginning and end of the fiscal year. (LMRDA 29 U.S.C. §§ 201(b))

Trusts are assets. This ruling, while still questioned, was seen by Labor, as a chance to capitalize on trust acquisition as an effort to turn their “stream of dues,” into a rushing rapid of unreported, undisclosed money.

In 2007 during the United Auto Workers (UAW) Union strike against the auto-giant General Motors (GM), trusts and union disclosure with respect to these large sums of money have been brought back into the spotlight. On September 26, 2007, following a three day strike, GM and UAW reached a landmark agreement and the strike ended. What made this agreement so paramount, and relevant to the discussion on union financial transparency, is a key provision of the new contract which establishes the creation of a health-care trust known as a Voluntary Employee’s Beneficiary Association or VEBA. A VEBA is essentially a trust that GM will fund (thus getting about \$50 billion in liability off their books), and the UAW will manage. This money and this fund will largely go unreported due to the lack of transparency enforcement at DOL and their complacency with the Obama Administrations rollbacks.

By dissolving LM-2 forms, the Department of Labor has lost sight of arguably its’ most important responsibility – protecting rank-and-file union members against corruption. Last year between January and October, OLMS reports obtaining indictments and convictions in

cases that total nearly \$3 million in theft from union accounts. There is no reason to think that removing all forms of accountability and oversight would improve the already embarrassing levels of corruption present in union finances.

The LM-2 rollback was a calculated decision. In fact, the Department of Labor issued their notification to Congress on the Friday before a three-day-weekend to avoid massive political blowback and to ensure this issue was buried.

Clearly LM-2 forms were working, they consistently allowed the OLMS to investigate and convict wrongdoers who in many cases would have never been questioned. Cancelling LM-2s is a step backwards. In fact, not all unions are required to file financial statements with OLMS, only ones that meet annual threshold amounts.

Financial transparency is especially crucial during the current economic crisis. Failed transparency leaves citizens vulnerable for financial instability. Financial transparency is necessary to protect unions against fraud and corruption and to enhance responsibility among union officials. Transparency is necessary for union members to effectively engage in union-self governance, and that membership dues should be used to provide services for the members -- not for other purposes prohibited by law. In rescinding these forms, this Labor Department has done a great disservice to all rank-and-file union members.

However, the lack of transparency does not stop there. The Department of Labor is complacent in covering up the status of union managed defined benefit multi-employer pension plans (MEPP). The status of union members' MEPPs is reported on a Form 5500. These forms are collected by the Department of Labor but are largely unavailable to union members. In order to access these forms, you must go to the basement of the Department of Labor in Washington, D.C. – this is not convenient for a rank-and-file union worker in Oklahoma.

Members of Congress have requested that Secretary Solis and her agency immediately begin posting to the internet a collection of pension disclosures that would help workers better understand the health and viability of their defined benefit retirement plans. That request has largely fallen on deaf ears and this information is not widely accessible.

Currently, less than one in every 160 workers is covered by a union MEPP with required assets. The Pension Benefit Guarantee Corporation (PBGC) already supports upwards of 30,000 pension plans. PBGC, the governmental pension insurer, will assume \$86.7 billion in liabilities by 2015. However in 2007, the PBGC reported a deficit of \$955 million, a \$216 million increase from the previous year. Due to their shortcomings, the PBGC limits the benefits in multi-employer plans to \$13,000 a year per retiree, compared with roughly \$52,000 for single-employer plans.

The risk associated with sponsors entering into MEPPs, specifically with their funding in such jeopardy, is extremely high. Just as the risk on the employer side is high, workers should have a transparent avenue within the Department of Labor to obtain the status of their pension plans. This avenue under the current Administration does not exist.

Additional waste and lack of accountability occur within the Wage and Hour Division (WHD) at DOL. There is a prevailing wage law currently known as the Davis-Bacon Act that WHD calculates for federal construction projects that is grossly inaccurate and irresponsibly managed.

The Davis-Bacon Act is a Depression-era wage subsidy law enacted in 1931, when the federal government was the largest construction contractor, to prevent the government's purchasing power from driving down wages. This is no longer the case and its time has run out. In the 21st Century, especially in the new competitive global economy, it is essential to allow the free market system to determine wages. Command-and-control government regulations do not foster a free and open society.

It is irresponsible to continue to pass laws which extend Davis-Bacon coverage to private sector construction projects before the survey problems identified by the Department of Labor, the Government Accountability Office, and the Office of Inspector General are fixed.

The Davis-Bacon survey is not a statistically random sample like the Bureau of Labor Statistics' unemployment or wage surveys. Rather, the survey results indicate that the prevailing wage is most often equal to the union wage. This means unionized construction companies can decide the rate of any federal project. The federal government and many state governments use various voluntary surveys to determine the wage that "prevails" in the field of construction.

These voluntary surveys reflect a national wage disparity as unionized contractors and construction crews have an exceptionally high incentive to respond to those surveys. By contrast, nonunion and small, independent contractors have a lack of resources and time to respond to these voluntary surveys that determine wages.

As a result, even though only a small share of construction workers are union members, most of the contractors responding to the surveys report paying union scale, and thus union scale is determined to be the prevailing wage.

This decision-making power intrudes on the mechanisms of the free market and artificially drives up the cost of construction. Further, current WHD methods raise public construction costs by \$8.6 billion per year and inflate wages by an average of 22 percent.

Additionally, investigators from the Office of the Inspector General found that "one or more errors existed in 100 percent of the wage reports they reviewed."

Furthermore, timely survey processing and other delays can result in contractors paying a prevailing wage that is several years out of date. According to the Office of Inspector General, the average time it takes the Department of Labor to issue a prevailing wage determination, prior to the completion of the survey period, is 2.3 years.

Inaccurate and out of date self-reported surveys, with an error rate of 100 percent, hardly reflect true prevailing wages. With overwhelming evidence for reform, allowing these distorting practices to continue does nothing more than skew the labor market directly in favor of Big Labor unions and against the average American worker and business owner.

According to James Sherk of the Heritage Foundation, "In almost every case, the prevailing wages do not resemble the actual market wages. Davis-Bacon wages vary from 38 percent below market wages for electricians in Tampa Bay to 73 percent above market wages for plumbers in San Francisco." This outdated, Depression-era wage subsidy system is forcing the burden on taxpayers in one city and altering market wages in another – reform or repeal, not status quo, are the only options.

Wages paid to contracts covered under the McNamara-O'Hara Service Contract Act (SCA) are determined using BLS data and wage methodology. Additionally, the certification of foreign workers, such as those seeking high-tech H-1B Visas, adheres to wages determined by the BLS to ensure American worker's wages are not undercut.

Other federal agencies and work programs that determine prevailing wages use data based on BLS, not WHD. If the government wishes to continue issuing a prevailing wage, the data and methodologies should be universal.

Rather than broadening the scope of the Davis-Bacon Act and prevailing wage laws, as seen in the recent energy legislation, the Department of Labor should calculate prevailing wages using data from the Bureau of Labor Statistics, which utilizes proper statistical techniques.

By using larger geographical areas, rather than civil divisions, the BLS data generates valid random samples that will reflect a true market wage.

This Congress has already given enough concessions to Big Labor. In reforming the Davis-Bacon Act, the Department of Labor will send the message that their priorities support the free market allocation of wages and not specialized preference to union-labor.

Unions once represented more than 35 percent of the American work force in the mid-1950s. By 2008, that had plummeted to 12.4 percent, and last year it ticked downward again to 12.3 percent. But that doesn't quite capture an accurate picture, because there are really two different union movements. In 2009, private-sector unionization fell to 7.2 percent from 7.6 percent in 2008. But the unions' glimmer of hope remains in an ever-expanding public sector and with the drones of government employees that are increasingly joining their ranks.

There were 15.3 million total union members in the United States in 2009, down 770,000 from the 16.1 million in 2008. Private-sector union membership fell 834,000, but public-sector union membership actually grew by 64,000 in 2009 to 7.9 million. This means 52 percent of all union members work for the government. But what does this mean for the future of organized labor, its influence on public policy decisions and its role in state and local economies?

That growing government union membership is at war with the idea of shrinking government or even delivering today's level of government services with the same tax rates in the future. The inflated cost of government unionization, by artificially raising wages and increasing bureaucracy, results in higher taxes and fewer non-unionized government services.

It is important that the Department of Labor's priorities lie in protecting worker freedom and increasing union transparency and accountability. Funding should be given to the Department to increase efficiency and accuracy in wage determination and strengthen union reporting and financial disclosure requirements. Instead, this Administration has turned a blind-eye to worker freedom.

Thank you again for the opportunity to speak to you today and I look forward to answering any questions.

Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

Witness Disclosure Form

Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.

<p>Your Name, Business Address, and Telephone Number:</p> <p>Brian M. Johnson Alliance for Worker Freedom 722 12th Street NW Fourth Floor Washington, DC 20005</p> <p>202-785-0266</p>
<p>1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.</p> <p>Non-governmental organizations – Alliance for Worker Freedom, a special project of Americans for Tax Reform. ATR is a nonprofit, 501(c)(4) lobbying organization.</p>
<p>2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2007?</p> <p>No.</p>
<p>3. If your response to question #2 is "Yes", please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.</p> <p>n/a</p>

Signature: 

Date: 03/16/10

Please attach a copy of this form, along with your curriculum vitae (resume) to your written testimony.

Brian M Johnson serves as a Federal Affairs Manager of Americans for Tax Reform (www.atr.org). ATR was founded by Grover Norquist at the request of President Ronald Regan in 1985 and opposes all tax increases as a matter of principle.

He is also the Executive Director of the Alliance for Worker Freedom (www.workerfreedom.org), an organization that combats anti-worker legislation and promotes free and open markets.

Mr. Johnson is the author of the forthcoming *Index of Worker Freedom: A National Report Card*, and the previous 2007 edition. He is also a contributor to the American Spectator, The Examiner, and RedState.com Johnson also helped develop the first interactive union-based video game called “Card Checked: The Game” where players experience a real life union organizing campaign (www.WhatIsCardCheck.com).

Mr. Johnson’s op-eds and efforts have been featured in the Wall Street Journal, the New York Times, the Washington Times and several other national and state newspapers. He has appeared on several local and national television programs including Fox News, Fox Business News, The Glenn Beck Show, the Lou Dobbs Show on CNN and CSPAN.

Prior to joining ATR, Johnson was the 2004 Bush/Cheney North Carolina grassroots campaign manager and a contributor to the John Locke Foundation, a free-market think tank in North Carolina.

Mr. Johnson has undergraduate degrees in Political Science, International Affairs and English, as well as a Certificate of Specialization in International Political Economics & International Trade from ICHEC in Brussels, Belgium. He also holds a Masters in Public Administration from The George Washington University.

Brian Johnson is a registered federal lobbyist and resides in Washington, D.C.

Ms. SEMINARIO. Thank you, Chairman Obey, Ranking Member Tiahrt, Representative Alexander. My name is Peg Seminario. I am Director of Safety and Health for the AFL-CIO, and I appreciate the opportunity to testify today to present the views of the AFL-CIO on funding for the Nation's safety and health worker protection programs.

And I would like to thank you, Chairman Obey, for your strong continuing support for programs to protect workers from injuries, illnesses, and death on the job.

I am happy to report that after years of neglect and erosion under the previous administration, that under the Obama Administration the job safety and health agencies and worker protection agencies have returned to their mission of protecting workers and ensuring that their basic rights are enforced.

The President's budget request last year reflects the Administration's commitment to strengthening the job safety and health agencies with a proposed increase in funding to return these and the other DOL worker protection programs to their fiscal year 2001 operating levels; and the current budget request in 2011 continues this commitment, and it focuses on strengthening job safety enforcement and the regulatory programs.

At OSHA, the budget proposes a modest increase of \$14,000,000, with 25 additional FTEs. And, again, this proposal that is coming forward would undue the erosion since 2001, but it is important to point out that, with respect to the OSHA agency, that the erosion has been going on for decades, and today the agency is still at much lower levels than it was at its high point in fiscal year 1980; it has nearly 600 fewer staff onboard today at the agency than it did in 1980, and the workforce is 40 percent greater. So the agency really has had a great erosion over time, at a time when the kinds of hazards, the kinds of problems that workers are facing, that employers are dealing with tremendously. So the rebuilding of the agency will take a multi-year commitment to increase funding and staffing.

In the regulatory area, for the eight years of the Bush Administration, we saw a total neglect and inaction, with the agency refusing to set standards. The Obama Administration is now moving forward first to deal with those hazards that were neglected by the Bush Administration—standards on silica, beryllium, a standard to protect construction workers with respect to cranes and derricks—so trying to deal with the unfinished Bush agenda that they refused to take action on; and the budget appropriately calls for an additional \$4,000,000 on regulation. But we remain concerned that that may still be inadequate. Again, this returns OSHA to a level of funding that it had in 2001.

In fiscal year 2009 and fiscal year 2010, the Congress, including this Committee, provided OSHA, BLS, and NIOSH funding to address the issue of injury under-reporting, because studies had shown that injuries and illnesses were not being recorded on the OSHA log, and with reporting missing anywhere from 33 to 67 percent of all injuries. And we would encourage the Committee to continue that funding and OSHA to continue its efforts to provide oversight in this area.

Another program at OSHA that needs additional resources and deserves them is OSHA's Worker Safety and Health Training Program, which is the only program at OSHA that is directed specifically to workers. It is a small program. For this year, the budget would bring the funding to \$11,000,000. Again, that is about the level it was in 2011, but it is way less than it was when the program was first started in 1977 and 1978, when there were \$18,000,000. So this is an area that we think needs more attention.

Turning to the sister agency, the Mine Safety and Health Administration, it too has an ambitious agenda to strengthen protection for workers, and the agency has made the reduction of mine fatalities a top priority. It is moving forward with important rules on silica and rules to limit exposure to coal dust because, in recent years, for the first time in decades, we see an increase in those respiratory diseases in miners.

In 2006, this Congress strengthened the Mine Safety Act after the terrible tragedies at Sago and the other coal mines. As a result, penalties have increased, but so has a contrast rate with respect to these violations. And there is a huge backlog that needs to be addressed, and we would ask the Committee to look at this and provide adequate funding to address those needs.

And, lastly, let me just turn briefly to the Wage and Hour Administration. The AFL-CIO strongly supports the Labor Department's initiative to enforce Federal laws governing misclassification of employees as independent contractors. This involves Wage and Hour, OSHA, the Solicitor Officer, as well as the Treasury Department. Currently, we have a vast misclassification of employees; employees not being provided proper wages, the Government not being provided proper compensation with respect to unemployment and other taxes. So we think this is a very, very important initiative to level the playing field with those employers that indeed are meeting their obligations.

[Written statement by Peg Seminario follows:]

**Testimony of Peg Seminario, Director, Safety and Health, AFL-CIO
Before the House Subcommittee on Labor, Health and Human Services, Education and
Related Agencies on the FY 2011 Budget for Worker Protection Programs
March 17, 2010**

Chairman Obey, Ranking Member Tiahrt and members of the committee, I appreciate the opportunity to testify today to present the views of the AFL-CIO on funding for the nation's job safety and worker protection programs. I would like to thank you Chairman Obey and other members of the committee for your strong, continuing support for the programs to protect workers from injuries, illnesses and death. I am happy to report that after years of neglect and erosion under the previous administration, that under the Obama Administration the job safety and health agencies have returned to their mission of protecting workers and ensuring their basic rights.

President Obama signaled that there would change at the Department of Labor when he appointed Hilda Solis, a strong voice for workers, as Secretary of Labor. He reinforced his intentions with the appointment of experienced, committed worker safety advocates to lead the job safety agencies – Joe Main at the Mine Safety and Health Administration (MSHA) and Dr. David Michaels at the Occupational Safety and Health Administration (OSHA).

Under their leadership, the agencies have moved to strengthen enforcement programs, resuscitate moribund regulatory agendas and advance needed regulations.

The President's budget request last year reflected the administration's commitment to strengthening the job safety agencies with a proposed increase in funding to return these and the other DOL worker protection agencies to their FY 2001 operating levels. The FY 2011 budget proposal continues this commitment, with a focus on strengthening job safety enforcement and regulatory programs.

For the Occupational Safety and Health Administration, the FY 2011 budget proposes to increase funding to \$573.1 million and staffing to 2,360 positions – an increase of \$14.4 million and 25 FTEs over the FY 2010 levels. This proposal would undo the erosion experienced under the Bush Administration, and return the agency to FY 2001 levels. These increases are needed and most welcome. But it should be pointed out that the erosion in the OSHA program has been taking place for decades. Staffing for the agency reached a high point in FY 1980 with 2,951 positions – nearly 600 more than today. Since that time the nation's workforce has increased by nearly 40 percent, and the types of hazards that must be addressed have become more varied and complex. The rebuilding of the agency will take a multi-year commitment to increase funding and staffing.

For FY 2011, the Administration has made enforcement and standard setting a priority at OSHA. The budget provides for 25 additional inspectors and redirects 35 FTEs from compliance assistance to enforcement activities. This will bring the number of federal OSHA compliance positions (CSHOs, IH's and supervisors) to approximately 1,300, still less than the 1,469 compliance staff the agency had at its high point in FY 1980.

OSHA's capacity to oversee workplaces is woefully inadequate. In FY 2009, federal OSHA conducted 30,057 workplace inspections and had the capacity to inspect workplaces under its jurisdiction approximately once every 137 years. This means that OSHA must target and leverage its enforcement resources to have the maximum effect. The AFL-CIO is pleased that OSHA is revamping its enhanced enforcement program to strengthen enforcement and follow-up for severe violators, and is overhauling its penalty policy to provide more meaningful penalties. In FY 2009, the average federal OSHA penalty for a serious violation of the law – was just \$965. And for serious violations that are related to a worker's death, the average penalty was only \$2,425. OSHA's new enforcement initiatives will help but are not sufficient. The penalty provisions of the OSH Act are far weaker than most other safety and environmental laws and fail to provide an adequate deterrence. We are hopeful that legislation to strengthen the OSH Act, including its civil and criminal penalty provisions, now being considered by the Committee on Education and Labor will be adopted.

In response to concerns about the underreporting of injuries and illnesses, in FY 2009 and FY 2010 Congress directed OSHA to enhance its oversight and enforcement of employer injury and illnesses recordkeeping, and in response OSHA has initiated a national emphasis program. This enhanced enforcement program should continue, and the agency directed to investigate the reasons for underreporting so these problems can be addressed.

In 21 states, state OSHA plans are responsible for oversight of private sector workplaces. Federal funding for these programs was largely frozen during the Bush Administration, with states picking up an increasing share of the costs or cutting back their programs. The FY 2010 appropriations provided an \$11.8 million increase in state plan funding, and the FY 2011 budget provides an additional \$1.5 million. The AFL-CIO supports this increase in funding. However, it is our view that a number of state plans are deficient and are not meeting the requirement to provide protection that is "as effective as" federal OSHA, and that in recent years federal OSHA has been delinquent in its oversight of state plans. In the wake of significant deficiencies found in the Nevada State plan after a series of deaths among construction workers on the Las Vegas Strip, federal OSHA has initiated a comprehensive review of each of the state OSHA plans. The AFL-CIO asks this committee to urge OSHA to complete this review expeditiously and to act promptly to address any deficiencies that are found.

The budget proposes a much needed \$4 million increase in OSHA's standard setting budget, increasing funding to \$23.8 million in FY 2011 from \$19.6 million in FY 2010. This increased funding will be used to support the scientific and economic analyses needed to develop and issue new standards. After eight years of neglect and inaction by the Bush Administration, there is a huge backlog of hazards that need to be addressed. The Obama administration is moving forward with an ambitious regulatory agenda to develop new rules on silica, diacetyl, combustible dust, airborne infectious diseases and other priority hazards. OSHA has issued proposed rules to update the Hazard Communication Standard to conform with international standards and to reinstate a column on the OSHA injury and illness log to identify musculoskeletal disorders. The agency is also considering the development of a safety and health program rule and a new approach to updating permissible exposure limits for toxic chemicals which are woefully out of date. Both of these initiatives are important to build a stronger foundation for worker safety and health.

The AFL-CIO supports this stepped up regulatory activity. But we remain concerned about the slow speed of the regulatory process and rules actually getting put in place so that workers are protected.

Over the years more and more requirements and analyses have been added to the regulatory process by the Congress, the courts and OMB, all of which OSHA must follow. Moreover, OSHA is one of only two government agencies (the other being EPA), that must provide for a special small business panel review of draft rules before it can even propose a regulation. All of these requirements have been added without any additional resources, and have greatly slowed down the development and issuance of needed standards. It now routinely takes OSHA 6 or more years to issue major rules. The AFL-CIO has urged both OSHA and OMB to evaluate the current OSHA rulemaking requirements and process to determine how the process can be expedited. The AFL-CIO urges the committee to request from OSHA the estimated time frames and resource needs for issuing priority rules on its agenda and to provide the agency the necessary funds to ensure that these rules are issued expeditiously.

Another important program area that needs and deserves additional resources is OSHA's worker safety and health training program, which provides training about job hazards and worker rights and is targeted to high risk groups. For FY 2011, a small increase is proposed for this program, bringing the funding level to \$11 million – somewhat less than the funding level in FY 2001. This compares to FY 2011 proposed funding of \$126 million for the federal and state employer compliance assistance programs combined. It should be pointed out that when the OSHA compliance assistance program and worker training program were initiated in the 1970's, they were funded at similar levels. In FY 1980, the worker training program received \$18 million in funding, with half contributed by the National Cancer Institute to train workers on occupational cancer risks. Over the years funding for employer compliance assistance has grown dramatically, while funding to train workers has been cut. We urge the committee to enhance OSHA's worker safety and health training program starting with an additional \$5 million in funding in FY 2011.

Like OSHA, the Mine Safety and Health Administration has an ambitious agenda to strengthen protections for workers. The agency has made the reduction of mine fatalities a top priority and

is launching a comprehensive strategy to protect miners from debilitating lung diseases which are on the rise. New standards to limit exposure to coal dust and silica are at the top of MSHA's regulatory agenda.

MSHA has moved to fully implement the MINER Act, legislation passed in 2006 in the wake of the tragedies at Sago, Darby and other mines. Enforcement has been stepped up and penalties increased with \$141.2 million in penalties assessed in CY 2009 compared to \$35 million in CY 2006, before the penalty provisions of the MINER Act went into effect. In 2009, this enhanced attention to mine safety resulted in the lowest number of mine fatalities ever recorded - 18 deaths among coal miners and 17 deaths among miners in metal-non-metal mining.

Unfortunately, many coal operators have tried to undermine and blunt the enhanced penalty provisions of the MINER Act by contesting violations, in an effort to have penalties reduced and to avoid violations that could lead to establishing a pattern of significant and substantial violations that carry more serious consequences. In CY 2009 operators contested 27 percent of all violations representing 66 percent of proposed penalties, compared a contest rate of 7 percent of all violations representing 35 percent of proposed penalties in CY 2006. This increased contest rate has led to a huge backlog of 16,000 cases at the Federal Mine Safety and Health Review Commission (FMSHRC) and is overwhelming MSHA, DOL and FMSHRC.

For FY 2011, the President's budget proposes \$360.8 million in funding for MSHA. This funding would maintain MSHA's ability to conduct mandatory inspections and provide an increase in funding and staffing for the metal-non-metal enforcement program. The budget also provides for an increase in MSHA's standard's budget to develop priority rules, including those on coal dust and silica.

The FY 2011 budget request, however, does not include sufficient resources to address the backlog of contested MSHA enforcement cases, which continues to grow and threatens to undermine MSHA's enforcement program. The AFL-CIO urges the committee to provide MSHA, the DOL Solicitors' Office and FMSHRC the necessary funding and staff to address this critical problem, and recommends consideration of a supplemental appropriation for FY 2010 to prevent the situation from deteriorating further.

While OSHA and MSHA are the DOL agencies with primary responsibility for workplace safety and health programs, the Solicitor of Labor (SOL) plays an important role in implementing these programs. SOL provides legal support in the development of regulations and enforcement policy and represents DOL in litigation on standards and enforcement cases.

During the Bush Administration, the staff and resources of SOL were greatly diminished, undermining OSHA's and MSHA's regulatory and enforcement programs. The FY 2010 appropriations provided a much needed increase in funding and staff for SOL - an additional \$20 million in funding and 39 additional FTEs over FY 2009. This year's budget proposes further a further increase of \$5.2 million and an additional 22 FTEs. Some of this increase is to address the growing MSHA case backlog. These increases are welcome and needed if OSHA, MSHA

and the other DOL agencies are to be effective. But as noted earlier, still more funding is needed to address the MSHA backlog.

I would like to briefly address three other agencies with responsibilities for implementing provisions of the Occupational Safety and Health Act – the Occupational Safety and Health Review Commission (OSHRC), the Bureau of Labor Statistics (BLS) and the National Institute for Occupational Safety and Health (NIOSH).

Under the OSH Act, OSHRC is responsible for the adjudication of contested OSHA citations. For years there were vacancies on the three member board, and with the lack of an active OSHA enforcement program, the commission's caseload declined. Now with three confirmed commissioners in place and a stepped up OSHA enforcement program, we expect that the activity and caseload at OSHRC will also increase. If legislation is enacted to increase OSHA penalties and strengthen enforcement, some increase in contested cases may also occur. For FY 2011, \$12 million and 67 FTEs are requested, levels that maintain current program activity. These levels may be sufficient, but the AFL-CIO urges the committee to monitor activity at OSHRC to determine if additional resources are required to ensure timely consideration and resolution of cases.

The Bureau of Labor Statistics conducts two major occupational safety and health data collection initiatives – the Survey of Occupational Injuries and Illnesses (SOII) and the Census of Fatal Occupational Injuries (CFOI). Both of these programs are carried out in collaboration with the states. In recent years there have been growing concerns about the completeness and accuracy of the injury and illness data collected by BLS, which is based upon employer-reported information. Some studies have indicated that 33-66% of all injuries and illnesses may not be captured by the survey. In FY 2009 and FY 2010, the Congress provided additional funds for BLS to conduct further research on the injury underreporting problem, which BLS has been undertaking. Continued funding is needed for this research and pilot studies to look at the feasibility of utilizing non-employer based data to ascertain the extent of work-related injuries and illnesses.

The National Institute for Occupational Safety and Health (NIOSH), part of the Department of Health and Human Services was established under the OSH Act with responsibility to conduct research and surveillance and to develop recommendations for safety and health standards. The Mine Safety and Health Act of 1977 assigned NIOSH similar responsibilities for mine safety. In the last decade NIOSH's responsibilities have expanded to include new program areas including causation determinations and dose reconstruction under the Energy Employees Occupational Illness Compensation Program Act, and administration of the World Trade Center Health Program to provide medical monitoring and treatment to responders and community members exposed to toxins at ground zero.

NIOSH has always had a small budget, particularly compared to other federal health research agencies. In FY 2010, NIOSH received \$302.4 million in funding for its core safety and health programs, compared to \$690 million appropriated for the National Institute for Environmental Health Sciences. For FY 2011 \$305.9 million is requested for NIOSH's core program which

includes \$124.5 for the National Occupational Research Agenda (NORA). The AFL-CIO urges the committee to increase the funding for NORA by \$25 million to support an increase in funding for NIOSH's construction safety initiative and enhanced funding for research on the protection of healthcare workers from pandemic influenza and other infectious diseases, nanotechnology, and other priority areas.

In FY 2009 and FY 2010, NIOSH was provided funding to conduct research on the underreporting of injuries and illnesses in collaboration with BLS. This work needs to continue. In addition NIOSH should expand its surveillance activities to identify work-related injuries and illnesses through non-employer data sources to get more complete and accurate information on these occurrences.

With the enhanced regulatory activity at OSHA and MSHA, there will be an increased demand for NIOSH's involvement in and support for the development of rules. This is particularly true for standards on toxic chemicals and respiratory diseases, where NIOSH has great expertise. The AFL-CIO is concerned that NIOSH's capacity to provide such scientific and technical support has been greatly diminished. In the last decade there have been few OSHA standards developed and NIOSH has produced few recommendations for new or revised rules. We urge the committee to get a detailed assessment from NIOSH of the agency's resources available for the development and support of standards and to provide the necessary funding for NIOSH to meet its responsibilities in this area.

The FY 2011 NIOSH budget request includes \$150 million for the World Trade Center Health program to provide medical monitoring and treatment to responders, clean-up workers and community members exposed to toxins in the aftermath of the 9/11 terrorist attacks. According to NIOSH, to date more than 55,000 responders and 4,100 community members have enrolled in the program with more than 15,000 receiving medical treatment for 9/11 illnesses last year. The FY 2011 request is an increase over FY 2010 funding when carryover funds from previous years reduced the amount of needed funds. The present request will allow the program to continue at its present level of operation. It should be noted that the Congress is considering legislation to establish the 9/11 health program on a permanent basis, which if enacted, may impact the funding requirements of this important program.

Turning to another important worker protection program, I would like to express the AFL-CIO's strong support for the Labor Department's initiative to enforce federal laws governing the misclassification of employees as independent contractors, which involves OSHA as well as the Wage and Hour Division, the Solicitor's Office, and the Employment and Training Administration.

The administration's budget reflects its understanding that many employee benefits and worker protections are available only for workers classified as employees, and the incorrect classification of employees as independent contractors may lead to their not receiving benefits for unemployment (unemployment insurance) or on-the-job injuries (workers' compensation), not being paid minimum wage or overtime, or not benefiting from various on-the-job health and safety protections.

In addition, when employers misclassify their employees to avoid paying state and federal payroll taxes, they gain a competitive advantage over firms that do properly classify their employees. The IRS reports that 15 percent of employers misclassify their workers, avoiding their obligation to pay state and federal payroll taxes on about 3.5 million workers.

The administration's FY 2011 budget proposes a joint Labor Department/Treasury Department initiative to strengthen and coordinate federal and state efforts to enforce statutory prohibitions and deter misclassification. This strategic approach is modeled on the growing number of state initiatives that have successfully raised millions of dollars in federal and state revenues.

The administration's budget proposes a total of \$25 million and over 100 FTEs dedicated to addressing misclassification, including \$12 million and 90 FTEs for the Wage and Hour Division to focus on misclassification during targeted investigations; \$11.25 million and 2 FTEs for the ETA to award competitive grants to reward states that are most successful in addressing misclassification; \$1.6 million and 10 FTEs for the Solicitor of Labor to pursue misclassification litigation; and \$150,000 for OSHA to modify training curriculum and investigation guidelines to allow inspectors to identify potential misclassification and share information with Wage and Hour.

We believe this misclassification initiative is long overdue, and is critical to meeting the Department's goal of "good jobs for everyone." We are gratified that, with the administration's proposed increases for the Wage and Hour Division, staffing will be restored to FY 2001 levels, after years of decline.

In conclusion, the job safety and health agencies and other worker protection agencies are returning to their mission to protect workers and have the opportunity to make real progress. The AFL-CIO urges the committee to provide these programs the necessary support and funding to effectively do their jobs, to reduce the toll of injury, illness and death and to ensure that workers' receive the pay and benefits they are lawfully owed.

Ms. DONALDSON. Good morning. I am Nancy Donaldson, the Director of the Washington Office of the International Labor Organization, ILO, which is a specialized agency of the United Nations.

Chairman Obey, Ranking Member Tiahrt, and Representative Alexander, I would like to wish the top of the morning to you and thank you for this invitation to testify.

The U.S. Government is, and has been for some time, the single largest supporter of the ILO's worker's rights protections and technical cooperation projects around the world. The ILO has a long-standing and productive partnership with the Department of Labor's Bureau of International Labor Affairs. With more than 50 projects actively underway now, the ILAB-ILO collaboration continues to be a large-scale global undertaking. These projects combat child labor, fight HIV/AIDS in the workplace, end forced labor and trafficking, advance workers' rights and protections, and promote better work.

As this Committee is well aware, the global recession provoked U.S. and global jobs crises. In January, the ILO reported an increase of 34 million unemployed workers worldwide, with an estimated total unemployed of 212 million workers in 2009, the highest ever recorded. The global jobs crisis reminds us once again that good quality jobs and decent work are essential to the lives of women and men everywhere. Decent work is a source of personal dignity, family and household stability, and peace in the community. It increases trust in government and business, and the overall credibility of institutions.

Labor is much more than a cost of production. As stated in the ILO Constitution, labor is not a commodity. Last June, the ILO International Labor Conference of 183 member countries adopted a Global Jobs Pact. The Pact's policy intervention strategies focus on reducing the time lag between economic recovery and the recovery of good and decent jobs. Last September, the ILO's Director General, Mr. Juan Somavia, reported to the G-20 leaders that between 11 and 12 million jobs had been created or saved in G-20 countries due to stimulus packages like the American Recovery and Reinvestment Act in the U.S., and other targeted policy interventions.

The G-20 leaders gave strong support to the ILO Jobs Pact. The leaders agreed that to assure that global growth is broadly beneficial, we should implement policies consistent with ILO fundamental principles and rights at work.

President Obama requested the ILO to develop a 21st century training strategy for workers to develop job skills they need to succeed in an evolving global economy with input from the G-20 labor and employment ministers. And let me just mention the G-20 are the countries with the 20 largest economies in the world, so China, Brazil, U.S., and so forth, India.

One month from now, U.S. Secretary of Labor Solis will host a G-20 labor and employment ministers meeting in Washington to collaborate on labor and training policies and practices, and develop recommendations. The ILO is working closely with Deputy Under Secretary Polaski and the president's G-20 team to assist preparation.

These combined efforts have enormous potential to improve labor and employment policies, create more jobs in all countries, and lift the global economy.

The ILO's daily work is the Decent Work Initiative. Today, in every region in the world, ILO member States, workers, and employers have crafted and are in the process of implementing decent work country programs utilizing ILO technical assistance programs supported by USDOL. To highlight a few:

Combating child labor. This is the largest technical assistance program of the ILO. Seventy-five percent of the total U.S. Government contribution to ILO programs has been earmarked to combat child labor. The U.S. truly has a lead in supporting this work. Since 1992, ILO has assisted over 90 countries in direct action programs.

Two, the ILO is a partner with the USDOL to advance the capacity of countries to oversee, monitor, and implement core labor standards. These projects are designed to ensure sustainable results through labor law reform, building the capacity of labor administrations and inspectorates, strengthening employers and workers' organizations dispute prevention and settlement and advocacy in education.

Three, Better Work. Building on this approach for implementing core labor standards, the Better Work program was created. It is a unique and innovative partnership between the ILO and The World Bank's IFC. The USDOL was the initial supporter of this approach through the Better Factories Cambodia program 10 years ago. The program is now in Vietnam, Jordan, Lesotho, and Haiti. Better Work supports partners to address workplace issues and makes the results of factory inspections public. International buyers order from factories that support workers' rights and protections. This serves the goals of better jobs, more reliable supply chains, and helps enterprises to be more competitive. Scaling up to new countries and industries, Better Work expects to benefit 1.2 million workers within two years.

Fourth, combating forced labor. ILO works in many sectors to stop trafficking and forced labor.

Fifth, HIV/AIDS in the workplace. The ILO has adopted a Code of Practice and has programs called SHARE that today is the standard for enterprises to manage HIV/AIDS in the workplace. It is translated into 60 languages. Twenty-four countries, and more than a million workers have been assisted.

All of these programs have been realized with U.S. Department of Labor support and the support of this Congress and this Committee. The President's fiscal year 2011 budget proposes \$40,000,000 to combat child labor and an additional \$26,500,000 to implement technical assistance and monitoring programs to improve worker rights.

In this time of unprecedented crisis, the ILO welcomes the Labor Department's leadership efforts to make labor markets more stable and to promote decent work for more women and men in the U.S. and around the world. Thank you.

[Written statement by Nancy A. Donaldson follows:]

Statement of Nancy A. Donaldson
Director, Washington Office of the International Labor Organization (ILO)

before the Subcommittee on Labor,
Health and Human Services, Education and Related Agencies

Committee on Appropriations, U.S. House of Representatives,

March 17, 2010

Chairman Obey, Ranking Member Tiahrt, and members of the Subcommittee, thank you for the invitation to testify today. I appreciate the opportunity to discuss the work and partnership of the International Labor Organization (ILO) with the Department of Labor's International Labor Affairs Bureau as you consider the President's fiscal year 2011 budget request.

Since its establishment in 1919, as part of the Treaty of Versailles that ended World War I, the ILO has based its work on the belief that universal and lasting peace can be accomplished only if it is based on social justice and decent treatment of working people.

The ILO was created to promote social progress and to overcome social and economic conflicts through dialogue and cooperation. In response to widespread industrial turmoil at the time, it brought together workers, employers and governments at the international level - not in confrontation, but in a search for common rules, policies and behaviors from which all could benefit.

With the adoption of the UN Charter, the ILO became the first specialized agency of the newly formed United Nations. The ILO is a unique agency of the United Nations system in that it incorporates representatives of employers and workers at every level of its decision-making. Through a rule of law process, the ILO's annual International Labor Conference negotiates and adopts minimum international labor standards in instruments called Conventions, which all sovereign countries should aspire to comply with and could become legal party to through the treaty ratification process.

Along with the adoption of these standards, the ILO has a participatory supervisory mechanism to monitor government compliance with these treaty obligations and to report publicly on whether these obligations are being met.

USDOL-ILO partnership - results and achievements

Today, 91 years later, the ILO is still an organization that gets results as the following program examples highlight:

- **The Decent Work agenda**

The Decent Work Agenda - embodied in the ILO Constitution, the ILO Declaration of Philadelphia, and the ILO Declaration on Social Justice for a

Fair Globalization - affirms that work is a principal determinant of how people experience the present and their prospects for the future. It is a keystone of social justice in a context of globalization. Decent work sums up the aspirations of people in their working lives - their aspirations for opportunity and income; rights, voice and recognition; family stability and personal development; and fairness and gender equality. Ultimately these various dimensions of decent work underpin peace in communities and society. Decent work reflects the concerns of governments, workers and employers, who together provide the ILO with its unique tripartite identity.

The Decent Work Agenda provides a value system for the global economy and offers the means for ensuring that the dignity of work and the demands of the productive process are both respected. Today, in every region in the world, ILO member States, workers and employers have together crafted and are in the process of implementing Decent Work Country Programs pursuant to shared national priorities. ILO technical assistance programs support these strategies and programs that serve four objectives:

- promoting compliance with fundamental principles and rights at work;
- promoting employment and enterprise creation;
- extending social protection; and
- reinforcing social dialogue among governments, workers and employers.

All of these objectives have cross-cutting dimensions of gender equality and cooperation for development.

- **Combating child labor**

The largest technical assistance program of the ILO is the **International Program on the Elimination of Child Labor (IPEC)**. Since 1992 it has assisted over 90 countries to develop policies and direct action programmes that address the root causes of child labor and provide alternatives for children and their families. The ILO Convention on the Worst Forms of Child Labor (C. 182) adopted in 1999 (and ratified by the U.S.) has received more ratifications in a shorter period of time than any other ILO labor standard and is nearing universal ratification by the ILO's 183 member States. Since 2001, when aggregate records were first kept, the ILO has withdrawn hundreds of thousands of children from child labor and has prevented untold numbers from entering into child labor.

- **Implementing core labor standards**

The ILO works in partnership with USDOL to advance the capacity of developing countries, and labor ministries in particular, to **oversee, monitor and implement core labor standards**. These technical cooperation projects are designed to promote the application of the ILO's **Declaration on the Fundamental Principles and Rights at Work** to ensure sustainable results

through six closely inter-related instruments of change, namely: labor law reform, building the capacity of labor administrations (including labor inspectorates); strengthening employers' and workers' organizations; developing tripartism and institution building; dispute prevention and settlement; and advocacy and information.

- **Better Work**

Building on this approach, the **Better Work program** is an innovative approach and a unique partnership program between the ILO and the World Bank's International Finance Corporation (IFC), the private-sector lending arm of the World Bank Group. The US Department of Labor was the initial supporter of this approach through the **Better Factories Cambodia program** designed under the auspices of the U.S. Free Trade Agreement with Cambodia ten years ago, and encouraged its subsequent partnership with the IFC.

Broadly supported by a network of donors including the United States, the program is now implemented in Vietnam, Jordan, Lesotho and Haiti. Better Work supports partners to address workplace issues and makes the results of the factory inspections public, enabling international buyers to make orders to factories that support worker rights and good working conditions. This serves the goals of better jobs and more reliable supply chains and helps enterprises to be more competitive through higher productivity and quality. Scaling up to new countries and industries, Better Work expects to benefit 1.2 million workers within the next two years. With additional countries and industries in the pipeline, it has the potential to reach many more.

- **Combating forced labor**

Since its inception, the ILO has worked to combat forced labor and the conditions that give rise to it and has created a **Special Action Program on Forced Labor (SAP/FL)** to intensify efforts worldwide. The ILO works to eliminate forced labor in many different sectors and to stop trafficking using diverse strategies including reforming national laws and enforcement mechanisms as well as microfinance, employment training and access to education to support freed workers and through raising public awareness. For example, training of both labor inspectors and mobile inspection units in Brazil has helped contribute to an increase in the number of forced laborers rescued by the authorities. Between 2004 and 2006, over 10,000 workers in Brazil were freed from modern day slavery.

- **HIV /AIDS in the workplace**

In 2000, following a landmark Resolution from its member States, the ILO set up a dedicated global program on HIV/AIDS and the world of work and in 2001, the ILO adopted a Code of Practice on HIV/AIDS for enterprises that today has become the standard for managing HIV/AIDS issues in the workplace and has been translated in 60 languages. More than 650 workplaces in 24

countries - stretching from Belize to China - have been involved with the ILO's workplace information and education program that has become known as the **Strategic HIV/AIDS Responses in Enterprises or SHARE program**. A total of 730 partner enterprises as well as eleven groups of operators from the informal economy representing a workforce of 1,066,842 workers have been assisted by these ILO projects.

These results and achievements are described in greater detail in a recent ILO publication, *"The US Contribution to the International Labour Organization: history and scope - results and impact"*, which I would be happy to provide to the Committee. None of these results could have been achieved without the support the ILO enjoys from its constituents - governments, workers and employers - from its 183 member States. And all of the above-mentioned achievements and more have been realized through a unique partnership with the USDOL Bureau for International Labor Affairs since 1995.

The ILO response to the global economic crisis and supporting a jobs-based recovery

As this Committee is well aware, the global financial crisis quickly affected the real economy and has provoked a global jobs crisis. Economic recession is paralleled by the specter of social recession. In January 2010, the ILO reported that worldwide unemployment increased by roughly 34 million people since the start of the financial crisis, rising to an estimated 212 million unemployed workers in 2009 - the highest ever recorded. The ILO estimates that global unemployment is likely to remain high through 2010, increasing in the developed economies and European Union while stabilizing at present levels, or slightly below, in other regions. It is likely that 100 million women and men will have fallen into absolute poverty last year. Social tensions and challenges to social stability are already evident.

In June 2009, the ILO International Labor Conference with the participation of the United States and other member States moved swiftly and unanimously to adopt a Global Jobs Pact. This pragmatic, international policy response is based on lessons from experience. It aims to reduce the time lag between economic recovery and the recovery of good and decent jobs. The Global Jobs Pact is still the only policy framework agreed to globally by the entire international community to address the social and employment impact of the international financial and economic crisis.

In addition to the leaders from the world's 20 largest economies, the United States requested the participation of and support from the heads of the UN, World Bank, IMF, OECD and the ILO in Pittsburgh in September 2009 to take stock of the progress made and discuss further actions to assure a sound recovery from the global economic and financial crisis. The ILO's Director General, Mr. Juan Somavia, reported to the G20 leaders meeting in Pittsburgh that in 2009 between 11 and 12 million jobs were created or saved in G20 countries due to stimulus and other targeted policy interventions. In the summit communiqué, the leaders gave strong support to the ILO Global Jobs Pact.

The message of the Pittsburgh Summit under the leadership of President Obama was - "We cannot rest until the global economy is restored to full health, and hard-working families the world over can find decent jobs." The leaders of the 20 largest economies further stated: "To assure that global growth is broadly beneficial, we should implement policies consistent with ILO fundamental principles and rights at work."

At the request of the G20 leaders, U.S. Secretary of Labor Hilda Solis will host a G20 labor and employment ministers meeting in Washington in April 2010 to develop recommendations for 'putting quality jobs at the heart of the recovery', including job skills training that prepares workers and contributes to the creation of quality jobs in the US and around the world. USDOL's International Labor Affairs Bureau has the primary responsibility for this meeting and its outcomes. The ILO is preparing technical reports for the meeting and working closely with Deputy Undersecretary Sandra Polaski and the President's G20 team to assist preparation and to support the outcomes of this effort.

The significance of decent work

The global economic crisis reminds us once again that good, quality jobs and decent work are essential to the lives and well-being of women and men everywhere in the world of work. Decent work is a source of personal dignity, family and household stability and peace in the community. It increases trust in government and business and overall credibility of the institutions that govern our societies. Labor is much more than just a cost of production. As stated in the ILO Constitution, it is fundamental that "labor is not a commodity".

Today, financial, trade, economic and social policies need to coalesce around the package of productive investment, jobs, protection and respect for rights at work as a means of getting out of the crisis and beyond. This is what is commonly referred to as the Decent Work Agenda.

Internationally recognized core labor standards

In June 1998, the ILO's International Labor Conference adopted the **ILO Declaration on Fundamental Principles and Rights at Work**, reaffirming the commitment of member States to respect internationally recognized core labor standards. These include the rights to freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labor, the effective abolition of child labor, and the elimination of discrimination with respect to employment and occupation.

The impetus for the Declaration drew upon concerns in the international community about the processes of globalization and the social consequences of trade liberalization. The ILO Declaration on Fundamental Principles and Rights at Work underscores that all member countries have an obligation to respect the

fundamental principles involved, whether or not they have ratified the relevant ILO Conventions.

The International Labor Conference established a follow-up to the Declaration, including an annual review of countries which have not ratified one or more of the Conventions relating to the four categories of fundamental rights and an annual global report on one of the four categories of fundamental rights. Each area is examined in turn and covers the situation in countries which have ratified the relevant conventions and also those which have not.

With the 1998 Declaration and its follow-up it became possible for the ILO to have an overview of the application of core labor standards in all countries, irrespective of the ratification of the relevant Conventions.

Today, the Declaration on Fundamental Principles and Rights at Work has become a global reference point. It is widely used by international financial institutions, development and investment banks, multi-national enterprises and by workers and employers everywhere in an attempt to promote full and productive employment, better working conditions, and workers' rights through a process of dialogue rather than open conflict.

The U.S. relationship with the ILO

The Department of Labor takes the lead in representing the U.S. government with the ILO, with support from the Department of State and other agencies. American workers are represented in the ILO by the AFL-CIO; employers by the United States Council for International Business (USCIB).

Between annual sessions of the International Labor Conference, the work of the ILO is guided by the Governing Body of 28 government members and 14 worker and 14 employer members. The United States has a permanent seat on the ILO Governing Body.

Today, the US Government remains the single largest donor of ILO extra-budgetary technical cooperation projects overall, despite a significant decline during the period from 2004 to 2007. However, in FY 2008 the contribution from the US rebounded and reached \$52 million, primarily from the US Department of Labor, but also from USAID and the US Department of State (USDOS).

Since 1995, the ILO has signed 52 different cooperative and/or grant agreements with the US Government and is obliged to deliver agreed projects within a five-year time frame. These support ILO projects to combat child labor; to fight HIV/AIDS in the workplace; to end forced labor and trafficking; and projects to promote social dialogue as well as the ILO Declaration on Fundamental Principles and Rights at Work. The US Department of Labor was initial supporter of the International Finance Cooperation (IFC) Better Work Program.

With 58 active projects currently under implementation in member States, the USDOL-ILO collaboration continues to be a large-scale, global undertaking. In recent years, there has been a tendency to consolidate and extend ongoing projects. In all regions, the trend has been to fund fewer but larger technical cooperation projects. With increasing commitments from other donor countries, the US share of overall donor contributions to the ILO has declined to 17 per cent in recent years.

Conclusion

The \$50 million approved by Congress in FY2010 for the ILO's technical assistance programs across the globe demonstrates the continued generous and strategic support from the US Government and the American people.

The President's FY 2011 budget proposes \$40 Million to continue work to combat the worst forms of child labor and an additional \$26.5 million to be used to implement innovative, model programs that address worker rights through technical assistance or other programs.

This offers a ray of hope for the world. Governments, employers and workers have repeatedly called upon the ILO not to lower its ambitions but to step up its work to mitigate the devastating impact of the crisis and to contribute to a future in which financial markets service the real economy of productive investment, enterprises and workplaces.

The increasing impact of unemployment and poverty on a growing number of women and men is a threat to prosperity anywhere. The risk to security, rights and stability in many countries around the globe requires an even greater commitment from the ILO and its member States to deliver on the Decent Work Agenda. In times of unprecedented crisis, we hope the United States, and the US Department of Labor will continue to step forward to help make labor markets more stable and promote decent work for more women and men in the U.S. and around the world.

Thank you again for inviting me to participate in this hearing, Chairman Obey, Ranking Member Tiahrt and distinguished members of the Subcommittee. I am happy to answer any questions you may have.

Mr. OBEY. Thank you.

Mr. Tiahrt.

Mr. TIAHRT. I apologize for being late, Mr. Chairman. It was surprisingly slow.

Mr. TIAHRT. When we have sunshine delays, I am always curious about that. I understand rain delays and accident delays, but sunshine delays always puzzle me.

Mr. OBEY. We never had that in Wisconsin. I understand it is a Kansas affliction.

Mr. TIAHRT. It comes from riding into the sunset.

Mr. OBEY. We are both pretty bad. Go ahead.

Mr. TIAHRT. I apologize for missing the first part of some of these testimonies, but I did read through the written testimony. I am curious about the tradeoff between increasing regulations and the loss of jobs, particularly union jobs. In south central Kansas we build airplanes, and I think it is very important this Country make things. We cannot survive as a service economy alone. So, as Mr. Johnson was saying, I would advocate a freeze of regulations and forcing all of them through a simple formula: the benefit has to be great than the cost of implementation. I think that would lower the cost of making things. And if we cannot make things, then I just think we will be continuing on our jobless recovery.

One of the things that I have noticed is that our stock market has rebounded, but the companies that are doing well are the ones that make things overseas; and I am worried about jobs in America. So I am wondering is there a willingness with like the AFL-CIO or with Ms. Lee to trade off increased regulations for fewer jobs? Or do you think there is a correlation? Do you think that more regulations mean more jobs? I am a little curious as to how we move forward with this economy when we have approximately 10 percent of the people laid off, we have another 5 percent that have given up looking for jobs right now, and we have aerospace workers now working at Lowe's Lumber Company and Wal-Mart. They are under-utilized.

So I am advocating a freeze and putting all our current regulations through that formula: the benefit has to exceed the cost of implementation. Is that a fair tradeoff, Ms. Lee, or do you think that we should—how should we approach this, growth and regulations versus getting people back to work, basically?

Ms. LEE. That is an interesting question, Congressman. I would say as an operating agency at the State level, when we are implementing, I would say, rules that impact businesses and the public, we work very, very hard to manage the bureaucracy, and we put that issue to the test through the rulemaking process that I think occurs in most States. One of the things that we try very hard to do is balance what we are trying to achieve with the impacts on the public or the businesses.

Mr. TIAHRT. What I have noticed is many times through the enforcement process we have set up this adversarial relationship between regulators and the people who are in the private sector, and I think most people understand that the Government does not create wealth; the private sector creates wealth. And as a byproduct of creating wealth, we have jobs. So in order to enhance that process, I think we need to change our philosophy.

As an example, in south central Kansas we had OSHA target one county, Sedgwick County, and literally shut down the homebuilding industry. I went back and met with the homebuilders. They said we need to have a conference with OSHA, so I got them together in Topeka, Kansas, and they came up with a scenario where they would invite OSHA to come to their job sites. They would walk through the job site together and make a list of potential violations. Then OSHA gave them six weeks to comply. Everybody went back to work. The workplace safety went up. But they advocated for a safe workplace rather than be an adversary, where they just come in and the contractor has to immediately reach for his checkbook because he knows he is going to get fined.

So would you be open to a different change in philosophy as far as regulatory body is concerned? I think if we have an adversarial relationship, we know that that does create strife at the workplace and fewer jobs, but an advocacy is what I would like to see. Is that something that you think we could philosophically do?

Ms. LEE. Certainly. Actually, a lot of times businesses will ask us to make sure that State agencies are doing their job to ensure there is a fair and equitable playing field. So they will come to their regulatory agency and say can you make sure that businesses, for example, that do not pay their fair share of taxes pay their fair share. So certainly we always try to have a high quality relationship with business, because we understand that we are all here to support them.

Ms. SEMINARIO. If I may. You have spoken to the issue of worker's safety and OSHA. Generally, when OSHA will target an industry, it is because people are being killed. And in the homebuilding industry and in construction, unfortunately, we have seen a major increase in fatalities, from falls, over 900 in the Country in the last couple of years. So the targeting is done in response to there being a problem, not because they want to go out and harass a particular industry. And I think there does have to be a balance. I mean, absolutely there needs to be a balance. But you cannot really have compliance assistance and voluntary compliance if it is not backed up strong enforcement.

And this Administration clearly has a different view than the last one that they need stronger enforcement, and we at the AFL-CIO would agree with that approach. That is not to say that there should not also be the outreach, the compliance assistance to employers, particularly small employers, as well as to workers. So, again, it does have to be a balance, but you will not get any kind of compliance unless it indeed is backed up by strong enforcement.

Mr. TIAHRT. I think that is what Mr. Johnson was advocating with the Voluntary Protection Program. And what we did in Kansas, if a contractor did not comply after having this opportunity, then all these sanctions and penalties and fees were available to the agency to enforce the regulations. But what we found out is that many of the workers were Hispanic and it was simply a language barrier the ladder cannot be 45 degrees, it has to be 60 degrees. Explaining that when you do not have the language skills sometimes is difficult. So the building community actually hired somebody from the insurance industry that was a specialist in workplace safety, and they went around to all the job sites with an

interpreter and took the opportunity to educate their workers. That was more productive than all the enforcement they had been doing beforehand.

So I would just like to reinforce what Mr. Johnson said. The Voluntary Protection Program is going to be the most productive thing we can do at this point in time to get people back to work in a safe work environment.

Ms. SEMINARIO. The only point I would like to make is just a clarification on VPP versus the other compliance assistance programs. The compliance assistance programs for small businesses, specifically, are run through OSHA grants to the States. That program is increasing. The Voluntary Protection Program is a program that has been directed for decades largely to big employers. If you look at who is getting the benefit of it, it is Monsanto, it is GE, it is the high performing companies that are really doing a good job.

I mean, you should speak to the Department about this, but I think what they are faced with here is having to make choices, because you cannot fund everything. And if you are going to be funding compliance assistance, it should be those programs that are targeted to small employers; and that Monsanto, GE, you know, who are really doing a good job—and this program, VPP, is about the best performing employers—that to look at a different way of funding it because they have the ability and the money to take care of it and to fund it themselves.

So it is really a choice: do you put your resources into helping the small employers or the big employers. In this case, the Obama Administration is deciding they want to help the small employers.

Mr. TIAHRT. How much more time do I have?

Mr. OBEY. Two minutes.

Mr. TIAHRT. Two minutes? Okay. Thank you for being so generous with the time.

Mr. OBEY. Ten minute rule this morning.

Mr. TIAHRT. Okay.

Mr. OBEY. Unless more people show up.

Mr. TIAHRT. I am concerned that the tradeoff that I see coming of increased regulations versus getting people back to work, and there is a clear correlation in my mind. So that is my biggest concern. We are going to hire 153,000 people in the Government this year at the Federal level. They are going to have to do something. My concern is that they are going to be writing more regulations, slowing down our economy even further, and we want to get people back to work. I mean, I think we can all agree 10 percent unemployment is not acceptable.

So how do we enhance that process? I think you do it through making opportunity and working with big and small companies to have a safe place as an advocate for safety rather than an adversary I think would be much more productive.

Thank you for being generous with the time. I yield back.

Mr. OBEY. Thank you.

One of the advantages of being around here as long as I have is that you remember some things from back in the stone age. And I was here when OSHA was first created. Its main sponsor was probably my closest, or one of my two closest friends in the Con-

gress at that time, Bill Taggart, who was a Republican member of the House. We went to college together, served in the legislature together, and were out here. Then he unfortunately died at age 40. But he was the driving force behind the creation of that agency.

And when it was created, one of the problems is that the Congress required OSHA to adopt the consensus standards that had been developed by some of the biggest companies in this Country and, as a result, you had regulations which were understandable to a PhD working for one of the large companies in the Country, but if you were a small businessman trying to comply, those regulations were often not user-friendly.

So Silvio Conte, who was then the Ranking Republican on this Subcommittee, and I worked together to try to develop a more understandable method of inspection and to provide for a reasonable degree of voluntary compliance; and I am all for that. What I am not for is emphasizing that to the exclusion of virtually every other responsibility in the Labor Department and in OSHA. So I think the question, as you say, is simply one of balance, and I hope we can find it.

Let me ask a couple of questions before I turn to Mr. Honda and then we move to the next panel.

We have a tough budget situation. The President has proposed what he describes as a domestic discretionary freeze. The Appropriations Committee will meet that, but, in doing so, because there are some actions that the Administration's budget takes that I think have been overly stingy, if we want to react to that, we are going to have to find some places to cut. Are there any of these training programs that you believe should be considered the lowest priority or should be considered for reductions? Are there any you think are redundant or ineffective? Where would you go? Anybody want to volunteer?

Ms. GANZGLASS. Can I turn that around and talk about what is effective? Our approach has been that the workforce system needs reform. WIA reauthorization is up this year once again, and it has been delayed and delayed and delayed and we think that increased funding needs to go together with some changes in the system.

But I would suggest that some of the more ineffective practices in the workforce system are a direct result of under-funding and of a system that is stretched so thin so that there is—

Mr. OBEY. Example.

Ms. GANZGLASS. For example, there has been a steady decline in the amount of—before the Recovery Act funds came out, steady decline in the number of people who get training. There has been a steady decline in the share of people who are low skill, low income who have access to training. So the investment has been thinner and thinner. There has been, through the WIA, more an emphasis on individualized training accounts, which are basically vouchers to go buy what is out on the market, so that has also limited the ability of the system to really develop these customized more tailored solutions that combine work and education that provide the kinds of support that enable low-skilled people to succeed.

So I guess my answer is that I think there are some ineffective practices because the interventions have been so shallow that they really have not added enough value to the long-term employability

of people. But what I was trying to say through the testimony was, with additional money, there has been a tremendous increase in training. And that is just the little bit of data I was able to collect. I hear anecdotally that there is much more, much more support being given and much more investment in the kinds of more tailored, if you will, holistic approaches to training and re-employment than existed before.

So I do not think there is redundancy in the system; I think that all of the numbers that have been used about all of these little training programs—and we actually have a project at the moment counting all of these—they are little pieces within a larger umbrella, and there really is not redundancy in these programs. So that is my answer to that.

I would say that the dire straits of young people, and especially minority young people, really need attention and have long-term consequences for this Country. And I know that that does not necessarily go through the appropriations process there have been attempts to deal with summer youth and year-round youth programs, and those have failed up until now, at least, but those investments I think are particularly important. And for high impact communities that has long-term consequences that cannot just be turned around, so it is a really important investment.

Mr. JOHNSON. \$1,500,000,000 is the cost that regulations took out of our economy last year. The average American worker will have to work 65 days in 2009 to pay for the cost of government regulation, which consumes 17.7 percent of national income. This is up from 61 days and 16 percent in 2008. So the trend is not to cut and trim, it is actually bloating and expanding.

To save money, cut programs. You could save \$9,000,000,000 nationwide by fixing the Davis-Bacon Act. I am not advocating for a repeal of a 1931 prevailing wage law that is completely outdated; I am saying if you are going to implement a prevailing wage, it should be used statistically the same across the board. Every other agency that is under the Service Contract Act, et cetera, gets their wage data from BLS. Wage and Hour is the only one that uses the antiquated, outdated, self-reported survey, which is not statistically valid.

That \$20,000,000 increase should have been shifted to BLS, where everyone gets market wage data from period to period to expand our National Data Compensation Survey. Economists globally will agree that they have the most statistically sound and valid methods, not a self-reported survey.

Another way to save \$50,000,000 is to get rid of the State paid sick leave fund. There is a \$50,000,000 mandate to study this, basically, to see how it implements. Well, if three States already do it—California, New Jersey, and Washington—actually, Washington passed it but has not implemented it because they realized they would have to raise taxes to do so. So you could call California or New Jersey, who raised taxes to implement this program, and ask them how they are doing it. There is no reason to appropriate \$50,000,000 to figure out how to do it.

All this program is is an unfunded mandate, and when the Government forces employers to give a fringe benefit, which is time off, the employer is forced by the Government to shift within their com-

pensation pool from something else, which is going to come out of wages and benefits. So, overall, wages are going to decrease; and we see that under these programs. They just take it right out of the compensation pool they already have.

So \$9,000,000,000, \$50,000,000, just a few cuts ideas.

Ms. SEMINARIO. If I may just address the issue of regulation. There is the proposition here that somehow regulation costs businesses all this money and has no benefit. I think in the area of worker safety it is important to point out that there are real costs of not protecting people. We had 5,000 workers killed on the job last year; we had millions injured; tens of thousands die from occupational diseases. The estimated cost of just the injuries is \$150,000,000,000 to the economy, and most of that, much of that goes back to employers.

So I think we have to look at here that there is a point to regulating: not only to protect people, but to protect the economic welfare. And if you go back to the Occupational Safety and Health Act and its original statement of purpose, it was to look at the fact that we were basically killing workers, workers were being made sick; but it was having a terrible toll on the economy.

So I think we cannot lose sight of the fact that the regulatory programs that are in place are for the purpose of protection, but also look at the lack of regulation that we have seen in the financial sector in the last number of years and the cost that that has had on the economy. So I think we have to take a broader view here of what the needs are and what the impacts are overall.

Ms. LEE. Chairman Obey, if I may. On page 6 of your written testimony, NASWA, we have a proposal of how to save \$840,000,000 in unemployment insurance benefit payments, and that is an investment in re-employment services. And we talk about that in our testimony. What we know is that as you—even in a recession with 10 percent unemployment, there are still areas in the Country that go without their needed labor supply, and what we do in employment services is we provide transparency to all of that. It can be State-to-State.

And we help workers and we try to match them up at the lowest price possible to get them to where they are needed to help jumpstart the economy and help weather this time. That is what happens in your employment service and your re-employment service programs and they are proven to save money for the Country, and that is part of what is in our proposal.

Mr. OBEY. My time has expired. I will come back for a couple comments afterwards.

Mr. Honda.

Mr. HONDA. Thank you, Mr. Chairman.

I thank the members here for testifying.

Mr. Chairman, I do not have any questions, just a comment, and that is when I was a principal of an elementary school, I ran the school based upon certain kinds of standards of safety and standards of educational attainment. The other piece was the classroom environment. When we had portables come in, that was a nice thing because it was new, it was air-conditioned. But there were always complaints that children had headaches and teachers had

headaches when they were in, and I was going to say stop complaining.

But rather than doing that, just called a couple of agencies and had them test the air over the weekend, and we found that there was not anything wrong, but there was a persistence of illness or complaints. We did it again; only this time we turned up the heat, tested the air and closed it. We found that formaldehyde was coming off the rugs that were used as part of the chemicals for keeping it down.

That information was critical for me to say you are right, we should not be using it until we get rid of that chemical and have it come out of the glue. That helped our youngsters' and the teachers' health and their ability to teach and learn.

Fast forward to Katrina, when we are looking at all these trailers that are going in. My concern is that if we are going to provide these things, that we ought to make sure that the folks who are going to use those trailers will not get sick because of the glue that may be used. And I think that that is the kind of standards we want to find.

So I appreciate the kinds of information that does come through and helps us to become more thoughtful about the health and safety not only of workers, but of our families and our children wherever we go. The idea of having standards is good, but it is also economical in the sense that you do not lose time, you do not spend money on things that you do not have to.

So I appreciate this kind of discourse.

Thank you very much, Mr. Chairman.

Mr. OBEY. Mr. Tiahrt, two or three minutes before we move on to the next panel.

Mr. TIAHRT. Thank you, Mr. Chairman.

The cost of regulations is something that I think we have to deal with in this economy in order to try to get people back to work, and nobody advocates a complete abolition or abolishment of regulations. I think that there is a need for work safety. I think there is an incentive for employers, especially small businesses.

There is a roofing contractor that was talking to me about OSHA and using harnesses on roofs. Before this education program went around, they did not realize they had to use these harnesses, and one of his brother-in-laws who was working for him fell off a roof and he had to explain at the next family reunion why his brother-in-law got injured at the workplace.

Many of these small employers employ their friends, their family. They do not want people to get hurt. That is why I strongly advocate this education program, because these regulations are hard to understand. As the Chairman pointed out, at first they are worse; now they are better, but they are still hard to understand, and small companies do not have the resources to dedicate somebody to just interpret these for them or keep track of them.

So I think whether it is at the small business level or at a larger level, advocating for a safe work environment and a clean environment and a fair work environment is much more productive in the long-run, and I would like to see us work together to change the philosophy from an adversary to an advocate for these general workplaces.

So thank you, Mr. Chairman.

Mr. OBEY. Well, as long as we are philosophizing instead of asking questions, which all three of us seem to be doing, let me tell you a story that I think illustrates why it is necessary to sometimes have some pretty tough regulation.

A number of years ago, in Superior, Wisconsin, we had a lot of grain elevator workers who were having a hell of a time simply breathing on the job, and I know about that because I am allergic to grain dust; I just close up like I am having an asthmatic attack. So I was asked by those workers if I could get some people in there to examine what was going on in those elevators. So I got Dr. Irving Selikoff to come in. He was the great scientist who made the major discoveries about asbestos and mesothelioma. So we got Selikoff to go up there and deal with those workers' problems.

The manager of one of the grain elevators was mad as hell at me, and he said to me there is no problem out there. He said, it is good, healthy conditions. He said, none of these people really have a problem, they are just trying to hassle us. So I simply said to him, I tell you what. Why do you not go out there and work out there for three days, and then see if you have any problems.

The point of the story is simply that when we talk about a cost-benefit ratio, cost to whom, benefit for whom? The costs and the benefits often do not accrue to the same party. So it seems to me that we have to be very careful. If we are going to use any device like that, we have to be very careful so that we measure the human impact.

As far as regulations are concerned, the assumption is often made by some, I guess, that regulations routinely cost the Country. I would say it costs the Country greatly when we did not have sufficient regulation of the financial sector of our economy. We would not have been going through this recession if we had had better regulation of the big banks in this Country, if we had had better regulation of credit default swaps and other derivative hair-brain schemes like that.

So I am one who confesses to be very suspicious about a wholesale attack on regulation. That does not mean that some agencies do not drive me crazy by their nitpicking. OSHA often has, and will continue to do so, I assume. But I wish we could strike a balance so that we do not have this constant yinging and yanging.

When the Clinton Administration was in, we had good support for these programs. The Bush Administration comes in, we wind up going to the opposite ends. I wish we could find a way to meet somewhere in the middle and have a consistent policy over time. Even if it is a little tougher than business wants, even if it is a little weaker than labor wants, at least people would know what the rules of the game would be over a long haul; and that, I think, would be better for everybody.

Just one basic question about training. People will always say, look, we are in a recession. We do not have enough jobs to go around. Why are you training people for jobs that do not exist? Why are you putting so much money in training? Why do you not wait until the economy is recovering? That is what I get from people a lot.

What is your response to that?

Ms. LEE. Chairman Obey and members of the Committee, when the economy starts to recover, we think that business should be able to have immediately the skilled workers that they need. So in order to have that, what we have to do is to be able to interact with workers who are unemployed, be honest with them about what their skills are, what their ability to compete in the labor market—which is competitive—and up-skill them if necessary, re-skill them if necessary, so that when businesses are taking off and are coming out of the recession, that at very low fees we can find them the workers that they need.

And this happens cyclically. And, at the same time, during a recession, when many businesses start, they still have difficulty finding certain skill sets in certain locations; and what the workforce system has to be able to do is to make that match occur. And as you know, many of your constituents, American citizens, they are not realistic when it comes to their marketability in the job market, and being unemployed is a very, very difficult time for them.

So without our public workforce system and all the parties working together, you will have many Americans that honestly cannot assess their skills and then wonder why can I not get a job? Why can I not become re-employed? And then that is very bad for the Country.

Ms. GANZGLASS. Just to add to that. I would argue this is a really good time to invest in training. The opportunity cost of training, meaning the loss of foregone wages, the fact that people are on unemployment insurance, so there is income support that is coming through that allows them to take part in longer-term training. We know that people who have families, who go to school at night, who work full-time, who works split shifts, it is very difficult to complete education. So, actually, periods when they are working less than full-time, when they are unemployed and getting some income support is a really good time to up-scale the workforce.

And people who are skilled in one field who have lost their jobs in manufacturing, in other fields, they are not going back to those same jobs. The jobs that are being created now and will be created in the recovery are all going to change dramatically and require different and enhanced skills. So people need retraining, and you cannot just swap people from one field to another. They are not going back to the exact jobs that they have had.

One last point. In the written testimony I include data from a number of training programs that are really tied to economic development in California and Kentucky. Those have had really strong evaluations and have shown that actually the training has a larger impact on job creation, on earnings, on employment than other investments or tax credits in job creation. So when you ask about where to cut, tax credits for job creation, in fact, have less return than a good solid investment in improving the productivity of workers who are there and helping companies upgrade what they are doing.

Mr. OBEY. Is that it? Do you want to say something?

Ms. DONALDSON. Just a word from the global side on both standards and training. At the ILO we have—employers are our partners, along with worker associations, and what we encourage is a dialogue, which both Mr. Tiahrt and Mr. Obey have talked about;

and through that dialogue we have learned that they can come to agreements, and that is what the standards are that have happened over the last 90 years.

I would like to say that the Better Work program that I mentioned is supported by the industry; they have committed money, hundreds of thousands of dollars. And they believe in standards, they believe in getting rule of law. There are places in the world where there are not standards. There are places in the world where you can find what you are looking for, and they are not pretty for employers or workers.

Mr. OBEY. Would you do me one favor? Last question from me, then I will ask Mr. Cole if he has any.

I think a lot of people really are not very familiar with how the ILO works and, because of that I think they wonder whether they have any significant impact. Let me ask you how does the ILO work? Let me back up. Yes, I am interested in not seeing child labor around the world. Yes, I want foreign workers treated fairly. But even more than that, I am interested in protecting American workers from unfair pressures that lower wages.

How does the ILO work to effectively enhance countries' abilities to track the problem and to do something about it when they find a problem? What is the mechanism? What is the way that they go about, in essence, protecting American wages in a legitimate way?

Ms. DONALDSON. Well, let me just say I am an American, so speaking from that perspective as an ILO official, as well, the United States has free trade agreements with our trading partners around the world, and we have systems of preferences, as you know, with 140 countries that are less developed; and those trade relationships in essentially a free trade world require that our trading partners meet core labor standards. And what does that mean?

Mr. OBEY. And how do you go about making sure that they do?

Ms. DONALDSON. Yes. So the way that we work, the ILO, we work with our partner countries, partner employers, and partner workers, and we bring technical assistance programs to help countries meet these goals that they have agreed to meet. So it raises the living standards where there are better jobs there, and it does not compete by drawing our good jobs out of the United States. And we think in a world where there are better jobs and better work everywhere, including in the U.S., means there are better consumers and there are better trading partners.

So we want to help with standards, with our partners to make economies less dependent on sweatshops and slave labor and products that are produced and put into the system, not violating the laws of the United States and others. At the same time, we want to hold other countries accountable.

So I would just say the ILO, which has been in existence since the end of World War I and was created by the Versailles Treaty to promote peace—because labor strife and economic instability is a result of a lack of working together—they have passed standards year after year that the employers discuss, as well as the employees, and then there is a transparent reporting system that is participatory.

Complaints can be filed, experts look at the issues. We change standards. We try to adjust with the world of work as it evolves. It is a very dynamic process. It is a parliamentary rule, in a way, that the countries participate in. So it is slow sometimes, as happens here as well, but it is a very open dialogue because peace, stability, strong economies, productivity and jobs for people as livelihoods is at the core of this.

I hope that addresses the question in some way.

Mr. OBEY. Thank you.

Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman. I just want to quickly apologize to the panel, apologize to you and Mr. Tiahrt for coming late, but I have been in Interior, so I have been doing other work and look forward to participating a little bit later in this session. Thank you.

Mr. OBEY. All right.

Well, thank you all very much. I appreciate your participation today.

WEDNESDAY, MARCH 17, 2010.

TESTIMONY OF INTERESTED INDIVIDUALS AND ORGANIZATIONS LABOR AND EDUCATION PRIORITIES/ESEA REAUTHORIZATION

WITNESSES

GENE WILHOIT, EXECUTIVE DIRECTOR, COUNCIL OF CHIEF STATE SCHOOL OFFICERS

DANIEL DOMENECH, EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

GREG RICHMOND, PRESIDENT, NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS

RANDI WEINGARTEN, PRESIDENT, AMERICAN FEDERATION OF TEACHERS

DENNIS VAN ROEKEL, PRESIDENT, NATIONAL EDUCATION ASSOCIATION

OPENING STATEMENT BY CHAIRMAN OBEY

Mr. OBEY. Is that a vote? It will take probably 20, 25 minutes, so I would like to get started with panelists' comments. I apologize for the interruption that will occur, but we cannot do much about the House setting votes when they are inconvenient for committees.

Sorry to do this to you. I know it is going to be discombobulated, but that is the Congress.

We will now turn to our second panel this morning, which will focus on Federal education policy and related funding issues.

We are pleased to have with us today a panel of experts who represent the professionals on the ground with our kids, working day in and day out to educate the Nation's students. You are here on behalf of teachers and leaders at both the State and local levels. We are eager to hear your perspectives on how decisions made in Washington translate into the classroom across America.

Our witnesses are Dr. Daniel Domenech, Executive Director of the American Association of School Administrators. Dr. Domenech

has more than 36 years of experience in public education, 27 of those as a school superintendent.

We also have Ms. Randi Weingarten, President of the American Federation of Teachers and a former history teacher.

At the invitation of the Minority, Mr. Greg Richmond, President and Chief Executive Officer of the National Association of Charter School Authorizers.

Mr. Dennis Van Roekel, President of the National Education Association and a former math teacher.

And, finally, we have Mr. Gene Wilhoit, Executive Director of the Council of Chief State School Officers from 1994 to 2006. He led State education agencies in Arkansas and Kentucky.

I would ask our witnesses to limit their remarks to five minutes, then we will proceed to a round of questioning when we get back from the floor interruption.

Mr. Tiahrt, any comments? Thank you.

You want to begin?

Mr. DOMENECH. Certainly. Well, Mr. Obey, Mr. Tiahrt, thank you so much for inviting me here this morning. It is a pleasure to be here this morning. Thank you for the invitation. I am Dan Domenech and I am the Executive Director of the American Association of School Administrators, and, as Chairman Obey indicated earlier, a superintendent of schools for 27 years. My last tour was a superintendent of schools here in Fairfax County, Virginia, right across the way.

We are indeed grateful for the support that we have received from Congress, and certainly from the members of this Committee. The recovery funds have gone a long way in our Nation's schools to preventing what would undoubtedly have been a great disaster in our public school systems. Jobs were indeed saved; programs were indeed saved that would otherwise have been cut.

We are also very appreciative of the work that you are doing relative to the Jobs for Main Street and specifically the \$23,000,000,000 that would be advocated for the State fiscal stabilization funding, which will certainly help in the current economic environment that faces our schools.

We pretty much see every day, as you pick up a newspaper, that every school district in the Country is going through the process of eliminating positions which might result in increases in class size, eliminating programs, eliminating summer programs, after-school programs. You read about a school system like Kansas City, where they are closing half of their schools; Detroit also closing a great number of schools. So we see that there is a significant economic issue facing our schools and that they need help. And certainly the Jobs for Main Street and the \$23,000,000,000 that the House has already acted upon would be a tremendous, tremendous help.

We also urge you, as you move forward not only with the Jobs for Main Street, but also for the budgetary allocations, that you look at, in essence, what happened this year with the stabilization dollars to a great extent, and that is the fact that in many, many cases the dollars were sort of hijacked at the State level and were used to supplant what would otherwise have been State support for education, and even local support of education. So that, unfortunately, in spite of this great record year for education in terms of

Federal support, most of our school districts around the Country wound up with a total of less dollars than they would otherwise have had had the State and local support remained at the same levels.

And, indeed, when we ask our members—and we survey them on a regular basis, we find out that 88 percent of them have reported to us that indeed that was the case, that their local and State allocations wound up being less than it was supposed to have been, so that in spite of the increase of Federal dollars, in many cases almost doubled, they still have huge budget issues.

We are also seeing that 83 percent of our members are reporting that as they are putting their budgets together for this coming school year, that they are looking at reductions again in workforce and reductions in staff. So this is going to be a huge problem.

I want to now focus on the budget that the President has put forth and that you are now considering for the 2011 year.

We are very much concerned with what we see as a shift from formula funding to competitive funding, and we frankly are very much against that. ESEA historically we consider to be the kind of program that was put in place to level the playing field. Recognition of the fact that we have children of poverty in our schools and recognition of the fact that there is substantial evidence that supports the fact that children of poverty are our underachievers. They are the ones that are at the bottom end of the achievement gap. They are the ones that are in all of our failing schools; and that ESEA dollars have traditionally gone to help these youngsters.

Whereas we understand the strategy behind competitive grants, we think of what Secretary Duncan has said in terms of education is a civil right for our children, and we believe that a child's civil rights should not be subject to competition and that we should not be doing things that will defer dollars that are very much needed by these children to just those few districts who happen to have adults that are able to write the kinds of grants that will win them the competition.

So we are not in support of that and we specifically point to our small and rural school districts across America which are the majority of school districts in America, and the fact that these districts do not have the capacity, do not have the time and often the skills to write the type of grants that would provide them with the kinds of monies that we are talking about.

We are also looking at Title I and concerned about the fact that even though the President's proposal calls for an increase, total increase, and most of that increase is going to these competitive grants. So we are concerned that, in essence, Title I becomes level funded at a time when we see that there are great economic needs in our schools.

So there needs to be, if there are going to be increases, increases in the Title I allocation, that it is not level funded, because we see, as we have looked at the blueprint that was recently released by the Administration, that there are things in there—and I will point specifically to the requirements for the development of new assessments, the collection of data, the analysis of that data, the reporting of that data—that basically amount to an unfunded mandate,

because there is nothing that would, in essence, finance the collection and the use of that data in our local school districts.

So knowing that, in all probability, the passage of ESEA will result in some unfunded mandates, there is a need, then, for greater formula funding in Title I.

And same thing with IDEA. Our organization has long been advocating the need for IDEA to be funded at the level that it was promised, and that is 40 percent. Currently, the budget that is being proposed is funding IDEA at 17 percent and this is a huge economic issue for school districts. As you know, we are required to provide for the needs of our special ed, and that is the only area where a district has absolutely no flexibility. We have to provide for the needs of these children, irrespective of cost, irrespective of the budgetary problems that a school district may be having. That is where it has to go.

So, at times like this, what happens is that we are robbing Peter to pay Paul. We are taking money away from the general education program to fund the needs of our special ed students; and, thus, why funding IDEA at the promised level is significant.

Finally, I want to point to the Rural Education Achievement Program, REAP, which is something that our organization also is very much supportive of, and this is because this program is focused on our rural schools in America, recognizing the needs that they have. And, again, we are concerned that the budget talks about a set-aside of REAP dollars for the Secretary to use for competitive grants, and here again we propose the same argument.

So thank you, Mr. Obey, for this time, and rest assured that all of us in our schools will do, irrespective of what happens, the very best that we can on behalf of our children.

[Written statement by Dr. Dan Domenech follows:]



Committee on Appropriations, Subcommittee on Labor, HHS and Education
March 17, 2010

*Testimony of Dr. Dan Domenech, Executive Director
American Association of School Administrators*

Good Morning Chairman Obey, Ranking Member Tiahrt and members of the committee, my name is Dan Domenech and I am the Executive Director of the American Association of the School Administrators. We represent more than 13,000 school superintendents and other local educational leaders nationwide. It is my honor to come before you to today to share the status of local school district budgets nationwide and our thoughts on President Obama's FY 2011 budget proposal. Prior to coming to AASA, I have served as a superintendent in both New York and Virginia, most recently as the superintendent of Fairfax County Public Schools.

School districts across the country are facing some of the worst fiscal situations that they have ever seen. As district superintendents look to complete their budgets for the 2010 – 2011 school year, many are left with no choice but to cut the teachers and programs that their students, families and communities have come to expect. The impact of the state fiscal crisis and the declining property values and foreclosures on local school district budgets have forced them to focus even more on the importance of federal funding in their budgets. We would like to thank Congress for the enormous investment provided by the American Recovery and Reinvestment Act. Without it school districts would have been have in a much worse position.

As we look toward the future federal investment in public education AASA applauds the administration's continued support for and investment in education proposed in President Obama's 2011 budget proposal. In a time of increased fiscal restraint at the federal level, we are pleased to see that investing in education continues to remain a priority. The children across this country, especially those in poverty, deserve this support.

Despite the overall increase, AASA has some general concerns about the budget proposal. Specifically:

- The shift away from formula grants towards competitive grants.
- Level funding for Title I, especially during this economic downturn.

- The lack of funding for IDEA at the promised level, despite budget pressures on local school district.
- The administration's proposal to allow REAP dollars to go out via competitive grants.

Competitive versus Formula Grants

Despite the dramatic increase proposed for education, we have serious concerns that almost all of the new money would go towards competitive grants. AASA has long supported the role of formula grants such as Title I and IDEA to focus dollars on students in need. In addition, by providing formula dollars, districts are able to sustain lasting programs and create staffing investments that could ensure change over time. Especially in this economy, an overreliance on competitive grants will only lead to greater inequality.

Specifically, the President's budget proposal includes a 65 percent increase in the proportion of discretionary education dollars distributed through competition programs, a significant policy decision to shift dollars away from long-time formula grant programs. While the two major K-12 formula programs—Title I and IDEA-- continue as formula programs, there is a major cut in the Educator Quality State Grant, which many districts use to hire teachers, and a proposal to eliminate and redistribute the Enhancing Education through Technology program, which provides formula dollars for technology purchases and professional development to most school districts. For the most part, no new dollars are dedicated to these critical formulas.

With limited local resources, school districts do not have the time or the capacity to develop extensive competitive grant applications in order to be competitive. Relying on competitive grants to distribute federal dollars will take federal dollars away from students in poverty and to districts that have the resources for grant writing teams. Of the 15 states and the District of Columbia announced as finalists in the first round of Race to the Top, nine received grant monies from the Bill and Melinda Gates Foundation to simply complete an application. These funds and grant money could have otherwise gone to programs/personnel that more directly impact student achievement and teacher/leader development.

The majority of school districts in the country are small and rural in nature, with limited capacity. Shifting to use more competitive grants to drive federal dollars will be inherently unfair to rural districts that often lack the capacity and overall expertise to apply for competitive grants. This is precisely why AASA played an instrumental role in the creation of the Rural Education Achievement Program, designed to help compensate for the lack of competitive grants in rural school districts.

While understanding the administration's commitment to rewarding and replicating successful programs and practices, AASA urges Congress to maintain formula grants to provide a more reliable and equitable stream of funding to local school districts. Such a strong emphasis on competition implies that competition alone produces innovation and student achievement. School districts and systems need a certain level of financial stability to undertake the ambitious innovation and reform proposed by the President's budget, a level of reliability and consistency that cannot be achieved through competitive funding.

Title I

AASA is strongly concerned with the proposed level funding of Title I. Level funding is especially problematic in the context of the current economic situation and the resulting increase in the number of children in poverty. FY 2011 will be the first school year that districts will no longer have the funding under the American Recovery and Reinvestment Act. Therefore it is even more critical that the Title I funding level reflect the economic situation of the students being served across the country. Now is not the time to be cutting important services to children in poverty.

As we consider this budget proposal, Congress is considering the extensive overhaul of the Elementary and Secondary Education Act. While I am an optimist and would like to assume that no new requirements will be placed on school districts as a result of this reauthorization, I would probably be mistaken. If reauthorization is completed this year, we need to ensure that Title I funding level accurately reflects all of the new elements of the proposed law and the added expenses at the local school district level. In this economic situation, school districts have little ability to absorb costs for new mandates that could be passed on as a result of the reauthorization process.

With limited federal dollars available to education, we hope that we can capitalize on the role of the federal government to provide equity by providing funding through formulas for those students with the greatest needs.

IDEA

Another area of concern for AASA in the President's budget is the lack of promised funding for special education. Any superintendent across the country would be happy to explain why they need Congress to fulfill its commitment to provide 40 percent of the national average per pupil expenditure for every child in special education. This is the one area of a local school district budget where districts have to spend, regardless of the cost of services or the overall availability or lack of funds. The Individuals with Disabilities Education Act (IDEA) requires school districts to provide a Free and Appropriate Public Education. As a result, school districts

are often forced to take from their general education fund budget to cover the federal shortfall in special education budget. This makes funding for IDEA an issue that impacts an entire school district, not just their special education population.

The Obama administration's budget proposal calls for level funding the federal commitment to special education at 17 percent, less than half of the promised 40 percent. We strongly support Congresswoman DeLauro's statement calling the \$250 million increase to IDEA "budget dust". Level funding the federal commitment fails to take into account the increasing costs of special education and will continue to shift the burden for paying for special education to local districts, forcing school districts to raise local taxes or cut general education programs. In these difficult economic times, this remains an even bigger challenge. Congress must fulfill its commitment to schools and students throughout the country. AASA strongly supports Congress reaching its 40 percent commitment in special education. This single area of funding would provide the greatest amount of economic relief in every school district across the nation.

REAP

AASA has long been concerned about the impact of federal funding on rural school districts. For years, we watched as small rural school districts often received less federal funding than their larger rural, suburban or urban counterparts. In order to combat this equity issue, AASA worked with Congress to develop the Rural Education Achievement Program. REAP helps rural districts overcome the additional costs associated with their geographic isolation, smaller number of students, higher transportation and employee benefit costs, and increased poverty. Funding from this program helps districts increase reading achievement through the hiring of reading specialists, update their technology through the purchasing of computers for students and hire highly-qualified teachers.

President Obama's budget proposal would level fund this important program despite increased need of these districts based on the declining funding of other federal formula grants. In addition, the administration's ESEA proposal would allow the Secretary to set aside an unspecified amount of REAP dollars to provide competitive grants to innovative rural districts. Given that REAP funding has always represented a dedicated stream of formula funding to rural schools, AASA strongly urges Congress to block any attempts to make any component of REAP funding competitive funding. Competing through grants puts unneeded pressure on rural districts' limited resources, in direct conflict with the Secretary's stated desire to help 'rural districts overcome capacity constraints.'

As other federal education programs are cut or eliminated and more dollars are distributed through competitive grants, funding for REAP becomes even more important to help fill the funding shortfall in many districts. An increase in REAP funding would help offset not only the impact of formula cuts for small rural districts, but also the impacts of the increased emphasis on competitive grants for federal education funding.

Impact of the American Recovery and Reinvestment Act

On behalf of school administrators across the country, I would like to thank this committee and Congress for the strong investment they made in education through ARRA. Without that critical investment in funding, local school districts would have been worse off. It helped us save important jobs in local school districts across the country that would have been left with no other option.

We applaud the steps that the House of Representatives took in passing the Jobs for Main Street Act and including the \$23 billion extension of the State Fiscal Stabilization Funding to help local districts save jobs. State budgets tend to lag in recovery 18 months behind the national picture. Right now our districts are in a tough spot with drastically reduced funding and trying to make difficult choices. We have been making visits on the Senate side, along with our colleagues testifying here today, pushing them to support the House efforts in this area and provide this funding school districts so sorely need. We hope that Congress would be willing to include language that would prevent states from supplanting their effort in education with this money.

Over the past year, AASA has conducted a series of seven snapshots to determine the impact of the economic downturn on school district budgets and decision making. The current economic downturn and the historic infusion of federal assistance through ARRA have impacted the fiscal situation of many school districts. We are currently in the field with our most recent survey and have preliminary data but we will be sure to share the full results as soon as they become available.

So far this is what we have learned from our surveys, including the preliminary data from our most recent survey:

School districts in every part of the country are subject to the realities of the economic downturn. The financial crisis continues to threaten and impact the progress schools have obtained and the stability they have enjoyed in the past. America's schools were not insulated from the immediate economic downturn experienced in the fall of 2008 and the impact continues to hamper district operation. Looking forward, the 2010-11 and 2011-12 school years

will be challenging. Districts and school administrators will be answering tough questions about items, programs and personnel that can be cut, while trying to figure out what—if any—economic recovery is in store at the state and local level while also contemplating the anticipated end of the ARRA funds. This all demonstrates the critical need for Congress to provide additional SFSF funding sooner rather than later.

- Two-thirds (66 percent) of respondents reported having to eliminate positions for the 2009-10 school year. An overwhelming 83 percent anticipate having to eliminate further positions in 2010-11. Respondents identified 13,422 positions slated for elimination in the 2009-10 school year, an average loss of 15 positions per respondent in the 2009-10 school year. They identified 9,641 potential personnel cuts in 2010-11, an average of 11 positions per respondent.
- Our preliminary data shows that ARRA saved approximately 9.4 jobs per respondent. That means that districts are losing positions (12.1 positions per respondent) at a greater rate than they saved positions under ARRA.

In addition to the data on the downturn, we worked to gather information on the impact of the ARRA funding on local school district budgets. When speaking about the ARRA funding, it is important to break it down into two major categories: the Title I and IDEA funding and the State Fiscal Stabilization Funds. When districts think of ARRA funding, the first thing that comes to their mind is the SFSF funding. Many districts are still very frustrated that their states supplanted their state effort for education with the new federal funding, meaning most districts did not feel a net increase impact from the main ARRA funding. This is why we are asking for protections against state supplanting their effort in education with any new SFSF funding.

- A strong majority (88 percent) of respondents reported that ARRA dollars did not represent a funding increase in state/local revenues. More specifically, only 10 percent reported that the ARRA dollars represented any increase above state and local funding levels. The data illustrate a “shell game” in which state budgets were cut only after it was known that ARRA included money for education. Thirty-six percent of districts were facing state and local cuts that were only made deeper by the so-called “shell game.”

While the Title I and IDEA dollars provided increases for every district that received them, they presented some challenges for districts that knew that the money would not continue. In Title I, districts across the country expanded programs, bought new materials and in some cases

hired new staff; but given the current economic situation, few districts will be able to continue those initiatives after the stimulus dollars run out over the next year.

IDEA presented even a greater challenge. Because districts have to provide special education services regardless of cost, they had to be careful to not use the ARRA funding to expand or enrich services to students with disabilities. This is not because they did not want to provide additional services, but because under the law, districts would have been required maintain that level of service even when the federal funding went away. They would have to find the local dollars to cover the costs. If this was not done, the parent of that student would have standing to take the school district to court and sue for those services. No school district wanted to put themselves in that situation, given their knowledge that the ARRA funding was only for two years. Instead, administrators are still making the case that Congress must increase funding for IDEA in a more sustained manner so that services to students with disabilities could be expanded and not come at the expense of the general fund balance.

We still have a lot to learn and school districts still have financial obstacles in their way. But across America educators are coming together to work to ensure the best possible public education for our next generation of students coming through the door.

Thank you for your time today and I would be happy to answer any questions.

Mr. RICHMOND. Good morning, Chairman Obey, Ranking Member Tiahrt, and members of the Subcommittee. Thank you for inviting me to speak with you today.

The National Association of Charter School Authorizers, or NACSA, is a membership organization not of charter schools, but of the agencies that oversee charter schools. Our members are school districts, State education departments, universities, and others; and we work with our member agencies to grow the number of high-quality charter schools across the Nation by setting professional standards and providing technical assistance directly to authorizers.

Allow me to point your attention to a picture that appeared earlier this month in the Chicago Tribune under the headline Every Urban Prep Charter School Senior is College-Bound. One hundred percent of the first senior class at this all-male, all-African American charter school has been accepted into a four-year university. Take a moment to look at the joy in the faces of those boys and imagine the pride of their mothers, fathers, and grandparents.

Tim King, the founder of this charter school that opened three and a half years ago, says, "There were those who said you can't defy the data. Black boys are killed. Black boys drop out of high school. Black boys go to jail, they don't go to college. They were wrong."

One hundred percent of graduates admitted to college would be a terrific achievement for any school in America, but in the inner-city of Chicago, this achievement is truly remarkable. But it should not be remarkable; it should be the norm. All children—white, black, and brown—in every community in America should be able to attend a school that prepares them to go to college and to succeed in life.

This Committee has the ability to make this type of opportunity available to millions of more students by acting boldly in support of Federal efforts to expand educational opportunities and by demanding results. To that end, I urge you to continue to support the start-up of new charter schools and to include provisions that promote quality as you do so.

This boldness was evident in fiscal year 2010, when the Committee appropriated \$256,000,000 to support the start-up of over 1300 new charter schools. The 2010 appropriations bill also included new accountability measures, supported by my association, to ensure that new charter schools are held accountable. And I would like to thank you, Chairman Obey, and Congressman Tiahrt for your leadership which ensured that these new accountability measures were included in the final bill.

In the Administration's proposed reauthorization of ESEA, we support the proposal to expand the range and quality of educational choices available to students by increasing the number of high-performing charter schools. Yet, we also know that public oversight of charter schools is highly variable across the Country, leading to excellent charter schools in some communities and unacceptably weak schools in others.

Any Federal effort to increase the number of charter schools should be accompanied by an equal effort to ensure quality over-

sight that maintains high standards, preserves school level autonomy, and safeguards student and public interests.

To that end, we recommend that Congress explicitly reserve at least \$5,000,000 in fiscal year 2011 for the purpose of improving oversight of charter schools, which will ensure that Federal funds are supporting only quality schools. Additionally, we would recommend that language in last year's bill outlining three quality control standards be repeated again this year.

My members, the agencies that oversee charter schools, recognize that there is nothing automatic about being a charter school. For every urban prep success story, there may be another school with weak academic results or poor financial management. These poorly performing charter schools need to be held accountable. Yet, all too often oversight of these schools is weak and poorly performing charter schools are allowed to stay open.

Just last week, for example, the FAME Charter School in Fremont, California, had its charter renewed for five years by the Alameda County Board of Education, despite a State audit that identified dozens of irregularities, including an unusually high salary of over \$336,663 for the school's principal, for whom the school also bought a \$75,000 Mercedes.

These types of abuses are a disservice to children and taxpayers, and they tarnish the achievements of the thousands of good charter schools, like Urban Prep, that play by the rules and provide quality educational opportunities for hundreds of thousands of children.

Authorizers are your partners in assuring charter schools provide more high-quality educational opportunities for children, while playing by the rules and serving the public interest. Authorizers who follow professional standards set by my organization are more likely to thoroughly evaluate proposals for new schools, approving good proposals and denying weak proposals. They are also more likely to provide proper oversight that respects the autonomy of charter schools while holding them accountable for results.

Yet, for many years the role of authorizers in the charter school sector has not been understood, nor supported by policy makers. Over the past 15 years, the Federal Government has allocated \$2,000,000,000 to support the creation of new charter schools. During that same time, less than \$2,000,000, or only one-tenth of one percent, has been invested to ensure that the schools are held to high standards and properly monitored by a competent authorizing agency.

Last year, you began to remedy this lack of Federal support for quality oversight thanks to the leadership of this Committee that I mentioned earlier. In fiscal year 2011, I urge you to continue that leadership by allocating \$5,000,000 directly for quality authorizing so that many more children have that opportunity, like the boys at Urban Prep Academy, to attend a great school that prepares them to go to college and succeed in life.

Thank you.

[Written statement by Greg Richmond follows:]



Testimony before the House Appropriations
Subcommittee on Labor, Health and Human Services, Education,
and Related Agencies

Education Priorities/ESEA Reauthorization

Greg Richmond
President & CEO
National Association of Charter School Authorizers

March 17, 2010

Testimony of Greg Richmond
President & CEO of the National Association of Charter School Authorizers

To the House Appropriations Subcommittee on Labor, Health and Human Services,
Education, and Related Agencies

Education Priorities/ESEA Reauthorization

March 17, 2010

Good Morning Chairman Obey, Ranking Member Tiahrt, and Members of the Subcommittee. Thank you for inviting me to speak with you today. I am Greg Richmond, President and CEO of the National Association of Charter School Authorizers (NACSA).

NACSA is a membership organization, not of charter schools, but of the agencies that oversee charter schools. We work with our member agencies to grow the number of high-quality charter schools across the nation by setting professional standards and providing technical assistance directly to authorizers.

Allow me to show you this picture that appeared earlier this month in the Chicago Tribune, under the headline, "Every Urban Prep Senior is College-Bound. One hundred percent of first senior class at all male, all African-American Englewood Academy is accepted to universities."

Take a moment to look at the joy in the faces of these boys, all admitted to Urban Prep by lottery. Imagine the pride of their mothers, fathers and grandparents. Tim King, the founder of this charter school that opened less than four years ago, says, "There were those who said you can't defy the data. Black boys are killed. Black boys drop out of high school. Black boys go to jail. Black boys don't go to college. They were wrong."



One hundred percent of graduates admitted to college would be a terrific achievement for any school in America, but in the inner-city of Chicago, this achievement is truly remarkable.

But it should not be remarkable, it should be the norm. All children – white, black and brown – in every community in America should be able to attend a school that prepares them to go to college and to succeed in life.

This Committee has the ability to make this type of opportunity available to millions more students, by acting boldly in support of federal efforts to expand educational opportunities and by demanding results. To that end, I urge you to continue to support the start-up of new charter schools and to include provisions that promote quality as you do so.

This boldness was evident in Fiscal Year 2010, when the Committee appropriated \$256 million, \$40 million above 2009, to support the start-up of over 1,300 new charter schools. The 2010 appropriations bill also included new accountability measures, supported by my association, to ensure that new charter schools are held accountable.

I would like to thank you, Chairman Obey and Congressman Tiahrt for your leadership which ensured that these new accountability measures were included in the final bill.

In the Administration's proposed reauthorization of ESEA, we enthusiastically support the proposal to expand the range and quality of educational choices available to students by increasing the number of high-performing charter schools. We also know that public oversight of charter schools is highly variable across the country, leading to excellent charter schools in some communities and unacceptably weak charter schools in others. Any federal effort to increase the number of charter schools should be accompanied by an equal effort to ensure quality oversight that maintains high standards, preserves school-level autonomy, and safeguards student and public interests.

To that end, we recommend that Congress explicitly reserve at least \$5 million in FY2011 for the purpose of improving oversight of charter schools which will ensure that federal funds are supporting only quality schools. Additionally, we would recommend that language in last year's bill outlining three key quality control standards – contracts, audits and accountability for student performance – be repeated again this year.

My members, the agencies that oversee charter schools, recognize that there is nothing automatic about being a charter school. For every Urban Prep success story, there may be another school with weak academic results or poor financial management. These poorly performing charter schools need to be held accountable. Yet all too often, oversight of these schools is weak and poorly performing charter schools are allowed to stay open.

Just last week, for example, the FAME Charter School in Fremont, California had its charter renewed for five years by the Alameda County Board of Education, despite a state audit that identified dozens of irregularities, including an unusually high salary of \$336,663 for the school's principal, for whom the school also bought a \$75,000 Mercedes.

These types of abuses are a disservice to children and taxpayers and they tarnish the achievements of the thousands of good charter schools, like Urban Prep, that play by the rules and provide quality educational opportunities for hundreds of thousands of children.

Authorizers are your partners in assuring charter schools provide more high-quality educational opportunities for children, while playing by the rules and serving the public interest. Authorizers who follow professional standards set by my organization are more likely to thoroughly evaluate proposals for new schools, approving good proposals and denying weak proposals. They are also more likely to provide proper oversight that respects the autonomy of charter schools while holding them accountable for results.

Yet for many years, the role of authorizers in the charter school sector has not been understood nor supported by policy makers. Over the past fifteen years, the federal government has allocated \$2 billion to support the creation of new charter schools. During that same time, less than \$2 million, or only one-tenth of one percent, has been invested to ensure that those schools are held to high standards and properly monitored by a competent authorizing agency.

Last year, you began to remedy this lack of federal support for quality oversight, thanks to the leadership of this Committee that I mentioned earlier. In FY 2011, I urge you to continue that leadership by allocating \$5 million directly for quality authorizing so that many more children have the opportunity, like the boys at Urban Prep Academy, to attend a great school that prepares them to go to college and to succeed in life.

Thank you.

Mr. OBEY. Thank you.

I think we

Mr. OBEY. Okay, this job would be great if we did not have to interrupt it to go vote.

Mr. Wilhoit, why do you not go next?

Mr. WILHOIT. Chairman Obey and Ranking Member Tiahrt, it is my pleasure to be a member on this panel this morning, and I thank you on behalf of the Chief State School Officers across the Country who are the State-to-public officials representing elementary and secondary education in the States and D.C. Department of Defense and the five extra State jurisdictions.

My remarks this morning are focused on what I think is an emerging potential that exists between the Federal Government and the States to advance education in this Country, and also to address what we think are some targeted areas where the Federal Government could enhance education development across the Country.

First, though, I want to echo Dan Domenech's respect and admiration for and thanks for the Recovery Act funds. It has shored up disastrous situations in States. Teachers are now teaching that would not have been teaching; programs are underway that are essential for children that would not have been. So we appreciate that help. Again, we are supportive of the House action to continue some funding under this next fiscal year, if possible, the \$23,000,000,000 appropriation that has gone through the House.

Your commitment to Title I and to IDEA, as well as some of the reform initiatives, sort of set a context for my comments. You were able to shore up—the programs have stabilized education in our history.

But you also put some resources in some new programs that have shown some real promise, things like the Longitudinal Data Systems that build State capacity for transparency and reporting; the issues around Race to the Top, where we have some innovation occurring in the States; the Teacher Incentive Fund. Those are areas where we are beginning to see some real excitement and energy around them. So you have stabilized and continued some State funding, but you have spurred some innovation out there that is beginning to take place.

Our budgets are still tight. Our projections are for increased difficulties in the next fiscal year, so we need this continued support.

I would just say that as we look forward, though, we get through this crisis and we move ahead, we really do believe that American education is experiencing some really significant reflection and transformation. I hope you can sense that. I hope you can have witness to some of the actions that are occurring in the States. First, States are stepping forward and ratcheting up their standards and assessment policies. We are beginning now to put data systems in place that are much more coherent and thoughtful and robust than we had in the past so that teachers in the classroom, administrators can make better decisions, and that we at the State level can inform policy.

We are talking about new forms of individualizing and supporting education that we have not talked about in the past and we are opening up better support systems for educators. An exam-

ple of that is the National Governors Association and our association combining on an effort for developing common core State standards which are, for the first time, States are coming together across the Country in agreement about what students should know and be able to do. I think the Race to the Top, we had 41 States. And knowing that this can be highly competitive, yet interested in stepping back, reflecting on who they are and what they have done and what they might do in the future; developing road maps for innovation.

So this idea of hopefully, in the future, of ESEA policy and funding that would support both innovation and continuation of the good models that we have had is something that we are really interested in supporting.

We think that, as we move forward, there are some critical needs. We need to change. We need to improve in public education. We are not getting done what our public expects of us. We are not delivering as we should. We all know that on this panel. There is a commitment, but it will take a concerted effort around better technical assistance to our districts and capacity-building for those districts; higher quality professional support for our teachers; better information systems and research around what we are doing so that we can make adjustments as we move ahead; and really, most importantly, more aggressive interventions with these lowest performing schools that we have continuing in many of our districts.

So we are really pleased with some of the recent efforts around support for these, particularly the Longitudinal Data Systems, the School Improvement Grants, are good examples of the kinds of policies that are helping the States move aggressively forward.

We think a greater investment is needed, and I just mentioned three of them: one, in the area of student assessments. We appreciate the \$400,000,000 program you have for assisting States to develop assessments. We know those assessments must improve in the future; they have to be better indicators of student progress. We have to expand our work beyond the summit of assessments. We have to move beyond the multiple choice kinds of decisions that we are making. A good partnership between States and the Federal Government there could be very helpful.

We appreciate the \$350,000,000 Race to the Top fund that would get us started with innovation, but we need greater support as we move ahead.

Secondly, the School Improvement Fund would focus a lot of attention on these lowest performing schools and help States and Federal Government move together.

And then, third, we request that you not step aside from ESEA and IDEA. These are critical programs for us. At the same time, we think these innovative programs need to be complimenting those.

Finally, I would just say that we are supportive of the Department's proposal for consolidation into these 11 strands programs. Moving from sixty-some programs to 11 makes sense. We are not losing the integrity of those. We are not backing away from accountability. We think that States could better allocate our Federal resources. We could reduce some major repetitive actions in the States, and we would be held more accountable.

We think a part of that means that you all need to be very clear as we move toward these kinds of consolidation programs that you state the purposes very clearly. We are ready to lead on those. We are ready to be held accountable.

Thank you.

Mr. OBEY. Thank you.

[Written Statement by Gene Wilhoit follows:]



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**Testimony of Gene Wilhoit, Executive Director, Council of Chief State School Officers
 before the House Appropriations Committee, Subcommittee on Labor, Health and Human
 Services, Education, and Related Agencies**

March 17, 2010

Chairman Obey, Ranking Member Tiahrt, Members of the Committee, thank you for inviting me to address the subcommittee today about the Fiscal Year 2011 federal education budget. My name is Gene Wilhoit, I am the Executive Director of the Council of Chief State School Officers, a national non-profit organization serving public officials who head departments of elementary and secondary education in all 50 states, the District of Columbia, the Department of Defense Education Activity, and five U.S. extra-state jurisdictions.

Education must be among the highest priority investments for the country. Especially during these difficult budgetary times, the nation must be committed to helping every child achieve his or her full potential by ensuring that all students have access to a high quality education. These investments will not only help individual students and families, but will serve to strengthen the nation's economy over the long term. I intend to focus my remarks today on the critical role State Education Agencies play in developing, implementing and scaling comprehensive, statewide education reforms. I also want to highlight the core federal investments states believe are needed to strengthen the nation's schools, so that all students graduate ready for college and career.

First, however, I want to thank you and reiterate the important role the Recovery Act played this past year in shoring-up state and local education budgets, which kept teachers in the classroom and helped keep longer term education reforms on track for success.

As you know, states and localities continue to struggle with budgetary challenges associated with the severe economic downturn, even as a greater number of American families – and their school age children – need support from their communities, including their public schools. This crisis would be far worse, however, had Congress and the Administration not included significant education funding in the Recovery Act. The federal government's decision to use the Recovery Act to provide additional funding for core programs such as Title I and IDEA – along with the State Fiscal Stabilization Fund – coupled with reform focused programs such as the State Longitudinal Data Systems, Race to the Top, Teacher Incentive Fund and other programs, helped to stabilize distressed state and local education budgets, while also continuing – and spurring – new reforms. In addition, students in every state will benefit from the Recovery Act's increased investment in school improvement, data systems and other key programs.

State and local budgets, however, remain deeply troubled and CCSSO urges Congress to provide additional funding for the coming school year to help maintain teaching and other key positions in the nation's public schools. Fewer teachers in the classroom during the coming school year, will frustrate needed reforms in the nation's persistently lowest performing schools and the

improvements that all schools must make to ensure that all students leave high school ready for college and career. CCSSO strongly supports the \$23 billion approved by the House last year to help school districts avoid layoffs during the coming year and we hope Congress will act soon to approve this critically needed funding.

Looking beyond the current economic crisis, I want you to know that despite the challenges facing the country, American education is experiencing a significant transformation. States are focused like never before on strengthening standards and assessments, improving systems of educator development, developing comprehensive data systems and developing next generation systems of learning. For example, CCSSO and the National Governor's Center for Best Practices are facilitating an historic state led effort to develop a common core of college and work ready standards. And the Race to the Top competition provided chief state school officers from across the country another lever for convening key education stakeholders from around their states to not only develop groundbreaking reforms for the competition, but also develop a education reform "road maps" for their states.

Through these and other reforms, states are working to develop coherent birth-to-20 statewide education systems with clearly defined school, district and state level roles for promoting continuous improvement at levels of education. The Elementary and Secondary Education Act and federal education investments, however, have not kept pace with this changing landscape and we urge you consider the following issues as you develop the Fiscal Year 2011 budget and work with your colleagues to reauthorize ESEA.

As the bold reforms I just described demonstrate, the role of states in promoting and supporting education reform has increased dramatically over the last decade. State Education Agencies now play a central role in supporting school and district improvement; developing and managing longitudinal data systems; improving teacher and leader effectiveness; and promoting higher standards and the use of high quality assessments, among other core areas. In this new framework, States are responsible for not only developing and overseeing sophisticated statewide education systems. They also routinely provide critically needed guidance and other supports including: (1) targeted technical assistance to build sustainable district capacity for promoting continuous school improvement; (2) high quality professional development tied to statewide professional standards and evaluation systems; (3) longitudinal and instructional data supports, including key research; and (4) direct supports and intervention for school turn-around when districts lack the capacity to improve their schools independently.

These are just a few examples of the important role SEAs are playing across the country, which current federal investments do not always sufficiently support. Recent increases in the School Improvement Grants program, and longitudinal data systems grant program were a major step forward toward helping states develop the robust capacity needed to ensure that all states are able to effectively support federal initiatives designed to improve under performing schools and ensure that all students have access to a high quality education that prepares them for college and career. Greater state level investment, however, is needed.

One major area of under investment by the federal government at the state level is for student assessment. The federal State Assessments program has provided just over \$400 million a year

to help states implement the annual testing required by No Child Left Behind. Although significant, this funding is insufficient to develop the types of high quality summative assessments needed to assess student progress and it falls far short of the investment needed to develop better formative and interim assessments, which are needed to inform classroom practice and better tailor instruction to meet individual student needs. States appreciate the \$350 million set aside by the Department of Education for the Race to the Top assessment competition, which has already promoted the development of six national assessment collaborative that are working jointly to propose exciting new assessment systems. States are ready to lead in the development of the next generation of assessments, but increased, and long term, funding is needed to ensure that states are able to develop, implement and sustain the high quality assessment systems we know are needed to move all students toward college and career readiness.

Another area of federal under investment in states is in school improvement. The Elementary and Secondary Education Act requires all states to develop statewide school improvement plans and as described above states now play a central role in providing technical assistance and other supports to struggling districts and schools and in some cases SEAs are directly intervening in state's persistently lowest achieving schools. These intensive state level supports and interventions are needed if the country is going to reform it's dropout factories, but additional resources must be provided to ensure that all states have a robust capacity to meet their obligations under the ESEA to support school improvement.

In addition to the programs I just mentioned, state education agencies respectively urge Congress to increase funding for ESEA Title I, IDEA, the State Longitudinal Data Systems program, the Enhancing Education Through Technology program, teacher and leader effectiveness programs, as well as Head Start and Early Head Start. These investments are needed to ensure that all students, regardless of income, race, special needs, or other characteristics, are receiving a high quality education that prepares them for later success.

Lastly, I would like to comment on the Department of Education's proposal to consolidate programs into a eleven more coherent funding streams and provide states with greater flexibility to target resources toward their greatest areas of need. CCSSO strongly supports the flexibility and greater coherence proposed by the Department. This change will enable states to better allocate federal resources, help eliminate redundant reporting, and focus funding where it is needed. However, any consolidation approved as part of ESEA reauthorization must include several key safe guards. First, while a strong mix of competitive programs are vitally important, the equitable and reliable funding offered by formula programs is also needed to ensure that reforms can be successfully implemented nationally at the state, district and local levels and to ensure that small and rural states are not under-funded. Second, any consolidation should ensure that new funding streams specify clear objectives. The Secretary has said "tight on ends, loose on means" and we believe this approach should be embedded in any consolidation considered by Congress through ESEA reauthorization. Lastly, consolidation must, as I mentioned before, ensure that sufficient resources are allocated to build state capacity for promoting and sustaining reform.

Thank you again for inviting me to testify before the subcommittee today. I look forward to answering your questions.

Mr. OBEY. Ms. Weingarten.

Ms. WEINGARTEN. Thank you, Chairman Obey. Thank you, Ranking Member Tiahrt. Thank you, former member of the AFT, Mr. Honda. I want to thank profoundly Chairman Obey for both your leadership on moving the Recovery Act last year and your commitment to move the jobs bill this year.

My colleagues have both talked about it, but ultimately, as a result of ARRA, more than 325,000 teachers, professors, and other education staff who were in danger of being laid off are educating our students in our schools nationwide. ARRA funding has enabled schools to continue providing education opportunity and stability to children who are in the midst of this economic turbulence that is still swirling around them and, in addition, thousands of essential State and local public employees whose jobs were also at risk are still delivering critical services in their communities. And I do not think that there has been enough thanks about the stability that you and the President provided, the Congress and the President provided in the worst of all times.

We also want to thank you for really pushing on the Jobs Act, because now, with the Recovery Act winding down, States are facing an additional budget gap of up to \$180,000,000,000 next year; and unlike—I think I may disagree respectfully with my colleague from the Chiefs, because what we are seeing is massive State budget cuts could threaten and undermine all the good work that the Recovery Act has done to strengthen and improve our public schools and to save jobs. Let me give you a couple of examples that have happened in the last few days.

California. There are over 23,000 pink slips that were mailed to educators statewide on Monday, including nearly 2300 teachers in LA and about 900 teachers in San Francisco.

New York State is considering eliminating a wide range of Regents examinations, which is New York's traditional measure of high school student achievement. So at the same time as we are trying to raise standards, New York is going to pull out those world-class standards that it has because of monetary issues.

Our locals are reporting that districts are attempting to reduce the number of school personnel, including paraprofessionals working with students with disabilities, in order to avoid paying for the services that those students need. So, for example, a child with Downs Syndrome or another disability will not stop needing assistance from a para or from a trained special educator.

You know about the hundreds of districts that are now reporting contemplating four-day work weeks. You know these kinds of stories are coming in all across the Nation.

We need the help. Forget about us for a second. The kids, our kids need the help. They do not get to be five years old twice. They need the help from their educators, and the crunch time is now.

So I again thank you profoundly for trying to push on the jobs bill, and we are making the same case as we are today in the Senate.

In terms—

Mr. OBEY. Where? [Laughter.]

Ms. WEINGARTEN. You know, that other house.

Mr. OBEY. Oh, yes. Oh, yes.

Ms. WEINGARTEN. As a former history teacher. [Laughter.]

Ms. WEINGARTEN. But similar to the funding provided by the Recovery Act, there are many things to applaud in President Obama's proposed budget, including the increased funding for childcare assistance for Head Start and the maximum Pell Grant. But just as my colleagues have said, we are concerned about some of the policy implications attached to the budget proposal, and let me just talk about two very quickly.

Number one—and Dan Domenech said this already—Title I needs to be a formula-driven program. We believe that Title I funding should not be based on the outcomes of political fights at the State level; it should be based simply on what is needed to ensure that students are well prepared for college, work, and life. And, as a result, it should also not be based upon how well a district can write a grant. We need it to be formula-driven. Again, not us, but our kids.

And let me just end with a few points about SIG, which is what we are very, very concerned about. Ultimately, it is very good news that the budget proposal proposes a significant increase in funding for the School Improvement Grants for our lowest performing schools. But, at the same time, we are concerned that it has focused SIG use only a rigid, narrow list of unproven options.

The bottom line, as Gene Wilhoit has said, we all need to change. Our schools need to change. But no single factor causes a school to struggle. Rather, it is a combination of factors. And, bottom line our struggling schools need a line curriculum; standards and assessments; workable strategies for teacher recruitment, induction retention and professional development; differentiated instruction; extended learning and enrichment time; family and community engagement; and community schools in which the services that children and their families need are provided in a school building.

I end on that point because I have watched and I have engaged in school turnaround. But it is not simple stuff. It takes proven programs and money, and people working together to do it. We are willing to do it. We need the help to get that done. Thank you.

Mr. OBEY. Thank you.

[Written statement by Randi Weingarten follows:]

**Testimony of Randi Weingarten,
President, American Federation of Teachers,
Before the House Appropriations Subcommittee on
Labor, Health and Human Services, Education, and Related Agencies**

March 17, 2010

Chairman Obey, Ranking Member Tiahrt, and subcommittee members, I am Randi Weingarten, president of the American Federation of Teachers (AFT). Thank you for inviting me to testify on President Obama's FY 2011 budget. Before I begin, I would also like to say hello to a fellow New Yorker, Rep. Nita Lowey and Rep. Mike Honda, a former AFT member.

On behalf of the AFT's more than 1.4 million members, I want to thank Chairman Obey for his leadership last year in moving the American Recovery and Reinvestment Act (ARRA) and, more recently, for his invaluable commitment to moving a jobs bill in the House of Representatives.

Enacted in the midst of the deepest recession since the Great Depression, the law was instrumental in helping stabilize a rapidly declining economy. One year later, we can say with certainty that the Recovery Act has provided a lifeline where none existed and has helped mitigate some of the most harmful effects of the recession on our nation's most vulnerable citizens.

President Obama and this Congress understood the link between a strong economy and a strong education in designating more than \$90 billion for education in the Recovery Act.

As a result of ARRA, more than 325,000 teachers, professors and other education staff, who were in danger of being laid off, are educating our students today in schools nationwide. ARRA funding has enabled schools to continue providing educational opportunity and stability to children in the midst of the economic turbulence swirling around them. In addition, thousands of essential state and local public employees whose jobs also were at risk are still delivering critical services in their communities.

Now, with Recovery Act funds winding down, states face additional budget gaps of up to \$180 billion next year. Massive state budget cuts could threaten and undermine all the good work that the Recovery Act has done to strengthen and improve our public schools and to save jobs.

Budget cuts of the type being contemplated by many state legislatures and municipalities will have a devastating effect on students, especially those whose families have been hit hardest by the recession. Kids don't have a second chance at a good education.

We greatly appreciate the U.S. House of Representatives' efforts to stem this by continuing to protect vital education services as demonstrated by passage of the Jobs for Main Street bill last December and the recent introduction of the Local Jobs for America Act, which will support 250,000 education jobs. These bills are built on the principle that failure to preserve and create jobs endangers our economic progress, putting at risk any sustainable recovery. We hope the Senate will follow the leadership exhibited by the House of Representatives.

Yet, in the absence of immediate assistance, state and local governments looking to bridge looming budget gaps are contemplating decisions that have harmful long-term results. For example:

- New York is considering eliminating a wide range of Regents examinations, New York's traditional measure of high school student achievement. This has the potential to lower, if not destroy, the high standards set for the students of New York state.
- Illinois Gov. Pat Quinn is planning to fill the largest deficit in that state's history with severe cuts in education; 17,000 teachers could lose their jobs in the face of a \$13 billion deficit in the upcoming budget year.
- According to the Education Commission of the States, more than 100 districts currently use a four-day school week to save operating expenses. Dozens of other districts are considering making this change.
- We have received calls from our union locals suggesting that districts are attempting to reduce the number of school personnel, including paraprofessionals working with students with disabilities, in order to avoid paying for the services these students need. While this may save money, a child with Down syndrome or with physical or mental or emotional disabilities will not stop needing assistance from a paraprofessional or a trained special educator.
- In San Francisco, nearly 900 teachers, paraprofessionals and administrators have received layoff notices made necessary by the district's need to brace for a \$113 million shortfall over the next two years.

Similar to the funding provided by the Recovery Act, there are many things to applaud in President Obama's proposed budget, including increased funding for child care assistance, Head Start and the maximum Pell Grant.

But we are concerned about some of the policy implications that are attached to the budget proposal.

For example, ESEA funding historically has been used to even the playing field for school districts serving high numbers of disadvantaged students. Given the fiscal crises facing the states for the upcoming school year, we are concerned that virtually all of the proposed increase is for competitive grants, while Title I—the lifeblood for our most disadvantaged children—is flat-funded.

A child's education should not be based upon how well adults write grant applications.

We believe that Title I, Teacher Quality State Grants, IDEA and Title III all deserve significant formula-based increases, in addition to any funds provided for competitive grants.

Furthermore, the U.S. Department of Education has indicated that it would like to make Title I funding to states contingent upon meeting a number of requirements. So far, the requirements it has announced include adopting common standards and implementing teacher evaluation systems. We strongly believe in both—but conditioning funds intended and needed for the education of disadvantaged children is not the way to implement long-term systemic goals that should apply to everyone.

Just as a child's education should not be based on how well adults write grant applications, Title I funding should not be based on the outcome of political fights at the state level. It should be based simply on what is needed to ensure that students are well-prepared for college, work and life.

On a positive note, we were pleased to see that the budget proposal includes language that any educator-related performance-based pay system should be developed with input from teachers and school leaders. The budget also invests in more programs that can be used for wraparound supports for students, and it allows for extended learning time and community schools—ideas we have championed because we know they help disadvantaged children receive the assistance they need to succeed in the classroom. Similarly, the budget proposes a significant increase in funding for School Improvement Grants (SIG) for our lowest-performing schools.

As with all policy, however, the devil is in the details, and we are concerned that the department has proposed only allowing SIG funds to be used for a rigid, narrow list of unproven options that educators and school districts can use to undertake reform and spur increased student achievement.

This fact is incontrovertible: Our lowest-performing schools require immediate attention, and they must change their current practices. The status quo in these schools is unacceptable. Each day that they do not improve is a day lost to the students who attend them and the teachers who work in them. But we can't fire our way to an improved education system, and we can't wish our way to it. It will require research-based solutions that are well implemented, as well as consistency and shared responsibility on the part of all stakeholders.

To this end, SIG funds should be allowed to be directed toward a fifth allowable model that permits a school to use research-based approaches that meet the specific needs of the students in that school. As should be clear from my testimony, the AFT believes that any SIG model will only be successful if the voices of educators are incorporated during the design and selection of a turnaround model, as well as during its implementation.

No single factor causes a school to struggle; rather, it is a combination of factors. Likewise, low-performing schools will not be successfully turned around by a single intervention. Their needs are more dynamic and consequently require multiple interventions, including focused academic instruction, real and reliable shared accountability, the use of proven and research-based programs and strategies, strong and collaborative leadership, and a commitment to working with the community whose children attend the schools.

Specifically, struggling schools need aligned curriculum, standards and assessments; workable strategies for teacher recruitment, induction, retention and professional development; differentiated instruction; extended learning and enrichment time; family and community engagement; and community schools, in which the services that children and their families need are provided in the school building.

We request that this committee ask the tough questions about the proposals made in this budget—the most direct and important one being: Will they work? Will they help students and teachers succeed by providing them with the tools they need? Will they require responsibility from all—not just from teachers? Will they lead us to a vote on a bill that we all can support and pass and see well-implemented—or are they the start of another season of dissatisfaction on the bumpy road to reauthorization?

Teachers are willing to go the extra mile to help students succeed, but they need the tools, time and support to do their jobs well.

As a recent survey by Scholastic Inc. and the Bill & Melinda Gates Foundation shows, teachers feel strongly that they must be real partners with school leadership in designing improvement plans. That is why the single most important work for us to do is change the labor-management relationship in schools, so that all the adults, working together, are focused on student needs.

Teachers know how to make genuine education progress. We just need to listen to them and provide strong and supportive school leadership, common standards across the states, multiple ways to measure teachers' teaching and student learning, and a bridge between the school and children's homes to raise student achievement.

But perhaps most important, the survey found that nearly all teachers say that non-monetary rewards, such as supportive leadership and collaborative working environments, are the most important factors in retaining good teachers; just 8 percent say pay-for-performance plans are absolutely essential.

I ask you to remember these findings as you evaluate the funding increases and cuts proposed by the administration.

Similarly, I respectfully ask you to move forward carefully and allow the authorizing committees to complete their work, before attempting to interpret and implement the policy proposals hinted at in President Obama's proposed FY 2011 budget.

Thank you again for this opportunity to present the views of the AFT and our 1.4 million members on the president's budget proposal.

Mr. VAN ROEKEL. Thank you, Chairman Obey, Ranking Member Tiahrt, and members of the Committee. I am Dennis Van Roekel, President of the National Education Association and 23-year high school math teacher with the honor of representing some 3.2 million people who spend their professional life each day in public schools across America, from pre-K to graduate.

Fulfilling the promise and the purpose of public education requires a solid foundation of resources, and, in that respect, the President's budget is a mixed bag. While it correctly reflects an understanding that education fuels our national success and calls for an overall funding increase, those increases will not reach all students, districts, and States.

Historically, thanks to the leadership of this Committee, funding increases have always gone to formula-based programs, so that all students and staff and States benefit. Now more than ever, from both an educational and a jobs perspective, this needs to continue. And that is why, as my colleagues on the panel have mentioned, the trend toward competitive grants is very troublesome.

A dramatic shift away from formula grants can have serious consequences in this economy. Providing certainty to States and local school districts is a must in these times of incredibly difficult fiscal environment. The funding levels proposed for core programs like Title I and IDEA are less than what is necessary. Poverty is still very much an issue in this Country, and we have schools that lack the resources, committed and effective leadership, and enough great teachers and education support professionals to deliver what every student needs. Federal Government must be engaged in these issues starting by fully funding Title I and IDEA.

I also want to take an opportunity to address the Administration's blueprint for ESEA reauthorization. We know that Congress is eager to right the wrongs of No Child Left Behind, and no one could be more eager than America's educators. For the last 10 years, each and every day their professional lives have been impacted by that law. But they cannot support the blueprint in its current form.

The blueprint calls for prescriptions before the actual problems are diagnosed, even though struggling schools need a wide range of targeted actions to ensure that every student succeeds. The blueprint leaves out students' first teacher, their parents. In fact, the President's budget would eliminate funding for the Parent Information Resource Center, the only Federal program dedicated to increasing family engagement. Without this funding stream, parent education and outreach programs in low-income and Title I communities would be lost.

The blueprint also continues the narrow focus on tests, these narrow do-or-die high-stakes tests. We know the results of these current tests: it is narrow the curriculum. We have seen elimination of programs that should be there, and we have seen the kind of educational practice that we know is wrong for students. They ignore those who are already proficient; they ignore those that are a long ways away, and tend to focus on the golden band, as one principal called it, of those just below proficiency.

It also fails to address the current rules that undermine local decisionmaking around school improvement models. As we look at the

lowest performing schools, 50 percent are in urban, 20 percent suburban, and 30 percent in rural. And when you look at the four models, the first three do not apply to a rural area at all. I grew up in one of those small towns of 1700. You could not close my high school and go to another one; it was the only one that was there. And we need to have models that work for all. And to think that the current system only allows one alternative for 30 percent of those impacted just does not seem right.

Finally, the blueprint makes a faulty connection between tests and teacher evaluation and compensation. On the one hand, we say we do not want to micro-manage; we want more flexibility. Tight on goals, loose on means. And yet it mandates more to than 15,000 school districts how to evaluate and pay their employees. I cannot imagine Federal funds going to a State or to a mayor with strings attached that say and this is how you will pay your employees in order to get the resources.

We are sharing this movement broadly with our members to ensure that this reauthorization reflects their voices, and we look forward to engaging with Congress as we continue to do this.

Finally, I mentioned the need for additional investment education jobs. The American Recovery and Reinvestment Act, as Randi mentioned, created more than 300,000 education jobs that would have been gone. But more needs to be done. Incredible layoffs and program cuts are facing across the Country. North Carolina, 6,000; Randi mentioned California, more than 20,000; Indiana up to 5,000. And I think what is most important is when all of those tens of thousands of adults leave, there is not one less child who needs a healthy breakfast or lunch, who needs a clean and healthy environment, or needs a caring adult.

And I would just add my thanks to the tremendous work of the House in passing the Jobs for Main Street Act, especially to you, Chairman Obey, for your work.

So the road to our economic stability and prosperity as a Nation runs through America's public schools, and every student deserves the best we can offer, and I hope we deliver right now. Thank you very much.

[Written statement by Dennis Van Roekel follows:]



Great Public Schools for Every Student

STATEMENT OF

DENNIS VAN ROEKEL
PRESIDENT,
NATIONAL EDUCATION ASSOCIATION

BEFORE THE
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON LABOR-HHS-EDUCATION-RELATED AGENCIES

U.S. HOUSE OF REPRESENTATIVES

ON

EDUCATION AND THE FISCAL YEAR 2011 BUDGET

SUBMITTED ON MARCH 15, 2010
FOR HEARING ON MARCH 17, 2010

Chairman Obey, Ranking Member Tiahrt, and members of the Committee, thank you for the opportunity to speak with you today about education funding for fiscal year 2011.

As a 23-year veteran classroom math teacher, I have the great honor of being here today representing 3.2 million members who all believe in the power of education to transform lives. NEA members include teachers and education support professionals, higher education faculty and staff, Department of Defense schools' educators, students in colleges of teacher education, and retired educators across the country.

My testimony today will touch upon the President's budget proposal and strategic investments the federal government can make to maximize student achievement, ensure every student the opportunity to excel, and jumpstart the economy. In particular, I will address overall funding levels, investment in core programs such as IDEA and Title I, innovation, and the role of competitive versus formula grants. I will also discuss the need for investment in education jobs to jump start local economies and keep schools fully staffed with teachers and education support professionals at a time when many students and families are experiencing great stress. Overall, we agree with the President about the need for additional investments in education. However, we must raise a red flag concerning the proposed shift away from formula grants and toward competitive grants – a shift that will cause great instability among states already struggling with budget crises. I will address this issue further later in this testimony.

The public education system is critical to democracy. Its purpose is to:

- Maximize the achievement, skills, opportunities and potential of all students by promoting their strengths and addressing their needs; and
- Ensure all students are prepared to thrive in a democratic society and diverse changing world as knowledgeable, creative and engaged citizens and lifelong learners.

However, today, students' success in school depends in large part on the zip code where they live and the educators to whom they are assigned. We must address these opportunity gaps if we are to strengthen our economy, prepare our students to compete, and build the educated workforce necessary for the 21st Century.

We have an interdependent, rapidly changing world, and our public school system must adapt to the needs of the new global economy. Every student will need to graduate from high school, pursue postsecondary educational options, and focus on a lifetime of learning because many of tomorrow's jobs have not even been conceived of today. Our public schools need a wholesale transformation with the resources to match our commitment. We cannot leave a generation of students behind by continuing to deny them the best education this country has to offer.

Fiscal Year 2011 Budget

Overall investment in Education

The President's budget request for 2011 includes a significant increase in funding for education -- reflecting an understanding that education fuels success for our students and for our nation. Research shows an inextricable link between investment in education and economic strength (See attached "Education as an Economic Driver"). We are encouraged that, while the budget proposal freezes the overall level of discretionary spending (apart from national security and mandatory

entitlements such as Social Security, Medicare and Medicaid), education receives a 7.5 percent increase, or approximately \$3.5 billion.

We believe Congress should, in its Budget Resolution, provide for at least the increase in education called for by the President. The President and Congress have demonstrated their commitment to children and our nation's future with recent historic investments in education. The President's budget plan demonstrates our mutual beliefs that a country that makes education a priority is bound for economic success.

We support the President's effort to make college more affordable for more Americans, and the proposed investments in early childhood education. We commend the House for passing the Student Aid and Fiscal Responsibility Act (SAFRA), which will provide significant investments for both post-secondary education and early childhood learning as well as resources for K-12 school modernization. We hope the Senate will move quickly to pass this landmark legislation.

Higher Education

We thank the House and Administration for focusing on the need for investments, expansion, and improvement in post-secondary education. This focus, which will help augment student access, persistence, and success in higher education, is essential to our nation's economic stability. Simply put, investing in postsecondary education helps ensure the well-educated citizenry so essential to our nation's future well-being. Economic independence and the ability to prosper financially are linked to educational attainment, as evidenced by decades of data. While the link between education and earnings has long been established, the gap in earnings for people with differing levels of education has grown in recent years. In 1980, full-time workers (ages 25-34) with a bachelor's degree or higher earned on average 1.25 times more than those with only a high-school diploma; by 2006, this ratio had increased to 1.7. With each year of postsecondary education completed, earnings tend to increase.

At a time when a college education has become even more important, students and their families are scrambling to pay for it. With the President's proposal, relief may be in sight for people struggling to repay student loans. NEA supports the President's plan to transform the federal student loan program and make college more accessible for a greater number of Americans. We are pleased to see substantial increases in the Pell Grant program in the President's proposal. We must restore the purchasing power of the Pell Grant. When the Pell Grant program was first created, the maximum grant for the poorest students covered 77 percent of the cost of a public four-year college. Today, it covers only 35 percent.

We also applaud the President's efforts to revitalize community colleges, which we know are part of the road to success for many families. We must continue to invest in this valuable resource. To ensure students' needs are met, we hope the Administration follows up with a renewed investment in faculty and staff at colleges and universities.

Early Childhood Education

We also commend the House and the Administration for supporting investments in early childhood learning, particularly the over \$9 billion early childhood investments included in SAFRA. Four decades of research show that high-quality early learning provides the foundation for building a strong workforce for future generations. Children's learning begins well before they enter school,

and the transition to school must be founded on strong school readiness. Quality early childhood education is a key predictor of a child's future educational achievement and emotional development.

We are very pleased that SAFRA makes significant investments in comprehensive, high quality early childhood education. In particular, we support provisions that would:

- Build an effective, qualified, and well-compensated early childhood workforce by supporting providers with degrees in early education and providing ongoing professional development opportunities; and
- Promote parent and family involvement by developing effective outreach strategies.

We are also pleased that the President is proposing to increase funding for Head Start programs that provide education, health, nutrition and parental involvement services to low-income children and their families. The proposed significant increases for Head Start and Early Head Start are projected to continue providing services to the 64,000 additional children and families served through the American Recovery and Reinvestment Act.

Democrats and Republicans have increased state preschool funding by more than \$2 billion and enrollment in state-run pre-k programs has grown by more than 330,000 since 2004. Despite these impressive funding gains, less than 30 percent of the nation's 3- and 4-year-olds are served by publicly funded early education. Worse, almost half a million children from low-income families are among those being left behind. Federal action, such as that in SAFRA, is needed urgently to reinforce states' progress and accelerate the growth of early learning programs. (Fund Early Childhood Education, Susan K. Urahn, Forbes, October 7, 2009.)

Support for Core Programs

Although the President has proposed an overall increase for education, the funding levels proposed for core, foundational programs, such as Title I and IDEA, are considerably less than what is necessary. In 1965, as part of his War on Poverty, President Lyndon Johnson signed the Elementary and Secondary Education Act (ESEA) to reduce inequity by directing resources to poor and minority children and signed the Higher Education Act (HEA) to provide more opportunities and access to postsecondary opportunities for lower and middle-income families. Poverty is still an issue in this country, and unfortunately we still have schools that lack resources, committed and effective leadership, and enough great teachers and education support professionals to reach every student. Schools in struggling communities too often have high dropout rates, and the cycle of poverty continues.

The federal government must be engaged in these issues, and must begin by fully funding programs such as Title I and IDEA – programs that are critical in providing necessary and sustained funds to schools serving disadvantaged students and special populations. We are also calling on Congress to require that states develop “adequacy and equity” plans that would measure and address disparities in educational resources, opportunities, programs, and quality among communities and districts. Additionally, the federal government should reserve a portion of funds to provide intensive support to struggling schools and provide research, assistance and guidance to foster sustainability of high-quality education programs, even in times of economic hardship.

Federal investment in these core programs is particularly critical in this economy. State budgets typically lag any national economic recovery by a year or longer and, as a result, budget gaps will

continue into fiscal year 2011 and beyond. For many states, 2011 will mark the third consecutive year in which budget balancing actions will be needed to close sizable budget gaps.

While the budget proposal calls for a \$250 million increase to the Individuals with Disabilities Education Act (IDEA), it still falls dramatically short of the government's promise to fund IDEA at 40 percent of the excess cost of educating children with special needs. The American Recovery and Reinvestment Act got us closer than ever to meeting the federal government's commitment, but those funding levels are not sustained beyond 2011. IDEA is essential, yet it remains badly underfunded, placing further strain on state and local budgets that already are at historic shortfalls. We strongly urge this committee to increase IDEA funding substantially in 2011 and put us on a path to finally fulfilling the 40 percent pledge.

Innovation

NEA shares the Administration's goal of fostering innovation and reform to close the gaps in achievement and opportunity in our nation's schools. Our members have been part of numerous successful, targeted efforts to create optimal conditions for student learning and to develop and implement successful strategies to turn around struggling schools.

While NEA supports the overarching goals of Race to the Top and its inclusion in the federal budget, the Administration must provide more detailed guidance and clarifications on how the program affects state and local laws, policies and agreements affecting school personnel. We urge the Administration to conduct a comprehensive evaluation of the first phase of Race to the Top with input from national, state and local stakeholders, and make necessary course corrections. In the interim, we recommend the \$1.85 billion proposed for Race to the Top and Investing in Innovation in this budget be directed to Title I, IDEA, and English language learners.

Competitive Vs. Formula Grants

The President's proposed budget shows a decided trend toward more competitive grant programs. When compared to fiscal year 2010, competitively awarded funding in the budget proposal would increase by \$4.9 billion, or 68 percent. State formula-allocated funding would be reduced by \$1.4 billion – or 3.6 percent. Non-formula funds would grow to almost one-fourth of all discretionary funds in 2011 from less than 16 percent in the current year.

We are concerned about the consequences of such a dramatic shift. NEA recognizes the complementary nature of formula and competitive grants. Formula grants provide a solid foundation for the resources needed to ensure a quality education. Competitive grants spur innovation. But, while federal formula grant programs are always important, they have never been more so than in today's difficult economic climate. Providing some level of certainty to states and local school districts through formula-driven federal aid offers stability in an otherwise rapidly deteriorating fiscal environment, particularly for high-need urban schools and small, rural districts.

We would also like to raise a concern regarding the proposed elimination of a funding stream for Parent Information Resource Centers (PIRC). We all know that parents and caregivers are students' first teachers. We need to support their involvement in students' education and encourage their involvement in school activities and plans. PIRCs are the only federal program dedicated to increasing family engagement. The program annually serves 16.4 million parents, primarily within low income and Title I communities, where the achievement gap is the greatest. PIRCs play a key role in implementing or collaborating with other programs to deliver parent training and other

resources to many minority and recent immigrant families. Without this funding stream, parent education and parent outreach programs for these communities could be lost.

Supporting Effective Educators

A growing body of research confirms what school-based personnel have known for years—that the skills and knowledge of teachers and education support professionals (ESPs) are the greatest factor in how well students learn. In turn, the presence of strong and supportive school leaders is one of the most important factors for recruiting and retaining accomplished teachers and ESPs. But for too long, we have neglected the most important factors in ensuring a strong and healthy pipeline of qualified educators. Today, the average person will change jobs between three to five times in a lifetime. Half of all teachers leave the classroom after five years. Fewer schools have experienced educators. As an entire generation of educators enters retirement, there is an urgent need to address all aspects of working in public schools. It is time to elevate the profession.

The federal government must assist states to help seed future generations of educators at the earliest stages of undergraduate education and teacher recruitment all the way through teacher placement and retention. In particular, it is clear that we need a bold new center of excellence to bring prestige to the teaching profession: a national education institute to attract top college graduates and second-career professionals from across the country.

Also, we know that even the best teachers struggle to perform well without the presence of an effective instructional leader. Primarily principals and other administrators, school leaders could include other colleagues who serve as mentors and coaches. Federal policies, therefore, must foster well-prepared and effective administrators as well as leadership skills within school professionals of different ranks and positions. And it is time that we recognize and support education support professionals, without whom no school would be able to succeed.

Finally, we must ensure that great educators exist in every school, whether high- or low-achieving. The federal government must develop policies and provide funding that enables struggling schools and districts to offer incentives and conditions that will attract and retain the best educators in the nation.

The Success of the American Recovery and Reinvestment Act

Federal education funding is a priority, and never more so than now, as the nation moves out of a deep recession, spurred along partly by action taken last year by the White House and Congress to pass the American Recovery and Reinvestment Act. As the U.S. Department of Education has recently reported, more than 300,000 education jobs – teachers, principals, librarians, and counselors – have been directly supported by Recovery Act dollars, along with almost another 100,000 public service positions, including corrections officers, public health personnel, and construction workers. The Congressional Budget Office has noted that the impact goes even further, to include all the jobs that were created or retained indirectly as the stable incomes from Recovery Act-funded jobs boosted demand for products and services.

Last month, Christina Romer, head of President Obama's Council of Economic Advisers, stated that fiscal relief to states under the American Recovery and Reinvestment Act has been "one of the triumphs" and has had "more bite than we would have thought." This observation coming from the CEA Chair affirms the economic value to the nation of this aid and reinforces the need to continue such assistance.

Behind the numbers, however, are the very real impacts on education. For example:

- School district officials in **New York City** told the Government Accountability Office (GAO) that Recovery Act funds helped the city reduce a total education budget gap of nearly \$1.46 billion to \$400 million for the current school year and avoid teacher layoffs.
- In the small, rural school district of **Jasper-Troupsburg in upstate New York**, district officials said they were facing a budget gap of \$250,000. Without the Recovery Act, the district would have been forced to cut teachers' salaries and reduce work hours, as well as lay off 8 to 10 teachers of out of a staff of 60.
- Similarly in **Charlotte-Mecklenburg, North Carolina**, school officials told the GAO that Recovery Act funds enabled the district to compensate for cuts in state and local funds and to retain education jobs.
- Officials at the **Arlington Elementary School District, a rural district in Arizona** comprised of a single school, said that the IDEA Recovery Act funds would help the district add a special education teacher to the one they currently have due to the addition of three new students with disabilities. Without the IDEA Recovery Act funds, the school would have had to draw funds away from general education needs, which would have meant combining classes and eliminating a position.
- Likewise, in **Weldon City Schools in North Carolina**, officials reported that IDEA Recovery Act funds allowed the district to create teaching and teaching assistant positions for severely emotionally disturbed students. Without these funds, officials said they would have had to lay off two special education staff and would have been unable to provide the intensive support for students with special needs.
- **Montgomery County, Maryland** public schools report that Title I Recovery Act funds enabled them to decrease class sizes, increase reading and math support by maintaining teacher levels, increase support for English for Speakers of Other Languages programs, and expand programs in high demand, including full-day Head Start to promote early childhood education.
- **Conway Public Schools in Arkansas** directed most of its Recovery Act funds to facilities. Some projects have already been completed, such as new light fixtures that are more environmentally friendly and retrofitted HVAC systems, enabling the district to save on future energy costs. Using Title I Recovery Act dollars, the district financed a six-week summer enrichment program that served 125 struggling students in K-4; and the plan is to continue the program for the next two summers serving even more students.¹

In addition, Recovery Act funds were used to mitigate tuition increases at public universities in at least 31 states. The U.S. Department of Education has reported that the University of Massachusetts was able to rebate a \$1,500 fee increase and instead employ the standard annual increase to cover the cost of inflation. At the University of Minnesota, an expected tuition increase was cut by about half. The Minnesota State College and University system, which includes the

¹ Fiscal Stability Allows for Long View on Stimulus, Education Week, February 10, 2010.

state's community colleges, reduced a planned tuition increase from five percent to two percent. In Virginia, Recovery Act funds kept tuition increases to the lowest rate since 2002.

The Need for Additional Investments in Education Jobs

What is too often lost in the discussion on the Recovery Act is how much worse the economy and employment picture would have been in its absence. The Economic Policy Institute has documented that the rate of job destruction from the beginning of the recession in December 2007 to the passage of the Recovery Act was 50 percent greater than even the severe recession in the early 1980s. Economists have estimated that without the Recovery Act, the unemployment rate would now exceed 11 percent rather than the current 9.7 percent, a loss of at least another 1.2 million jobs. Of course, an unemployment rate of 9.7 percent is unacceptably high, and more needs to be done to drive it down.

States are now preparing their fiscal year 2011 budgets, and the budget picture is looking bleaker than for the current year. According to the Center on Budget and Policy Priorities, state budget deficits for 2011 are estimated to be \$180 billion. Additional federal aid to the states is urgent, modeled on the Recovery Act's State Fiscal Stabilization Fund, but targeted to jobs exclusively. Absent such aid, greater spending cuts and higher taxes and fees will result and will be a drag on the economy at the worst time. This could lead to a double-dip recession, leaving permanent scars on the economy for years to come. We have received many first hand-reports from our affiliates about the devastation facing public education in the next budget cycle:

- **Kansas** is facing an \$85 million hole in this year's budget. And, for the 2011 budget, legislators are facing a budget gap of over \$400 million. There is a call in the Kansas House of Representatives to balance the 2011 budget by first taking large cuts to public education while sparing the social safety net and public safety programs. In addition to making more cuts to public education in the allotment process, the Governor minimized those cuts by advancing ARRA funds reserved for 2011 into 2010. This action, while good for now, exacerbates the budget difficulties for 2011. Without either significant movement in the state on the tax and revenue side or additional federal aid, K-12 schools will be facing a 7.1 percent "cliff" at the start of the 2012 school year.
- **Idaho's** Joint Finance-Appropriations Committee (JFAC) has set the FY 11 Public Schools Budget. It represents a \$128.5 million decrease in total revenue over last year, or an average 7.5% cut for any school district that will experience student growth and an 8.5% cut for any school district that will experience a decrease in student population. Many valuable and important programs are on the chopping block for the next school year. Districts who counted on state funding to provide for classroom supplies will have to make tough choices about whether to spend money on those supplies, student transportation, Gifted/Talented teacher training, maintaining health insurance benefits for employees, or a variety of other options.
- **Montana** reports that if the state loses Recovery funds, there is simply no way the university system will be able to recover without massive cuts to instructional budgets. A cut of this magnitude would represent just over 15 percent of all state support for higher education. Tuition would need to rise by roughly 12-16 percent per year to make up for it.
- In **North Carolina**, the General Assembly has already penciled in an additional \$304.7 million "discretionary" cut for local school districts for the 2010-11 academic year. This cut,

combined with the weak classroom protection language used in the budget from 2009, will likely translate into more than 6,000 education jobs lost next year.

- **California** is projecting as many as 20,000 education layoffs due to the budget crisis.
- In **Indiana**, the governor is cutting \$300 million from the current school budget year. Up to 5,000 teacher layoffs are anticipated.

An Education Jobs Fund offers a particularly effective way to jumpstart economic recovery. Saving an education job involves no wait time to draw up contracts or acquire materials. A fund that would extend state stabilization aid will help put more faculty into higher education classrooms, including those at community colleges (where enrollments have increased as much as 40-50 percent), so that students can get the education they need to get back to work. It will also help keep schools fully staffed with pre-k through post-secondary teachers and education support professionals at a time when many students are experiencing great stress. A recent University of California study found that children in families where the head of the household had lost a job were 15 percent more likely to repeat a grade. A January 2010 report from the bipartisan First Focus Campaign for Children found that 1 in 7 children are living with an unemployed parent, nearly a doubling of children in just over two years.

A significant impediment to the nation's economic recovery would be another round of public sector layoffs and cuts in state and local spending on goods and services contracted out to the private sector. School enrollments continue to rise in many parts of the country regardless of the economic climate, which is compounding the effects of reduced state aid for local education budgets. Overall, enrollment for public preK-12 is projected to reach 50 million students in the fall of 2010, or 246,000 more than the prior year.

So far, school districts have been coping by closing schools during breaks, cutting energy costs, changing bus routes, and even shifting to four-day weeks, but the next round of cuts will reach directly into the classroom. The result: more teacher layoffs, larger class sizes, and the elimination of school counselors, music and art classes, extracurricular activities, and summer school programs. Leaving states to cut education more deeply to balance their budgets without additional federal aid is short-sighted. Lessening the quality of education a student receives today as a result may prove irreversible. Long-term productivity growth and a higher standard of living are dependent on an educated workforce.

We commend the House for passing the Jobs for Main Street Act, which includes \$23 billion for an Education Jobs Fund. This critically-important fund will save or create an estimated 250,000 education jobs over the next two years. The bill also included \$4.1 billion to finance school construction, rehabilitation, or repair; and \$300 million for the Federal Work Study program which, along with institutional matching funds, will support 250,000 low- and moderate-income students who work while attending college. Equally important, the bill will help provide stability in the classroom for students across the country. We continue to call on the Senate to move quickly on an Education Jobs Fund.

We also commend Education and Labor Chairman George Miller for introducing a new bill last week that would provide \$75 billion to local communities with grants that can be used to support education and public service jobs. We particularly appreciate that this bill also includes the \$23 billion from the Jobs for Main Street Act, to help save some 250,000 education jobs. We thank

Chairman Miller for taking this opportunity to remind the Congress of the need to act quickly to enact this urgent funding.

Conclusion

Transforming America's public schools is a daunting task. It will take the concerted efforts of all stakeholders and the commitment to continue the effort until every student has access to a great public school. At the core of this effort is ensuring the fiscal stability of the educational system so that the energy of stakeholders can be spent on how best to serve students.

We know the road to economic stability and prosperity runs through our public schools, and we know that every student deserves the best we can offer. It is now time to deliver. NEA stands ready to do its part.

Thank you for the opportunity to provide this testimony.

Mr. OBEY. Thank you.

Mr. Tiahrt.

Mr. TIAHRT. Thank you, Mr. Chairman.

Thank you all for coming to the panel.

Mr. Richmond, I want to thank you for not only talking about the success of charter schools, but the realism that some charter schools have troubles as well; and I appreciate that, that you brought up both sides of it.

There has been research that looks at the performance of charter schools compared to those who attend what is called traditional public schools. Are there any of those lessons those traditional public schools can learn from the charter school industry and the success they have had, keeping in mind that there has been both success and lessons learned in failure?

Mr. RICHMOND. Absolutely. I think from the research studies themselves, but then also just from our practices in the field for the past almost 20 years the charter schools have existed. We are seeing a set of things that are true in charter schools and, frankly, I think they are true for any school, about school quality, the kinds of things that are happening at the Urban Prep school that I mentioned, and it begins with high expectations.

And that cannot just be a slogan, that we have high expectations; it is actually very hard work every day to communicate among all the faculty, all the staff, all the adults, all the children that we actually do expect you to succeed and go on to college.

But then you have to follow that with flexibility at the school level, flexibility that allows those educators in the building to understand what their students need and to deliver an educational program that meets their need; flexibility around time, around curriculum, around budgeting. So that flexibility at the school level for the educators is important.

But then it has to be followed, then, by a measure of success. Not every school is going to be successful, and that is where the measures of school quality, standards. If you want to boil it down to a few phrases, standards and meaningful assessments. But we need to have measures of school quality that let us know which schools are doing well. Let us know as policy makers, but then also let the folks in the schools know if the things they are doing are working.

Those are activities—high expectations, school level flexibility, quality standards and assessments—that you heard talked about at this table, you heard talked about in the blueprint for ESEA, and many of those ideas are ideas that really percolated, in many cases, from charter schools, where charters have been the research and development function that many folks wanted them to be when the idea first came about in the 1990s. So we are seeing those kind of ideas get tested, tried out, and learn and pick the ones that are working.

Mr. TIAHRT. How do you, as authorizers, hold schools accountable like charter schools? How do you hold them accountable? We have talked about No Child Left Behind, and that was an attempt at accountability that I think has been very burdensome through the regulations involved. How do you guys do it?

Mr. RICHMOND. Well, you have to begin with multiple measures of quality. So not just an achievement or a status score, but also

look at gains. So that is an improvement in this blueprint, that we are looking at gains now over time. And for authorizers, we recommend that authorizers also look at a relative comparison: How good is the charter school relative to the other schools the kids would go to?

So if you have those three types of multiple measures, then that starts to inform that authorizing agency about whether that school should be renewed.

Then, frankly, though, you have to be willing to act if a school is a low quality. And I mentioned the school in California that has both academic and financial problems, where that authorizer was not willing to shut down a failing school. And that is a very difficult thing to do; it is not easy. Easy to say; very hard to do. But in order to be successful at this, we have to have the will to do it, and it begins with quality measures of school quality.

Mr. TIAHRT. One of the things that concerns me now—all of you want the kids to get educated and, listening to your testimony, I think everybody mentioned the burdensome regulations that are involved with the process today. If you look at wasted effort, I think we can make a case that some of this regulation is wasted effort; that we have better ways of measuring progress, better ways of administering to see that schools are effectively run.

And at a time when we have overspent by more than \$1,500,000,000,000 last year—this year we are already \$655,000,000,000 behind; we have had to borrow that much money—these five-year-old kids that Ms. Weingarten mentioned, how much are we willing to burden them with future debt in order to carry this out? Should we not be doing this in a most effective means necessary? We want them to be educated. How do we overcome the burdensome regulations that you all have spoken about? How do we make it more streamlined?

Mr. Domenech.

Mr. DOMENECH. Well, to your point, sir, about what lessons have been learned from the successful charter schools, it is exactly that, the flexibility to waive some of the rules and regulations that tend to stand in the way of progress. We see charter schools as a viable option, but we wonder why that flexibility cannot be applied to all of our public schools so that we have the opportunity to be freed.

Mr. TIAHRT. That is my point. How do we—is not that what we should be pursuing? You guys are educators.

I am sorry, I am running over here a little bit, Mr. Chairman, but—

Ms. WEINGARTEN. Part of the reason that we are concerned about conditioning things like professional development, which we know teachers really need, or class size reduction, which we know that kids actually need, to things like teacher evaluations that have not been created yet in a meaningful way, is that all of it looks like the Federal Government is doing a lot more management of schools as opposed to creating a lot more flexibility.

There are times when oversight is important, meaning if we could actually get funds for early childhood education into schools in a real way, then we would actually save a lot more money later on down the line. If kids have early childhood programs, what we

have seen by research is that every \$1.00 spent there saves \$7.00, \$8.00, \$9.00 later on in life.

So—

Mr. TIAHRT. Sorry to interrupt you. I think the concern I have now is that we do not have the funding today. Those are good plans. How do we streamline it today so that we can save enough money to make sure our kids are educated?

Ms. WEINGARTEN. When you actually listen to the voice of teachers in schools and you actually have—one of the things that costs no money whatsoever, sir, is when you create a real collaborative learning environment where the voices of those who actually are on the front lines are listened to, we have seen tremendous school success; and what we see is that they will tell you, if they are empowered to do so, where there is waste.

Mr. WILHOIT. Just three areas of suggestions. First, be cautious in starting new programs and layering them on top of existing programs. It seems like the solution thus far has been let us hold on to everything we have and let us add more on top of it; and a lot of it does not make sense, it is not coherent.

Mr. OBEY. Sounds like our existing health care system.

Mr. WILHOIT. A few parallels here.

In order to do that, you have to know where you are going, you have to know what to hold people account for, you have to do research and development around that.

The second idea, there is not a whole lot of Federal research going into this dynamic learning environment that is out there. We need a lot of those resources, IES resources, targeted to finding best solutions, gleaning from the work that is going on in classrooms and in school districts, and feeding that back to the Nation. We do not have that kind of feedback loop that is enriching. We are not learning from the struggles and gaining from the best models.

The third area is the one I mentioned. You could streamline a lot of the Federal programs by putting them into some consolidated programs. You would not have to eliminate the general purpose of those, but look at the duplication of effort, and the small programs, many of them, end up being a very small amount of money and having limited impact. So, again, I would encourage you to look at those.

Mr. TIAHRT. Thank you, Mr. Chairman.

Mr. OBEY. Mr. Honda.

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

I appreciate the information shared and its impact on budgets and everything else like that, and I appreciate the thoughtfulness of us moving away from No Child Left Behind and to the Race to the Top, and I assume that race to the top means that there are no losers. As school teachers, we always say there are no losers, it is just when you cross that line. So hopefully that is the mind-set that we have when we do this.

I had some questions about charters and stuff like that, but I think I am going to go off on a different tangent, if I may. It may not even be relevant to budget, but bear with me.

A few years ago we, in this Country, went off on a path to equalize education in terms of looking at segregated schools, and we

went through the efforts to determine which schools are segregated and then deemed them segregated schools; and it is an untenable situation to have. And now it seems like after we have gone through them all, in the interim we had IDEA; before that we had ESEA; and prior to that we had this battle of trying to equalize the ADA in different States. Big battles. And this is all, I think, in the name of equity for the children.

What have we learned up to now in terms of addressing equity for the children and what should we be standing back on in order to look at how to approach the basic question, the needs of the child? I would be really interested in what the thoughts are of our stakeholders, knowing that students come to school with only one currency, and that is time. You mentioned that. But we cannot take time and bank it, then withdraw it later, when it is convenient.

So if desegregation was an effort on the civil rights of youngsters, is there a case to be made by stakeholders on behalf of children on their civil rights to access to equity, whether it is a local or Federal level? Is there a way to reshape the paradigm of public education and States' rights or States' responsibility and the Federal Government's responsibility.

The Constitution was written at a time when the Federal Government just began to shape itself, so they said education was a State issue. I just wonder what thoughts may have come to your mind based upon just what I have sort of laid out.

Mr. VAN ROEKEL. Mr. Chairman, may I respond?

Mr. OBEY. Sure.

Mr. VAN ROEKEL. Mr. Honda, I think you raise a very critical point, and I think where we often get into debates and discussions about activities and programs, and I think there is a point that you are making that we have to come back and ask ourselves what is the purpose of public education in America for the 21st century.

I picture a circle and, for convenience, just make it into four quadrants. I think one of those quadrants is about academic achievement, and it ought to be a rich curriculum, with math and science and history and so on. But then another one is the equity of an equal opportunity. That has to be a purpose of public education in America, to provide that opportunity to every single person, student, in America. I think another quadrant has to do with our responsibility as citizens and civics, and that should be part of the purpose of this educational system. And the fourth one I would say would be about the whole child; that I hope we are not just preparing someone to work. I think there is more to the purpose of education, so that, as an adult, they are a citizen, an engaged citizen, but they also know how to balance work, family, faith, community.

And if we get to a consensus and agreement on the purpose of what it is we need as a Nation for public education, I think then the answers become clear about what we need to do. And if equity means that every student has a shot, then we ought to say is that currently available in our State. And if the answer is no, what do we do to make it so. I think it is a question of purpose and common purpose, and working together to make it a reality.

Mr. HONDA. So the answer to the question is?

Mr. VAN ROEKEL. The answer, I believe, is that we have to begin that discussion and say what do we, as policymakers, as parents, as community members, want from our public schools; and build on that. If you do not start with that question, I think it is hard to know which program or which activity is the right one now.

Mr. OBEY. Did you want to say something?

Ms. WEINGARTEN. I would just say a short answer is what both Dan Domenech and I and I think Gene said as well, which is Title I needs—if we are looking at equity, Title I needs to be more robustly funded in a formula way to the kids who need it the most to ensure that they have a level playing field. And that is part of the reason that we are concerned about the competitive grants.

Mr. HONDA. Mr. Chairman, do I still have time?

Mr. OBEY. No, you are done.

Mr. HONDA. Oh, okay.

[Laughter.]

Mr. COLE. Well, I will yield the gentleman a minute if he wanted to respond.

Mr. HONDA. Thank you, Mr. Cole.

So it sounds like there is a need for a national dialogue on the issue of equity and asking that question of ourselves, is there equity. Would the policy be differently shaped if we moved from talking about equal opportunities for all children and say each child has a right to the pursuit of happiness and, in order to achieve equity, would there be a policy difference when you say each child rather than all children?

Mr. WILHOIT. Absolutely. Each individual has a right to a high quality education, and my sense is that, in all respect, we know we do not have that right now. So the real issue for me is how do we wrestle with this as a society and how do we make a commitment to do something about it. And it is going to require an outstanding teacher in front of every child, each child in this Country; it is going to require resources to take that child to a level of education that we are expecting them; it takes, as Dennis was saying, a clear sense of what that goal is for each of those children; and holding ourselves, as adults, accountable for that. And all of those areas need dramatic improvement.

Mr. HONDA. Thank you, Mr. Chairman.

Thank you.

Mr. COLE. Thank you, Mr. Chairman.

I have a couple questions for you, Mr. Richmond, and then just some broader questions I want to put to different members of the panel.

In a lot of places, local schools are effectively the authorizing agents for charter schools. Other places in States, there is a variety of different people that get to authorize whether or not there is going to be a charter school. Is that a good system, bad system? Should we have more uniformity?

Mr. RICHMOND. There are some real weaknesses in how authorizing is structured around the Country, to be honest. So, number one, my organization always believes that it is desirable to allow a local school district to authorize charter schools. We think that that is always an appropriate role for a local school district and a local school board.

But we also have to be honest that many of those organizations do not necessarily have the interest or the capacity to delve into that work. In those situations, then, it is important and it is helpful to have another entity. Oftentimes that is a State level entity, the State Department of Education or a university or a State level board focused just on chartering. So that that level entity can develop the expertise, is interested in doing the work, and can put in place the right practices and the right policies that lead to quality. So we believe that mix is what you want to achieve, and that mix is actually in place in some States, but not in others.

Mr. COLE. Give me an example, because that kind of mix, frankly, somebody has to make the final call.

Mr. RICHMOND. Sure.

Mr. COLE. So where should the final authority rest?

Mr. RICHMOND. An example, Colorado has this system in place right now, and other States. You can go to your local school district. If you are someone who wants to start a charter school, you can go to your local district and they can act on you and approve you to exist. Or you can go to the State charter level board and apply to them.

So we think having both of those avenues is desirable. But we want to make sure, at both levels, that there are some quality practices in place so good schools are being approved and good schools are staying open.

Mr. COLE. This question probably more appropriately goes to Ms. Weingarten and Mr. Van Roekel.

We have had a lot of discussion, we are going to have a lot of discussion about No Child Left Behind, what good, bad. I very seldom hear anything good. But just from your experience, over the time that that program has been implemented, have test scores gone up, down, stayed the same? And, more importantly, from my perspective, has some of the differential between some of the subgroups, particularly disadvantaged groups and the main population, if you will, narrowed? What kind of progress have we made?

Ms. WEINGARTEN. So it very much depends, Congressman, whether you are looking at things like the NAPE schools or whether you are looking at individual assessments that States give. I think that there is a uniform agreement that the individual assessments by States have been varied and have actually been a situation where States may be looking good, but it is a question about whether there has been proficiency for children.

In terms of NAPE, things have gone up incrementally, but not the gallops that I think everybody on this panel would want; and I think that is part of the reason why we are very pleased to be working with—we, the AFT—with the Chiefs and with the NGA on the common standards. And I think Gene will talk about how we have done that with them, because we know we need higher standards so that those standards are aligned to what kids should know and be prepared for to succeed in life, college, and work.

In terms of the achievement gap issue, which is a very serious issue, in some places it has narrowed; in some places it has not, dependent on different States. I think what No Child Left Behind did was, most importantly, it created transparency and it created

a notion of accountability and holding all of us, all of our feet to the fire; and I think that is a good thing.

Mr. COLE. Are you comfortable, in the President's proposals, that those principles remain?

Ms. WEINGARTEN. The difficulty is those—what No Child didn't do for us was that because the accountability system was very rigid and stagnant, the issue that—just to cut to the chase—the issue that we all have is how to build capacity and how to grow capacity so that every child, each child, every child has an opportunity to learn.

What will happen now under the President's blueprint is that all the rules will change again, and there will be a lot of pieces that are moving, some of which will be higher; some of which will be waiting to see what the new assessments are; some of which start immediately, like much more rigid and inflexible accountability in terms of teachers.

So the real question, in my judgment, my judgment alone, is how do we get to that place of ensuring that every child has the chance to learn. So a lot of the pieces in the blueprint are very valid, have lots of—are very important to do, but how are we going to create the coherence that we need of a maligned system in a State or in a district that really ensures not just individual children learn, but every child does.

Mr. VAN ROEKEL. Let me add just something very briefly. Randi hit it on the head. There is such a contradiction because you are measuring different things between State systems that their highest achieving and on the national system failed to make adequate yearly progress.

From an educator's point of view, I think what is really critical is the work that the Chief State School Officers are doing with the 48 States and common core standards. They need to be clearer, less of them, well written. That is the first step. From the education point of view, I have to know what it is you want students to know and be able to do.

To me, the second step is then, at the local and State level, they have to have a curriculum that matches those standards. If you give me a curriculum that is totally different, my choice is either to teach the students something that you did not want, because it is not on the standards, or to develop all of my own materials to be able to have a curriculum that addresses the standards.

And the third step, then, is to have an assessment system that actually measures whether or not a student is learning what you asked them to know and be able to do in the standards. And you cannot reverse the order of those. You cannot start with the tests and then develop standards or curricula; and I think sometimes we do that. There are so many tests. Like we are starting this new blueprint and they want to retain the old testing system. Does not make sense.

We need to know what those standards are, then develop a curriculum, and then have assessments that actually measure real solid student learning and whether they are progressing. And if we do not do it in the right order, or if we try and skip one of those steps, we will fail.

Mr. COLE. Thank you, Mr. Chairman.

Mr. OBEY. Thank you.

Let me go for a moment to the recovery package. Despite assertions to the contrary by virtually every governor, every local school district, the Executive Branch of government, despite all of that, you have people who continue to insist that because unemployment has not moved down and because we still have some job losses each month, that the recovery package has not created a single job.

You have indicated that about 325,000 teachers are working today who would not be working had the recovery package not passed. What do you base that on?

Ms. WEINGARTEN. We base it on a number of sources, but we have attempted to align our data with the data from the Federal Government. What we have seen is—remember, normally in February, March, April of each year, that is when school districts know what their budgets or try to predict what their budgets are supposed to be for the next year. So what we were getting from last February, March, and April was what the predictions would be after the Recovery Act.

So we were able to start counting what the cuts to instructional programs would be and equate that in terms of full-time equivalents, and that is how we started counting. And the counting that we have done, we have done, as I said, in conjunction with the Department of Education and in conjunction with the Vice President's Middle Class Task Force.

Mr. OBEY. Well, some people will say, well, that is just teachers, that is just public jobs; you are not really doing anything for the average taxpayer. What is the benefit to the average taxpayer if those 325,000 teachers are still working?

Ms. WEINGARTEN. Mr. Chairman, I—and maybe this is simply anecdotal and, therefore, maybe it does not count for anything, but I grew up in New York State, and I witnessed in New York City, when this type of action was not done and when, in September of 1975 15,000 school teachers were cut from the City of New York education system because of very bad budget situation, that school system did not recover for children for the next 10, 20 years. They essentially invited 10,000 people to come back, of which 3,000 did.

But the devastation to that city is of public record. Whether it was people who fled the city to the suburbs, whether it was the change in the city that was a once proud city to one that felt like it was on its last legs, whether it was the devastation to kids, you saw that devastation clearly and convincingly in New York City in the 1970s.

Mr. OBEY. Yes.

Mr. DOMENECH. Our most recent survey indicates that our superintendents state that, on the average, districts in America saved about 10 positions per district. And, in addition to that, as you know, school systems generally tend to be the largest employer in their communities. I was a superintendent of schools here in Fairfax County, where I had 27,000 employees. Not only was I the largest employer for Fairfax, but for the State of Virginia.

So what happens to our employees and our ability to hold on our employees has a significant impact on the local economy.

Mr. OBEY. You mentioned that you have some concerns now that the Recovery act is scheduled to wind down. It is supposed to wind

down. The whole idea of the Recovery Act is that it is not supposed to be permanent spending; it is supposed to be temporary bridge spending that gets us from point A to point B.

We are going to have a huge deficit this year because revenues as a percentage of our total national income have dropped to 14.5 percent. We have never had a balanced budget when revenues have dropped below 19.6 percent.

So it is supposed to be temporary, but it is not supposed to be immediate, which is why we tried to pass the supplemental jobs bill in December, the \$27,000,000,000 that you have been talking about.

Tell me what kind of problems you expect school districts to experience if the Congress does not pass something like that \$27,000,000,000 package that the House passed earlier, or late last year.

Mr. DOMENECH. Well, it is exactly what we see happening right now in terms of the cuts that are being projected in school systems around the Country that will take place and will have significant impact on school systems and community if the \$23,000,000,000 that we are so grateful for that the House has passed does not become a reality, because, as you know, school systems lag behind the general economy. We are going to have to wait for local real estate values to begin to increase, before assessment values begin to increase, because that is 80 percent of the revenue that most districts in America get; it is that local effort that is so important for us.

So we really are looking really to be bridged to that point where we can begin to see a turnaround in local economies in terms of that real estate tax that will begin generating the revenues that will make districts whole. In the meantime, the concern is that we are going to begin doing irreparable damage to programs and services at the district level that have taken years to put in place. That if they go away, it will take years again to get back into, and it is going to affect this issue of equity, because the kids that are going to be hurt the most are the poor children of America.

Mr. OBEY. Well, I think that the Recovery Act is not being given sufficient credit for jobs that have been retained, just as Mr. Cole pointed out yesterday that the action of President Bush in stabilizing the financial sector with that very unpopular, but nonetheless needed, Wall Street rescue package. Nobody here that I know of liked that Wall Street rescue package. We certainly did not like the people who caused the problem to be created in the first place. But when you have an epidemic, you do not just take care of people you like; you have to take care of everybody or the society still gets pretty doggone sick. And that is what I think President Bush was trying to do on that piece, and that is what we were trying to do with the stimulus package.

Let me turn to the President's budget. I voted for No Child Left Behind for two principle reasons. First of all, it was George Bush's first major effort out of the box and I am old school, I guess, but I have assumed that we ought to try to give every president some help at the beginning of his term; and so that is what I did.

Secondly, because I felt that we needed to have pressure for reform, pressure for accountability and evaluation, even though a lot

of us complained at the time about the rigidity and the specificity of that package.

So I believe in the principle of trying to prod districts to higher levels of performance. But I think it has some perverse results.

Mr. Van Roekel, you said you were a math teacher, so I am probably asking the wrong guy. [Laughter.]

Mr. OBEY. But one of my frustrations with No Child is that it has such attention to math and reading, and it leaves history and civics behind. I think that is a danger to the Country, because with the collapse of the journalism industry, with the collapse of newspapers, the public is getting less and less material that educates them on a daily basis about how our system works and what the realities are in our society and yet we are also, I think, short-changing history on the social sciences, and I think we are running a danger of creating an entire generation of societal illiterates in that sense.

So I know you are a math teacher, I do not mean to knock mathematics, although it did scare the devil out of me when I was in school.

Mr. VAN ROEKEL. As a math teacher, I agree with you 100 percent. I think it is an overemphasis, and all of those other subjects are absolutely critical, especially as we look at the skills and knowledge that are needed for the 21st century. And even as a math teacher, I can say that the overemphasis on the standardized tests did such harm to the teaching of mathematics.

I visited a middle school and I saw a teacher with a very thick three-ring binder, and it was filled with worksheets that were all multiple choice; and she said that was what they had adopted as the math curriculum for sixth, seventh, and eighth graders. And it was all done in worksheets that were multiple choice because that would prepare students best for the test. I said, how in the world do you teach geometric concepts, direct or indirect proof, or coordinate geometry? How do you do that and only ask multiple choice questions? She said, well, we are focusing on that test.

So it is not just the narrowing in the subject matter, but it is the narrowing of how you assess student learning and success. So that is one of the things that we really must change; that there ought to be multiple measures. And that does not mean three or four tests instead of one; it means multiple ways of measuring. When you are thinking about a student who is learning to write, to show demonstrations or examples of their work in first part of the year and the last part of the year, you will see dramatic differences. You cannot show that on a multiple choice test.

So it is really critical that we identify the different ways of measuring student learning in a variety of ways. One of the reasons I believe NAPE scores have stalled is because when you look at all of the things they measure, we are not doing those things anymore; we are narrowing that curriculum.

So as important as I know mathematics is,—I told that to my students all the time—knowing English grammar and doing well in mathematics just sets you up. No matter which test they give you, you are going to score well and open up possibilities. But as much as I believe that, I also know—and for my own children and my grandchildren, I want them to have that broad, broad expanse of

curriculum, because you do not know where the student's passion lies.

I am amazed at five-year-olds who have this incredible interest in space. Where did they get that? Why does this one have that and another one is so into music or athletics or whatever the subject may be? We need to find those passions and give them a broad, good, solid education, but also allow them to go their way of where their passion will be for the rest of their lives.

Mr. OBEY. Well, there is such a need for public education or education about public affairs. I remember being in a classroom a few months ago with a State assemblyman and, I swear to God, half these kids could not have told the difference between a State assemblyman and a third baseman for the Chicago cubs. I mean, I was amazed at how little they understood about the basics. Admittedly, the Cubs are irrelevant most of the time. [Laughter.]

Mr. OBEY. Go ahead.

Mr. WILHOIT. Just to look at this from a lense at a State level, I applaud the Congress and the Administration for drawing attention to public education; we do need dramatic improvements. So the focus on each child, every child is really important and so the system has, at this point, paid more attention to all children.

But I think NCLB was a good example of a wrong-headed kind of design, and by that I mean it was very prescriptive about how one would act at a State level, the kinds of procedures you would set up, the rules and regulations, and how it would be implemented at the local level. It was very, very loose on the outcomes expectations. And I think a good Federal law is very clear about those expectations, the accountability structure to be put in place, and leaving latitude for implementation and a bit of diversity and innovation as we move forward.

I think, really, one of the—and there were limited opportunities for latitude in the law, and States took advantage of every one of those limited latitude opportunities. So we got into multiple disputes about calculation formula procedures rather than the really important issues about student learning.

I think it really did hamper and limit the innovative States. So what I saw at a point when we began to ratchet up expectations for all States at a minimum level of performance, what happened in that process was a pulling down of those States that were leading reform in the Country, and I have seen a lack of that in the last few years. I will give you a couple of examples.

As a commissioner, we had in our State a requirement that students would be exposed to the broad curriculum, including the arts, as a regular requirement of the program. When we went to NCOB, we were forced to give those up in our assessment system. They did not count. In our sense, if we had been able to hold on to that, we would have had a lot of development in the arts in terms of program opportunity across all the genre of arts, and we would have required that kind of development. It has lost its attention.

Secondly, we were asked to turn the test around within just a month's time frame, and it led us to the point of giving up really robust kind of assessment items that Dennis was talking about. We could not do portfolios any longer because we could not turn them around. We could not do the kinds of open response kinds of ques-

tions. We could not engage our questions in the process of making judgment against those because we had to give something, get it back in return for accountability purposes.

So what we saw was a sort of ratcheting down of some of the innovative ideas that were coming forward. I hope in the next round, as we look at the blueprint, we look at how it plays out in ESEA reauthorization, that we hold on to the ideas about high accountability, clear structure, but allowing some latitude at the local and State level for implementation policy.

Mr. OBEY. Just two last questions. First of all, to all of you who are supportive of the recovery package and who are trying to make the Congress understand what will happen if we do not provide additional help to school districts, I would just ask one favor. With all due respect to my friend, Mr. Honda, please do not use California as an example. [Laughter.]

Mr. OBEY. Because, again, with all due respect, I know of no State that is more irresponsible in terms of its political structure. They require a two-thirds vote in order to get permission to leave the room, and they have amended their constitution 500 times. Every time they have a proposition, it is a great idea that spends money; they put money behind that proposition, it passes, but the propositions always neglect the question of how you are going to pay for it. So that squeezes out everything else in the base budget.

So I think we need to be armed with more relevant statistics than the problems that are—I view many of California's problems as being of their own making, so I would—I am not unsympathetic to people who live there, but they have to do something about their own political structure and fix that first.

And then with respect to reform, I like to sail, but I would not, while the sailboat was sinking, be focused on putting another coat of varnish on the deck. And, to me, at a time when all school districts are in big trouble because of the economic situation in the Country, I think that to be focused as much as we are on the reform aspects of the Administration's budget is a mistake.

I might support what they are doing two years from now, when so many school districts are not drowning, but I was greatly disappointed to see that they tried to cut Title I last year in order to finance the reforms. This Committee stopped that, and I would hope that we would pay more attention to just keeping local school districts' and local taxpayers' head above water until the economy more fully recovers.

Mr. TIAHRT, any last thoughts?

Mr. TIAHRT. Yes, I have one request from Mr. Wilhoit.

You talked about a consolidation process from 60-plus programs to 11. I went through your testimony; I really could not find much detail about that. Could you provide us with the detail? And you talked about removing some of the layers and not just compressing them to 11 programs from 62, so I would find that interesting.

Mr. WILHOIT. I would be pleased to that.

Mr. TIAHRT. Thank you.

Mr. OBEY. Mr. Honda, any last comments?

Mr. HONDA. Yes. Thank you very much. Just a real quick comment about the role of the Federal Government and the role of States in terms of education as defined back in 1787. This is 2010,

going on 2011. It seems like we should probably step back again and redefine what our role is again, because since we are well developed now as a Nation, funding barriers to equity seems should be a shared thing if we believe in equity and civil rights for each person. And that may take a massive national effort for us to sit down and starting to talk very seriously about this; otherwise, we should end up suing ourselves.

But I know that this Country can do it. When we identify a national crisis, we sometimes forget about the costs; just move ahead and solve the problem. I do not think we can do it this way with education; we have to be thoughtful and very, very analytical and looking at what it is and what we need to do, and then recognize those barriers.

And I would end with this, that somewhere along the line our schools will have to challenging local government in how our schools are created and how communities are created, because what we learned from deseg was that schools reflect the neighborhoods they come from. If we know that, there is one major area major area that we should be looking at.

Thank you, Mr. Chairman.

Mr. OBEY. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman. I always find this the most frustrating. I say this as a former educator. I used to say, when I was a college prof and you deal with higher education, that the bad thing about smart people is they make everything complicated; otherwise, what good is it to be smart. [Laughter.]

Mr. COLE. And there is a lot of that that goes on. So I want to throw out one clay pigeon here, because I am very bothered by—I was at Aspen Institute, one of our seminars last year that really concerned me. They were looking at high school graduation rates and student performance historically, insofar as you can even judge that; and we were about where we have always been, which at one point was the best of the world. If you are my age, you really are a member of the best educated cohort in the world. If you are my son's age, in his twenties, he is about eighth or ninth.

So it was not so much that we had changed. Frankly, the argument would be, in terms of outcomes, we really had not changed very much at all. We were not worse than we had been; we were about where we were. Other people had moved pretty dramatically ahead of us.

And one of the reasons, and certainly not the only one—I am quite familiar with all the complexities. You have to have parents that care. Not every kid gets to start at the same place, from the same neighborhood, from the same funding base, et cetera. But one of the common themes in the groups and other countries that seem to be outperforming us was simply time on task. You know, they actually were in school longer every day, and they were in school more every year.

How much could we do just by looking at that problem? Because I think it is very hard for us to do lots of small things, but providing money that extended the school year—and I am not saying do this for free—and put students in school longer, I would just be interested in knowing your opinion as to how helpful that would be, or is that another one of these sort of one idea panaceas?

Mr. DOMENECH. Time on task is one of the secret ingredients behind education. I think it is common sense. The more that a child has the ability to be exposed to good learning and instruction, the more that the children will learn. That is why many of us have moved to year-round schooling. That is why many of us have moved to expand the school day.

The problem is that it is expensive. It is expensive to do. It is one of those resources. And, unfortunately, what we see happening in this economy is a move in the other direction. The number of districts now that are going to four days of school, as opposed to five days of school, the number of districts that are cutting back on the length of the school day or eliminating summer school, eliminating after-school programs.

Mr. COLE. Let me just add, and I would like you to respond to this real quickly because I am abusing my time here.

Remember, too, the other thing I would add, I mean, resource-wise, we can always do more. Okay? I accept that. We do more than anybody else in the world on a per kid basis, pretty much. So there has to be some efficiencies in here as well with additional money. We clearly are not running this system as efficiently as other people if you just look at dollars behind kids, behind teachers, behind administrative structures.

Ms. WEINGARTEN. So we are in favor of more time on task. We have to figure out, as everyone on the panel said, we have to make sure that we are not just doing more of the same. The engagement for children is very important in terms of how we engage kids in a robust, broad curriculum, so that we take them where they are, not where we want them to be.

But the other thing that is interesting about the international comparisons, particularly the two countries that do very, very well compared to us, Japan and Finland, is that Japan actually has less time in instructional endeavors of teachers and children. But what they have, both in Japan and Finland, is more time that teachers work with each other to differentiate instruction. So that teachers are spending more time in school with each other, but they are polishing the stone, they are making sure that they are instructing in a much deeper way.

So there is much more R&D in these countries that we compete with that have outflanked us than we have here.

Mr. VAN ROEKEL. I will quickly echo that. We have learned in the charter sector that more time on the same model will simply give you more of the same, and that more time has to be accompanied by giving more flexibility to the educators in the school to use that time better, to provide a richer curriculum, to set higher expectations. You have to do both.

Mr. COLE. Thank you, Mr. Chairman.

Mr. OBEY. I guess I would simply say that in my district I have been a strong supporter of after-school programs for a variety of reasons, but one because it does help to provide some additional enriching experiences for kids. It does give them more time and some of them do a better job than others. But I have been impressed by how much more of an academic focus those programs have now versus what they had before when they started out as

field trip heavens, you know, five or six years ago, and they have become much more rigorous.

The other point I would simply make, going back to the reform—and I mentioned this yesterday—we are not just talking about problems at K through 12; we are also talking about what happens to kids when they graduate from high school. And the most appalling statistic I know is this one: among students who scored in the top quarter on eighth grade math tests, a child of a wealthy family graduated from college 74 percent of the time; while the child who came from a poor family graduated only 29 percent of the time, even though they had demonstrated the same ability. That is an appalling result for all the money that we are spending.

Thank you very much. I appreciate it.

THURSDAY, MARCH 25, 2010.

**FY2011 BUDGET OVERVIEW: JOBS, TRAINING, AND
EDUCATION**

WITNESSES

**JANE OATES, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAIN-
ING, U.S. DEPARTMENT OF LABOR**

**RAYMOND JEFFERSON, ASSISTANT SECRETARY FOR VETERANS' EM-
PLOYMENT AND TRAINING SERVICES, U.S. DEPARTMENT OF LABOR**

**MARTHA KANTER, UNDER SECRETARY, U.S. DEPARTMENT OF EDU-
CATION**

**ALEXA POSNY, ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND
REHABILITATION SERVICES, U.S. DEPARTMENT OF EDUCATION**

OPENING STATEMENT

Mr. OBEY. Well, good morning, everybody.

Today, this subcommittee will focus on challenges in this difficult job market, especially the challenge of training and educating our workforce for a high-skilled career path in the new economy.

This really is a rescheduled hearing. We got discombobulated and had to cancel. And I hope that we don't get hit with too many roll-calls that will screw up the hearing this morning, but that is the normal condition up here this time of year.

According to the Bureau of Labor Statistics, the most substantial job growth over the next decade will be in careers that require associate degrees or a vocational certification, including health care, high-tech manufacturing, and clean energy. In my home State of Wisconsin, half of all job growth in the next decade is expected to involve jobs that require more than a high school education but less than a bachelor's degree.

The Labor Department's job training programs have an important role to play in helping workers to get the training and skills they need to get those jobs as they become available. We need to be making sure that any business looking to expand has as little trouble as possible in locating highly qualified workers right here in the United States to meet its needs.

That is one reason we included approximately \$4,000,000,000 in the Recovery Act for job training, effectively doubling the resources available to local workforce agencies. This investment has enabled a record number of unemployed and disadvantaged workers to enter job training programs so that, as our economy continues to recover, more American workers have the necessary skills to drive sustainable economic growth while sharing fairly in the benefits. That means that job training is a key tool for addressing the longer-term stagnation of wages and living standards that have plagued the middle class.

As I have mentioned frequently, and I am sure Members of the subcommittee may be getting sick of hearing me say it, but as I have said in the past, the earnings disparity between the wealthiest workers and the middle class has been growing for three decades. Since 1979, real median income has grown by less than one-half of 1 percent. More recently, between the late 1990s and mid 2000s, incomes from the top fifth of families grew by over 9 percent, incomes from the middle fifth of families grew by a little over 1 percent, and incomes for the bottom fifth declined by over 2 percent.

One tool for addressing these disparities is better job training. It is not the entire solution, by any means, but it can be part of the solution. Study after study has shown a direct link between job training and increased long-term earnings, boosting living standards for middle-class American families. That is also true about education.

One of the most important links between our education and job training is our network of community colleges. More than a third of individuals receiving job training through the Workforce Investment Act are served by community colleges. And studies have repeatedly shown that those individuals with a year or 2 of post-secondary education earn higher wages than their counterparts with only a high school education.

Which leads me to Pell Grants. As college tuition continues to rise, Pell Grants are a necessary lifeline for modest-income students to continue their education. Nearly 80 percent of high-income students attend college immediately after high school, compared with a little over 50 percent of low-income students. That is not a level playing field. It is not fair to the individuals; it is not healthy for the country. Pell Grants are pivotal to closing the college opportunity gap for low- and middle-income students.

In fact, when I became chairman, the maximum Pell Grant award had been frozen since 2003. Both parties have congratulated themselves repeatedly on how much we have done for Pell Grants through the years, but the fact is that when the Pell Grants first started back in the 1970s, they paid for over 70 percent of the cost of a 4-year college education; today they pay for less than 40 percent. So before either party gets all too excited about the wondrous job that we have done on Pell Grants, they need to understand that there is a long way to go before we match our performance with rhetoric on that front.

I know that today's witnesses are actively engaged in addressing some of these issues, and I look forward to hearing the testimony this morning. This morning's panel includes senior officials of the Labor and Education Departments who have responsibility for job-related training and education.

From the Labor Department, we have Jane Oates, who is the Assistant Secretary for the Employment and Training Administration, and Ray Jefferson, Assistant Secretary for Veterans' Employment and Training Services. From the Education Department, our first witness will be Martha Kanter, who is the Under Secretary and who has responsibility for career and adult education and higher education. Also, we have Alexa Posny, who is the Assistant Secretary for Special Education and Rehabilitation.

I will ask our witnesses to summarize their remarks in 5 or 10 minutes, and we will place the entire written statement of all of you in the record.

But, first, I would yield to Mr. Tiahrt for whatever comments he might have.

Mr. TIAHRT. Thank you, Mr. Chairman.

And welcome, panel. And a special welcome to Alexa, who is a fellow Kansan.

Ms. POSNY. That is correct.

Mr. TIAHRT. Good to see you again.

Mr. OBEY. Now, wait a minute. I thought she was originally from Wisconsin.

Ms. POSNY. I am.

Mr. TIAHRT. Mr. Chairman, if you drive down I-70, we claim you.

Well, thank you, Mr. Chairman. I want to thank our witnesses, as well.

And with unemployment hovering around 10 percent and the prospects of a jobless economic recovery on the horizon, I think there is a cause for some concern. I am reminded about an episode of the "West Wing" television series where Alan Alda's character is being asked in a debate how many jobs he would create as President. "None," he replied. "Entrepreneurs create jobs. Businesses create jobs. The President's job is to get out of the way."

The government does not create wealth. And, in the long term, the government does not create jobs. What really creates jobs is the creation of wealth. And as a byproduct of the creation of wealth, jobs result in that process. What government can do is create opportunity, and it does by fostering an atmosphere that is conducive to the private-sector innovation. Specifically, government can get out the way, and by that I mean by lower taxes, reducing burdensome regulations, rewarding entrepreneurial behaviorship, and becoming energy-independent.

I would argue that a jobless recovery is what we are seeing right now, and it is a product of what we have seen over the last 2 years. While I agree with the chairman's comment before the Secretary of Labor that job loss has slowed—and that is good news—the nearly \$800,000,000,000 spending spree we call the American Recovery and Reinvestment Act not only missed its intended mark to create jobs, it has piled another \$300,000,000,000 in interest payments on to the American taxpayer.

The reality is that much of the bill was not stimulus, and whatever part can be argued was stimulus has largely run its course. However, all that money now has to be paid back, which will create more of a drag on the recovery of jobs than it has in the stimulus in the first place.

For my part, I would say that if we are serious about putting adults back to work—and I think everybody in this room is serious about that—we need to stop throwing good money after bad by growing government programs that are unlikely to have the impact and start focusing our efforts on creating an environment that will create opportunity and spur private-sector growth.

Thank you, Mr. Chairman.

Mr. OBEY. Thank you.

Why don't we begin with you and just run the table and see what happens?

EMPLOYMENT AND TRAINING ADMINISTRATION

Ms. OATES. Thank you, Mr. Chairman, for this opportunity. And, Mr. Tiahrt, as the ranking member, thank you for this opportunity to come before you to testify on our fiscal 2011 budget at the Employment and Training Administration.

As the ranking member said, we are in challenging economic times, and job creation is critical to our recovery. And we think, at ETA, that having the best-prepared skilled workforce is something that we can do to impact the acceleration of the recovery.

The overall fiscal year 2011 budget for ETA is \$12,800,000,000, of which \$10,900,000,000 supports discretionary programs and \$1,900,000,000 is for mandatory programs.

The 2011 budget request is guided by Secretary Solis's vision of "Good Jobs for Everyone". To make this vision a reality, individuals must have the skills and education necessary to compete for the good jobs of today and of the future to help them stay in the middle class or enter the middle class.

Therefore, the request and its proposed initiatives will support transformational efforts to improve the effectiveness of the public workforce system. It will build upon both the \$4,700,000,000 investment in the Recovery Act, Congressman Obey, that you mentioned and the appropriations that you provide to us every year, including fiscal year 2010. It will focus on helping job seekers gain portable, industry-recognized credentials and degrees and to leverage partnerships to align education and training programs at the Federal, State, and local levels.

And I might say to this Committee that, in this administration, we are actively doing that alignment at the Federal level. It is one of the things that we are most proud of. And we really are thankful that you allowed us to testify together. We wish that our other friends were here from HHS, as well. We mean partnership.

PARTNERSHIPS

The Department of Labor is working collaboratively with our Federal agencies. You see Education here. We have done wonderful work with them, coming together on the Workforce Investment Act; coming together to align the kinds of strategies that help adult learners—adult learners who are older workers, adult learners who are dislocated in their 30s, and adult learners who face other barriers.

And we are specifically looking to target those populations that have been persistently at the bottom of the rung. They have persistently been unemployed, recession or good times. And we need to find the strategies that work for them.

Not only have we worked with Education—and we are going to do more of that—we have also worked in partnership with our friends at HHS. You may have seen the guidelines that we have put out allowing TANF subsidy money to be used for summer youth and for our system, the public workforce system, to make sure they don't have to create redundant programs for either recruitment or placement as well as resume-building and the soft

skills. Those TANF recipients who are going to use the subsidy money should be able to come in seamlessly and use our one-stops so that they can get the help that they need to find the good jobs and maybe be retained in those jobs after the subsidy is over.

And we have worked with Ag, USDA, an unlikely partner, to make sure that every unemployed person knows if they are available for food stamps, for the SNAP program. We think that many people in this recession have not been accustomed to using Federal programs. We want to make sure that no unemployed worker and their family go without food when the food stamp program is there.

We are also very excited about the work that we have begun with Commerce and SBA. Because, as all of you realize, we don't create jobs either, and if we are working through our one-stops with the Small Business Administration, through Import-Export Bank, and through our friends at Commerce, our one-stops can provide small- and medium-sized businesses access to government services that they may not have had before.

RECOVERY ACT INVESTMENTS

Our 2011 request will help the ETA programs build on our partnerships and our Recovery Act investments and also help us address some training needs that have become apparent over the last year. Secretary Solis has gone over a lot of those investments with you, so I won't bore you with that in my oral testimony, but I am happy to take questions on that.

I do want to talk a little bit about our recovery money. The \$720,000,000 that we put out through competitive grants created an unusual response. I am sure the Secretary reported to you that we had thousands of applications in the five programs that we ran, incredibly high-quality applicants, and were only able to fund a fraction of applicants.

PATHWAYS OUT OF POVERTY

One of the things that I am most proud of is that, in our Pathways Out of Poverty grants, we were able to target PUMAs (Public Use Microdata Areas) you know, a word that didn't mean anything to me before. When someone first brought it up to me, I thought they were talking about the African cat, and that was not what they were talking about. Instead, it is a census tract that targets poverty levels. Fifteen percent or more of the population in that PUMA are at the poverty level. That is something that helps us get to those disadvantaged workers, who have been lost in our grants sometimes in the past.

We will continue to work with you to figure out innovative ways that we can do better at reaching the people that we haven't been able to reach. We think that partnerships, not only the ones at the Federal level but our close partnerships with Governors, with local elected officials, with our good friends at all of the associations, to figure out how do we get them the technical assistance that we need. We need help in figuring out, not just doing more of the same, but doing better, more efficiently, and more effectively.

And, with that, I will turn it back to you, Mr. Chairman, and wait for your questions. Thank you.

[The information follows:]

**STATEMENT OF
 JANE OATES
 ASSISTANT SECRETARY
 FOR EMPLOYMENT AND TRAINING
 U. S. DEPARTMENT OF LABOR
 BEFORE THE
 COMMITTEE ON APPROPRIATIONS
 SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES,
 EDUCATION, AND RELATED AGENCIES
 UNITED STATES HOUSE OF REPRESENTATIVES**

March 11, 2010

Chairman Obey, Ranking Member Tiahrt, and Members of the Subcommittee, I am pleased to have the opportunity to testify on the Fiscal Year (FY) 2011 Budget request for Department of Labor programs administered by the Employment and Training Administration (ETA). We are still in challenging economic times. Job creation is critical to economic recovery, as is having a skilled workforce to support and sustain economic growth. ETA is working diligently to ensure that America's workers have the skills and resources necessary to obtain new jobs in high growth or emerging industries.

The overall FY 2011 budget request for ETA is \$12.8 billion, of which \$10.9 billion supports discretionary programs and \$1.9 billion is for mandatory programs. The FY 2011 budget request is guided by Secretary of Labor Solis' vision of *Good Jobs for Everyone*. ETA's workforce programs have a critical role to play in realizing the Secretary's vision by preparing workers for good jobs that enable them to enter or remain in the middle class.

To make this vision a reality, individuals—both workers and students, including those who are unemployed, low-wage, returning veterans or disabled, among others—must have the skills and education necessary to compete for the good jobs of the future and employers must have ready access to a pool of skilled workers to increase productivity and better compete in the world economy. Therefore, the request and its proposed initiatives will:

- Support transformational efforts to improve the effectiveness of the public workforce system.
- Build upon both the \$4.7 billion dollar investment in ETA programs included as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act), and the appropriations provided to ETA by this Subcommittee in FY 2010.
- Enable the public workforce system to provide tools and resources needed to help job seekers gain portable, industry-recognized credentials and degrees that help them advance in their careers, upgrade their contributions to the workplace, and position them in promising career pathways.

- Prepare workers and students for careers in the critical high growth and emerging industries vital to our country's economy, such as clean energy and health care, and help employers meet their critical workforce needs.
- Leverage and build upon partnerships to align education and training programs at the Federal, state and local levels.

Promoting Robust Partnerships with Impact

The Department of Labor is working collaboratively with other Federal agencies, such as the Departments of Education and Health and Human Services, and its stakeholders to break down the silos of "business as usual," to transform and improve the public workforce system and enable programs to work harmoniously and effectively at all levels.

For example, through the Tools for America's Job Seekers Challenge, government agencies, private companies, nonprofit organizations and others, worked together to identify and provide the best tools for job seekers to help them connect to good jobs. "The Challenge", a unique initiative by the White House and the Department of Labor, allowed entrepreneurs and organizations to present their online job search and career advancement tools to the public for review, discussion, and recommendation. During a two-week period in January, more than 16,000 members of the public registered to vote for tools and provide comments. The top-rated tools, as chosen by members of the public, are now available at www.careeronestop.org/jobseekertools so that job seekers can continue to access job openings and career information. The Labor Department's national network of nearly 3,000 One-Stop Career Centers (One-Stops) played a critical role in connecting job seekers with the Challenge and will continue to refer clients to this site.

As examples of Federal partnerships, ETA is currently working closely with the U.S. Department of Agriculture's (USDA) Food and Nutrition Service to increase access to the USDA's Supplemental Nutrition Assistance Program (SNAP). Individuals accessing One-Stop Career Center services may be eligible for SNAP, but are unaware that the services are available and can be accessed. One-Stops are well positioned to help customers quickly identify their eligibility and access services. ETA will soon issue a Training and Employment Notice to the workforce investment system to share information about SNAP eligibility and benefits.

ETA is also partnering with the U.S. Department of Health and Human Services Administration for Children and Families to encourage workforce and human services agencies to work together to explore and leverage all funds available for the creation and expansion of subsidized summer employment opportunities for low-income youth. We are also working with the Health Resources and Services Administration on the Health Care Training Initiative discussed later in the testimony to accomplish our shared goal of preparing workers for careers in the health care sector.

Significantly, ETA has been working closely with the Department of Education on issues impacting systems change. For example, we are working across Federal agencies to support efforts to reauthorize the Workforce Investment Act of 1998 (WIA). Also, in anticipation of enactment of the American Graduation Initiative, and in support of President Barack Obama's vision for adding five million new degrees and certificates by 2020, the Departments of Labor and Education have come together to plan how we would implement this important investment. The American Graduation Initiative would provide significant resources for competitive grants to community colleges that could support career pathways and other innovative training and education and would build on the Department's initiative to provide workers access to community college training through the Career Pathways program. The Department of Education is also working closely with ETA Regional Offices to make the Free Application for Federal Student Aid, or FAFSA, more accessible at One-Stops, helping demystify the needlessly long and complex application process and supporting student eligibility for critical federal student aid resources.

Recovery Act Investments

The FY 2011 request will help ETA programs follow through with Recovery Act investments and training needs. Last month marked the one year anniversary of the passage of the Recovery Act—a catalytic investment in building our nation's workforce capacity and laying the necessary infrastructure to continue to provide high-quality training well beyond the availability of the stimulus funds. The additional Recovery Act resources given to the Department of Labor to assist workers and their families during these challenging economic times has reenergized the work of the public workforce system by providing record numbers of individuals with career counseling, work-related services, and training.

Marking the first time in a decade that the Federal government has made a commitment to providing summer work experiences for youth, and with the support of Recovery Act funding, the Department of Labor invested an additional \$1.2 billion youth formula funds to provide subsidized work opportunities to over 317,900 low-income youth during the summer of 2009, far surpassing the actual participation anticipated at the outset. A recent ETA-funded study of the Summer Youth Employment Initiative showed that nearly 75 percent of participating youth achieved a measurable increase in their work readiness skills. In addition, youth gained exposure to high-growth employment areas of healthcare and green jobs. The vast majority of employers reported a desire to continue participating in the initiative, if given the opportunity. To that end, we support Congressional action that allows us to again offer summer youth employment opportunities in 2010.

Within the \$400 million provided for Wagner-Peyser Employment Services, the Recovery Act also provided \$250 million in new Reemployment Service grants to states, which are used to reconnect Unemployment Insurance (UI) recipients to workforce and training opportunities. Leveraging these funds, the Department was able to serve more than 2.9 million additional individuals. Thirty-two states have also taken advantage of

\$2.8 billion in UI Modernization incentive funds to expand UI coverage to more Americans and introduce family-friendly provisions to their state UI laws, such as providing unemployment benefit coverage to part-time workers.

Since February 2009, the Department of Labor has awarded 49 Recovery Act-funded National Emergency Grants, making more than \$110 million available for states and communities impacted by the economic downturn and layoffs to provide employment and training opportunities for more than 30,600 dislocated workers. National Emergency Grants are enabling dislocated workers to obtain the necessary skills to help families remain in the middle class.

As you know, the Department has invested \$720 million in Recovery Act-funded competitive grants geared towards supporting training, recruitment, retention and career pathways in clean energy jobs, health care and other emerging industries. Of note was the record number of grant applications we received for these competitive training grants. For example, the Pathways out of Poverty, Energy Training Partnership, and Health Care and Other High Growth and Emerging Industry Sectors competitions brought in over 1,400 applications of which we were only able to fund 48 grants. These grants will play an important role in joining other federal agencies' green and health care training and job creation programs with the workforce investment system to forge a government-wide approach to the development and expansion of critical industries and building a pipeline for the jobs of the future.

This budget request will build upon these investments and the lessons learned over the past year.

Workforce System Innovation and Transformation

The President's 2011 Budget increases funding for displaced workers, adults, and youth—the three major funding streams under Title I of WIA. To foster innovation and transformation within the workforce system, the FY 2011 budget invests \$261.4 million in the Partnership for Workforce Innovation, a coordinated effort between the Departments of Labor and Education, and in cooperation with other federal agencies, to provide financial incentives for states and local areas to break down barriers among programs, and test new ways of delivery services to meet the needs of, and improve outcomes for, both workers and employers. State, local, and federal workforce partnerships created under WIA have demonstrated enormous potential for exploring and testing alternative service strategies. These funds will support building a knowledge base about what works by rigorously testing and evaluating the most promising practices and service strategies and then, broadly disseminating for replication those that prove valuable throughout the workforce and education communities.

From Title I of the WIA, the Department proposes to reserve five percent contributions each from the Adult formula and the Dislocated Worker formula programs, totaling \$107.65 million, for a Workforce Innovation Fund, and a larger share of 15 percent (\$153.75 million) will be reserved from the Youth formula program for a Youth Innovation Fund. Thirty percent of the Youth Innovation Fund will be dedicated to

promoting summer employment opportunities, while the remainder will support comprehensive programs combining work experience with academics. Through competitive grants, the Department's Innovation Funds will develop and evaluate innovative ways of providing improved job training and employment services to a larger population using resources more effectively, such as supporting "learn and earn" strategies, like apprenticeships and on-the-job training, distance learning technologies, regional and sectoral approaches, and integrated employment and education.

The FY 2011 Budget request also aligns with the Administration's objectives for Workforce Investment Act reauthorization. WIA was enacted over a decade ago. The Administration regards WIA reauthorization as an opportunity to promote innovation in the public workforce system, building on its strengths and addressing its weaknesses. We believe the time has come to take a fresh look at the broad range of federal investments in job training and develop improved models for delivering quality services, through innovation, streamlined service delivery, high-quality One-Stop Career Centers, engaging employers on a regional and sectoral level, improving accountability and identifying and replicating best practices.

Training Workers for the Jobs of the Future

Secretary Solis and I view green jobs as a key driver of America's economic revitalization and sustained economic stability. We believe that the level of interest expressed in the Recovery Act-funded green jobs training grants represents the need for resources that focus on training, particularly on green jobs, which complements job creation efforts. The budget requests \$85 million for FY 2011 to continue investments in the Green Jobs Innovation Fund; ensuring workers have the skills and knowledge to secure employment in green industries, such as energy efficiency and renewable energy and other green industries that impact our environment such as transportation, green construction, recycling and waste reduction, and sustainable agriculture. The Green Jobs Innovation Fund would build on the lessons learned from the Recovery Act's \$500 million investment in green jobs, and the \$40 million Congress provided to support this initiative in FY 2010. Complementary to our efforts, the U.S. Bureau of Labor Statistics has also been working to develop and implement the collection of new data on green jobs, critical to assisting policymakers in planning policy initiatives and understanding their impact on the labor market. In addition, other Federal agencies will be investing in complementary green industry activities and the leveraging of these resources will be critical to developing the green workforce as jobs are emerging in state and regional economies.

ETA is also proposing the Health Care Training Initiative to fund grants to state and local organizations that prepare workers for careers in the health care sector. The health care industry remains a critical driver for job growth across the nation. The Bureau of Labor Statistics reported last year that the health care sector continued to grow, despite steep job losses in nearly all major industries, and more recent data projects that health care employers will generate 3.2 million new wage and salary jobs between 2008 and 2018, largely in response to rapid growth in the elderly population. In addition, the new health

care reforms are expected to extend coverage to millions of individuals, which could result in a greater need for professionals to provide care for underserved populations nationwide. We anticipate that approximately \$100 million would be available for this initiative.

Because the economic downturn has made it unusually difficult to connect youth to the labor market, this budget requests funding to increase services to disadvantaged, disconnected and at-risk youth by helping them access career pathways to jobs. In addition to the Youth Innovation Fund, the Department is requesting \$120 million for the YouthBuild program to support more than 7,400 out-of-school youth in gaining high school credentials and skill training that leads to employment. These funds build on a substantial Recovery Act investment in YouthBuild to continue promoting training in green construction with an emphasis on industry-recognized credentials and to encourage connections with other Federal agencies involved in creating green jobs, such as the Departments of Housing and Urban Development and Energy. As part of our commitment to rigorous evaluation of program outcomes, a random assignment net impact evaluation of the program is planned.

The Job Corps is the nation's largest career and technical education system and serves severely disadvantaged youth through residential and non-residential centers nationwide. Infusion of Recovery Act funding allowed the Department to fund shovel-ready construction projects at Job Corps centers throughout the country and the FY 2011 Budget request of \$1.7 billion will build on these efforts. In accordance with FY 2010 Appropriations language, the Department is transitioning the administration of the Job Corps back to ETA from the Office of the Secretary. A Transition Project Director has been appointed to oversee a smooth and successful transition and to outreach to stakeholders, particularly in areas related to procurement such as with the Department of Agriculture which manages 28 Job Corps Centers. The Administration is also launching an initiative to review and reform the Job Corps program. As part of this, we are committed to setting high standards and taking decisive action to address areas where there are problems. The FY 2011 Budget request will help the Department activate the new Iowa Center which will be ready for occupancy by mid-program year 2011; provide a 3.8 percent compensation increase to retain highly qualified instructors and professional staff; expand the Job Corps Licensed Practical/Vocational Nurse program to increase opportunities for graduates to find a path to both postsecondary education and middle class jobs; and continue its reform initiative.

Promoting Opportunities for Traditionally Underserved Populations

An important component of the Secretary's vision is ensuring that we focus on helping every individual gain access to a good job, especially by making services available to underserved populations. The FY 2011 Budget requests funding for several initiatives that will provide targeted opportunities for these populations to further support them in acquiring the skills and knowledge needed to gain or retain middle class jobs.

ETA and the Office of Disability Employment Policy (ODEP) are each requesting \$12 million for a combined \$24 million to continue our partnership to jointly administer the Disability Employment Initiative that began with the FY 2010 budget. The intent of this initiative is to increase the employment opportunities for workers with disabilities through the public workforce system. The initiative builds upon the promising practices of ETA's Disability Program Navigator initiative and ODEP's customized employment initiative to improve the employment outcomes of individuals with disabilities served by the One-Stops. In particular, this initiative focuses on providing a one-to-one counseling component to service delivery in addition to improving accessibility in terms of physical, programmatic and assistive technologies.

American Indians and Alaska Natives make up the most impoverished group in the nation, with unacceptably high unemployment rates on or near rural or isolated reservations. The disparity between Native Americans and other groups requires a concentrated effort that targets Native Americans, by providing assistance that increases household income and creates pathways to the high growth career sectors, including green industries. The Department is requesting \$55 million for the Indian and Native American program, an increase of \$2.2 million over the FY 2010 enacted level. Funding will allow us to extend intensive training and support services needed to enhance worker preparation of Native American adults and disconnected youth.

The Department is also requesting increased funding for the Migrant and Seasonal Farmworker program, marking the first request for a funding increase over the prior year appropriation in over 20 years. The increase will restore funding to the levels originally envisioned by WIA while supporting services for 1,027 additional migrant and seasonal farmworkers. The program extends training and other workforce development services to eligible migrant and seasonal farmworkers and their families through the public workforce system's One-Stops, enabling them to gain access to education and career pathways, particularly jobs that provide stable, year-round employment both within and outside agriculture.

The FY 2011 Budget proposes \$600.5 million for the Senior Community Service Employment Program (SCSEP), which will support around 61,900 participant slots that offer part-time, community service employment opportunities to prepare low-income seniors to enter or re-enter the workforce. We will also build on our previous experience in both the regular SCSEP program and the additional \$120 million in Recovery Act investments to encourage and expand green job opportunities for this hard-to-serve population.

Reaching Out to Workers Impacted by Foreign Trade

On February 17, 2009, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the Recovery Act. The reauthorized Trade Adjustment Assistance (TAA) program expanded coverage to more workers and firms, including the service sector; made benefits more widely available to workers whose jobs have been off-shored to any country; and provided improved

opportunities for worker training and health insurance coverage. The reauthorized program also includes funding for employment services and case management and encourages the types of long-term training necessary for attaining jobs in the 21st century economy, especially critical for communities impacted by lay-offs in the manufacturing sectors. For FY 2011, ETA's request under current law is \$1.9 billion. Assuming that the TGAAA enhancements are continued through reauthorization, ETA's FY 2011 request is \$2.4 billion for the TAA program, reflecting the expansions to the program.

Accounting for the significant increase in program applications and certifications due to the recession, from May 2009 to July 2009, the Department experienced a 288% increase in petition filing over the same time the previous year. To date, we have conducted more than 2,500 TAA investigations resulting in determinations and are working vigorously to reduce the backlog. At this time, the Department is completing significantly more petitions than it receives monthly—with older petitions receiving the highest investigative priority. As TAA investigators continue to master the new program requirements and investigative procedures, and as additional staff continue to be hired and trained, we believe the delay in reaching petition determinations will significantly decline.

Protecting Workers' Safety-Net

The FY 2011 Budget request for Unemployment Insurance (UI) administration and national activities is \$3.5 billion. The budget request continues the Administration's efforts to ensure the financial integrity of the UI system and help in the quick return of unemployed workers back to work. We are proposing a set of legislative proposals that will give states new tools and additional resources to prevent, detect and collect improper UI benefit payments and delinquent employer tax contributions. Provisions in the proposed Unemployment Insurance Integrity Act are expected to reduce overpayments by \$2.6 billion and reduce employer tax evasion revenues by \$282 million over 10 years (net of the income tax offset). The Budget also includes a \$55 million request to support Reemployment and Eligibility Assessments, which may include in-person interviews at One-Stop Career Centers with UI beneficiaries to discuss their need for reemployment services and their continuing eligibility for benefits. In FY 2011, this investment, combined with the \$10 million request included in State administration, will help 710,000 UI beneficiaries find jobs faster and is expected to save \$2.3 billion over a 10-year period.

The request also includes a commitment to strengthen and coordinate federal and state efforts to enforce statutory prohibitions, identify, and deter employee misclassification as independent contractors. As part of ensuring fair work-life environments, the Department is requesting \$50 million for a new State Paid Leave Fund to assist states in establishing paid leave programs that typically offer up to six weeks of benefits to workers who must take time off to care for a seriously ill child, spouse, or parent, or care for a newborn or recently adopted child.

Protecting America's Workers Through Foreign Labor Certification

As part of the Department of Labor's overall responsibility for full enforcement of labor and employment laws, ETA works to ensure that employers seeking to hire foreign workers – temporarily or permanently – may only do so when there are not sufficient U.S. workers who are able, willing, qualified, and available to perform the job. A related responsibility of the Department of Labor in protecting America's workers is to ensure that the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

The FY 2011 Budget proposes legislation to authorize user fees on new applications for the permanent labor certification program, the H-2A temporary agricultural worker program, and the H-2B temporary nonagricultural program. Of particular note is the proposal to leverage H-2B fee revenues to implement a new apprenticeship initiative that would expand apprenticeship opportunities across the country through a competitive grant program so that we can lessen our dependence on foreign labor for these occupations.

We are implementing an aggressive plan designed to reduce the permanent labor certification program's current case backlog of about 60,000 cases by creating several temporary dedicated teams to focus solely on the backlog and make efficient use of technology. We also will continue to maintain program integrity using audits to ensure compliance with program regulations and statutory requirements of the Immigration and Nationality Act through the use of Department of Labor-supervised recruitment of U.S. workers and other measures.

On February 12, 2010, the Department published in the Federal Register a Final Rule revising the H-2A regulations governing the certification of temporary nonimmigrant agricultural workers and enforcement of employers' statutory and contractual obligations to both domestic and foreign workers. This Rule reflects the Administration's commitment to providing fair wages and strong labor protections for this vulnerable group of workers.

Improving Quality and Accessibility of Performance Data

In FY 2010, ETA in partnership with the Department of Education launched the Workforce Data Quality Initiative. The initiative is providing grants to build state data systems that can link education and workforce data to facilitate performance management and research. These longitudinal data systems provide the information needed to guide educational and workforce institutions as they plan learning and skill-building services that lead to high returns in the labor market. Improving information available from training providers is crucial to helping consumers make informed decisions when choosing among training programs. Making this longitudinal information available also advances the practice of program evaluation, enabling stronger ties between program goals and performance outcomes.

The implementation of this initiative complements Education's State Longitudinal Data System Grants funded by the Recovery Act. The FY 2011 Budget requests \$13.75 million for this initiative, allowing up to 12 states or state consortia to implement workforce longitudinal administrative databases over a three-year grant period.

Conclusion

In conclusion, Mr. Chairman, we believe our budget request responsibly supports our shared goal of helping more Americans gain the skills to find good jobs in the 21st century economy. Thank you for the opportunity to testify on ETA's FY 2011 Budget request. I would be pleased to answer any questions you may have regarding the FY 2011 Budget request for our agency.

Jane Oates

**Assistant Secretary of
Employment and Training Administration**

Jane Oates was nominated by President Barack Obama to join Secretary of Labor Hilda L. Solis' leadership team at the Department of Labor in April, 2009. Confirmed as Assistant Secretary for Employment and Training on June 19, 2009, she now leads the Employment and Training Administration (ETA) in its mission to design and deliver high-quality training and employment programs for our nation's workers. Working with States and territories, municipalities, labor management organizations, employers, educational institutions, fellow Federal agencies, and other partners, ETA strives to assist workers in gaining the skills and credentials needed to enter careers that pay family supporting wages and offer opportunities for advancement. With a nationwide reach and focus on good jobs in promising industries, ETA programs are designed to serve every American who aspires to career success. Prior to her appointment, Ms. Oates served as Executive Director of the New Jersey Commission on Higher Education and Senior Advisor to Governor Jon S. Corzine. In that position Oates worked to strengthen the connections among high school, post-secondary education and the workforce. Ms. Oates served for nearly a decade as Senior Policy Advisor for Massachusetts Senator Edward M. Kennedy. She worked closely with the Senator on a variety of education, workforce and national service legislative initiatives, including the Workforce Investment Act of 1998. Ms. Oates began her career as a teacher in the Boston and Philadelphia public schools and later as a field researcher at Temple University's Center for Research in Human Development and Education. She received her BA in Education from Boston College, and an M.Ed in Reading from Arcadia University.

Mr. OBEY. Thank you.
Mr. Jefferson.

VETS

Mr. JEFFERSON. Thank you, Mr. Chairman, Ranking Member Tiahrt, distinguished members of this subcommittee.

About 2 weeks ago, I had the privilege of meeting some of our Nation's World War II survivors at an Honor Flight landing at National Airport. I shook the hand of a Pearl Harbor survivor. It was an inspiring example of the privilege we have at VETS to serve this inspiring community and the importance of providing them with the very best possible programs and services. And I am honored to be here testifying before you today with my colleagues at Labor and other government agencies.

VETS proudly serves the veterans and transitioning service members by preparing and assisting them to obtain meaningful careers, to maximize their employment opportunities, and to protect their employment rights. And we do that in partnership—in partnership with Congress, by working very closely with the Department of Veterans Affairs, Department of Defense, Housing and Urban Development, HHS, other government agencies, our veterans service organizations, the nonprofits, and the private sector.

Our programs are an integral part of Secretary Solis's vision of "Good Jobs for Everyone" and of keeping veterans and their families in the middle class. For fiscal year 2011, the Department is requesting our budget of \$262,494,000 for VETS. That is an increase of 2.4 percent above the fiscal year 2010 budget.

Three words symbolize the approach that we are taking to our programs: excellence, innovation, and transformation. I would like to share six examples of how we are doing that at VETS.

UNEMPLOYED VETERANS

First, to help our Nation's unemployed veterans, we fund 2,000 employment representatives around America. These employment representatives work with our unemployed veterans to prepare them to find meaningful careers and provide them with training and services. However, we are not satisfied with how this program currently works, and we are presently innovating it. Three examples of that innovation are as follows:

Number one, we are refocusing our Disabled Veteran Outreach Program specialists on serving the disabled veterans. This population is one of the hardest to employ, and we are going to focus them specifically on that community.

Number two, our local veterans employment representatives are going to be doing more employer outreach. And a key part of that is a new employer outreach and engagement initiative that we are launching. We are working with the largest private-sector associations to open up the doors to their members so our State directors and our local veterans employment representatives have access to those CEOs and senior executives and can communicate directly to them the value of hiring a veteran.

And, finally, through our partnership with Jane Oates, we are ensuring that veterans have priority of service in all Department of Labor programs, number one.

TRANSITION ASSISTANCE

Number two, we are working to help and better serve our Nation's transitioning service members. We have a 3-day employment workshop called TAP, Transition Assistance Program. I am really focusing on that becoming an acceleration program.

Right now, it is 240 slides over a 3-day period. You can imagine how exciting that is. For the first time in 17 years, we are transforming that program. We are making it more economically relevant, immediately useful, and engaging for the service members who go through it.

We have reached out to leadership experts, from Harvard to the private sector, to bring in transition best practices, such as stress resiliency training; mental health stress-reduction techniques; templates; career and life and work planning; how to develop one's network and how to actively succeed once you are in a career; how to transition to a civilian environment.

So, transforming that TAP program is a second example of what we do. We serve roughly 142,000 of the 165,000 transitioning service members through that program right now. And because of the importance of that program, in our fiscal year 2011 budget we have a separate budget activity for that.

We have also requested an increase of \$1,000,000 to emphasize spouses. Spouses have access to this program. Right now, the vast majority do not know that. We want to make sure they are aware that they have access to this program to increase military spousal employment and also to provide the training in languages other than English.

Number three, helping our Nation's homeless veterans. We have the Homeless Veterans' Reintegration Program. It is the only federally funded program that provides employment services for homeless veterans.

Right now, this year, we are serving about 21,000 people. One of our metrics, the entered employment rate, we are at 67 percent. We provide 6 months of ongoing support once they find a job. Our retention rate is roughly 80 percent.

But we are still not satisfied with that. We are going to take \$5,000,000 of the 2011 requested increase and we are going to use it to identify the best practices to better serve homeless women veterans. It is a totally different model of what is required to serve this population. We are going to identify the best practices this year, do funding of about 25 grantees, and embed and disseminate those best practices next year.

Number four, to help our Nation's incarcerated veterans, we are going to take \$4,000,000 of our requested increase for 2011 and serve about 1,500 incarcerated veterans through 12 sites. This is one of the hardest populations to serve. As you know, there is a tremendous risk of them becoming homeless and also returning to jail. We want to prevent that. And we are working very closely with the Department of Veterans Affairs on that initiative.

Finally, for all of our Nation's veterans, we want to continue preparing them for what is called traditional industries and traditional careers, but we want to also prepare them for industries of the future and green jobs. So we, through our Veterans' Workforce

Investment Program, have requested an increase of \$2,000,000 to that, and we expect to serve 4,600 veterans with our fiscal year 2011 budget.

We are honored to be here. We are very excited about what we are doing at VETS. And We have a long ways to go, but we feel we are making significant progress.

And I look forward to your questions.

[The information follows:]

**STATEMENT OF
THE HONORABLE RAYMOND M. JEFFERSON
ASSISTANT SECRETARY FOR
VETERANS' EMPLOYMENT AND TRAINING
U.S. DEPARTMENT OF LABOR**

BEFORE THE

**SUBCOMMITTEE ON LABOR,
HEALTH AND HUMAN SERVICES, EDUCATION,
AND RELATED AGENCIES**

COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 11, 2010

Mr. Chairman, Ranking Member Tiahrt, and Members of the Subcommittee:

Thank you for your service to the Nation, for your service to the Veterans community, and for the opportunity to testify before you today about the actions we're taking at the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) to meet our Veterans' and transitioning Service Members' employment needs. This is a critical part of the agenda you have set for the hearing today – getting adults back to work.

I remain deeply humbled by having the privilege to serve our Nation as the Assistant Secretary for Veterans' Employment and Training. Secretary Solis has been an incredible source of guidance and support, and has made Veterans and VETS one of her top priorities.

As we're all aware, since the onset of military operations in Afghanistan and Iraq, over 1 million members of the active duty military have served in these two theaters. Additionally, since September 11, 2001, the Department of Defense (DoD) reports that over 700,000 National Guard and Reserve mobilizations have occurred – the largest deployment of the National Guard in the past half century.

Every day, we are reminded of the tremendous sacrifices made by our servicemen and women, and by their families. One way that we can honor those sacrifices is by providing them with the best possible services and programs our Nation has to offer. Accomplishing this will require seamless collaboration, enhanced communication, and sustained, purposeful action. It's going to take all of us working together, sharing best practices and developing innovative solutions to challenging problems while constrained by limited resources.

I am here today to provide an overview of our programs and initiatives, and to answer your questions.

The issue of today's hearing is "Putting Adults Back to Work." VETS' programs support Secretary Solis's vision of "*Good Jobs for Everyone*" –

- The Jobs for Veterans State Grants (JVSG) help Veterans get to and stay in the middle class.
- The Transition Assistance Program Employment Workshops (TAP) helps transitioning Service Members move to the middle class.
- The Homeless Veterans' Reintegration Program (HVRP) helps the homeless Veteran get into the middle class.
- The Uniformed Services Employment and Reemployment Rights Act (USERRA) enforcement helps keep Veterans and Service Members in the middle class by protecting their employment and reemployment rights.

Veterans have earned a secure place in the middle class. VETS works closely with the DoD and the Department of Veterans Affairs (VA) to help them get there through seamless employment transition.

My testimony today will cover current programs and initiatives in VETS that support putting adults back to work.

Fiscal Year 2011 Budget Request

The mission of the Veterans' Employment and Training Service is to provide Veterans and transitioning Service Members the resources and services to succeed in the workforce by maximizing their employment opportunities, protecting their employment rights, and meeting labor market demands with qualified Veterans. For FY 2011, the Department is requesting \$262,494,000 for VETS, an increase of \$6,367,000 or approximately 2.4% above FY 2010. In addition, the FY 2011 budget request marks a significant change in the delivery model for the services provided to Veterans under the Jobs for Veterans State grants.

Aspirations

Since being confirmed, I have met with Service Members and Veterans, leaders in the Federal and private sector, Veterans' Service Organizations and providers of employment and training services to solicit their views on the issues and challenges regarding Veterans' employment. I have incorporated the combination of feedback and observations from these discussions into five aspirations that VETS will pursue during my tenure as Assistant Secretary in order to achieve our desired outcomes:

1. Providing Veterans and transitioning Service Members a voice in the workplace by serving as *the* National focal point for Veterans' employment and training. This will involve the following actions:

- a. Increasing awareness, access and participation in VETS' programs, and employment outcomes for those participants.
 - b. Communicating, convening and collaborating with partners and stakeholders.
 - c. Ensuring we effectively serve populations with unique needs, especially Veterans and transitioning Service Members who are women, homeless, live in rural areas, or are wounded, ill or injured.
2. Creating a path to good jobs for Veterans through increased engagement with employers, with a particular emphasis on the private sector.
3. Helping Service Members transition seamlessly into meaningful employment and careers while emphasizing success in emerging industries such as green jobs.
4. Facilitating a return to work for Service Members and protecting vulnerable populations through boosting USERRA's impact by increasing awareness of and commitment to it.
5. Investing in VETS' team members and emphasizing continuous improvement to further develop their potential and better serve our clients.

Improvements in Current Programs

Jobs for Veterans State Grants

VETS helps Veterans obtain positive employment outcomes through services provided at One-Stop Career Centers and other locations. Grants are provided to State Workforce Agencies to support staff dedicated to serving Veterans. This is our "front line" for the reemployment of our Nation's Veterans.

We closely partner with DOL's Employment and Training Administration (ETA) to ensure Priority of Service for Veterans in all DOL-funded employment and training programs. Furthermore, VETS is collaborating with VA's Vocational Rehabilitation and Employment (VR&E) service to provide enhanced services to VR&E participants by out-stationing Disabled Veterans' Outreach Program (DVOP) specialists at all 57 VA Regional Offices.

In FY 2011, we propose to fundamentally change the program's service delivery model. The goals of the redesigned model are to improve the quality and effectiveness of employment services by:

- targeting disabled and recently separated Service Members, including National Guardsmen and reservists,
- linking closely with Transition Assistance Program employment workshops, and
- providing intensive employment services through a customer-focused case management approach.

Transition Assistance Program Employment Workshops

DOL provides TAP Employment Workshops at military installations world-wide to help Service Members and their spouses make the initial transition from military service to the civilian workplace with less difficulty and at less overall cost to the government. These workshops consist of comprehensive two and one-half day employment workshops at military installations nationwide and at select military installations overseas.

We have reviewed external assessments and stakeholder feedback regarding TAP's performance and ways to improve the program. In an effort to increase program effectiveness and improve participant outcomes, we are working to redesign the workshops to make them more relevant and engaging for participants. We are working in close cooperation with our partners at DoD, VA and the Department of Homeland Security (DHS) in this endeavor.

Late last year, our four agencies engaged in a weeklong working group to develop a joint, multi-year, strategic plan for Service Members as they transition from the military. This effort goes beyond the TAP Employment Workshop and encompasses the entire transition experience. We're all committed to ensuring the plan is action-oriented and will have a direct, positive impact on our transitioning Service Members. The plan will involve an increased emphasis on the employment needs of the Reserve components and Service Members who have been wounded, ill or injured.

DoD has set a goal for TAP Employment Workshop participation at 85 percent of separating Service Members. Although TAP Employment Workshop participation is expected to increase in FY 2010, VETS expects the number of Service Members receiving TAP Employment Workshops will hold steady around the level of 185,000 in FY 2011, consistent with an anticipated stabilization of separations from active duty. The FY 2011 budget establishes the TAP program as a separate budget activity to highlight the significant role this program plays in returning Service Members to the workforce. The requested increase of \$1,000,000 in FY 2011 will be used to raise awareness that spouses are eligible to attend the program, and to provide the course to spouses in languages other than English.

Homeless Veterans' Reintegration Program (HVRP) and Veterans' Homelessness

Secretaries Solis, Shinseki and Donovan share the vision of eliminating homelessness among Veterans within five years. We have strengthened our interagency collaboration at all levels to mobilize for this important and necessary goal. VETS' contribution to this effort will include the following:

- Continue reaching out to homeless Veterans and assisting them in becoming reintegrated into the workforce through the Homeless Veterans' Reintegration Program. VETS expects to serve 21,000 participants in FY 2010. The requested increase of \$5 million for FY 2011 will boost that number to an estimated 25,000 participants.
- Through the Incarcerated Veterans Transition Program (IVTP), VETS will continue its efforts to help incarcerated Veterans and will coordinate these efforts with the Department of Veterans Affairs. Of the \$36 million for HVRP in FY2010, VETS

plans to use \$4 million for IVTP, which will serve approximately 1,500 Veterans through 12 grants. We plan to continue this program at that level in FY 2011.

- Of the \$10 million increase for the HVRP in FY 2010, we will use up to \$5 million for a major new undertaking – to provide customized employment services for homeless women Veterans and homeless Veterans with families, a population that is on the rise and in need of specialized services. We expect to fund about 25 grantees with this \$5 million increase, and will continue this effort in FY 2011.
- VETS is collaborating with DOL's Women's Bureau, which has already conducted 28 moderated listening sessions nationwide with formerly and currently homeless women Veterans to identify the causes and the solutions for homelessness among women Veterans. The findings from these sessions are available on the Women's Bureau website at: <http://www.dol.gov/wb/programs/listeningsessions.htm>.
- We also conducted a national listening session with service providers, VA, the Department of Housing and Urban Development, and other government agencies to begin identifying the best practices for serving homeless women Veterans and homeless Veterans with families. We will continue to identify the best practices for serving this population, and disseminate them to service providers throughout the Nation.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

VETS is not only an employment and training agency, but also a worker protection agency with a vital role in enforcing the employment and reemployment rights for uniformed Service Members following qualified service.

VETS recently completed a Lean-Six-Sigma quality enhancement and process efficiency assessment of USERRA, with a view toward streamlining, quality improvement and increasing responsiveness to our Veteran clients. The goals of the assessment were to 1) identify ways of ensuring a consistent, high standard of investigations; and 2) determine other steps to improve the program and its outcomes.

We have begun work on identifying an electronic case management system to eliminate the paper-centric aspect of investigations and improve efficiency. Access to this system will be shared with our Federal enforcement partners. We are also working closely with the Office of Personnel Management to ensure that the Federal government serves as a role model for honoring USERRA.

New Initiatives

Increased Engagement with Employers

There is tremendous potential and opportunity for increasing engagement with employers to increase the hiring of Veterans and transitioning Service Members. This will involve communicating the value proposition for hiring Veterans more effectively; making the hiring process more convenient and efficient; and developing hiring partnerships.

VETS is developing new relationships with major private sector organizations to enlist their advice and support to increase Veterans' hiring.

- On November 12, 2009, Secretary Solis and VETS participated in a major outreach initiative to promote Veterans' hiring sponsored by the U.S. Chamber of Commerce Foundation. In addition to serving as a keynote with Secretary Shinseki, this event was a major first step in developing a partnership with the U.S. Chamber of Commerce in this important area of shared interest. This initiative will involve each of VETS' 52 state directors in leading outreach to regional and local Chambers of Commerce. The goal will be to form a link between the local private sector employer and the Veterans who are looking for employment through the state One-Stop Career Centers. We will be engaging the Chamber in two critical "employer dialogs" over the next two months. Later this month, I will be facilitating a discussion with 50 human resources personnel at Chamber headquarters, and, in May, the Secretary will be facilitating a similar discussion with approximately 30 CEOs.
- VETS is in the process of developing relationships with other important business associations, such as the Executive Leadership Council, Young Presidents' Organization-World Presidents' Organization, Business Executives for National Security, business roundtables, economic development boards and high-tech associations.

VETS will work with ETA, other DOL agencies, the federal government and private sector to leverage efforts already underway that make employment opportunities more available to Veterans. VETS will be working closely with several state workforce agencies that have shown effective innovation in this area and find ways to bring these programs into the talent exchange and apply them nationally.

Targeted Populations

There are several populations of Veterans who have been under-served and require special outreach and services.

1. Native American Veterans, especially those on tribal lands, are one such population. Secretary Solis hosted a Summit of Tribal Leaders at the Department of Labor earlier this month that VETS participated in. We discussed the challenges facing Native American Veterans and potential solutions. This event began the process of better serving this community. VETS will also be participating in a number of major Native American outreach events in 2010. Furthermore, we are conducting a study on the employment needs of Native American Veterans living on tribal lands to identify best practices for serving this population.
2. Veterans who have been wounded, ill or injured are another one of our targeted populations. In response to the employment needs of these brave heroes, VETS has two special initiatives.

- a. Recovery and Employment Assistance Lifelines (REALifelines) provides one-on-one services to our wounded warriors to ease their transition into civilian employment. We have special REALifelines coordinators stationed at military treatment facilities on a full-time basis who provide employment services on those bases and at other nearby facilities. We also have a VETS liaison working full-time at Marine Headquarters in Quantico. This year, we established a liaison at both the Department of the Army's and the Department of the Navy's wounded warrior headquarters. These liaisons will enable seamless transition and serve as a gateway to all DOL employment and training services available to these wounded warriors.
- b. America's Heroes at Work (AHAW) is a joint initiative with DOL's Office of Disability Employment Policy. AHAW is an outreach and anti-stigma campaign that educates America's employers about the simple on-the-job accommodations and steps they can take to help Veterans with post-traumatic stress and/or traumatic brain injury to excel in their careers. This program is in strong collaboration with DoD, VA and other Federal agencies and stakeholders. AHAW has developed a series of timely educational materials to help dispel the myths associated with these conditions and highlight the value these wounded warriors still bring to civilian workplaces. The program receives outstanding feedback from both employers and participants.

Veterans' Green Energy Jobs Initiative

In July 2009, VETS awarded 17 competitive grants totaling \$7.5 million to provide training and employment services in green energy occupations to approximately 3,000 Veterans. These grants awards were made under the Veterans' Workforce Investment Program, with the goal of providing Veterans with training and other services that lead to green energy jobs. Fields of employment include energy efficiency, renewable energy, modern electric-power development and clean vehicles. This program will help Veterans overcome employment barriers and ease their transition into this growing industry. For FY 2010 we received an increase of \$2,000,000, and plan to award up to an additional four grants in July, and will continue this program at the expanded funding level in FY 2011.

Conclusion

The Department of Labor's Veterans' employment and training programs are part of a larger effort to provide a smooth transition process for assisting Veterans and transitioning Service Members as they seek to identify and secure productive civilian opportunities. The Department is proud to assist our heroes who have served our nation well.

Thank you for the opportunity to present our programs and initiatives. I would be pleased to respond to any questions.

The Honorable Raymond Jefferson

Assistant Secretary for Veterans' Employment and Training Service

Ray Jefferson is the Assistant Secretary for the Veterans' Employment and Training Service (VETS) at the U.S. Department of Labor. VETS serves as the national advocate for Veterans' Employment. VETS' mission is to provide Veterans and Service Members with the resources and services to succeed in the 21st century workforce by maximizing their employment opportunities, protecting their employment rights and meeting labor-market demands with qualified Veterans.

Prior to being appointed to this role by President Barack Obama, he served as a Leadership Consultant with McKinsey & Company in Singapore where he created and delivered leadership training and development programs for clients and offices throughout Asia. His focus areas were organizational change, inspirational leadership, top team development and peak performance.

Ray graduated from the U.S. Military Academy at West Point with a major in leadership. He served as an Army Officer with the infantry, Rangers and Special Forces, with leadership positions in the U.S. Presidential Honor Guard, 3rd Ranger Battalion and 1st Special Forces Group. While attempting to protect his teammates from a hand grenade detonating prematurely during classified Special Forces training, he lost all five fingers on his left hand. After recuperating in Hawaii, Ray attended Harvard's Kennedy School of Government, earning an MPA in Strategic Management with Distinction as a Littauer Fellow. He then earned an MBA from Harvard Business School and was recognized with the Dean's Award for exceptional leadership and service. Upon graduation, he was selected as a White House Fellow and worked as a Special Assistant to the U.S. Secretary of Commerce. Ray then served as a Fulbright Fellow in Singapore, where he studied leadership within Asian contexts. Afterwards, he served as the Deputy Director for the State of Hawaii's Department of Business, Economic Development and Tourism (DBEDT). DBEDT's mission involves creating jobs, facilitating business development, diversifying the economy and creating renewable energy initiatives. While at DBEDT, he co-led the organizational transformation for a department of over 230 team members with an operating budget of \$182 million.

Ray was selected by then-Secretary of State Colin Powell as one of the two inaugural recipients of the Harrison H. Schmitt Fulbright Alumni Leadership Award for dedication to public service. He is a member of the Asia Society, the Fulbright Association, the NAACP and the Special Forces Association. Born and raised in Guilderland, New York, his home is Honolulu, Hawaii.

Mr. OBEY. Thank you.
Ms. Kanter.

OPENING STATEMENT OF MARTHA KANTER

Ms. KANTER. Thank you, Chairman Obey and Ranking Member Tiahrt. I am delighted to be here.

Let me talk about several elements of the President's proposed fiscal year 2011 budget that will leverage the educational resources that we have through the States and our local communities to move America toward social and economic prosperity.

PRESIDENT OBAMA'S GOAL FOR 2020

Investing in education is more important than ever. When I step back and recall what President Obama said in April, his goal is that by 2020 we will have the best educated, most competitive workforce in the world.

When I look at all of the things we are doing, whether it is Pell Grants, Public Service Loan Forgiveness, the programs in the Reconciliation Act, the programs for historically black colleges and universities and other minority-serving institutions, and the program for community colleges hopefully through the TAA—Trade Adjustment Assistance—when taken together, will contribute toward reaching the President's 2020 goal.

HIGHER EDUCATION AND THE WORKFORCE

We are expecting somewhere between 10 million and 13 million more undergraduates to enroll in higher education. We need them to be well-trained. We need to give them opportunities to obtain the jobs that are going to be available. We are working very closely with the Department of Labor. Since I came in July, Jane Oates and I have had many meetings. We are really trying to think this through carefully.

SPECIAL POPULATIONS AND THE WORKFORCE

Alexa Posny, on my other side, is very attentive to special populations, especially people with disabilities, veterans, especially disabled veterans, and homeless veterans. We are discussing how we can map Education and Department of Labor resources to serve those most needy populations in our country.

ELEMENTARY AND SECONDARY EDUCATION

The backdrop of higher education obviously rests in early learning and K–12. We have 27 percent of students not graduating from high school. Across the urban parts and some of the rural parts of America, the rates are much higher. We look at those students who could and should graduate. We want to put in place all of the work that Secretary Duncan told you about last week and let that serve as the foundation.

When you have kids who are not ready for kindergarten, 25 percent of children, especially those from the poorest families, who aren't ready for kindergarten, the result is the 4th-grade reading scores that were released from NAEP this week. I think you, Chairman Obey, showed the chart last week that shows what hap-

pens with the disparity between wealthy and poor, the opportunities for young people and how they do and don't have access.

PELL GRANTS

The Pell Grant is central to this. It gives families of young children the hope that there will be a college slot ready for them. I know at Foothill-De Anza Community College District, where I was chancellor for many years and president, we had a program called KinderCaminata that distributed diplomas to graduating kindergarten children. We did this to educate the parents, many of whom didn't speak the language as I am speaking it, many of whom are from poor families, many of whom are from under-represented groups in K-12 as well as in higher education—and those groups are becoming the majority of our country.

It is very important for us to have a vision, which is the President's goal and your efforts, to save jobs through ARRA—the American Recovery and Reinvestment Act. We are grateful for that, but to have Pell Grants as a centerpiece of opportunity for American families is critical to our success. This also drives much of the partnership between the Department of Labor and Education so that we can have opportunities for both education and training for Americans who need it so much.

We know that there is a shortfall in the Pell Grants program. We are working very closely with OMB—the Office of Management and Budget—through our budget office to find solutions and work with Congress to meet that shortfall. Students, as you have seen, are knocking down our doors. I met with over 500 students this week on the National Mall, who may be coming here to tell you their stories.

It was all about Pell. I asked them, do you know about the Public Service Loan Forgiveness? I said, those are some new provisions in the Reconciliation Act that are going to keep college more affordable. If you want to become a police officer in a community college or you want to get workforce training through a one-stop shop and become an energy management technician, all of those resources are going to be available. And we want to get you into not only the private sector but into public-sector opportunities.

COLLEGE ACCESS GRANTS

We are excited that the Reconciliation Act is hopefully going to double funding for college access grants. This will allow outreach to those families I talked about, to let students know that college will be there for them, as well as workforce training opportunities that are tied to the work being done in internships and apprenticeships.

CAREER AND TECHNICAL EDUCATION TRAINING

We have a number of new programs that have been in place with unions and other organizations. For example, at the University of Texas at Brownsville, Texas Southmost College has a partnership with unions where students start as an apprentice in construction technology, and they can move up the ladder to construction management at higher and higher levels while getting their apprentice-

ship, move on to journeyman, all the while getting their 2-year and 4-year degrees. It is this kind of innovative partnership that we are hoping to leverage with the Department of Labor if funds become available in the Reconciliation Act.

REAUTHORIZATION OF THE WORKFORCE INVESTMENT ACT

When I step back and look at the big picture, we have more than 90 million adults with low skills and who have not had access to college. We are just at the beginning with our workforce career and technical education training. We are serving about 2.4 million adults. So we have, as you said, Chairman Obey, a long way to go with all of this, but we have to reach more Americans. And that is why we are doing so much work to reform Title II of the Workforce Investment Act, to figure out how we can assess and provide eligibility to individuals who didn't have the opportunity.

We are very much committed, with these funds, to advance career ladders for people, so that education and training are both the opportunity and the expectation. Education, training and workforce planning should be a coordinated system. People need jobs to live, and they need education to get the jobs and further advance. This is a very critical philosophy. We should not be preparing students for careers or for education; we should be preparing them for life. Students need both education in a lifelong context and training at different times in their lives so they can move up the ladder.

You can train someone for 40 hours a week to be a solar-panel installer, but maybe that person could be an energy management technician. Maybe that person might want to have an opportunity to get a baccalaureate degree and go into climate science. We should leave those opportunities open for people to make the choices they need and have "family-sustaining wages" to move forward as the economy recovers.

COLLEGE- AND CAREER-READY STANDARDS PROGRAM

The Administration has requested \$14.5 billion, as you heard from Secretary Duncan, for the College- and Career-Ready Standards Program. We want students ready for college and career when they graduate from high school. This is a generational agenda. The States have come forward to say, we need to raise our standards, but we need to also look at a growth model so that we know students have the skills they need to be ready for college.

We don't want to divorce higher education from K-12. In fact, we want to have stronger connections there. We also want to look at early learning as a part of that connection, so that, for example, the community colleges and 4-year schools will train the child care providers, provide baccalaureate degrees for entry-level programs and Head Start programs. We should look at this as a continuum, which I think will be very important to our success.

We have been working, as Jane said, with the Department of Labor, but we have also been working with the Department of Energy, the Department of Health and Human Services, and the Regional Innovation Clusters effort that you have supported to have the education components really embedded in these career opportunities for people.

I look forward to answering all your questions and I appreciate your having me to this committee.
[Prepared statement of Under Secretary Kanter follows:]

DEPARTMENT OF EDUCATION**Statement by****Martha Kanter**
Under Secretary of Education**on****Jobs, Training, and Education**

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify on the President's FY 2011 budget request for the Department of Education programs that play a key role in developing a workforce that will be well-prepared to seize the opportunities and meet the challenges of the 21st century.

Building on the American Recovery and Reinvestment Act (ARRA)

During the past year, our team at the Department of Education has largely focused on awarding nearly \$100 billion provided under the American Recovery and Reinvestment Act. We believe that this funding, which was provided during the most severe financial crisis in our country since the Great Depression, helped significantly to avert economic disaster. The billions of dollars we've awarded to States and school districts have helped them deal with budget shortfalls and save or create an estimated 400,000 jobs across the country. The President's FY 2011 request for Department of Education programs will build on ARRA by investing in the future. We see education as a key driver of America's future economic prosperity and the President's budget reflects this principle by making a number of critical investments. Today I will highlight some key changes in student financial aid and new higher education programs that are consistent with President Obama's ambitious goal of restoring America's status as first in the world in the percentage of its citizens with college degrees by 2020. I will also discuss the role of adult and career and technical education in preparing our workforce and the importance of creating pathways into higher education.

In today's world, the skill-level of the workforce has a more significant impact on regional and metropolitan growth in per capita income and worker productivity than any other factor. Unfortunately, millions of Americans are not receiving the education they need to obtain high-paying jobs and it is these lower-skilled workers who have been disproportionately impacted by the economic downturn. By 2016, just 6 years from now, 4 out of every 10 new jobs will require some advanced education or training. Thirty of the fastest growing fields will require a minimum of a bachelor's degree. We believe a greater investment in college access and attainment is essential to preparing our workforce for job opportunities needed to move America ahead.

Student Financial Assistance

Our programs support this goal in two major ways: (1) financial aid that empowers citizens to choose the education and training that suits their interests and abilities; and (2) institutional support for programs that meet particular needs. The student loan and Pell grant programs have seen unprecedented demand in this recession. Last year a record 19 million

Americans completed the Free Application for Federal Student Aid (FAFSA) to access Federal financial aid. To ensure that our Federal programs provide the assistance that students need, we support the Student Aid and Fiscal Responsibility Act (SAFRA). SAFRA would increase the maximum Pell Grant to \$5,710 next year and index future increases to inflation plus 1 percent. Almost 8 million students will receive Pell Grants in the 2010-11 academic year. The cash value would increase 13 percent, and by the end of the decade, using current inflation projections, Pell Grants would increase to \$6,900. Those increases are paid for by making student loans both more reliable and more efficient through the Direct Loan Program.

To address those situations where Pell Grants and Stafford loans are not enough, SAFRA would revamp and expand the Perkins loan program so that colleges would be able to provide extra loan funds to students in need. The President's budget also calls for making permanent the expansion of the American Opportunity Tax Credit. This credit provides \$10,000 over 4 years to families struggling to pay for higher education.

Reauthorization of the Workforce Investment Act (WIA)

Our efforts in adult education and career and technical education to strengthen the Nation's workforce education and preparation programs are also important elements in our reform agenda. This year we have a very specific opportunity to strengthen adult education through the reauthorization of the Workforce Investment Act (WIA). The Department of Education is currently serving approximately 2.4 million individuals in English literacy, adult basic education, and adult secondary education programs funded under the Adult Education and Family Literacy Act (Title II of WIA). We must expand our capacity to serve more individuals in high-quality programs and to ensure that basic skills education prepares adult learners for postsecondary education, advanced training, and employment in jobs that provide opportunity for advancement and offer family sustaining wages. We have sought input from the field on ways to strengthen WIA through a series of 20 community conversations in 8 States and through Web-based outreach to practitioners, administrators, and national leadership organizations. Five broad themes emerged in the feedback we gained through this outreach, all pointing to a need to:

1. Provide incentives to spur innovation in the delivery of adult education services;
2. Make meaningful advances to ensure that our students have highly effective instructors and to professionalize the field of adult education;
3. Prepare our students for careers in the 21st century;
4. Build on the strengths of the adult education accountability system; and
5. Codify the work over the last decade to prepare our non-citizen English learners for citizenship and all English learners for more rich civic and workforce participation.

We are working with Congress and our partners in the Department of Labor, Domestic Policy Council, and the Office of Management and Budget to incorporate these recommendations into legislation.

To stimulate reform in adult education, the President's budget also includes funding for a Workforce Innovation Fund. The Fund would be used to support competitive grants for projects that propose strategies for improving service delivery and eliminating fragmentation between State and local agencies and the education and workforce systems.

Building a Pipeline of College- and Career-Ready Students

While the Department is making strides to build capacity and quality in adult education, we are also working hard to build a pipeline of students who are ready for college and careers. The demands for a highly skilled workforce place a premium on innovative approaches to adult education and career and technical education. State and local efforts are beginning to show promise that career pathways and programs of study, as set forth in the currently authorized Carl D. Perkins Career and Technical Education Act, provide a viable framework for delivering rigorous and relevant learning opportunities that bridge education and careers. These programs are:

- Incorporate State academic standards;
- Link secondary and postsecondary education in a coordinated, non-duplicative progression of courses;
- Offer opportunities for students to earn postsecondary education credit in high school; and
- Lead to industry-recognized credentials, certificates, and associates and baccalaureate degrees.

I want to emphasize that when we talk about college and career readiness, we are not talking about two separate tracks. Research conducted by Achieve, as well as others, shows a “convergence in the expectations of employers and colleges in terms of the knowledge and skills that high school graduates need to be successful after high school.”

Developing and strengthening a pipeline of talented students who are ready for college and careers puts us ahead in the quest for a skilled workforce. The Administration’s plan includes \$14.5 billion for the reauthorized College- and Career-Ready Students program, which would focus on graduating every student college- and career-ready through State adoption of standards that build toward readiness and assessments aligned with these high standards that measure individual student growth towards those standards. To strengthen high school, the Administration supports \$1.2 billion over 3 years for Graduation Promise Grants. The President’s FY 2011 budget also includes approximately \$910 million for the Federal TRIO programs and \$323 million for GEAR UP. These programs will continue to play an integral role in the Department’s strategy to reach the President’s 2020 goal for college completion.

Institutional Support

Community Colleges are at the nexus of our efforts to build pathways into higher education. SAFRA would provide \$10.6 billion to support community colleges’ efforts to increase access, quality, and student achievement, using best practices and evidence-based innovations. Right now, 60 percent of freshmen enter higher education needing remedial coursework, and in community colleges only 25 percent of students earn degrees within 6 years. This is the population we need to reach. We must also reach the 75 million Americans, aged 18-64, who are already in the workforce who do not have a postsecondary credential but need further education to advance in their careers and achieve greater economic security for themselves and their families.

Our strategies will address basic literacy skills and create opportunities for incumbent and dislocated workers to return to schools to gain the skills they need for good jobs. Right now, approximately 93 million adults in the U.S. lack the basic literacy and numeracy skills they need

to compete for our fastest-growing sector of jobs – that is, middle-skills jobs that require more than secondary school but less than a bachelors degree.

In addition, SAFRA would:

- Create the College Access and Completion Fund, which directs \$3.5 billion dollars to expand access to higher education and help ensure that students, particularly disadvantage students, complete their degrees. Right now, 40 percent of freshmen don't earn a degree within 6 years of enrolling in higher education institutions. For poor and minority students, that percentage is even higher.
- Provide \$2.5 billion over 10 years for new investments in Historically Black Colleges and Universities and other minority-serving institutions to help students stay in school and graduate.

Partnerships

In addition to directing our own programs to support workforce development, we have expanded our partnerships to advance interagency efforts to promote job creation and economic revitalization. We are active partners in the Regional Innovation Clusters that will promote sector strategy approaches to advance low-wage workers through skills attainment while stimulating regional economic growth. We are also working very closely with the Departments of Energy, Labor, and Health and Human Services to connect education to new jobs in renewable energy, energy efficiency, and health information technology. Partnerships such as these are not only cost-effective, but create a more coordinated approach to Federal policy and programming that we hope will endure long after we have emerged from this period of economic recovery.

Individuals with Disabilities Education and the Rehabilitation Act

Furthermore, the President's Budget includes \$16 billion for a variety of programs authorized under the Individuals with Disabilities Education and the Rehabilitation Act that are designed to provide Americans with disabilities with the opportunities and services they need to succeed in school, in the workplace, and in the community.

We have made extraordinary progress in meeting the needs of our schools and communities in the midst of financial crisis and recession, making long-needed reforms in our Federal postsecondary student aid programs, and reawakening the spirit of innovation in our education system from early learning through college. We look forward to continuing collaboration with the Department of Labor and working with Congress to ensure that the individuals served by our programs have the skills they need to become full and successful contributors to our Nation's economy.

I would be happy to answer any questions you might have. Thank you.

Martha Kanter**Biography**

Martha J. Kanter was nominated by President Barack Obama on April 29, 2009, to be the under secretary of education and was confirmed by the Senate on June 19, 2009. In this position, she reports to Secretary of Education Arne Duncan and oversees policies, programs, and activities related to postsecondary education, vocational and adult education, and Federal student aid.

From 2003 to 2009, Kanter served as chancellor of the Foothill-De Anza Community College District, one of the largest community college districts in the Nation, serving more than 45,000 students with a total budget of approximately \$400 million. She is the first community college leader to serve in the under secretary position. In 1977, after serving as an alternative high school teacher at Lexington High School in Massachusetts, the Public Schools of the Tarrytowns (N.Y.) and later at the Searing School in New York City, she established the first program for students with learning disabilities at San Jose City College (Calif.). She then served as a director, dean and subsequently as vice chancellor for policy and research for the California Community Colleges Chancellor's Office in Sacramento, returning to San Jose City College as vice president of instruction and student services in 1990. In 1993, she was named president of De Anza College and served in this position until becoming chancellor.

Kanter has served as a board member or officer in a wide variety of national, State, and local organizations, including the League for Innovation in the Community College, the Community College League of California, Joint Venture: Silicon Valley Network, Inc., Peninsula Open Space Trust, the Hispanic Foundation of Silicon Valley, the Mexican Heritage Corporation, the Rotary Club of Palo Alto, and the California Association of Postsecondary Educators of the Disabled.

Kanter has been recognized for her work numerous times in California, including being named Woman of the Year by the 24th Assembly District, Woman of Achievement by *San Jose Mercury News* and the Women's Fund, and Woman of the Year for Santa Clara County by the American Association of University Women. In 2003, she received the Excellence in Education award from the National Organization for Women's California Chapter. In 2006, she was honored for diversity and community leadership by the Santa Clara County Commission on the Status of Women, and in 2007, the American Leadership Forum-Silicon Valley honored her with the John W. Gardner Leadership Award. Last year, Kanter received the Citizen of the Year award from the Cupertino Chamber of Commerce.

Kanter holds a doctorate in organization and leadership from the University of San Francisco. Her dissertation addressed demographic, institutional, and assessment factors affecting access to higher education for underrepresented students in California's community colleges. In 1994, she opened the first Advanced Technology Center in California's community college system and promoted local and state policies to advance Foothill-De Anza's legacy of excellence and opportunity for California's expanding and increasingly diverse student population. She received her master's degree in education with a concentration in clinical psychology and public practice from Harvard University, and a bachelor's degree in sociology from Brandeis University.

Mr. OBEY. Thank you.
Ms. Posny.

OPENING STATEMENT OF ALEXA POSNY

Ms. POSNY. Thank you very much.

Chairman Obey and Ranking Member Tiahrt, I just want to clarify for the record, I was born and raised and lived in Wisconsin for 33 years and have had the great opportunity to be in Kansas for the last 22. So, know that I split my—

Mr. OBEY. It sounds like Wrong Way Corrigan to me.

Ms. POSNY. Badgers and Jayhawks and everything else, they are equal, believe me.

Mr. TIAHRT. She likes warm weather.

Ms. POSNY. Thank you very much for this opportunity to talk with you on behalf of the 2011 budget.

Ensuring that people with disabilities have access to a high-quality education and then the career and vocational development services they need for participation in our economy are top priorities, not only for us in our Administration but I know it is for all of you, as well.

AMERICAN RECOVERY AND REINVESTMENT ACT

Our 2011 request will build on the work that has been currently supported by the American Recovery and Reinvestment Act—ARRA. Under the ARRA funds, States and LEAs have received an unprecedented amount, \$12.2 billion, for special education programs under IDEA—the Individuals for Disabilities Education Act—and an additional \$680 million for vocational rehabilitation and independent-living services.

In terms of how some of those dollars were spent, for IDEA, States used the funds to pay for the salaries of over 50,000 personnel. For vocational rehabilitation—VR, the funds were used to serve almost 39,000 consumers and assisted 1,800 of them achieve competitive employment. And approximately 27,000 of our consumers have been removed from our waiting lists.

In Wisconsin, some of the VR funds were used to offset 50 percent of individuals with disabilities in terms of their salaries and benefits for their first 90 days of employment while the employees were getting up to speed.

In Kansas, Wichita has a great example of how the funds were used, and it is now being replicated in several other districts. The Wichita public school district provided students with disabilities work experience in real jobs for real pay, and the VR counselors were assigned full-time to each high school.

SPECIAL EDUCATION GRANTS TO STATES

We know that a strong educational foundation, as Martha said, for youth with disabilities leads to better career and employment opportunities. It is absolutely a must. So, therefore, our 2011 budget request contains \$11.8 billion for special education grants to States. This is an increase of \$250 million serving, over 6 million students across the United States ages 3 through 21. This level of funding maintains the excess cost of special education at approxi-

mately 17 percent or the national average per pupil expenditure, and provides an estimated average of \$1,750 per student.

VOCATIONAL REHABILITATION STATE GRANTS PROGRAM

We are also requesting \$3.6 billion to support rehabilitation and independent-living services.

The State-Federal program of vocational rehabilitation, a Workforce Investment Act partner program, is the flagship program for providing job training and employment to individuals with disabilities. The VR program is a “go-to” agency within a local workforce system to which clients with special disability-related needs are referred to from other partner programs.

What has been achieved so far? Over 2 million individuals with disabilities have achieved employment through the VR program over the last 10 years. This is almost 200,000 individuals who are gainfully employed each year. And the VR State Grants Program currently serves approximately 1 million customers each year.

We know that we have to raise our expectations for our customers and counselors alike and focus our resources on helping individuals with disabilities attain high-quality employment and careers that will lead to self-sufficiency, not just to jobs, but so that they can sustain themselves.

We are committed to working with our Workforce Investment Act partners to ensure that individuals who do not need the comprehensiveness of the VR program still have access to appropriate services through our WIA one-stop partners.

We also know that a major emphasis on our level, in terms of K–12, should focus on transition planning for students with disabilities as they move towards postsecondary education, training, and employment. VR agencies play a major role in this endeavor, as nearly 22 percent of our transition-age youth received postsecondary education as a service under the VR program in 2008 and over 65,000 achieved employment outcomes.

NATIONAL ACTIVITIES AND THE WORKFORCE INNOVATION FUND

I am really excited, as has been referred to, about a request for \$30 million to support a Workforce Innovation Fund. Combined with \$30 million requested under the Adult Education National Leadership Activities to support a partnership with our colleagues at the Department of Labor, this project will serve to support and validate effective strategies for improving service delivery and outcomes for individuals served under WIA.

SUPPORTED EMPLOYMENT FOR YOUTH WITH SIGNIFICANT DISABILITIES

Additionally, we have asked for \$25 million for discretionary grants that would be awarded on a competitive basis. This would expand supported employment opportunities that allow us to extend the support that some of our people with the most significant disabilities require in order to stay on the job and be retained in employment.

CONCLUSION

In closing, I just want to thank you for continuing to support the critical services and programs that have enabled millions of children and adults with disabilities to not only learn but also to be gainfully employed. Our culture and economy are stronger when the diverse talents of people with disabilities are developed through education and training and used in the workforce.

Thank you very much.

[Prepared statement of Assistant Secretary Posny follows:]

DEPARTMENT OF EDUCATION**Statement by****Alexa Posny****Assistant Secretary****Office of Special Education and Rehabilitative Services****on****Jobs, Training, and Education**

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to testify on behalf of the President's FY 2011 budget request for the Department's Office of Special Education and Rehabilitative Services' programs for students and adults with disabilities. Ensuring that all people with disabilities have access to a high-quality education and the vocational, career development, and employment services necessary for participation in our economy are top priorities for both the Administration and the country, and I know that the Members of this Subcommittee and the Congress as a whole share this commitment. Including the talents of people with disabilities in the American workforce must be an integral part of our economic recovery and will help strengthen our competitive position in the global economy. Providing young people with disabilities with a solid educational foundation supported by high educational and career expectations is the key strategy for preparing the next generation of American workers and meeting the workforce needs of employers. I will describe how our budget request focuses on direct support for individuals with disabilities to obtain education and then employment and on improvement of the systems providing the supports and services to accomplish these tasks.

American Recovery and Reinvestment Act of 2009

Our FY 2011 request will build on the work supported by the American Recovery and Reinvestment Act of 2009 (ARRA). Under ARRA, States and local educational agencies (LEAs) received an unprecedented additional \$12.2 billion for special education programs under the Individuals with Disabilities Education Act and an additional \$680 million for vocational rehabilitation (VR) and independent living services under the Rehabilitation Act. These funds are being used to improve the capacity of States and LEAs to provide the full array of special education and related services to students with disabilities and have allowed States, school districts and other grantees to continue to provide vital services to individuals in great need of these services during a time of economic stress. For IDEA programs, States report using ARRA funds to pay the salaries of over 50,000 personnel, including teachers, providers of related services, and others. According to a survey of 52 VR agencies recently conducted by the Council of State Administrators of Vocational Rehabilitation, VR ARRA dollars have been used to serve 38,807 consumers and assist 1,766 achieve competitive employment. Fifteen agencies have used VR ARRA dollars to get out of order of selection status or open previously closed categories of service, and approximately 27,000 consumers have been removed from waiting lists.

Employment Statistics for Individuals with Disabilities

Disability measures recently introduced into the U.S. Current Population Survey offer an opportunity to track, month by month, the labor force status of working-age adults with

disabilities in the midst of a major economic downturn. An analysis conducted by OSERS research grantees shows that over a one-year period, the number of employed workers with disabilities declined at a rate more than three times that of workers without disabilities. Further, the eventual re-employment of individuals with disabilities substantially lags overall employment recovery when the economy improves. OSERS programs are intended to help address these factors by better preparing young people with disabilities to be career- and college-ready and to assist individuals with significant disabilities obtain high quality employment that will enable them to achieve economic self-sufficiency.

Funding for Special Education Programs

To support a strong educational foundation for youth with disabilities, the FY 2011 request contains \$11.8 billion for the Special Education Grants to States program, an increase of \$250 million over the 2010 level. This level of funding maintains the Federal contribution toward meeting the excess cost of special education at approximately 17 percent of the national average per pupil expenditure and provides an estimated average of \$1,750 per student for over 6 million children with disabilities ages 3 through 21 who need special education and related services. The request also includes \$374.1 million for Preschool Grants and \$439.4 million for the Grants for Infants and Families program. These programs provide critical services that help ensure the future academic success of children with disabilities and their full inclusion in the community.

There has been increasing emphasis on transition planning and services as students with disabilities progress through the education system to postsecondary education, training, and/or employment. The individualized education program (IEP) process requires individualized consideration of transition options. Most students with disabilities graduate with regular diplomas and continue to employment, job training, or higher education (often starting at the community college level) in the same progression as students in regular education. Data from a national longitudinal study on post-school outcomes for youth with disabilities show that 45 percent of youth with disabilities reported having continued on to postsecondary education within 4 years of leaving high school and 57 percent of youth with disabilities who had left high school were employed for pay outside the home.

Vocational Rehabilitation State Grants Program

The Administration is requesting \$3.6 billion to support rehabilitation and independent living services and disability research. The State-Federal program of vocational rehabilitation, a Workforce Investment Act partner program, is the flagship program for providing job training and employment assistance to individuals with disabilities. The VR program has specialized expertise and can provide services for individuals with disabilities that more generalized workforce programs cannot. Frequently the VR program is the “go-to” agency within a local workforce system to which clients with special disability-related needs are referred from other partner programs.

The VR State Grants program provides formula grants to State VR agencies to help individuals with disabilities become gainfully employed. Over two million individuals with disabilities have achieved employment through the VR program over the last 10 years. A wide range of services, including vocational evaluation, counseling and guidance, work adjustment, education and vocational training, job placement, supported employment, assistive technology, and post-employment services are provided. The VR State Grants program currently serves approximately 1 million customers and places nearly 200,000 individuals into jobs each year. Approximately 70 percent of VR customers who obtain employment also exceed the substantial

gainful activity (SGA) level, as defined by the Social Security Administration. We believe that it is critically important that we raise expectations for customers and counselors alike and focus the VR program's resources on helping individuals with significant disabilities to attain high-quality employment and careers that will lead to self-sufficiency. We are also committed to working with our WIA partners to ensure that individuals who do not need the comprehensiveness of the VR program have access to appropriate services through our One-stop partners.

The VR agencies also play a role in assisting youth with disabilities in making a successful transition to postsecondary education or the workforce. Approximately 33 percent (116,544) of the cases closed by VR agencies in FY 2008 after receiving services were transition-age youth. Nearly 22 percent of them received postsecondary education as a service under the VR program. Over 65,000 (55.8 percent of those who received services) achieved successful employment outcomes.

Rehabilitation Act -- Proposed Consolidations

As part of our Workforce Investment Act reforms, we are proposing to consolidate nine Rehabilitation Act programs into three. The proposed consolidations would reduce duplication and administrative costs, and would improve program management, accountability, and the provision of rehabilitation and independent living services. Specifically, we are proposing to consolidate the three smaller employment-related programs into the existing VR State Grants Program. The services of these programs (Supported Employment State Grants, Projects with Industry, and Migrant and Seasonal Farmworkers) are also provided by the larger VR State Grants program and their mission in demonstrating how these services can be provided has been accomplished. In addition, we are proposing to reduce burden and improve the use of funds to support the in-service training needs identified in the State's plan for personnel development. Under our budget request, the Training program set-aside to support competitive grants for the training of State VR agency personnel would be eliminated and the funds consolidated into the State's VR allotment for use in supporting these activities.

National Activities and the Workforce Innovation Fund

Our request will provide funding for innovative practices and technical assistance to enable State VR agencies to better prepare individuals with significant disabilities for competitive employment leading to economic self-sufficiency. Our request for a new National Activities program would bring together activities currently scattered in several programs under the Act into one authority that will improve our ability to plan and will provide the needed flexibility to target our national investments in improve program performance and the delivery of vocational rehabilitation and independent living services.

Our overarching purpose for this year's budget request is to emphasize the development of effective practices and the provision of technical assistance that leads to program improvement, with the ultimate goal of higher quality employment and independent living outcomes for individuals with significant disabilities.

The FY 2011 request includes \$30 million to support a Workforce Innovation Fund. Funding for this activity would be combined with \$30 million requested under Adult Education National Leadership Activities to support a partnership with our colleagues at the Department of Labor. This partnership would encourage innovation and support projects that identify and validate effective strategies for improving service delivery and outcomes for individuals served under the Workforce Investment Act. Funds would be awarded competitively and rigorous

evaluations would be conducted in order to help build evidence of promising practices and effective strategies that improve services and outcomes for individuals with disabilities.

Supported Employment for Youth with Significant Disabilities

Our request also includes \$25 million for discretionary grants that would be awarded on a competitive basis to assist States in expanding supported employment opportunities for youth with significant disabilities as they transition from school to the workforce. Early intervention and seamless coordination of services is the key to ensuring that young people with disabilities build upon their strong education foundation and launch successful careers. The limited availability of resources for extended services is a major barrier to increasing supported employment opportunities for youth with significant disabilities transitioning from secondary education to employment. Under this new program, State and local agencies would be required to work together to develop and implement innovative methods of expanding the availability of extended supported employment services for youth with significant disabilities. We believe this initiative will enable workforce participation for individuals with significant disabilities who have had difficulty gaining entrance to the labor market.

National Institute on Disability and Rehabilitation Research

We can improve our programs and results for individuals with disabilities with knowledge gained through research. Our request includes \$111.9 million for the National Institute on Disability and Rehabilitation Research (NIDRR) for the purpose of improving the lives of persons of all ages with disabilities through a comprehensive and coordinated program of research, demonstration projects, and related activities. The \$2.7 million increase for NIDRR in FY 2011 would support research projects related to VR and rigorous evaluations of programs and activities authorized under the Rehabilitation Act. The new focus area will capitalize on NIDRR's research and evaluation expertise and allow NIDRR, in close collaboration with RSA, to provide leadership in addressing the need for evidence-based practices that could improve the effectiveness of programs administered by RSA. NIDRR would work with RSA in developing its research agenda and to disseminate and promote the implementation of the evidence-based practices. It is vital that State VR agencies have available evidenced-based research as they work with significantly disabled populations who have unique challenges to employment. Such research can lead to model demonstrations that can be replicated nationwide by State VR agencies. This emphasis on research, demonstrations, and evaluation should lead to higher quality employment outcomes for individuals with disabilities. Current NIDRR work includes cooperative traumatic brain injury (TBI) research with the Department of Veterans Affairs and support of the development of numerous accessibility guidelines, standards, and improved accessibility technologies that have resulted in increased access to the Web and computer content for millions of people with disabilities, particularly those with sensory impairments. This work directly supports and enables both workforce and community integration.

In closing, I wish to thank you for continuing to support the critical services and programs that have enabled millions of children and adults with disabilities to enjoy the same rights and freedoms all Americans have come to expect. Our culture and economy are stronger when the diverse talents of people with disabilities are developed through education and training and can then be used in the workforce.

Thank you. I would be pleased to answer any questions you may have.

Alexa Posny**Biography**

Alexa E. Posny is the Assistant Secretary for Special Education and Rehabilitative Services (OSERS), Department of Education. In her role, Alexa oversees the Office of Special Education Programs, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research.

She previously served as the Commissioner of Education for the State of Kansas. As Commissioner, she was responsible for helping over 450,000 students meet or exceed high academic standards, licensing over 45,000 teachers, and overseeing a State education budget of a little over \$4.5 billion dollars. Prior to this, Posny was appointed as the Director of the Office of Special Education Programs (OSEP) for the U.S. Department of Education, a position in which she assisted State and local efforts to effectively educate all children and youth with disabilities.

Other positions that Posny has held included the Kansas Deputy Commissioner of Education, Kansas State Director of Special Education, Director of Special Education for the Shawnee Mission School District, Director of the Curriculum and Instruction Specialty Option as part of the Title I Technical Assistance Center (TAC) network of TACs across the United States, and a Senior Research Associate at Research and Training Associates in Overland Park, KS.

Posny earned her bachelor's degree from the University of Wisconsin at Stevens Point, a master's degree in behavioral disabilities and a doctorate in educational administration, both from the University of Wisconsin Madison.

Mr. OBEY. Thank you.

Mr. Tiahrt.

Mr. TIAHRT. Thank you, Mr. Chairman.

I can tell you are very passionate about your work, and I appreciate that very much.

CARRYOVER

In my opening remarks, I said that the government doesn't create wealth but it can create opportunity. And I have to say that the programs on employment and training at the Department of Labor provide many Americans with opportunity. But, as appropriators, we have to make sure we follow the money and are accountable for this budget.

The fiscal year 2009 carryover was about \$1,400,000,000. Now, some of that, \$500,000,000, was stimulus money. The fiscal year 2010 carryover was about \$544,000,000, as an estimate. And the estimate on fiscal year 2011 carryover is about \$574,000,000.

So, if we look at the fiscal year 2010 budget, the current budget year, because of the carryover, \$5,400,000,000 is available for fiscal year 2010. And you expect the end of the year to be \$4,200,000,000. That is a \$1,200,000,000 difference. And I think we are still spending 2007 money and some 2008 money, fiscal years, and we are running a 3-year revolving balance of about \$1,000,000,000.

Can you explain, Ms. Oates, how come such a large balance carryover is required?

Ms. OATES. Congressman, I will try.

First of all, the Workforce Investment Act, which governs these appropriations, is a complicated Act. Local areas are given 2 years to expend their appropriated yearly money, and then the third year it is recaptured by the State and can be redistributed or used for statewide activities.

So the expectation in the underlying authorization is not to spend out every year. It is to do longer-term planning. That may be revisited when the Act is reauthorized. And I share no good or bad with that.

I do want to explain one thing about where locals are going, not only in your State, in Kansas, but nationwide. They are moving toward longer-term training. And that creates a battle that has been going on since the day after this bill was passed in 1998, the battle of obligated versus expended.

OBLIGATED VERSUS EXPENDED

Let me give a very simple example. If I send Ray through training—which he doesn't need, by the way—but if I send him to training and that training is three semesters to get an industry-recognized credential or degree, when I put him into that training the first day, I have to obligate the money for the three semesters of that training.

Now, our local areas, we are always working with them to say, you know, make sure that they are making satisfactory progress, make sure they haven't dropped out. And I think they do a reasonably good job of that. But that longer-term training obligation is exacerbating the problem that you are referring to of these pots of

money looking like they are unspent. They are not unobligated; they are truly obligated.

There are two pots, at the Governors level, that have been the traditional slowest of the spend-downs, and that is the Governors' 15 percent reserve and the rapid response money. The rapid response money is there for emergencies: large-scale dislocations or, heaven forbid, Katrina-like disasters. So a Governor has a pot of money to send people out to provide information so that they can put forward the most appropriate response to dislocation.

The 15 percent money, having gotten to know many Governors, I mean, they really are trying to use that strategically to look at economic development opportunities in their State, and that takes longer to do. This is not an excuse; I am trying to provide an explanation.

And, again, if this committee feels strongly that the 3-year spending provision, whose guidelines are included in the Workforce Investment Act, we can work with you and with authorizers to address your concern about giving a governor that third year and giving locals 2 years to spend their annual appropriation.

Mr. TIAHRT. I think some of these funds are still unobligated, so I am a little concerned about some of that carryover.

GREEN JOBS ACT

I have limited time here, so I want to move on to the Green Jobs Act. To compress the question, basically the Green Jobs Act only applies to entities that coordinate with labor organizations, which covers about 12 percent of the working population.

What about the other 88 percent? Shouldn't we change the application so that it is not just labor organizations but the rest of the private sector also has access to the Green Jobs Act funding? Do you follow my question?

Ms. OATES. I am not quite sure. Are you talking about our competitive grants that we put out under Green Jobs or the underlying statute, the Green Jobs Act?

Mr. TIAHRT. The Workforce Investment Act was amended by the Green Jobs Act. But in there, it sort of cordoned off the funds to just be used with entities that coordinate with labor organizations. That population is about 12 percent of the working population. There is 88 percent of the working population out there that is not qualifying for these funds.

Would it take a legislation action to open it up for the other 88 percent, or can you do that through your abilities?

Ms. OATES. You know, I would have to get back to you on whether there needed to be legislative action. But the term we use, Congressman, is "labor-management partnerships."

I make no secret that I am a friend of organized labor. I was an AFT member as a teacher. So, you know, I joined a teachers union, you know, in Philadelphia and in Boston when I was there.

But our purpose is to get labor-management partnerships. Because we think, when labor and management work together, they can make sure that the workers continue to get the skills that they need and that management can get the loyalty that they need from their workforce.

So, in all of my comments and implementation, we have many labor-management partnerships that we have funded through our Recovery Act grants that don't actively engage with a member organized labor, a union.

So I would be very reluctant and try to change your mind about that term, "labor-management partnership." You know, I wouldn't disagree that, if you are in a right-to-work State, that you want to move away from organized labor.

But I will get back to you, if I may, through the Chair, on whether you need legislative correction.

Mr. TIAHRT. To make myself clear, I am not trying to move away from organized labor. I am saying that it should be open to all labor. And I think that is what you told me.

Ms. OATES. Yes, and labor-management partnerships.

Mr. TIAHRT. The "labor" part doesn't necessarily mean organized labor?

Ms. OATES. In the term "labor-management partnership," no, sir, it does not.

Mr. TIAHRT. All right.

Thank you, Mr. Chairman.

Ms. OATES. But I will get back to you through the Chair the—because I am not familiar with that language in the Green Jobs Act, and I will certainly get back to you on it.

[The information follows:]

Yes. The Green Jobs Act, in amending the Workforce Investment Act (WIA), indicates specific activities where certain entities should be engaged as a partner in the grant application, including labor-management organizations. In order to be eligible to receive a grant where a labor-management partnership is required, an entity must be a nonprofit partnership that includes the participation of industry and labor organizations, including joint labor-management training programs. The Employment and Training Administration does not have the authority to waive eligibility requirements under WIA.

Mr. TIAHRT. I appreciate it.

Mr. OBEY. Ms. Lee.

HUGE DISPARITIES IN COMMUNITIES OF COLOR

Ms. LEE. Let me ask you, Secretary Oates, a couple of things in terms of your testimony. And you mentioned—and I think this is what needs to happen, is a statement of fact. "American Indians and Alaska Natives make up the most impoverished group in the Nation, with unacceptably high unemployment rates on or near rural or isolated reservations." And then you go on to talk about the budget request, \$55,000,000 for Indian and Native American programs. You should do this, this makes sense, and I really want to commend you for that.

I am looking through your testimony and can't find any statement of fact as it relates to the African-American unemployment rates and the Latino unemployment rates.

And let me just call to your attention the Joint Economic Committee's report, chaired by Congresswoman Carolyn Maloney. She lays out what the facts are in the African American community, and her comment is, "By better understanding the unemployment challenges facing specific communities, Congress can design and enact innovative policies that effectively address these challenges and help people get back to work."

What concerns me is, for some reason, you guys just don't want to acknowledge these huge disparities in communities of color. And we are not talking about developing race-based solutions, but we are talking about acknowledging a fact that communities of color have long-term chronic unemployment. And, until you acknowledge that, it is going to be hard to develop specific solutions, which, of course, will make our country stronger and put people back to work. So I want to know why that is always left out.

SUMMER YOUTH JOBS PROGRAM

Secondly, in terms of the summer youth jobs program, thanks to Chairman Obey, yesterday we passed \$600,000,000 for our summer youth jobs program, 300,000 to 400,000 jobs. Young people, unfortunately, as it relates to the recession, have to help their families now pay the rent and buy food because their parents are unemployed.

But this is an emergency. And we have to jump through a lot of hoops to just put people back to work because we haven't declared an emergency and we haven't seen the unemployment in our country as an emergency. And if you look at this report—and, Mr. Chairman, I am going to ask you if I can put this report into the record, if possible. Could I ask for unanimous consent to insert this into the record?

Mr. OBEY. Without objection.

Ms. LEE. Thank you very much.

[The information follows:]

**U.S. CONGRESS
JOINT ECONOMIC COMMITTEE**
CONGRESS WOMAN CAROLYN MALONEY CHAIR

For Release: March 17, 2010
Contact: Kinsey Kiriakos, 202-228-6512
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**Joint Economic Committee Releases New Report on
Long-Term Unemployment in the African American Community**

Washington, D.C. – A new report released today by the Joint Economic Committee (JEC) provides an in-depth look at unemployment and long-term unemployment among African Americans and shows that both the unemployment rate and the duration of unemployment increased dramatically during the Great Recession for African American workers (report is attached to this email).

“Understanding the Economy: Long-Term Unemployment in the African American Community” is the first in a series of JEC reports examining the unemployment situation among several demographic groups, including African Americans, Hispanics, youth, and women. Prepared by the JEC’s Majority staff, the report draws from previously unpublished data from the Bureau of Labor Statistics, and found that though African Americans make up 11.5 percent of the labor force, they account for 17.8 percent of the unemployed, 20.3 percent of those unemployed for more than six months, and 22.1 percent of the workers unemployed for a year or more (see chart below).

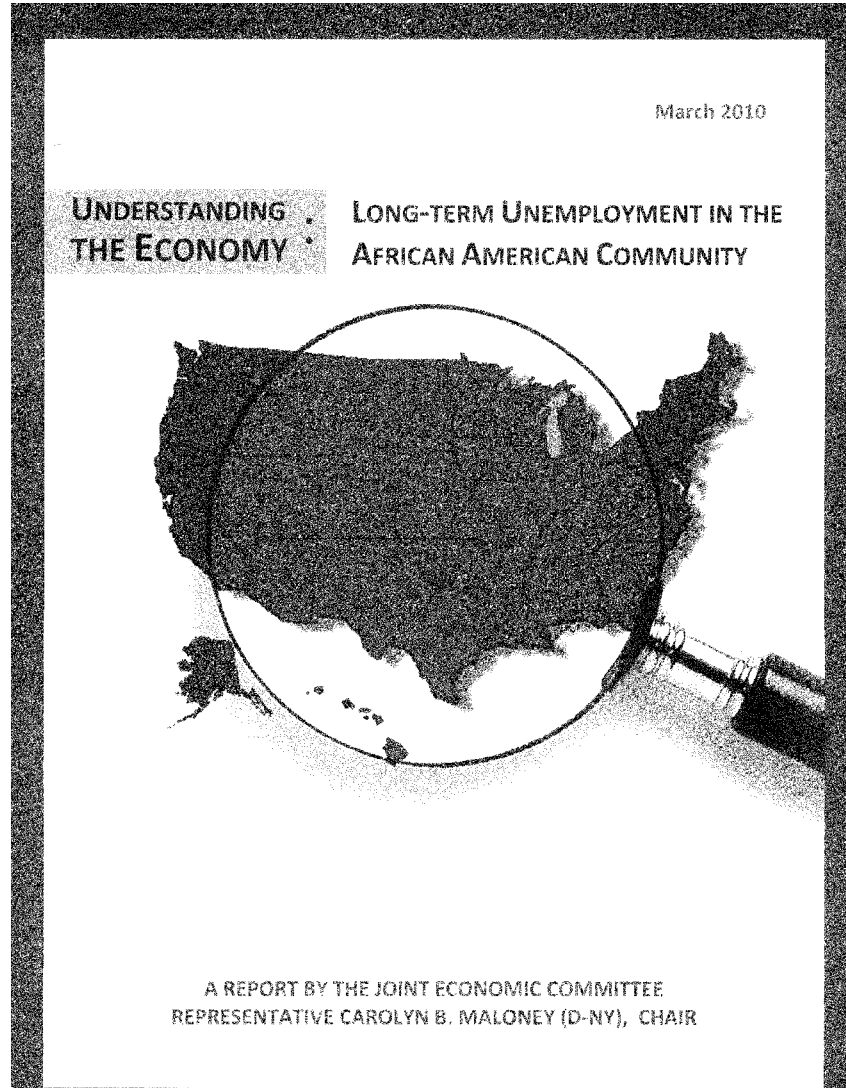
Other key report findings include:

- From February 2007 to February 2010, unemployment among African American men more than doubled, climbing from 9.0 percent to 19.0 percent. Among African American women, unemployment increased from 7.1 percent to 13.1 percent during the same time period.
- The median duration of unemployment for African American workers also has doubled, increasing from less than three months before the recession began to almost six months in February 2010. Forty-five percent of unemployed African Americans have been out of work for six months or more.
- Younger African American workers have faced particularly high rates of unemployment. In February 2010, more than two out of five African American teenagers were unemployed, compared to an overall teen unemployment rate of slightly over 25 percent.

“Our first report in the JEC’s in-depth series on long-term unemployment shows that African Americans have been hit especially hard during the Great Recession, facing higher rates of unemployment and longer spells of unemployment than the overall population,” said **Chair of the Joint Economic Committee (JEC) Congresswoman Carolyn Maloney**. “By better understanding the unemployment challenges facing specific communities, Congress can design and enact innovative policies that effectively address these challenges and help people get back to work. This new report will help move us down that path.”

“Every day in the neighborhoods around my home, I see the signs that this recession has been particularly hard in my community,” said Congressman Elijah Cummings (MD-7), member of both the Joint Economic Committee and the Congressional Black Caucus. “This report puts into numbers what has been obvious, from the beginning. The so-called Great Recession has been absolutely crushing for the African American community. The work the JEC has done to highlight the incredibly high long-term unemployment rate among African American workers is very important, and it will be particularly useful to the Congressional Black Caucus as we continue the fight for policies that will address this issue that is so critical in our communities.”

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Executive Summary

This report provides an in-depth look at unemployment, including long-term unemployment, among African American or black workers. Since 1972, when the Bureau of Labor Statistics started tracking unemployment rates by race, it has become clear that the overall unemployment rate for the United States has masked the depth of the unemployment problem within the African American community.

This report is the first in a series of Joint Economic Committee reports examining the unemployment situation among different demographic groups. It shows that while African American workers have historically faced rates of unemployment and long-term unemployment higher than the overall rate, the unemployment problems in the African American community were exacerbated during the Great Recession. Additionally, a larger percentage of African Americans are currently “marginally attached” or have dropped out of the work force, relative to the population as a whole.¹

Specifically, this report shows that:

- The current unemployment rate for African Americans is over 6 percentage points higher than the overall unemployment rate.
- African American men have been especially hit during this recession, with nearly 1 in 5 facing unemployment.
- African American women have seen their unemployment rate jump from 7.1 percent in February 2007 to 13.1 percent in February 2010. Moreover, African American female heads of household, who bear the sole financial responsibility for their families, have an even higher unemployment rate of 15.0 percent.
- African American workers of all ages are experiencing higher unemployment rates than the overall population, but younger workers have been especially hard hit during this recession. More than 2 out of 5 African American teenagers are unemployed, compared to an overall teen unemployment rate of slightly over 25 percent.
- While having at least a college degree has usually been an effective shield against unemployment, African Americans with a 4-year college degree have an unemployment rate of 8.2 percent, almost double the unemployment rate for white workers (4.5 percent) with a similar level of education.
- African Americans have experienced longer stretches of unemployment than the general population. Although African American workers make up only 11.5 percent of the labor force, they account for more than 20 percent of the long-term unemployed, and make up 22 percent of workers who have been unemployed for over a year. The

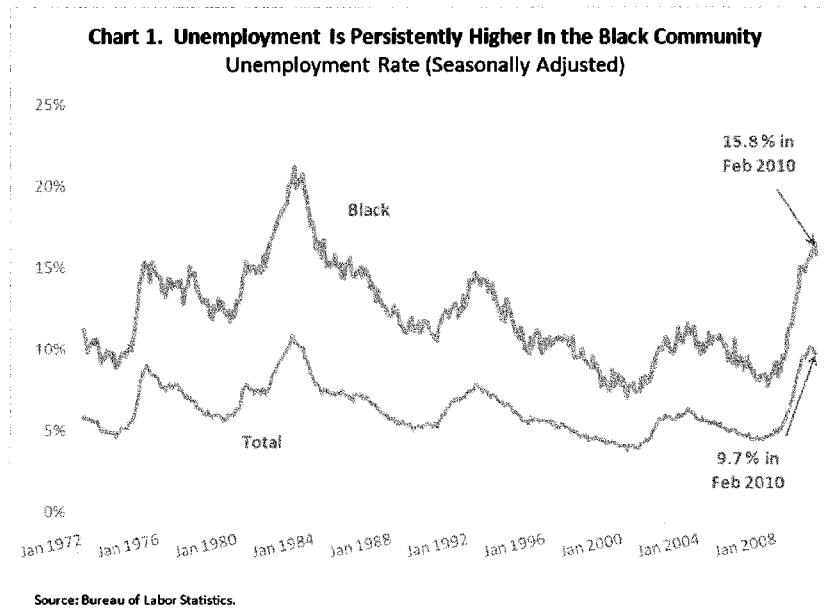
median duration of unemployment for African American workers has risen from less than 3 months before the recession began to almost six months.

- Finally, using an alternative measure of unemployment and underemployment, this report shows that one in four African Americans faces underemployment or unemployment.

Understanding the employment challenges facing the African American community is just one important part of the process of devising effective policies to reduce unemployment for workers in all demographic groups. Longer durations of unemployment and higher unemployment rates could be symptomatic of a mismatch between skills and available jobs and may require more targeted policy actions to correct. Unemployment among teenagers is especially troubling, as economists have found that spells of unemployment among youth may lead to lower future wages and poorer career trajectories.² Thus, in addition to reducing the unemployment rate, policymakers must also consider ways of limiting the long-term impact of the recession on workers who have been unemployed for extended periods of time to make sure that these workers can move into employment.

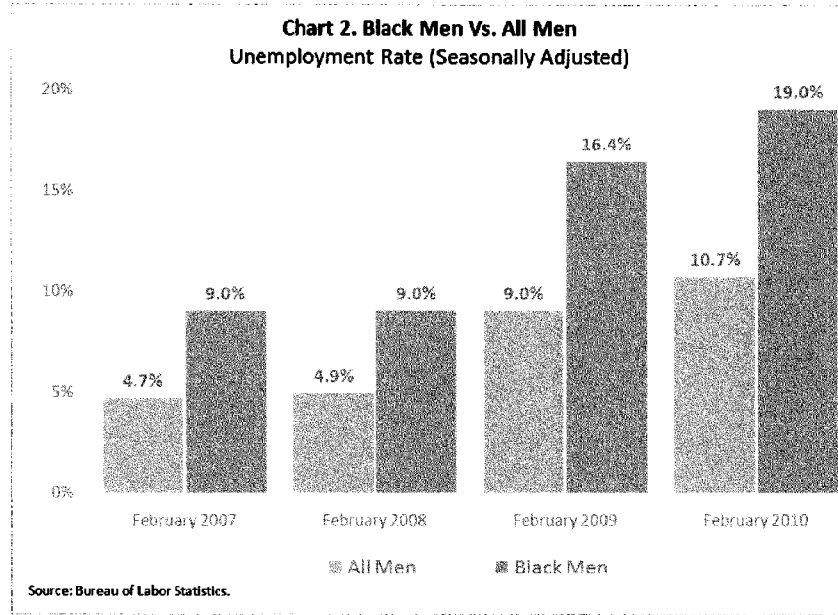
Understanding the Economy: Long-Term Unemployment in the African American Community

The following charts show that blacks or African Americans have historically faced rates of unemployment higher than the overall rate, regardless of age, sex, or education. While workers across the United States were hard hit during the Great Recession, the problems facing black or African American workers have been even greater, especially among the long-term unemployed.

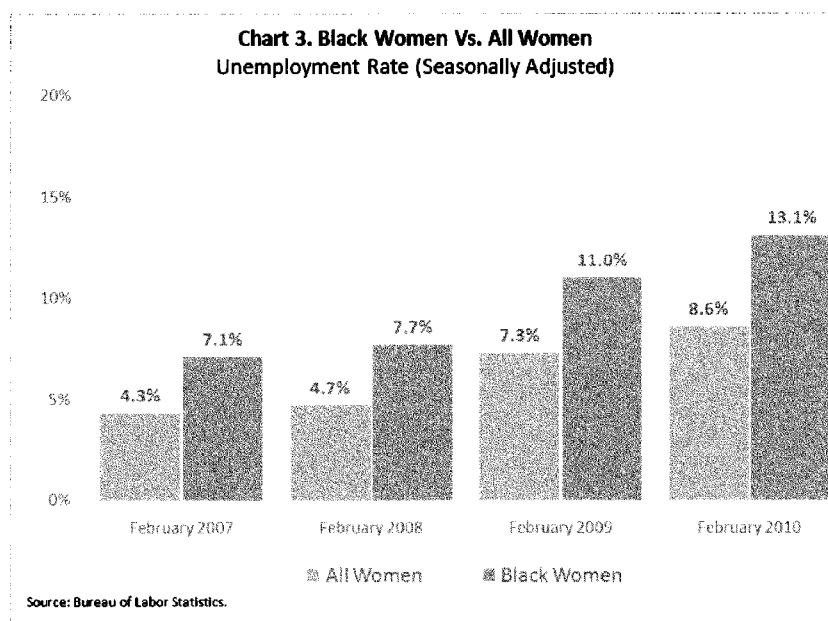


A higher-than-average rate of unemployment has been a persistent problem within the black or African American community. Going back as far as 1972, when the Bureau of Labor Statistics began keeping track of unemployment rates by race, the unemployment rate of African Americans aged 16 and over has consistently been at least 50 percent higher than the overall unemployment rate. At times, it has been more than double. During the most recent recession, which began in December 2007, the unemployment rate of African Americans climbed from 9.0 percent to a quarter-century high of 16.5 percent. While the unemployment rate edged down to 15.8 in February 2010, the unemployment rate for African Americans is still over 6 percentage points higher than the general population, the largest gap since February 1994 (excluding the Great Recession).

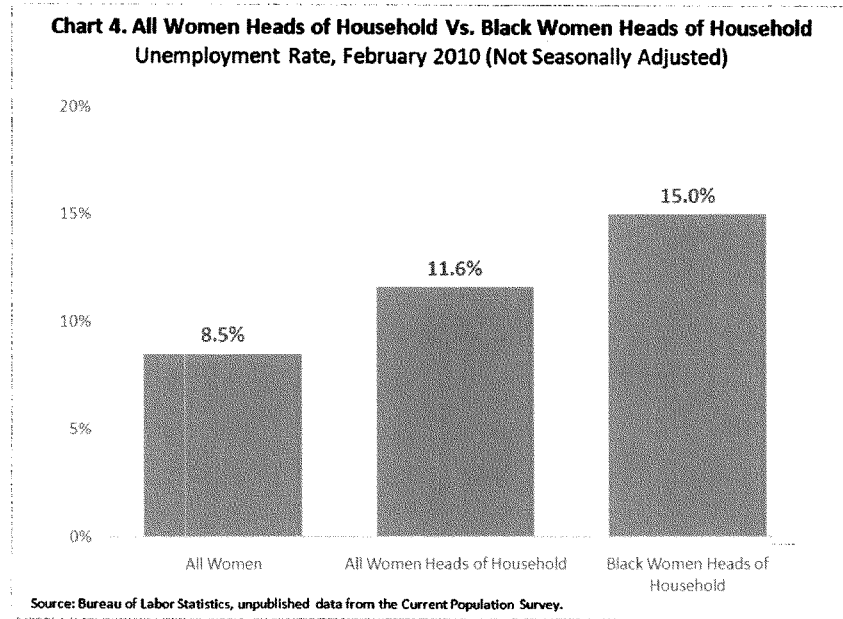
Prepared by Joint Economic Committee Majority Staff



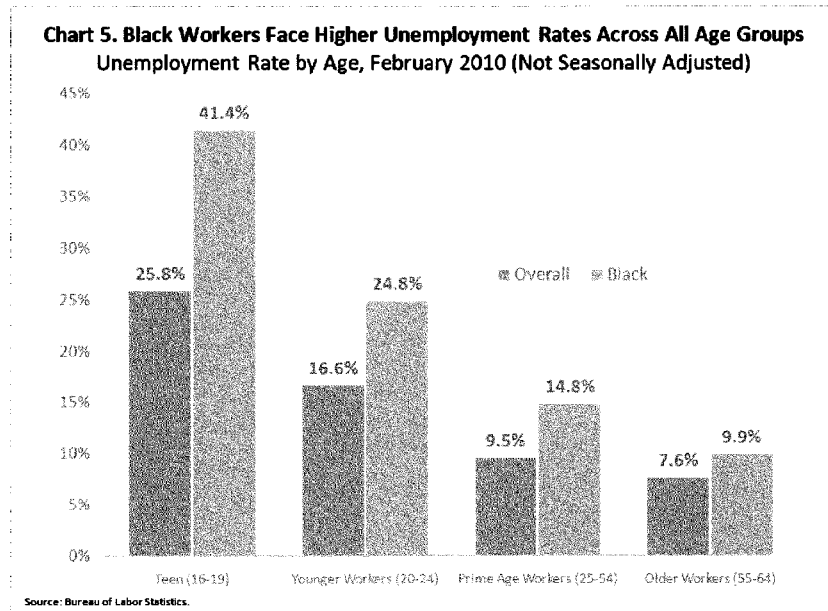
Unemployment rates are traditionally higher among men than among women. Since the recession began, African American men have seen their rate of unemployment rise to startling levels. The disparity between this rate and the overall unemployment rate of men has grown substantially as well. While the unemployment rate for all men rose 6 percentage points to 10.7 between February 2007 and February 2010, the jobless rate for African American men climbed a full 10.0 percentage points, reaching 19.0 percent in February 2010.



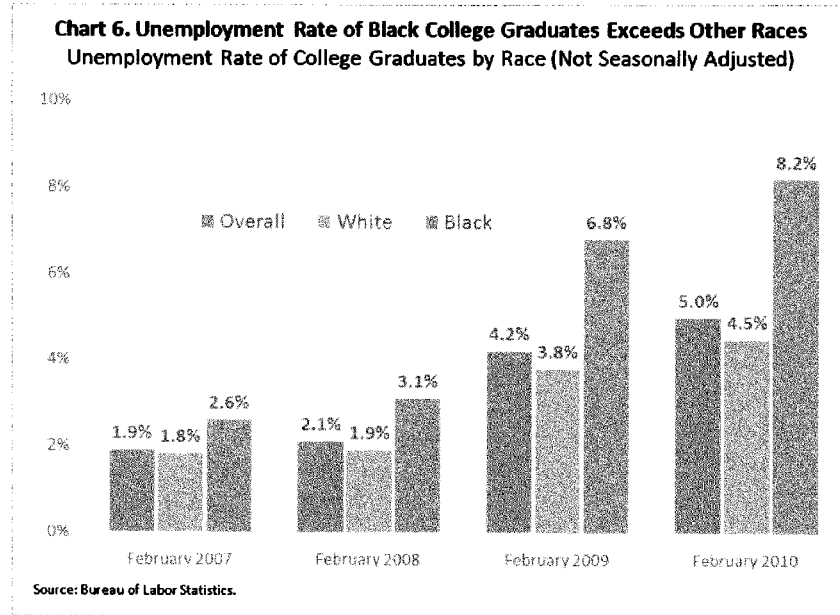
Like African American men, African American women also experienced jobless rates well above those for all women prior to the start of the current recession. In February 2007, the unemployment rate among African American women aged 16 and older was 7.1 percent, compared to 4.3 percent among all women aged 16 and older. Most recently, the jobless rate for African American women of 13.1 percent in February 2010 was 4.5 percentage points higher than the unemployment rate for all women.



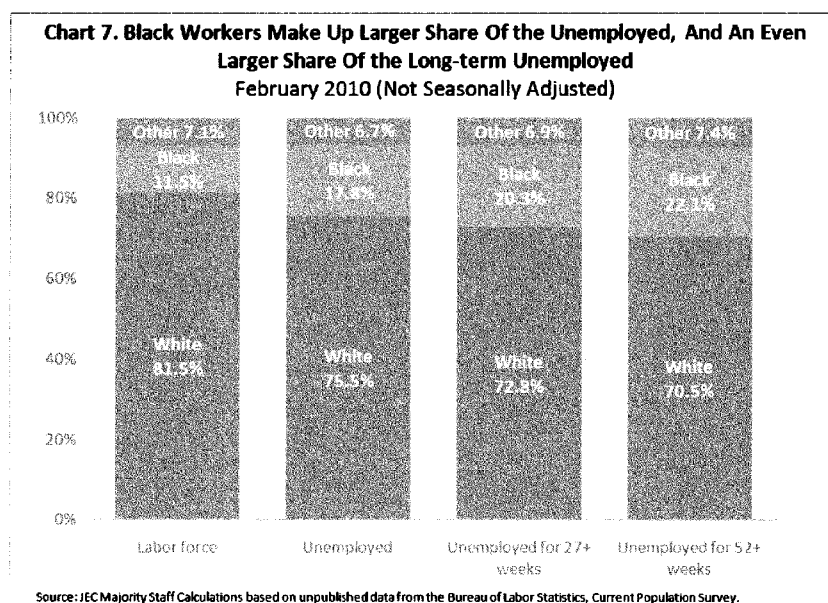
Among women workers, African American female heads of household face particularly high rates of unemployment. This high rate is especially troubling because female heads of household bear sole financial responsibility for families. The implications of high unemployment rates among this population may have long-term consequences on the educational attainment of children in these households.



The weak labor market has hit African American workers of all age groups much more heavily than it has hit the overall labor force. In February 2010, a staggering 41.4 percent of African American teens (those between ages 16 to 19) were unemployed, 15.6 percent higher than the overall teen unemployment rate of 25.8 percent. A similar pattern emerges when comparing African American and overall unemployment rates across various age groups. Among younger African American workers (those between ages 20 and 24), 24.8 percent were unemployed, compared to the overall unemployment rate of younger workers, 16.6 percent. Prime age African American workers (those between the ages of 25 and 54) had an unemployment rate of 14.8 percent, 5.3 percent higher than the overall unemployment rate of prime age workers, which was 9.5 percent. Older workers (those between the ages of 55 and 64) had an unemployment rate of 9.9 percent, slightly higher than the overall unemployment rate of older workers, which was 7.6 percent.

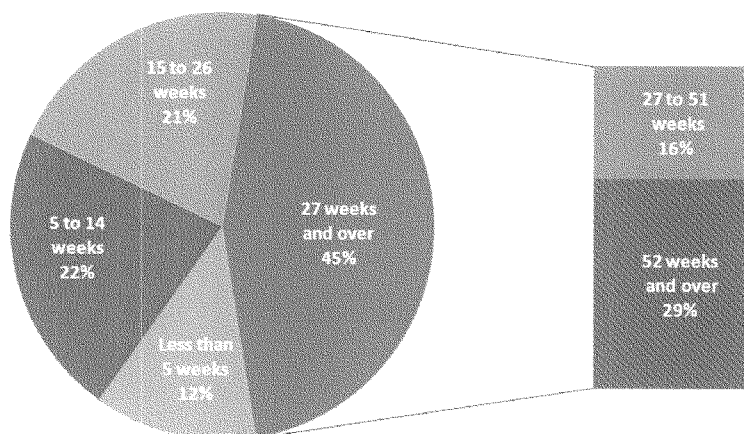


While having at least a college degree has usually been an effective shield against unemployment, African Americans with a 4-year college degree are experiencing unemployment rates of 8.2 percent, almost double the unemployment rate for white workers (4.5 percent) with a similar level of education. Between February 2007 and February 2010, the unemployment rate for African American workers with a 4-year college degree increased 263 percent, compared to 150 percent for white workers with a 4-year degree.



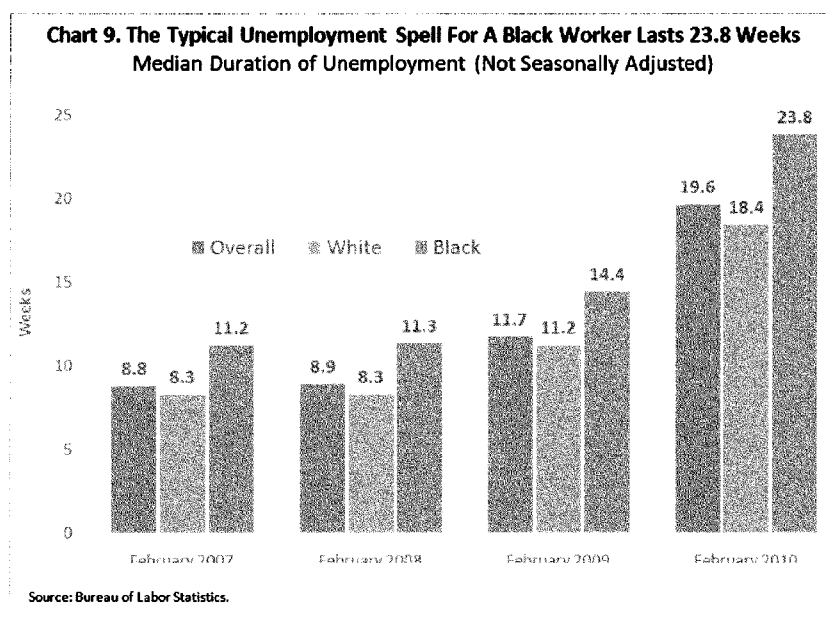
Although African American workers make up 11.5 percent of the total civilian labor force, they are overrepresented among the unemployed and made up 17.8 percent of the total number of unemployed workers as of February 2010. When one examines the composition of long-term unemployed workers, however, the picture is even more troubling. African Americans make up one-fifth (20.3 percent) of long-term unemployed workers, which means they have been jobless for 27 or more weeks. In addition, they account for 22.1 percent of workers who have been unemployed for 52 or more weeks. These numbers underscore the disproportionate impact of the recession on African American workers and the need for job creation policies that target the long-term unemployed. There are a number of reasons why unemployment may elude a substantial number of long-term unemployed workers. Workers who lost their jobs at the start of the recession may be the least skilled and any skills they had may have deteriorated during a long spell of unemployment. Or, these workers may have been employed in shrinking sectors of the economy – such as construction or manufacturing – and may not have the skills needed to move to the expanding sectors of the economy, such as the healthcare sector.

Chart 8. 45% of Jobless Black Workers Have Been Unemployed For 27 Weeks Or Longer
Distribution of Duration of Unemployment for Black Workers
February 2010 (Not Seasonally Adjusted)

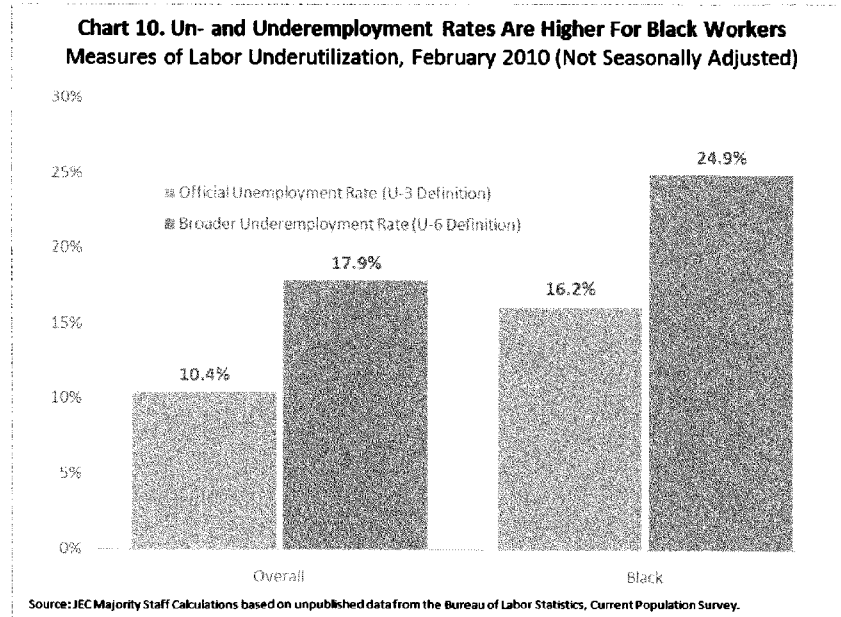


Source: JEC Majority Staff Calculations based on unpublished data from the Bureau of Labor Statistics, Current Population Survey.

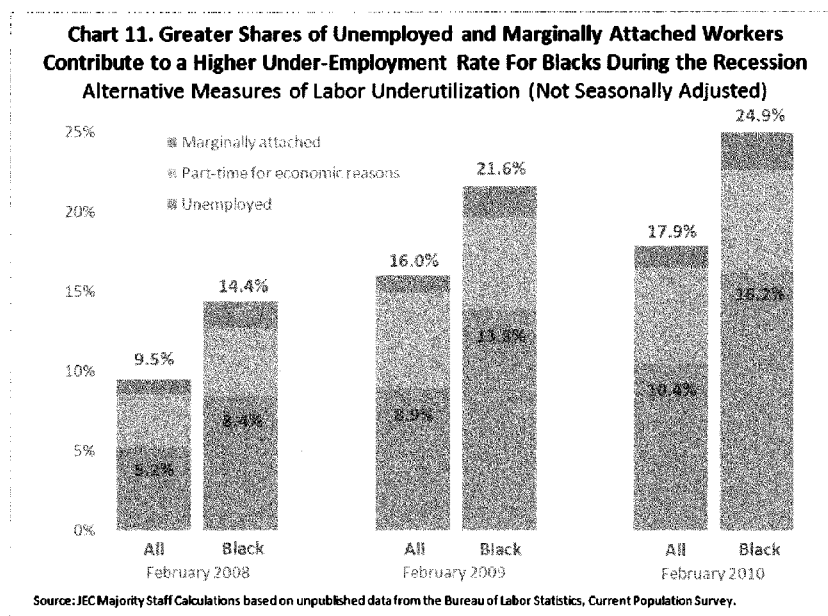
In February 2010, a substantial fraction—45 percent—of unemployed African American workers had been unemployed for 27 or more weeks. In contrast, 39.3 percent of all unemployed workers had been unemployed for 27 or more weeks. Looking deeper, 16 percent of unemployed African American workers had been jobless for between 27 and 51 weeks, and 29 percent had been without work for 52 or more weeks. This highlights the fact that most long-term unemployed workers—over 60 percent—had been unemployed for more than a year.



For the month of February 2007—before the Great Recession began—the median duration of unemployment among jobless African American workers (11.2 weeks) was already higher than the median duration of unemployment for the overall population of unemployed workers (8.8 weeks). Since then, the median duration of unemployment for African Americans has climbed, as has the disparity. In a span of three years—from February 2007 to February 2010—the median duration of unemployed African American workers more than doubled to 23.8 weeks. During the same time span, the gap in median unemployment duration between unemployed African American workers and all unemployed workers also rose, from 2.4 weeks to 4.2 weeks; the gap between unemployed African American and white workers, 5.4 weeks, is even higher.



Although the unemployment rate is the most common measure of the state of the labor market, a broader measure is the U-6 rate, which includes the underemployed. It takes into account people who are marginally attached—those not included in the labor force who want a job, are available to work, and have looked for a job at some point in the past twelve months (but not the past four weeks)—and workers who are part-time for economic reasons, meaning that they have part-time jobs but would like full-time work. The graph above shows that African Americans have had a U-6 rate significantly higher than the overall population. In February 2008, the U-6 rate for African Americans was 14.4 percent, compared to the overall rate of 9.5 percent. By February 2010, the U-6 rate for African Americans rose by 10.5 percent to 24.9 percent, while the overall U-6 rate rose by 8.4 percent to 17.9 percent. Thus, the U-6 rate for African Americans, which had already been high at the beginning of the recession, rose more than the overall U-6 rate during this time period.



The differences in the U-6 rate between African Americans and the overall population can be attributed to higher shares of marginally attached and unemployed workers in the African American community. However, when it comes to the portion of workers who are part-time for economic reasons, there is no substantial difference between African American workers and the overall population.

Conclusion

This report offers a baseline understanding of the employment challenges facing the African American community, focusing on changes in unemployment and long-term unemployment over the past three years. The unemployment rate statistics are broken down by gender, age, and higher education levels. The report shows that African Americans have experienced higher rates of unemployment and longer stretches of unemployment than the general population. African American men and African American teenagers have been particularly hard hit. Furthermore, a college degree has failed to protect African Americans from unemployment.

In coming months, the JEC will provide similar reports for other demographic groups, including Hispanics, youth, and women. These reports can be a starting point for policymakers working to address the higher unemployment rates and longer durations of unemployment experienced during the Great Recession among different demographic groups. The reports also may provide a reference for further study and analysis as academics, economists, and the JEC work to understand why certain demographic groups were hit hardest in the recession and what can be done to help get them back to work.

¹ According to the Bureau of Labor Statistics, the labor force does not include "persons under 16 years of age, all persons confined to institutions such as nursing homes and prisons, and persons on active duty in the Armed Forces." The labor force is made up of the employed and the unemployed. The remainder of the population — those who have no job and are not looking for one—are counted as "not in the labor force." Many who are not in the labor force are in school, have retired from working, or have family responsibilities that keep them out of the labor force.

"Marginally attached" workers are not in the labor force, but would like a job and are available for work. In order to be counting as "marginally attached" to the labor force, a person must also have looked for work in the last 12 months.

² See, eg., Philip Oreopoulos, et al., "The Short- and Long-Term Career Effects of Graduating in a Recession: Hysteresis and Heterogeneity in the Market for College Graduates," working paper, (updated National Bureau of Economics Working Paper No. 12159), available online at http://www.columbia.edu/~vw2112/papers/cycl_upgr_oregvonwaheisz.pdf, and Thomas A. Mroz and Timothy H. Savage, "The Long-Term Effects of Youth Unemployment," *The Journal of Human Resources*, Spring 2006, pp. 259-293.

Ms. LEE. If you look at this and if you look at what has taken place in the Latino community—The Urban League just presented its State of Black America and Hispanic America—an emergency exists.

EMERGENCY STATE OF MINORITY UNEMPLOYMENT

And so, you know, somehow we have to see this as an emergency. I don't know if it is the White House, if it is your agency, if it is us. How do we get the country to designate and declare a state of emergency as it relates to the job crisis?

Ms. OATES. Well, Congresswoman, I couldn't agree with you more. The reason that I, in my testimony, in my written testimony, highlighted the Native American unemployment was because I was justifying our request for more money in that.

Ms. LEE. And you should. And, I mean, that is the right thing to do.

Ms. OATES. Yes. I think the situation right now with minority unemployment, particularly young people of color, is just immoral. We have to do something about it. My reference to the PUMAs was one of the ways we try to direct those grants specifically to those areas of poverty.

And, in everything that we do, we are going to try to bring more attention into those communities that have been persistently poor, good times and bad. The recession has only made their condition worse, but they were double-digit unemployed before.

Ms. LEE. Well, why don't we say that?

Ms. OATES. Unfortunately, I didn't say it in this testimony. I assure you that I say it wherever I am. I was with Job Corps all week, where we basically have young people, 16 to 24, the majority are from these poor communities, many of them minority. And they are looking to get the skills they need at a residential Job Corps facility because they couldn't get them if they stayed where they were in their community.

I commit to you that I will say it more often and louder, but it is certainly something that you can see directed in our programming at the Department of Labor. And I publicly apologize if you don't think we—Secretary Solis says it loudly and often. But if you don't think we are saying it enough, I will commit to you that we will say it more often and continue to point out to you and the staff of this committee ways that we think we are targeting to help respond to that immoral situation.

Ms. LEE. Thank you.

And what about the emergency state that we are in, in terms of the crisis of unemployment throughout the country?

Ms. OATES. In fact, we think that there is a critical need to make sure that employers are presented with those folks who have not had the opportunities that other folks have had. And we need to work with those employers to create jobs and publicly list those jobs—

COMPREHENSIVE JOBS PACKAGE

Ms. LEE. No, I understand that. But I am just talking about us here trying to pass a comprehensive jobs package. We can't seem to do it. We spent \$50,000,000,000 to rebuild Iraq, but we can't get

\$1,000,000,000 for summer youth jobs. And I am just saying, unless we declare it an emergency, we can't do it.

Ms. OATES. Well, I was remiss in not thanking this committee for all the work on summer jobs. I got to see a lot of those kids last summer. That \$600,000,000, even though it is not the amount that any of us wanted, is a huge downpayment. And it is going to make sure that people can start talking with employers about those jobs.

It is an emergency, Congresswoman. It is an emergency when I go out, when you go back to your districts, I am sure, when I see those people that are saying, "What am I going to do? I can't find a job." And it is particularly disheartening when you hear people on national television saying, if they wanted to work, they could.

I can tell you, in the communities that I have visited, there are hardworking people looking for a job every day. Thanks to the UI benefits that you provided, they are making probably less than one-third of what they took home before, but at least it is keeping a roof over their head and food on their table.

It is a crisis. I don't know why we are afraid to call it that. And we should do something about it.

Mr. OBEY. Mr. Rehberg.

H-2A

Mr. REHBERG. Thank you, Mr. Chairman.

You win the lottery today.

Ms. OATES. Uh-oh.

Mr. REHBERG. All the questions are yours.

Ms. OATES. I did have a bet on this before, and I was totally wrong. I am going to have to buy everybody lunch.

Mr. REHBERG. Where are we going?

H-2A, you have a new regulation in place that took effect on March 13th. And I am not going to get into the politics of hourly rates and all. You know, that is for another day. But the difficulty is my farmers in Montana—as you know, it is a very specific group of people that need H-2A. Not all small businesses qualify nor need it. You usually associate it with sometimes herding, sometimes fruits and vegetables and such. So it is a unique arena.

In the development of the regulation, it seems as if you have to do, by law, a flexibility study, according to the SBA. And rather than look at the impact it was going to have on the H-2A visa applicants, a unique group of farmers, you made the determination that the H-2A applicants would be compared against all small businesses. And you came up with the determination a flexibility study was not necessary because it only affected 2 percent of all small businesses in the country. The problem is, it affects 98 percent of the H-2A applicants.

Why the change in philosophy? What rationale is there? And, as you know, you are going to end up in court over the thing. Why even put yourself through the pain and suffering of changing a determination when, clearly, it affects 98 percent?

And for my poor farmers in Montana, they didn't see this coming. This is their third hourly wage increase in 3 years. And they are coming in and applying and being told once again—in one particular case, it is a \$1.57-an-hour increase. They don't have the

ability to pass the cost along. They have had to make business determinations, decisions, going up to this point.

So could you explain to me why the change in philosophy?

Ms. OATES. Mr. Rehberg, as you mentioned, we are in litigation against this, so I am really restricted in what I can say.

But let me say this: There are some things in this change that are positive changes. Before, under the old rule in Montana, one county versus another had to pay different rates. At least now we have gone to statewide rates.

And in respect and trying to understand the needs of the businesspeople who are going through this change, actually, as we are speaking, there is a webinar going on for businesspeople that takes them line by line through the application to make sure they understand the application process and to give them some of the other instances on this.

That webinar, by the way, the reason we used a webinar—because your response to me would be to say your farmers are awake, but they are milking the cows or doing whatever—

Mr. REHBERG. Well, first of all, my response would have been, could you have warned them ahead of time, all the H-2A applicants from the past, warned them this change was coming? And I have looked at the comments, and virtually 100 percent of the comments were in opposition to what you are doing—what you did, the way you interpreted the flexibility study.

And, again, you know, I am not going to argue the politics of increasing salaries, but it is the way you are skirting the SBA and its impact on the small businesses as a result of the change in the regulation.

Ms. OATES. I would be happy to revisit with you after the litigation is finished when I could give you a clearer idea of what we went through. But, as you can imagine, all of that is—

Mr. REHBERG. Is it happening in other areas? Am I going to start hearing from other entities, small businesses within my State, that you have changed the way you look at impacts, whether they have the ability to implement the rule or whether it is going to make them less competitive? Because those are really the two standards on the flexibility study.

Ms. OATES. The bureaucratic answer would be to tell you that, every step of the way, when we do a process change, it is in the Federal Register. The reason I say “bureaucratic” is, people in my home State of Pennsylvania didn’t read the Federal Register daily.

So, therefore, what I would say to you is what we can make available to this committee is notifying, through the Chair, notifying you when any changes are happening. I don’t see any changes on our horizon that would impact that, but I am not a small-business owner.

But I would be happy to make sure that the committee staff is aware of any changes that are coming up so that you could highlight for your constituents. It is not our intent to do anything behind closed doors.

Mr. REHBERG. Could I just suggest, you know, I would communicate, but you already know who the past applicants are, especially in something as specific as H-2A. It would make sense, bureaucratically and from an executive branch perspective, to make

contact with them, to tell them that, "The regulation will be implemented on March 15th. We know you have already made your planting decisions, you have already made your hiring decisions based upon your calving and such. And this is coming down the pike, and this is what you are going to foresee." You can do that as a courtesy, I would think.

Ms. OATES. We do that now, sir, but obviously we don't do it well enough because your constituents weren't aware of that. We always have room to improve, so I take your suggestions, and we will make sure that we make those improvements in the future.

Mr. REHBERG. Thank you.

Ms. OATES. Thank you.

Mr. OBEY. Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

WOMEN VETERANS

First, I want to make a comment on the veterans program that I heard. It is fabulous. Women veterans have long been—I am going to just say "neglected," because the numbers weren't there and they didn't seek out for help because they didn't feel welcome. And we had a hard time getting many of our male veterans to feel welcomed home, to ask for assistance and things. So I am very pleased you are doing that.

I represent Minnesota. We have done some work with our homeless veterans that we are very excited about, but there was an inclusion of women veterans in the process.

Also, Mr. Chair, we heard the testimony talking about reaching out to those veterans coming out of detention. But we are working with some innovative programs to keep them from going into detention in the first place in the special courts.

And, at some point—and you would probably be the person to understand that or know the counterpart—but I think we need to put this all together and look at it as a package. So if someone could maybe contact my office so that I understand better how the special courts, the homeless interventions that you are doing, as well as the early interventions as the gentlemen and -women are coming out the system, how we bring everybody back home.

VETERANS COURTS

Mr. JEFFERSON. I would be very glad to do that.

And we are working very closely with the Department of Veterans Affairs right now in this partnership. So they have the veterans courts—as you know, the first one is in Buffalo, New York—to look at how we can give people different opportunities. Then with the incarcerated veterans program, improving the content so we get even better results from that going forward.

So we would be honored and excited to come by and explain that.

Ms. MCCOLLUM. Thank you.

I think one of the things that we found out sometimes in our drug courts or alcohol courts, that we had a lot of veterans in them. And so it might even be taking some of those courts that are already in existence and helping the judges with specialized training in that.

EMERGENCY GRANTS

I would like to focus on emergency grants. And I think Mr. Tiahrt kind of talked about how we have pots of money that sometimes are set aside until they are spent, but they are fully accounted for. They are encumbered.

I held a hearing in St. Paul on workforce and labor programs that was funded by this subcommittee. And issues with the National Emergency Grant requirements came up time and time again during the hearing.

Minnesota Local Workforce Systems has made an efficient and effective use of Workforce Investment Act formula and Recovery Act funding, serving three times the number of people that they did in the previous year. They are now seeking additional funding through the special National Emergency Grants that have been made available to them by the Department of Labor that serve dislocated workers.

Here is the policy problem. Currently, the policy in place is making it difficult to access this grant funding. Regulations currently in place require 95 percent of the funds to be disbursed before the applicant requests more funding.

So, without taking into account obligations or these encumbrances, is the Department of Labor willing to consider some of these policies to ensure that funding provided by Congress is accessible to the severely dislocated workers in Minnesota who are currently on a waiting list to access these training programs?

In other words, we can't add any more on because those that are on haven't spent all their educational dollars. But the money is set aside, so at the end there is a diploma. So we have intention here of wanting to do the right thing by setting aside the funding to make sure that the diploma, the certificate is achieved at the end, but there is grant money out there for other people who would be eligible, but they can't access it because the money hasn't been fully disbursed for the others.

So I think, Mr. Tiahrt, you and I could maybe work together on this to find out an accounting mechanism with great transparency, great accountability in it, but something that doesn't hurt individuals from applying for grants, when we are just trying to do the right thing to make sure the dollars are there for the educational services.

Is this something you are working on?

Ms. OATES. Absolutely.

I would say that the requirements—as of 3 weeks ago, when this came to my attention, Congresswoman, when we put forward these requirements that we were posting, there would have only been three States who would be eligible to apply for the money. That, to me, is not being fiscally responsible; that is being silly.

So we are in the process of looking at a new set of frameworks where you can apply for National Emergency Grants without looking at your 2008 spend-down, your 2009 spend-down, your Recovery Act spend-down at these high levels, and to look at cases more on an individual base.

I mean, the nature of National Emergency Grants is not to supplement the dislocated worker formula; it is to respond to incred-

ible need. So, while we just don't give States more money because they say they are out of formula money, we do look at incredible need. Having a waiting list and employers ready when those people have the skills and credentials necessary is an emergency. So we want to make sure that we are responsive to that.

I am happy to share where we are right now on those numbers and figuring out the kinds of numbers. But it really is moving to looking at a case-by-case basis.

[The information follows:]

The purpose of National Emergency Grants (NEGs) is not to supplement the Dislocated Worker (DW) formula program, but to respond to incredible need. The 95 percent disbursement of funds requirement only applies to one of the several types of NEGs known as Formula Funds Replenishment, an American Recovery and Reinvestment Act (ARRA)-funded NEG that is designed to provide local areas in dire straits with a bridge until their next allocation of DW formula funds becomes available. Eligibility for other types of NEGs call for a state to have spent 70 percent of its Program Year (PY) 2008 DW formula funds and 50 percent of its ARRA DW formula funds. The purpose of these thresholds is to ensure that states are expending their DW formula resources quickly and efficiently before requesting additional resources, and to ensure that excessive amounts of carry-over do not occur.

Minnesota has been successful in securing additional resources through NEGs, as evidenced by the state having been awarded three other NEGs for up to \$6,875,701. Minnesota has also submitted an additional NEG application for \$2,635,901 which is currently moving through the approval process. In total, Minnesota will have been awarded nearly 50 percent of the amount of funding received through the PY 2009 DW formula process in NEG awards alone, before considering the Formula Funds Replenishment NEG. The Department has also been working with Minnesota to examine its obligations and commitments and is in the process of developing a methodology to project when the 95 percent threshold will be met. If projections show that the threshold would be met within this quarter, Minnesota will be considered as having met the 95 percent threshold and thus eligible for a Formula Funds Replenishment NEG.

States all across the country continue to experience incredible need. On April 12, 2010, the Department announced the availability of up to \$90 million in funding for On-the-Job Training (OJT) NEGs in recognition of the widespread scope of recession-related layoffs across the country. The Secretary of Labor has recognized the impact of the recession on the national workforce as a significant dislocation event for purposes of this one-time ARRA targeted NEG assistance. Due to the unique nature of this assistance, there is no formula funds usage requirements associated with applying for OJT NEGs.

Ms. McCOLLUM. But I agree with Congressman Tiahrt; if there is funding out there that is not going to be spent, that needs to be accounted for, this committee needs to know about it, so that we can be more effective.

Thank you, Mr. Chairman.

Mr. OBEY. Mr. Cole.

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

Secretary Oates, you probably need a break, so I am going to give you one.

Ms. OATES. Thank you.

Mr. COLE. And you have been the political pinata. It is somebody else's turn.

If I may, Secretary Kanter, I wanted to focus on three areas where the administration has chosen, basically, to sort of flat-line the funding, and I wanted to get the reason why, because I think these are important programs.

FEDERAL TRIO PROGRAMS

Mr. COLE. The first one is TRIO. And my concern here is, we are very appropriately expanding Pell Grant money, and we are trying to make financial access better, but a lot of the students that are served by TRIO, frankly, need the support and need additional preparation, additional support. So just giving somebody a check isn't going to be enough, in these cases.

And, particularly, we lost, I think, about 40,000 TRIO students last year due to absence of funding. We know that this is a population that we have never, under anybody, come close to serving.

So why the decision to flat-line TRIO?

Ms. KANTER. Frankly, we were working on the assumption that there may be College Access and Completion funding available through the American Graduation Initiative. We were expecting that grantees in the TRIO and GEAR UP programs, either in collaboration with one another or as a partnership program with different colleges and universities, would be able to apply for those funds on a competitive basis. We are very interested in using the evidence of what has been working so well with GEAR UP and TRIO.

But that is why—we can't ask for everything—we flat-lined that budget. It is \$910 million for Federal TRIO programs and \$323 million for GEAR UP. We thought funding from the SAFRA Act would meet that need and make it a little more competitive so that others could accomplish some innovative kinds of things that they couldn't do in the current program. They would be able to put some of the best practices and lessons learned into place to do more.

Those programs are reaching out to the underserved students I talked about. Some TRIO projects spend as much as \$7,000 per student. I came from a college district where we received \$5,000—\$5,500 per student. So the TRIO investment more than doubled what the cost per student would be, in California at least, for a 2-year college student. And we were very excited that those competitive grant funds would enhance the programs that we were able to support for these years.

Mr. COLE. And you touched on this partly in your answer, because I have, again, exactly the same concern for GEAR UP. I mean, when I used to be a college educator many years ago, I saw a lot of kids just show up and they were just not ready. And it is because they didn't know how to get ready, in many cases. And, frankly, in many cases, their families didn't know how to get them ready. Nobody had gone to college, nobody knew much about it.

And the competitive grant approach is good, but it doesn't give you certainty. And, you know, funding these programs at a higher level is something that I hope we look at, Mr. Chairman, if it is possible.

CAREER AND TECHNICAL EDUCATION

Last area, and I know our time here is very, very limited, but I wanted to ask you basically the same sort of question with respect to Carl Perkins money. Again, in our State, the emphasis on technical education is very high. We have a career tech system that—probably there is not one or two like it in the country. This

is a really important part of doing exactly what I know all of you want to do, which is give those students that aren't necessarily going to 4-year institutions training opportunity, give workers that are temporarily displaced an opportunity to again come back, pick up an additional skill, move back in the workforce.

So what is the thinking there? Because, again, the funding, if I am correct, is basically sort of flat-lined.

Ms. KANTER. Right. It is flat-lined. But we really want to deliver and expand career and technical training to give high schools, community colleges, and universities more chance to align what works. We see college and career readiness as a dual condition for success in education. And we have to work on ways that that curriculum can be tightened up.

The Perkins Act funds will let us do that. We didn't ask for an increase for the Perkins Act, but we think it is really essential in order to move forward. And we have the career pathways and programs of studies research out of the Perkins Act that we are using as a backdrop to how we are thinking about the Workforce Investment Act reauthorization. And we know Perkins Act Reauthorization is down the line. So we want to bring all of this together.

And, certainly, a lot of the Perkins Act lessons learned tell us that we have to upgrade our programs, for example, for green jobs. Or I can tell you about automotive technology if you want to hear about that moving to alternative fuels and hybrid vehicles. It is a high-cost program. I had to put in lifts in my school. We were hoping the SAFRA Act would have construction or facilities funding available to upgrade these programs. We had a high-speed link into Chrysler so the students could really learn the numerical controls and the automotive technologies needed to be an auto mechanic and then move up, hopefully, over time, as I said, through the career ladders.

But the Perkins Act allows us to look at that curriculum. In my experience, we had a great partnership with the regional occupational program, where they had the high school graduates and we streamlined the curriculum and were talking about accelerating those programs.

So we see Perkins programs as critical. We want to build off of that. We can't do everything. You know, we chose to really focus on the Workforce Investment Act because that is up for reauthorization now.

And we are also hoping, in the College Access and Completion Fund, to be able to look at occupational training. We have been working with the Department of Labor for the last 8 months, so we can actually bring this together and hopefully not only upgrade those programs and give the faculty more training but also look at new methods of acceleration so students could go through more quickly. For example, students could go through the summer, do the year-round kind of training that really drills down on the curriculum, so we could get more students trained for the jobs.

Mr. COLE. If I could just make a point in conclusion, this is an area—and, again, the President has been very generous in the budget here. It is one of the few areas that, in any of our committees, we have seen a major expansion in funding. And I hope we look very carefully at some of our existing programs, like TRIO,

like GEAR UP, like Carl Perkins, that have done very well and, frankly, I think, fit the objectives of what the administration wants to do, and think twice about some of the newer things, whether or not we can afford them. Because we have some proven products here that I think we have consistently underfunded.

So, anyway, thank you, Mr. Chairman.

Mr. OBEY. Mr. Ryan.

EARLY COLLEGE AND PELL GRANTS

Mr. RYAN. Thank you, Mr. Chairman.

I want to first thank Assistant Secretary Oates for coming to Ohio and being a great presence there for some of the issues that we had to deal with. And, also, congratulations. I know you worked for Senator Kennedy for a long time, and this was a historic week for his legacy and those of you who worked for him for such a long time.

I want to say thank you, also, to Mr. Jefferson. Thank you for all that you do. We had a great meeting a few months back, and I look forward to working with you, as well.

I have a question, you know, kind of based on what Mr. Cole was saying to Secretary Kanter regarding—he was talking about TRIO and some of the—Upward Bound and all the great programs. And they are terrific programs.

One of the issues we have in my district, and I think across the country, is the issue of early college. And we have an early college program in Youngstown that has now been basically zeroed out by Youngstown State University because of budget cuts. This is an award-winning program across the State for the city of Youngstown, when the rest of the school district is collapsing.

Long story short, I think we can find a compromise position here. These kids who want to go to college, early college, do not qualify for the Pell Grant. And I mentioned this to the Secretary of Education when he was here last week, because I think it meets all of the goals that he has set out for the Department of Education, I think what the President is saying. These kids want to go to college, they are going to college, but yet they don't qualify for the Pell Grant. And I think we should work very hard at figuring out how we allow these young kids to qualify for the Pell Grant.

From our vantage point, you know, watching the dollars here, I would much rather pay for them to go to college when they are 17 and 18 than pay for them to go to college when they are 21 and 22, just because of inflation, so we can get this money in on the front end and create the kind of pipeline that you are talking about in getting these kids in.

It is a transformational program, and I think it does a lot of things similar to what TRIO does. They want to go, and here we have programs getting cut. And I think we can increase that pipeline.

So, if you could just comment on that.

Ms. KANTER. I can tell you, we need to explore all the ramifications about opening the doors wider for Pell Grants. We are very interested in working with the Congress to look at what options we might have. I understand from the research that I did that we

looked at this a couple of times in the past, and we had some challenges that we need to really delve into and explore.

So I don't have an answer for you—

Mr. RYAN. Do you remember what those were? I mean, obviously, there would be some—

Ms. KANTER. I don't really have the specifics on that, but I would be happy to come over to your office and walk through what happened in the past, give you a report on what we found, what we learned, and look at what some options might be to look at this.

Mr. RYAN. Okay. Yeah, I mean, I think if we look at the big picture here, these are kids who otherwise, you know, may never end up in college, but they walk on—and Youngstown State is, I think, the prime example, Midwestern university in an industrial town. But when you walk on the campus, you don't think, "I am in Youngstown, Ohio." You think you are on a college campus. And these kids' eyes light up, and they end up meeting the kind of level of expectation that the school has for them and our community has for them. So I would look forward to working with you on that.

Also, I wanted to mention one other thing that I mentioned to the Secretary and have been talking about here for a couple of years. I think I even mentioned it to Secretary Oates a year or so ago: the movement in education toward social and emotional learning. And I see your background is in clinical psychology a little bit.

Ms. KANTER. I am ready for this hearing. It comes in handy.

Mr. RYAN. Congress needs it, believe me.

Ms. KANTER. I need it.

Mr. RYAN. I may ask for an additional 5 minutes, just for some personal therapy.

Ms. KANTER. I will come over to your office.

Mr. RYAN. Okay, very good. I have a couch there and everything. We will be good to go.

The move toward social and emotional learning, I mentioned it to Mr. Duncan. I think the evidence backing this up, the brain science backing it up, recognizing that the emotional situations that these kids have to deal with are directly prohibiting their ability to learn. And we know it now from brain science. It is not because we want to, you know, be sensitive. I mean, yes, we do, but, at the same time, the brain science is backing this up now.

And the beneficiaries of this are teachers, as well, who learn how to self-regulate and make sure that they are coming into the classroom with a positive attitude and creating an environment to learn.

And I want to continue, through this committee, to push for more investments into social and emotional learning. I know there are effective teachers and leader grants, Teacher and Leader Innovation Fund, those kind of things. But I would like to work with you to help us design programs and create little pots of money where we can continue to push social and emotional learning.

The evidence is there: 11 to 17 percentile point increase in test scores; closes the achievement gap; increases the positive mood of the school; decreases the negative aspects of what is going on in the school; builds a community in the school. So, there is no question there.

The red light is on, and my chairman is staring at me. But I want to work with you on this and continue to work with the Secretary on this, as well.

Thank you.

Mr. OBEY. Mr. Alexander.

Mr. ALEXANDER. Thank you, Mr. Chairman.

Secretary OATES, Mr. Rehberg said you won the lottery, so let's celebrate by another question.

H-2B

He brought up a point about the A program, H-2A. Would those same concerns drift over into the B program?

And I don't really understand why we have to have two. You have the As that harvest the food, but As can't process the food; it has to be B. Is that correct?

Ms. OATES. B is non-agricultural, yes, sir.

Mr. ALEXANDER. Okay. Some of those same concerns that he brought up would apply to the H-2B program also.

Ms. OATES. The H-2B regulation is—the regulatory changes are just beginning. So it is open. You know, we are just getting things out there. Yes, some of the same issues will come up, in terms of worker protection and worker housing. But, in our budget proposal, as you will recognize, we also ask to impose a fee on this. Because your neighbor, the Governor from Mississippi, I think I was 3 days on the job, brought up to me—took me out to the port and said, "Look at that." It was an oil rig. He said, "How many workers, do you think, out there are from Mississippi?" I said, "I don't know." He said, "None. They are all from Eastern Europe on visas." And they were welders.

So he really woke me up to the fact that we need to beef up programs that have been atrophied, used to be funded under Carl Perkins, used to be funded under the old way community colleges worked when they were technical colleges. Now, he told me that he couldn't get people from Mississippi—and I am sure, you are so close there in the Gulf port.

So the idea of our using those fees to beef up apprenticeship programs so that we have American workers that do those kinds of jobs rather than having to be dependent on foreign labor.

But, again, we will be much more clear with committee staff as the H-2B process begins, so that you are aware. We will take Congressman Rehberg's comments and make sure that we are getting out to people in a deeper way than we did before. But that process is beginning now. And we are going to probably suggest changes to the H-2B ranks, as well as we did to H-2A.

Mr. ALEXANDER. Okay. Well, so I can better understand, if you harvest the food or fruits or vegetables, that is A.

Ms. OATES. A. That is agriculture.

Mr. ALEXANDER. But once it goes to canning, that is not A anymore, that is not agriculture anymore.

Ms. OATES. That is correct.

Mr. ALEXANDER. Thank you.

PUBLIC SERVICE LOAN FORGIVENESS PROGRAM

Ms. KANTER, we know that government only exists because of the taxpayers. So you were talking about Pell Grant a little bit ago. We understand the need there and the expansion of it.

But I was concerned about something you said, encouraging participants to sign something saying that, if you are going to school at the expense of the government, if you will sign saying, "I will work for the government," then your loan will be forgiven. Is that correct?

Ms. KANTER. This is the Public Service Loan Forgiveness Program.

Mr. ALEXANDER. Okay.

Ms. KANTER. That was passed last year, and that is what I was talking about. If you get a loan, you would pay it back. If you go into public service, to be a teacher, a policeman, a government worker, or a community college staff member, you would pay back the loan at 10 percent of adjusted gross income when you get that job. As you are working forward, you pay it back within 10 years.

Mr. ALEXANDER. Well, I understood you to say that it would be forgiven. I don't know, maybe I misunderstood.

Ms. KANTER. After 10 years of employment, your loan debt is forgiven.

Mr. ALEXANDER. Okay. Well, I just find it odd that, at a time when a great percentage of the public out there is already mad because they see every day where government employment is rising and private sector is falling, that we would encourage young men and women that are participating in the Pell Grant program at the expense of the taxpayers, would be told that if you will go to work now for the government, we will forgive some of your loan. It just seems like that is kind of poking the public in the eye with a sharp stick.

Ms. KANTER. Maybe I need to differentiate between Pell Grants and loans. The Public Service Loan Forgiveness is not a payback on the Pell, it is when you need a loan. If you had a tuition to pay, for example, under the Stafford loan program, you will pay that back over 10 years. We will have a huge number of replacement jobs in government, because many of us are over 60, unfortunately, and we will have to replace those staff.

I did a lot of work with emergency physicians in the county hospital. They could not get people to come into those jobs. The Public Service Loan Forgiveness will allow those individuals to take those loans. If they qualify for Pell, they will get the Pell Grant. However, if they take the loans, then they will pay those loans; but after 10 years, the remaining loan debt will be forgiven. And we will have had benefit of 10 years of a county doctor in a county hospital with a long waiting list for service. So that is the example.

Mr. ALEXANDER. Thank you, Mr. Chair.

Mr. OBEY. Ms. Roybal-Allard.

ELIMINATION OF THE CAREER PATHWAYS INNOVATION FUND

Ms. ROYBAL-ALLARD. Ms. Oates, in September of 2009, the Bureau of Labor Statistics commissioner, Keith Hall, announced that 544,000 new jobs were added to the health care sector since the re-

cession began. The commissioner also projected that this growth will continue, and in the next decade we will need to fill an additional 3 million jobs in the health care field just to meet the Nation's demand.

And he stated that registered nurses will account for hundreds of thousands of these health care positions, adding to an already very serious nursing shortage, projected to grow to 260,000 registered nurses by 2025.

In light of this critical and growing demand for nurses, I was surprised that the Career Pathways Innovation Fund, which is a competitive grant program intended to prepare workers for careers in high-demand industries, has been eliminated from the fiscal year 2011 budget.

How does the Department plan to address shortages such as the nursing shortage if it eliminates training programs that prepare Americans to fill these critical health care positions?

Ms. OATES. Congresswoman, you have heard my friend, Martha Kanter, talk about this before. In preparing our budget request, we were hoping that the American Graduation Initiative would happen and we would have dollars to deal with the Career Pathways issues through AGI, and that didn't happen.

Ms. ROYBAL-ALLARD. And that didn't happen.

Ms. OATES. Right. But we do—just so you know, we agree with you. This is the most resilient sector in the recession. It is important for us to keep focused on allied health and, in particular the area of nursing, work closely with our friends at HRSA so that we are working in concert, not in duplication.

So we will use H-1B funds to continue the health care initiative because it does match the needs for H-1B visa fee funds. So that was our backup plan.

We will also continue to, if indeed we are able to maintain the \$2,000,000,000 that is to be used for community college program expansion, I think both Under Secretary Kanter and I would agree, along with our friend Mary Wakefield, that we need to do something to address the nursing faculty shortage. We can't get nurses who can make more working three 12-hour shifts to come in and be a career person in a higher-ed facility. And we need more faculty. We also want to work with our colleges that are preparing nurses to make sure that—you don't need a nursing faculty to teach biology. The regular biology, A&S department can teach biology. You don't need separate staff.

Where we do need nurses and nursing faculty particularly are in those areas where they are so specifically nursing-centric and in the clinical supervision. And there are really promising models across the country, where hospitals and health care providers have partnered with the colleges to provide the clinical supervision with their own paid staff, not the college's paid staff.

We think that the new investment over 4 years in building the capacity of community colleges will help us invest in those kind of innovative processes, as well as helping to look at other ways to address the nursing shortages.

We know that there are other areas coming up, like health IT, that there is going to be little help through competitive grants through HHS. But nurses are really—especially the RNs, the 2-

year-degree nurses, they are our responsibility, so we are not going to ever walk away from that, as are the other entry-level allied health careers, you know, like the med techs, like all the assistants, the CNAs, and like the pharmacy techs. I mean, the local pharmacy, CVS and such, have such great need, and those are great entry-level jobs for folks who could then continue on to be nurses.

So we are going to be working on all of that simultaneously, believe it or not.

JOB CORPS

Ms. ROYBAL-ALLARD. Okay. Because I run out of time, very quickly I want to talk a little about Job Corps. And I will go straight to the question. I think we know what a great program that is and how it fills a tremendous need, but it is facing a \$40,000,000 shortfall. And my question is, how do you plan to address the shortfall to avoid staff layoffs, staff attrition, and disruption in student services?

And, also, Job Corps asked me to raise another issue, and that is, because our young people are facing record unemployment, the demand for Job Corps far exceeds capacity. Yet our Job Corps classrooms sit empty every evening. And Job Corps estimates that, with a modest investment of \$15,000,000, they could train 965 additional nonresidential students in their existing facility each evening. And not only would additional youth be served, but additional jobs would be created to teach and train these students.

And the second question would be, would the Department of Labor consider maximizing the use of Job Corps facilities and expanding the program capacity by creating evening classes?

Ms. OATES. This is the first time I have heard that suggestion, Congresswoman. I think it is a great suggestion. I mean, we know that we are always pushing our community colleges to do weekends and evenings to fully utilize. So, I mean, I will come back to you on that. I think it is a great suggestion.

Ms. ROYBAL-ALLARD. Okay. We will follow up. We will follow up.

Ms. OATES. But on the money piece, we do recognize that the Recovery Act gave us a unique one-time opportunity to go down our list, in terms of repairs and renovations. So we are hopeful that we can fill this shortfall, number one, through efficiencies. We do think that there are some—I have only been responsible for Job Corps and ETA for 24 days. So I am learning about Job Corps as we speak. But I think there are some efficiencies we can put into place.

And if we do run short, we can reprogram a little bit with our construction funds, because the recovery money did let us do so much of the construction that was on the wait list.

[The information follows:]

Job Corps is not planning staff layoffs, nor will services to students be impacted. In order to maintain base operations and pursue initiatives such as increasing instructor pay, opening the Ottumwa, Iowa center in FY 2011, and expanding the Licensed Practical Nurse training program, Job Corps is pursuing a reform agenda that we believe will create savings through operational efficiencies. These reforms could include energy conservation practices to reduce utility and fuel costs, maximizing center slot capacity, and taking advantage of economies of scale for targeted on-center services.

As a responsible contingency, the Department has requested authority to transfer funds from Construction to Operations in case these operational reforms do not result in savings as quickly as expected. This will have a negligible impact on the Construction budget for the FY 2011, as the majority of shovel-ready projects have been funded through the Recovery Act.

Ms. ROYBAL-ALLARD. Okay, thank you. We will get back to you on the evening classes.

Ms. OATES. Yes, thank you. That is a great idea.

[The information follows:]

The Department is open to this suggestion, understanding that evening classes can complement daytime training for current Job Corps students and open up opportunities for new students to participate in the program. Currently, Job Corps centers take advantage of after-hours instruction in a variety of ways, including life skills classes on personal finance and independent living, extended computer lab hours and English Language Learner (ELL) classes, and recreational activities such as yoga classes and intramural sports.

The suggestion of evening classes, however, assumes a more structured delivery of academic and career technical training similar to daytime instruction. This would provide additional students, including local non-residential students, with the prospect of attaining their GED or High School Diploma, and/or achieving a certification in a high-growth industry. Further, current students could supplement their daytime training by taking additional academic classes or enrolling in a complementary career training class.

Job Corps has already begun to collect information on the availability of facilities and current evening offerings at its centers. The program will then need to determine the feasibility of offering academic and career technical training at its sites, and any net costs associated with doing so. This will include an analysis of high-growth, high-demand trades that should be offered at each site, the demand for such services, and the costs and benefits of such an approach.

Mr. OBEY. One of the things that becomes apparent to me, as I sit through these hearings, is how many things we are trying to do and how few resources we have to do them.

We were talking earlier about Pell Grants, the percentage of college costs that had been paid for by Pell Grants in the 1970s versus today. We have a much smaller percentage of college costs being met by Pell Grants. Title I, we have a very small percentage of eligible kids actually being sufficiently served by that program. Mr. Cole mentioned TRIO and GEAR UP. You can run down the committee and everybody will have their favorite example.

Then you get to job training. I think Congress has a split level, when it comes to job training. You have a lot of people who they think that these programs aren't worth a hill of beans, and you have others who think that we are falling far short in meeting the need.

You were talking about nurse training. One of the few bright spots in the national economy in terms of job growth, even through this recession, has been the health care sector, which actually grew by about 600,000 jobs between December of 2007 and December of 2009. That is an average of about 25,000 jobs per month—a whole lot better than the rest of the economy was performing.

The Department of HHS estimates that by 2020 we are going to need 2.8 million nurses, 1 million more than the projected supply. In the much maligned Recovery Act, we included \$250,000,000 to fund job training for careers in high-growth industries, with an emphasis on the health care sector.

Now, I understand that DOL received an overwhelming response of more than 800 applications for those grants. The Department was only able to fund 55; is that correct?

Ms. OATES. That is correct.

Mr. OBEY. What does that tell us about the sufficiency of this effort, especially given the fact that we have just passed the health care proposal, which is going to add some 30 million people to the lines of people who want to get in and see doctors and nurses and other health professionals? What are we going to have to do to really meet the need in that area? And what does that tell us in terms of additional resources we need to apply to it?

Ms. OATES. Well, I think if you had community colleges sitting before you, they would say that they are constrained and they have to build their capacity. And part of that is what I was referring to when I was responding to the congresswoman's question. I mean, I think it has to be a multi-pronged response. We have to get them to think differently, in some cases, and we have to use our private-sector partners.

But, Congressman, I would be remiss if I didn't tell you, we need more money to help these community colleges get the capacity to attract the faculty. You know, as I go around—and I am sure you have been to a million of these training facilities—but when you go around and you think how you train young students, not-so-young students for these jobs, the computer stuff is great. You know, you have SimBaby, who can teach you how to hold a baby correctly so you don't endanger a newborn infant the first time you think about holding that newborn baby. But they cost, like, \$150,000. For a community college, they are thinking, do I buy SimBaby or do I get a faculty member?

So we need to continue to help them. And, you know, some of the things that Congressman Cole said about Perkins directly impact these training programs, because Perkins is the only way these community colleges have really been able to have a Federal source to get the equipment they need, whether it is in allied health and nursing or whether it is in advanced manufacturing.

So, at some point, while I do try to be fiscally responsible and talk about efficiencies and removing redundancies, at the end of the day I have to agree that there are certain times when I am going to have to come to you and say, "We need more money." We thought we were going to be able to use AGI. It went away. We are going to use any money that we are given collaboratively and in the best vein. But we certainly may need more money to create the skilled workforce to fill these health care jobs over the next 3 to 5 years.

Mr. OBEY. So much is impacted by intangibles. You know, I hear an awful lot about how the economy needs to have an added dose of consumer confidence before it begins to grow. But I also see another huge gap in confidence, and that is the confidence demonstrated by a lot of people in the workforce who are out of work and have become very unsure of themselves.

I was at a community college branch campus in a town called Antigo in my district a couple of months ago. And I was struck by the fact that there were a number of people in their training program from the same employer in my hometown. And that employer had for years been regarded as one of the best employment opportunities for anybody in the area. And then they laid off over 200 people, and they laid off some more.

And you could just see, not just the resentment, but the lack of confidence on the part of a lot of those people. They were in that program, but their confidence had been shattered because they thought they had the world by the you-know-what, and then, all of a sudden, everything fell out from under them.

And I guess my question is, there are going to be those who still have enough built-in confidence to actually make it through, but there are a lot of others who are going to be so afflicted with self-doubt that, even if they get training, they don't have real confidence in their ability to actually put it to use.

ONE-STOP CENTERS

What tools do we have available with these programs in order to deal with that problem?

Ms. OATES. In one respect, we have been trying to give professional development opportunities to our frontline workers at the one-stop. Because, clearly, many of the clients coming to one-stop centers today are people who never thought they were going to be unemployed. They were the kind of folks who left high school with or without a diploma, went with the same employer, maybe the employer that you are talking about in your area, and stayed with them for a lifetime, were a loyal employee and never thought—lay-offs were something for lazy people, that wasn't going to happen to them, they are hardworking. And they don't understand that the economy has dealt them a KO. I mean, they are really in trouble.

So the professional development that we have been trying to give to one-stop operators is understanding and trying to listen to the point where you help build—you listen to what their concerns are and build their self-esteem.

From the Federal level, what we are trying to do is create some electronic tools. So we did an electronic tool challenge of job aggregators, because these folks haven't looked for a job in a long time. So we put up over 300 different things for free on our Web site and told—65,000 people did it—come in and tell me what you liked about it and what you didn't. And for some of them, it was not using Monster.com with a million jobs; it was going to look for jobs in their specific sector.

So we are trying to respond to that, so as job seekers are looking for something, not to overwhelm them with a thousand jobs that they are not qualified for, so they get put down, even if it is just by the computer. So we are trying to tailor it so that they can look for jobs for which they have qualifications.

And, finally, on that electronic tool front, we fully intend to put the SGA out at the end of this month to build a virtual one-stop, so somebody can look at what is available to them at a low-level reading so it doesn't put somebody off, but they go into the one-stop knowing what they are qualified for because they have already pursued it a little bit. And we will give grants to community-based organizations so that they can support the use of that tool, not just a public workforce person.

But, Congressman, this is an area where we need to reach out to our community-based and faith-based partners because we need help with this. Because, I will tell you something that someone, not in Congressman Ryan's district, on another trip to Ohio, a one-stop

worker said to me, “You know, I have been in this system since CETA.” And, you know, I nodded my head. And she said, “It is different today.” And I nodded my head. And there were 500 or 600 people in the audience. And she said, “In the 1970s or 1980s, if somebody came into my office and said, ‘If I don’t get a job this week, I am gonna blow my brains out,’ I would have said, ‘Oh, honey, sit down, have a glass of water, have a cup of coffee.’ Today, when somebody comes into a one-stop and says that”—this is that woman saying it—“I am looking for the gun.”

So my folks at the one-stops feel the sense of hopelessness that their customers are feeling. They are looking for ways to deal with it. But we need to get faith-based and community-based organizations to help us. Because I am worried not just about the mental health of these folks, but about the safety in some of these areas.

People are really hopeless out there, and we need to do more to restore a sense of hope by giving them real tangibles about what their skill sets can mean in terms of getting a good job.

Mr. OBEY. Thank you.

Ms. OATES. Now that we have left that on a depressing note.

Ms. KANTER. Well, let me—

Mr. OBEY. Usually, I am the person that leaves everybody depressed.

Ms. OATES. From pinata to, like, I am ready to sit and cry now.

RECONCILIATION ACT AND FUNDING FOR COMMUNITY COLLEGES

Ms. KANTER. I think every organization, whether it is a one-stop, a community college classroom, or a counseling office, is reeling from the recession. And people are depressed.

What is exciting and gives us a sense of momentum is, if the amount in the Reconciliation Act for the community colleges holds, our equal partnership with the Department of Labor—we have done a lot of work together, as I said.

Part of it addresses the one-stops and how we can ramp up the human element. If you are depressed, the last thing you want to do sometimes is sit down at a computer and try to figure out what is right for me. You want somebody there who is motivated to say, “Look, I am going to take you through this. I am going to show you the way.” If you enter a community college, we have supportive services.

We are hoping with that \$2 billion—\$500 million every year for 4 years—we can really incentivize. We are not sure whether the regulations are going to allow us to do as much as we want to do, that maybe the AGI—the American Graduation Initiative—would have allowed us to do. But we are going to incentivize getting those students, those clients, into the right program with the support that they need.

So, for example, if they need to visit a counseling group that is available to them through a community college, they could take a class that would be called “Career Training” or “Career Preparation.” They may be taking an English class. One of the innovations is, can you put these real-life challenges into the classroom and support the faculty to adjust the curriculum to acknowledge what the students need?

I know we have had a program called "Puente" for many years. It has combined counseling and teaching so that students are learning English, are finishing the requirements for that literacy level they need, but are getting the support along the way and have a human being to talk to while they are in the program.

So I think we can build on some of the lessons learned over the last 10 years to really use that money well to get these people into jobs and lift their confidence moving forward.

Mr. OBEY. Why don't we take one more question from any Member who wants to ask one before we shut this down.

Mr. Tiahrt.

Mr. TIAHRT. Thank you, Mr. Chairman.

And I don't want to end on a bad note either, but I do see—

Ms. OATES. I hear a "but" there.

COST OF REGULATIONS

Mr. TIAHRT [continuing]. I do see great opportunity in our community because of the American people and the innovation they have provided over and over. And, you know, I think we do all try to live out what we believe will work.

And my view of how the economy works is, we have to, in a world economy, be able to make things here less expensively than we do today. We have been the number-one economy because we are the most productive economy. And the things that draw away from that productivity are the things that concern me.

And that is why I bring up, you know, the cost of regulations now, which are almost 18 percent of anything we make. And our corporate tax structure is now 35 percent. It is the second-highest in the world. Our liability costs, because of the tremendous litigation we have, are the highest in the world. And, in energy, we send \$700,000,000,000 overseas every year.

So, in order to take on those burdens of higher costs, we try to make our employees very productive and give them the ability to move freely in the workplace and bring their own innovation to their own job. And that is where I think we are different than the rest of the world, and it has helped us. But one of my goals is to try to keep us from burdening up those jobs with things that distract away from being productive and making things.

You mentioned the one-stop center. The one-stop center in Wichita is the next building over from my office. And, in talking with the people that work there, they have good ideas and they do good work, but I am not sure they know of all the funding streams that are available to them.

So I am going to, kind of, ask you. I know we have the WIA, Workforce Investment Act. And I know that we bumped some money in with the stimulus bill. And there is in some mandatory spending that is available in the Trade Adjustment Act. Are there other funding streams available? Could you provide me with a list of those funding streams that are available to them?

Ms. OATES. Sure. Sure.

[The information follows:]

One-Stop Career Centers provide access to a wide range of services covering many federal agencies and programs. Several partners are required to be physically or virtually present in the One-Stop Career Centers, while other programs are optional

partners. The degree to which funds from partner programs are available for One-Stop operations or to One-Stop customers is often the subject of Memorandums of Understanding between the partner programs.

Mandatory One-Stop Partners:

- WIA Adult, Dislocated Worker and Youth
- Wagner-Peyser Employment Services
- State Unemployment Insurance
- Job Corps
- Youthbuild
- Trade Adjustment Assistance
- Senior Community Service Employment Program
- Migrant and Seasonal Farmworker Program
- Indian and Native American Program
- Veteran's Workforce Investment Program
- Local Veterans' Employment Representative Program
- Disabled Veterans' Outreach Program
- Adult Education
- Postsecondary Vocational Education
- Vocational Rehabilitation
- Community Services Block Grant Employment and Training Programs

Optional One-Stop Partners:

- Temporary Aid to Needy Families (TANF)
- Supplemental Nutrition Assistance Program (SNAP)
- Higher Education, including community colleges
- Youth Corps
- Other appropriate Federal, State, or local programs, including programs in the private sector

Mr. TIAHRT. And if I may ask for a couple of other things for the record—by the way, this is confusing, the budget is confusing, because we have budget authority, and then we have outlays, and then we have obligated and unobligated. In the budget for fiscal year 2010, it does refer to the \$1,400,000,000 that I talked about as an unobligated balance carried forward.

So I want to know, how is this impacting—specifically with the WIA funding, could you tell me, like, since 2007, how many people are taking advantage of this program on a year-by-year basis?

And then, also, could you tell me, when we get people out of the programs, how many have held a job for, like, 2 years or so, 1 year and 2 years?

Ms. OATES. We can do 6 months and 12 months. That is what we collect.

Mr. TIAHRT. Okay. That would be good. All right. Thank you. I appreciate that.

Ms. OATES. We will get that to you. Thank you.

[The information follows:]

Workforce Investment Act programs served 1.662 million adults and 357,890 dislocated workers in PY 2006; 2.803 million adults and 396,150 dislocated workers in PY 2007; and 5.171 million and 671,790 dislocated workers in PY 2008. These are the number of participants in the programs, as reported by states in their WIA Annual Reports. The number of adults has increased in recent years due to changes in reporting to include self-service participants as significant resources are utilized to provide resource rooms and access to services via the Internet. The increase in the number of dislocated workers is likely due to the down turn in the economy in calendar year 2008/2009.

The employment retention rate for the WIA Adult program was 82% in PY 2006, 84% in PY 2007, and 83.5% in PY 2008. For the WIA Dislocated Worker program, the employment retention rate was 88% in PY 2006, 87% in PY 2007, and 86.0% in PY 2008. These results are obtained by looking at the percentage of those program completers (known as exiters) who were employed in the 1st, 2nd, and 3rd quarters (3, 6, and 9-month intervals) compared to all who exited the programs. Additionally, states report annually the employment retention rate at 12 months. For the WIA Adult program, the 12-month retention rate was 80.4% for PY 2006, 83.8%

for PY 2007, and 82.3% for PY 2008. For the WIA Dislocated Worker program, the 12-month retention rate was 85.9% for PY 2006, 86.8% for PY 2007, and 84.8% for PY 2008.

Mr. TIAHRT. Thank you, Mr. Chairman.
Mr. OBEY. Ms. Roybal-Allard.

CONSOLIDATION OF REHABILITATION SERVICES EMPLOYMENT PROGRAMS

Ms. ROYBAL-ALLARD. I, like other Members, have been concerned about the consolidation of a lot of programs and the shifting it to, you know, competitive grants. And that is certainly true with the consolidation of several of the Rehabilitation Services Administration employment programs, which you have put a lot of vocational rehabilitation State grants into that whole consolidation.

And my question is, in doing that—without these dedicated resources, these services programs may not necessarily receive funding under the larger State grant program. So my question is, what plans does the Department have to ensure that the unique needs of, for example, disabled individuals will continue to be met by the Vocational Rehabilitation State Grant? How do you guarantee that?

Ms. POSNY. When we are talking about the consolidation, some of the consolidations are the migrant workers, for instance, or supported employment. So—

Ms. ROYBAL-ALLARD. That is the one I had in mind.

Ms. POSNY [continuing]. Those are the ones that we were talking about.

What we want to do is put the money in the base. So those populations are still going to be served, and the way we will know they will continue to be served are the performance outcomes. They will still have to indicate to us and provide the data to us that these populations are being served and how well they are being served.

What this allows us to do is to streamline the services. Right now, we are duplicating services because we serve those populations within what I refer to as the base as well as in the separate programs. With the consolidation, we are going to streamline and make sure they are still going to continue to be served; they are just going to be part of the base.

Ms. ROYBAL-ALLARD. But what happens is—I mean, you will have to find that out because they will be reporting back to you.

Ms. POSNY. That is correct.

Ms. ROYBAL-ALLARD. But in the meantime—and I don't know what the length of time would be, when you find out, well, gee, that we are not reaching this particular population—in the meantime, these people are not getting the services.

CONTINUATION OF SERVICES UNDER CONSOLIDATION PROGRAMS

So I guess my question is, or the concern I have is, that there shouldn't be a gap. We shouldn't be waiting to see, gee, all these people over here have been suffering, have not gotten services, so now we need to do something about it, particularly when we have programs in place that ensure that there will not be a break in services.

Ms. POSNY. I look at this as being a continuous flow. You are correct. For right now, they are being served as separate programs. Under the consolidation, they will continue to be served, but it will be within the larger program. There will not be a break in service at all. They are going to continue to be served, and they will continue to provide the data to us, just not as separate entities. It will be part of the program in its entirety.

Ms. ROYBAL-ALLARD. Okay. I will have to look and see a little bit more on how that is going to work.

Ms. POSNY. Okay.

Mr. OBEY. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman.

And thank all of you. It has been a very interesting hearing.

BUSINESS INVESTMENT IN TRAINING

I think, if my notes are right, Secretary Kanter, you had, actually, I thought, one of the most dreadfully depressing but maybe important statistics in your testimony. You mentioned that there were, if I got it right—I may have it wrong—90 million or so people with low training, no access to college, and we are only reaching 2.4 million or something like that.

Ms. KANTER. Actually, 93 million.

Mr. COLE. Gee, thanks, I really appreciate that correction. But it does, back to Chairman Obey's point, give us some idea of the dimensions of the challenge.

I don't know the answer to this, but I am curious as to—just to pick up on a line of questioning that Mr. Tiahrt had, too—that is almost too big for government to do, and that is beyond a multiple of our resources to deal with.

What are the kinds of things that we are doing to incentivize private businesses who are employing these people, in many cases, somewhat, some of them, to come back and reinvest? What should we be doing in terms of tax credits for people that will do additional training for their workforce or that will give them the time off they need, in many cases, to actually go back and pick up the skills they need, and to, again, incentivize those companies to, in a cooperative way quite often, work with us in technical training and what have you?

Ms. KANTER. We are working very closely with the Department of Labor, as both Jane and I have said. I hope you come away with the understanding that we have a commitment to work as equal partners to reach out to the public and private sectors.

Mr. COLE. And that is good. But, again, to Congressman Tiahrt's point, we have a big labor force, so you really have to bring businesses directly into this. And I am really more interested in incentivizing the employer to train the worker that they need than not. I mean, they know their needs. And, quite often, you know—and they can provide some of the capital. They are going to need to provide some of the time, some of the support services. What are we doing to incentivize them to do that sort of thing?

Ms. KANTER. I will give you an example. If you look at Cisco Systems, they are a great employer. We have regional training academies at our 2-year colleges, at our 4-year colleges, and in our high schools with a common curriculum that is giving access to people

at different levels. So, for a high school student, they get access. I went to a community college class where there was a laid-off worker who came back and received the Cisco training. Cisco provides the curriculum; and our faculty adopted the curriculum. It is very high-quality training, it is internationally benchmarked. I have even talked to CEO John Chambers about it.

I think an added value we could ask business to do is to let their workers know that we have the largest tax college credit now available, the American Opportunity Tax Credit, which is going to be put toward the cost of tuition, fees, and course materials, where taxpayers could actually have that benefit while they are working in a job. I think there is a lot of communication that we can do.

We also are excited about having that \$2 billion in the Reconciliation Act to look at ways that we can partner and incentivize the private sector to work more closely with higher education. We also had private-sector folks on our P-16 community regional task forces advising us.

PROMISING PRACTICES

So we have new roles for business where I think they will have, hopefully, a more motivated and more excited set of people coming in as we move forward.

Ms. OATES. And, if I could impose, we have some real examples of promising practices. I mean, in Mr. Tiahrt's district, you know, where it is aviation, a lot of those aviation employers have site-based education that is not directly aligned with their current job but helps to move them up, because that is an industry that is always changing.

But we see great benefit in employers who have site-based adult basic ed courses or site-based adult English-learning classes for employees who don't yet have the English skills they need to do their job at 150 percent or to move up the ladder.

So I think you have a great idea with this idea of a tax credit. I mean, the one problem that I think we see is that a small employer has a very difficult time giving their employee time off during work because it stops their productivity. But if they allowed them to stay an hour, things like travel time and child care and things like that are really abated.

So, if there is some—I don't know what the dollar amount would be because I really don't understand corporate tax credits. But I think if you put some incentive out there for people to think about doing that—and it might not have to be a big incentive, you know, to pay the light bill or whatever, or to pay the janitor to stay an extra 2 hours in some cases—I think you would get a lot more businesses to say, "Oh, that makes sense. I would do that."

But, again, remembering for that small employer, it has to be, I think, at the end of the workday or before the workday begins, because they just can't give up a worker if they only have 30 employees. It really does impact the phone not getting answered or something not moving down the line.

But I think it is a terrific idea. I think most of the businesspeople that I meet with are always trying to figure out what they can do. They are not big enough to do tuition reimbursement; they don't have that kind of cash. But if you went to them

and said, "We will have a community college provide the adult basic ed instructor if you provide the room," I think they would be open to that. And if you put a little sweetener in it, they would probably be wide open to it.

Mr. COLE. Thank you.

Thank you, Mr. Chairman. Appreciate that.

Mr. OBEY. Thank you.

Did you want to say something?

Mr. JEFFERSON. Yes.

WORK OPPORTUNITY TAX CREDIT

Representative Cole, just make sure that the veterans are also represented in the dialogue. We actually have a Work Opportunity Tax Credit that provides a tax credit of \$2,400 for veterans hired and also \$4,800 for disabled veterans, as well. And we are making sure that our employment representatives and our State directors raise awareness of that when they are talking to employers and to CEOs.

Mr. OBEY. All right. Thank you all for coming. Appreciate it.

QUESTIONS FROM THE SUBCOMMITTEE

MANAGEMENT

Mr. Obey: According to The Partnership for Public Service's *Best Places to Work* 2009 rankings, the Department ranked 27 out of 30 in overall job satisfaction. Are there any activities planned in FY 2010 or requested in FY 2011 that are targeted to improve the workforce environment and job satisfaction at the Department? If so, please list and explain these activities.

Secretary Duncan: In response to the relatively low levels of overall job satisfaction, the Department has implemented various strategies targeted at improving job satisfaction this fiscal year that will also continue during FY 2011. These include increased communication with employees, providing our supervisors with tools to improve the competencies needed to become more engaged and to lead better, and in October 2010 the Department will implement a new performance management system for our employees.

Some examples of the specific FY 2010 activities include:

Leadership Training and Development

- Human Capital Reviews – Established a senior-level organizational culture team that conducts quarterly reviews with senior leadership in each of the organizational components to focus on their workforce, survey results, and strategies on how to address any improvement opportunities.
- Leadership Development – Established a requirement for each of the organizational components to have a measure in their Organizational Assessment (OA) that emphasizes the importance of training and development for our leaders. Mandated that each supervisor, manager, and executive had a development plan in place by January 31, 2010 that focuses on closing Department-level competency gaps in the areas of building a performance culture and conflict management and specific organizational competency gaps.
- Education First Class Initiative – This initiative is being championed by Federal Student Aid on the key themes we identified for improvements (leadership, trust, transparency, communication and employee engagement, and improving our partnership with labor).

Communication

- Employee All Staff Meetings – Scheduled quarterly meetings with the Secretary to share with employees updates about programmatic and workforce issues.

- Colleague Acknowledgement Emails – Established an email box for colleagues to acknowledge each other's hard work in support of the mission by sending an e-mail to ThankYou@ed.gov. These are read by me and my Chief of Staff and periodically will be featured during my quarterly all staff meetings.
- OpenED Collaborative On-line Forum – Launched an online forum that allows employees the opportunity to collaboratively and transparently discuss and identify the best topics to engage in ongoing, productive discussion about ideas that enhance the work of the Department by drawing upon the institutional knowledge of all our employees. A peer OpenED Reading Committee reviews and recommends ideas to be further reviewed by the specific program office for implementation.

Performance Culture

- New Employee Performance Management System – Collaborating with the union to design a new employee performance management system for the FY 2011 performance cycle.

Employee Development

- Training Needs Assessment - Conducted a Department-wide training needs assessment of 10 organizational components to identify common and unique requirements to help focus training and development needs that can be addressed through instructor-led or available through online training. Training of supervisors was the primary need identified across the components, along with building trust, maintaining integrity, and building cohesive partnerships across the organization.
- Competency Assessment - Conducted assessments for the Department's mission critical occupations to identify strategic competency gaps and provide targeted training to address them.
- Tuition Reimbursement Program – Continue to support higher education learning through the reimbursement of tuition for courses strategically linked to an employee's current job to help attain organizational performance goals. For FY 2010, the Department has reimbursed 83 employees for training totaling \$150,000.
- Mentoring Program - Announced 2010-2011Mentoring@ED program to give employees an opportunity to enhance their careers through the development of a dynamic mentoring partnership experienced through a formal, structured program.

During FY 2011 the Department will continue implementing the strategies previously mentioned to create an environment of trust throughout the Department and to continue developing supervisors and managers. As demonstrated by the results from our 2009 Annual Employee Survey, several of our 10 lowest scoring questions increased from our 2008 results, as a result of efforts.

FTE ALLOCATED TO RACE TO THE TOP

Mr. Obey: The FY 2011 budget request includes large FTE increases in many principal offices. Please provide further detail on how the additional 50 FTE will provide technical assistance to States regarding the Race to the Top program. Please provide the number of FTE that is currently allocated to the Race to the Top program and its first award cycle.

Secretary Duncan: The 50 FTE requested for the Race to the Top program will support a new approach to grants management, transitioning the Department from an organization focused on compliance monitoring to an organization adept at both supporting States in achieving their educational goals and holding States accountable for meeting educational goals, financial requirements, and legal obligations. The Race to the Top initiative will serve as the pilot for this new approach. Most of the FTE will serve on State teams to provide dedicated technical assistance. Dedicated technical assistance will mean staff having knowledge of each State's capacity, assets, and deficits, using all available tools to provide support and incentives to improve performance. Eventually, the role of these State teams may be expanded to include other Department programs.

The State team is envisioned as the first level of support for a State. Each State would have a dedicated team empowered to provide support, deploy ED resources to help solve problems, withhold funds, and grant waivers -- all within appropriate and well-specified guidelines. State teams would be supported by two types of experts. First, there would be program specialists, who would be brought in to consult/advise when there were questions related to a particular program (e.g., Title I). Second, there would be small support teams expert at evaluation, database design and mining, codifying promising practices, building and supporting active communities of practice (across States and within States), providing technology platforms to support dissemination and replication activities, and so on. Thus, these State teams would be responsible, not only for the success of the States they served, but also for the fast and effective dissemination and sharing of promising practices across States.

To implement this plan will require the resources outlined below. The majority of these people are new hires because the Department does not currently have the capacity or the skills needed to undertake this new work with current staff alone.

The new staffing resources it would take to implement this plan are estimated as follows:

- Executive and regional management/support (~5-7)

- State teams (~30-35 -- approximately 1-2 people per State team, approximately 20 State teams)
- Program specialists (no new hires; we would use existing staff for this work)
- Support specialists:
 - Technical/Data (~2-3)
 - Evaluation (~1-2)
 - Knowledge Management (~2-3)
 - Community Building (~2-3)

There are currently 20 FTE allocated to the Race to the Top program during its first award cycle.

FY 2011 BUDGET REQUEST FOR OFFICE OF THE SECRETARY

Mr. Obey: Please provide a more detailed explanation for the increase in the Office of the Secretary.

Secretary Duncan: The increase of 7 FTE in the office of the Secretary will be for continuing to administer programs in the State Fiscal Stabilization Fund ARRA account, as well as providing support for newly authorized funding of Race to the Top and Investing in Innovation. These FTE are necessary to perform key activities such as planning, monitoring, technical assistance, reporting, and risk mitigation (i.e., helping ensure that the programs achieve their intended outcomes).

FY 2009 DEPARTMENT OF EDUCATION EXPENDITURES FOR OVERTIME

Mr. Obey: Please provide for the record a table that shows all funds expended by ED for overtime in 2009. Include office, the number of employees receiving overtime in that office, and overtime amount.

Secretary Duncan: The table below displays all funds expended by ED for Overtime in 2009 by office and the number of employees receiving overtime in that office.

Office	Overtime Amount	Number of Employees
Advisory Committee on Student Financial Assistance	0	0
Chief Financial Officer	\$29	17
Chief Information Officer	44	14
Civil Rights	0	0
Communications and Outreach	6	1
Deputy Secretary	0	0
Elementary and Secondary Education	1	3
English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students	0	0
Federal Student Aid	57	36
General Counsel	7	1
Innovation and Improvement	2	1
Inspector General	3	9
Institute of Education Sciences	0	0
Legislation and Congressional Affairs	1	1
Management	7	11
Planning, Evaluation, and Policy Development	5	3
Postsecondary Education	2	2
National Assessment Governing Board	0	0
National Board for Education Sciences	0	0
National Institute for Literacy	0	0
Safe and Drug-Free Schools	3	3
Secretary	130	28
Special Education and Rehabilitative Services	7	1
Under Secretary	0	0
Vocational and Adult Education	1	1
Total	305	132

Notes:

Amounts are in thousands of dollars.

Office of the Inspector General data excludes special law enforcement availability pay recorded as overtime.

FY 2009 DEPARTMENT OF EDUCATION COMPENSATION EXPENDITURES

Mr. Obey: Please also provide a similar table with compensation time levels.

Secretary Duncan: The table below displays the Compensation time levels in hours by office, the number of employees receiving compensation time in that office, and the equivalent dollar level of the compensation time in that office.

Office	Hours	Number of Employees	Equivalent Dollar Level
Advisory Committee on Student Financial Assistance	0	0	0
Chief Financial Officer	1,560	97	\$80
Chief Information Officer	1,969	63	93
Civil Rights	4,067	253	178
Communications and Outreach	2,011	50	84
Deputy Secretary	25	1	1
Elementary and Secondary Education	2,213	99	93
English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students	71	6	3
Federal Student Aid	5,026	229	224
General Counsel	4	1	1
Innovation and Improvement	434	31	15
Inspector General	1,015	78	45
Institute of Education Sciences	143	19	7
Legislation and Congressional Affairs	70	9	3
Management	914	38	41
Planning, Evaluation, and Policy Development	1,289	49	54
Postsecondary Education	133	16	5
National Assessment Governing Board	65	2	2
National Board for Education Sciences	0	0	0
National Institute for Literacy	197	8	6
Safe and Drug-Free Schools	1,301	38	60
Secretary	990	36	41
Special Education and Rehabilitative Services	2,765	107	128
Under Secretary	0	0	0
Vocational and Adult Education	567	42	27
Total	26,827	1,272	1,192

Note: Equivalent dollar levels are in thousands of dollars.

STUDENT AID ADMINISTRATION — OVERSIGHT AND ECASLA

Mr. Obey: Mr. Secretary, in a February 25, 2009 NY Times article, you stated that there would be a complete report on the implementation of the Ensuring Continued Access to Student Loans (ECASLA) programs by June 30, 2009. Was such a report prepared; and if so, please summarize its findings.

Secretary Duncan: The Department has prepared weekly reports on the ECASLA (Ensuring Continued Access to Student Loans Act of 2008) Implementation. These reports are provided and discussed with congressional staff and provided to the Congressional Budget Office, the General Accountability Office and other agencies. The reports include information, by lender and in summary, of all participations interests sold, loan purchases, and conduit balances and purchases for both 2008-2009 and 2009-2010. Additional information was also provided in the 2010 and 2011 President's Budgets. The Administration is currently preparing an additional report on the ECASLA programs through FY 2010. We will deliver this to Congress upon its release.

Below is the executive summary on ECASLA implementation and summary by participant as of April 14, 2010.

Executive Summary

	Total Through 4/13/10	Total Through 4/6/2010	Net Change
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2007 - 2008 Short Term Purchase Program: - FINAL

Total # Funded	8	8	-
Total \$ Value of Loans	\$ 1,028,809,368	\$ 1,028,809,368	\$ -
Total \$ Amount of Purchase (97%) Funded	\$ 997,945,088	\$ 997,945,088	\$ -
Total \$ Principal of Loans	\$ 1,007,856,408	\$ 1,007,856,408	-
# of Loans Funded	280,506	280,506	-

2008 - 2009 Participation Program: - FINAL

# of Approved Sponsors	27	27	-
Total \$ Requested	\$ 33,375,751,248	\$ 33,375,751,248	\$ -
Total # of Purchase Requests	528	528	-
\$ Balance in Participation	\$ -	\$ -	\$ -
Total \$ Participated	\$ 33,359,225,064	\$ 33,359,225,064	\$ -
Total # of Purchase Requests Participated	528	528	-
\$ Participated PUT to Purchase Program	\$ 31,272,236,021	31,272,236,021	-
% Participated PUT to Purchase Program	93.74%	93.74%	0.00%

2008 - 2009 Purchase Program: - FINAL

# of Approved Lenders	107	107	-
# of 45 Day Notices	428	428	-
\$ of 45 Day Notices	\$ 53,440,406,604	\$ 53,440,406,604	\$ -
# of Loans	11,883,530	11,883,530	-
# of 45 Day Notices Rescinded	2	2	-
\$ of 45 Day Notices Rescinded	\$ 300,861,403	\$ 300,861,403	\$ -
# of Loans	78,846	78,846	-
Total # of PUTs Funded	426	426	-
Total \$ of PUTs Funded	\$ 48,528,839,688	\$ 48,528,839,688	\$ -
Total # of Loans	11,591,639	11,591,639	-
\$ of PUTs from Participation	\$ 31,272,236,021	\$ 31,272,236,021	\$ -
% of PUTs from Participation	64.44%	64.44%	0.00%
\$ of Straight PUTs	\$ 17,256,603,666	\$ 17,256,603,666	\$ -
% of Straight PUTs	35.56%	35.56%	0.00%

	Total Through 4/13/10	Total Through 4/6/2010	Net Change
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2008 - 2009 FFEL Put Summary - (09 AY disbursement \$ continues to update)

\$ of 2009 AY FFEL Disbursements	\$ 63,409,896,840	\$ 63,409,896,840	\$ -
\$ of Disbursed 2009 AY FFEL Loans Put via the Purchase Program (Principal Balances only)	\$ 46,118,709,954	\$ 46,118,709,954	\$ -
% of Disbursed 2009 AY FFEL Loans Put via the Purchase Program	72.73%	72.73%	0.00%

2009 - 2010 FFEL Participation Summary

\$ of 2010 AY FFEL Disbursements	\$ 46,997,366,653	\$ 46,997,366,653	\$ -
\$ of 2010 AY Participations	\$ 31,181,768,741	\$ 30,755,825,064	\$ 425,943,677
% of AY FFEL Disbursements funded via Participation Interests	66.35%	65.44%	0.91%

2009 - 2010 FFEL Put Summary

\$ of 2010 AY FFEL Disbursements	\$ 46,997,366,653	\$ 46,997,366,653	\$ -
\$ of Disbursed 2010 AY FFEL Loans Put via the Purchase Program (includes all fees / interest)	\$ 6,821,701,304	\$ 6,804,221,090	\$ 17,480,214
% of Disbursed 2010 AY FFEL Loans Put via the Purchase Program	14.52%	14.48%	0.04%

2003 - 2009 ABCP (Conduit):

# of Conduit LIDs Activated	17	17	-
\$ CP Expected Funding Notices	\$ 52,485,000,000	\$ 52,485,000,000	\$ -
\$ CP Advances Released	\$ 33,907,334,785	\$ 33,333,168,839	\$ 574,165,946
	\$ 31,969,914,097	\$ 31,969,914,097	\$ -
# PUT Notices Received	391	391	-
\$ PUT Notices Received	\$ 1,083,079,782	\$ 1,083,079,782	\$ -
# PUT Notices Canceled by SPV	146	141	5
\$ PUT Notices Canceled by SPV	\$ 375,139,343	\$ 358,056,110	\$ 17,083,233
# PUT Notices Funded	187	176	11
\$ PUT Notices Funded	\$ 272,098,960	\$ 260,754,369	\$ 11,344,591
# PUT Notices Pending	58	74	(16)
\$ PUT Notices Pending	\$ 116,603,796	\$ 157,414,475	\$ (40,810,679)

	Total Through 4/13/10	Total Through 4/6/2010	Net Change
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2009 - 2010 Participation Program:

# of Approved Sponsors	30	30	-
# of Sponsors in Review	-	-	-
# of Sponsors with no MLSA	5	5	-
Forecasted Total \$ Disbursements	\$ 36,276,635,500	\$ 36,752,119,532	(475,484,032)
Total \$ Requested	\$ 31,441,064,273	\$ 31,154,344,109	\$ 286,720,164
Total # of Purchase Requests	588	578	10
\$ Balance in Participation (3/31/10)	\$ 26,198,715,534	\$ 26,198,715,534	\$ -
Total \$ Participated	\$ 31,181,768,741	\$ 30,755,825,064	\$ 425,943,677
Total # of Purchase Requests Participated	586	573	13
\$ Participated PUT to Purchase Program	\$ 1,573,330,975	\$ 1,573,330,975	\$ -
% Participated PUT to Purchase Program	5.05%	5.12%	-0.07%

2009 - 2010 Purchase Program:

# of Approved Lenders	62	58	4
# of Lenders In Review	10	6	4
Forecasted \$ PUT from Participation	\$ 34,167,300,533	\$ 33,060,188,236	\$ 1,107,112,297
Forecasted # of Loans PUT from Participation	7,653,432	6,381,247	1,272,185
# of 45 Day Notices	79	72	7
\$ of 45 Day Notices	\$ 12,506,517,932	\$ 10,581,919,508	\$ 1,924,598,424
# of Loans	2,487,008	2,125,280	361,728
# of 45 Day Notices Rescinded	-	-	-
\$ of 45 Day Notices Rescinded	\$ -	\$ -	\$ -
# of Loans	-	-	-
Total # of PUTs Funded	50	49	1
Total \$ of PUTs Funded	\$ 6,821,701,304	\$ 6,804,221,090	\$ 17,480,214
Total # of Loans	1,404,226	1,400,627	3,599
\$ of PUTs from Participation	\$ 1,573,330,975	\$ 1,573,330,975	\$ -
% of PUTs from Participation	23.06%	23.12%	-0.06%
\$ of Straight PUTs	\$ 5,248,370,329	\$ 5,230,890,116	\$ 17,480,214
% of Straight PUTs	76.94%	76.88%	0.06%
Total # of PUTs Pending	29	23	6
Total \$ of PUTs Pending	\$ 4,469,763,219	\$ 2,562,969,506	\$ 1,906,793,713
Total # of Loans of PUTs Pending	932,593	574,486	358,107
\$ of PUTs Pending from Participation	\$ 580,520,803	\$ 580,520,803	\$ -
% of PUTs Pending from Participation	12.99%	22.65%	-9.66%
\$ of Straight PUTs Pending	\$ 3,889,242,416	\$ 1,982,448,703	\$ 1,906,793,713
% of Straight PUTs Pending	87.01%	77.35%	9.66%

Summary by Participant

Lender	2008 - 2009 Participation Interests Sold	2008 - 2009 Loan Purchases	2007 - 2008 Loan Short Term Purchases*	2003 - 2009 Conduit (ABCP) Funding Note Balances	2003 - 2009 Conduit (ABCP) Purchases	2009 - 2010 Participation Interests Sold	2009 - 2010 Loan Purchases
1st Community Federal Credit Union	\$ -	\$ 6,473,208	\$ -	\$ -	\$ -	\$ -	\$ -
Access Group	907,335,360	469,444,899	-	770,224,504	1,278,014	944,294,736	-
ALL Student Loan Corp	308,287,226	310,624,547	-	-	-	213,787,949	98,515,204
Alva State Bank	-	1,439,947	-	-	-	-	-
Arkansas Student Loan Authority	-	59,112,361	-	-	-	-	-
Anchor Bank, FSB	-	34,539,359	-	-	-	-	50,274,508
Androscoggin Bank	-	9,509,340	-	-	-	-	-
Austin Bank	-	27,981,969	-	-	-	-	-
Arvest Bank	-	211,602,395	-	-	-	-	-
Baptist Credit Union	-	1,893,200	-	-	-	-	-
BancFirst	-	122,887,058	-	-	-	-	-
Bank of America Corp	-	1,531,352,011	-	-	-	-	-
BCM Federal Credit Union	-	261,748	-	-	-	-	-
Black Hills Federal Credit Union	-	4,728,022	-	-	-	-	-
BONY MELLON ELT LELA	-	-	-	-	-	104,498,094	-
Bremer Bank	-	58,390,921	-	-	-	-	-
Cadence Bank N.A.	-	9,336,355	-	-	-	-	-
Citizens Bank of Pennsylvania	-	363,174,907	-	-	-	-	-
College Foundation, Inc. (SEAA)	-	-	-	741,684,886	-	826,820,056	-
Collegelvest	130,119,860	264,735,264	-	-	-	190,916,964	-
Colonial Savings, F.A	-	1,186,564	-	-	-	-	-
Commerce Bank	-	4,830,110	-	-	-	-	-
Compass Bank	-	191,506,019	-	-	-	-	-
Coppermark Bank	-	3,785,822	-	-	-	-	-
EdAmerica	1,612,978,923	1,576,638,619	7,273,889	-	-	1,314,174,241	1,027,121,165

Lender	2008 - 2009 Participation Interests Sold	2008 - 2009 Loan Purchases	2007 - 2008 Loan Short Term Purchases*	2003 - 2009 Conduit (ABCP) Funding Note Balances	2003 - 2009 Conduit (ABCP) Purchases	2009 - 2010 Participation Interests Sold	2009 - 2010 Loan Purchases
Education Services Foundation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 91,977,184	\$ 1,287,359
Finance Authority of Maine	-	-	-	-	-	-	-
First Bank and Trust	-	5,736,939	-	-	-	-	-
First Community Credit Union	-	1,722,584	-	-	-	-	-
First Dakota National Bank	-	3,427,460	-	-	-	-	-
First National Bank of Central Texas	-	11,947,846	-	-	-	-	-
First National Bank and Trust	-	-	-	-	-	-	-
Co. of McAlester	-	1,289,640	-	-	-	-	-
First Financial Bank, NA	-	89,011,363	-	-	-	-	-
First National Bank of Oklahoma	-	5,929,631	-	-	-	-	-
First National Bank of Texas (includes First Convenience Bank)	-	57,014,134	-	-	-	-	85,385,047
First National Bank and Trust	-	-	-	-	-	-	-
Co. of Weatherford	-	4,342,776	-	-	-	-	-
First National Bank of Wichita Falls	-	6,643,430	-	-	-	-	-
First National of Huntsville	-	16,096,585	-	-	-	-	-
First Premier Bank	-	3,283,899	-	-	-	-	-
First Security Bank	-	22,829,799	-	-	-	-	-
First Tennessee Bank National Association	-	124,204,905	-	-	-	-	-
First Texoma National Bank	-	4,485,885	-	-	-	-	-
Fort Hood National Bank	-	1,376,843	-	-	-	-	-
Fort Worth Community Credit Union	-	867,789	-	-	-	-	-
Georgia Student Finance Authority	-	35,582,488	12,795,419	-	-	47,619,613	53,291,267
Graduate Leverage	30,797,626	30,642,195	-	-	-	25,022,983	-

Lender	2008 - 2009 Participation Interests Sold	2008 - 2009 Loan Purchases	2007 - 2008 Loan Short Term Purchases*	2003 - 2009 Conduit (ABCP) Funding Note Balances	2003 - 2009 Conduit (ABCP) Purchases	2009 - 2010 Participation Interests Sold	2009 - 2010 Loan Purchases
Herring Bank	\$ -	\$ 34,550,972	\$ -	\$ -	\$ -	\$ -	\$ 5,965,168
Higher ED Ln Auth of the State	682,471,418	727,285,576	-	291,494,991	-	360,022,327	-
Home Federal Bank	-	5,080,532	-	-	-	-	-
Illinois Student Assistance	-	83,280,910	-	-	-	-	-
Iowa Student Loan Liquidity Corp	144,846,241	137,521,680	-	575,723,466	8,872,576	142,687,887	-
JPMorgan Chase Bank	-	2,457,098,372	-	-	-	-	671,947,255
KeyBank National Association	167,593,042	495,174,332	-	-	-	-	346,190,043
KYHESLC	481,796,375	427,937,268	-	-	-	518,060,757	-
Legend Bank, NA	-	1,009,337	-	-	-	-	-
Maine Education Services	-	32,024,384	-	-	-	-	-
Midwestern University	-	-	-	-	-	55,619,480	-
Mississippi Higher Education Asst. Corp (MHEAC)	244,195,136	248,571,012	-	-	-	47,248,725	852,160
Mobil Oil Federal Credit Union	-	1,417,722	-	-	-	-	-
National Education Financing II	13,859,358	13,334,647	-	-	-	116,691,357	67,429,514
National Education Loan Network (NELNET)	2,185,689,719	2,265,464,257	996,155	1,384,819,289	-	1,442,185,281	-
New Hampshire Higher Education (NHHELCO)	184,108,621	185,815,280	-	-	-	54,852,676	-
New Mexico Educational Assistance Foundation	-	-	-	-	-	153,260,331	-
Northstar Bank of Texas	-	2,785,204	-	-	-	-	-
Northstar Education Finance	217,233,641	207,899,910	-	-	-	-	-
Northwest Savings Bank	-	21,325,300	-	-	-	-	-
North Texas Higher Education Authority, Inc.	-	-	13,076,173	-	-	-	-
Norway Savings Bank	-	13,172,983	-	-	-	-	-

Lender	2008 - 2009 Participation Interests Sold	2008 - 2009 Loan Purchases	2007 - 2008 Loan Short Term Purchases*	2003 - 2009 Conduit (ABCP) Funding Note Balances	2003 - 2009 Conduit (ABCP) Purchases	2009 - 2010 Participation Interests Sold	2009 - 2010 Loan Purchases
Oklahoma City University	\$ -	\$ 3,314,370	\$ -	\$ -	\$ -	\$ -	\$ -
Oklahoma Student Loan Authority	18,973,819	19,921,556	-	309,766,352	8,708,660	19,340,237	-
Panhandle-Plains Student Finance Corp	50,577,047	61,177,983	-	-	-	-	-
PHEAA	-	-	-	751,560,165	12,299,237	-	-
PHEAA II	-	-	-	426,642,214	1,847,152	-	-
PHEAA III	-	-	-	181,038,216	834,864	-	-
Petit Jean State Bank	-	529,925	-	-	-	-	-
Pinnacle Bank	-	940,164	-	-	-	-	-
RBS Citizens, NA	-	633,795,254	-	-	-	-	-
Rhode Island Student Loan Authority	177,402,254	96,643,438	-	68,754,265	-	228,708,326	-
SC Student Loan Corporation	245,117,834	-	-	369,843,820	-	662,185,086	-
Simmons First National Bank	-	77,790,870	-	-	-	-	-
Smart Financial Credit Union	-	17,988,734	-	-	-	-	17,480,213
SLM Education Credit Finance Corp.	20,212,971,803	19,548,055,850	951,648,033	14,682,374,009	230,085,076	18,127,454,308	-
Southern Methodist University	-	7,261,183	-	-	-	-	-
Stillwater National Bank & Trust	-	6,767,660	-	-	-	-	-
Student Funding Group	-	129,892,342	12,155,418	9,444,452	-	-	-
Student Lending Works	26,431,075	26,637,435	-	-	-	34,974,992	-
SunTrust Bank	-	275,471,939	-	-	-	-	-
Surety Loan Funding Company	-	19,711,394	-	-	-	-	-
Texas Bank	-	10,190,351	-	-	-	-	-
Texas Christian University	-	5,709,846	-	-	-	-	-
Texas First State Bank	-	837,158	-	-	-	-	-

ADMINISTRATIVE COSTS OF ECASLA PROGRAM

Mr. Obey: Please provide the actual administrative funds spent to date related to the ECASLA programs. In addition, please provide the corresponding assumptions that were originally made regarding the cost of these functions.

Secretary Duncan: From August 2008 to February 2010 \$89 million has been spent towards administrative costs associated with servicing FFEL loans under the ECASLA programs (2007-2008 Short-Term Purchase Program; 2008-2009 Loan Participation Program, 2008-2009 Loan Purchase Program; 2009-2010 Loan Participation Program, 2009-2010 Loan Purchase Program).

Administrative Cost of ECASLA Programs—August 2008 to February 2010

		Costs
CSB FFEL Loans Operating Cost		\$ 51,153,950
CSB FFEL Loans Transfer Cost		\$ 10,935,685
TIVAS FFEL Loans Operating Cost	(All 4 Servicers)	\$ 27,122,527
Total		\$ 89,212,162

Note: The above costs are associated with servicing FFEL loans solely. An additional \$2,084,845 was spent on non-operational costs for system improvements.

ASSUMPTIONS UNDERLYING ORIGINAL ADMINISTRATIVE COST ESTIMATES FOR ECASLA PROGRAMS

When originally estimating the cost of the ECASLA programs, several assumptions were made in order to estimate the administrative cost. The key assumptions were:

- Borrower accounts: Number of borrower accounts was calculated by using \$8,740 as the average dollar account size per borrower divided into projected dollar volume for all ECASLA programs. The projected dollar value was reported by lenders to the Department.
- Average unit price per borrower account: The average monthly unit price depends on contract terms and distribution of accounts by status (e.g., In-school, In-Grace/Repayment, Deferment/Forbearance, Delinquency). Originally, it was assumed that 92% of accounts would be In-School and 8% of accounts would be in In-Grace/Repayment. This resulted in an average unit price of \$1.57 in 2009 and \$1.21 in 2010.

- Average number of months that accounts would be serviced: This assumption, which tied closely to the timing of ECASLA loan purchases, was important in estimating the first year's cost of ECASLA programs. It was originally assumed that, during 2009, the Department would, on average, service 2007-2008 Short-Term Purchase Program loans for 11.5 months, 2008-2009 Loan Participation Program loans for 4 months, and 2008-2009 Loan Purchase Program loans for 7.5 months. For 2010, it was originally assumed that the Department would, on average, service the incumbent programs for 12 months, the 2009-2010 Loan Participation Program for 4 months and the 2009-2010 Loan Purchase Program loans for 7.5 months.

STUDENT AID ADMINISTRATION – PERFORMANCE PLAN

Mr. Obey: With the passage of Higher Education reconciliation, Federal Student Aid will be in charge of disbursing and servicing all Federal Student Loans beginning in 2010. This will require an effective strategic plan to effectively prepare for this huge undertaking.

Public Law 105-244 requires the Secretary and Federal Student Aid's Chief Operating Officer to make available to the public, a performance plan for the Performance Based Organization for the succeeding 5 years that establishes measurable goals and objectives for the organization. That law also directs the Secretary and the Chief Operating Officer to consult with institutions of higher education, Congress, lenders, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

When was the most recent 5-year plan published and what years did that plan cover; if a plan has not been submitted covering 2009 or 2010, when will it be submitted?

FEDERAL STUDENT AID FIVE-YEAR PLAN

Secretary Duncan: The most recent 5-year plan approved by the Department and published in March 2006 covered the period 2006 – 2010, and can be found at <http://www2.ed.gov/about/offices/list/fsa/06-10performanceplan.pdf>.

Pending Department approval, the target for publishing the Strategic Plan 2010-2015 is July 2010.

Mr. Obey: How does the Department plan to carry out the consultation with all parties designated by statute?

Secretary Duncan: In January, Federal Student Aid (FSA) started to build the strategic plan that will determine our direction for the next 5 years. McKinsey & Company was engaged to orchestrate the process within FSA and provide expertise in strategy development and organizational transformation. As part of this process, several external groups were interviewed to provide insight on the current student aid landscape

and to offer input on changes that may happen over the next 5 years. The insights that these groups provided influenced the draft 5-year plan for 2010-2015.

GROUPS CONSULTED DURING FSA FIVE-YEAR PLAN DEVELOPMENT

The following organizations have been consulted:

Advisory Committee on Student Financial Assistance: Allison G. Jones, Chairperson; Assistant Vice Chancellor, Academic Affairs, The California State University

Students: US PIRG; United States Students Association

Institutions of Higher Education: National Association of Student Financial Aid Administrators; American Council on Education

Congress: House Committee on Education and Labor (George Miller D-Calif., Chairman); Senate Committee on Health, Education, Labor & Pensions (Tom Harkin, D-IA, Chairman; Mike Enzi, R-WY, Ranking Member)

Guaranty Agencies: Student Loan Guarantee Foundation of Arkansas, California Student Aid Commission, EdFund, CollegeInvest, Nelnet Guarantor Solutions, in collaboration with College Assist, Florida Office of Student Financial Assistance, Georgia Student Finance Commission, Illinois Student Assistance Commission, Iowa College Student Aid Commission, Kentucky Higher Education Assistance Authority, Louisiana Office of Student Financial Assistance, Finance Authority of Maine, American Student Assistance, Michigan Higher Education Assistance Authority, Missouri Department of Higher Education, Montana Guarantee Student Loan Program, National Student Loan Program, New Hampshire Higher Education Assistance Foundation, New Jersey Higher Education Student Assistance Authority, New Mexico Student Loans, New York State Higher Education Services Corporation, North Carolina State Education Assistance Authority, Student Loans of North Dakota, Oklahoma Guaranteed Student Loan Program, American Education Services/PHEAA, Rhode Island Higher Education Assistance Authority, South Carolina Student Loan Corporation, Tennessee Student Assistance Corporation, Texas Guaranteed Student Loan Corporation, Utah Higher Education Assistance Authority, Vermont Student Assistance Corporation, Northwest Education Loan Association, Great Lakes Higher Education Guaranty Corporation, United Student Aid Funds, and Education Credit Management Corporation

Other interested parties: Council for Opportunity in Education

Pending Department clearance, a link to the 2010-2015 5-year performance plan will be available on the Department's web-site.

FSA FTE, PERSONNEL COMPENSATION AND BENEFITS

Mr. Obey: For Federal Student Aid, the FY 2010 appropriated amount and FY 2011 President's request assumes an increase of over 400 FTE or a 37 percent increase in staffing from FY 2009 through FY 2011. Given this large increase requested, the Committee realizes that FSA must increase its capacity to hire. For FSA, please provide FTE recruitment and attrition levels by month for the last 12 months. Include principal office, GS or ES level, starting pay and position description for all new hires, and GS or ES level, ending pay, and position description of all separations.

Secretary Duncan: Below is the list of new hires and separations by month for the last 12 months (April 2009-April 2010).

Month-By-Month New Hires and Losses

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
Apr-09						
NEW HIRES	Business Operations	04/13/2009	AD	00	INFORMATION TECHNOLOGY SPECIALIST	\$114,000
NEW HIRES	Business Operations	04/27/2009	AD	00	INFORMATION TECHNOLOGY SPECIALIST	80,000
LOSSES	Admin Services	04/11/2009	GS	15	SUPVY HUMAN RESOURCES SPECIALIST	140,969
LOSSES	CIO	04/13/2009	GS	06	PROGRAM SUPPORT ASSISTANT	40,792
LOSSES	Admin Services	04/19/2009	GS	08	PROGRAM SUPPORT ASSISTANT	45,639

May-09						
NEW HIRES	Admin Services	05/24/2009	GS	14	HUMAN RESOURCES SPECIALIST	\$123,269
LOSSES	EPMS	05/09/2009	GS	11	PROCUREMENT SUPPORT SPECIALIST	60,989
LOSSES	Admin Services	05/23/2009	GS	13	MANAGEMENT & PROGRAM ANALYST	95,620
LOSSES	Admin Services	05/30/2009	GS	07	PROGRAM SUPPORT ASST (STEP)	41,210
LOSSES	Admin Services	05/30/2009	GS	04	PROGRAM SUPPORT CLERK (STEP)	29,736
LOSSES	Program Compliance	05/31/2009	GS	12	GUAR & LENDER REV SPEC	96,083

Jun-09						
NEW HIRES	Admin Services	06/01/2009	GS	04	PROGRAM SUPPORT CLERK (STEP)	\$29,736
NEW HIRES	Admin Services	06/02/2009	GS	07	PROGRAM SUPPORT ASST (STEP)	41,210
NEW HIRES	Program Compliance	06/07/2009	GS	11	INSTITUTIONAL REVIEW SPECIALIST	76,350
NEW HIRES	Program Compliance	06/08/2009	GS	11	INSTITUTIONAL REVIEW SPECIALIST	63,397
NEW HIRES	Program Compliance	06/08/2009	GS	09	INSTITUTIONAL REVIEW SPECIALIST	71,520
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	\$29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
NEW HIRES	Admin Services	06/08/2009	GS	03	PROGRAM SUPPOST ASSISTANT	33,269
NEW HIRES	Admin Services	06/08/2009	GS	05	PROGRAM SUPPORT ASSISTANT	33,269
NEW HIRES	Admin Services	06/08/2009	GS	05	PROGRAM SUPPORT ASSISTANT	33,269
NEW HIRES	Admin Services	06/08/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	06/08/2009	GS	07	PROGRAM SUPPORT ASSISTANT	41,210
NEW HIRES	Admin Services	06/08/2009	GS	05	PROGRAM SUPPORT ASSISTANT	33,269
NEW HIRES	Admin Services	06/15/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Program Compliance	06/21/2009	GS	12	AUDIT RESOLUTION SPECIALIST	73,100
NEW HIRES	CFO	06/21/2009	GS	14	ACCOUNTANT	102,721
NEW HIRES	CIO	06/22/2009	AD	00	IT SPECIALIST	91,000
NEW HIRES	CFO	06/22/2009	GS	13	ACCOUNTANT	98,518
NEW HIRES	C&O	06/29/2009	AD	00	CHIEF OPERATING OFFICER	177,000
LOSSES	Program Compliance	06/02/2009	GS	14	SUPV. CASE MGMT SPEC	132,382
LOSSES	EPMS	06/06/2009	GS	11	PROCUREMENT SUPPORT SPECIALIST	60,989

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
LOSSES	EPMS	06/06/2009	GS	14	MANAGEMENT AND PROGRAM ANALYST	\$106,145
LOSSES	EPMS	06/20/2009	AD	00	EXECUTIVE BUSINESS ADVISOR	118,734
LOSSES	Admin Services	06/20/2009	GS	14	HUMAN RESOURCES SPECIALIST (ER/LR)	109,570
LOSSES	Program Compliance	06/26/2009	GS	13	INSTI REVIEW SPECIALIST	101,844

Jul-09						
NEW HIRES	CFO	07/19/2009	GS	12	MANAGEMENT & PROGRAM ANALYST	\$73,100
NEW HIRES	Business Operations	07/20/2009	AD	00	MANAGEMENT & PROGRAM ANALYST	73,100
LOSSES	CFO	07/01/2009	GS	12	ACCOUNTANT	87,717
LOSSES	Program Compliance	07/03/2009	GS	15	MANAGEMENT & PROG ANALYST	153,053
LOSSES	Business Operations	07/03/2009	GS	14	LEAD MGMT AND PROGRAM ANALYST	135,029
LOSSES	CFO	07/03/2009	GS	14	ACCOUNTANT	130,118
LOSSES	Admin Services	07/03/2009	GS	13	MANAGEMENT AND PROGRAM ANALYST	113,007
LOSSES	Business Operations	07/04/2009	GS	12	MANAGEMENT & PROG ANALYST	73,236
LOSSES	EPMS	07/04/2009	GS	12	MANAGEMENT/PROGRAM ANALYST	82,845
LOSSES	EPMS	07/17/2009	AD	00	MANAGEMENT AND PROGRAM ANALYST	122,069
LOSSES	CIO	07/18/2009	GS	15	SUPVY INFORMATION TECHNOLOGY SPEC.	140,969
LOSSES	CIO	07/18/2009	GS	14	MANAGEMENT & PROG ANALYST	133,543
LOSSES	EPMS	07/18/2009	GS	14	OPERATIONS RESEARCH ANALYST	102,721
LOSSES	Business Operations	07/20/2009	GS	11	MANAGEMENT & PROG ANALYST	60,989
LOSSES	EPMS	07/24/2009	AD	00	EXECUTIVE BUSINESS ADVISOR	135,182
LOSSES	Business Operations	07/31/2009	GS	13	MANAGEMENT & PROG ANALYST	109,152
LOSSES	Business Operations	07/31/2009	AD	00	SERVICE DIRECTOR	164,654

Aug-09						
NEW HIRES	Program Compliance	08/03/2009	GS	12	INSTITUTIONAL REVIEW SPECIALIST	\$72,002

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	Business Operations	08/17/2009	AD	00	MANAGEMENT & PROG ANALYST	\$90,300
NEW HIRES	Students	08/17/2009	GS	09	MANAGEMENT & PROG ANALYST	50,408
LOSSES	Business Operations	08/01/2009	GS	14	MANAGEMENT & PROG ANALYST	133,543
LOSSES	Business Operations	08/02/2009	GS	13	MANAGEMENT & PROG ANALYST	104,314
LOSSES	CFO	08/03/2009	GS	07	OFFICE AUTOMATION ASSISTANT	46,705
LOSSES	Admin Services	08/07/2009	GS	03	PROGRAM SUPPORT CLERK	26,487
LOSSES	Admin Services	08/07/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	Admin Services	08/14/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	Admin Services	08/14/2009	GS	05	PROGRAM SUPPORT ASSISTANT	33,269
LOSSES	Admin Services	08/14/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	Admin Services	08/14/2009	GS	04	PROGRAM SUPPOT CLERK	29,736
LOSSES	Program Compliance	08/15/2009	GS	13	MANAGEMENT & PROG ANALYST	86,927
LOSSES	Admin Services	08/21/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	Admin Services	08/29/2009	GS	14	SUPVY HUMAN RESOURCES SPECIALIST	106,145
LOSSES	Business Operations	08/31/2009	GS	13	MANAGEMENT & PROG ANALYST	104,468

Sep-09						
NEW HIRES	Business Operations	09/13/2009	GS	09	MANAGEMENT & PROG ANALYST	\$52,089
NEW HIRES	Business Operations	09/14/2009	GS	13	MANAGEMENT & PROG ANALYST	104,314
NEW HIRES	Students	09/14/2009	GS	09	MANAGEMENT & PROG ANALYST	50,408
NEW HIRES	Admin Services	09/27/2009	GS	06	PROGRAM SUPPORT ASSISTANT	38,320
NEW HIRES	Admin Services	09/27/2009	GS	08	PROGRAM SUPPORT ASSISTANT	45,639
NEW HIRES	COO	09/28/2009	AD	00	SENIOR ADVISOR FOR BUSINESS PRACTICES	176,500
NEW HIRES	COO	09/28/2009	AD	00	BUSINESS TRANSFORMATION OFFICER	170,000
NEW HIRES	EPMS	09/28/2009	GS	11	CONTRACT SPECIALIST	79,280

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	EPMS	09/28/2009	GS	12	CONTRACT SPECIALIST	\$95,026
NEW HIRES	EPMS	09/28/2009	GS	11	CONTRACT SPECIALIST	79,280
NEW HIRES	EPMS	09/29/2009	AD	00	GENERAL MANAGER FOR EPMS	175,000
LOSSES	Business Operations	09/17/2009	GS	13	INFORMATION TECHNOLOGY SPECIALIST	107,211
LOSSES	Business Operations	09/26/2009	GS	13	MANAGEMENT & PROG ANALYST	92,723
LOSSES	Admin Services	09/26/2009	GS	07	MANAGEMENT & PROG ANALYST	41,210
LOSSES	Program Compliance	09/30/2009	GS	13	GUARANTOR & LENDER REVIEW SPEC	117,009
LOSSES	Admin Services	09/30/2009	GS	04	PROGRAM SUPPORT CLERK (STEP)	29,736
LOSSES	Admin Services	09/30/2009	GS	03	PROGRAM SUPPORT CLERK	26,487

Oct-09						
NEW HIRES	CFO	10/11/2009	GS	14	ACCOUNTANT	\$102,721
NEW HIRES	EPMS	10/11/2009	GS	09	CONTRACT SPECIALIST	52,089
NEW HIRES	Admin Services	10/11/2009	GS	13	HUMAN RESOURCES SPEC (CLASSIFICATION)	86,927
NEW HIRES	CFO	10/13/2009	GS	07	ACCOUNTANT (CAREER INTERN)	41,210
NEW HIRES	CFO	10/13/2009	GS	07	ACCOUNTANT (CAREER INTERN)	41,210
NEW HIRES	EPMS	10/13/2009	GS	11	CONTRACT SPECIALIST	79,280
NEW HIRES	COO	10/19/2009	EF	00	CONSULTANT	73
NEW HIRES	Admin Services	10/25/2009	GS	15	SUPVY HUMAN RESOURCES SPECIALIST	132,914
NEW HIRES	CFO	10/26/2009	GS	05	ACCOUNTANT (CAREER INTERN)	42,142
NEW HIRES	CFO	10/26/2009	GS	14	INFORMATION TECHNOLOGY SPECIALIST	116,419
NEW HIRES	Admin Services	10/26/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	10/26/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	Business Operations	10/03/2009	GS	11	LOAN ANALYST	76,052
LOSSES	CFO	10/05/2009	GS	13	ACCOUNTANT	92,723

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
LOSSES	Program Compliance	10/10/2009	GS	14	SUPERVISORY MANAGEMENT & PROGRAM ANAL	\$116,419
LOSSES	Business Operations	10/10/2009	GS	12	LOAN ANALYST	86,230
LOSSES	Admin Services	10/10/2009	GS	15	SUPERVISORY HUMAN RESOURCES SPEC	153,200
LOSSES	EPMS	10/24/2009	GS	12	CONTRACT SPECIALIST	77,973
LOSSES	Admin Services	10/24/2009	GS	13	HR SPEC (EMPLOYEE DEVELOPMENT)	92,723

Nov-09						
NEW HIRES	Program Compliance	11/08/2009	GS	09	MANAGEMENT & PROG ANALYST (COR)	\$50,408
NEW HIRES	EPMS	11/08/2009	GS	15	OPERATIONS RESEARCH ANALYST	140,969
NEW HIRES	EPMS	11/08/2009	GS	11	CONTRACT SPECIALIST	60,989
NEW HIRES	COO	11/16/2009	AD	00	SENIOR ADVISOR TO COO FOR UNDER-	170,000
NEW HIRES	EPMS	11/23/2009	GS	12	CONTRACT SPECIALIST	73,100
NEW HIRES	EPMS	11/23/2009	GS	11	IT SPECIALIST	65,053
LOSSES	OMB	11/07/2009	AD	00	CASE MANAGEMENT AND REPORTING	151,295
LOSSES	Program Compliance	11/07/2009	GS	07	PROGRAM SUPPORT ASSISTANT (OA)	42,584
LOSSES	CIO	11/07/2009	GS	13	INFORMATION TECHNOLOGY SPECIALIST	92,723
LOSSES	EPMS	11/20/2009	GS	12	MANAGEMENT & PROG ANALYST	73,100

Dec-09						
NEW HIRES	Program Compliance	12/06/2009	GS	09	INSTITUTIONAL REVIEW SPECIALIST	\$66,260
NEW HIRES	EPMS	12/06/2009	GS	15	MANAGEMENT & PROG ANALYST	128,886
NEW HIRES	EPMS	12/06/2009	GS	11	CONTRACT SPECIALIST	69,118
NEW HIRES	COO	12/07/2009	AD	00	SR. ADVISOR FOR BUSINESS PRACTICES	170,000
NEW HIRES	Business Operations	12/07/2009	GS	06	PROGRAM SUPPORT ASSISTANT	52,613
NEW HIRES	Business Operations	12/07/2009	AD	00	PROGRAM SPECIALIST	60,692
NEW HIRES	CFO	12/07/2009	GS	07	ACCOUNTANT (FEDERAL CAREER INTERN)	41,210
NEW HIRES	EPMS	12/07/2009	GS	12	CONTRACT SPECIALIST	73,100

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	EPMS	12/07/2009	GS	12	CONTRACT SPECIALIST	\$95,026
NEW HIRES	Admin Services	12/07/2009	GS	09	HUMAN RESOURCE SPEC (EMPLOYEE DEV)	50,408
NEW HIRES	Admin Services	12/07/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	12/14/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
NEW HIRES	Admin Services	12/14/2009	GS	04	PROGRAM SUPORT CLERK	29,736
NEW HIRES	Business Operations	12/20/2009	GS	15	SUPV. MANAGEMENT & PROG ANALYST	153,200
NEW HIRES	Program Compliance	12/20/2009	GS	13	SENIOR GUARANTOR AND LENDER REV SPEC	110,115
NEW HIRES	Business Operations	12/21/2009	GS	12	MANAGEMENT ANALYST	83,868
NEW HIRES	CIO	12/21/2009	AD	00	IT SPECIALIST	145,000
LOSSES	Admin Services	12/09/2009	GS	04	PROGRAM SUPPORT CLERK	29,736
LOSSES	C&O	12/27/2009	GS	13	MANAGEMENT & PROG ANALYST	104,314
LOSSES	Business Operations	12/31/2009	GS	13	MANAGEMENT & PROG ANALYST	111,134
LOSSES	Program Compliance	12/31/2009	GS	13	GUARANTOR & LENDER REVIEW SPEC	108,432
LOSSES	Program Compliance	12/31/2009	GS	14	SUPV CASE MANAGEMENT SPECIALIST	138,815
LOSSES	Program Compliance	12/31/2009	GS	13	GUARANTOR & LENDER REVIEW SPEC	108,405
LOSSES	CIO	12/31/2009	GS	14	SUPVY MGMT. & PROG. ANALYST	133,543
LOSSES	CIO	12/31/2009	GS	14	INFORMATION TECHNOLOGY SPECIALIST	123,269

Jan-10						
NEW HIRES	Admin Services	01/03/2010	GS	09	PERSONNEL SECURITY SPECIALIST	\$67,114
NEW HIRES	Business Operations	01/04/2010	AD	00	MANAGEMENT & PROG ANALYST	98,518
NEW HIRES	Admin Services	01/17/2010	GS	09	HUMAN RESOURCES SPEC (CLASSIFICATION)	55,070
NEW HIRES	Business Operations	01/19/2010	AD	00	DIRECT LOAN SENIOR ADVISOR	97,970

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	Business Operations	01/19/2010	AD	00	SR ADVISOR FOR CONTRACT OVERSIGHT	\$98,245
NEW HIRES	EPMS	01/19/2010	AD	00	CHIEF RISK OFFICER	170,000
NEW HIRES	Business Operations	01/31/2010	GS	13	MANAGEMENT & PROG ANALYST	97,936
NEW HIRES	Business Operations	01/31/2010	GS	09	MANAGEMENT & PROG ANALYST	55,070
NEW HIRES	Business Operations	01/31/2010	GS	11	MANAGEMENT & PROG ANALYST	81,204
LOSSES	Business Operations	01/01/2010	GS	15	SUPVY. MGMT/PROG. ANALYST	153,200
LOSSES	Business Operations	01/01/2010	GS	14	SUPVRY MGMT AND PROG ANALYST	142,009
LOSSES	Business Operations	01/01/2010	GS	11	LOAN ANALYST	82,089
LOSSES	Business Operations	01/01/2010	GS	15	SUPVY MGMT & PROG ANALYST	153,200
LOSSES	Program Compliance	01/02/2010	ES	00	CHIEF COMPLIANCE OFFICER	165,350
LOSSES	Program Compliance	01/02/2010	GS	15	MGMT. & PROG ANALYST	153,200
LOSSES	Business Operations	01/02/2010	GS	13	MANAGEMENT & PROG ANALYST	107,211
LOSSES	Business Operations	01/02/2010	GS	07	OFFICE AUTOMATION ASSISTANT	50,827
LOSSES	CIO	01/02/2010	AD	00	SUPERVISORY IT MANAGER	149,025
LOSSES	Admin Services	01/08/2010	GS	04	PROGRAM SUPPORT CLERK	30,456
LOSSES	Admin Services	01/08/2010	GS	04	PROGRAM SUPORT CLERK	30,456

Feb-10						
NEW HIRES	COO	02/01/2010	AD	00	BUSINESS PRACTICE ANALYST	\$95,000
NEW HIRES	Business Operations	02/01/2010	GS	06	PROGRAM SUPPORT ASSISTANT	38,252
NEW HIRES	Business Operations	02/01/2010	AD	00	MANAGEMENT & PROG ANALYST	107,981
NEW HIRES	Business Operations	02/01/2010	AD	00	IT SPECIALIST	84,855
NEW HIRES	Program Compliance	02/01/2010	GS	13	GUARANTOR & LENDER REVIEW SPECIALIST	92,259
NEW HIRES	CIO	02/01/2010	AD	00	SUPVY INFORMATION TECHNOLOGY SPEC.	145,000

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	EPMS	02/01/2010	AD	00	SENIOR PROGRAM MANAGER	\$170,000
NEW HIRES	EPMS	02/01/2010	AD	00	SENIOR PROGRAM MANAGER	161,700
NEW HIRES	Business Operations	02/14/2010	GS	11	ACCOUNTANT	62,467
NEW HIRES	Business Operations	02/16/2010	GS	14	SUPVY MANAGEMENT & PROG ANALYST	101,035
NEW HIRES	CFO	02/28/2010	GS	14	MANAGEMENT & PROG ANALYST	133,264
LOSSES	Program Compliance	02/27/2010	GS	14	INFORMATION TECHNOLOGY SPECIALIST	115,731

Mar-10						
NEW HIRES	Program Compliance	03/01/2010	GS	09	INFORMATION TECHNOLOGY SPECIALIST	\$51,630
NEW HIRES	Business Operations	03/01/2010	GS	14	SUPVY. MANAGEMENT & PROG ANALYST	117,873
NEW HIRES	Business Operations	03/01/2010	GS	14	SUPV. MANAGEMENT & PROG ANALYST	105,211
NEW HIRES	Program Compliance	03/01/2010	GS	11	INSTITUTIONAL REVIEW SPECIALIST	68,888
NEW HIRES	Program Compliance	03/01/2010	GS	09	INSTITUTIONAL REVIEW SPECIALIST	47,448
NEW HIRES	CFO	03/01/2010	GS	14	MANAGEMENT & PROG ANALYST	136,771
NEW HIRES	Admin Services	03/01/2010	GS	04	PROGRAM SUPORT CLERK	30,456
NEW HIRES	C&O	03/14/2010	GS	13	INFORMATION TECHNOLOGY SPECIALIST	92,001
NEW HIRES	Program Compliance	03/14/2010	GS	12	MANAGEMENT & PROG ANALYST (COR)	74,872
NEW HIRES	Business Operations	03/14/2010	GS	12	MANAGEMENT & PROG ANALYST	77,368
NEW HIRES	CIO	03/14/2010	AD	00	CHIEF INFORMATION OFFICER	179,700
NEW HIRES	Admin Services	03/14/2010	GS	13	HUMAN RESOURCES SPEC (RECRUITMENT)	89,033
NEW HIRES	Program Compliance	03/15/2010	GS	12	MANAGEMENT & PROG ANALYST	74,872
NEW HIRES	Business Operations	03/15/2010	GS	09	LOAN ANALYST	67,589

Action	Org Name	Date Effective	Pay Plan	Grade	Position Title Opm	Salary
NEW HIRES	Business Operations	03/15/2010	GS	14	LEAD INFORMATION TECH SPEC	\$105,211
NEW HIRES	EPMS	03/15/2010	AD	00	DEPTUTY GENERAL MANAGER, EPMS	170,000
NEW HIRES	Students	03/15/2010	AD	00	DIRECTOR, AWARENESS AND OUTREACH DIV.	155,500
NEW HIRES	Business Operations	03/29/2010	GS	09	ACCOUNTANT	51,630
NEW HIRES	Business Operations	03/29/2010	GS	07	ACCOUNTANT	42,209
NEW HIRES	Business Operations	03/29/2010	GS	11	MANAGEMENT & PROG ANALYST	62,467
NEW HIRES	CFO	03/29/2010	GS	13	INFORMATION TECHNOLOGY SPECIALIST	106,839
NEW HIRES	EPMS	03/29/2010	GS	13	CONTRACT SPECIALIST	115,742
LOSSES	EPMS	03/13/2010	AD	00	EXECUTIVE BUSINESS ADVISOR	126,290
LOSSES	Business Operations	03/19/2010	GS	11	MANAGEMENT & PROG ANALYST	74,958
LOSSES	Business Operations	03/31/2010	GS	12	LOAN ANALYST	90,482
LOSSES	EPMS	03/31/2010	GS	15	MANAGEMENT & PROG ANALYST	144,385
Apr-10						
LOSSES	EPMS	04/01/2010	GS	12	MANAGEMENT & PROG ANALYST	\$82,359
LOSSES	Business Operations	04/03/2010	GS	12	LOAN ANALYST	105,897
LOSSES	Business Operations	04/03/2010	GS	13	MANAGEMENT & PROG ANALYST	103,641

STUDENT AID MODELING

Mr. Obey: In anticipation of the transition to 100 percent Direct Lending, the FY 2011 President's request sought an additional \$161 million solely attributed to additional servicing activity costs. Please provide for the Committee the model or models used to project administrative costs for servicing Student loans. Please include a description of the variables used, the assumptions that are made, and the set of fixed costs associated with servicing.

Secretary Duncan: The methodology for forecasting servicing costs uses loan volume projections, which are tied to historical trend data, as the foundation for estimating servicing costs. These volume projections are used to calculate the number of new borrowers being serviced by academic year. New borrowers are calculated from

information that is provided to the National Student Loan Data Service (NSLDS) by guaranty agencies and loan servicers for FFEL and Direct Loans. The number of new borrowers per academic year is then distributed among different borrower statuses (e.g., In-School, In-Grace/Repayment, Deferment/Forbearance, Delinquency). This information is obtained from historical data provided by loan servicers. Fixed costs associated with loan servicing that may influence costs for a fiscal year are development costs, incentive payments (based on contractors meeting established incentive criteria), and loan transfer fees.

Variables:

Loan volume – Projections of student loan volume (Direct and FFEL Loans) by month tied to historical trend data.

Distribution of borrower accounts based on borrower status – The number of total borrowers (previously serviced borrowers and new borrowers who have not been serviced in previous academic years) are distributed among borrower statuses (e.g., In-School, In-Grace/Repayment, Deferment/Forbearance, Delinquency) by month, based on historical data.

Pricing – Pricing differs among borrower statuses (e.g., In-School, In-Grace/Repayment, Deferment/Forbearance, Delinquency). These prices are established within the contract and differ between the Common Servicers for Borrowers (CSB) and Title IV Additional Servicers (TIVAS) contracts. Each contract uses tiered pricing, which results in lower marginal unit costs as servicing volume exceeds contractual thresholds. The distribution of borrower accounts among these different statuses and pricing schedules influences the average monthly unit cost associated with servicing a borrower account for a particular month.

Assumptions:

Assumptions made on loan volume and distribution of borrower accounts by status is tied to historical trend data. The timing assumptions on when the Department will receive borrower accounts to be serviced are also based on historical information.

SERVICING COSTS OF STUDENT LOANS

Mr. Obey: Please provide the unit cost for one loan to be serviced for the last three fiscal years (FY 2007-FY 2009), and your estimated unit cost for FY 2011.

Secretary Duncan: The average monthly unit cost for FY 2007, FY 2008, and FY2009 is associated with servicing loans under the Common Servicers for Borrowers (CSB) contract.

During FY 2011, the average monthly unit cost is attributed to loan servicing under the Common Servicers for Borrowers contract and the Title IV Additional Servicers (TIVAS) contract.

AVERAGE SERVICING COST OF INDIVIDUAL STUDENT LOAN

Average Unit Cost Per Month to Service a Borrower Account	
FY2007	\$1.63
FY2008	\$1.51
FY2009	\$1.43
FY2011*	\$1.40

Note: While these average unit costs are tied to servicing a borrower account per month, these costs differ from Federal Student Aid's Chief Financial Officer's Activity-Based Unit Costs which include additional costs such as labor and supporting system costs.

*Estimate based on projected loan volume and disbursement of volume between statuses.

ADULT EDUCATION

Mr. Obey: The job market is changing. Many of the best opportunities for stable, well paying jobs are expected to come in fields like health care and high tech manufacturing where specialized training or education beyond high school is needed. This means we need to get adults back into the education system. However, the Committee was stunned to learn that 93 million adults may lack the basic academic skills needed to enroll in the postsecondary education or job training that current and future jobs require.

The Department has stated that we are currently educating 2.4 million adults, but that doesn't even put a dent on the 93 million. What more should we be doing to meet the needs of adults who may require some basic education before they are ready for job related education or training?

Secretary Duncan: We agree that the figure of 93 million adults lacking basic academic skills in this country is a startling one and that it demands additional action and support for those adults whose literacy limitations are keeping them from attaining higher education, training, or employment that offers family-sustaining wages. These approximately 93 million adults represent adults who scored at the basic or below-basic levels on the prose literacy section of the 2003 National Assessment of Adult Literacy (NAAL) when the adult population totaled approximately 222 million. Of the 93 million adults cited, we know that approximately 26 percent or 24 million of them are adults who are 65 years of age or older and so, given their ages, they are not adults likely to seek adult education services for employment-related reasons. Additionally, we do not know what the actual demand is or the number of adults who would enroll in adult education classes if they were available, although we do know that many States have waiting lists and could serve many more adult learners than they have the current capacity to serve. So, while the demand for adult education classes certainly exceeds the current supply, we

believe it is significantly lower than the 93 million adults whose basic skills would limit them from succeeding in postsecondary education or training for the jobs that offer the most competitive wages.

WORKFORCE INNOVATION FUND—ADDRESSING THE NEED FOR HIGH-QUALITY ADULT EDUCATION SERVICES

In a time of very limited resources, the Administration has made it a priority to fund evidence-based programs and projects that meet the needs of their target audience. To address the ongoing need for high-quality adult education services, the President's FY 2011 budget includes \$30 million for a Workforce Innovation Fund, which would provide grants to States and local providers to carry out innovative programs. This is consistent with the Administration's goal of providing funds for promising ideas, identifying the most effective strategies for educating adult learners and adult English learners, replicating those strategies, and disseminating the information widely.

EFFICIENT ADMINISTRATION OF ADULT EDUCATION PROGRAMS

In addition, we will continue to work with our partners at the Department of Labor to identify efficiencies that could both lower the administrative costs of running both adult education and job training programs and improve access to and the quality of services for the target audiences.

Finally, we will continue to work with States, the largest funder of adult education services, to find ways to more efficiently administer adult education programs, reach adults who may not have access to current services either due to their geographical location, employment demands, or familial responsibilities, and support those practices that have the most evidence of effectiveness.

IES — IMPROVING KNOWLEDGE BASE FOR TURNING AROUND CHRONICALLY LOW PERFORMING SCHOOLS

Mr. Obey: You and the President have both placed a strong emphasis on States to identify and implement effective strategies for turning around chronically low performing schools. The Administration has shown its continued commitment to this priority in the \$4 billion school improvement will receive over two years through the supplemental funding in the ARRA and combined fiscal 2009/2010 appropriations. However, the knowledge base for how to turn around low performing schools is quite shallow. The scientific evidence for the four types of interventions in the school improvement grants is at best sketchy. What will you do to build the knowledge base in this vital area?

Secretary Duncan: The Administration agrees that States and districts need more evidence on the effectiveness of school turnaround models in order to strengthen and inform their efforts to improve chronically low-performing schools. In 2009, the Institute of Education Sciences (IES) began a 3-year project to identify chronically low-performing schools that have achieved rapid improvements in student outcomes in a short

period of time in order to identify the policies, programs, and practices these schools have employed and compare them to strategies employed in schools that have not improved. The purpose of this research is to identify policies, programs, and practices associated with successful school turnaround that can be replicated and rigorously tested in a future impact evaluation study.

In addition, the Institute of Education Sciences will award a contract(s) in 2010 for an independent evaluation of the four turnaround models employed by States and districts receiving funding under the Race to the Top and School Improvement Grant Programs. In its budget request for 2011, the Administration requested additional funding to continue support for this evaluation. The evaluation will examine implementation of each of the four school turnaround models and measure their outcomes over multiple years beginning in the 2011-12 school year. The evaluation will collect outcome data on student achievement in reading, math, and science, reduced achievement gaps between subgroups of students, and credit accumulation and increased high school graduation rates, where relevant, for the three years preceding and following the initial implementation of the models. Other intermediate outcomes such as school climate, student attendance and turnover, and teacher attendance and turnover will also be measured. By learning from the implementation and outcomes of the school turnaround models under Race to the Top and School Improvement Grants, the Department will be able to provide better evidence and technical assistance to States, districts, and schools in the future. Complementing this evaluation is a study documenting in-depth the change process in a subset of 50 chronically low-performing schools receiving School Improvement Grant funds.

USE OF RESEARCH FINDINGS IN INFORMING POLICY

Mr. Obey: Please describe for the Committee the ways in which policy decisions rely on the research findings produced by IES and the Regional Education Laboratories. Please be specific in demonstrating how policy is informed by evidence.

Secretary Duncan: The Administration recently released *A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act*. The *Blueprint* is informed by research and evaluation studies conducted by the Institute for Education Sciences and other organizations. For example, research has demonstrated that the quality of the instruction provided by a classroom teacher is one of the most significant school-based factors influencing student achievement – informing the Administration’s focus on effective teachers and leaders.

Another example of a key policy priority that is being shaped by education research is the Department’s commitment to promoting innovation through the Investing in Innovation program. The competition currently underway represents an unprecedented commitment to using evidence to guide investments in the development, validation, and scaling up of practices to improve educational outcomes. By only supporting programs for which there is either evidence of effectiveness or projects for which there is a strong research-based framework, the Department ensures that Federal funds are targeted to

projects that are likely to succeed. Investing in Innovation grants will be required to include rigorous evaluation components to ensure that these investments also expand our knowledge base on what works and under what circumstances.

PUBLIC AND PRIVATE UNIVERSITY RESEARCH

Mr. Obey: Please identify the person/s at the Department responsible for following education-related research taking place at public and private universities; how many FTE are devoted to this task?

Secretary Duncan: In addition to the 55 full-time equivalent employees in research and evaluation positions in the Institute of Education Sciences and the Policy and Program Studies Service, all program officers in the Department are expected to be familiar with research and evaluations on topics related to their programs and to use this research to inform and enhance program activities. Program officers keep up with the latest research in their fields in various ways, including memberships in professional associations, conferences, journals, weblogs, and listserves.

Mr. Obey: What efforts are made to reach out to and learn from the studies underway at the Nation's higher education institutions?

Secretary Duncan: The Department believes that it is important for its program officers to be familiar with research on topics related to their programs and to use this research to inform and enhance program activities. The What Works Clearinghouse (WWC) produces reports that help program officers keep abreast of the latest research. The WWC's research-based *Practice Guides* are developed by nationally recognized experts and provide practical recommendations for educators to help them address the everyday challenges they face in their classrooms and schools.

In addition, the WWC has initiated a new series of reports, *Research Perspectives*, which are intended to assist other offices within the Department, States, and districts in decisions related to improving education outcomes, with particular emphasis on potential uses for the American Recovery and Reinvestment Act of 2009 funds. Leading education researchers, primarily from universities, examine the research on pressing education issues and provide their perspectives on what the existing research indicates on issues, such as using longitudinal data systems to inform decision-making, using value added modeling to identify effective teachers, and implementing effective strategies for recruiting and retaining strong teachers and leaders in low-performing schools.

TEACHER INCENTIVE FUND EVALUATION PLAN

Mr. Obey: Section 306 of the FY 2010 Labor-HHS-Education Appropriations Act specifies that no funds shall be made available for new awards under the Teacher Incentive Fund prior to the submission of an impact evaluation plan to the Committees on

Appropriations of the House of Representatives and the Senate. Please provide a target date for submission of this plan to Congress.

Secretary Duncan: Our plan is to submit a Teacher Incentive Fund evaluation plan to the Committee by the end of May.

Mr. Obey: Please also describe the process you are using to design the plan.

Secretary Duncan: The Institute of Education Sciences (IES) will complete the study through a contract. In developing the evaluation plan, IES has solicited advice from a panel of experts. In addition, we have been working closely with the Office of Management and Budget, the Council of Economic Advisers, and a competitively selected contractor to refine the evaluation design.

READING FIRST – PREVENTING CONFLICT OF INTEREST

Mr. Obey: Under the prior administration, the Inspector General conducted an alarming audit of the Reading First Initiative.

The investigation concluded that Federal officials violated conflict of interest rules when awarding grants to States under the reading program and steered contracts to favored textbook publishers. The IG's report found that the program was awash with conflicts of interest and willful mismanagement. It also suggested that the Department of Education violated the law by attempting to dictate which curriculum schools must use. The report states that program review panels were stacked with people who shared the Reading First director's views and that only favored publishers of reading curricula could obtain program funding.

What is the Department doing to ensure that conflict of interest does not exist in competitive grant programs under the current Administration?

Secretary Duncan: The Department has dedicated significant effort to preventing conflicts of interest in the implementation of our programs. On December 4, 2007, after the release of the Office of Inspector General reports on the Reading First program, the Department issued an internal directive, "Improving Administration and Management of Department Programs." Through this directive, the Department requires all employees to participate in training to ensure that they follow the policies described in the directive, such as the process to identify a conflict of interest and the prohibition against controlling and directing curriculum and instruction.

The policies and procedures used in the Race to the Top competition provide a recent example of the emphasis that the Department places on ensuring that grant competitions meet high standards of integrity. The Department has taken a number of actions to ensure that the Race to the Top competition peer review process is conducted in an objective manner free from conflicts of interest.

**PROCEDURES USED TO IDENTIFY POTENTIAL CONFLICT OF
INTEREST IN PEER REVIEWERS**

Mr. Obey: What kinds of measures have you put in place to prevent an outcome along the lines of the Reading First initiative?

Secretary Duncan: The Department's general policies and procedures to address peer reviewer conflicts of interest are outlined in the Department's "Handbook for Discretionary Grant Process," which provides a framework for identifying and avoiding or mitigating peer reviewer conflicts of interest. These policies and procedures are designed to enable the Department to have expert peer reviewers, while, at the same time, ensuring a high level of objectivity and integrity in the review.

Building on these policies and procedures is the multi-step process that we used to review potential peer reviewer for possible conflicts of interest for Phase 1 of the Race to the Top. We first determined that no individual with a direct conflict of interest in the outcome of the competition (due to financial or other interests) would be permitted to serve as a peer reviewer. Additionally, we did not assign any peer reviewer to serve on a panel reviewing the application submitted by the State in which he or she resides. To help us make these determinations, peer reviewer nominees were asked to complete an initial survey to gather the relevant information.

After eliminating peer reviewer nominees with direct conflicts of interest, program staff reviewed the peer reviewer nominee applications and resumes for qualifications, and to determine if any individual had any non-financial interest, such as significant identification with a specific pedagogical or philosophical viewpoint that might give an unfair advantage or disadvantage to an applicant proposing to use a specific educational approach or methodology.

The remaining peer reviewer nominees completed a second survey to determine whether they had any "indirect conflicts of interest" (e.g., a reviewer's spouse has a financial interest in the outcome of the competition) or other interests that might affect their objectivity. In addition, a Department contractor conducted a targeted internet search on each of these remaining peer reviewer nominees.

Staff of the Ethics Division of the Office of the General Counsel reviewed these second survey responses, resumes, and the results of the internet searches and, in deliberations with the program staff and program attorneys, determined the nature and extent of any "indirect conflicts of interest" or other information that raised questions about a peer reviewer nominee's objectivity. In many cases, follow-up telephone interviews were conducted to gain additional information in response to questions raised during this review to help in the process of selecting and utilizing peer reviewers in a manner that helps ensure objectivity in this review process.

It is the Department's policy that each identified "indirect conflict of interest" be addressed on a case-by-case basis. We issue waivers when a determination is made that

an individual's financial interest is not so substantial as to affect the integrity of his or her services, and given all relevant facts, the Department's need for the individual reviewer's services outweighs the possibility that a reasonable person would question the reviewers impartiality. In Phase 1 of Race to the Top, the Department issued 21 waivers for reviewers for whom an indirect conflict of interest was identified. Examples of indirect conflicts of interest for which waivers were given in Phase 1 of the Race to the Top competition included recently retired LEA employees and individuals who currently, or recently, worked on projects with an LEA or SEA that are unrelated to the Race to the Top.

Finally, before and during the review process, program officials and reviewers were reminded that, throughout the course of the review, they were to identify any circumstances that might cause a reasonable person to question a reviewer's impartiality in serving as a reviewer for this competition

We are satisfied that this process provided us with high-quality advice from objective experts.

INSPECTOR GENERAL REPORT RECOMMENDATIONS

Mr. Obey: Has the Department followed the recommendations spelled out in the IG report?

Secretary Duncan: Yes; the Department has implemented appropriate corrective actions that addressed all findings in the relevant Reading First reports issued by the Office of Inspector General.

WEDNESDAY, APRIL 14, 2010.

**FY 2011 BUDGET OVERVIEW: SOCIAL SECURITY
ADMINISTRATION**

WITNESS

**MICHAEL J. ASTRUE, COMMISSIONER, SOCIAL SECURITY ADMINIS-
TRATION**

INTRODUCTION OF WITNESS

Mr. OBEY. Well, good morning, everyone.

This morning we will hear from Michael J. Astrue, who is the Commissioner of Social Security.

One big problem facing Social Security is long delays in processing applications for disability benefits. It is now taking an average of about 3.5 months to get an initial decision. If the application is denied, as more than 60 percent are, there is a right to appeal to an administrative law judge. However, almost 700,000 such appeals are pending, and they take an average of 15 months and much longer in some cases.

These appeals are important because more than three-fifths of people who do appeal wind up winning on appeal. Overall, it takes almost 2 years from filing an application to receiving a decision on appeal. That can be disastrous for someone who is disabled and unable to work and urgently needs the benefits that they have earned in order to help pay the mortgage and buy groceries.

The challenge of keeping up with disability claims is getting bigger. In part, that is because Baby Boomers are getting older and into the most disability-prone years. An even bigger problem is that applications are up 29 percent as compared to 2 years ago, as normally happens during a recession.

The workload challenge goes well beyond disability claims. As the population ages, applications for retirement benefits are rising. Also since we now use Social Security numbers for so many things, including verification of eligibility to work, the issuing and tracking of those numbers has become a critical function.

During much of the last decade, Congress tended to appropriate less than the administration requested for Social Security operations. But in the last 3 years, we have tried to do the opposite in order to help keep up with workloads. We added \$148,000,000 above the request in fiscal 2008 and \$127,000,000 above the request in 2009. Further, the Recovery Act included \$500,000,000 for SSA to use over 2 years to accelerate hiring, pay more overtime and do other things to reduce backlogs and keep up with the new claims driven by recession.

It appears that this funding having an effect. Social Security hired 8,600 new employees in fiscal year 2009, the largest hiring in 35 years. Just last week, Commissioner Astrue announced that

another 900 people would be hired for field offices to reduce waiting times. The disability hearing backlog has actually begun to come down.

Also, while we want to make sure that people get the benefits they need and have earned, we also need to make sure that people do not continue receiving benefits they no longer need or aren't entitled to. Two years ago, we resumed providing dedicated funding for Social Security program integrity. These funds were used to conduct continuing disability reviews to determine whether recipients remain eligible for benefits and to check for changes in earnings and assets that could affect payments to SSI beneficiaries. Last year, we appropriated \$758,000,000 for program integrity, a 50 percent increase. This investment is expected to yield \$6,000,000,000 in savings over 10 years.

Our witness today, as I said, is Michael Astrue who has been Social Security Commissioner since 2007. Interestingly, the Commissioner is one of the few top-level officials who do not leave office when Presidential administrations change. Rather, although he was appointed by President Bush, Mr. Astrue's 6-year term will continue until January of 2013.

Mr. Commissioner, welcome to the subcommittee. Your full written statement will appear in the record. We would ask you to give us an oral summary for about 7 minutes or so. Please proceed. And as I say, we will put your full statement into the record.

Before we proceed, however, I would like to ask Mr. Tiahrt if he has any comments.

INTRODUCTION OF WITNESS CONTINUED

Mr. TIAHRT. Thank you, Mr. Chairman.

I will be brief. I want to thank you, Commissioner Astrue, for appearing before this subcommittee to testify regarding the Social Security Administration's fiscal year 2011 administrative budget request. As your testimony highlights, the Social Security Administration's discretionary budget funds its operations of Social Security and Supplemental Security Income program that affects virtually every American.

Moreover, the agency provides a range of important services associated with administering these big programs, including disability reviews and eligibility redeterminations. Again, these are important activities to millions of Americans. You are requesting an overall fiscal year budget of \$12,500,000,000 your budget request is well focused on continuing to improve on your core functions, increasing staff productivity, as well as making needed investments in technology and infrastructure.

However, I suspect you may be understating what your resource needs are actually going to be this year. Congress recently passed and the President signed into law the health care reform package that may have added new responsibilities and activities to your existing workload and increasing your funding needs starting this fiscal year. Hopefully you will tell us whether this is true or not.

And of course, these budget and funding decisions are taking place in a fiscal environment that is difficult. As everyone agrees, the current fiscal path that we are on is unsustainable both in the short term and long term. In the past several years, we have seen

a massive increase in debt and spending with deficits over \$1,000,000,000,000.

As an example of the magnitude of the problem in the short run, under the President's fiscal year 2011 budget, if fully implemented, deficits would never go below \$700,000,000,000 in any year and would climb to above \$1,000,000,000,000 by the end of the next 10 years, and that assumes a recovered economy and a wind-down of the wars in Iraq and Afghanistan.

It is worth pointing out that these projected deficits are not the results of an inherited policy about which the administration is helpless but policy choices made in the President's budget. Nor is it a revenue problem. The President's budget proposes to raise taxes by \$1,800,000,000,000 over the next decade.

Hopefully Congress can do better to get spending and deficits under control without large tax increases. But regardless of which budget is used and who is in political control, it will require tough budget choices across the board if we are going to get a handle on the unsustainable fiscal path. Resources are limited.

Let me close by saying, thank you for coming. I look forward to your testimony on your fiscal year 2011 budget request and your insights on the issues and challenges you face in your agency today and down the road.

Thank you, Mr. Chairman. I yield back.

OPENING STATEMENT

Mr. ASTRUE. Chairman Obey, Ranking Member Tiahrt, members of the subcommittee, thank you for this opportunity to discuss our fiscal year 2011 budget request. We greatly appreciate the vital support that you have given us over the last several years. We have made substantial improvements because of increased funding and because of employee productivity, which has risen by an average of 4 percent each year during my tenure.

The President's 2011 budget request of approximately \$12,500,000,000 is essential to our continued progress. While we had expected that workloads would increase due to the aging Baby Boomers, the recession has resulted in over a million more Americans filing claims this year over what we were projecting just a few years ago.

Nevertheless, we are improving service across the agency, despite soaring workloads. In fiscal year 2009, we reduced the hearings backlog, improved DDS quality, improved our program integrity efforts, and reduced waiting times for callers to our 800 number and visitors to our field offices.

This progress is in sharp contrast to the state of the agency 3 years ago. Years of funding below the President's budget had undermined the hard work and dedication of our employees and had damaged our services and important stewardship activities. We committed to fix those problems, and today I am happy to highlight some of our accomplishments.

We are wisely using your investments to produce measurable, positive results for the American people. Over the last 15 months, despite the recession, we have reduced pending hearings by over 10 percent after a decade of steady and troubling growth. We now have under 700,000 cases pending for the first time since 2005.

Even as we have eliminated the oldest cases first, we have reduced the time it takes to make a decision by more than 3 months from a monthly high of 532 days in August 2008 to 437 days in March 2010.

Our greatest improvements are in the most backlogged offices. For example, processing time in the Atlanta North hearing office, which used to be approximately 900 days, has dropped nearly 45 percent since February 2007, and it will drop yet again when the Covington office opens in the fall. By fiscal year 2011, we will increase our administrative law judge corps to 1,450. These additional ALJs and the opening of 25 new hearing offices, including our fifth national hearing center, which only works on backlogged cases around the country, will dramatically decrease the backlog and processing times over the next 2 years.

For all our success, I know that our hearings backlog is unacceptable. With your support, we will eliminate it by the end of fiscal year 2013. While this backlog remains our number one priority, we must address other workloads and deliver high-quality services across the agency. We are maximizing the hiring and overtime authority in the State DDSs to handle the steep increases in initial disability claims. In four States with the capacity to hire, train, and house additional employees, we are creating teams that will help the most overwhelmed States. We are also expanding our Federal disability units to assist those States as well.

Unfortunately, our progress is impeded when a State furloughs DDS employees whose salaries we fully fund. These unconscionable decisions do not benefit anyone. Furloughs only delay benefits to our most vulnerable citizens. For many of our most vulnerable citizens, we have recently expanded our fast track disability processes by adding 38 new conditions to our compassionate allowances program. This fiscal year, between compassionate allowances and the QDD program, we expect to approve about 140,000 claims in 2 weeks or less for applicants with the most severe disabilities.

Soon we should be able to move all cases much faster. Our health IT pilots in Massachusetts and Virginia have demonstrated that electronic medical records can substantially reduce disability processing times. We used over \$17,000,000 in Recovery Act funding to expand health IT to 15 additional providers across 12 States. We also now have the top three online services in the private and public sectors as rated by the American Customer Satisfaction Index.

OPENING STATEMENT CONTINUED

Our creative marketing campaign, starring Patty Duke, has made our new easy-to-use online retirement application a huge success. In fiscal year 2009, over 30 percent of retirement applications were filed online, more than doubling the number from fiscal year 2008. I would be describing a very dire situation indeed in our field offices if we did not have this new application.

We reduced our 800-number wait times by 25 percent with the help of additional staff. Our 800-number service should continue to improve with the opening of our first new teleservice center in Jackson, Tennessee, in over a decade. 2011 is a critical year because the President's budget would allow us to reduce the hearings pending by another 50,000 cases, to complete 236,000 more initial

disability claims, and to increase our program integrity efforts through 31,000 additional medical CDRs.

To sum it up, we need your continued support to continue this kind of progress. Thank you, and I am happy to answer any questions you may have.

[The prepared statement and biography of Commissioner Astrue follow:]



COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES,
EDUCATION, AND RELATED AGENCIES

UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 14, 2010

STATEMENT FOR THE RECORD

MICHAEL J. ASTRUE
COMMISSIONER
SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss our fiscal year (FY) 2011 budget request. For seventy-five years, Americans have depended on Social Security as an economic safety net to avoid indigence in their old age and when they are disabled. For a number of years, however, we have been struggling to maintain the level of service that the American people deserve because the baby-boomer tsunami began to hit us and, until recently, we had not received full funding of the President's Budget requests. More recently, the recession has driven numerous economically distressed persons and families to us looking for help. As a result, the President's Budget request included an eight percent increase in our administrative budget so that we can deal with these challenges. We have been improving our services, but we need sustained and timely funding to ensure that we can continue to deliver the important services that millions of Americans depend upon.

I appreciate your ongoing support of our resource needs. I am happy to report that with these resources, we are delivering on our promises to you and the American people. We administer the Nation's social security programs, including Old-Age and Survivors Insurance and Disability Insurance (OASDI), commonly referred to as Social Security, and Supplemental Security Income (SSI). Through these programs, we touch nearly all Americans at some point in their lives, typically, when they are most in need.

The Nation's recent economic recession, the worst since the Great Depression, has driven over a million more persons to us for assistance. In addition to handling record levels of our core workloads, we issued the \$250 economic recovery payments to almost 53 million beneficiaries. These economic recovery payments injected more than \$13 billion into the economy. Once again, our dedicated employees stepped up to this challenge and continued to set a high standard for public service.

Each year, we find ways to work smarter through innovation, automation, business process changes, and the strong commitment of our employees. We improved our productivity by an average of over 4 percent in the last three years. This combination of resources, improved efficiencies, and hard work has allowed us to make substantial progress, which would have been even better if not for the additional workloads.

Since I last addressed this Committee in 2008, we turned the corner on the hearings backlog despite the unexpected surge in our workloads resulting from the economic downturn. After ending a decade of growth in the hearings backlog, we have reduced the pending cases by almost 10 percent in just over a year. As of March, there were fewer than 700,000 cases pending for the first time since FY 2005. We have cut the time it takes to decide those cases by more than three months, from a monthly high of 532 days in August 2008 to 437 days in March 2010. These accomplishments are even more impressive considering that, at the same time, we continued to focus on the oldest, most complex, and time-consuming cases, and we received 30,000 more hearing requests in FY 2009 than we did in FY 2008.

In FY 2009, we handled more new benefit applications and appeals than ever before. We adjudicated over 200,000 more initial disability claims, over 500,000 more retirement claims,

and 86,000 more hearings than we did in FY 2008.

DDS productivity and quality improvements allowed us to decide over 175,000 more initial disability claims than we had expected to complete and keep the pending level below 800,000. Using our fast-track disability processes, Quick Disability Determinations and Compassionate Allowances, we decided cases for about 100,000 applicants with the most debilitating impairments within about ten days after the State disability determination services (DDSs) received their applications. We hope to increase that number to 140,000 this year and 250,000 next year if accuracy can be maintained.

In December 2008, we launched a new, improved online application, iClaim, and saw an instant rise in the number of retirement applications filed online. In FY 2009, over 30 percent of all retirement applications were filed online, nearly twice as many as in the prior year. Our internet service has helped us keep up with an enormous growth in retirement claims. Without it, our field offices would be in dire need of even more resources. In addition to providing better and more convenient online options, we reduced waiting times on our 800-number and in our field offices.

Last year's appropriation and Recovery Act funding allowed us to undertake a large hiring effort and to maximize overtime nationwide. In FY 2009, we hired approximately 8,600 employees, most of them in less than six months, which was our largest hiring effort since the creation of the SSI program over thirty-five years ago. Management at every level of the agency responded to this hiring opportunity with the urgency that tough times require. Given the cumbersome federal hiring process and the obstacles erected by some governors and state legislatures in staffing the DDSs, this was a great accomplishment.

With our FY 2010 appropriation, we are increasing staff levels in hearing offices and in the DDSs. After reassessing our resources and critical needs, we recently decided to add another 900 hires to the front-lines. Nearly all of these new employees will be placed in our most stressed field offices.

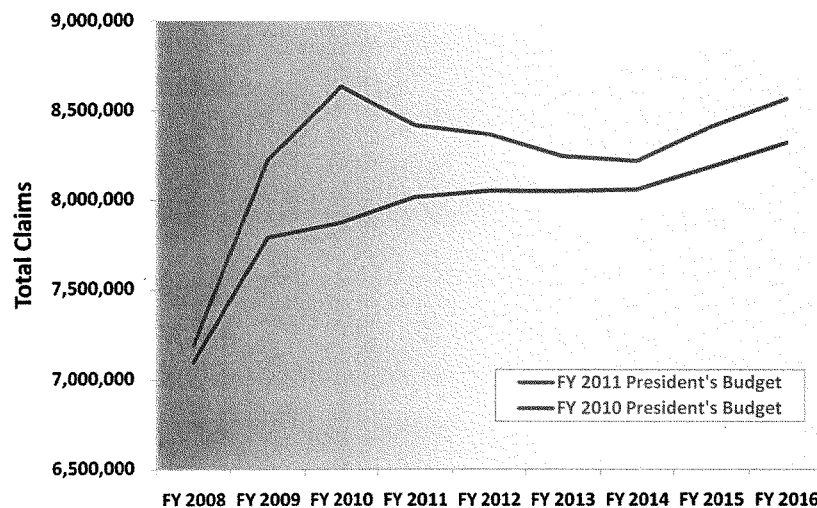
FY 2011 – Sustaining Our Momentum

The President's FY 2011 budget request of \$12.5 billion is essential to our continued progress. As the American people are still struggling through the economic crisis, we cannot afford to allow our services to deteriorate. A reduction in our funding at this time would reverse the progress we have made over the last two years.

While we hope that the worst of the recession is behind us, unemployment is expected to remain high through FY 2011. Since high unemployment rates usually result in more benefit applications, we expect that throughout this year and the next that new claims, particularly for disability, will continue to increase beyond our actuaries' estimates in the FY 2010 President's budget. Even if new claims for retirement benefits stabilize, we will still face higher levels of the more labor-intensive disability work in FY 2011. These additional disability claims will ultimately result in more hearing requests.

In FY 2011, we will pay \$776.5 billion in Federal benefits to 60 million beneficiaries. Social Security trust fund benefit payments are permanently appropriated, and therefore not part of our budget requests before this committee. On the other hand, our appropriations requests include, among other things, the administrative resources that we need to pay benefits. We have four FY 2011 appropriations requests before this Committee, totaling \$66.4 billion: Limitation on Administrative Expenses (LAE), Office of the Inspector General, Supplemental Security Income, and Payments to the Social Security Trust Funds.

The Recession Continues to Push the Number of Claims Higher



Note: Includes retirement, disability, and SSI claims.

The President's budget includes \$12.379 billion for our LAE, an increase of \$932 million in discretionary budget authority from the FY 2010 appropriation. Our administrative expenses are approximately 1.6 percent of our total estimated outlays of approximately \$792 billion, which include benefit payments.

We will use the President's FY 2011 budget to:

- Adjudicate over 7.9 million claims for benefits;
- Make decisions on 799,000 hearings;
- Issue 19 million new and replacement Social Security cards;

- Process 245 million earnings items for crediting to workers' earnings records;
- Handle approximately 66 million 800-number transactions;
- Issue 154 million Social Security Statements;
- Process millions of actions to keep beneficiary and recipient records current and accurate; and
- Conduct 360,000 medical continuing disability reviews (CDRs) and nearly 2.422 million non-disability SSI redeterminations.

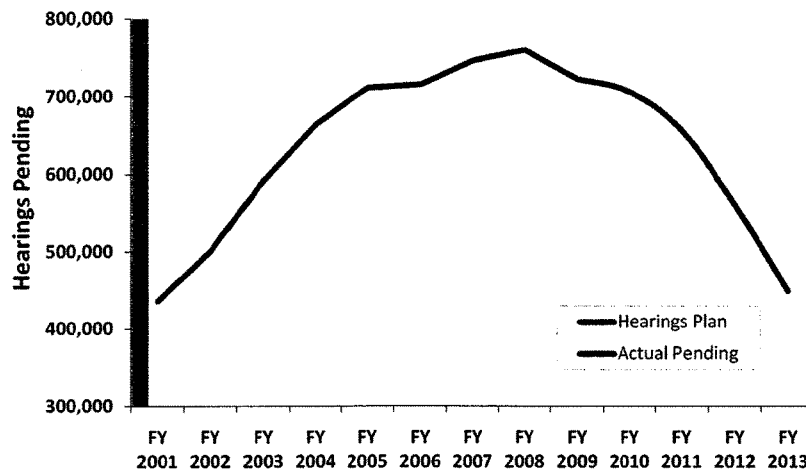
In FY 2011, we will need an administrative budget increase of about \$770 million just to maintain workyears initially funded by the Recovery Act and to cover inflationary costs, including rent, guards, postage, and employee payroll and benefits. The Recovery Act has given us the resources, including additional staff, needed to reduce the disability backlogs. Since this funding is temporary, however, we need the additional funding in the President's budget request to retain those resources. In addition to the \$770 million, we will need another \$162 million to keep up with our growing workloads, reduce existing backlogs, and meet rising customer service expectations.

To emphasize the importance of these efforts and in support of the President's Government-wide initiative to build a high-performance Government capable of addressing the challenges of the 21st century, we have identified four high-priority performance goals that will be a particular focus over the next 2 years. These goals, identified as part of the President's budget, are:

- Issue More Decisions for People Who File for Disability;
- Increase the Number of Online Applications;
- Improve SSA's Customers' Service Experience on the Telephone, in Field Offices, and Online, and
- Ensure Effective Stewardship of Social Security Programs by Increasing Program Integrity Efforts.

In addition to accomplishing these goals and handling our core workloads, we have been given additional responsibilities related to Medicare, immigration, homeland security, and data exchanges, such as subsidy determinations for Medicare Part D, e-verify, and the Help America Vote Act (HAVA) workloads.

The Hearings Backlog Reduction Plan Will Eliminate the Backlog by 2013, Despite the Economic Downturn



The President's budget will allow us to continue driving down the hearings backlog, something we were able to do in FY 2009 for the first time in over a decade. Through the first six months of FY 2010, we have reduced the pending level of hearings, for a total of fifteen straight months of progress on our top priority. By the end of FY 2010, we will experience the full effect of the recession on our hearings receipts as the increased initial disability claims work their way through the administrative process. Despite a much higher volume of hearings receipts than we anticipated a year ago, we are still on track to eliminate the hearings backlog by 2013.

In order to accomplish that goal, we hired 147 administrative law judges (ALJ) and over 1,000 support staff in FY 2009 and plan to hire 226 ALJs this year. We now have four National Hearing Centers to hear cases by video conference for the most hard-hit areas of the country. As a result of these efforts as well as improvements to the hearings process, we have decreased the number of hearings pending by almost 10 percent over the last 15 months and cut the time it takes to make a decision by over three months. The greatest improvements are occurring in the most backlogged offices. For example, processing time in the Atlanta North hearing office has dropped nearly 45 percent since February 2007, and it will drop again when the Covington office opens in the fall.

In FY 2011, with full funding of the President's Budget, we will be able to hire 70 ALJs and the support staff necessary to maintain at least a 4.5 to 1 support staff to ALJ ratio nationally. With these hires, we will increase our ALJ corps to 1,450. To accommodate this additional staff, we plan to open 25 new hearing offices and our fifth National Hearing Center over the next eighteen

months. We opened the first of these offices in Anchorage, Alaska on February 19. With these changes, we expect to reduce processing times by nearly a month and to hold an all-time high of nearly 800,000 hearings, which will reduce the backlog by another 50,000 cases.

We know that the rising level of pending initial disability claims is unacceptable, and we are committed to returning to our pre-recession pending level. In FY 2011, we plan to decide over 3.3 million initial disability claims, over 200,000 more than we expect to complete in FY 2010, and to reduce the pending level by 42,000 claims. Our strategy to reduce the initial disability claims pending level includes hiring and providing overtime to the DDSs, increasing Federal disability units that assist the DDSs, and simplifying policy.

We escalated our hiring efforts. By the end of FY 2010, we expect to have 2,800 more DDS employees on board than we did at the end of FY 2008, and we will hire additional DDS staff in FY 2011. However, state furloughs of DDS employees have already begun to derail some of our progress in reducing the backlog. We need the full complement of DDS employees to successfully carry out this strategy, and state furloughs of these employees only undermine our efforts. We fund 100 percent of DDS employees' salaries as well as overhead costs – about \$2 billion nationwide this year. These funds cannot be used by the states for any other purpose, so states do not save a single penny by furloughing employees in the DDSs – they only slow paying benefits to the disabled, unduly harm their state employees, and cost the state needed tax revenue.

In order to help states with mounting disability claims, we have created Extended Service Teams (ESTs) modeled on the National Hearing Centers. The ESTs are located in states that have a history of good quality and high productivity, as well as the capacity to hire and train significant numbers of additional employees. These centralized DDS teams will help reduce the initial claims backlog as we electronically shift claims to them from the hardest hit DDSs. In March, we opened our first EST in Little Rock, Arkansas. Last week, we opened our second EST in Madison, Mississippi. We plan to open additional ESTs in Roanoke, Virginia and Oklahoma City, Oklahoma by the end of the fiscal year.

We are increasing the number of cases that we put through our fast-track processes to speed benefits to tens of thousands of applicants who are obviously disabled. In February, we added 38 more conditions to our list of Compassionate Allowances. The list allows us to quickly identify diseases and other medical conditions that are clearly disabling. It is the first expansion since the original list of 50 conditions was announced in October 2008. We will continue to hold public hearings on other diseases and conditions that might be added to our list of Compassionate Allowances. These public hearings are providing valuable information, not only on potential Compassionate Allowances, but also on our current disability process. For example, as of March, our disability notices now provide website links to helpful health care information. These links will take disability applicants to two U.S. Department of Health and Human Services websites for more information on their conditions, and on where they may find help to pay for prescription drugs.

We continue to refine our Quick Disability Determination predictive computer model, which screens initial applications to identify cases where a favorable disability determination is highly

likely. This year we expect the DDSs to approve claims in two weeks or less for about 140,000 applicants with the most severe disabilities.

In March 2010, we proposed a regulation to expand the single decision maker (SDM) authority to cases that are identified as Quick Disability Determinations or Compassionate Allowances. The single decision maker approach will allow disability examiners to adjudicate certain cases without a mandatory concurrence by a doctor.

We also are continuing our successful Wounded Warriors program, which expedites the disability claims of wounded service members who became disabled while on active military service. To assist and reach out to Wounded Warriors, we maintain an on-site presence at several major military treatment facilities throughout the Nation and work closely with advocacy groups and governmental agencies such as the Department of Veterans Affairs and the Department of Defense. We believe this service is a way to show military personnel the thanks they deserve for serving our country.

We are developing a new Occupational Information System to replace the Dictionary of Occupational Titles. The Dictionary of Occupational Titles is outdated because it does not reflect current job requirements. In FY 2009, we convened a panel of experts to guide us in the development of the Occupational Information System. In FY 2011, we will begin to design the Occupational Information System, laying the groundwork for pilot testing scheduled to begin in FY 2012.

The Listing of Impairments describes for each major body system the impairments considered severe enough to prevent an adult from working, or for children, impairments that cause marked and severe functional limitations. We are regularly updating the listings and have a schedule to ensure we update all of them at least every five years, which will improve our ability to decide whether a claimant meets our criteria for disability benefits. Further, as we update entire body systems we are implementing a process that will allow us to make targeted changes to specific rules as necessary, instead of the entire body system. In the last five years, we have revised approximately half of our listings.

In addition to policy improvements, we also are making our process more efficient. We will finish developing the requirements for the DDS Disability Case Processing System, which will serve as a new common system for processing claims in all 54 DDSs. In FY 2011, we expect to begin beta testing this new system.

We are rolling out the electronic claims analysis tool (eCat) nationwide. eCAT improves the quality and consistency of our decisions by aiding examiners in documenting, analyzing, and completing the disability claim in accordance with regulations. We expect that the use of eCAT will produce well-reasoned determinations with easy-to-understand explanations of how we reached our decision. This documentation is particularly useful for future case review if an appeal is filed.

In addition to enhancing the documentation and consistency of our disability decisions, eCAT has been an extremely useful training tool for the many new examiners we are hiring in the

DDSs. All states have the training version of eCAT. Training through eCAT is helping new examiners more quickly gain proficiency.

Health Information Technology (Health IT) will revolutionize our disability determination process. We need medical records to decide disability claims. We rely upon doctors, hospitals, and others in the healthcare field to provide medical records in a timely fashion. Today, we are taking the first steps towards a totally electronic system of requesting and receiving medical records. With the consent of our claimants, we will have instantaneous access to their medical records.

In January 2010, we used over \$17 million in Recovery Act funding to expand Health IT to 15 additional providers across 12 States. Our Health IT pilots in Massachusetts and Virginia demonstrated that electronic medical records can reduce disability processing. Some disability decisions are now made in days, instead of weeks or months.

We are also improving our online services. We need faster and easier online services to meet the baby boomer's expectations and to help us keep up with increasing claims. Our new, easy-to-use online application, iClaim, has been a huge success. In FY 2009, we rolled out the first phase of iClaims, and we have seen a significant increase in internet claims as a result. In fact, in FY 2009, online claims represented 83 percent of our total retirement claims growth. Without this online filing, our field offices would be seeing an even greater number of visits and increased wait times.

We continue to expand our online offerings. Beginning in March, the public can now file for Medicare benefits online. In addition, our Multilanguage Gateway provides access to information in fifteen different languages, and we are on track to implement our first non-English interactive application, the Retirement Estimator, in Spanish later this year.

Our FY 2011 budget depends on continued growth of online filing of retirement and disability applications. We expect to reach 50 percent of retirement applications filed online by FY 2012. We also are modernizing one of our key data collection forms in the disability process, the Adult Disability Report to streamline data collection and make the form more user-friendly.

We now have the top three online services (Retirement Estimator, online retirement application, online Medicare Extra Help application) in the private and public sector as rated by the American Customer Satisfaction Index.

Telephone service is more convenient for the public than many in-person visits and more efficient for our agency. In 2009, we reduced our 800-number wait times by 25 percent with the help of additional staff. In FY 2011, we will open our first new teleservice center in more than a decade. This center will serve the entire country and will allow us to provide more timely telephone service to the millions of Americans who call our toll-free number. We plan to replace our national 800-number infrastructure, which will provide state-of-the-art tools to improve service delivery and increase efficiencies by giving citizens additional ways to communicate with us such as web chat and web callback.

We maintain benefit, earnings, and demographic information on virtually every American. Over the last decade, we have moved from a paper-based system to electronic processing of our core workloads. In light of the new electronic environment, part of our plan to secure our data network is to strengthen our data center operations, both by bringing online the Second Support Center (SSC) and by replacing our aging National Computer Center (NCC). Our SSC is up and running. It handles part of our workloads and will provide backup service in the event of a failure at the NCC. Thanks to the Recovery Act funding, we are proceeding in the construction of our new National Support Center, which is scheduled to be completed in 2013.

In addition to the important services we provide to the public, we must also continue to increase our cost-saving program integrity efforts. The Administration is committed to implementing a multi-year plan to enhance government-wide program integrity efforts. Program integrity reviews ensure that Americans' tax dollars are spent properly and that beneficiaries continue to be eligible for benefits and are being paid the right amount. Program integrity reviews help to avoid improper payments, which have continued to grow in total dollar amounts as our programs have grown.

The FY 2011 budget includes resources for two types of program integrity efforts: continuing disability reviews (CDRs), which are periodic reevaluations to determine if beneficiaries are still disabled, and SSI redeterminations, which are periodic reviews of non-medical factors of eligibility, such as income and resources. In FY 2011, we plan to conduct 360,000 full medical CDRs and 2,422,000 redeterminations. Both CDRs and redeterminations are extremely cost-effective. Our FY 2011 budgeted levels continue our efforts to increase program integrity levels from their low point a few years ago.

Program integrity activities save the Government money. We estimate that every dollar spent on CDRs yields at least \$10 in lifetime program savings. Similarly, we estimate that every dollar spent on SSI redeterminations yields \$8 in program savings over 10 years, including savings accruing to Medicaid. In addition, in FY 2011, we will continue nationwide rollout of our Access to Financial Institutions (AFI) project, which automates verification of SSI applicants and recipients' assets held in banks.

In conclusion, FY 2011 is going to be a year full of challenges for us. Our workloads will continue to grow beyond our earlier expectations while we work to fulfill our commitments to reduce the hearings and initial disability claims backlogs and to lay the foundation for the future of the agency.

We are making a real difference in the service we deliver to the American people. Without the additional funding Congress provided to us since FY 2008, Americans would now be facing significantly longer waits to receive decisions on their claim, to speak to a representative in our field offices or on the phone, and to have their case heard by an ALJ. Sustained, timely, and adequate funding, along with innovation, automation, improved business processes, and the hard work and dedication of our employees has made this progress possible.

The FY 2011 President's budget represents the next step in service improvement throughout the agency. The President's budget will allow us to fulfill our commitments to keep up with all

retirement claims, work towards our goal of eliminating the hearings backlog, reduce the initial disability claims backlog, address other critical workloads, and maintain our aging infrastructure. A reduction in our funding at this time would reverse the progress we have made over the last two years. Millions of Americans count on us, and we need your continued support to provide the service they need and deserve.

I would like to turn now to a brief summary of the other appropriation requests for FY 2011.

Office of the Inspector General (OIG)

\$106.122 million for the OIG – The request for FY 2011 represents a \$3.44 million increase in resources from the FY 2010 appropriation. The OIG's mission is to promote economy, efficiency, and effectiveness in the administration of the Social Security programs and operations and to prevent and detect fraud, waste, abuse, and mismanagement in such programs and operations. To that end, the OIG provides an invaluable service by conducting a comprehensive program of audits, evaluations, and investigations, and recommending changes to improve our programs and operations. To meet its homeland security responsibilities, OIG will continue to conduct audits and investigations that focus on strengthening the enumeration process and combating SSN misuse. The OIG will also audit and evaluate our use of funds for carrying out Recovery Act initiatives.

Supplemental Security Income

\$56.5 billion for the SSI Program – The SSI program ensures a minimum monthly level of income to eligible aged, blind, and disabled individuals. An individual's income, resources, and living arrangements are evaluated to determine the monthly SSI payment. The President's budget reflects \$52.6 billion for Federal benefit payments to approximately 7.8 million aged, blind, and disabled beneficiaries: \$3.775 billion for SSI administrative expenses; \$60 million for beneficiary services; and \$43 million to fund extramural research and demonstration projects for FY 2011. The budget also includes \$13.4 billion for Federal benefit payments for the first quarter of FY 2012.

Estimates of current benefits are driven by the number of recipients eligible for monthly payments and the amount of the monthly payments. The FY 2011 request represents a \$6 billion increase over the FY 2010 enacted level. The majority of this increase results from mandatory increases in Federal benefit payments. Along with an increase in SSI recipients, FY 2011 also includes 13 monthly benefit payments, instead of the usual 12. This is because October 1, 2011 falls on a weekend, and so the October check will be paid on September 30, 2011.

Payments to the Social Security Trust Funds

\$21.4 million for Payments to the Social Security Trust Funds – This request will reimburse the Social Security trust funds for the costs of certain benefits and administrative expenses which are initially paid from the trust funds but are chargeable to general revenues. The purpose of this account is to put the trust funds in the same financial position in which they would have been had they not borne the cost of these expenses.

SOCIAL SECURITY ADMINISTRATION
Statement by the Commissioner of Social Security
On
Payments to Social Security Trust Funds

The fiscal year (FY) 2011 appropriation request for Payments to Social Security Trust Funds totals \$21,404,000 and covers general fund payments to the Social Security trust funds.

Reimbursement for Pension Reform Administrative Costs

Included in this request is \$6,400,000 to reimburse the Old-Age and Survivors Insurance (OASI) trust fund for the cost of administering pension reform responsibilities assigned to the Social Security Administration under Public Law 93-406, the Pension Reform Act. The reimbursement is for the cost of furnishing information on deferred vested pension rights to pension plan participants or their survivors.

The request for FY 2011 is the same as the FY 2010 funding level and reflects the potential level of effort associated with this work, which flows from reports received from the Internal Revenue Service regarding individuals who have earned vested pension rights. In the event that actual expenses needed to process this workload exceed the amount available for reimbursement through this account in any fiscal year, the trust fund is made whole in the subsequent fiscal year upon enactment of the Payments to Social Security Trust Funds appropriation for that year.

Unnegotiated Checks

Also included in this request is \$14,000,000 to reimburse the OASI and Disability Insurance (DI) trust funds for the value of interest on benefit checks that remain uncashed after 6 months. This payment is authorized by Section 201(m) of the Social Security Act and Section 152 of the Social Security Amendments of 1983 (P.L. 98-21). The request for FY 2011 is the same as the FY 2010 funding level. It supports the expected level of uncashed check activity and represents the estimated interest for unnegotiated OASDI checks.

Social Security checks are negotiable for only 12 months from their date of issue under the provisions of the Competitive Equality Banking Act of 1987 (P.L. 100-86). The face value of these checks is credited directly to the trust funds from the general funds when the checks are canceled. This account reimburses the trust funds for interest lost through the date of crediting at the following points in the check negotiation process: (1) checks that remain uncashed after 6 months; (2) checks that are cashed after 6 months; and (3) checks that are administratively canceled after 12 months.

Special Payments for Certain Uninsured Persons

The request before this Committee includes \$4,000 to reimburse the OASI trust fund for the cost of special benefits paid to certain uninsured persons aged 72 years and over. The benefits have been paid mainly to individuals who attained age 72 before 1968 and did not have a chance to work long enough under Social Security to become insured. This payment covers benefits paid in FY 2009. The amount requested also includes reimbursement for related

administrative expenses and interest lost to the trust fund.

The population receiving special payments is a closed group of very aged persons. As of September 30, 2009, one person was receiving benefits under this program, the same as on September 30, 2008.

Coal Industry Retiree Health Benefits

The request before this Committee does not include additional funds to reimburse the OASI trust fund for work carried out under Section 19141 of the Energy Policy Act of 1992 (P.L. 102-486), which established the "Coal Industry Retiree Health Benefit Act of 1992" (CIRHBA). CIRHBA requires the Social Security Administration (SSA) to search earnings records of certain retired coal miners to determine which mine operators are responsible for payment of their health benefit premiums under the law. SSA computes the premiums due based on a formula established in the Act, notifies the affected mine operators, processes appeals from operators who believe that assignments have been made incorrectly, and responds to and participates in litigation resulting from these agency determinations. Additional funds are not requested for FY 2011 because amounts remaining from the \$10,000,000 per year appropriated in FY 1996 and in FY 1997 will continue to be available until expended to reimburse the OASI trust fund.

SSA has completed initial decisions and reviews on all of the retired miners covered under these provisions of the 1992 CIRHBA. In addition, SSA has implemented the Coal Act provisions of The Tax Relief and Health Care Act of 2006 (P.L. 109-432), which significantly impacted and restructured CIRHBA. SSA carefully reviewed the legislation, obtained legal advice, and assessed how P.L. 109-432 affected existing policies and procedures. SSA complied with the provision that specifically directed the Commissioner to "revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on or after October 1, 2007."

SSA has devoted considerable time and resources to comply with P.L. 109-432. All court cases challenging SSA's involvement in the Coal Act are now closed. There is no active litigation. In the past, SSA was obligated to provide yearly data on miner assignments to the United Mine Workers of America (UMWA) Combined Benefit Fund. However, this year SSA provided the UMWA Combined Benefit Fund with data that should constitute the SSA's final records on miner assignments and the companies involved in this workload. Currently, the only remaining SSA obligation is to provide yearly per beneficiary premium calculations from the Chief Actuary to the UMWA Combined Benefit Fund.

Quinquennial Adjustment for Military Service Wage Credits

The FY 2011 request includes \$1,000,000 to reimburse the DI trust fund for the costs of granting noncontributory wage credits for pre-1957 military service, as authorized by Section 217(g) of the Social Security Act. The 1946 Social Security Amendments provided for payment of Social Security benefits to World War II veterans and their survivors based on noncontributory wage credits for each month of the veteran's active military service. To finance the additional costs of paying benefits based on periods of military service before 1957 for which no contributions were made, the Social Security Act provides for reimbursement to the OASI and DI trust funds from the general funds of the Treasury. The Social Security

Amendments of 1983 modified procedures for reimbursing the trust funds, with an initial lump-sum transfer based on the estimated present value of all future benefits arising from noncontributory credits granted before 1957, subject to adjustment every fifth year beginning in 1985. Following the transfers to the trust funds in 1983 and 1985, subsequent quinquennial adjustments have called for transfers from SSA's trust funds to the general funds of the Treasury, with the exception of 2000, when an appropriation was needed in FY 2002 to transfer general funds to the OASI trust fund.

The actuaries determined that \$1,000,000 should be transferred from the general funds to the DI trust fund in FY 2011, including interest, as authorized under Section 217(g). SSA's appropriation request will enable SSA to implement the quinquennial DI adjustment.

SOCIAL SECURITY ADMINISTRATION
Statement by the Commissioner of Social Security
on
Supplemental Security Income

The Supplemental Security Income program (SSI) guarantees a minimum level of income to financially needy individuals who are aged, blind or disabled. The appropriation request for fiscal year (FY) 2011 is \$40,513,000,000, in addition to the \$16,000,000,000 appropriated for the first quarter of FY 2011 in the FY 2010 appropriation, bringing the total to \$56,513,000,000. This includes \$52,635,000,000 for Federal benefits to aged, blind and disabled recipients, \$3,775,000,000 for administrative expenses, \$60,000,000 for beneficiary services, and \$43,000,000 for research and demonstration projects.

In addition to the appropriation request, in FY 2011 SSA is also planning to use \$26,000,000 in carryover for beneficiary services, and \$28,900,000 in carryover for research and demonstration projects.

We are also requesting an advance appropriation of \$13,400,000,000 for the first quarter of FY 2012 to ensure that benefits will continue without interruption into the next fiscal year.

Federal Benefit Payments

The SSI appropriation provides funds for direct cash assistance to eligible aged and blind or disabled recipients to help finance their basic needs. We evaluate an individual's income, resources and living arrangements to compute the monthly SSI payment. The maximum monthly Federal Benefit Rate (FBR) is \$674 for an individual and \$1,011 for a couple in calendar years (CY) 2010 and CY 2011. We expect the average monthly benefit to increase from \$503 in FY 2009 to \$514 in FY 2010, and remain at that level in FY 2011.

The total FY 2011 request for Federal benefit payments is \$52.6 billion. This is an increase of \$6.03 billion from the amount appropriated for Federal benefits in FY 2010, mainly because there are 13 payments in FY 2011. The maximum monthly FBR usually increases each January based on increases in the cost-of-living. Due to the economic downturn, there was no increase in January 2010 and we project no increase for January 2011. We expect the average number of Federal SSI recipients to increase from 7,560,000 in FY 2010 to 7,820,000 in FY 2011, an increase of about 3.4 percent.

SSA expects to use \$262 million in carryover of prior-year unobligated balances in FY 2010 and does not anticipate any carryover in FY 2011.

Administrative Expenses

SSA administers the SSI and Social Security programs on an integrated basis for purposes of economy and efficiency. The Social Security Act authorizes SSA to pay for SSI administrative expenses from the Social Security trust funds through the Limitation on Administrative Expenses (LAE) account. This appropriation funds the SSI program's share of administrative expenses incurred through the LAE account. In the event that actual SSI administrative expenses exceed the amount available for reimbursement through this account in any fiscal year, the trust funds are made whole in the subsequent fiscal year upon enactment of the SSI appropriation for that year.

The FY 2011 request for SSI administrative expenses is \$3,775,000,000. This includes \$292 million in cap adjustment funding specifically for program integrity activities—conducting continuing disability reviews and SSI redeterminations, and completing implementation of the Asset to Financial Institutions project.

In addition to these amounts, funds from state supplementation user fees are made available in the LAE account. State supplementation is mandatory for certain recipients who were on state rolls just prior to the creation of the Federal program in 1974. Otherwise, states are encouraged to supplement the Federal benefit and may elect to have SSA administer their program. States that choose to have SSA administer their program reimburse SSA for the costs based on a user fee schedule established by the Social Security Act. The LAE account assumes funding of \$185,000,000 from state supplementation user fees in FY 2011.

Beneficiary Services

This activity funds reimbursements to Vocational Rehabilitation (VR) agencies for rehabilitation services provided to SSI recipients. It also funds payments to Employment Networks (ENs) authorized under the "Ticket to Work and Work Incentives Improvement Act of 1999" (P.L. 106-170). SSA plans to obligate \$86 million for beneficiary services in FY 2011.

The Ticket legislation allows SSI disabled recipients more flexibility in obtaining "return to work" services by providing them with a Ticket to offer an EN of their choice in exchange for VR services, employment services, and other support services. The regulation to implement the Ticket to Work Program was effective January 28, 2002. The Ticket program has been rolled out to all States and U.S. territories since September 2004.

A revision of the Ticket to Work regulation, published on May 20, 2008, was effective July 21, 2008. This revised regulation increases up-front costs by increasing the frequency and levels of payments to providers. This revision also allows a Ticket holder to receive VR services to meet his/her intensive up-front service needs. After the VR case is closed, his/her Ticket may be assigned to an EN to receive ongoing support services.

Research

The Social Security Act provides funding authority, including waiver authority for the SSI program where appropriate, for research and demonstration projects. Authority is provided for conducting both broad-based cross-program projects in the Social Security and SSI programs, and for projects dealing with specific SSI program issues.

The Social Security Act also requires SSA to conduct outreach efforts to identify individuals who may be eligible for payment of the cost of Medicare under the Medicare Savings Program. The passage of the Medicare Prescription Drug, Modernization, and Improvement Act of 2003 (P.L. 108-173), expanded the existing cost-sharing outreach requirements to include outreach to beneficiaries who may potentially be eligible for Medicare prescription drug subsidies under Medicare Part D.

The \$43 million request for the FY 2011 extramural research program, along with the estimated \$28.9 million in funds carried over from FY 2010, will fund a range of activities, including projects to develop effective rehabilitation and return-to-work strategies, conduct retirement and disability policy research and evaluate newly enacted or proposed legislative changes, develop programs to encourage saving, maintain and improve basic data about the Social Security and SSI programs and beneficiaries, and provide outreach to potential beneficiaries of the Medicare Savings Program and prescription drug subsidies. Some of the major research efforts are as follows:

IMPROVE THE SPEED & QUALITY OF THE DISABILITY PROCESS

Compassionate Allowances – This initiative is designed to expedite disability determinations for individuals who, often at the time of application, meet SSA's medical criteria for disability. Compassionate Allowances are a way of quickly identifying diseases and other medical conditions that clearly qualify for Social Security and Supplemental Security Income disability benefits. It allows the agency to electronically target and make speedy decisions for the most obviously disabled individuals.

On March 1, 2010, SSA added 38 more conditions to the Compassionate Allowance initiative. This is the first expansion since the original list of 50 conditions was announced in October 2008. We expect to complete approximately 4.5 percent or 150,000 initial claims under the Compassionate Allowance initiative.

Occupational Information System Development Project – SSA is developing an occupational information system (OIS) tailored for SSA's disability programs to replace the Dictionary of Occupational Titles currently used in the agency's disability determination process. In FY 2009, SSA established the Occupational Information Development Advisory Panel (OIDAP) under the Federal Advisory Committee Act. In September 2009, the OIDAP delivered its first set of recommendations to the agency on the content model and classification system for a new OIS that may best meet SSA's needs. The OIDAP will continue to provide advice and recommendations throughout the research and development process.

The content model refers to the data elements or attributes that we use to describe each occupation in the new OIS. External stakeholders submitted significant comments to the OIDAP

regarding data elements for the content model. Also, in FY 2009, SSA conducted an internal user needs analysis to gather input from adjudicators and program staff regarding data elements that SSA might need.

In FY 2010, SSA will prepare a content model based on a synthesis of the OIDAP's recommendations and external and SSA users' information. SSA will develop an overall design of the OIS based on our program and data criteria. SSA will complete a draft content model and prototype instruments for both person- and job-side data elements, and continue to meet with the Department of Labor to exchange status on each agency's occupational information development activities.

In FY 2011, SSA plans to test the person-side instrument and conduct job analyses of the work-side instrument. This initial job analysis effort will provide SSA with the opportunity to develop and test sampling methods and data collection options.

Temporary Assistance for Needy Families (TANF)-SSI Disability Transition Project In 2004, the Government Accountability Office recommended that SSA and the Department of Health and Human Services' Administration for Children and Families (ACF) collaborate to examine ways to better coordinate the SSI and the TANF programs.

To address this recommendation, SSA has partnered with ACF to conduct the TANF-SSI Disability Transition Project. The project will link state and local TANF caseload data to SSA administrative data to understand the dynamics of the population applying for and/or served by the two programs. The project will also examine promising program innovations to coordinate TANF and SSI to better serve individuals with disabilities, and help states and localities refine and pilot-test program innovations, and provide recommendations for a full demonstration project and rigorous evaluation.

SSA and ACF jointly fund and manage a research contract to analyze TANF-SSA administrative data, examine local program innovations, and provide recommendations for a demonstration and evaluation. SSA is using FY 2010 funds for data and program analysis, technical assistance for site development and pilot tests, and to identify options for a demonstration and evaluation. SSA will use FY 2011 funds for a separate contract to begin the demonstration and evaluation.

Youth Transition Demonstration (YTD) – assists young people with disabilities, aged 14-25, to successfully transition from school to economic self-sufficiency. These youths are those who receive SSI or Social Security Disability payments based on their own disability, or who are at risk of receiving SSI or Social Security Disability benefits. Successful transitions include pursuing a post-secondary education or employment. Through agreements with community-based agencies at six sites in five states, YTD provides a broad array of transition-related services and supports to participants. YTD staff also establishes partnerships and collaborates with other agencies and with employers to improve employment and educational outcomes.

The YTD provides five waivers of program rules to allow youths to keep more of their earnings and to encourage saving for youth to continue their education and career objectives. The projects are testing whether these modified SSI rules will encourage YTD participants to work and save for their future.

The projects will complete services in 2012. SSA will conduct surveys and analysis through 2013, and final reports are due in 2014. The YTD project has joint funding with section 234, as appropriate, based on the participation of title II and title XVI beneficiaries.

In FY2011 the focus will be on employment services for these sites and the follow-up survey administered 12 months after random assignment. These surveys will fill in gaps and provide information on demographic and socioeconomic variables not in the administrative data. This will also provide outcomes such as work efforts, hourly wages, and attitudes towards work. This information will be very important in analyzing outcomes in the areas of education and self-efficacy.

Evaluation of the Ticket to Work – In this evaluation, SSA is examining participation by both beneficiaries and the new Employment Networks (EN) created by the program. The study will provide feedback to policymakers through periodic reports detailing data collection, findings and recommendations for program modifications.

Recent findings indicate that beneficiaries are taking longer to reach employment goals than was initially anticipated, but that the beneficiaries are making continued progress toward self-sufficiency even four years after assigning their tickets. We are using the National Beneficiary Survey to identify work-oriented beneficiaries, and have found that 40 percent of working-age disability beneficiaries reported having work goals or expectations. We also found that such beneficiaries are about nine times more likely to participate in employment-related activities. Work-oriented beneficiaries are also significantly more likely to have earnings and to have higher earnings relative to other beneficiaries.

We also completed a longitudinal analysis of beneficiaries who first received Social Security Disability in 1996. This analysis revealed that by 2006, 6.5 percent had left the rolls due to work, at least temporarily, and 3.7 percent had terminated benefits due to work without returning to the benefit rolls. Additional analyses of the duration of exits due to work have found that among those who left the rolls due to work for at least one month in 2002, those in the outcome only payment system spent 60.4 percent of the next 48 months off the rolls, compared with 53.1 percent and 42.3 percent of months among traditional system and milestone plus outcome participants, respectively.

In July of 2008, we implemented changes to the Ticket to Work program to improve EN and beneficiary participation and outcomes. We will examine whether the new regulations improve the Ticket to Work program in our 2010 and 2011 evaluation reports. Specifically, we will report on EN and beneficiary participation response to the new Ticket to Work rules, beneficiary awareness of the new Ticket to Work program, service use, employment, and attitudes toward

ticket participation, work, and possible exit from SSA benefits, and the trends in beneficiary work and benefit outcomes and EN payments under the new rules.

Programmatic Longitudinal Disability Data Repository (PLDDR) – SSA has a critical need to examine more longitudinal data to identify trends within the disability program to make better-informed policy decisions.

To address this need, we are starting a multi-year project in FY 2010 to create a new repository of disability data files and databases in a centralized location. This data repository will modernize the role and functions of the current Disability Research File and eliminate the current time-intensive processes. The new system will utilize state-of-the-art technologies that will modernize and automate the process and will be built with at least 20 rolling years of data, including the current year, on a continuous basis.

FY 2011 will continue FY2010 Phase One activities devoted to the analysis of many data sources/files within SSA to select the appropriate data to be used for disability trends and research.

IMPROVE OUR RETIREE & OTHER CORE SERVICES

Policy Evaluation – As policy issues emerge, SSA must maintain the ability to conduct research to evaluate the expected effects on the Social Security and SSI programs, beneficiaries, and potential beneficiaries. Related goals are to enhance our ability to produce additional policy-relevant data and to improve the quality of statistics on the aged and persons with disabilities.

We anticipate that we may be asked to analyze a range of policy issues. For example, in response to the financial crisis of 2008, we expect to conduct studies to evaluate the effects of the financial crisis on labor force participation, retirement, and claiming of Social Security disability and retirement benefits.

Medicare Buy-In (Section 1144/1110 Outreach) – Medicare Buy-in Outreach, section 1144 of the Social Security Act, requires SSA to conduct outreach to SSA beneficiaries and former beneficiaries who may potentially be eligible for the Medicare Savings Program. In addition, SSA is required to share lists of those potentially eligible with State Medicaid agencies.

Medicare Part D Prescription Drug Outreach (Section 1144/1110 Outreach) – The major objective of these projects is to increase enrollment of eligible low-income individuals into programs that assist Medicare beneficiaries with their out-of-pocket prescription drug expenses.

PRESERVE PUBLIC TRUST IN OUR PROGRAMS

Retirement Research Consortium (RRC) – One of SSA's key tools for maintaining a strong capability for research on Social Security and retirement is the Retirement Research Consortium (RRC).

The RRC is funded under 5-year cooperative agreements. The current agreements support centers based at the University of Michigan, Boston College, and the National Bureau of Economic Research.

The RRC provides the agency with access to the best analysts on the full range of Social Security and retirement issues, including analyses on retirement behavior, the well-being of the retiree population, savings trends, the impact of aging societies, Social Security reform, individual accounts and investment behavior, and lessons from abroad. In recent years, SSA has increased the emphasis on disability research and program interactions.

The RRC also is charged with disseminating results through publications, web sites, and conferences, training junior scholars and practitioners in the areas of Social Security, retirement, and disability, and facilitating the use of SSA administrative data for policy research purposes.

Retirement Income Modeling – provides policy makers with detailed information on the effects of changes in Social Security on individuals and the economy, with projections for years into the future.

SSA's MINT model (Modeling Income in the Near Term) has become one of the most important tools for evaluating the effects of Social Security reform proposals on the distribution of retirement income. SSA analysts use MINT to provide distributional analysis on how baby boom retirees will fare under reform proposals compared to current law.

Current funding supports updating MINT to the most current data and developing a basic capability to project disabled worker beneficiaries in future populations of all ages. The research budget also supports models that provide long-term projections and consider the effects of changes in Social Security on the economy as well as some small jointly financed cooperative arrangements with the National Institute on Aging to study factors affecting the wealth and retirement of elderly Americans and the financial crisis of 2008.

Data Development – forms the foundation upon which model development efforts and analytical capabilities are built. SSA's administrative data are useful in addressing many policy issues, but they often provide an incomplete picture of the effects of current and proposed policies. Consequently, SSA must seek cost-effective methods for obtaining the necessary data from other sources.

SSA provides support for the Census Bureau's Survey of Income and Program Participation and the National Institute on Aging's Health and Retirement Study. These expenditures support improvements to the quality of survey data that are of particular importance for Social Security, more complete linkage of program and survey data, and greater usage of data by researchers.

SPECIAL INITIATIVE – ENCOURAGE SAVINGS

Financial Literacy – SSA research activities include support for the agency's financial literacy and education initiative that is designed to encourage saving and foster effective retirement planning. These objectives support the SSA Special Initiative to Encourage Saving as well as the goals of the national interagency Financial Literacy and Education Commission.

The initiative will achieve these objectives by supporting research and data resources to develop, test, and refine effective print, web-based, and other products that can be used to better inform the public about saving, the Social Security program, and retirement planning. The primary mechanism for conducting these research activities is a consortium that develops and maintains a network of research and development experts supported through a cooperative grant with the SSA – the Financial Literacy Research Consortium (FLRC). The FLRC is comprised of three multi-disciplinary research centers conducting research and development activities to produce products and interventions to improve knowledge about SSA programs and encourage saving.

SOCIAL SECURITY ADMINISTRATION
Statement by the Commissioner of Social Security
on
Limitation on Administrative Expenses

The President's fiscal year (FY) 2011 request for the Limitation on Administrative Expenses (LAE) account is \$12.379 billion, an increase of 8 percent or \$932 million over FY 2010. These resources, which include funds generated by user fees, are used to pay the costs of administering the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) programs, the Supplemental Security Income (SSI) program, Special Benefits for Certain World War II Veterans, the Medicare prescription drug program, and certain other Medicare support functions.

The recession is generating an unprecedented surge in new disability claims and related work for the agency. Funding SSA at the President's Budget level will enable the agency to complete more of the higher levels of work we have been receiving and to cover inflationary cost increases. In FY 2011, we will complete nearly 8 percent or 236,000 more initial disability claims than in FY 2010, which will enable us to reduce the pending level from 1,041,000 to 999,000. We will complete over 10 percent or 74,000 more hearings in FY 2011 than in FY 2010, which will further reduce the number of hearings pending to 657,000. The FY 2011 budget will also enable us to keep up with the influx of baby boomer retirement claims—we plan to complete all of the retirement claims we receive, estimated to be 4.6 million in FY 2011.

In FY 2011, we are facing approximately \$420 million in inflationary costs for rent, guards, postage, and pay and benefit increases. Additionally, we will need almost \$350 million to maintain the workyears we funded with Recovery Act funds in FY 2010. We will need funding above this level to keep up with our growing workloads, reduce existing backlogs, and meet rising customer service expectations. Without the FY 2011 President's Budget, we will lose ground on all the important progress we have achieved over the last couple of years.

Salaries and Operating Expenses

The LAE budget request includes just over \$9 billion for Federal salaries and operating expenses, which covers increases in costs due to Federal pay raises and higher benefits costs, as well as increases in the cost of rent and other infrastructure and work processing costs incurred by SSA offices across the nation.

SSA utilizes a mix of full-time equivalents and overtime to support the total workyears required to complete planned levels of work. This budget supports 70,409 workyears for SSA proper, essentially providing stable staffing and stopping a trend in recent years of staffing declines that have negatively affected service to the public. With 1,400 offices in cities and towns across America, it is imperative that SSA receive the funds required to pay the salaries and support the infrastructure and workload processing costs necessary to provide service to the millions of Americans who count on us each and every day.

State Disability Determination Services

The LAE budget request includes \$2.631 billion for operating expenses for the State DDSs. This represents an increase of \$344 million over FY 2010 to cover higher costs associated with state pay raises, higher costs for medical evidence, an increase in workyears to help address the massive influx of initial disability claims, and the cost of maintaining the workyears we funded with Recovery Act funds in FY 2010. SSA estimates that the DDSs will complete 3.3 million initial disability claims in FY 2011, which is nearly 8 percent more claims completed than in FY 2010 and almost 18 percent more than in FY 2009. Successful efforts such as the electronic disability process and SSA's new Quick Disability Determination and Compassionate Allowance processes will continue to improve service to the public by ensuring that claimants receive decisions as quickly as possible.

Information Technology

The President's Budget also includes \$635 million for Information Technology (IT). The agency will use these funds to continue to support our nationwide IT infrastructure and to continue to make investments in workload processing technologies that help increase productivity and improve quality. SSA will offer additional services on our website, improve the automated services we offer by telephone, and ensure that the sensitive information entrusted to us is protected and can be restored in the case of a disaster.

Technology and business process improvements will play an instrumental role in helping SSA continue to make incremental productivity improvements. Our investments in IT have played an important part in helping us increase productivity by 3.17 percent on average over the last 5 years. With adequate funding and careful planning and implementation of new initiatives, the efficiency of our processes will continue to improve.

Program Integrity Activities

The President has proposed caps on net discretionary budget authority and outlays in FY 2011. The FY 2011 President's Budget would allow adjustments to these caps for spending above a base level of funding for several Government-wide program integrity activities, including SSA's CDRs and SSI redeterminations. In FY 2011, the LAE request includes a total of \$796 million dedicated for CDRs and SSI non-medical redeterminations. The request specifies that upon enactment of discretionary spending caps, \$513 million of SSA's budget request would not count towards the overall cap on discretionary budget authority.

CDRs are the most effective mechanism SSA has for determining whether DI and SSI disability beneficiaries have medically improved or continue to meet the statutory definition of disability. CDRs are a proven, sound investment – yielding \$10 in lifetime program savings for every \$1 spent. SSI redeterminations are periodic reviews of non-medical factors of SSI eligibility. The additional funding requested for redeterminations is estimated to provide a return on investment of better than \$8 in program savings over 10 years for each \$1 spent, including savings accruing to Medicaid.

SSA plans to complete 360,000 medical CDRs and 2.4 million SSI redeterminations in FY 2011. In addition, up to \$10 million may be used to complete implementation of the Access to Financial Institutions project, which automates verification of SSI recipients' assets held in

banks. In total, SSA estimates this program integrity funding in FY 2011 will result in over \$7 billion in savings over 10 years, including Medicare and Medicaid savings.

User Fees

The FY 2011 LAE request includes up to \$185 million in funding from user fees that are paid by certain states to help cover agency costs for Federal administration of their SSI State supplementation payments. The FY 2011 LAE request also includes up to \$500,000 in fees for certification of non-attorney representatives, as provided in section 303(c) of the Social Security Protection Act. On February 27, 2010, President Obama signed into law the "Social Security Disability Applicants' Access to Professional Representation Act of 2010," permanently extending the non-attorney representative fee withholding process.

Conclusion

The FY 2011 President's Budget for SSA provides the necessary resources for the agency to continue to make progress toward improved customer service. Full funding of the President's Budget will enable the agency to maintain recent gains in staffing and to continue to invest in needed technology enhancements. SSA will be able to complete substantially more claims through a disciplined and focused effort to keep up with the onslaught of work from both the recession and the wave of baby boomers seeking our services.

Even during difficult times, we have produced measurable and meaningful results. We are making progress in key workloads while anticipating future trends and preparing for upcoming challenges. The President's FY 2011 budget for SSA is critical to fulfilling our commitment to complete retirement claims, eliminate the hearings backlog, reduce the number of pending initial disability claims, address other critical workloads, and maintain our aging infrastructure. A reduction in our funding at this time would reverse the progress we have made over the last two years. We know that millions of people are counting on us, and with the President's proposed level of funding for SSA, we will continue to provide the service the American people need and deserve.

SOCIAL SECURITY ADMINISTRATION
Statement by the Commissioner of Social Security
on
Office of the Inspector General

Background

As part of the Social Security Independence and Program Improvements Act of 1994, SSA was provided with its own statutory Inspector General. As mandated by the Inspector General Act of 1978, as amended, the Office of the Inspector General's (OIG) mission is to protect the integrity of SSA's programs. The OIG is directly responsible for promoting economy, efficiency and effectiveness in SSA programs and detecting and preventing fraud, waste and abuse. This mission is carried out through a nationwide network of audits and investigations. In conducting audits and investigations, the Inspector General works closely with both the Congress and SSA to improve program management.

Budget Request

The fiscal year (FY) 2011 appropriation request for the OIG totals \$106,122,000. This includes \$30,000,000 to be appropriated from general funds and \$76,122,000 to be transferred from the Social Security trust funds. OIG's FY 2011 budget request provides funds for the current operating expenses of its programs, including:

- \$93.1 million for salaries and benefits; and
- \$13 million for other operating expenses such as rent, travel, service agreements, investigative equipment, and supplies.

This request is an increase of \$3.44 million (3.35 percent) compared to the FY 2010 enacted level. This increase covers the costs of payroll increases including Federal pay raises, within-grade increases, benefit rate increases for health benefits, and higher costs for newer employees hired under the Federal Employees' Retirement System (FERS).

The budget request is driven primarily by costs (including salaries, benefits, rent and core services) associated with supporting the staffing levels needed to conduct audits and investigations. The FY 2011 request supports a staffing level of 596 workyears. With the resources included in this request, OIG will continue to support ongoing major initiatives that focus on key areas such as the protection of personally identifiable information, including the protection and integrity of the Social Security number. OIG will also continue to aggressively pursue anti-fraud activities on a variety of fronts. The Cooperative Disability Investigation Program will continue to investigate disability program fraud while other personnel will combat improper OASDI and SSI payments.

Conclusion

FY 2011 will bring new opportunities for the OIG to fulfill its mission, as well as to confront the continuing challenges of assuring integrity in the nation's largest benefit-paying programs. This budget request provides funding to enable the OIG to carry out that mission and to support SSA's efforts to seek efficiencies, avoid erroneous payments, and combat fraud.

Commissioner's Biography



Michael J. Astrue
Commissioner of Social Security

Michael J. Astrue was sworn in as Commissioner of Social Security on February 12, 2007 for a six-year term that expires on January 19, 2013.

The Social Security Administration is an independent Federal agency headquartered in suburban Baltimore with a workforce of about 65,000 employees in more than 1,400 offices nationwide.

Commissioner Astrue is responsible for administering the Social Security retirement, survivors, and disability programs that provide financial protection to more than 160 million workers and their families and pay over \$650 billion in benefits annually to more than 50 million Americans.

He is also responsible for the Supplemental Security Income (SSI) program that pays monthly benefits to more than 7 million Americans who have little or no resources and who are aged, blind, or disabled.

Commissioner Astrue has a distinguished history of public service. He formerly worked for the Social Security Administration as Counselor to the Commissioner. He served as General Counsel of the U.S. Department of Health and Human Services and as the Acting Deputy Assistant Secretary for Human Services Legislation. He also served as Associate Counsel to Presidents Reagan and Bush. Before becoming Commissioner, he worked fourteen years as a senior executive of several biotechnology companies. In 2009, the Commissioner received the Public Health Leadership Award from the National Organization for Rare Disorders, and in 2010 he received the Humanitarian Award from the Alzheimer's Association.

Commissioner Astrue received his bachelor's degree from Yale University and his J.D. from Harvard University. He is from Massachusetts, and he and his wife have two children.

Mr. OBEY. Mr. Tiahrt.

NEW SUPPORT CENTER

Mr. TIAHRT. Thank you, Mr. Chairman.

In the Recovery Act, there was \$500,000,000 set aside for a new site. The GSA is trying to select—I guess they have to be within 40 miles of the headquarters in Woodlawn, Maryland. There was a hearing about it in Ways and Means. And I guess what I would like to know is, when will you select the site? I don't think one has been selected.

And secondly, the GSA IG did an analysis to determine if a new facility and new site was actually required because there is an impact on your employees and some security questions. Would you bring us up to speed on this? Do you have a selection site? Is it really justified?

Mr. ASTRUE. First of all, let me clarify that under the statute, I don't actually get to decide. I get to kibitz and provide notice to Congress, but it is a GSA responsibility with the approval of OMB.

We certainly have been working very actively to support GSA in this endeavor. We are very eager to get this facility up and running. Aside from the Recovery Act aspect—and this would be the largest project in the greater Baltimore area—under the Recovery Act for the security of our data and having adequate backup in case there was a catastrophic interruption, the sooner we get this facility up and running, the better it will be for the American public.

We have had some delays from the original timeline. It took a couple months to answer the questions from the joint committee hearing in December. I believe that the staffs have been briefed fully now on all the questions that came out of that hearing, and the GSA is moving forward and hoping to pick a site some time later this spring.

SUPPORT CENTER SITE SELECTION

Mr. TIAHRT. Okay. But it was due in March. It is not going to be ready in April. It is going to be May you think?

Mr. ASTRUE. I think it is unlikely it will be in April. I think there is a real possibility, I would say it looks to me, and I try to keep as close to this as possible, but it is a probable May–June time frame, but it is not an automatic process because they don't automatically go to the—as I understand the GSA process, it is not like other forms of government contracting where it automatically goes to the lower bidder. They model best demonstrated practices in the private sector, and they go out and do a negotiation with the most highly ranked candidates. So there is a little bit of unpredictability in the timeline because there is not sort of the set cutoff date that you would see in a standard government procurement. At least that is the way I understand the process.

Mr. TIAHRT. Okay. Well, I guess since you don't get to make the final choice, we will give you a little slack on that.

EFFECT OF HEALTH CARE REFORM ON SSA

Mr. ASTRUE. Thank you.

Mr. TIAHRT. The health care reform bill has been signed into law.

Mr. ASTRUE. Yes.

Mr. TIAHRT. It has a lot of impact on a lot of government agencies. Even though the benefits really don't start until 2013, we have a taxing impact; we have other changes that are going to come to your agency. Could you explain what impact the health care reform bill will have on the Social Security Administration?

Mr. ASTRUE. Sure. I have a 10-page chart with all our obligations under the new Health Care Reform Act. The good news is that there are really only two that I would characterize as fairly substantial. I want to thank members of this committee and all our committees of jurisdiction for realizing that we get in a typical year two to four additional statutory responsibilities. Often that is not compensated. That has made it difficult sometimes with our core mission.

And as the bill evolved, there was less impact on us than what we anticipated. So the two primary impacts are the means testing of Medicare part D. We will need to have a new business process and systems coordinating with CMS by the end of the calendar year in order to fulfill all our responsibilities under that. We also have a substantial new number of verification responsibilities. I think we are expecting—I will provide detailed numbers for the record. But if I remember correctly, about \$52,000,000 of impact for this year and next year. In fact, the fact that that number came in lower than what we had budgeted was a factor in allowing us to release the 900 FTE for the frontline staff.

[The information follows:]

HEALTH CARE REFORM

The new health care reform legislation imposes two main obligations on the Social Security Administration with deadlines this fiscal year or next. These obligations are high-risk pool verifications and means testing of Medicare Part D claimants. The new law also requires us to provide verifications for the new health insurance exchanges beginning in 2014.

The administration is still formulating final cost estimates for the health care reform legislation. These estimates will be available at a later date.

NEW HIRES

Mr. TIAHRT. So you are releasing 900 FTEs?

Mr. ASTRUE. We released another 900. What we did is, when the appropriation came through, if I remember correctly, in December, we released most of our money immediately. But then because it is a big complicated agency and there are a lot of contingency factors, we do one or two—I think one year, three—releases a month, 2 months, 3 months later as we see how things are going.

A couple things broke well for us. The health care bill had less impact than we anticipated. One of our big systems projects that was required by court order came in on the low end of the spectrum. So that was one of the reasons why we felt comfortable releasing as many FTEs as we did. We weren't sure when we got the money in December that we would be able to do that responsibly.

Mr. TIAHRT. So this is an expected growth that you are not able to hire on? Or are you laying people off?

Mr. ASTRUE. No. We added another 900 over what we had released in December. And I think this is a good thing from a service

delivery point of view. What we did try to do that was different this time—we did just a little bit of experimentation with it last year. I have come to the conclusion that the longstanding metric that we have used to deliver staff shortchanged offices of certain profiles. And when you went around and looked around the offices, you saw inner city offices and border offices struggling a lot more with wait times than offices with other profiles. So while not all the additional staff is going to offices of that profile, we did decide this time around to invest disproportionately in about 200 offices that met our new standard of most stressed.

Mr. TIAHRT. Thank you, Mr. Chairman. Thank you.

Mr. OBEY. Ms. Lee.

Ms. LEE. Thank you, Mr. Chairman. Thank you for your testimony and also for your service.

Mr. ASTRUE. Thank you very much.

Ms. LEE. Social Security really is the most successful antipoverty program in history. The Social Security Administration ensures that millions of American seniors have a secure retirement and work to give the disability and other vulnerable populations the support that they need to live independently and pursue meaningful careers. Especially for women and women of color, Social Security has really been their lifeblood. So just thank you for helping to shepherd this important program through.

Mr. ASTRUE. Thank you. Well, it is an honor to be a part of it. It really is.

PRIVATIZATION OF SOCIAL SECURITY

Ms. LEE. Yes, it is really great. I oftentimes think about what would have happened several years ago had we privatized Social Security, given what happened to the outrageous collapse of Wall Street and the largest investment banks. Personally, I think that we would have been, or at least Social Security would have been dismantled had we privatized it. And I don't know how you see that in looking back now, given what happened with the financial markets and still the lack of effective regulation, if we had privatized that. I would like to get your thoughts on that.

EFFECT OF RECESSION ON RETIREMENTS

Secondly, let me ask you about when retirees are retiring, given the recession, given the high rate of unemployment, are you finding that more people are deciding to retire? What is it, at age 62 rather than—or at least get their benefits at 62 rather than—what is it now, 66, 65?

Mr. ASTRUE. It is interesting. When we get media inquiries, there is often a perception that more people are delaying retirement because of the 401(k) being the 201(k) effect. And there is clearly an identifiable group of people who are delaying retirement because their private savings are not what they had hoped that they would be.

But those numbers are dwarfed by the number of people that are retiring early really out of desperation. And a person laid off in their 60s typically finds it much more difficult to find new employment than someone who is much younger. So we are looking at roughly—and we will provide the detailed numbers—but roughly in

the range of 300,000 to 400,000 more retirement claims than what we were projecting a couple years ago.

[The information follows:]

APPLICATIONS FOR RETIREMENT BENEFITS AND THE ECONOMIC DOWNTURN

Based on the most recent economic assumptions, we estimate that in FY 2010, we will receive over 375,000 more retirement, auxiliary, and survivors claims and over 730,000 more disability claims that we had estimated for FY 2010 only two years ago.

Preliminary data suggest that the age distribution for total applications we received in FY 2009 was not substantially different from prior years, suggesting that there were increases across all ages 62 through 70.

Ms. LEE. You mean at age 62 versus those who have been working?

Mr. ASTRUE. Those are certainly before the age of 70. Most of those are early in the sense that if they are not 62, they are 63 or 64.

Ms. LEE. When does it kick in, at 62 you are eligible?

Mr. ASTRUE. Yes.

Ms. LEE. And then the next is what, 65, 66?

Mr. ASTRUE. Well, it is not a cliff. It gets complicated. But there is a gradation, and basically, the longer you wait, the higher your benefit is.

Ms. LEE. Right.

ONLINE RETIREMENT ESTIMATOR

Mr. ASTRUE. One of the things we are trying to do is provide people much more detailed information about that. So we communicate with them in advance of retirement about that. We now have an online estimator that, in contrast with the past, ties in with your own record. So if you want to see how much you will get on a monthly basis if you retire at 62 or 64 or 68.5, you can run those numbers. It is particularly important, in my opinion, for women because you have the advantage that you are going to live a lot longer, typically about 7 years on average. So a lot of women in particular tend to underestimate how long they are going to live and what their benefits will be. We are trying to provide a lot more information.

UNEMPLOYMENT AND DISABILITY

Ms. LEE. I understand that. What I am trying to get at is—for example, given the nature of this recession and given the huge unemployment rates, if a person becomes unemployed at 61 or 60 and had had planned to apply for benefits at 65 or 66, do you see the 60- or 61-year-old saying, Uh-oh, I probably won't get another job, or I can't afford to wait, and I am desperate. I need a check, so I am going to apply now versus wait.

Mr. ASTRUE. Right. If they are 60 or 61, they can't apply for retirement because there is a sharp line at 62. Where we do see them is, and in fairly high numbers, they apply for disability. That is why the disability claims are up, again, approximately 700,000 a year from what we were projecting just a few years ago. And some of those people do end up qualifying. But most of them, because the motivation for applying is economic and not medical, most of them will end up probably being denied, I would believe.

DIVERSITY OF STAFF

Ms. LEE. Okay.

And finally, if you could get the committee a breakdown of the diversity of your staff in terms of by ethnicity and gender, job category for clarification as well as if you do any contracting out, I would like to see how you contract with small businesses, small and disadvantaged businesses, women-owned businesses and what have you. We would like to see that.

Mr. ASTRUE. I would be delighted to provide that for the record.
[The information follows:]

SSA WORKFORCE PROFILE

As of April 27, 2010

Data Source: Human Resources Operational Data Store (HRODS).

Report includes all SSA full-time and part-time permanent and temporary employees. This report does not include state Disability Determination Services employees.

OVERALL SSA WORKFORCE						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	243	0.36%	668	0.98%	911	1.34%
Asian	1213	1.78%	2161	3.18%	3,374	4.96%
Black or African American	4,426	6.51%	15,077	22.17%	19,503	28.67%
Hispanic or Latino	2,632	3.87%	6,696	9.84%	9,328	13.71%
Native Hawaiian or Other Pacific Islander	37	0.05%	124	0.18%	161	0.24%
White	12,749	18.74%	21,991	32.33%	34,740	51.08%
	21,300	31.32%	46,717	68.68%	68,017	100.00%

SSA WORKFORCE BY SELECTED JOB SERIES

The data below are for SSA's largest job series. The Office of Personnel Management's descriptions of each job series are attached.

105	Social Insurance Administration					
Location of Jobs: Majority in the Field (Deputy Commissioner for Operations-DCO), but also Headquarters						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	135	0.47%	341	1.18%	476	1.65%
Asian	460	1.59%	981	3.39%	1,441	4.98%
Black or African American	1,440	4.98%	5,101	17.64%	6,541	22.62%
Hispanic or Latino	1,364	4.72%	3,570	12.35%	4,934	17.07%
Native Hawaiian or Other Pacific Islander	20	0.07%	51	0.18%	71	0.25%
White	5,068	17.53%	10,380	35.90%	15,448	53.43%
	8,487	29.36%	20,424	70.64%	28,911	100.00%

301	Miscellaneous Administration and Program					
Location of Jobs: Headquarters and the Field						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	3	0.35%	7	0.81%	10	1.16%
Asian	12	1.39%	19	2.20%	31	3.59%
Black or African American	78	9.04%	248	28.74%	326	37.78%
Hispanic or Latino	29	3.36%	54	6.26%	83	9.62%
Native Hawaiian or Other Pacific Islander	0	0.00%	2	0.23%	2	0.23%
White	162	18.77%	249	28.85%	411	47.62%
	284	32.91%	579	67.09%	863	100.00%

SSA WORKFORCE PROFILE

303	Miscellaneous Clerk and Assistant					
Location of Jobs: Majority in the Field (DCO), but also Headquarters						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	0	0.00%	8	0.65%	8	0.65%
Asian	3	0.25%	13	1.06%	16	1.31%
Black or African American	49	4.01%	246	20.13%	295	24.14%
Hispanic or Latino	14	1.15%	63	5.16%	77	6.30%
Native Hawaiian or Other Pacific Islander	0	0.00%	1	0.08%	1	0.08%
White	93	7.61%	732	59.90%	825	67.51%
	159	13.01%	1,063	86.99%	1,222	100.00%

343	Management and Program Analysis					
Location of Jobs: Headquarters and the Field						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	9	0.43%	15	0.72%	24	1.15%
Asian	38	1.83%	56	2.69%	94	4.51%
Black or African American	175	8.41%	564	27.09%	739	35.49%
Hispanic or Latino	42	2.02%	77	3.70%	119	5.72%
Native Hawaiian or Other Pacific Islander	0	0.00%	4	0.19%	4	0.19%
White	441	21.18%	661	31.75%	1,102	52.93%
	705	33.86%	1,377	66.14%	2,082	100.00%

901	General Legal and Kindred Administration					
Location of Jobs: In the Field (DCO)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	4	0.12%	11	0.32%	15	0.44%
Asian	126	3.68%	170	4.96%	296	8.64%
Black or African American	382	11.15%	1,469	42.89%	1,851	54.04%
Hispanic or Latino	83	2.42%	127	3.71%	210	6.13%
Native Hawaiian or Other Pacific Islander	0	0.00%	4	0.12%	4	0.12%
White	477	13.93%	572	16.70%	1,049	30.63%
	1,072	31.30%	2,353	68.70%	3,425	100.00%

905	General Attorney					
Location of Jobs: Majority in the Field (Deputy Commissioner for Disability Adjudication and Review--DCDAR and Office of General Council--OGC), but also Headquarters (DCDAR and OGC)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	8	0.32%	11	0.44%	19	0.75%
Asian	47	1.87%	118	4.68%	165	6.55%
Black or African American	62	2.46%	236	9.37%	298	11.83%
Hispanic or Latino	37	1.47%	47	1.87%	84	3.33%
Native Hawaiian or Other Pacific Islander	2	0.08%	0	0.00%	2	0.08%
White	894	35.49%	1,057	41.96%	1,951	77.45%
	1,050	41.68%	1,469	58.32%	2,519	100.00%

SSA WORKFORCE PROFILE

935	Administrative Law Judge					
Location of Jobs: In the Field (DCDAR)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	10	0.76%	7	0.53%	17	1.30%
Asian	8	0.61%	6	0.46%	14	1.07%
Black or African American	41	3.13%	38	2.90%	79	6.04%
Hispanic or Latino	44	3.36%	9	0.69%	53	4.05%
Native Hawaiian or Other Pacific Islander	0	0.00%	1	0.08%	1	0.08%
White	889	67.91%	256	19.56%	1,145	87.47%
	992	75.78%	317	24.22%	1,309	100.00%

950	Paralegal Specialist					
Location of Jobs: In the Field (DCDAR and OGC)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	5	0.32%	16	1.01%	21	1.33%
Asian	13	0.82%	24	1.52%	37	2.34%
Black or African American	64	4.04%	350	22.10%	414	26.14%
Hispanic or Latino	38	2.40%	106	6.69%	144	9.09%
Native Hawaiian or Other Pacific Islander	0	0.00%	1	0.06%	1	0.06%
White	245	15.47%	722	45.58%	967	61.05%
	365	23.04%	1,219	76.96%	1,584	100.00%

962	Contact Representative					
Location of Jobs: In the Field (DCO, some DCDAR)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	31	0.25%	163	1.31%	194	1.56%
Asian	198	1.59%	379	3.04%	577	4.63%
Black or African American	894	7.17%	3,293	26.42%	4,187	33.59%
Hispanic or Latino	696	5.58%	2,060	16.53%	2,756	22.11%
Native Hawaiian or Other Pacific Islander	10	0.08%	43	0.34%	53	0.43%
White	1,417	11.37%	3,281	26.32%	4,698	37.69%
	3,246	26.04%	9,219	73.96%	12,465	100.00%

986	Legal Assistance					
Location of Jobs: In the Field (DCDAR) and OGC						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	11	0.32%	42	1.22%	53	1.54%
Asian	38	1.10%	106	3.07%	144	4.17%
Black or African American	159	4.61%	1,000	28.97%	1,159	33.57%
Hispanic or Latino	54	1.56%	248	7.18%	302	8.75%
Native Hawaiian or Other Pacific Islander	1	0.03%	7	0.20%	8	0.23%
White	245	7.10%	1,541	44.64%	1,786	51.74%
	508	14.72%	2,944	85.28%	3,452	100.00%

SSA WORKFORCE PROFILE

998	Claims Assistance and Examining					
Location of Jobs: In the Field (DCO)						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	0	0.00%	10	0.62%	10	0.62%
Asian	11	0.68%	31	1.93%	42	2.62%
Black or African American	167	10.40%	779	48.51%	946	58.90%
Hispanic or Latino	30	1.87%	81	5.04%	111	6.91%
Native Hawaiian or Other Pacific Islander	0	0.00%	1	0.06%	1	0.06%
White	154	9.59%	342	21.30%	496	30.88%
	362	22.54%	1,244	77.46%	1,606	100.00%

2210	Information Technology Management					
Location of Jobs: Majority in Headquarters (DCS and other components) but also in Regional Offices						
Race	Male #	Male %	Female #	Female %	Total #	Total %
American Indian or Alaska Native	11	0.28%	16	0.41%	27	0.68%
Asian	182	4.62%	163	4.13%	345	8.75%
Black or African American	354	8.98%	570	14.46%	924	23.43%
Hispanic or Latino	68	1.72%	45	1.14%	113	2.87%
Native Hawaiian or Other Pacific Islander	2	0.05%	2	0.05%	4	0.10%
White	1,523	38.63%	1,007	25.54%	2,530	64.16%
	2,140	54.27%	1,803	45.73%	3,943	100.00%

**OFFICE OF PERSONNEL MANAGEMENT DESCRIPTIONS OF SELECT SSA
JOB SERIES**

0105 – Social Insurance Administration Series

This series covers positions primarily concerned with administering, planning, managing, and conducting the Federal Social Security old age, survivors, disability, and/or health insurance programs. Included are those positions concerned with the development, preparation, issuance, and interpretation of policies, methods, and procedures for the conduct of such programs; and also those positions that involve representing the programs before the general public and determining eligibility for benefits when the work requires the ability to deal effectively with the general public. Positions in this series require a knowledge of the broad concepts and technical provisions of the old age, survivors, disability insurance, and/or health insurance programs established by the Social Security Act, as amended.

0301 – Miscellaneous Administration and Program Series

This series covers positions the duties of which are to perform, supervise, or manage two-grade interval administrative or program work for which no other series is appropriate. The work requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles, concepts, policies, and objectives.

0303 – Miscellaneous Clerk and Assistant Series

This series includes positions the duties of which are to perform or supervise clerical, assistant, or technician work for which no other series is appropriate. The work requires a knowledge of the procedures and techniques involved in carrying out the work of an organization and involves application of procedures and practices within the framework of established guidelines.

0343 – Management and Program Analysis Series

This series covers positions that primarily serve as analysts and advisors to management on the evaluation of the effectiveness of government programs and operations or the productivity and efficiency of the management of Federal agencies or both. Positions in this series require knowledge of: the substantive nature of agency programs and activities; agency missions, policies, and objectives; management principles and processes; and the analytical and evaluative methods and techniques for assessing program development or execution and improving organizational effectiveness and efficiency. Some positions also require an understanding of basic budgetary and financial management principles and techniques as they relate to long range planning of programs and objectives. The work requires skill in: application of fact-finding and investigative techniques; oral and written communications; and development of presentations and reports.

0901 – General Legal and Kindred Administration Series

This series covers two-grade interval administrative positions supervise, lead, or perform work involving two or more series in the Legal and Kindred Group, 0900 or positions

that require legal and kindred administrative knowledge but are not covered by an existing administrative series within the group.

0905 – General Attorney Series

This series covers professional legal positions involved in preparing cases for trial and/or the trial of cases before a court or an administrative body or persons having quasi-judicial power; rendering legal advice and services with respect to questions, regulations, practices, or other matters falling within the purview of a Federal Government agency (this may include conducting investigations to obtain evidentiary data); preparing interpretative and administrative orders, rules, or regulations to give effect to the provisions of governing statutes or other requirements of law; drafting, negotiating, or examining contracts or other legal documents required by the agency's activities; drafting, preparing formal comments, or otherwise making substantive recommendations with respect to proposed legislation; editing and preparing for publication statutes enacted by Congress, opinions or discussions of a court, commission, or board; drafting and reviewing decisions for consideration and adoption by agency officials. Included also are positions, not covered by the Administrative Procedure Act, involved in hearing cases arising under contracts or under the regulations of a Federal Government agency when such regulations have the effect of law, and rendering decisions or making recommendations for disposition of such cases. The work of this series requires admission to the bar.

0930 – Hearings and Appeals Series (Includes the 935)

This series covers positions that involve the adjudication of cases that typically include the conduct of formal or informal hearings that accord appropriate due process, arising under statute or under the regulations of a Federal agency when the hearings are not subject to the Administrative Procedure Act; or involve the conduct of appellate reviews of prior decisions. The work requires the ability to review and evaluate investigative reports and case records, conduct hearings in an orderly and impartial manner, determine credibility of witnesses, sift and evaluate evidence, analyze complex issues, apply agency rules and regulations and court decisions, prepare clear and concise statements of fact, and exercise sound judgment in arriving at decisions. Some positions require application of a substantive knowledge of agency policies, programs, and requirements in fields such as personnel management or environmental protection.

0950 – Paralegal Specialist Series

This series covers positions not requiring professional legal competence that involve various legal assistance duties, of a type not classifiable in some other series in the Legal and Kindred Group, in connection with functions such as hearings, appeals, litigation, or advisory services. The specialists analyze the legal impact of legislative developments and administrative and judicial decisions, opinions, determinations, and rulings on agency programs; conduct research for the preparation of legal opinions on matters of interest to the agency; perform substantive legal analysis of requests for information under the provisions of various acts; or other similar legal support functions that require discretion and independent judgment in the application of a specialized knowledge of laws, precedent decisions, regulations, agency policies and practices, and judicial or

administrative proceedings. Such knowledge is less than that represented by graduation from a recognized law school, and may have been gained from formalized, professionally instructed agency or educational institution training or from professionally supervised on-the-job training. While the paramount knowledge requirements of this series are legal, some positions also require a practical knowledge of subject matter areas related to the agency's substantive programs.

0962 – Contact Representative Series

This series covers one-grade interval administrative support positions that supervise, lead, or perform support and related work in connection with:

- dispersing information to the public on rights, benefits, privileges, or obligations under a body of law;
- explaining pertinent legal provisions, regulations, and related administrative practices, and their application to specific cases; and
- assisting individuals in developing needed evidence and preparing required documents or in resolving errors, delays, or other problems in obtaining benefits or fulfilling obligations.

0986 – Legal Assistance Series

This series covers one-grade interval administrative support positions that supervise, lead, or perform legal assistance work not classifiable in any other series in the Legal and Kindred Group, 0900. The work requires specialized knowledge of processes, procedures, and practices to support legal activities.

0998 – Claims Assistance and Examining Series

This series covers one-grade interval administrative support positions that supervise, lead, or perform support and related work in examining, reviewing, developing, adjusting, reconsidering, or recommending authorization of claims by or against the Federal Government. The work requires knowledge of claims processing procedures and claims requirements. This includes the following:

- examine claims due to loss and damage by or against the Government;
- settle claims for the payment of monetary allowances or gratuities based upon dependency on an active or deceased former military service member;
- develop, examine, adjust, reconsider, and/or authorize settlement of claims against the Government; settle claims involving assets of a deceased or incompetent person that are in the possession of a Government agency; and
- examine and develop claims cases for adjudication including determining and verifying entitlement to benefits, verifying post-entitlement actions regarding beneficiaries, and answering inquiries about benefits or procedures for filing claims.

2210 – Information Technology Management Series

This series covers two-grade interval administrative positions that manage, supervise, lead, administer, develop, deliver, and support information technology (IT) systems and

services. This series covers only those positions for which the paramount requirement is knowledge of IT principles, concepts, and methods; e.g., data storage, software applications, networking. Information technology refers to systems and services used in the automated acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, assurance, or reception of information. Information technology includes computers, network components, peripheral equipment, software, firmware, services, and related resources.

This series covers, but is not limited to, the following specialties:

Policy and Planning –

Work that involves a wide range of IT management activities that typically extend and apply to an entire organization or major components of an organization. This includes strategic planning, capital planning and investment control, workforce planning, policy and standards development, resource management, knowledge management, architecture and infrastructure planning and management, auditing, and information security management.

Enterprise Architecture –

Work that involves the analysis, planning, design, implementation, documentation, assessment, and management of the enterprise structural framework to align IT strategy, plans, and systems with the mission, goals, structure, and processes of the organization.

Security –

Work that involves ensuring the confidentiality, integrity, and availability of systems, networks, and data through the planning, analysis, development, implementation, maintenance, and enhancement of information systems security programs, policies, procedures, and tools.

Systems Analysis –

Work that involves applying analytical processes to the planning, design, and implementation of new and improved information systems to meet the business requirements of customer organizations.

Applications Software –

Work that involves the design, documentation, development, modification, testing, installation, implementation, and support of new or existing applications software.

SMALL BUSINESS CONTRACTING

We place special emphasis on assisting small business concerns that have been historically underutilized or have had difficulty participating in our procurement process. Our goal is to ensure that every small business concern wishing to do business with us has the necessary information about our program requirements to successfully participate either as a prime contractor or a subcontractor. We conduct monthly outreach sessions and hold an annual small business procurement conference.

We award all contracts in a manner consistent with the Federal Acquisition Regulations, including those regulations relating to small business set-asides, the 8(a) program for small disadvantaged businesses, and Historically Underutilized Business Zone (HubZone) businesses. Specialized staff review all of our procurements to determine whether the contract may be suitable for a small disadvantaged business or HubZone. We also apply the “rule of two” in which we set aside for small business any contract for which we expect to receive offers from two small businesses.

There is no statutory or regulatory preference program for women-owned small businesses, and these businesses compete for contracts under the usual full and open competitive procedures. We provide women-owned businesses with counseling and the necessary information about our requirements to allow them to succeed in those competitions.

We fully support the socio-economic procurement programs and work with the Small Business Administration where appropriate. These efforts have resulted in significant increases in our awards to small businesses. In 2009, we awarded \$441 million, 35 percent of our total acquisition spending, to small business concerns. This amount was \$106 million more than we had awarded in FY 2008. Of the \$441 million awarded:

- \$157 million went to small disadvantaged business concerns, a \$43 million increase over our FY 2008;
- \$46 million went to women-owned small business concerns, a \$14 million increase over FY 2008;
- \$35 million went to service-disabled veteran-owned small business concerns, a \$16 million increase from FY 2008; and
- \$17 million went to HubZone small business concerns.

Ms. LEE. Thank you.
 Thank you, Mr. Chairman.
 Mr. OBEY. Mr. Cole.

REMOVAL OF ADMINISTRATIVE LAW JUDGES

Mr. COLE. Thank you, Mr. Chairman.

I have got a particular problem I want to highlight and get some suggestions on. You have got a great staff. There are great people all the way through the system. They do a wonderful job. I know the ones in my area and in my State quite well, and I am pleased with all but one. We have a particular case where we have a judge who literally sits on cases for years. So what are the procedures whereby—and I could get multiple congressional offices that would tell you the case workers have the same problem, just over and over and over again.

When you find a case like this with a judge who is literally not making a decision—I don't care what the decision is, but literally, we are talking years, not months, for people—what procedures do you have to identify and remove somebody like that?

Mr. ASTRUE. We have somewhat limited authority in this area. I think the chairman and I had some discussion about this the last time I was here. There are restraints on what we are allowed to do because of some of the excesses from the 1980s. Typically in these types of cases, we try to do everything we can through counseling and try to identify issues, and if there are legitimate issues, try to provide the support that we can. In order to move along a case like that, it really has to be extraordinarily extreme before the Merit Systems Protection Board will allow us—

Mr. COLE. This one really is extraordinarily extreme.

Mr. ASTRUE. Well, by extreme, I am talking more years rather than months. I understand your situation. I am sympathetic to it. We have relatively few judges in that category, but we do have some. We had one who did, I think, no cases for 6.5 years. And if you want us to have more tools there, you do need, I think, as a—

Mr. COLE. I would love to get suggestions from your office as to what the appropriate tools from your standpoint you would need to act. Because again, I do recognize you are limited as to what you can do. This is not a complaint addressed at you, and it is certainly not a complaint addressed at the overwhelming majority of people and certainly the great majority of judges that we work with. But again, I talked to other Members from my State, and it is just unbelievable. It has been going on for years.

Mr. ASTRUE. I do know who you are talking about.

Mr. COLE. I suspect you do.

Mr. ASTRUE. And I do concur that it is a serious problem, and I think that Judge Cristaudo and his staff have been trying to do everything they can to turn it around for you.

Mr. COLE. They have.

Mr. ASTRUE. But it is one of those situations where there is a tension between judicial independence and timely service to claimants, and that is a balance that, to a large extent, the Congress has drawn. If the Congress would like a different balance, the Congress will need to change the law.

Mr. COLE. Again, if you have any suggestions as to the type of tools that would be helpful to you, I would certainly like to consider them.

Mr. ASTRUE. We would be happy to talk to you to go through what the statute requires.

SOLVENCY OF THE TRUST FUNDS

Mr. COLE. That would be very helpful.

If I might, let's move to something, I don't know if it is more pleasant, but it is interesting to say the least. Obviously, for 2011, we have had payouts now exceed pay-ins earlier than we anticipated. We all know we have a serious problem. We all agree very much with what Congresswoman Lee had to say. This is a very important program, a great program, a program that has to be sustained.

If you were making recommendations to Congress, what are the things that you would suggest we do to ensure the long-term solvency of the Social Security fund?

Mr. ASTRUE. I am a little stuck on that question. One of the things when I was nominated that was negotiated between the President and the Congress was that I was to stay out of solvency. So the only thing I am allowed to say is to refer you to Secretary Geithner and Director Orszag. I am not—we play purely a technical support role when it comes to solvency these days.

Mr. COLE. So no opinions whatsoever?

Mr. ASTRUE. I didn't say I had no opinions. I just said I studiously keep them to myself these days.

Mr. COLE. Okay. Well, maybe that will give us a second thing to talk privately about. But I would be very interested. Obviously, you have a unique perspective and knowledge on the system. So what you can share would be very helpful.

Mr. ASTRUE. What I would say, I do want to commend Chairman Pomeroy, who just took over the Ways and Means subcommittee. I had a long chat with him yesterday, and he indicated that he was going to be having a solvency hearing later this year. And I believe that is the first one in the Congress in over 5 years by a committee of jurisdiction.

And I think it is important—all I will say is this. I think it is important to start the process as soon as possible to get as much input and transparency. I think there is a legacy of mistrust that came out of the privatization debate. Everybody on both sides of the aisle knows we have to deal with this issue. Everyone is scared to deal with it. I think the sooner we start this, take some time, get the experts, lay it out, I think that we will all be better off if we start early and we spend a lot of time in sort of soliciting input and trying to get as much consensus in a bipartisan way.

Mr. COLE. I certainly agree. And I actually think there is an opportunity to do this here because people are aware in Congress of the dimensions of the problem. So I look forward to actually a bipartisan process.

Thank you very much, Mr. Chair.

Mr. OBEY. Mr. Alexander.

ECONOMIC DOWNTURN AND SSA

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

Sir, in your opening paragraph there, you cite, "More recently, the recession has driven numerous economically distressed persons and families to us looking for help." Talk to us about what that help would be, what they would be asking and what you might do to help.

Mr. ASTRUE. Well, they come in for a whole variety of reasons. One of the ones that is incredibly important that we tend to overlook is the survivors' benefits. When a parent has died young, that is an incredibly important support for the children. So we see that. We see people coming in for disability benefits, for retirement benefits. We have people coming in for replacement cards. We have people coming in because there is confusion on one of these identification verification systems.

And one of the things that has been hard in the past year is—I make a point, I read every violence incident report in the agency. And our people are on the frontline with a lot of disturbed people. When I started, we were probably getting about three to five a week. We are probably up to 20 a day now. And the intensity of what is happening is much worse, much more troubling. We have had more actual assaults. It is a very difficult environment that our claims reps and others are working in now. And they do a masterful job of trying to help people in those situations, and we provide as much help in our programs.

We do a lot of help for Medicare. We register people for food stamps. We do a lot for these people. But there are a lot of desperate, angry people who come into our offices where there is nothing we can really do for them except refer them to another social service agency. It is hard. And often, when people are told there is nothing we can do, that is the trigger point for a threat or actual violence. It has been a very tough year in that regard.

Mr. ALEXANDER. Thank you, Mr. Chairman.

Mr. OBEY. Mr. Tiahrt.

PRODUCTIVITY AND THE BACKLOGS

Mr. TIAHRT. Thank you, Mr. Chairman.

I noticed in your testimony that you said you improved your productivity by 4 percent in the last 3 years.

Mr. ASTRUE. Yes.

Mr. TIAHRT. And then, later on, you talked about the hearing backlog, and you have a chart in here that shows it is increasing. How did you measure increased productivity when your backlog is increasing? I can't make the two come together.

Mr. ASTRUE. Well, we have multiple—our backlog for the hearings has actually been going down. It took us 22 months to break the increase. We had had pretty much a steady increase of approximately 70,000 cases a year for many years. It took us about 22 months to get it to level and then that started going down.

Most of our other backlogs at work are going down. The one that is going up right now is in the DDSs, which are the first two levels of review, because they are getting—they were scaled at the beginning of this decade for about 2,000,000 cases a year. They are get-

ting this year probably about 3,300,000 is what we were projecting. And even with all the staff additions, they did not have the staff. And we also ran into the furlough issue with a number of States, which made it difficult to process cases.

But having said all that, we are still at about 800,000 cases pending, which is quite a bit less than what we were projecting just a year ago. I think they have really done a heroic job. Their productivity measures are way up in terms of the processing of the cases. They have been more productive than ever. But the cases are going up just because the workloads are an avalanche.

Mr. TIAHRT. Based on a number of cases or on the time frame that each one is——

Mr. ASTRUE. It is for each person. Basically, it gets complicated, but the measures go for each person who is working, what is the output in terms of work.

MEASURING WORKLOADS AND PRODUCTIVITY

Mr. TIAHRT. And you measure that in how many cases they process or——

Mr. ASTRUE. There is a composite measure that goes into something that we call the PPWY. We can provide a breakdown for you about how we measure productivity both for the DDSs but for the other field services as well. We have had for many years—OMB has assumed a 2 percent increase in productivity for the agency. And that is about what we did for the first part of the decade. So I am really proud of the effort that we have made in the last 3 years with all this avalanche of work that we have basically doubled our productivity increases for the last 3 years.

Mr. TIAHRT. I am curious as to how you measured it. What were the factors? If you could give it to me, I would appreciate it.

Mr. ASTRUE. Yes, sir.

[The information follows:]

AGENCY PRODUCTIVITY

The factors used in calculating productivity include the amount of work completed, the workyears used to complete the work, and the workyears it would have taken to complete the work in the prior year's work environment. Using FY 2009 as an example, we know how much work we completed in FY 2009 and the workyears used to complete it.

To calculate how many workyears it would have taken to complete this same workload in the FY 2008 work environment, we first calculate the FY 2008 production rates. We calculate production rates for each of our workloads by dividing the FY 2008 completed work by the FY 2008 workyears used to complete that work. To determine how many workyears we would have needed to complete this work in the FY 2008 environment, we divide the FY 2009 completed work by the FY 2008 production rates. We compare the workyears needed based on the FY 2008 production rates to the actual workyears used in FY 2009 and the resulting percentage change represents the change in productivity.

The productivity increases cited in the testimony represent the overall net effect of productivity changes across all of our workloads. Despite the dramatic spike in the number of disability claims we have received, we have successfully increased the rate at which we process work, due in large part to our success at increasing benefit applications filed online, expanding the use of time-saving technologies in our operations, and our continuing efforts to streamline and simplify our business processes, policies, and procedures.

Productivity is based on the amount of work completed; it does not take into account the amount of work received. Accordingly, it is possible to experience both an increase in productivity and an increase in pending work.

Mr. TIAHRT. Thank you.
 Thank you, Mr. Chairman.
 Mr. OBEY. Mr. Cole.
 Mr. COLE. I am fine.

DISABILITY APPLICATIONS AND APPEALS PROCESS

Mr. OBEY. Mr. Commissioner, let me talk about the appeals process. When I look at what the numbers are, I am mystified because what it appears to me—or the situation appears to be this way: On average, 63 percent of applications for disability in the first instance are turned down. And then, on appeal, over 60 percent of those appeals are approved. I mean, I understand why the agency wants to set the right balance. But it seems to me that there is something systemically wrong when you have that kind of discombobulation between the first set of numbers and the second set of numbers. And you know, I understand that conditions may have changed from the time of the first application to the appeal. I understand all of that. But this has to provide lots of wear and tear on the applicants.

Mr. ASTRUE. Sure.

Mr. OBEY. How do you analyze that problem? And what do you specifically do to correct it?

Mr. ASTRUE. One of the things that I think is important to remember is you go through every step of the process, and what is the numerator and what is the denominator? And it is not the same group of people moving from the DDSs into the hearings and appeals process because over a million people just simply will not appeal. So it is by definition the close cases for the most part that are going into the hearings and appeals. So I think that the number doesn't look as unfair when you consider that a substantial number of people, for one reason or another, accept the decision.

Certainly what we are trying to do is try to make sure that we are as accurate as possible. The DDS accuracy had been 93, 94 percent for most of the last decade. We have done a steady increase. We are up to about 97 percent, and we think that we can do better with the health IT, because one of the largest sources of errors is an incomplete medical record. So even when someone is actually making the right decision on the basis of the information they have, if that is not the full story, which is often the case, then they make what is ultimately the wrong decision. So we are looking to provide more up-to-date medical standards. We have new systems in place to make sure that examiners, who are often inexperienced, are primed with what the full regulations are and what all the requirements are and try to make the best decision-making that we can.

There are going to always be cases that are close calls that are rightly turned down by the DDSs, where the person's situation continues to decline, and by the time they go to the hearing, they are a legitimate allowance. There are also cases that are difficult inherently without the visual inspection of the claimant, which they don't have in the DDSs. And one of the strengths of the hearings and appeals process is the judge actually gets to look at the claimant, judge the demeanor, can look at functional capacity, and that often also means something that doesn't look compelling on paper

becomes compelling when you actually see the claimant in the flesh.

Mr. OBEY. Well, I guess I would just say that I recognize the validity of some of the things you say. But we are still faced with the fact that in a majority of cases, you have got a reversal. And that, to me, indicates that it is just a basic dysfunction there. I don't know what to do about it, but——

Mr. ASTRUE. I certainly acknowledge that we make tens of thousands of mistakes annually, no doubt about that. It is a huge system. We have limited control over a lot of things. We are doing the best we can. I think we are making it better, but I don't quarrel with the proposition that we still have a long way to go to make it the way that I think we would both like to see it be.

DISABILITY APPLICATIONS AND THE APPEALS PROCESS CONTINUED

Mr. OBEY. I mean, it almost makes me think that, well, these poor suckers were turned down the first time. Then they had to go out and get a lawyer. When they got a lawyer, then they got some action. I hate to push people into having to——

Mr. ASTRUE. Well, I think sometimes—again, I don't think it is that motivation. But I do think that there is a value—the system is very complicated. It was originally designed to be very simple and not to have lawyers. And as with most government programs, it became incredibly complicated over time. Certainly on appeal, most claimants do benefit, in my judgment, from having a representative. And often it is very simple in that, for certain types of disabilities, the claimants don't want to even tell us that they are disabled. So, for instance, if you are disabled because of a sexually transmitted disease, certain types of psychiatric conditions. I mean, we just had a hearing that we are trying to improve our standards for schizophrenics. And when they come in, they almost universally deny that they have a mental illness at all, and they claim that it is back pain. So there is a reason why it does look different on appeal when you have the advisers and lawyers, at least in certain categories of cases.

CHIEF ECONOMIST

Mr. OBEY. Okay.

Let me switch subjects. The Social Security Act creates the position of Chief Actuary for the Social Security Administration. That actuary is supposed to report directly to the Commissioner. To help insulate the actuary from political pressures, the Social Security Act also specifies that, once appointed, the Chief Actuary may be removed only for cause. This arrangement, it would seem to me, would serve Social Security and the Nation well because the independence and professionalism of the actuaries are absolutely crucial.

In this regard, I believe that the current Chief Actuary, Steve Goss, has served the Nation well through his independence and professionalism. But I am also aware of the fact that you have created a new position in Social Security, and that is Chief Economist. And I understand the person you appointed to that new position had been nominated by President Bush to be deputy commissioner but was not confirmed by the Senate. Your announcement of the

creation of the Office of Chief Economist said that the new official "would be the agency's chief economic adviser with a coordinated role across all components in the planning and delivery of agency products that involve economic analysis."

I guess I would have thought that the Chief Actuary would be the Social Security Administration's Chief Economic adviser. Certainly economic analysis plays a major role in the actuary's product. Your announcement of the new Chief Economist position, therefore, I think it might suggest that he has some role in supervising the planning and delivery of the actuary's report. If that is the case, it would appear to be, in my view, a violation of the provisions of the Social Security Act governing the Chief Actuary's position.

CHIEF ECONOMIST CONTINUED

Could you please explain why you created a new Office of Chief Economist, what the functions of that office are, how they relate to the Office of Chief Actuary? And also, can you tell us what you are doing to ensure that the independence of the Chief Actuary's Office is maintained despite the creation of this new position?

Mr. ASTRUE. Sure. So in an agency as big and complicated as Social Security, there are sometimes decisions at the time that seem easy, simple and uncontroversial that take on a life of their own. And this was one of them. We have had for decades an associate commissioner position, which Dr. Fichtner holds, that supervises within either the Office of Policy or the Office of Research—and there have been a number of reorganizations over the years—most of the economic work in the agency. It runs some of the international studies that we do.

In recent years, we have been providing an increasing support role to the Treasury Department for their FLEC activities, which are their financial literacy activities. So it is a staff of about 25. And this administration has a number of senior level economists that have been working with Dr. Fichtner, and it seemed largely to me to be a relabeling function to make it a little clearer for the public and other agencies as to who was supervising our economic research activities. And it did not strike me as a big deal at the time.

Subsequently, there have been a whole set of concerns that have been raised that I don't think would relate to anything that we were trying to do. We actually hadn't formally changed the office at the time that we made the announcement. So we have held off on that. We are working through those issues. And certainly I don't see any more conflict in what was intended between what has worked pretty happily for the last several decades. But I understand the concerns. We are looking at them. I don't think that we would be doing anything that should be viewed as compromising the independence of the Chief Actuary.

Mr. OBEY. So can you assure us that whatever you are doing, the independence of the Chief Actuary's Office will be maintained despite the creation of this new position?

Mr. ASTRUE. Oh, absolutely. I mean, I think that it really, in terms of my intention, wasn't supposed to be substantially different

going forward than it has been for the last 20 years. So I don't think that there is any horrible change in the works.

Mr. OBEY. Okay. That is a good answer. Let me ask one more question and then ask other members to comment. Or no, let me call on them first, and then I will do this one at the end.

Ms. McCollum.

PRIVATIZATION OF SOCIAL SECURITY

Ms. MCCOLLUM. Thank you, Mr. Chair.

I am glad we are having this hearing today because, quite frankly, we need to be talking about Social Security. And I, like all Americans, am very concerned about retirement in this country. But Social Security is an important program.

For 75 years, millions of Americans have avoided poverty, have been able to retire with dignity and security in their retirement and have health care provided to them as well. From, just in Minnesota alone—nearly 13,000,000 seniors nationally and 141,000 seniors in Minnesota are above the poverty line because of Social Security. So it is a safety net.

And one of the things that has been talked about a lot—and I know discussed and I know you have opinions on this—is privatizing Social Security. But it was the only guarantee left for millions of Americans during this recent financial collapse, Wall Street bail out. Millions of Americans opened up their mail to find that over \$2,000,000,000,000 in retirement savings and 401(k)s were lost, gone, not there. And that is the Congressional Budget Office's numbers that I am using. So I have to wonder, what would have happened had that all been privatized? Where would the safety net have been?

So I see, you know, taking Social Security, which is a safety net, and putting it out there in the stock market with all of its fluctuations, removing that guarantee of dignity and security for many of our seniors. And quite frankly, it is just not a gamble I feel comfortable taking.

So I have a couple of questions kind of what you think would have happened. I know I just shared with you what I think and what I also know with \$2,000,000,000,000 worth of retirement savings investment just disappearing. So had the efforts to privatize Social Security been successful, what would they have been on current senior retirement security today? And are there any proposals pending that you are working on or that you are aware of to privatize any aspects of Social Security? And what are you going to do to make sure that Social Security is secure from fluctuations in the stock market?

Mr. ASTRUE. As I mentioned earlier, when I was confirmed in February of 2007, the explicit deal both with the President and with the Senate Finance Committee was that I was to stay out of privatization and in fact solvency generally, and that I am really not supposed to be saying anything more. Secretary Geithner has the lead for the administration on all those types of issues. So that was what I promised the Finance Committee in February 2007. I have not expressed an opinion on any of those subjects since.

If you have questions technically in terms of what would have happened under different proposals, we would be delighted to run

those numbers for you and supply you with that information. But it has been very clear that part of keeping Social Security non-partisan and out of politics has been to stay out of these issues. So I am afraid I can't say much more than that.

Ms. MCCOLLUM. So, Mr. Chair, let me pull apart what you have said. In order to keep Social Security, this discussion, nonpartisan, you have no opinion on privatization or you won't state it because it becomes partisan?

Mr. ASTRUE. I think it is the latter. I would like to think that I am familiar with the issues about the agency. Since I was nominated in 2006, other than what I said on the record in the confirmation hearing, I haven't said anything substantive about privatization since then. I don't say anything either about solvency.

Ms. MCCOLLUM. This isn't about you. This is about Social Security. I am talking about Social Security. I mean, the CBO says \$2,000,000,000,000 would have evaporated out of 401(k)s. And I mean, people were calling our office. They were watching what was happening to their retirement. Had Social Security been privatized, would that money, as CBO—what would have happened to the Social Security?

Mr. ASTRUE. We are happy, depending on which of the proposals you want us to assume, if you provide us with the assumptions—

Ms. MCCOLLUM. Mr. Chair, I can see my time is up, and by answering or even asking a question about protecting Social Security by not having it privatized, that it is political.

Mr. ASTRUE. If I could just say, I have been under direct orders from two Presidents and the Senate Finance Committee to not engage on this topic.

And I am sorry, I don't mean to be unresponsive, but I think I would be disrespectful to the President if I entered into that territory.

Mr. OBEY. Ms. Roybal-Allard.

Ms. ROYBAL-ALLARD. Welcome, Commissioner.

Mr. ASTRUE. Thank you.

STATE FURLONGHS OF THE DDS

Ms. ROYBAL-ALLARD. As I know you are aware, due to unprecedented budget shortfalls, many States have been forced to furlough their State employees. And unfortunately, in California, these furloughs have included Disability Determination Services division employees whose salaries are paid by the Social Security Administration. As I understand it, for every day these employees are furloughed, California loses \$850,000 in Federal reimbursements, employees lose a day's pay, and the payment of over \$420,000 in much-needed Social Security benefits to residents with disabilities is delayed.

I know that you have been working tirelessly to persuade the State Governors to put these employees back to work, and I applaud you for your efforts, because it really is unconscionable that during this economic time of hardship, in particular, that the decision to furlough these DDS employees is taking place at this time.

Can you talk about the impact State furloughs are having on the Social Security Administration's ability to process disability benefit claims, the effect it has on the disabled community, and what can

Congress do to help you in your efforts to re-instate the DDS employees?

Mr. ASTRUE. Thank you. I appreciate the question. It has been devastating for morale in the States where we have had these types of furloughs. We already have very high turnover in many of these States. It is making it harder for us to retain the caliber of people that we need to retain for this important work. We are taking in 700,000 or so more claims than we expected just over 2 years ago.

We have blunted the impact in some of the States by diverting cases to four States where we have developed additional capacity. We also have more Federal reviewers, I believe, than we have had at least since the 1980s. So, in some States, we have been able to blunt the impact, but if you look at the furloughed States, the processing times have been going up much faster than for other States, and sometimes it has been at an extremely distressing rate.

And I will provide for the record detailed information about the impact on the States where the furloughs have been substantial. But I do want to thank—we have found that our best line of persuasion has been to work collaboratively with the Congress because most Governors don't actually care very much what my opinion is, but they care what the leaders in their congressional delegations think. And so we have worked hand in hand with many Members of Congress.

[The information follows:]

FURLOUGHS OF STATE DDS EMPLOYEES

Currently, there are fifteen States in which all Disability Determination Service (DDS) employees are furloughed for at least one day, one State in which some DDS employees are furloughed, and four States that have exempted the DDS employees from furloughs.

The effects of the furloughs vary greatly. In California, employees are furloughed three days per month. For each 2009 furlough day in California, 1,476 cases were not completed in a timely fashion, delaying payment of \$420,800 in monthly benefits to the most vulnerable citizens in the State. In addition, the State lost \$849,400 in administrative funding.

By contrast, Connecticut plans to furlough employees for a total of three days in FY 2010. The 2009 value of a one-day furlough represents 127 cases not being completed in a timely fashion, delaying \$31,200 in monthly benefits, and the State will lose \$76,500 in administrative funding.

Had there been no furlough days in FY 2009, we estimate that we could have completed an additional 34,800 cases. Currently, we estimate we could complete approximately 59,000 additional cases in FY 2010 without the furlough days.

The Social Security Act and our regulations give us limited control over how the States set up and administer the DDSs. However, we have been proactive in attempting to educate governors and state legislators about how counter-productive furloughs and hiring freezes are to their citizens and to their economies.

The following chart shows the impact of state furloughs for FY 2010:

**Summary of Furlough Days in the Disability Determination Services
in FY 2010**

DDS	# of FY 2010 furlough days¹	Number of cases/day	Estimated workload impact in fiscal year
Arizona	1	283	283
California	27	1,476	39,852
Connecticut	2	127	254
Hawaii	24	41	984
Iowa ²	5		
Maine*	3	68	233
Massachusetts ^{3*}	2	296	592
Michigan ⁴	3	493	1,479
New Jersey	7	336	2,352
New Mexico	5	109	545
Nevada*	12	102	1,224
Ohio	10	731	7,310
Oregon	10	179	1,790
Rhode Island	10	56	560
Virginia	1	300	300
Wisconsin	8	249	1,992
Total			59,158

1/ The Federal fiscal year is from October through September. However, State fiscal years generally run from July through June. Since this chart does not include furlough days from July through September 2011, which are in the States' next fiscal year, it may understate the total number of furlough days.

2/ State still in negotiations with union representing examiners.

3/ Number of furlough days range from 1 to 3 based on salary.

4/ Five days for clericals only. Examiners will forgo 26 hours of pay as banked leave. Case impact will be determined as banked leave is taken.

* Furlough applies to partial staff.

STATE FURLOUGHS OF THE DDS CONTINUED

Mr. ASTRUE. It has almost always been because we have been working hand in glove on a bipartisan way with the congressional delegations, and that has made all the difference in the world.

Ms. ROYBAL-ALLARD. Is there anything more that you think can be done?

Mr. ASTRUE. Yes. Well, I think the statute and the regulations, again, are 1980s that contemplate a different set of problems. They contemplate a time when there was tension between the States and the Federal Government, and the concern was that the States would walk and just not process these cases. It didn't really contemplate this type of situation. And I think it would be timely perhaps to ask GAO to take a look at what has happened, what the impact has been, and to look at what some of the alternatives might be from a statutory point of view of addressing this concern.

To be honest, when Governor Schwarzenegger did it the first time, I thought it was so difficult to comprehend that I didn't see it as a trend, and I was wrong. I also think that we are going to see States in fiscal distress for quite some time, so I and probably my successor and successor's successor will be dealing with this issue. So I think it would be timely for Congress to take a look at what has happened and to consider what the various responses might be.

Ms. ROYBAL-ALLARD. My office will be contacting you.

Mr. ASTRUE. Great. Thank you.

ACCESSIBILITY OF THE SSA WEBSITE FOR THE BLIND

Ms. ROYBAL-ALLARD. There are 20 million legally blind and visually impaired people in the United States. And with the aging of the baby-boomer generation, that number is expected to increase by another 4 million by the year 2015. And it is my understanding that these individuals rely on computer screen readers to navigate the Internet, but unfortunately a high percentage of Web sites, including the Social Security Administration Web site, are not compatible with this technology and remain inaccessible to the disabled.

Given that part of the Social Security Administration's mission is to provide assistance to disabled individuals, are there plans to make the Web site compatible with assistive technology like screen readers?

Mr. ASTRUE. We had a lawsuit brought by one of the representatives of the blind group that we were not able to resolve, and we had a court order that required us to make a number of upgrades in our notices. It was a frustration to me with all the layers between everyone that we weren't able to sit down and work out a negotiated settlement. But it has been a big focus of activity.

This year we are fully compliant with the court order. We are almost finished with the system's upgrade. I think it is a matter of just a couple of weeks before we are done, and it is my understanding that the court and the plaintiffs are happy. And when that is done, I believe that the Social Security Web site and other materials will be the most accessible of any in the entire Federal

Government when we are done. So it should be a substantial improvement completed within a matter of a few weeks.

[CLERK'S NOTE—Later corrected to "we are working on the notice systems upgrade pursuant to the court order. It is my understanding that the court and the plaintiffs are happy. And when that is done, I believe that the Social Security materials will be the most accessible of any in the entire Federal Government. So it should be a substantial improvement."]

Ms. ROYBAL-ALLARD. That is good to hear. Thank you so much.

Mr. OBEY. Mr. Honda.

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

Mr. ASTRUE. Good morning.

BACKLOG DEMOGRAPHICS AND MULTILINGUAL SSA EMPLOYEES

Mr. HONDA. Two quick questions. One is the backlog that you have discussed a lot in your report. I was curious to understand what the demographics of the backlogs are in terms of age and language. I have a bill that I just introduced that would provide a bump in salaries in terms of having a language, and if it is required, then that should apply. So the kind of needs that your agency has, have you seen a need for employees with another language? And I was wondering whether this is something that you could see as a beneficial attractant for the position that you want to fill in the future?

Mr. ASTRUE. That is a very good question. We have a lot of information on this subject, and we will provide a lot of that for the record. But let me say the most important thing that we have done recently. I came to the conclusion after a couple of years looking at how we were allocating staff for our field offices that we were underestimating the stress on certain types of offices. And you could see that in the outcomes, that some offices had relatively short waiting times, and some of them really had abysmal waiting, you can't walk in and not be embarrassed. And it is very complicated. It took a while to try to figure out why that was, because we have been doing things the same way for decades. And I think we finally came to the conclusion that our metric for distributing staff underestimated certain things that were important.

[The information follows:]

DEMOGRAPHICS OF SSA BACKLOGS

The charts below provide demographic information about the pending initial disability cases by age of claimant and preferred language.

Breakdown by Applicant Age for Initial Disability Pending Cases As of April 28, 2010

Under 18 Years Old	18 to 49 Years Old	50 to 54 Years Old	55 Years and Older
14.5%	51.8%	13.9%	19.8%

Breakdown by Language for Pending Initial Disability Cases As of April 23, 2010

<u>Language</u>	<u>Percent Distribution</u>
ENGLISH **	94.49%
SPANISH	4.56%
ARABIC	0.11%
VIETNAMESE	0.11%
ARMENIAN	0.08%
AMERICAN SIGN LANGUAGE	0.06%
RUSSIAN	0.05%
CHINESE-CANTONESE	0.05%
HMONG	0.03%
KOREAN	0.03%
CREOLE-HAITIAN	0.03%
FARSI	0.03%
CHINESE-MANDARIN	0.02%
POLISH	0.02%
SOMALI	0.02%
BOSNIAN	0.02%
CAMBODIAN	0.02%
LAO (LAOTIAN)	0.02%
PORTUGUESE	0.02%
TAGALOG	0.01%
PUNJABI	0.01%
AMERICAN INDIAN-NAVAJO	0.01%
OTHER	0.19%

** If no language was specified,
English was assumed.

The charts below provide demographic information about the pending hearing cases by age of claimant and preferred language.

**Breakdown by Applicant Age for Hearing Pending Cases
As of April 30, 2010**

Under 18 Years Old	18 to 49 Years Old	50 to 54 Years Old	55 Years and Older
6.4%	61.7%	17.9%	14.0%

**Breakdown by Language for Pending Hearing Cases
As of April 23, 2010**

<u>Language</u>	<u>Percent Distribution</u>
ENGLISH	97.70%
SPANISH	1.75%
VIETNAMESE	0.04%
ARMENIAN	0.04%
HMONG	0.03%
ARABIC	0.02%
RUSSIAN	0.02%
CANTONESE	0.01%
LAOTIAN	0.01%
FARSI	0.01%
HAITIAN-CREOLE	0.01%
MANDARIN	0.01%
KOREAN	0.01%
PORTUGUESE	0.01%
AMERICAN SIGN	Less than 0.01%
POLISH	Less than 0.01%
KHMER	Less than 0.01%
GREEK	Less than 0.01%
TAGALOG	Less than 0.01%
FRENCH	Less than 0.01%
HINDI	Less than 0.01%
SAMOAN	Less than 0.01%
ITALIAN	Less than 0.01%
YIDDISH	Less than 0.01%
JAPANESE	Less than 0.01%
OTHER	0.31%
NONE	0.01%

So we are experimenting. Again, we may do it differently the next time, with a four-element metric to try to measure—try to fix where we have been undercounting. One of the things we have looked at is volume of work that involves another language, because by definition if someone comes in and doesn't speak English, it takes a little bit more time to accommodate that person. So we are trying to factor that in so that the offices that are dealing with a high number of people who do not speak English are not disadvantaged in the staff allocation.

I can't swear to you, because we have only just did the release a couple weeks ago, that we have got it right the first time around, so we are going to be looking at it and reassessing it, but we are trying to be sensitive to those types of issues.

Mr. HONDA. When you say you got it right and you talked about metrics—

Mr. ASTRUE. I am saying I am not sure that we got it right with the new attempt. It is an experiment, we have exercised the best judgment we know, but we are going to look at what happened, we are going to look at the effect at the offices. It is probable we will decide to make some additional adjustments the next time we do this, but we don't know yet, because we haven't actually hired the 900 staff yet.

Mr. HONDA. Okay. So looking at your constituencies, when you break it down, you have that information, and you are breaking it down by age and place of birth and language?

Mr. ASTRUE. We generally know, for instance, the percentage of work in each of the field offices that involve someone who is not a primary English speaker. I believe we have got other kinds of demographic data as well. I am not 100 percent sure exactly what we think we know and what we think we don't know, but I would be happy to supply that for the record for you.

[The information follows:]

DEMOGRAPHICS OF FIELD OFFICE CUSTOMERS

We examine the constituent demographics of each field office service area when making decisions about service delivery and hiring. Regional and area staff review local demographics, such as household economic data, language preference, and the age and number of residents, in determining staffing and client needs. Our field office managers thoroughly understand the demographics of their service areas and align staffing with those demographics.

DEMOGRAPHICS OF VISITORS TO FIELD OFFICES

Mr. HONDA. Help me understand. When we work with our recipients, whether they are youngsters or oldsters or disabled or whatever, don't we have information on them as to their background, place of birth and language needs?

Mr. ASTRUE. We do, but when we check people in, they don't supply that to us, so we only know what we know by the records that we already have. And depending on what they are coming in for, we may not know for every type of service—for instance, someone is coming in, we may not have detailed demographics. I would have to go back and check.

Mr. HONDA. So the only way you know is just interaction, and that is it. There is nothing we check off on in order to keep records

so that we know how to create that metric and be able to hire staff that would match the needs of our clients?

Mr. ASTRUE. What I believe we know is when someone checks in automatically coming in on something we call the VIP system, with an appointment, we have whatever information that we maintain for that individual generally in our computer records, which we call the "numident." So certainly we would have that. I am sure that we have run studies at other points in time to try to look at different ways of assessing through surveys what our populations look like, but I am not sure off the top of my head what we have done recently and what it says, so I would have to supply that for the record.

[The information follows:]

LANGUAGE AND SERVICE IN FIELD OFFICES

When a person comes into our office, he or she can indicate a language preference when checking in at our Visitor Intake Process (VIP) kiosk. We also capture language preference data when people call to make appointments. We use this data to ensure that our offices meet the language needs of the local population. We have bilingual staff and where those are not available, we offer interpreter services.

Mr. HONDA. Okay. So given the great numbers that I have read here, and the government tries to be more like Nordstrom's, would it be a logical administrative direction that we find out what our population looks like and how we can anticipate the future populations so that we can match our staffing to that?

Mr. ASTRUE. That we have certainly done. And we are going through another strategic plan where we are trying to reassess the workloads and what they look like and what we have to do. And we are trying to be sensitive to the needs of particular populations. So, for instance, we are going to have our first Spanish-language on-line service shortly, which I believe will be the first in the Federal Government, and that should be up and running in the fall.

So we do look at special populations, we do look at demographics, but, again, I think to tell you completely and accurately what we do for all of them, I think I would be more comfortable supplying that for the record.

Mr. HONDA. I just want to ask, would this be an administrative necessity so that this is what we have to do and that is a directive, or is that something that needs to come through statute?

Mr. ASTRUE. Certainly I think for the most part assessing the demographics of the populations that we serve is something where I have adequate administrative authority in terms of running studies and numbers to see exactly what the populations looked at from different angles. I don't think I need additional statutory authority to do that. And if, after we supply the information for the record, and you see what we do do and what we do know and what we don't do and what we don't know, if you have got suggestions for things that we ought to be doing, I would be very open and would welcome those suggestions.

Mr. HONDA. Thank you, Mr. Chairman.

Mr. OBEY. Mr. Tiahrt.

Mr. TIAHRT. I am fine.

Mr. OBEY. Ms. McCollum.

Ms. MCCOLLUM. Mr. Chair, I do have another question, and it has to do with IT.

I heard clear in your response to the other Members that you really want to do what you can for customer service——

Mr. ASTRUE. Yes.

INTERNET CLAIMS

Ms. MCCOLLUM [continuing]. And make it absolutely the best. And we know that health information technology is going to totally revolutionize the way in which we have information on disability that could be used and possibly used in disability termination. So with IT, with the patient's permission, you could obtain medical records in a timely fashion.

Could you talk a little more about the Internet claims, the I-claims that you are doing for seniors? You know, the information that I have is in 2009, on-line claims represented 83 percent of the total retirement claims growth. Can you kind of talk about what is trending with that?

Mr. ASTRUE. Sure.

Ms. MCCOLLUM. And then the other thing that comes with it, I mean, in my district I have seniors that are very tech savvy, who have firewalls and all kinds of security systems and everything built into their services. But I am concerned about comments that I have heard for seniors who might not have access to this kind of technology is, oh, go to the library, or go to an Internet cafe, means totally different security systems and access to get back in a timely fashion. So tell me a little bit more about how you see medical records, as well as going more with I-claims.

ELECTRONIC MEDICAL RECORDS

Mr. ASTRUE. Medical records are tremendously important. And you are exactly right. In the public's mind we are a retirement/senior citizens agency, but when you actually look at where the administrative money is going, it is overwhelmingly over on the disability side, and a huge part of that is chasing down paper medical records. We are the largest repository of medical records in the world, and it is a lot of time, and it is delay, and it is a source of error. And it is important both for quality and for timeliness to try to make sure that whatever systems are being built for electronic medical records fit seamlessly with ours, and, when there is appropriate consent, just a push of a button can transfer records.

And we have done this on a trial basis with a couple of the very small entities that are already there: MedVirginia and Beth Israel Deaconess in Boston. And even without having changed our business process yet, it is a thing of beauty, and I think it really will be paradigm changing. It could, I think, cut processing times in half. So it is a wonderful, good thing, and the sooner it gets here, the happier we will all be.

In terms of the electronic services, as I was coming on board in 2007, the National Academy of Sciences had been commissioned to look at our preparedness for the baby boom and electronic services, and they had a very negative report, which the draft response from the agency was going to reject most of it. And I read the report and said, no, this is the road map to the future, I basically embrace this report, we are not going to reject this.

So we have worked very hard to try to break down our business processes, make them as simple as possible, which is something that we and other government agencies don't do often enough, and then try to embrace the highest level of user friendliness to new programs. And so this has really been welcomed by the American public. We had been flat with the old retirement application form for a decade at about 10 percent of the public using it, and we knew that a lot of people tried it and gave up in frustration. We are up, I think, today to about 37 percent using it, and the level of satisfaction is extremely high.

But for all the improvement, I think the way to conceptualize this is this is a service option for people who want it. For none of these electronic services have we made it more difficult or problematic for people to get service the traditional way. In fact, I would suggest by the efficiencies that we have picked up for the people who don't want to come into our offices, the claims reps are less pressured than they would otherwise be, and they are able for the people who come into the office to spend more time and provide high-quality service than they would be able to do if we did not have this choice of service. I think it has been a win-win for the American public. They have been extremely well received.

We still have a lot more to do. We just launched the Medicare only application. We have got the Spanish-language retirement estimator coming, and we hope to do a Spanish-language retirement application next year as well.

ELECTRONIC MEDICAL RECORDS CONTINUED

Ms. MCCOLLUM. Mr. Chair, if I may, one of the things about the whole issue of electronic medical records—they are very exciting—were private entities, public entities, the Federal Government spent a lot of money in developing these records, but we know there is a lot of problem with the records talking to each other as they go from institution to institution. And I know that there has been discussions taking place about how to make—not selecting one vendor, but selecting a language that is interoperable with all of these different.

And I don't know where we are on that, but as we look at going with the Social Security Administration and the rest and the investment that we have been in IT, I would like to maybe have this committee find out where the administration and where the oversight is to make sure that we have systems that are interoperable with each other. And that would be helpful for us in moving forward with this, because if we don't, we are going to have a big mess, and we are going to land up reinventing a system that could have been invented right the first time.

Mr. ASTRUE. Mr. Chairman, I would endorse that. There is a standard-setting committee at HHS that is trying to set the standards for the country as a whole, which we have been active on. As a matter of fact, one of our people chaired it for a period of time. But I think it is an incredibly important topic, it has future implications for our disability programs, and I think that is a tremendous suggestion.

FINANCIAL LITERACY

Mr. OBEY. Just two last questions. I understand that the Social Security Administration has a financial literacy program and a related program called the Special Initiative to Encourage Savings. Our subcommittee staff is told that spending on these projects has increased from \$9 million in 2009 to \$15 million in 2010, to an estimated \$22 million in 2011. Now, nobody can argue that financial literacy isn't important, but I believe the Federal agency who is the lead role on this is supposed to be the Treasury Department, and they receive a specific appropriation for that purpose.

Now, I know that the Social Security Administration is a member of the Federal Finance Literacy and Education Commission along with a large number of other agencies, but the law setting up the Commission does not create or expand any authorities for Social Security to undertake financial literacy activities, at least not that I can find. The mission of Social Security, in my view, is running Social Security, not taking the public to school generally on financial matters. Could you please explain the purpose of your agency's financial literacy program and what activities are carried out with those funds and the legal authority for those activities?

Mr. ASTRUE. Sure. My understanding is that we have had for some time, certainly before my arrival, research activities in the area of retirement and savings, and that specifically I believe it was the Congress that encouraged us to—I think, so that they would have some degree of independence to contract out to some academic institutions to do that work for us. And so we have had three academic institutions that have been doing that type of work, which I would say has been extremely helpful to the mission of the agency, in my view. Most of the additional work that we have been doing has been to support administration initiatives in the area of promoting savings and financial literacy.

But certainly it is a fair question. I will go back and take a look and make sure that everything we are doing is consistent with what we should be doing.

Mr. OBEY. Well, what is the legal authority?

Mr. ASTRUE. Well, I believe that we have specific authority, and I will have to go back and check. When the academic institutions were set up as part of the research—the research consortium that is set up under our research budget, that we got fairly specific guidance from the Congress on that, I believe. But I will go back and take a look. It is an important question. I don't want to wing an answer for you.

[The information follows:]

LEGAL AUTHORITY FOR FINANCIAL LITERACY PROGRAMS

The Social Security Act (Act) vests the Commissioner with general authority to administer the agency. Specifically, the Act states in pertinent part, “The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the [Social Security] Administration, and shall have authority and control over all personnel and activities thereof.” Section 702(a)(4) of the Act, 42 U.S.C. § 902(a)(4).

The agency interprets section 1110 of the Act, 42 U.S.C. § 1310, to provide the legal authority to fund the financial literacy program. Section 1110(a)(1) provides for “such sums as the Congress may determine for (A) making grants to States and public and other organizations and agencies for paying part of the cost of research or demonstration projects such as those relating to the *prevention and reduction of dependency*, or which will aid in effecting coordination of planning between private and public welfare agencies or which *will help improve the administration and effectiveness of programs carried on or assisted under the Social Security Act and programs related thereto*. . . .” (Emphasis added.) Through the Consolidated Appropriations Act of 2010, Congress provided funding for the agency to carry out the provisions of section 1110 of the Act, as well as other provisions of Title II of the Act for fiscal year 2010. Our 2010 Operating Plan, which we submitted to Congress, shows \$49 million in new budget authority estimated for research and demonstration projects, which includes the financial literacy program.

The Act also provides, “Beginning not later than October 1, 1999, the Commissioner shall provide a [social security account] statement on an annual basis to each eligible individual who is not receiving benefits under title II. . . .” Section 1143(c)(2) of the Act, 42 U.S.C. § 1320b-13(c)(2). Each social security account statement must contain the following: “(A) the amount of wages paid to and self-employment income derived by the eligible individual . . . ; (B) an estimate of the aggregate of the employer, employee and self-employment contributions of the eligible individual for old-age, survivors, and disability insurance . . . ; (C) a separate estimate of the aggregate of the employer, employee and self-employment contributions of the eligible individual for hospital insurance . . . ; [and] (D) an estimate of the potential monthly retirement, disability, survivor and auxiliary benefits payable on the eligible individual’s account together with a description of the benefits payable under the medicare program of title XVIII” Section 1143(a)(2) of the Act, 42 U.S.C. § 1320b-13(a)(2). Insofar as the financial literacy program is an extension of the requirements that we educate the public about their potential social security benefits and amounts thereof, section 1143(c)(2) provides additional legal authority for the financial literacy program.

The Financial Literacy and Education Improvement Act, 20 U.S.C. §§ 9701-9709, established the Financial Literacy and Education Commission, of which the Commissioner is a member. 20 U.S.C. § 9702(c)(1)(B). The Financial Literacy and

Education Commission is charged, “through the authority of [its members], [to] take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and material of the Federal Government, including curricula for all Americans.” 20 U.S.C. § 9703(a)(1). The areas that the Financial Literacy and Education Commission are to emphasize include basic personal income and household money management and planning skills, including how to—

- create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals; and
- improve financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather, to improve consumers’ financial choices and outcomes.

Consistent with the above authority, we have established the financial literacy program to help Americans of all working ages to understand the role of Social Security benefits and the need for them to save as they plan for retirement and other life events.

REDIRECTION OF FINANCIAL LITERACY FUNDING

Mr. OBEY. How much field staff or DDS workyears could the Social Security Administration fund if those resources were redirected into disability processing or field service?

Mr. ASTRUE. Back of the envelope, so obviously we will submit a more precise answer for the record, probably in the range of 150 to 200 FTEs.

Mr. OBEY. A couple for each State?

Mr. ASTRUE. Yes.

[The information follows:]

FINANCIAL LITERACY FUNDING

Once funds are appropriated, we do not have the authority to redirect resources budgeted for financial literacy to process work, because the financial literacy funding is part of our research budget within the SSI appropriation. A separate Limitation on Administrative Expenses (LAE) account provides the funding for salaries and benefits.

Using the FY 2011 average agency salary and benefit rate, each \$1 million in funding pays for about ten employees for one year. Accordingly, \$15 million would pay for about 150 people, and \$22 million would fund about 220.

Mr. OBEY. I have got two other questions for the record, or I would like you to respond to for the record, but other than that, thank you very much for coming.

Mr. ASTRUE. Thank you.

Mr. OBEY. We appreciate it.

[The information follows:]

[The following questions were submitted to be answered for the record:]

FINANCIAL LITERACY

Mr. Obey: It appears that in 2007, Social Security began an activity called “Special Initiatives – Encouraging Savings” or “Financial Literacy,” over and above what had previously been conducted in the Retirement Research Consortium.

Please explain each element of this new initiative, beginning with the justification.

Mr. Astrue: As the agency responsible for delivering and managing Old-Age, Survivors, and Disability Insurance benefit programs, we have a longstanding relationship with the American public on the subject of financial security.

For seventy-five years, we have been spreading the word about the importance of Social Security programs by issuing publications, sending annual benefits and earnings statements, and having our public affairs staff present information about our programs. More recently, we have established an informative Internet web page. Through these educational services, we help the public understand that Social Security is an important part of a dignified and secure retirement. Our financial literacy initiative expands these historical efforts, to enhance and improve our ability to effectively inform the American people about our programs and the importance of retirement planning. Studies show that financial education can improve attitudes toward saving, expand participation in retirement savings plans, and increase retirement asset accumulation.

Because we believe we have a responsibility to help Americans prepare for retirement, we have established a Special Initiative in our Strategic Plan to encourage saving. Our work on the Special Initiative complements the current research undertaken through the Retirement Research Consortium (RRC). The RRC produces academic research on Social Security retirement and disability policy, and this research helps identify areas ripe for program development. However, the development and testing of financial literacy products and programs is outside the RRC’s scope of research. The research activities designed under the Special Initiative require expertise in more than economics, statistics, and public policy analysis; they require expertise in other areas, such as psychology, behavioral economics, social marketing, and survey and focus group experience.

There are three major elements to our financial literacy initiative: 1) production of the annual *Social Security Statement (Statement)*; 2) promotion and support for the Retirement Estimator; and 3) our research program.

- *The Social Security Statement* (<http://www.socialsecurity.gov/mystatement/>) provides personalized information about Social Security retirement, spousal, survivor, and disability benefits based on a worker’s lifetime earnings. The Social

Security Act requires that we mail a *Statement* to workers and former workers aged 25 and older and workers of any age who request it. We mail *Statements* to about 150 million Americans a year. By helping workers understand the scope of their Social Security benefits, we help them in their overall planning for retirement. Thus, the *Statement* itself is an important financial literacy product, and it is part of our official financial literacy initiative.

- The Retirement Estimator (<http://www.socialsecurity.gov/estimator/>) is an online tool that produces personalized estimates of Social Security retirement benefits, based on a worker's actual Social Security earnings records. The estimator provides benefit data for different retirement ages so that workers can better formulate adequate retirement plans.
- The Research Program involves developing effective approaches to improve financial literacy, based on a thorough evaluation of what works. Our program supports research by experts outside the agency, fosters collaboration with other Federal agencies with similar goals, and develops data to conduct studies and evaluate other methods that may help workers make better retirement decisions. Details of the research program appear later in my response.

Mr. Obey: Please explain the budget level.

Mr. Astrue: The budget for financial literacy activities includes funding for the annual *Statement*, the Retirement Estimator, and research. Our budget for financial literacy activities in fiscal year (FY) 2010 is \$86.73 million. We requested a budget of \$93.2 million for FY 2011 to continue our efforts in support of the Special Initiative. Most of these resources (about \$70 million annually) fund the congressionally mandated *Social Security Statement*. As shown in the following table, the research budget is a relatively small part of our funding for financial literacy activities.

Budget for Agency Financial Literacy Activities (in millions)		
Category	FY 2010	FY 2011
Social Security Statement	\$70.0	\$70.9
Retirement Estimator	\$1.8	\$0.1**
Research	\$15.0	\$22.3
TOTAL*	\$86.7	\$93.2

*May not add due to rounding

**Retirement Estimator costs in FY 2011 are anticipated to decrease as the website moves beyond the initial design and implementation phases.

Mr. Obey: Please explain the expected results.

Mr. Astrue: We expect that the Special Initiative will result in the American public being better educated about the need to save and the scope and purpose of Social Security benefits. We also want our programs to help low and moderate income populations successfully plan and save for retirement and other life events.

Mr. Obey: Please explain the purpose.

Mr. Astrue: The purpose of the Special Initiative is to encourage saving and improve program knowledge. Activities include providing the annual *Statement*, maintenance and support of the Retirement Estimator, and research to develop and test products and programs that complement these goals.

Mr. Obey: Please provide the expected end date.

Mr. Astrue: We will continue to support and improve the *Statement* and Retirement Estimator. Through our research initiative, we will develop and test programs to encourage saving and improve knowledge about Social Security programs.

Our largest research endeavor, the Financial Literacy Research Consortium (FLRC), is supported by 5-year funding agreements that began in October 2009. The FLRC is currently conducting 26 research projects in the area of financial literacy. The FLRC will present results from the first year of the cooperative agreement at its first annual conference in November 2010. Each year, we will evaluate program progress before proceeding with additional work. After the consortium awards end, we will evaluate the research program and determine whether or not we should fund additional financial literacy activities.

Mr. Obey: Please provide the legal authority.

Mr. Astrue: The Social Security Act (Act) vests the Commissioner with general authority to administer the agency. Specifically, the Act states, "The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the [Social Security] Administration, and shall have authority and control over all personnel and activities thereof." Section 702(a)(4) of the Act. In short, the Act provides the Commissioner with broad power to control the agency's activities, such as engaging in outreach and educational efforts to help the public understand that Social Security is an important part of a dignified and secure retirement.

We interpret Section 1110 of the Act to provide the legal authority for us to fund the financial literacy program. Section 1110(a)(1) provides for "such sums as the Congress may determine for (A) making grants to States and public and other organizations and agencies for paying part of the cost of research or demonstration projects such as those

relating to the *prevention and reduction of dependency*, or which will aid in effecting coordination of planning between private and public welfare agencies or which *will help improve the administration and effectiveness of programs carried on or assisted under the Social Security Act and programs related thereto....*" (emphasis added.) Through the Consolidated Appropriations Act of 2010, Congress provided us with funding to carry out the provisions of Section 1110 of the Act, as well as other provisions of Title II of the Act, for FY 2010. Our 2010 Operating Plan, which we submitted to Congress, shows \$49 million in new budget authority estimated for research and demonstration projects, which includes the financial literacy program.

In addition, the Act, provides that, "[b]eginning not later than October 1, 1999, the Commissioner shall provide a statement on an annual basis to each eligible individual who is not receiving benefits under title II..." Section 1143(c)(2) of the Act. Each *Statement* must contain the following:

(A) the amount of wages paid to and self-employment income derived by the eligible individual... (B) an estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for old-age, survivors, and disability insurance...; (C) a separate estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for hospital insurance...; [and] (D) an estimate of the potential monthly retirement, disability, survivor, and auxiliary benefits payable on the eligible individual's account together with a description of the benefits payable under the Medicare program of title XVIII...

Section 1143(a)(2) of the Act. Insofar as the financial literacy program is an extension of the requirement that we educate the public about potential Social Security benefits and amounts thereof, Section 1143 provides additional legal authority for the financial literacy program.

Lastly, the Financial Literacy and Education Improvement Act, 20 U.S.C. §§ 9701-9709, established the Financial Literacy and Education Commission, of which the Commissioner is a member. 20 U.S.C. § 9702(c)(1)(B). The Financial Literacy and Education Commission is charged, "through the authority of [its members], [to] take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and material of the Federal Government, including curricula for all Americans." 20 U.S.C. § 9703(a)(1). The Financial Literacy and Education Commission focuses on basic personal income and household money management and planning skills.

Consistent with the above authority, we established the financial literacy program to help Americans of all working ages understand the role of Social Security benefits and the need to save as they plan for retirement and other life events.

Mr. Obey: Please provide a summary of the activities conducted.

Mr. Astrue: As described in our response to your first question, the major elements of our financial literacy initiative are: 1) production of the annual *Statement*; 2) promotion and support for the Retirement Estimator; and 3) our research program.

We believe our work with the *Statement* and the Retirement Estimator is well documented. However, additional detail about our research program may be helpful. In general, the research program provides funding to support the testing and refinement of products and programs that can better inform the public about saving, Social Security benefits and retirement planning. There are several elements in the research program, described below.

Financial Literacy Research Consortium (FLRC)

Our largest research endeavor, the FLRC, is supported by 5-year funding agreements with Boston College, the RAND Corporation, and the University of Wisconsin-Madison, which began in October 2009. The FLRC is currently conducting 26 research projects in the area of financial literacy. The centers and their partners will present results from the first year of the cooperative agreement at the first annual conference in November 2010. Abstracts describing all 26 awarded projects are available online at: <http://www.ssa.gov/retirementpolicy/abstracts.html>.

Data Development

Expanding the Minority Sample of the Health and Retirement Study - The Health and Retirement Study (HRS) is the premier data resource for tracking the health, wealth, and labor force activity of Americans aged 50 and older. The survey, conducted by the University of Michigan through grant support from the National Institute on Aging (NIA), has been ongoing since 1992. However, the overall sample of the HRS is declining due to death and attrition. We are particularly concerned about the greatly reduced sample size of minorities. Therefore, last year, we entered into an interagency agreement with NIA to support an increase of the sample of minority households in their pre-retirement years. In 2010, the HRS will interview 2,000 additional African-American and Hispanic respondents, born between 1948 and 1959. This will allow for more intensive study of financial literacy in low income and minority populations, providing a greater understanding of how financial literacy knowledge affects saving and retirement decisions.

Collaboration with Other FLRC Members

In addition to our independent research, we also collaborate with other partners in efforts to encourage saving and improve knowledge about Social Security programs. One of these partners, the NIA-sponsored Edward R. Roybal Centers for Translation Research, focuses on improving the health, well-being, and productivity of older adults. As part of our research efforts, we provided support for pilot development on Social Security related subjects.

Large Scale Tests

Once we begin to receive results from FLRC projects, expanded HRS studies, and the NIA Roybal program, we may be able to pursue large-scale testing of the most successful programs developed through these exploratory grants.

Mr. Obey: Please explain why each element is appropriate for SSA's mission.

Mr. Astrue: Our activities under the Special Initiative (*Social Security Statements*, Retirement Estimator, and Research) are aimed at improving program knowledge and encouraging saving, both of which are important to ensuring the economic security of the American public. Specifically, the *Statements* and Retirement Estimator provide information on benefits based on an individual's own earnings, assisting in retirement planning. Our research activities will develop and test programs intended to improve program knowledge and encourage saving, which is an integral part of any sound retirement strategy.

Mr. Obey: There are concerns about the quality of the activities funded under the financial literacy activity program grants or contracts. Specifically, we understand the Financial Literacy Research Consortium (FLRC) review panel raised strong concerns about the efforts and potential for duplication of effort with other initiatives but nonetheless the Commissioner decided to fund these endeavors.

Mr. Astrue: I was not briefed on the comments made by the expert panel during the application review process; therefore, I was not aware of any concerns about these grants. Likewise, after the panel discussions ended, the decision to move forward with specific projects did not come to me, nor was I advised that concerns had arisen. Now that I am aware of these concerns, I have directed staff to closely monitor the progress of the FLRC and evaluate whether we should continue funding additional work. We will review the FLRC and RRC programs to identify and, if appropriate, eliminate any overlap. I will thoroughly review this situation and determine if further action is necessary.

Mr. Obey: Were you aware of concerns raised prior to awarding these financial literacy review consortium grants or contracts?

Mr. Astrue: I was not aware of any concerns raised during the grant application review process.

Mr. Obey: If so, what was the basis for the decision to fund these activities?

Mr. Astrue: The decision to fund these activities was made at the staff level. Again, I was not aware of any concerns.

Mr. Obey: If not, have you since become aware of these concerns and if so, what actions have you taken to address them?

Mr. Astrue: As I mentioned in my prior answers, I have directed staff to closely monitor the progress of the FLRC and evaluate whether we should continue funding additional work. The design of the FLRC allows us to evaluate progress on an ongoing basis, and if necessary, to end funding even after the initial award is made. The FLRC has several mechanisms to ensure that work is innovative, relevant to our initiative, and not duplicative of other efforts. These ongoing review mechanisms include quarterly progress reports, which are reviewed by program and grant management staff, a review of activities by our expert panel of outside scholars twice a year, a public annual conference, and interaction with other Federal agencies regarding research program development. We will carefully evaluate the FLRC's progress before funding additional work. We will review the FLRC and RRC programs to identify and, if appropriate, eliminate any overlap.

INFORMATION TECHNOLOGY FUND

Mr. Obey: Please provide a table for FY 2006, FY 2007, FY 2008, FY 2009, FY 2010, and FY 2011 that identifies funds related to the no-year IT account as follows:

- a. The initial PB Assumption
- b. The actual carry over
- c. No-year IT Start of year Balance
- d. No-year IT End of year Balance
- e. No-year IT annual expenditures
- f. For each year of the above years provide examples of what the funds in this account have supported

Mr. Astrue: The table below identifies funds related to the no-year IT accounts for FY 2006 through FY 2011.

IT No-Year Account

(\$ in Millions)

	<u>Information Technology Systems (ITS) -- No-Year Account</u>					
	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
a. Initial President's Budget Assumption (Carryover) ^{1/} ..	-	-	-	-	\$170.0	\$205.0
b./c. No-Year Balance Start of Year Balance.....	\$69.3	\$143.3	\$184.6	\$219.4	\$201.6	-
d. No-Year Balance End of Year Balance.....	\$143.3	\$184.6	\$219.4	\$201.6	-	-
e. No-Year Annual Expenditures (Obligations)	\$75.8	\$147.7	\$135.7	\$204.5	-	-

f. No year and one year LAE funds are combined to form the agency's IT budget. Both sources of funds are critical to meet SSA's needs. Examples of what these funds support include the agency's IT needs for telecommunications, workstations, software, and contractor support.

^{1/} Carryover assumptions were first shown in the FY 2010 President's Budget. The \$170.0 million is estimated IT No-Year carryover, and excludes the \$16.8 million estimated MIPPA-LIS carryover reflected in the FY 2010 President's Budget.

Mr. Obey: Please explain why SSA plans to leave any end of year funds unspent that could otherwise support Social Security operations, the field, or backlog issues?

Mr. Astrue: We allocate all of our Limitation on Administrative Expenses funding, except for \$50 million that we set aside to fund potential obligations related to cancelled appropriations, consistent with 31 USC 1553b, and to avoid Antideficiency Act violations resulting from unanticipated liabilities that might arise after the close of the fiscal year.

Mr. Obey: It appears that over the past few years the fund balance and carryover have continued to increase. What are SSA's plans for these funds in FY 2010, FY 2011 and beyond?

Mr. Astrue: Our systems are the technological backbone of the agency, and most of our IT resources are required just to maintain our current systems. Nonetheless, it is critical that we continue investing in new technology to help address our growing workloads and meet the increasing demands of the public to conduct business over the Internet. The IT carryover funds along with our annual appropriation allow us to address our growing IT needs. Without these resources, we would need to request additional funds from the Administration and Congress.

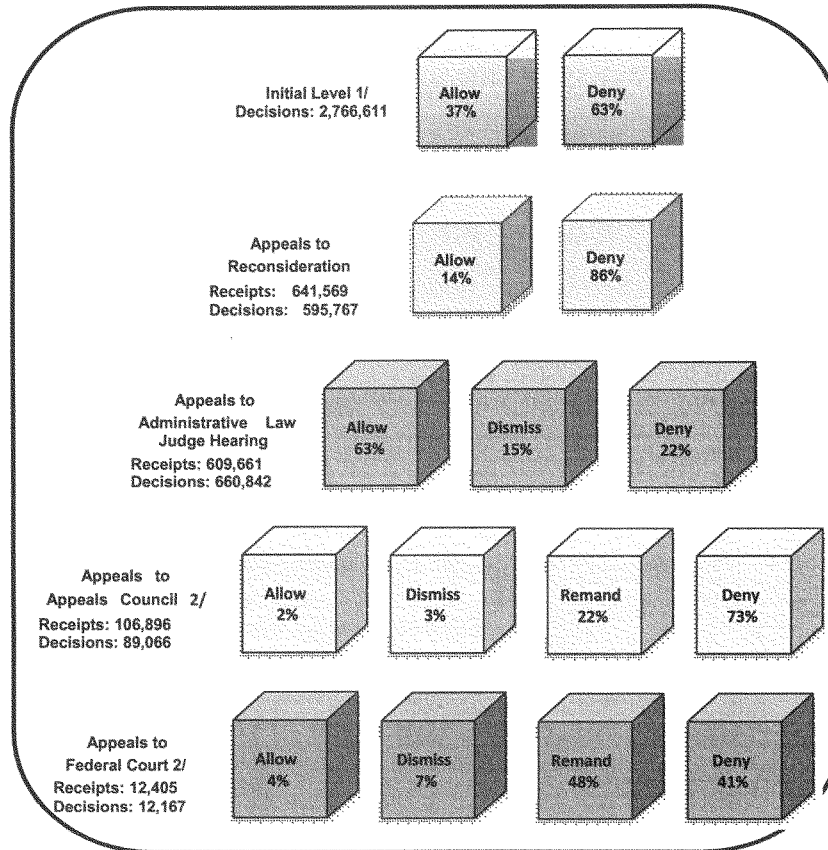
PROBLEMS CAUSED BY SPIKE IN NEW DISABILITY APPLICATIONS

Mr. Obey: I understand that the recession has caused a spike in new applications for disability benefits—with applications in the current fiscal year running about 500,000 ahead of the rate two years earlier. I believe most of these cases are still at the initial determination level, and the full impact has yet to be felt in the appeals workload.

Please provide for the record the waterfall table titled “Fiscal Year 2009 Workload Data: Disability Decisions” but update the table to include the number of decisions appealed from each step.

Mr. Astrue: Following is the waterfall table updated to include receipts.

Fiscal Year 2009 Workload Data: Disability Appeals*



* Data include all disability decisions completed in FY 2009 and include claims that were filed in FY09 or prior years. These are decisions on disability eligibility. Other non-disability eligibility factors may affect final eligibility for benefits, i.e., some cases with a favorable disability decision could ultimately be denied for failure to meet other eligibility requirements. Some disability claims not eligible on non-disability grounds will not be referred for a disability decision and are not reflected in the data shown. Decisions include Title II - Social Security Disability Insurance and Title XVI - Supplemental Security Income (DSS) cases. Some claimants may file concurrently for both Title II and Title XVI. Concurrent Title II/XVI cases are counted as one.

Data Definitions: "Allow" is a favorable determination. "Deny" is an unfavorable determination. "Remand" is an action to refer a claim to a lower adjudicative level where the claim decision will be re-evaluated, possibly taking into account new information or a remedied defect. "Dismiss" is an action taken at the hearings level or higher where the review requested was not completed for technical reasons. In dismissed proceedings the merits of the claim are not examined. Leading examples of reasons for dismissal include withdrawal or abandonment of an appeal, or a favorable decision was made at a lower adjudicative level, or the appeal was not filed timely and good cause for late filing was not established. A dismissal depending on its type might be neutral, favorable or unfavorable.

1/ Approximately 24% of initial level denials are from 10 states using the Prototype process. If appealed, these cases would bypass the reconsideration level and go directly to an Administrative Law Judge hearing.

2/ Data are on applications for persons filing for disability except for Appeals Council and Federal Court data which also include appealed Continuing Disability Review (CDR) decisions.

Prepared by: SSA, Office of Disability Program Management Information, 11/19/2008; Office of Budget additions, 4/30/2010

Data Sources: Initial and Reconsideration Data: SSA State Agency Operations Report; Administrative Law Judge and Appeals Council data: SSA Office of Disability Adjudication and Review (ODAR); and Federal Court data: SSA Office of General Counsel

Mr. Obey: Please explain the specific actions SSA is taking to handle these claims and reduce the huge backlog that has already developed at the initial determination stage.

Mr. Astrue: We have been implementing our strategy to increase our capacity and optimize our productivity so that we can return to the pre-economic downturn initial claims pending level of less than 525,000 by 2014.

We are doing what we can to increase productivity and simplify our processes. In FY 2009, the DDSs increased productivity by three percent and achieved the highest level of performance accuracy in the past decade, despite the nearly 17 percent increase in initial disability claims. Nevertheless, we will need a significant number of additional employees to handle this complex workload.

Our strategy provides additional State DDSs and Federal capacity to process initial disability claims for areas of the country particularly hard hit by the increase of receipts. By the end of FY 2010, we will have 2,800 more DDS employees than we had at the end of FY 2008. In FY 2010, we are hiring 237 additional employees in our Federal disability units to assist the State DDSs. These new employees, while essential to our success, can take up to two years to become fully productive.

We are using our best practices from the hearings backlog reduction plan, such as the National Hearing Centers concept, to create centralized units, which will assist states across the Nation. We are establishing these new units, called Extended Service Teams, in State DDSs that have a history of high quality and productivity and have the capacity to hire and train significant numbers of additional staff to provide national case support for the most backlogged states. In FY 2010, we will place 280 new employees in the following 4 states:

- Arkansas - 100 employees;
- Mississippi - 50 employees;
- Virginia - 80 employees; and
- Oklahoma - 50 employees.

We are expediting disability claims for individuals who have medical conditions so severe that, in some cases, we only need a confirmed diagnosis to make a determination. In FY 2009, through our Compassionate Allowances and Quick Disability Determination processes, we approved benefits for nearly 100,000 Americans with severe disabilities in a matter of days. Effective March 1, 2010, we expanded our efforts in this area by adding 38 new compassionate allowance conditions that meet disability standards. In FY 2010, our enhancements should allow us to quickly approve benefits for nearly 140,000 applicants.

We are working diligently to address initial disability claims receipts, but it will require sustained, adequate, and timely resources to achieve our goal.

Mr. Obey: When this wave of applications hits the hearing stage, will we see backlogs and processing times shoot up again there as well?

Mr. Astrue: The President's FY 2011 budget fully funds our Hearings Backlog Reduction Plan, which accounts for this wave of disability applications. Under this plan, we will reduce backlogs and processing times each year until we eliminate the backlog at the end of FY 2013. A reduction in funding in FY 2011 would jeopardize our substantial progress on this multi-year effort.

Mr. Obey: What are you doing, or what can you do, to prevent that from happening?

Mr. Astrue: We are aggressively hiring administrative law judges (ALJs) and support staff. In addition, we will be opening over two dozen new offices and our fifth National Hearing Center to relieve the most-backlogged offices. We need the FY 2011 President's budget funding to sustain these efforts. The FY 2011 President's budget will allow us to handle the additional surge of work in hearings, and to hire and maintain ALJs and support staff necessary to further decrease the number of pending hearings and average processing times.

Mr. Obey: If the hearing targets of 240 days and 450,000 pending cases is attained in FY 2013, do you think it will be maintained given the current surge? Please explain.

Mr. Astrue: Our current Hearings Backlog Reduction Plan, which accounts for the recession-related surge in hearings, has a target of 270 days processing time and hearings pending level of 466,000 by the end of FY 2013. With continued and sustained funding, we will meet and maintain our targeted level of performance.

Mr. Obey: Since FY 2009 the Committee has provided substantial additional resources to SSA to reduce the backlog of disability appeals. If SSA eliminates the backlog within the projected timeframe then resources dedicated to backlog reduction will not be necessary in FY 2014. What portion of SSA's budget – currently dedicated to eliminating the backlog – will be available for redeployment to other priorities in FY 2014?

Mr. Astrue: We appreciate the additional resources, and they have been vital to our progress. We are on track to meet our goal of reducing the backlog of disability appeals by FY 2013, despite increasing benefit applications.

Our strategy is not only to eliminate the hearings backlog, but also to prevent its recurrence. Preventing the recurrence of the hearings backlog requires the right sizing of our appellate operations, a factor we must consider as part of the overall, long-term strategic and annual budget planning processes.

To the extent future projections of workload receipts and productivity indicate the need to shift our resources away from appellate operations and into other important service areas – such as the growing backlog in post-entitlement services and the need to increase the level of continuing disability reviews– our strategic plans and annual budgets will identify and justify those shifts as appropriate.

PROGRESS ON NEW NATIONAL SUPPORT CENTER

Mr. Obey: Please explain what has been accomplished so far on the national computer center project?

Mr. Astrue: We have made progress on both the Program of Requirements (POR) and the site selection. Additional details are below:

Program of Requirements (POR)

We are working with the General Services Administration (GSA) and its consultants, to develop the POR for the new data center. The POR will establish the requirements for the design and construction of the facility. An energy optimization design workshop was conducted in July 2009. SSA has worked closely with GSA and its consultants, including industry experts from Uptime Institute and Lawrence Berkeley National Laboratories (LBNL), to develop the POR. GSA delivered the 50 percent POR on November 6, 2009. After receiving comments on the 50 percent POR, a 2-day POR review was held in January 2010 to discuss comments from key stakeholders. In March 2010, a 3-day POR review was held, including the POR consultants, SSA, GSA, LBNL, and Uptime, to discuss a hot aisle containment strategy and other energy solutions for possible application in the new data center. We continue to evaluate the suggested design methods for meeting Federal energy goals and mandates to ensure the integrity of our business processes.

We worked with GSA and their consultants to develop an IT growth model and space, power, and cooling requirements for the new data center. The IT growth requirements will help inform the POR to right size the facility. GSA's consultants conducted interviews with subject matter experts and key stakeholders, including our executives. GSA consultants also analyzed our data to develop a "future" picture of programmatic

growth. This information was included in the IT Growth Model on November 6, 2009. SSA is re-evaluating that Growth Model.

We are on track to complete the POR and meet the design and construction milestones.

Site Selection

GSA received written concurrence from OMB on its site selection process for the National Support Center and notified Congress in August 2009. As required, we notified the House and Senate Appropriations Committees. Following the required 10-day waiting period after congressional notification, GSA requested expressions of interest from land owners and authorized agents through a FedBizOpps notice. GSA also notified local economic development and planning groups and searched available real estate databases. The search produced over 150 potential sites.

The site selection project team, composed of SSA and GSA, including GSA's consultants, evaluated the sites by applying mandatory site criteria related to security, environmental, and locational requirements to identify a long list of sites. Utility (power, water, and fiber) availability and economic development criteria were then applied to further refine the list.

Based on questions raised in the December 15, 2009, hearing before House Ways and Means Social Security Subcommittee and Transportation and Infrastructure Subcommittee, GSA and consultants reviewed the viability of the campus as a site for the new data center. GSA could not proceed with site selection until this report was completed and presented to the Committees.

GSA delivered this report to the House Ways and Means Social Security Subcommittee and Transportation and Infrastructure Subcommittee staff, and Appropriations staff on April 8, 2010. This evaluation delayed site selection and site purchase milestones from January and March 2010 to August and December 2010. Despite the delay caused by site selection activity, we are still on schedule to award a design and build contract by March 2011. A detailed analysis is being conducted, including site test fits, coordination with local economical development, environmental and real estate due diligence, National Environmental Policy Act analysis, detailed utility studies, cost, schedule, and risk analysis.

Mr. Obey: Are you still on schedule to issue a solicitation by October 2010 and have a contract awarded by March 2011?

Mr. Astrue: Yes. We are on schedule to issue a solicitation by October 2010 and award a contract to design and build the facility by March 2011. We expect to be fully operational in July 2015.

Mr. Obey: We understand SSA has decided to locate the computer center within 40 miles of its existing location, also known as the "40-mile rule." Please explain the rationale for the 40-mile requirement. Also, we understand SSA concluded this rule will positively mitigate public risk during migration to the new center. Please provide a copy of the Administration's analysis related to this determination, which we assume contrasts the risks of locating the new data center within vs. the risk of locating the new data center beyond 40 miles.

Mr. Astrue: Yes, we established a 40-mile limit to minimize the risk of a costly interruption of service to the public. The current NCC houses critical and tightly integrated systems that we use to issue Social Security numbers, process applications for benefits, and ensure proper monthly benefit payments. We must transition these systems to the new data center in a phased approach, without disrupting service. We will ensure that each system operates successfully in the new center before we can move subsequent workloads. Although we based our decision to locate the site within 40 miles of our campus on existing workloads, the possibility that we will be required to handle additional workloads before 2013 only increases the imperative to mitigate potential risk.

The phased move is dependent upon keeping our workload data assets synchronized in "real time" between the old and new data centers during the transition period. The physical distance between data centers limits the effectiveness of the data synchronization tools we will use. By establishing a 40-mile radius, we ensure that the tools will operate within the required technical specifications. In addition, locating the new data center within this distance will allow for on-site technical support from our experienced cadre of technicians currently housed on the Woodlawn campus.

We have not completed a formal risk analysis relative to distance because, as mentioned previously, geographical limitations are the result of the technology necessary to support the move. However, in addition to the technology-based issue, we considered the following other factors in recommending the 40-mile site selection criterion:

1. The cost and duration of operating three data centers during the transition;
2. The cost and risk of moving current equipment to the new data center;
3. The need for, and cost, of staff travel;
4. The costs for employee relocation;
5. The need for high capacity connectivity with the agency's main campus after the move; and
6. The need to avoid close proximity to the Second Support Center.

Mr. Obey: Please provide a table with annual expenditures for the current data processing center, including expenditures for FTE, system refresh/replacement, operations, repair and maintenance, and other relevant categories – broken out by funding source (e.g., LAE, no-year IT fund, etc.). The table should include FY 2000, FY 2005, FY 2008, FY 2009, FY 2010 current plan, and FY 2011 request.

Mr. Astrue: Below is a table with the annual expenditures for our data processing centers:

Annual Expenditures for SSA National Computer Center & Durham Support Center¹
(\$ in Millions)

		Data Processing Center (FTE) ²	System Refresh/Replacement	Operations (Infrastructure Cost)	Repair and Maintenance	Totals
FY 2000	Actual	N/A	\$63	\$2 ³	\$45	\$108
FY 2005	Actual	\$77	\$131	\$42	\$89	\$339
FY 2008	Actual	\$141	\$146	\$127	\$104	\$518
FY 2009	Actual ⁴	\$160	\$214	\$203	\$103	\$680
FY 2010	Plan	\$161	\$220	\$140	\$82	\$603
FY 2011	Request	\$168	\$209	\$156	\$83	\$617

Totals may not add due to rounding.

1 / Includes LAE (IT and non-IT) and no-year ITS funds.

2 / FTEs include employees housed in the data processing centers and those who support the centers. The FY 2000 costs are no longer available.

3 / The FY 2000 operational costs represent facilities costs only; other years also include ITS costs.

4 / The spending increase in FY 2009 is due to the Durham Support Center's start up costs, a major IT tape storage refresh effort, and the installation of the agency's service delivery points.

ELECTRONIC FILING OF SOCIAL SECURITY CLAIMS (ICLAIMS)

Mr. Obey: I understand the Social Security Administration is working to increase on-line filing for benefits as a way to improve productivity. I am concerned that filing a Social Security application may require more human interaction than, say, booking an airline reservation. For example, some applicants will do better by applying for retirement benefits based on their spouse's earnings record rather than their own, but may need a conversation with a social security employee to realize that fact.

What is Social Security doing and what can be done to ensure human interaction and analysis is built into the process?

Mr. Astrue: A claims technician reviews, develops, and processes every benefit application submitted online. We determine if a claimant or any dependent listed on the application may qualify for other benefits. If so, we re-contact the claimant to obtain additional information and explain any other possible benefit entitlements.

We routinely review the quality of completed cases, including cases filed online. In our most recent review, we found that Internet case dollar accuracy is as good as, if not better than, cases handled in the field office or over the telephone.

Mr. Obey: It is important for Social Security to make better use of technology but how can we make sure that increased reliance on on-line applications does not reduce the likelihood that an applicant receives the appropriate level of benefits?

Mr. Astrue: The iClaim application asks the same questions that a claims technician would ask in the field office. The answers to these questions and a review of SSA records help the claims technician determine if the claimant qualifies for additional benefits.

Because a claims technician thoroughly reviews, develops, and processes all iClaim applications, the online filer receives the same level of service as applicants who file over the telephone, through the mail, or in office. Claims technicians will continue to obtain all relevant information and to review for potential entitlement to other benefits in accordance with our current policy.

Mr. Obey: Your testimony indicates that 83 percent of the total retirement claims in FY 2009 were submitted online. It is my understanding the percent of claims submitted online was 32 percent. Please explain the difference and provide a table with the growth of online claims for FY 2009, FY 2010 President's Budget assumption, FY 2010 operating plan and FY 2011 President's Budget levels for each type of claim (retirement and disability).

Mr. Astrue: In FY 2009, online claims represented 32 percent of the total number of retirement claims received and 83 percent of the growth in total retirement claims over the prior year. Online applications, which more than doubled in FY 2009 over FY 2008, allowed us to keep pace with the large increase in retirement claims.

A chart showing our assumptions for iClaim file rates is provided below. The FY 2011 President's Budget assumes that retirement claims filed online, as a percent of total retirement claims, will grow from 32 percent in FY 2009 to 44 percent in FY 2011.

Growth Rate Assumptions- iClaim File Rates		
	Retirement	Disability
FY 2009 (Actuals)	32%	21%
FY 2010 President's Budget	38%	25%
FY 2010 Operating Plan	38%	25%
FY 2011 President's Budget	44%	27%

Mr. Obey: Please explain the impact – including cost, office visits, productivity and cost for each 1 percent change in on-line usage for both disability and retirement claims.

Mr. Astrue: Any one claim filed online means one less claim filed in a field office or over the phone. Because the claimant completes part of the information in the online application instead of our employees inputting the data, we realize a gain in productivity that saves administrative costs. Based on current workloads, each additional 1-percent increase in online claims would free up the resources to complete 6,000 retirement claims or 3,000 disability claims filed in field offices. However, since overall claims are increasing, online claims have helped us to absorb this increase; they have not generated excess capacity in field offices.

SOCIAL SECURITY PRODUCTIVITY

Mr. Obey: SSA's budget request notes productivity increased by 3 percent in each of the last five years; however, your testimony notes over 4 percent in the last three years. Please explain how the statements are consistent.

Mr. Astrue: The 3-percent productivity increase quoted in our budget request represents the agency's Performance and Accountability Report measure, which reflects the 5-year average (FYs 2005 – 2009). The 4-percent average annual increase in productivity in my testimony is the average of the year-over-year increases achieved during my leadership (FYs 2007 – 2009).

Mr. Obey: Please provide a table of Social Security programs with the annual productivity and cost of each, how it is measured, and the change for each of the following years (as appropriate): FY 2006, FY 2007, FY 2008, FY 2009, and projected for FY 2010 and FY 2011.

Mr. Astrue: The agency's Limitation on Administrative Expense (LAE) account funds all of the workloads we complete, regardless of program. The agency's productivity measure is based on year-to-year comparisons of time expended on actual end-product workloads (claims, for instance) and is not computed by program. While we do not measure productivity by SSA program, we do report key productivity information for two of SSA's major workload areas, Disability Determination Services and Office of Disability Adjudication and Review productivity per workyear, which are reflected in the table below.

Productivity Per Workyear (PPWY)

	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Enacted	FY 2011 Estimate
Disability Determination Services PPWY	241	249	266	274	268	275
Office of Disability and Adjudication Review PPWY	100	101	103	105	108	108

Below is a table that provides outlays by program for FYs 2006 – 2011.

SSA Outlays by Program (Current Law)
(\$ in millions)

	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual
<u>Trust Fund Programs</u>			
Old-Age and Survivors Insurance (OASI)	\$461,063	\$486,312	\$509,920
Disability Insurance (DI)	\$93,572	\$99,850	\$107,240
Subtotal, Trust Fund Programs	\$554,635	\$586,162	\$617,160
<u>General Fund Programs</u>			
Supplemental Security Income (SSI)	\$40,203	\$38,461	\$43,872
Special Benefits for Certain World War II Veterans	\$10	\$9	\$10
Subtotal, General Fund Programs	\$40,213	\$38,470	\$43,882
TOTAL SSA, Current Law	\$594,848	\$624,632	\$661,042
	FY 2009 Actual	FY 2010 Estimate	FY 2011 Estimate
<u>Trust Fund Programs</u>			
Old-Age and Survivors Insurance (OASI)	\$551,664	\$581,233	\$602,126
Disability Insurance (DI)	\$118,114	\$127,117	\$133,598
Subtotal, Trust Fund Programs	\$669,778	\$708,350	\$735,724
<u>General Fund Programs</u>			
Supplemental Security Income (SSI)	\$48,101	\$50,925	\$56,540
Special Benefits for Certain World War II Veterans	\$9	\$10	\$9
Recovery Act: Recovery Payments	\$13,079	\$300	\$45
Administrative Expenses	\$165	\$388	\$30
Subtotal, General Fund Programs	\$61,354	\$51,623	\$56,624
TOTAL SSA, Current Law	\$731,132	\$759,973	\$792,348

Mr. Obey: Please note the key drivers for each year's change in productivity.

Mr. Astrue: Below are the key drivers for our administrative budgets for FYs 2006 – 2009. Our FY 2010 and FY 2011 key drivers are explained in the next response.

FY 2006 Productivity Improvement

In FY 2006, we continued to develop efficient and user-friendly tools to enable employees to accomplish their tasks, improve productivity, and better serve the public. However, we were also in the final stage of implementing the Electronic Disability Collect System (EDCS). During this time, the new electronic process was running in parallel to the legacy paper process, which temporarily suppressed productivity in disability claims.

FY 2007 Productivity Improvement

In FY 2007, we continued to develop efficient and user-friendly tools to enable employees to accomplish their tasks and serve the public. We expanded the use of video conferencing and automated case processing systems to increase productivity. The workforce steadily became more proficient in the use of technology, overcoming a long learning curve and duplicative paper and electronic processes, resulting in greater efficiency, productivity, and quality customer service. We began to see real dividends from EDCS from both Federal employees and the State DDSs.

FY 2008 Productivity Improvement

In FY 2008, we faced the challenge of improving and increasing automation in order to optimize service for the expected influx of retirement and disability claims from Baby Boomers while still increasing our productivity. To address this challenge, we redesigned our Internet applications to help meet increasing public demand for online services. We introduced our new iClaim application in January 2008. iClaim simplified the online application, improved usability, increased automated customer service options, and support for individuals filing online for retirement, disability, and spouse's benefits. As a result, the number of claims filed online increased dramatically in FY 2008.

We also used speech technology and new self-help options to improve service on our National 800-Number.

FY 2009 Productivity Improvement

In FY 2009, we continued to increase the number of benefit applications completed online. The expansion of the use of video equipment at hearings increased ALJ productivity and decreased the need for our ALJs to travel.

Our transition to electronic disability folders and efforts to streamline and simplify business processes, policies, and procedures are the key to our increased productivity.

For FY 2010 and FY 2011, please see the response below.

Mr. Obey: Please explain what actions, costs and savings are assumed in the FY 2010 budget request for FY 2010, what is assumed in the FY 2011 budget request for FY 2010 and what is assumed in for FY 2011?

Mr. Astrue: Below are the improvements for FY 2010 and FY 2011.

FY 2010 President's Budget Key Initiatives

Investments to eliminate the hearings backlog were our top priority in the FY 2010 President's Budget. These investments included increases in staff and infrastructure to drive down the backlog by FY 2013, as well as automation enhancements in our appellate operations.

Our plans assumed continued efforts to enhance the disability process to improve our quality, timeliness, and efficiency. The impetus for these enhancements is to align our disability policy with modern medical technology and knowledge.

We included in our budget the resources to modernize the disability process to avoid future backlogs and provide applicants with faster decisions. Our budget included funding to continue developing a new Occupational Information System that will replace the Dictionary of Occupational Titles and to expand our medical listings, used to evaluate impairments considered severe enough to prevent a claimant from working, to include rare diseases and obviously disabling conditions.

We plan to update our information technology infrastructure and invest in new technologies to improve service to the public. Before we implement new technology, we update and simplify the underlying business process and policies to ensure we use automation most effectively. At the same time, we planned to increase our program integrity efforts.

FY 2011 President's Budget Key Initiatives

In the FY 2011 President's Budget, eliminating the hearings backlog remains our top priority. At the same time, we also plan to continue to improve the disability process, integrate modern health information technology systems into our disability process, and expand Internet services.

We are implementing several policy simplification initiatives and information technology upgrades as part of the FY 2011 backlog reduction strategy. We are making hardware upgrades to allow Disability Determination Services examiners to complete work faster,

expanding automated screening tools to help us accelerate the completion of cases, and simplifying our policies and streamlining our processes.

We continue to invest in service and infrastructure improvements that will help us meet both current and future challenges. These investments include information technology upgrades and additional program integrity work. We will also continue our longstanding tradition of implementing green policies throughout the agency. We believe that the future benefit of these investments far outweigh the costs.

Mr. Obey: Please explain how these initiatives are identified, tested, evaluated, and selected for implementation.

Mr. Astrue: We select projects based on how they will enhance public service, help us manage workloads, provide internal efficiencies and savings, and provide good stewardship of taxpayer dollars. In testing new services for deployment, we use industry standard best practices for systems testing. We also conduct usability testing with the intended users at the design stage, conduct user acceptance testing prior to implementation, and use gradual rollouts for major releases to mitigate risk and assess the users' experience.

The information technology (IT) aspects of major initiatives are included in the deliberations of the Executive Strategy Board as part of the Strategic Information Technology Assessment and Review Process (SITAR). If an initiative requires an IT investment, we include it in the SITAR process. Before we fund it, we determine performance goals and establish measures of success. We track and report on these initiatives regularly to the SITAR. Once we deploy a major investment, we conduct a post-implementation review to compare accomplishments to the original proposals.

Mr. Obey: Related to the process explained in question 5 above, please walk us through this process and timeline for the Enumeration Starter Kit as it was expected to increase productivity in the SSN workload by 9% beginning in 2011. However, we understand it was abandoned after being vetted with members of the public who were not interested in using an Internet application when they knew that they were still required to visit a Social Security Office to establish their identity.

Mr. Astrue: You are correct that we abandoned the Enumeration Starter Kit (ESK) after reviewing it with members of the public. After testing ESK in two major cities, 100 percent of respondents questioned the need to complete the form online if it still required a field office visit. As a result, we are currently exploring a more efficient fully-automated process that will ultimately allow the public to request certain types of SSN replacement cards online without requiring a visit their servicing field office. We recognize the need to guard against misuse and identity theft in any online process, and we will make security a priority as we explore potential processes.

Mr. Obey: We understand SSA is in the process of updating its phone system. Please explain when or if SSA plans to establish a single 1-800 phone number that uses technology to direct calls to the national call centers or local office as a way to improve customer service and improve productivity.

Mr. Astrue: Communication by telephone continues to be a primary method the public uses to conduct business with us. We have replaced the telephone infrastructure in 43 percent of our approximately 1,300 field offices and are procuring the infrastructure replacement of our National 800 Number Network (N8NN). While the two networks are and will remain separate, we will connect them to improve service to field office callers. For example, we have implemented a feature in our field offices called the Field Office Automation Project (FOAP). FOAP will be available to field offices that have transitioned to the new infrastructure.

This feature will offer field office callers four popular automated services currently available on our N8NN. Those services are change of address, direct deposit, benefit verification, and Medicare replacement card. Callers selecting this service will not need to dial another number.

OCCUPATIONAL INFORMATION SYSTEM

Mr. Obey: For the Occupational Information System project, please provide the following:

The expected total cost of the projected development by fiscal year and list each funding account source within SSA.

Mr. Astrue: We are funding the first three years of the Occupational Information System (OIS) project under section 1110 budget authority for research and demonstrations as follows:

FY 2009:	\$	342,000
FY 2010:	\$	3,714,000
FY 2011:	\$	13,360,000

Mr. Obey: Please provide the expected annual operating cost by fiscal year and list each funding account source within SSA.

Mr. Astrue: We are currently in the research and development phase of the OIS project. Therefore, our plans to date involve expenditures under section 1110 only. We

do not expect to have any operating costs for ongoing activities (such as those costs covered by Limitation on Administrative Expenses) before FY 2014.

Mr. Obey: Please provide the expected project start date and completion date.

Mr. Astrue: We began the OIS project in the third quarter of FY 2008 as our experience led us to conclude that we needed to create a new occupational information system designed specifically for our disability programs. In the fourth quarter of FY 2008, we briefed Office of Management and Budget staff and Congressional staff regarding our initial plans. We continue to brief these groups and plan to brief key stakeholders throughout the course of the project.

FY 2009 accomplishments:

- Established the Occupational Information Development Advisory Panel (Panel) under the Federal Advisory Committee Act (December 2008). The mission of the Panel is to provide independent advice and recommendations on our plans and activities to replace the Dictionary of Occupational Titles (DOT) and to create a new OIS for our purposes.
- Held an inaugural Panel meeting in February 2009. The Panel submitted its first set of recommendations to us in September 2009. We intend for the Panel to remain active through the research and development phase of the project.
- Investigated whether there are any private sector updates to the DOT that meet our program requirements. If so, we could use the data in the interim while we pursue longer-term solutions. We conducted a contracted evaluation of private-sector updates of DOT-based data. We found that the data do not meet our program requirements, and it would not be effective or cost-efficient to modify the private-sector updates of DOT-based data.
- Conducted a user needs analysis and developed an initial methodological plan for the development of a new OIS. We presented the results and methods to the Panel for consideration.

FY 2010 activities

- Conducting a study of a sample of completed disability claims to target occupations of interest for an initial pilot study and other information about vocational profiles including age, education, and work experience.
- Developing a content model to identify the data elements most pertinent to disability evaluation to include in the OIS.
- Developing data collection instruments to gather data elements listed in the content model. We anticipate awarding a contract to test one of these data

collection instruments with the contractor performing the work in FY 2010 and FY 2011.

- Awarding a contract to develop a business process for conducting job analyses and other data collection with the contractor performing the work in FY 2010 and FY 2011.
- Awarding a contract to obtain necessary expertise in the areas of vocational rehabilitation, and industrial/organizational psychology.

FY 2011 plans:

- Complete the contracted work awarded in FY 2010 to test one of the data collection instruments.
- Complete contracted activity to develop a business process for conducting job analyses and other means of data collection.
- Award the first contract to conduct the first of a series of studies to test both our hypotheses regarding the design of the OIS and the sampling and data collection methods.

We expect to complete initial data collection by the end of FY 2014. We will formulate more precise estimates of project timeframes once we complete the initial collection to answer basic design and methodological questions.

Mr. Obey: The Department of Labor (DOL) has the mission expertise in developing occupational information, whereas SSA's mission expertise is to administer SSA programs. Please explain the technical impediments, if any, to modify DOL's O*NET system so it can provide necessary occupational information to SSA? In addition, please identify the DOL office contacted by SSA to discuss the use of O*NET system, along with the most recent date of contact? Has the DOL Office of the Secretary made a determination DOL could or could not support leveraging of O*NET to meet the SSA requirement?

Mr. Astrue: As you have noted, our mission is quite different than DOL's. Among other activities, DOL's mission includes helping employers find workers and tracking changes in employment, prices, and other national economic measurements.¹ Within DOL, the Employment and Training Administration (ETA) has responsibility for the development and maintenance of O*NET. The ETA's mission includes providing employment and labor market information.² The missions of DOL and DOL/ETA appear to focus on evaluation of economy-wide factors and trends, requiring abstract (e.g.,

¹ <http://www.dol.gov/opa/aboutdol/mission.htm>

² <http://www.doleta.gov/etainfo/mission.cfm>

macro-level) data. In addition, we have concerns that O*NET may not meet the standards of Federal evidentiary rules.

In contrast, our mission is to adjudicate claims for disability benefits. In order to administer our disability programs according to the criteria set forth in the law, we need detailed occupational information so that we can determine whether specific work exists which a specific person can perform, given the physical or mental limitations, which result from his or her medically determinable impairment.³ We assess cases based on the facts in each case. For this assessment, we need very detailed occupational information. In addition, we must be able to defend our decisions in court. Therefore, the OIS must meet the standards of Federal evidentiary rules. Our mission focuses on the evaluation of individual circumstances and requires concrete (e.g., micro-level) data.

Before initiating this project, we extensively evaluated the DOL's O*NET and found it was unsuitable for use in our disability adjudication process. The fundamental design decisions made for DOL's O*NET are different from the design decisions necessary to develop an OIS intended for use as evidence in disability adjudication or by the courts. In fact, the differences in the design decisions are so fundamental and the effect so extensive and profound that we believe O*NET cannot be modified to meet our occupational information needs without completely re-developing O*NET, which would be neither practical nor cost-effective. While a number of technical impediments to our use of O*NET exist, we describe three examples below:

1. ***Unit of analysis issues (also known as data aggregation issues):*** O*NET defines occupations and uses a unit of analysis for occupations that is too abstract for disability adjudication purposes. Instead, we need occupational information that defines in detail occupations that is sufficiently detailed to minimize within-title differences on the rated attributes. We need a system in which a given occupational title accurately describes both the major job activities and worker requirements for all who perform it, and avoids the presence of sub-occupations that differ meaningfully in terms of their major work activities or worker qualifications (e.g., as may be seen for entry-level versus journeyman titles);
2. ***Issues regarding the demands and measures of work:*** O*NET describes work in terms of abstract job demands using scales that are not suitable for disability adjudication purposes. Instead, we need work to be described using terminology and operational definitions consistent with standard medical practice; and
3. ***Data collection issues:*** The O*NET database was populated using incumbent surveys and analyst ratings; however, the analysts rated the occupations using job descriptions rather than by observing the work being performed. To ensure that

³ Social Security Act, Section 223(d)(2)(A).

we can meet legal challenges, our data collection plans must include onsite job analyses and focus on collecting accurate data that will meet our needs.

We have articulated our specific legal, program, and technical/data occupational information requirements, which the Panel endorsed. A number of other entities have produced reports stating that we cannot use O*NET in our disability evaluation process and recommend that we investigate other alternatives. Here are some of the relevant reports.

- GAO Testimony: *SSA Disability Programs – Fully Updating Disability Criteria Has Implications for Program Design* (July 11, 2002).⁴
- GAO Report: *SSA and VA Disability Programs – Re-examination of Disability Criteria Needed to Help Ensure Program Integrity* (August 2002).⁵
- Social Security Advisory Board Report: *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change* (January 2001).⁶
- Institute of Medicine Report: *SSA's Disability Determination Process: A Framework for Research* (January 1998).⁷

In addition, the National Academies of Science (NAS) posted (online) a pre-publication copy of its report, "A Database for a Changing Economy: Review of the Occupational Information Network (O*NET)." In this report, NAS points to numerous limitations on the use of O*NET data and explains that the O*NET is not suitable for all users.⁸ In particular, the report cites concerns that using O*NET may not be legally defensible.⁹ In Chapter 8, pages 160-161, NAS also points out that "disability determination is an important use of the DOT and because O*NET was created to replace the DOT, it seems fair to conclude that the O*NET has failed to replace the DOT in this particular usage." The NAS staff presented this report and its conclusions at the March 2010 public meeting of the Occupational Information Development Advisory Panel in St. Louis, MO.

We began discussing these issues and our occupational information needs with DOL ETA staff in 2001. During these discussions, DOL and our staff considered potential areas of collaboration between the two agencies and, as a result, DOL agreed to fund several research efforts and pilots that were of interest to us. The discussions and research confirmed, however, that, because of the differences in the agencies' missions, the type of data that we need is different from DOL's needs and different from what O*NET provides.

⁴ Available at <http://www.gao.gov/new.items/d02919t.pdf>.

⁵ Available at <http://www.gao.gov/new.items/d02597.pdf>.

⁶ Available at <http://www.ssab.gov/Publications/Disability/disabilitywhitepap.pdf>.

⁷ Available at http://books.nap.edu/openbook.php?record_id=6194&page=R7.

⁸ Available at http://www.nap.edu/catalog.php?record_id=12814.

⁹ Report, pages 7-3 and 7-10.

Our staff met with DOL ETA staff on April 23, 2010. Two members of our Panel (one of whom is our employee) met with the Bureau of Labor Statistics on May 11, 2010.

We do not know if DOL has issued an opinion regarding whether DOL could or could not support leveraging of O*NET to meet our requirements.

Mr. Obey: SSA's development of an independent occupational information system appears to create a potential perception of a conflict of interest, as SSA will develop a system that it will use to adjudicate claims. Does SSA believe there could be this view taken by some in the community? How would SSA control for this to nullify these types of concerns?

Mr. Astrue: We have anticipated that our development of an OIS could potentially lead to a perception of a conflict of interest; however, we believe no other alternative exists. We have attempted to address these types of concerns by establishing a Federal Advisory Committee Act (FACA) Panel and by planning to contract with external entities to perform the data collection activities. We also intend to make our OIS design decisions, working papers, and data available to the public, including interested academic and research entities, to ensure our OIS data meet rigorous scientific standards.

On December 9, 2008, we established the Panel under the FACA to provide us with independent advice and recommendations regarding the creation of an OIS tailored for our disability programs. The involvement of this FACA Panel ensures that the OIS development process is objective and scientifically rigorous, as well as accessible and transparent to the public. The Panel members' expertise in the diverse fields of occupational analysis, psychometrics, medicine, psychology, vocational rehabilitation, law and claimant representation, economics, physical therapy, and our disability programs and adjudicative processes also ensures the Panel can provide us balanced and practical recommendations and advice. The Panel reviews the project and provides guidance at each stage of our research and development effort, such as study designs, instrument development and testing, and design and methodology for sampling and data collection.

We plan to contract with external entities to conduct the design studies and the data collection needed for the new OIS. We are also developing a process to use social media to encourage comments and an exchange of ideas with claimant representatives, with vocational rehabilitation specialists who provide expert testimony to our ALJs, and within interested professional and academic communities, such as universities and professional associations of relevant academic fields.

Mr. Obey: What is the expected percent of effort and cost breakout—by SSA staff, contract, grant, etc. to conduct this task?

Mr. Astrue: The necessary workyears and funds are identified in the tables below.

Staff workyears		Contracted research (\$ in millions) ¹⁰	
FY 2009	11	FY 2009	\$ 0.342
FY 2010	16	FY 2010	\$ 3.714
FY 2011	30	FY 2011	\$ 13.360

CONTINUING DISABILITY REVIEWS (CDR) AND REDETERMINATIONS

Mr. Obey: Please provide a table with the number of CDRs or redeterminations, along with corresponding expenditures, for each of the following categories: CDR DI, CDR SSI, and SSI Redetermination. The table should include information for FY 2000, FY 2005, FY 2009, FY 2010, and FY 2011. In each category and for each year, include a breakout of the method used to conduct the activity, such as, mail, face-to-face, and other methods used.

Mr. Astrue: We publish tables with the annual number of CDRs completed in the Annual CDR Report to Congress. Excerpts from those annual reports for FYs 2000, 2005, and 2008 are below. The report for FY 2008 is the latest report released. We will provide the FY 2009 CDR Report to Congress later this year. CDR volumes and costs for FY 2009 through FY 2011 are included in a table following the extracts. Following the CDR information is a table displaying expenditures and case volumes for Supplemental Security Income (SSI) non-medical redeterminations.

¹⁰ Contracted research includes the cost of conducting meetings of the Panel.

Periodic Continuing Disability Reviews Processed in Fiscal Year 2000

Program Involvement	CDRs processed	Mailers only	Full medical reviews	Initial cessations	Estimated ultimate Cessations
I. Periodic CDRs (initiated centrally)					
Total Title II	1,109,693	698,579	411,114	36,530	19,200
Title II Only	823,639	518,312	305,327	24,705	12,600
Disabled workers.....	740,574	457,902	282,672	23,357	11,900
Auxiliaries	83,065	60,410	22,655	1,348	700
Concurrent Title II and XVI....	286,054	180,267	105,787	11,825	6,600
Disabled workers.....	205,391	123,567	81,824	9,900	5,500
Auxiliaries	80,663	56,700	23,963	1,925	1,100
Total Title XVI Only	637,189	261,129	376,060	79,983	56,800
Disabled adults	434,599	261,129	173,470	17,405	8,000
Disabled children.....	202,590	0	202,590	62,578	48,200
Low birth weight	10,178	0	10,178	5,612	4,800
Age 18 redeterminations.....	51,713	0	51,713	22,850	18,100
Other SSI children	140,699	0	140,699	34,116	25,200
Total Title II and XVI	1,746,882	959,708	787,174	116,513	76,000
(initiated centrally)					
II. Other Periodic CDRs *	61,476	0	61,476	8,133	***
(not initiated centrally)					
III. Administrative Closures **	28,152	0	28,152	0	0
Total Periodic CDRs	1,836,510	959,708	876,802	124,646	***

* Other periodic review CDR cases are reviews initiated for reasons other than the maturing of a medical review diary. Examples of such cases are voluntary beneficiary/recipient reports or third party reports indicating that the individual may no longer be disabled.

** Administrative closures are cases initiated as periodic CDRs, but development was curtailed for technical reasons, such as the suspension or termination of benefits for other reasons, including the death of the beneficiary.

*** Due to the unavailability of appellate information for the "other" periodic CDRs, ultimate cessations have not been estimated.

Periodic Continuing Disability Reviews Processed in Fiscal Year 2005

Program involvement	CDRs processed	Mailers only	Full medical reviews	Initial cessations	Estimated ultimate cessations
I. Periodic CDRs (initiated centrally)					
Total Title II	859,841	637,226	222,615	27,388	14,900
Title II Only	677,145	535,127	142,018	17,478	9,800
Disabled workers	620,140	486,195	133,945	16,798	9,400
Auxiliaries and survivors	57,005	48,932	8,073	680	400
Concurrent Title II and XVI	182,696	102,099	80,597	9,910	5,100
Disabled workers	134,161	63,790	70,371	8,935	4,600
Auxiliaries and survivors	48,535	38,309	10,226	975	500
Total Title XVI Only	585,902	345,402	240,500	59,599	42,100
Disabled adults	455,474	345,402	110,072	12,742	6,300
Disabled children	130,428	0	130,428	46,857	35,800
Low birth weight	13,710	0	13,710	7,170	6,200
Age 18 redeterminations	55,331	0	55,331	23,897	18,200
Other SSI children	61,387	0	61,387	15,790	11,400
Total Title II and XVI	1,445,743	982,628	463,115	86,987	57,000
(initiated centrally)					
II. Other Periodic CDRs *	50,718	0	50,718	9,603	***
(not initiated centrally)					
III. Administrative Closures **	16,548	0	16,548	0	
Total Periodic CDRs	1,513,009	982,628	530,381	96,590	***

* Other periodic review CDR cases are reviews initiated for reasons other than the maturing of a medical review diary. Examples of such cases are voluntary beneficiary/recipient reports or third-party reports indicating that the individual may no longer be disabled.

** Administrative closures are cases initiated as periodic CDRs, but development was curtailed for technical reasons, such as the suspension or termination of benefits for non-medical reasons, including the death of the beneficiary.

*** Due to the unavailability of appellate information for the "other" periodic CDRs, ultimate cessations have not been estimated.

Periodic Continuing Disability Reviews Processed in Fiscal Year 2008

Program involvement	CDRs Processed				CDR cessations/terminations			
	Total CDRs processed	Mailers only	Initial FO FTC terminations ¹	Full medical reviews	Cessations from FMRs		Estimated final FO FTC terminations	Estimated total final cessations/termination
					Initial cessations	Estimated cessations after appeals		
I. Periodic CDRs (initiated centrally)								
Total Title II	811,529	696,326	368	114,835	11,460	6,070	341	6,411
Title II Only	640,554	565,499	265	74,790	7,306	3,851	246	4,097
Disabled workers	576,825	505,422	253	71,150	7,093	3,732	234	3,966
Auxiliaries and survivors	63,729	60,077	12	3,640	213	119	12	131
Concurrent Title II and XVI	170,975	130,827	103	40,045	4,154	2,219	95	2,314
Disabled workers	123,711	87,705	92	35,914	3,789	1,997	86	2,083
Auxiliaries and survivors	47,264	43,122	11	4,131	365	222	9	231
Total Title XVI Only	248,597	149,589	666	98,342	41,042	31,429	656	32,085
Disabled adults	168,559	149,589	37	18,933	1,884	908	35	943
Disabled children	80,038	0	629	79,409	39,158	30,521	621	31,142
Low birth weight	5,311	0	39	5,272	3,041	2,711	39	2,750
Age 18 redeterminations ...	70,009	0	579	69,430	34,883	26,921	571	27,492
Other SSI children	4,718	0	11	4,707	1,234	889	11	900
Total Title II and XVI (initiated centrally)	1,060,126	845,915	1,034	213,177	52,502	37,499	997	38,496
II. Other Periodic CDRs ² (not initiated centrally)								
	17,741	0	99	17,642	3,894	(3/)		N/A
III. Administrative Closures ³								
	8,842	0	0	8,842	0	N/A		
Total Periodic CDRs	1,086,709	845,915	1,133	239,661	56,396	(3/)	0	N/A

1/ Per 20 CFR 404.1587 and 404.1596 (Title II) and 20 CFR 416.992 (Title XVI) (71 FR 60819, October 17, 2006), beneficiaries who failed to comply with our FO's request for necessary information during the CDR have had their eligibility for disability benefits terminated after 12 consecutive months of suspension for non-compliance. (Failure to cooperate events that occur after the full medical reviews (FMR) are underway are reported in the FMR column.)

2/ Other periodic review CDR cases are reviews initiated for reasons other than the maturing of a medical review diary. Examples of such cases are voluntary beneficiary/recipient reports or third party reports indicating that the individual may no longer be disabled.

3/ Due to the unavailability of appellate information for the "other" periodic CDRs, we have not estimated ultimate cessations.

4/ We initiate administrative closures as periodic CDRs, but we curtail development for technical reasons, such as the suspension or termination of benefits for other reasons, including the death of the beneficiary.

Periodic Medical Continuing Disability Reviews

Expenditures (\$ in millions)		Cases (thousands)
FY 2009 Enacted ¹	\$ 278	329
FY 2010 Budget	\$ 359	329
FY 2011 Budget	\$ 416	360

^{1/} FY 2009 actual expenditures will be reported later this year in the report to Congress.

Below is a table that shows the relevant data for SSI non-medical redeterminations:

Redeterminations ¹		
Expenditures <i>(\$ in millions)</i>		Cases <i>(thousands)</i>
FY 2000	\$ 298	2,182
FY 2005	\$ 264	1,725
FY 2009 Enacted²	\$ 226	1,711
FY 2010 Budget	\$ 365	2,422
FY 2011 Budget	\$ 370	2,422

^{1/} FY 2009 – FY 2011 include SSI limited issue redeterminations.

^{2/} FY 2009 actual expenditures will be reported later this year in the report to Congress.

Generally, we redetermine SSI eligibility either in a field office or over the phone. However, data necessary to break out costs and counts between the two methods are not available. Prior to FY 2007, we redetermined SSI eligibility by sending letters to recipients asking them if there were any changes in their financial situations. These mailer redeterminations had a much lower unit cost than our typical redetermination workload. We no longer conduct mailer redeterminations.

Mr. Obey: In addition, for each method, provide the annual return on investment for each of these methods and the overall annual return.

Mr. Astrue: Please see the information below:

Continuing Disability Reviews (CDR)

Following are extracts from the CDR Reports to Congress from FY 2000, FY 2005, and FY 2008 that identify and explain the estimated Federal benefit savings from CDRs. The report for FY 2008 is the latest report released. We will provide the FY 2009 CDR Report to Congress later this year.

**ESTIMATED SAVINGS FROM PERIODIC CONTINUING DISABILITY REVIEW INITIAL
CESSATIONS IN FISCAL YEAR 2000**

This appendix presents estimates of program savings expected to ultimately ensue from continuing disability reviews (CDRs) which were initiated centrally and resulted in an initial cessation in fiscal year 2000. Table B1 provides actual numbers of such initial cessations, along with the estimated numbers of such cessations that will ultimately result in termination of disability benefits. The estimates of ultimate cessations reflect all information on the status of appeals of these initial cessations as of February 2001, as well as estimates of the final disposition of such cases as based on the latest information concerning appeal and reversal rates at various stages of the appeals process.

**Table B1.—Cessations Resulting From Periodic Continuing
Disability Reviews Initiated Centrally¹**

	CDRs initiated under title II			CDRs initiated under title XVI	Total
	Title II only reviews	Title II reviews involving title XVI recipients	Subtotal, title II		
Initial cessations in fiscal year 2000.....	24,705	11,825	36,530	79,983	116,513
Estimated ultimate cessations (after all appeals) resulting from initial cessations shown on previous line	12,600	6,600	19,200	56,800	76,000

¹ Does not include work CDRs or other CDRs initiated outside of SSA's centralized process for releasing cases for review. See main text for further explanation.

Table B2 presents estimates of the Federal savings resulting from CDRs for which initial cessations of disability benefits occurred in fiscal year 2000. These savings are based on the estimates of ultimate cessations that will remain after the appeals process is complete, as shown in table B1. Estimated savings in table B2 are shown separately for (1) the Old-Age, Survivors, and Disability Insurance (OASDI) program, (2) the Supplemental Security Income (SSI) program, (3) the two Medicare programs, Hospital Insurance (HI) and Supplementary Medical Insurance (SMI), and (4) the Medicaid program.

Table B2 displays the estimated savings in three ways. First, the reductions in benefit payments for each fiscal year from 2000 through 2009 are shown. Second, medium-range (25-year) and long-range (75-year) savings are shown for the programs which are financed by payroll taxes. These estimates are expressed as a percent of taxable payroll, and each is in the "negligible" range, i.e., less than 0.005 percent of taxable payroll.

The third set are estimates of the present value of Federal benefits saved because of the CDRs, valued as of September 30, 2000. These estimates may be thought of as the amount of money as of September 30, 2000 which, together with earned interest, would be just sufficient to pay the estimated amount of benefits that will not be payable because of the CDRs.

These estimates are based on the intermediate assumptions of the 2001 OASDI and HI Trustees Reports and the assumptions used for the 2001 SSI Annual Report. Estimates of OASDI and SSI savings were prepared by the Office of the Chief Actuary, Social Security Administration. Medicare and Medicaid estimates were prepared by the Office of the Actuary, Centers for Medicare & Medicaid Services.

Appendix B

Table B2.—Estimated Federal Program Savings From Periodic Continuing Disability Reviews Initiated Centrally ¹ With Initial Cessations in Fiscal Year 2000, by Program

Fiscal year	Program					Total
	OASDI	SSI ²	HI	SMI ³	Medicaid ²	
A. Estimated amount of reduction in benefit payments (in millions)						
2000	\$25	\$60	\$15	\$10	\$15	\$125
2001	135	225	45	30	85	520
2002	155	290	50	35	110	640
2003	155	270	50	35	105	615
2004	145	250	50	35	100	580
2005	140	250	45	35	100	570
2006	135	215	45	35	95	525
2007	130	190	45	35	90	490
2008	125	190	45	35	85	480
2009	120	170	45	35	145	515
10-year total	1,265	2,110	435	320	930	5,060
B. Estimated medium-range (25-year) and long-range (75-year) savings (as a percent of taxable payroll ⁴)						
25-year: 2001-25.....	(5)	—	(5)	—	—	—
75-year: 2001-75.....	(5)	—	(5)	—	—	—
C. Present value of estimated lifetime benefits saved, as of the end of fiscal year 2000 (in millions)						
	\$1,545	\$2,275	\$495	\$365	\$1,350	\$6,030

¹ The savings estimates are based upon the 116,513 initial cessations from CDRs initiated centrally for which we have demographic, appellate, and benefit information. In particular, the estimates do not include savings for 8,133 initial cessations generated outside of the centralized scheduling process (e.g., voluntary or third party reports of medical improvement), for which we have no such information, nor for an additional 5,711 initial cessations resulting from work CDRs which are considered outside the periodic review process.

² For the SSI and Medicaid programs, the savings are the *Federal share* of total savings.

³ For the SMI program, the savings are the net effect of a reduction in benefit payments and a reduction in premium payments.

⁴ Medium-range and long-range savings are presented for those programs which are financed by payroll taxes.

⁵ Less than 0.005 percent of taxable payroll.

Note: The estimates are based on the intermediate assumptions from the 2001 Trustees Reports and assumptions underlying the 2001 SSI Annual Report.

Social Security Administration
Office of the Chief Actuary
August 8, 2001

**ESTIMATED FEDERAL BENEFIT SAVINGS FROM PERIODIC CONTINUING DISABILITY
REVIEW INITIAL CESSATIONS IN FISCAL YEAR 2005**

This appendix presents estimates of Federal benefit savings expected to ultimately ensue from continuing disability reviews (CDRs) which were initiated centrally and resulted in an initial cessation in fiscal year 2005. Table B1 provides actual numbers of such initial cessations, along with the estimated numbers of such cessations that will ultimately result in termination of disability benefits. The estimates of ultimate cessations reflect all information on the status of appeals of these initial cessations as of February 2006 as well as estimates of the final disposition of such cases as based on the latest information concerning appeal and reversal rates at various stages of the appeals process.

**Table B1.—Cessations Resulting From Periodic Continuing
Disability Reviews Initiated Centrally¹**

	CDRs initiated under title II			CDRs initiated under title XVI	Total
	Title II only reviews	Title II reviews involving title XVI recipients	Subtotal, title II		
Initial cessations in fiscal year 2005	17,478	9,910	27,388	59,599	86,987
Estimated ultimate cessations (after all appeals) resulting from initial cessations shown on previous line	9,800	5,100	14,900	42,100	57,000

¹ Does not include work CDRs or other CDRs initiated outside of SSA's centralized process for releasing cases for review. See main text for further explanation.

Table B2 presents estimates of the Federal benefit savings resulting from CDRs for which initial cessations of disability benefits occurred in fiscal year 2005. These savings are based on the estimates of ultimate cessations that will remain after the appeals process is complete, as shown in table B1. Estimated savings in table B2 are shown for (1) the Old-Age, Survivors, and Disability Insurance (OASDI) program, (2) the Supplemental Security Income (SSI) program, (3) the Medicare programs,¹ and (4) the Medicaid program.

Table B2 displays the estimated benefit savings in three ways. First, the reductions in benefit payments for each fiscal year from 2005 through 2014 are shown. Second, medium-range (25-year) and long-range (75-year) savings are shown for the programs which are financed by payroll taxes. These estimates are expressed as a percent of taxable payroll, and each is in the "negligible" range, i.e., less than 0.005 percent of taxable payroll.

The third set are estimates of the present value of Federal benefits saved because of the CDRs, valued as of September 30, 2005. These estimates may be thought of as the amount of money as of September 30, 2005 which, together with earned interest, would be just sufficient to pay the estimated amount of benefits that will not be payable because of the CDRs.

These estimates are based on the intermediate assumptions of the 2006 Trustees Reports and the assumptions used for the 2006 SSI Annual Report. Estimates of OASDI and SSI savings were prepared by the Office of the Chief Actuary, Social Security Administration. Medicare and Medicaid estimates were prepared by the Office of the Actuary, Centers for Medicare & Medicaid Services.

¹ Includes the Hospital Insurance (HI) program and Parts B and D of the Supplementary Medical Insurance (SMI) program.

Appendix B

Table B2.—Estimated Federal Benefit Savings From Periodic Continuing Disability Reviews Initiated Centrally¹ With Initial Cessations in Fiscal Year 2005 by Program

Fiscal year	Program						Total
	OASDI	SSI ²	Medicare			Medicaid ²	
			HI	SMI-Part B ³	SMI-Part D ³		
A. Estimated amount of reduction in benefit payments (in millions)							
2005	\$55	\$55	\$10	\$10	—	\$20	\$150
2006	155	205	30	20	\$10	75	495
2007	160	215	35	25	15	90	540
2008	145	215	35	25	15	85	520
2009	130	200	35	25	15	80	485
2010	115	185	35	25	15	75	450
2011	105	180	35	20	15	70	425
2012	100	145	30	20	15	70	380
2013	90	145	30	20	15	65	365
2014	85	135	30	20	15	60	345
10-year total	1,140	1,680	305	210	130	690	4,155
B. Estimated medium-range (25-year) and long-range (75-year) savings (as a percent of taxable payroll ⁴)							
25-year: 2005-29	\$/	—	\$/	—	—	—	—
75-year: 2005-79	\$/	—	\$/	—	—	—	—
C. Present value of estimated lifetime benefits saved, as of the end of fiscal year 2005 (in millions)							
	1,565	1,865	450	330	200	995	5,405

¹ The savings estimates are based upon the 86,987 initial cessations from CDRs initiated centrally for which we have demographic, appellate, and benefit information. In particular, the estimates do not include savings for 9,603 initial cessations generated outside of the centralized scheduling process (e.g., voluntary or third-party reports of medical improvement), for which we have no such information, nor for an additional 1,878 initial cessations resulting from work CDRs which are considered outside the periodic review process.

² For the SSI and Medicaid programs, the savings are the Federal share of total benefit savings.

³ For the SMI program, the savings are the net effect of a reduction in benefit payments and a reduction in premium receipts.

⁴ Medium-range and long-range savings are presented for those programs which are financed by payroll taxes.

⁵ Less than 0.005 percent.

Notes:

1. The estimates are based on the intermediate assumptions from the 2006 Trustees Reports and assumptions underlying the 2006 SSI Annual Report.

2. The estimates shown in the above table for savings in the Medicare and Medicaid programs were provided by the Office of the Actuary in the Centers for Medicare & Medicaid Services. The estimates reflect the potential effects of all provisions in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Social Security Administration
Office of the Chief Actuary
August 30, 2006

**ESTIMATED FEDERAL BENEFIT SAVINGS FROM PERIODIC CONTINUING DISABILITY
REVIEW INITIAL CESSATIONS IN FISCAL YEAR 2008**

This appendix presents estimates of Federal benefit savings expected to ultimately ensue from continuing disability reviews (CDRs) that we initiated centrally and which resulted in an initial cessation or an initial Field Office failure-to-cooperate (FTC) termination in fiscal year 2008. Table B1 provides actual numbers of such initial cessations/terminations, along with the estimated numbers of such cessations/terminations that will ultimately result in termination of disability benefits. The estimates of ultimate cessations/terminations reflect all information on the status of appeals of these initial cessations/terminations as of February 2009 as well as estimates of the final disposition of such cases as based on the latest information concerning appeal and reversal rates at various stages of the appeals process.

**Table B1.—Cessations/Terminations Resulting From Periodic Continuing
Disability Reviews Initiated Centrally¹**

CDR cessations/terminations	CDRs initiated under title II			CDRs initiated under title XVI	Total
	Title II only reviews	Title II reviews involving title XVI recipients	Subtotal, title II		
Cessations from full medical reviews					
Initial cessations in fiscal year 2008	7,306	4,154	11,460	41,042	52,502
Estimated ultimate cessations (after all appeals) resulting from initial cessations shown on previous line.	3,851	2,219	6,070	31,429	37,499
Field Office FTC terminations					
Initial FTC terminations in fiscal year 2008	265	103	368	666	1,034
Estimated final FTC terminations after all appeals	246	95	341	656	997
Estimated total final cessations/terminations . . .	4,097	2,314	6,411	32,085	38,496

¹ Does not include work CDRs or other CDRs initiated outside of SSA's centralized process for releasing cases for review. See main text for further explanation.

Table B2 presents estimates of the Federal benefit savings resulting from CDRs for which initial cessations or initial Field Office FTC terminations of disability benefits occurred in fiscal year 2008. These savings are based on the estimates of ultimate cessations/terminations that will remain after the appeals process is complete, as shown in table B1. Estimated savings in table B2 are shown for (1) the Old-Age, Survivors, and Disability Insurance (OASDI) program, (2) the Supplemental Security Income (SSI) program, (3) the Medicare programs,¹ and (4) the Medicaid program.

Table B2 displays the estimated benefit savings in three ways. First, the reductions in benefit payments for each fiscal year from 2007 through 2017 are shown. Second, we present medium-range (25-year) and long-range (75-year) savings for the programs financed by payroll taxes. These estimates are expressed as a percent of taxable payroll, and each is in the "negligible" range, i.e., less than 0.005 percent of taxable payroll.

The third set are estimates of the present value of Federal benefits saved because of the CDRs, valued as of September 30, 2008. These estimates may be thought of as the amount of money as of September 30, 2008 which, together with earned interest, would be just sufficient to pay the estimated amount of benefits that will not be payable because of the CDRs.

All estimates are based on the intermediate assumptions of the 2009 Trustees Reports and the assumptions used for the 2009 SSI Annual Report. The Office of the Chief Actuary, SSA, prepared the estimates of OASDI and SSI savings. The Office of the Actuary, Centers for Medicare & Medicaid Services, prepared the Medicare and Medicaid estimates.

¹ Includes the Hospital Insurance (HI) program and Parts B and D of the Supplementary Medical Insurance (SMI) program.

Appendix B

Table B2.—Estimated Federal Benefit Savings From Periodic Continuing Disability Reviews Initiated Centrally¹ With Initial Cessations and Initial Field Office FTC Terminations in Fiscal Year 2008 by Program

Fiscal year	Program						Total
	OASDI	SSI ²	Medicare			Medicaid ²	
			HI	SMI-Part B ³	SMI-Part D ³		
A. Estimated amount of reduction in benefit payments (in millions)							
2007 ⁴	\$1	\$1	—	—	—	—	\$2
2008	33	46	\$7	\$4	\$5	\$25	121
2009	70	163	18	11	13	105	381
2010	73	182	18	10	12	125	419
2011	66	176	17	8	12	104	383
2012	59	140	17	9	12	96	332
2013	52	138	16	9	12	90	317
2014	48	126	16	9	12	83	293
2015	44	114	15	9	11	78	272
2016	41	111	15	9	11	75	262
2017	38	94	15	9	11	69	236
11-year total	524	1,292	155	86	112	849	3,018
B. Estimated medium-range (25-year) and long-range (75-year) savings (as a percent of taxable payroll ⁵)							
25-year: 2008-32	6/	—	6/	—	—	—	—
75-year: 2008-82	6/	—	6/	—	—	—	—
C. Present value of estimated lifetime benefits saved, as of the end of fiscal year 2008 (in millions)							
	721	1,444	224	155	178	1,041	3,763

¹ The savings estimates are based upon the 52,502 initial cessations and 1,034 initial Field Office FTC terminations from CDRs initiated centrally for which we have demographic, appellate, and benefit information. In particular, the estimates do not include savings for 3,894 initial cessations and 99 initial Field Office FTC terminations generated outside of the centralized scheduling process (e.g., voluntary or third-party reports of medical improvement), for which we have no such information, nor for an additional 850 initial cessations resulting from work CDRs which are considered outside the periodic review process.

² For the SSI and Medicaid programs, the savings are the Federal share of total benefit savings.

³ For the SMI program, the savings are the net effect of a reduction in benefit payments and a reduction in premium receipts.

⁴ Estimated savings in fiscal year 2007 are attributable to the Field Office FTC terminations. The initial Field Office terminations in fiscal year 2008 had payments suspended in fiscal year 2007 due to a failure to cooperate with the Field Office in a continuing disability review.

⁵ Medium-range and long-range savings are presented for those programs financed by payroll taxes. Includes estimated savings from suspended payments in fiscal year 2007 attributable to Field Office FTC terminations in fiscal year 2008.

⁶ Less than 0.005 percent.

Notes:

1. The estimates are based on the intermediate assumptions from the 2009 Trustees Reports and assumptions underlying the 2009 SSI Annual Report.

2. The Office of the Actuary in the Centers for Medicare & Medicaid Services provided the estimates shown in the above table for savings in the Medicare and Medicaid programs. The estimates reflect the potential effects of all provisions in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Social Security Administration
Office of the Chief Actuary
October 23, 2009

Continuing Disability Reviews (continued)

In the President's Budgets for FY 2009 through FY 2011, we reported the projected program savings for CDRs in our budget each year, as summarized below:

- FY 2009: We budgeted approximately \$278 million to complete 1,079,000 total periodic CDRs in FY 2009, including nearly 329,000 full medical CDRs and 750,300 CDR mailers that do not require medical review. We estimate that these CDRs will result in an estimated \$3,009 million in program savings over 10 years (not including additional savings that would accrue from Medicare and Medicaid).
- FY 2010: We will spend approximately \$359 million to complete 954,000 total periodic CDRs in FY 2010, including nearly 329,000 full medical CDRs and 625,000 CDR mailers that do not require medical review. We estimate that these CDRs will result in an estimated \$4,220 million in program savings over 10 years (not including additional savings that would accrue from Medicare and Medicaid).
- FY 2011: We have budgeted almost \$416 million to complete 1,388,000 in FY 2011, including nearly 360,000 full medical CDRs and 1,029,000 CDR mailers that do not require medical review. We estimate that these CDRs will result in an estimated \$4,626 million in program savings over 10 years (including estimated savings that would accrue from Medicare and Medicaid).

SSI Non-Medical Redeterminations

While CDRs involve the single, long-standing issue of whether a person has recovered from their disability such that they can return to work, SSI non-medical redeterminations are a more complex workload involving multiple factors of eligibility that frequently change. The Committee has asked us to provide program saving information on redeterminations beginning with FY 2009 comparable to the CDR information we have been providing annually for more than a decade. We are working on developing ways to collect this information and plan to issue a report later this year.

In the President's Budgets for FY 2009 through FY 2011, we projected program savings for SSI non-medical redeterminations in our budget each year, as summarized below:

- FY 2009: We estimated \$1,073 million in SSI program savings over 10 years (not including additional savings that would accrue from Medicaid) would result from completing nearly 1.5 million redeterminations during FY 2009 at a cost of approximately \$192 million.
- FY 2010: We estimated \$1,881 million in program savings over 10 years (including estimated savings that would accrue from Medicaid) would result from

completing more than 2.3 million redeterminations during FY 2010 at a cost of approximately \$365 million.

- FY 2011: We estimated \$2,763 million in program savings over 10 years (including estimated savings that would accrue from Medicaid) would result from completing more than 2.4 million redeterminations during FY 2011 at a cost of approximately \$370 million.

OFFICE OF THE CHIEF ECONOMIST

Mr. Obey: In a follow-up to the discussion of this office: When and why was the office of the Chief Economist created?

Mr. Astrue: We announced the Office of the Chief Economist in October 2009. It was envisioned as a reorganization of economic research functions that have existed in our Policy component for years. This reorganization would clarify for our external partners and the public where we perform economic research within the agency. We have always successfully performed these research activities separate from the important financial and actuarial publications produced by our Chief Actuary. We have not changed these functions nor formally reorganized this office. We are still reviewing the potential reorganization, taking into consideration the issues that have been raised.

Mr. Obey: Explain the reporting relationship between the Chief Actuary and Chief Economist?

Mr. Astrue: Since we have not created the office, there is no formal reporting relationship.

HEALTH INFORMATION TECHNOLOGY (HIT)

Mr. Obey: Your testimony notes that SSA is spending \$17 million to expand HIT to 15 additional providers in 12 states.

Please explain how SSA is ensuring that HIT data collection and transfer activities are interoperable with the Health and Human Services Office of the National Coordinator on HIT.

Mr. Astrue: The Office of the National Coordinator for Health IT (ONC), within the Department of Health and Human Services (HHS), is the principal Federal agency charged with coordination of nationwide efforts to standardize and advance the use of health IT. We work very closely with several Standards Development Organizations

(SDO) and ONC committees and have focused our efforts in three primary areas: interoperability, content, and patient authorization. We work directly with a number of agencies and private sector organizations to ensure the information they share with us is in a common format we can use to make disability determinations.

ONC's Health IT Standards Committee meets monthly and is responsible for recommending standards, implementation specifications, and certification criteria for the electronic exchange and use of health IT. We have played an active role on this committee since its inception. We participate on ONC's Health IT Policy Committee, which recommends the overall policy framework for the development and adoption of a national interoperable health IT infrastructure, including standards for the secure and private exchange of patient medical information.

We currently serve on the ONC's Nationwide Health Information Network (NHIN) work group responsible for developing recommendations for NHIN standards, services, and policies. The NHIN is the foundation for the secure exchange of health IT across diverse entities, within communities, and across the country, helping to achieve the goals of the Health Information Technology for Economic and Clinical Health (HITECH) Act. It is a critical part of the national health IT agenda and will enable health information to be exchanged between providers and consumers, will be available for clinical decision-making, and will support appropriate use of healthcare information in a safe and secure manner. My Special Advisor for Health IT was the first Chairman of the NHIN Coordinating Committee, which defines the operating policies and procedures of the NHIN, and we still sit on that Committee.

The Federal Health Architecture (FHA), an e-Government line of business initiative, also under the direction of the ONC, is responsible for bringing Federal agencies together to improve efficiency and effectiveness in government health IT operations. We, along with 33 other Federal partners, are helping to build a Federal health IT environment that is interoperable with public and private sector systems.

Mr. Obey: Please describe the pilot mentioned in your testimony, including the scope, level of activity, evaluation criteria, length, and out year costs.

Mr. Astrue: I mentioned two pilots, one in Massachusetts and one in Virginia. In August 2008, we implemented our HIT prototype with Beth Israel Deaconess Medical Center in Boston, which includes four medical facilities. Any disability case from the State of Massachusetts that lists Beth Israel as a health care provider triggers an automated request and response transaction between Beth Israel and us. We now receive electronic medical evidence within a few minutes rather than weeks. In addition, we successfully implemented a system that analyzes coded data in the medical records for certain disabilities, and matches it with our disability criteria. If there is a match, the

system alerts the disability decision maker. We have plans to convert this request and receipt process to the NHIN by the end of the calendar year.

In February 2009, we became the first Federal agency to exchange electronic health information via the NHIN. Through the NHIN, we securely request and receive electronic health information with MedVirginia providers in Virginia. By partnering with MedVirginia, one of the most technologically proficient health information exchanges in the country with a total of 18 facilities, we expanded the Beth Israel HIT pilot to a wider scope of disability claims.

We have received nearly 4,200 medical records with health IT-gathered medical evidence.

The out year costs to continue both ongoing pilots are minimal and we absorbed them into our overall Health IT budget.

Mr. Obey: Please explain SSA's future expansion expectation and the expected annual funding (including the account source for each cost component).

Mr. Astrue: In February 2010, we awarded \$17.4 million in American Reinvestment & Recovery Act (ARRA) funding to 15 health care providers and networks across the country who have agreed to use the NHIN to share health information for their patients who file disability claims. We have begun implementing exchange efforts with five of our new contractors and will request and receive electronic medical information from all by September 2011. We have held kick-off meetings with five of our new contractors and will hold kick-off meetings with the remaining contractors by August 2010. We plan to request and receive electronic medical information with them by September 2011.

Future expansion involves a three-pronged approach: adding new NHIN contractors, developing and promoting health IT throughout the disability business process, and expanding business intelligence capabilities, including plans for an automated test facility, increased storage and structured data viewing capabilities with an electronic health record repository, and additional analytics. Based on current labor costs and projected system enhancements, we expect to need annual funding for HIT efforts and plan to further substantiate estimates through a Cost Benefit Analysis currently underway.

REINSTATING RECONSIDERATIONS

Mr. Obey: Please explain why SSA is proposing to expand or re-instate the reconsideration process in some states. Please identify why this is beneficial to applicants as it appears to further delay a final decision.

Mr. Astrue: We planned to restore the reconsideration stage in Michigan, but we have suspended this initiative until we can address congressional concerns. The reconsideration process provides a faster first-level appeal, and it awards benefits to some entitled individuals, who may otherwise be intimidated by a legal hearing. Claimants allowed at the reconsideration level would receive benefits much sooner than if they were to go through the entire hearing process.

CURRENT APPEALS PROCESS

Mr. Obey: Please describe SSA's plans, if any, to review the current appeals process that results in two-thirds of denied claims being approved upon appeal.

Mr. Astrue: It is important to note that 75 percent of all allowances are decided in the Disability Determination Services (DDS). Of the cases that go to hearing, administrative law judges allow about 60 percent. Since December 2009, our Office of Quality Performance (OQP) has conducted the Disability Case Review (DCR), a quality review assessment of both favorable and unfavorable ALJ hearing decisions issued. The DCR also examines the underlying DDS determination. We expect the first report on our findings in mid to late summer, and to update that report every 6 months.

The Appeals Council will review a random sample of favorable hearing decisions in FY 2010. Based upon its review in each case, the Appeals Council may correct the decision, remand the case to the administrative law judge, or send the claim for benefit payment. The Appeals Council will also collect and analyze quality-related data from its review of cases in order to provide feedback to adjudicators, identify training needs, and suggest improvements in adjudication policies and procedures at both the hearings and DDS levels.

DISABILITY PROCESSING TIME

Mr. Obey: Please complete the table below to reflect the total processing days, on average, from initial disability claim to ALJ final determination:

Mr. Astrue: Please see the following table:

Disability Average Processing Time (in Days)

	FY 2000 Actual	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 YTD through April	FY 2010 of FY 2011 PB	FY 2011 PB
Initial Disability Claims ¹	102	88	83	106	101	112	132	141
Reconsiderations ²	89	94	101	89	84	100	N/A	N/A
Administrative Law Judge Hearings	297	483	512	514	491	439	485	460

¹ Prior to FY 2008, initial claims processing time included non-medical denials.

² Reconsideration processing time is for Title II/Concurrent cases only.

ESTIMATED COST OF FTE

Mr. Obey: Your testimony notes that in FY 2009 SSA hired 8,600 new employees, plus, SSA recently announced plans to hire 900 front line employees.

Please provide a table for FY 2000, FY 2005, FY 2008, FY 2009, FY 2010 current plan, and FY 2011 request level with the total number of FTE per grade and average cost of each grade, the number at each grade hired or projected to hire in each year. Plus, include for each year the total number of FTE in the request.

Mr. Astrue: Please see the following tables, which provide the total on duty staffing at the end of FYs 2000, 2005, 2008, and 2009, including full-time, part-time, and temporary employees. For FY 2010, the total on duty staffing as of April 10, 2010, is provided. Please note that we do not project staffing and hiring by grade level.

FY 2000

FTE Grades	On Duty 09/30/2000	Average Salary	Hires	FTE Grades	On Duty 09/30/2000	Average Salary	Hires
AA-01	0	\$0		WD-08	9	\$51,892	1
AA-02	0	\$0		WG-01	0	\$0	3
AA-03	0	\$0		WG-02	18	\$26,519	1
AA-04	0	\$0		WG-03	16	\$29,551	
AA-05	0	\$0		WG-04	5	\$30,487	
AA-06	0	\$0		WG-05	95	\$31,240	1
AD-00	6	\$87,168	1	WG-06	35	\$32,452	6
AL-01	1	\$130,200		WG-07	26	\$33,885	5
AL-02	11	\$128,177		WG-08	19	\$36,660	
AL-03	1,046	\$116,210	10	WG-09	7	\$39,871	
ED-00	4	\$99,320		WG-10	30	\$39,711	6
EF-00	14	\$99,636	9	WG-11	59	\$40,456	
ES-00	130	\$124,398	1	WG-12	2	\$46,582	
EX-00	1	\$130,200		WL-02	1	\$31,472	
EX-01	1	\$157,000		WL-03	3	\$32,975	
EX-02	1	\$141,300	1	WL-05	11	\$33,692	
GL-05	0	\$0		WL-06	3	\$34,602	
GL-07	0	\$0		WL-08	1	\$40,509	
GL-09	0	\$0		WL-10	2	\$47,991	
GS-01	238	\$15,103	713	WL-11	9	\$44,291	
GS-02	401	\$17,455	294	WS-02	1	\$36,502	
GS-03	650	\$19,472	456	WS-03	2	\$40,352	
GS-04	1,992	\$23,164	475	WS-04	3	\$41,037	
GS-05	4,672	\$27,163	1247	WS-05	15	\$43,450	
GS-06	2,789	\$29,588	200	WS-06	3	\$40,766	
GS-07	4,477	\$32,463	950	WS-07	3	\$46,526	
GS-08	8,349	\$37,391	65	WS-08	2	\$47,031	
GS-09	5,804	\$40,612	103	WS-09	3	\$50,617	
GS-10	515	\$47,519	1	WS-10	9	\$52,022	
GS-11	18,203	\$51,227	149	WS-11	1	\$49,191	
GS-12	8,470	\$60,409	150	WS-13	1	\$57,476	
GS-13	4,810	\$71,313	24	WS-14	1	\$51,591	
GS-14	1,814	\$85,092	13				
GS-15	513	\$101,787	11				
IG-00	0	\$0					

Notes:

Data source: SSA HR Datamart, accessed April 28, 2010.

Includes full time, part time, and temporary employees.

FY 2005

FTE Grades	On Duty 09/30/2005	Average Salary	Hires	FTE Grades	On Duty 09/30/2005	Average Salary	Hires
AA-01	5	\$108,441		WD-08	8	\$61,843	
AA-02	6	\$116,676		WG-01	0	\$0	
AA-03	3	\$125,026		WG-02	8	\$31,762	
AA-04	0	\$0		WG-03	8	\$35,069	
AA-05	5	\$141,728		WG-04	2	\$38,349	
AA-06	20	\$149,200		WG-05	81	\$37,432	13
AD-00	7	\$103,965	2	WG-06	29	\$40,272	3
AL-01	0	\$0		WG-07	32	\$42,067	
AL-02	10	\$149,200		WG-08	13	\$45,876	
AL-03	1,172	\$140,532	88	WG-09	4	\$43,582	2
ED-00	6	\$131,257	2	WG-10	23	\$50,007	6
EF-00	13	\$110,680	3	WG-11	58	\$49,167	8
ES-00	151	\$147,440	2	WG-12	2	\$52,228	1
EX-00	1	\$145,600		WL-02	1	\$36,710	
EX-01	1	\$180,100		WL-03	2	\$36,867	
EX-02	1	\$162,100		WL-05	12	\$41,410	
GL-05	0	\$0		WL-06	1	\$37,879	
GL-07	0	\$0		WL-08	1	\$42,408	
GL-09	0	\$0		WL-10	1	\$62,318	1
GS-01	79	\$18,578	248	WL-11	9	\$54,429	
GS-02	163	\$21,273	244	WS-02	0	\$0	
GS-03	323	\$23,744	450	WS-03	1	\$50,276	
GS-04	926	\$27,868	229	WS-04	2	\$53,041	
GS-05	4,158	\$31,998	1664	WS-05	16	\$52,127	
GS-06	2,092	\$35,620	321	WS-06	3	\$51,312	
GS-07	4,494	\$37,850	1862	WS-07	2	\$58,206	
GS-08	9,883	\$45,325	56	WS-08	0	\$0	
GS-09	5,909	\$49,039	336	WS-09	4	\$59,960	
GS-10	528	\$58,172		WS-10	10	\$61,698	
GS-11	15,551	\$60,583	190	WS-11	1	\$65,198	
GS-12	11,918	\$72,905	362	WS-13	2	\$65,835	
GS-13	6,174	\$88,110	115	WS-14	1	\$69,518	
GS-14	2,398	\$103,563	14				
GS-15	630	\$123,424	7				
IG-00	0	\$0					

Notes:

Data source: SSA HR Datamart, accessed April 28, 2010.

Includes full time, part time, and temporary employees.

FY 2008

FTE Grades	On Duty 09/30/2008	Average Salary	Hires	FTE Grades	On Duty 09/30/2008	Average Salary	Hires
AA-01	4	\$120,286		WD-08	1	\$70,186	
AA-02	5	\$129,352		WG-01	1	\$28,968	1
AA-03	3	\$138,782		WG-02	3	\$33,942	
AA-04	9	\$147,969		WG-03	6	\$38,543	
AA-05	0	\$0		WG-04	1	\$43,869	
AA-06	21	\$158,500		WG-05	69	\$41,817	2
AD-00	8	\$123,111	1	WG-06	22	\$44,405	1
AL-01	1	\$158,500		WG-07	26	\$45,855	2
AL-02	10	\$158,500		WG-08	10	\$50,438	
AL-03	1,204	\$149,246	111	WG-09	3	\$48,864	1
ED-00	8	\$140,920		WG-10	19	\$55,216	4
EF-00	0	\$0		WG-11	56	\$53,874	11
ES-00	0	\$0	3	WG-12	1	\$58,457	
EX-00	157	\$157,377		WL-02	1	\$34,936	1
EX-01	1	\$191,300		WL-03	2	\$42,491	
EX-02	0	\$0		WL-05	9	\$43,338	1
GL-05	1	\$63,044		WL-06	1	\$41,156	
GL-07	3	\$62,836	3	WL-08	1	\$50,839	
GL-09	13	\$67,635	5	WL-10	3	\$61,511	
GS-01	33	\$20,486	181	WL-11	8	\$61,126	
GS-02	127	\$23,364	376	WS-02	0	\$0	
GS-03	166	\$26,185	383	WS-03	1	\$55,786	
GS-04	805	\$30,137	841	WS-04	1	\$59,208	
GS-05	3,496	\$34,314	2148	WS-05	14	\$57,995	
GS-06	2,741	\$37,733	775	WS-06	3	\$58,408	
GS-07	3,946	\$41,402	1777	WS-07	3	\$58,818	
GS-08	9,119	\$49,695	44	WS-08	0	\$0	
GS-09	5,497	\$53,849	305	WS-09	1	\$61,024	
GS-10	490	\$62,523	2	WS-10	9	\$67,612	
GS-11	14,984	\$65,472	221	WS-11	2	\$67,118	
GS-12	11,410	\$79,550	292	WS-13	2	\$71,710	
GS-13	6,517	\$95,976	103	WS-14	1	\$79,995	
GS-14	2,617	\$113,528	20				
GS-15	722	\$135,310	6				
IG-00	0	\$0					

Notes:

Data source: SSA HR Datamart, accessed April 28, 2010.

Includes full time, part time, and temporary employees.

FY 2009

FTE Grades	On Duty 09/30/2009	Average Salary	Hires	FTE Grades	On Duty 09/30/2009	Average Salary	Hires
AA-01	6	\$126,054		WD-08	1	\$73,546	
AA-02	5	\$135,533		WG-01	2	\$30,199	1
AA-03	4	\$145,381		WG-02	3	\$34,109	1
AA-04	8	\$154,983		WG-03	3	\$41,218	
AA-05	3	\$162,900		WG-04	1	\$45,768	
AA-06	19	\$162,900		WG-05	56	\$43,283	5
AD-00	7	\$122,485	1	WG-06	35	\$46,397	
AL-01	1	\$162,900		WG-07	26	\$48,370	
AL-02	10	\$162,900		WG-08	9	\$52,806	1
AL-03	1,307	\$152,502	91	WG-09	5	\$50,376	3
ED-00	21	\$126,482	15	WG-10	21	\$57,692	6
EF-00	0	\$0		WG-11	57	\$56,383	2
ES-00	0	\$0	1	WG-12	2	\$59,657	1
EX-00	153	\$162,064		WL-02	1	\$38,171	
EX-01	1	\$196,700		WL-03	0	\$0	
EX-02	0	\$0		WL-05	10	\$45,495	
GL-05	0	\$0		WL-06	1	\$42,617	
GL-07	3	\$66,773	1	WL-08	1	\$53,281	
GL-09	11	\$69,043	9	WL-10	3	\$65,114	
GS-01	40	\$21,242	142	WL-11	9	\$63,832	
GS-02	101	\$24,472	331	WS-02	0	\$0	
GS-03	173	\$27,137	344	WS-03	1	\$58,457	
GS-04	798	\$31,169	804	WS-04	1	\$61,504	
GS-05	3,417	\$35,418	2134	WS-05	13	\$60,780	
GS-06	3,434	\$38,508	754	WS-06	3	\$60,822	
GS-07	4,738	\$42,589	1718	WS-07	3	\$61,643	
GS-08	8,990	\$51,672	85	WS-08	0	\$0	
GS-09	6,264	\$55,245	422	WS-09	1	\$66,534	
GS-10	423	\$65,313	2	WS-10	10	\$71,075	
GS-11	15,740	\$67,813	716	WS-11	1	\$70,332	
GS-12	11,706	\$82,456	644	WS-13	1	\$80,913	
GS-13	6,995	\$99,623	143	WS-14	2	\$80,840	
GS-14	2,685	\$118,228	30				
GS-15	775	\$140,763	16				
IG-00	1	\$167,787					

Notes:

Data source: SSA HR Datamart, accessed April 28, 2010.

Includes full time, part time, and temporary employees.

FY 2010

FTE Grades	On Duty as of 04/10/2010	Average Salary	Hires as of 4/10/2010	FTE Grades	On Duty as of 04/10/2010	Average Salary	Hires as of 4/10/2010
AA-01	4	\$129,065		WD-08	1	\$75,341	
AA-02	3	\$138,878		WG-01	1	\$30,199	1
AA-03	6	\$148,940		WG-02	3	\$35,263	
AA-04	5	\$158,753		WG-03	3	\$42,220	
AA-05	8	\$165,300		WG-04	1	\$46,749	
AA-06	19	\$165,300		WG-05	53	\$44,236	
AD-00	7	\$122,579	1	WG-06	34	\$47,287	
AL-01	1	\$165,300		WG-07	25	\$49,331	
AL-02	9	\$165,300		WG-08	9	\$54,137	
AL-03	1,302	\$154,573	27	WG-09	5	\$50,267	3
ED-00	20	\$133,432	3	WG-10	17	\$60,718	
EF-00	0	\$0		WG-11	60	\$57,759	
ES-00	0	\$0	2	WG-12	2	\$62,099	
EX-00	150	\$166,651		WL-02	1	\$39,110	
EX-01	1	\$199,700		WL-03	0	\$0	
EX-02	0	\$0		WL-05	10	\$46,403	
GL-05	0	\$0		WL-06	1	\$42,617	
GL-07	4	\$72,882		WL-08	1	\$56,620	
GL-09	16	\$69,896	5	WL-10	3	\$66,624	
GS-01	7	\$21,696		WL-11	9	\$64,082	
GS-02	49	\$25,369	6	WS-02	0	\$0	
GS-03	97	\$28,712	5	WS-03	1	\$59,876	
GS-04	644	\$32,281	83	WS-04	1	\$62,714	
GS-05	3,289	\$36,041	726	WS-05	12	\$61,711	
GS-06	3,428	\$39,172	255	WS-06	3	\$61,768	
GS-07	4,880	\$43,151	526	WS-07	3	\$64,802	
GS-08	8,816	\$52,621	14	WS-08	0	\$0	
GS-09	6,486	\$56,101	182	WS-09	1	\$68,161	
GS-10	394	\$66,990		WS-10	10	\$73,057	
GS-11	15,507	\$69,134	206	WS-11	1	\$66,575	
GS-12	11,558	\$83,943	205	WS-13	1	\$82,875	
GS-13	7,025	\$101,354	59	WS-14	2	\$82,812	
GS-14	2,712	\$120,451	11				
GS-15	784	\$143,412	7				
IG-00	1	\$170,259					

Notes:

Data source: SSA HR Datamart, accessed April 28, 2010.

Includes full time, part time, and temporary employees.

The following table provides the estimated FTEs shown in the President's Budgets for FYs 2000, 2005, and 2008 through 2011.

FTEs Included in SSA's Congressional Justifications

(excludes OIG)

	FY 2000	FY 2005	FY 2008	FY 2009	FY 2010	FY 2011
FTEs	63,037	64,136	59,200	60,293	65,114	67,603

Mr. Obey: Please provide a table that breaks out the FTE, in the same years as previous question by major category like field offices, headquarters, etc.

Mr. Astrue: Please see the table below, which provides total staffing, as of September 30 of each year, for our major components.

Historical Staff-on-Duty by Major SSA Component (including full time, part time and temporary employees)					
	FY 2000	FY 2005	FY 2008	FY 2009	FY 2010
Field Offices	29,650	30,693	29,145	30,479	30,185
Teleservice Centers	4,681	5,093	5,038	5,215	5,138
Processing Centers	12,920	12,321	11,555	11,711	11,500
Regional Offices	2,392	2,690	2,527	2,561	2,572
Operations Subtotal	49,643	50,797	48,265	49,966	49,395
Office of Disability Adjudication and Review	7,605	7,721	7,872	9,107	9,076
Office of Systems	2,855	3,316	3,099	3,407	3,410
Office of Quality Performance	784	920	1,302	1,324	1,313
Headquarters	4,420	4,210	3,860	4,317	4,312
SSA Total	65,307	66,964	64,398	68,121	67,506

Mr. Obey: Please explain how SSA plans to support the additional 900 FTE for the field. Please identify the expected number of annualized FTE and cost for FY 2010 and FY 2011 and the source of funds for each of these fiscal years.

Mr. Astrue: We were able to add 900 hires for front-line positions after reassessing our current resources and our critical needs for the remainder of FY 2010. Since we plan to hire these individuals in the second half of the year, we expect to use no more than 300 FTEs in FY 2010. The cost of these hires will depend upon when they are hired and at what grade level. I expect the costs to be in the range of \$15 to \$25 million. While we are hopeful that we will be able to maintain these additional 900 hires in FY 2011, our ability to do so is dependent upon receiving full funding of the President's FY 2011 budget request. As we do every year, we will closely monitor spending in FY 2011 to identify opportunities to redirect funding from areas where costs come in lower than budgeted to enable us to maintain these additional hires.

PROGRAMS, PROJECTS, AND ACTIVITY COSTS

Mr. Obey: For each appropriation line provided by this sub-committee, please provide the programs, projects, and activities obligations for the following years: FY 2000, FY 2005, FY 2008, FY 2009, FY 2010 request estimate, FY 2010 current estimate and FY 2011 request estimate. The level of detail at a minimum shall include items under the Research, Demonstration Projects, and Outreach level and should breakout the major activities (such as Occupational Listing, Predictive Modeling, Evaluate Ticket to Work, Retirement Research Consortium, Financial Literacy and Education, etc). The table should be modeled on the level of detail in the All-Purpose Table for the Department of Labor in the Committee on Appropriations of the House of Representatives that accompanies the annual appropriations bill for this sub-committee. The detail should be applied to each appropriation in this sub-committee's bill, specifically including the breakout in Limitation on Administration Expense (LAE) appropriation and the no-year IT funds.

Mr Astrue: The following is a table providing obligations for our four appropriations.

SSA Obligations by Appropriation
(\$ in thousands)

	Obligations				Estimated		
	FY 2000	FY 2005	FY 2008	FY 2009 Column in the FY 2011 President's Budget	FY 2010 President's Budget	FY 2010 Enacted of FY 2011 President's Budget	FY 2011 President's Budget
Social Security Administration							
Payments to Social Security Trust Funds							
Special Payments for Certain Uninsured Persons	\$364	\$54	\$13	\$6	\$4	\$4	\$4
Pension Reform	\$3,400	\$4,291	\$1,200	\$813	\$6,400	\$6,400	\$6,400
Unnegotiated Checks	\$10,041	\$8,662	\$11,169	\$8,756	\$14,000	\$14,000	\$14,000
Quinquennial Adj. for Military Wage Credits	\$0	\$0	\$7,727	\$0	\$0	\$0	\$1,000
Coal Industry Retiree Health Benefits	\$526	\$290	\$759	\$41	\$400	\$50	\$50
Economic Stimulus	\$0	\$0	\$31,000	\$0	\$0	\$0	\$0
Total: PTF obligations	\$14,331	\$13,287	\$51,868	\$9,616	\$20,804	\$20,454	\$21,454
Supplemental Security Income (SSI)							
Federal benefit payments	\$30,956,603	\$38,271,653	\$41,309,722	\$44,987,048	\$46,602,000	\$47,423,000	\$52,635,000
Beneficiary services	\$64,000	\$29,696	\$47,942	\$47,563	\$68,000	\$82,000	\$86,000
Research and demonstration ¹	\$25,750	\$43,267	\$29,729	\$43,834	\$56,925	\$54,305	\$71,900
Administration	\$2,351,716	\$2,986,900	\$3,168,520	\$3,206,537	\$3,495,000	\$3,513,000	\$3,841,000
Subtotal: SSI program level	\$33,398,069	\$41,331,476	\$44,555,913	\$48,284,981	\$90,241,925	\$91,972,305	\$96,633,900
Limitation on Administrative Expenses							
OASDI Trust Funds	\$3,288,110	\$4,278,139	\$4,712,949	\$5,227,546	\$5,820,200	\$5,833,485	\$6,288,260
HSM Trust Funds	\$1,064,000	\$1,743,000	\$1,786,000	\$1,867,000	\$2,138,000	\$2,145,000	\$2,264,940
Social Security Advisory Board	\$945	\$1,217	\$1,549	\$1,510	\$2,300	\$2,300	\$2,300
SSI	\$2,351,716	\$2,986,900	\$3,168,520	\$3,206,537	\$3,495,000	\$3,513,000	\$3,841,000
Workload Processing from Recovery Act, P.L. 111-5	N/A	N/A	N/A	\$175,000	\$325,000	\$352,888	N/A
National Support Center from Recovery Act, P.L. 111-5	N/A	N/A	N/A	\$20,000	\$20,000	\$10,000	\$30,000
ERP Administrative Funding from Recovery Act, P.L. 111-5	N/A	N/A	N/A	\$60,000	\$10,000	\$10,000	\$0
Low-income Subsidy from MPPA, P.L. 110-275	N/A	N/A	N/A	\$24,800	\$16,800	\$17,942	\$0
Subtotal: Regular LAE	\$6,704,771	\$8,008,259	\$8,688,018	\$10,582,393	\$11,827,300	\$11,884,815	\$12,426,500
Program Integrity Set Aside (non-add, included in Regular LAE)							
Base							
OASDI Trust Funds	N/A ²	N/A ²	N/A ²	\$75,250	\$49,400	\$49,400	\$30,100
SSI	N/A ²	N/A ²	N/A ²	\$188,250	\$223,600	\$223,600	\$252,900
Base Total	\$204,000	N/A ²	N/A ²	\$264,000	\$273,000	\$273,000	\$283,000
Additional/Cap Funding							
OASDI Trust Funds	N/A ²	N/A ²	N/A ²	\$22,500	\$143,000	\$143,000	\$221,000
SSI	N/A ²	N/A ²	N/A ²	\$217,500	\$342,000	\$342,000	\$292,000
Additional/Cap Funding Total	\$405,000	N/A ²	N/A ²	\$240,000	\$485,000	\$485,000	\$513,000
Subtotal: Program Integrity Funding (non-add, included in Regular LAE)	\$609,000	\$0	\$0	\$504,000	\$758,000	\$758,000	\$796,000
User Fees:							
SSI User Fee Activities	\$80,000	\$124,000	\$132,842	\$145,000	\$185,000	\$180,000	\$185,000
SSPA User Fee Activities	\$0	\$3,600	\$983	\$1,000	\$500	\$1,000	\$500
Subtotal: User Fees	\$80,000	\$127,600	\$133,825	\$146,000	\$185,500	\$181,000	\$185,500
Acquisition workforce capacity and capabilities							
Annual No-Year IT obligations (non-add, included in Regular LAE)	N/A	N/A	N/A	N/A	N/A	N/A	\$1,863
	\$0	\$137,135	\$135,672	\$204,504	\$170,000 ⁴	\$201,636	\$205,000
Total: LAE	\$6,704,771	\$8,136,099	\$8,801,843	\$10,728,393	\$11,982,800	\$12,945,815	\$12,613,863
Office of the Inspector General							
Federal Funds	\$14,003	\$24,896	\$25,902	\$27,591	\$29,000	\$29,000	\$30,000
Trust Funds	\$50,336	\$64,019	\$65,702	\$70,948	\$73,682	\$73,682	\$76,122
Recovery Act, P.L. 111-5	N/A	N/A	N/A	\$603	\$500	\$500	\$500
Total, Office of the Inspector General	\$65,139	\$88,915	\$91,604	\$99,142	\$103,182	\$103,182	\$106,622

TOTALS MAY NOT ADD DUE TO ROUNDING

¹ See separate table for details of Research and Demonstration activity.

² Tracking for CDRs based on funding source began in FY 2009.

³ Set aside program integrity funding was included for continuing disability reviews (CDRs) in the FY 1996 through FY 2002 appropriations bills; for CDRs and SSI redeterminations in the FY 2009 appropriations bill; and for CDRs, SSI redeterminations, and asset verification initiatives in the FY 2010 appropriations bill and the FY 2011 President's Budget. Other program integrity efforts are funded through the regular LAE appropriation.

⁴ The \$170.0 million is estimated IT No-Year carryover, and excludes the \$16.8 million estimated MPPA-LIS carryover reflected in the FY 2010 President's Budget.

Mr. Astrue: Below is a table providing obligations for the activities and major projects in the Research budget.

Extramural Research & Demonstration Budget ¹							
(\$ in thousands)							
Research, Demonstrations, and Outreach Activities and Major Projects	Obligations (Actuals)				Estimated		
	FY 2000	FY 2005	FY 2008	FY 2009	FY 2010 Budget	FY 2010 of FY 2011 Budget	FY 2011 Budget
Disability Process/Return to Work	\$16,315	\$23,458	\$13,347	\$18,475	\$23,649	\$21,329	\$28,799
Benefit Navigator	-	\$3,000	-	-	-	-	-
Compassionate Allowances	-	-	\$525	\$575	\$2,000	\$2,000	\$2,000
Consultative Examination Study	-	-	-	\$1,601	\$3,000	-	-
Disability Research Institute	\$1,250	-	-	-	-	-	-
Evaluation of Ticket to Work	\$7,431	\$5,600	\$1,270	\$5,525	\$1,300	\$1,300	\$300
Florida Freedom Initiative/Evaluation	-	\$600	-	-	-	-	-
Listings of Impairments	\$711	\$1,400	\$507	\$1,998	\$500	\$500	\$66
National Study of Health and Activity	\$6,045	-	-	-	-	-	-
Occupational Information System	-	-	\$665	\$342	\$3,734	\$3,714	\$13,360
Organization of Economic Cooperation and Development - Youth Transition Study	-	\$250	-	\$250	\$250	\$250	-
Predictive Modeling - Reconsideration Claims	-	\$796	-	-	-	\$700	\$3,000
Programmatic Longitudinal Disability Data Repository	-	-	-	-	\$2,000	\$2,000	\$2,000
Temporary Assistance for Needy Families - SSI Disability Transition Project	-	-	-	\$510	\$3,000	\$3,000	\$2,000
World Institute on Disability (Calculator)	-	\$1,200	-	-	-	-	-
Youth Transition Demonstration	\$309	\$4,900	\$10,193	\$7,032	\$6,950	\$6,950	\$1,800
Other Disability Research Projects	\$569	\$5,712	\$187	\$642	\$915	\$915	\$4,273
Retiree, Outreach & Other Core Services	\$2,777	\$8,035	\$2,764	\$2,346	\$3,160	\$3,200	\$4,700
Outreach - Section 1144	-	\$7,700	\$2,613	\$2,300	\$3,000	\$3,000	\$3,300
Policy Evaluation	\$2,777	\$335	\$151	\$46	\$160	200	\$1,400
Public Trust & Solvency	\$6,658	\$11,774	\$13,619	\$14,013	\$14,816	\$14,776	\$16,141
Retirement Research Consortium	\$3,052	\$6,507	\$7,481	\$7,700	\$7,500	\$7,500	\$7,500
Retirement Income Modeling	\$1,484	\$605	-	\$2,405	\$1,851	\$1,851	\$2,651
Health & Retirement Study	-	\$1,535	\$2,436	\$2,735	\$2,835	\$2,835	\$2,600
Data Development	\$2,122	\$3,127	\$3,702	\$1,173	\$2,630	\$2,590	\$3,390
Special Initiative - Encourage Savings (Financial Literacy)	-	-	-	\$9,000	\$15,300	\$15,000	\$22,260
Financial Literacy Research Consortium	-	-	-	\$7,500	\$8,300	\$8,000	\$9,000
Support for Related Financial Literacy and Education Commission Members Activities	-	-	-	-	\$3,000	\$3,000	\$6,300
National Testing for Financial Literacy Products	-	-	-	-	\$2,500	\$2,500	\$5,460
Data Resources to Support Financial Literacy	-	-	-	\$1,500	\$1,500	\$1,500	\$1,500
TOTAL RESEARCH FUNDS	\$25,750	\$43,267	\$29,729	\$43,834	\$56,925	\$54,305	\$71,900

Totals may not add due to rounding.

¹ Research and Outreach funded under sections 1110 and 1144 of the Social Security Act.

² Although the obligations for Extramural Research and Demonstrations are \$71.9 million, the request for FY 2011 is only \$49 million in the new budget authority given the \$22.9 million in funds from previous years are still available.

Mr. Obey: In addition, for the LAE appropriation, please provide the object class table on page 86 of the current request with the following actual data: FY 2000, FY 2005, FY 2008, FY 2009, FY 2010 Requested Plan, FY 2010 Current Plan, and FY 2011 Request.

Mr. Astrue: Please see the following table.

Object Class Distribution
for Obey 4/26/10 Question for the Record (QFR)
(Dollars in millions)

	FY 2000 Actual	FY 2005 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Request	FY 2010 Current Plan	FY 2011 Estimate
Personnel Compensation							
1101 Permanent positions	\$2,834	\$3,694	\$4,000	\$4,359	\$4,787	\$4,854	\$4,948
1103 Positions other than permanent	\$118	\$105	\$88	\$91	\$101	\$99	\$112
1105 Other personnel compensation	\$180	\$273	\$261	\$256	\$344	\$293	\$270
1108 Special personnel services	\$1	\$3	\$4	\$4	\$2	\$2	\$2
1100 Subtotal, personnel compensation	\$3,133	\$4,075	\$4,353	\$4,710	\$5,234	\$5,248	\$5,332
Personnel Benefits							
1200 Personnel Benefits	\$664	\$1,010	\$1,119	\$1,212	\$1,391	\$1,387	\$1,498
1300 Benefits for former personnel	\$3	\$2	\$1	\$2			
2100 Travel and transportation of persons	\$33	\$68	\$57	\$64	\$58	\$77	\$77
2200 Transportation of things	\$8	\$10	\$8	\$7	\$8	\$8	\$8
2300 Rent, communications, and utilities							
2301 Rental payments to GSA	\$354	\$520	\$603	\$620	\$734	\$663	\$712
2302 Rental payments to others	\$1	\$2	\$2	\$2	\$2	\$2	\$2
2303 Communications, utilities, misc.	\$272	\$397	\$378	\$403	\$461	\$409	\$418
2400 Printing and reproduction	\$39	\$44	\$45	\$39	\$48	\$46	\$46
2500 Other services (DDS, guards, etc.)	\$1,962	\$2,641	\$2,887	\$3,083	\$3,612	\$3,622	\$3,927
2600 Supplies and materials	\$45	\$51	\$49	\$46	\$51	\$55	\$55
3100 Equipment	\$202	\$265	\$224	\$410	\$304	\$374	\$362
3200 Land and structures	\$30	\$2	\$28	\$68	\$39	\$86	\$110
4100 Grants, subsidies, and contributions	\$0	\$27	\$27	\$34	\$28	\$41	\$41
4200 Insurance claims and indemnities	\$13	\$23	\$21	\$21	\$22	\$25	\$25
4300 Interest and dividends	\$6	\$0	\$0	\$0	\$0	\$0	\$0
Total Direct Obligations	\$6,785	\$9,137	\$9,802	\$10,721	\$11,992	\$12,043	\$12,613
Reimbursables Obligations	22	31	45	65	85	99	85
Total New Obligations	\$6,807	\$9,168	\$9,847	\$10,786	\$12,077	\$12,142	\$12,698

Notes:

Actual data for FY 2000 from 2002 Budget Appendix (page 1107), FY 2005 from 2007 Budget Appendix (pages 1107-1108), FY 2008 from 2010 Budget Appendix (page 1177) and FY 2009 from 2011 Budget Appendix (page 1218).

FY 2010 request column from the FY 2010 Congressional Justification (page 81). Reimbursables from the 2010 Budget Appendix (page 1177).

FY 2010 current plan and FY 2011 estimates from the FY 2011 Congressional Justification (page 860). Reimbursables from the 2011 Budget Appendix (page 1218).

SSA does not manage resources by object class.

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