

Message: FW: BYE Calculation

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:38 PM
 Item ID: 40861882
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

FW: BYE Calculation

From Wilkinson, Michael [IWD] **Date** Wednesday, April 02, 2014 11:15 AM
To Eklund, David [IWD]; Boten, Brenda [IWD]; West, Ryan [IWD]
Cc

From: Douglas, Jodi [IWD]
Sent: Friday, March 28, 2014 4:25 PM
To: Wilkinson, Michael [IWD]
Subject: BYE Calculation

Hi Mike,

Calculation: The measure will be calculated from BAM data using the following data elements:

- Dollar Amount of Key Week Error: BAM data element ei1 - defines the overpayment amount for the key (sampled) week of benefits.
- Key Week Action: BAM data element ei2 - 10 (fraud), 11 (nonfraud recoverable), 12 (nonfraud nonrecoverable), 13 (overpayment – finality), 15 (overpayment – other than finality).
- Error Cause: BAM data element ei3 - 100-119 and 150-159 - defines BYE overpayments.
- Original Amount Paid: BAM data element f13 - defines amount paid to claimant in key week.

The rate is the ratio (expressed as a percentage) of the estimated amount of UI benefits that were overpaid due to BYE issues to the total amount of UI benefits paid. Both the numerator and the denominator are weighted (by the number of paid UI weeks in the BAM survey population) estimates.

$$\frac{\text{Amount overpaid due to BYE}}{\text{Amount of UI benefits paid}} \times 100$$

Jodi Douglas
 Quality Control Manager, Unemployment Insurance Services
 Iowa Workforce Development
 1000 East Grand Avenue
 Des Moines, IA 50319
 515-281-5225
Jodi.Douglas@iwd.iowa.gov

Message: RE: BYE Calculation

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:38 PM
 Item ID: 40861883
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: BYE Calculation

From Wilkinson, Michael [IWD] **Date** Wednesday, April 02, 2014 11:32 AM
To Douglas, Jodi [IWD]
Cc

Thank you Jodi.

From: Douglas, Jodi [IWD]
Sent: Friday, March 28, 2014 4:25 PM
To: Wilkinson, Michael [IWD]
Subject: BYE Calculation

Hi Mike,

Calculation: The measure will be calculated from BAM data using the following data elements:

- Dollar Amount of Key Week Error: BAM data element ei1 - defines the overpayment amount for the key (sampled) week of benefits.
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Message: RE: BYE Calculation

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:38 PM
 Item ID: 40861885
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: BYE Calculation

From Wilkinson, Michael [IWD] **Date** Wednesday, April 02, 2014 12:06 PM

To Douglas, Jodi [IWD]; Van Syoc, Jim [IWD]; Shenk, Jim [IWD]; Boten, Brenda [IWD]; Eklund, David [IWD]; West, Ryan [IWD]

Cc Olivencia, Nicholas [IWD]

Based on the data provided last week, "incorrectly reported wages" is the greatest cause for our missing the BYE. Of the 473 audits completed for 2013, 12% had an error for incorrectly reported earnings, while only 2.3% are the result of unreported earnings (the next most frequent error). Therefore, our strategies around correcting that performance measure should emphasize incorrectly reported earnings as well as unreported.

Nick, we may need your help at some point.

From: Douglas, Jodi [IWD]
Sent: Friday, March 28, 2014 4:25 PM
To: Wilkinson, Michael [IWD]
Subject: BYE Calculation

Hi Mike,

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Jodi.Douglas@iwd.iowa.gov

Message: Declined: Benefits Project Update

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:39 PM
Item ID: 40861907
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

Declined: Benefits Project Update

From Wilkinson, Michael [IWD] **Date** Thursday, April 03, 2014 11:53 AM
To Anderson, Ryan [IWD]
Cc

Ryan, I have a conflict on this. For Monday, lets make sure we discuss the timeline and progress with the overpayment system and impact on TOP.

Message: Investigator

Case Information:

Message Type: Exchange
Message Direction: External, Outbound
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:39 PM
Item ID: 40861928
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Investigator**

From Wilkinson, Michael [IWD] **Date** Friday, April 04, 2014 1:43 PM
To 'aaron.sauerbrei@hawkeyecollege.edu'
Cc

 [Investigator 2.docx](#) (19 Kb HTML)

Aaron, good talking to you and thank you for your help on this. If you find a possible candidate, just have them send me a resume or call me direct.

Michael Wilkinson
Division Administrator, UI Services
(515)281-4986
Michael.wilkinson@iwd.iowa.gov

Investigator 2

Position number 13275BR

Salary Range: \$42,286 to \$64,272

Conduct investigations pertaining to allegations of information and indicates fraud or erroneous benefit payments. Analyze situations independently, accurately and immediately and adapt an effective course of action in line with agency guidelines and current law. Investigations include contact with claimants, employing units, general public, law enforcement officials, county attorneys and agency personnel for the purpose of gathering information. Maintain investigation notes for each case on a daily basis. Review and document facts and evidence obtained to make final determination. Issue non-monetary decision in connection with overpayments and fraud. Be responsible for correct appropriate decisions and timely handling of the same issues. Issue subpoena to cause individuals and evidence to appear. On occasion, surveillance of individuals and/or overpayments when appropriate and institute fraud prosecution procedures when applicable. Issue administrative penalty decisions. Represent the agency at administrative appeal hearing. Participate in using the SAVE program to verify illegal aliens. Conduct benefit payment crossmatch reviews for both intrastate and interstate claims. Responsible for timely handling of reviews, scheduling, determination of overpayment and/or fraud, proper recommendation for prosecution and follow-up and disputed allegations. Issue non-monetary determinations in connection with overpayment and fraud. Responsible for correct appropriate decisions and timely handling of the same. Pursue recovery of overpayments. Responsible for discover and set up of fraudulent overpayments, repayment agreements, professional representation of the agency in hearing, monitor restitution and proper transmittal of any monies given as property liens, completing voluntary wage assignment and pursuing garnishment of wages. Prepare fraud related cases for prosecution by county attorneys, including identifying and locating witnesses, assembling and reviewing all evidence pertinent to the prosecution. Prepare legal document for court and other actions. Review case with and make recommendations to county attorneys concerning plea bargaining, dismissals and sentencing. Appear as required by the court and accurately testify to the known facts. Provide assistance to authorized personnel during judicial proceedings. Monitor status for prosecutions and submit periodic reports. Subsequent to final court disposition, continued monitoring of court ordered restitution. Respond to inquiries and correspondence concerning Investigation and Recovery unit areas. Establish and maintain effective community relations. Responsible to disseminate correct, easily understood information to claimants, employing units, agency personnel, law enforcement officials and others. Conduct liaison activities with outside groups, civic and governmental so that others will have knowledge of the Investigation and Recovery Bureau and of its functions and services. National Career Readiness Certificate credential preferred.

Selective: 866 The ability to read, write, and speak Spanish fluently must be met.

Graduation from an accredited four year college or university with a major in law enforcement, corrections, criminology, police science, accounting, finance or law, and one year of experience as an investigator requiring knowledge in law enforcement, corrections, or criminal investigation, or journey level program administration involving application of agency unemployment insurance or public assistance benefit programs or correctional rules and regulations and/or court and/or administrative hearings process.

Selective Required: Fluency in Spanish

To be considered for this position you must:

1. Fill out DAS-HRE application and submit to DAS-HRE by the closing date.
2. In addition, Iowa Workforce Development requests applicants to send a cover letter and resume by the closing date to:

Iowa Workforce Development
ATTN: David Eklund, PSE2
UI Division, Investigation and Recover Bureau
150 Des Moines St.
Des Moines, IA 50309

Closing Date: 03-Apr-2014

To Apply: Submit a completed Iowa Department of Administrative Services - Human Resources Enterprise (DAS-HRE) application form by the closing date. To complete an electronic application form, click on "Apply for Job Vacancy(s)" button. You may also mail an application form to: Iowa Department of Administrative Services - Human Resources Enterprise, Hoover State Office Building, 1305 East Walnut, Des Moines, IA 50319-0150 or fax your application to (515) 281-7970.

Message: No Title

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:41 PM
 Item ID: 40861955
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ Untitled

From Wilkinson, Michael [IWD] **Date** Tuesday, April 08, 2014 9:56 AM
To Koonce, Kerry [IWD]
Cc

UIPL 26-11: Unemployment Insurance Supplemental Funding Opportunity for Program Integrity and Performance and System Improvements

On June 10, 2011, the Department issued UIPL No. 19-11, "National Effort to Reduce Improper Payments in the UI Program," to notify stakeholders that UI integrity is a top priority and to develop state-specific strategies to bring down the UI improper payment rate. The states were informed about a national strategic plan to aggressively target UI overpayment prevention and detection and to request that all states participate in a federal-state collaboration to significantly reduce each state's, and the national, UI improper payment rates. The funding opportunities explained below are designed to assist the states in developing their own state specific strategies to reduce the improper payment rate as described in UIPL No. 19-11. The goals of the funding for this solicitation are to:

- Accelerate significant state actions to reduce improper payment rates; and,
- Provide an opportunity for states to modernize their UI benefits and/or UI tax systems,

and design and implement technology-based tools to prevent, detect or recover improper UI payments.

Iowa was awarded \$550,000 to develop a state specific solution that would address the goals described above. As a result of our relationship with Google, the opportunity to work with Pondera and their fraud detection system, came to the attention of our CIO, Gary Bateman. Iowa adopted Fraud Detection as a Service (FDaaS) to identify potential fraudulent acts by claimants and employers. Pondera uses Iowa UI data about our claimants and employers and does a "cross match" against their resource data bases to identify potential fraudulent acts. This process generates leads that are reviewed by UI management and investigators to determine the course of action. If an investigation is warranted, the claimant or employer is notified of the issue and provided an opportunity to explain the findings. If it is determined that an overpayment exists, an appealable decision is issued.

Iowa received funds on that SBR totaling \$1, 444,570. In addition to FDaaS, Iowa has used those funds to set up a separate case management system for worker misclassification, conduct cross match audits against the National Directory of New Hires, and initiate a statewide messaging campaign to heighten the awareness of the impacts of UI fraud.

For calendar year 2013.

The new hires cross match resulted in:
 1456 decisions. \$465,650 in overpayments

Message: RE: Unemployment Insurance Interstate Information Exchange Agreement

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:54 PM
 Item ID: 40862328
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:03:01 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: Unemployment Insurance Interstate Information

Exchange Agreement

From Wilkinson, Michael [IWD] **Date** Tuesday, March 18, 2014 8:22 AM
To Bervid, Joseph [IWD]
Cc Olivencia, Nicholas [IWD]

 [image001.png](#) (16 Kb HTML)

Thank you. I appreciate the help.

From: Bervid, Joseph [IWD]
Sent: Tuesday, March 18, 2014 8:12 AM
To: Wilkinson, Michael [IWD]
Cc: Olivencia, Nicholas [IWD]
Subject: FW: Unemployment Insurance Interstate Information Exchange Agreement

Otherwise the agreement is OK.

From: Carson, Etha [IWD]
Sent: Monday, March 17, 2014 3:24 PM
To: Bervid, Joseph [IWD]; Wilkinson, Michael [IWD]
Cc: Olivencia, Nicholas [IWD]; Moses, Ryan [IWD]; Guy, Marlys [IWD]; Young, Veronica [IWD]
Subject: Unemployment Insurance Interstate Information Exchange Agreement

After reading the interstate agreement, I have a Question:
 I had recently talked to Veronica, Ryan and Marlys concerning CWC and Interstate Claims and

Overpayments.

Currently the overpayment information is **not shared or available to be seen between states**, when you are viewing or taking claim information. Starting about 6 months ago states started sharing electronically the overpayment information, via an electronic form 8606. The information is shared after the claims are filed by the state with the overpayment who must furnish an 8606 decision letter to the "paying state" who sets up the overpayment and sends a notice to the claimant for the overpayment to be deducted. The paying state then starts to collect the overpayment but, the overpayment is not paid to that state until either the paying state has collected "ALL" the dollars owed or the claimant has exhausted his eligibility. Then the paying state will send the money collected to the overpaid state.

Will there be a change in how the overpayment information is shared?

I am suggesting ICON should include the data about the overpayment to assist communication between states. So the states can better inform each other about the existing overpayment and the amount the paying state has/is collecting. This would assist states in knowing what is happening and eliminate in-person communication about something that could be viewed electronically. Data should be shared either in fields or on a separate view screen. Currently ICON has the original view screen for the basic claim information and existing weeks claimed; then a WAGE view for the wages available and used by another state. A third view of the overpayment would be helpful.

Etha Carson, Executive Officer

Etha.Carson@iwd.iowa.gov

Phone: 515 242-5145

Fax: 515 281-7695

Or 515 725-2676

Cell: 641 521-3087

Unemployment Insurance Services

 Description:
cid:image001.png@0
1CD94D2.4F176A30

1000 East Grand Avenue
Des Moines, Iowa 50319

Message: RE: VRU and on-line continued claims**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:53 PM
 Item ID: 40862314
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:03:01 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **RE: VRU and on-line continued claims**

From Wilkinson, Michael [IWD] **Date** Monday, March 17, 2014
 2:33 PM
To Eklund, David [IWD]; Boten, Brenda
 [IWD]
Cc

 [image001.jpg](#) (3 Kb HTML)

Thank you

From: Eklund, David [IWD]
Sent: Monday, March 17, 2014 2:32 PM
To: Wilkinson, Michael [IWD]; Boten, Brenda [IWD]
Subject: VRU and on-line continued claims

Brenda and I attempted both systems and on both we got to the point of entering a PIN and then had to stop.
 Both *appear* to be functioning.

I did notice that on both it is still alerting Debit Card customers that their payment will be delayed until Friday. But it does not provide which Friday so claimants could take that to mean this weeks payment as well.

I talked to Jill and Laura and neither one thinks that Michelle has the ability to test the live system any longer....?

David Eklund

Regional Operations Manager
UI Benefits Services
Iowa Workforce Development
Ph: 515/281-5792
Cell: 515/229-4482
Fax: 515/281-9033
david.eklund@iwd.iowa.gov



Message: FW: Add the week if you get a call**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:53 PM
 Item ID: 40862302
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:03:01 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **FW: Add the week if you get a call**

From Wilkinson, Michael [IWD] **Date** Monday, March 17, 2014 12:13 PM
To Eklund, David [IWD]
Cc

 [image001.jpg](#) (3 Kb HTML)

Let's discuss before you respond.

From: Douglas, Jodi [IWD]
Sent: Monday, March 17, 2014 11:18 AM
To: Eklund, David [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: FW: Add the week if you get a call
Importance: High

Hi Dave,

8 of our 9 cases for BAM this week (Key Week ending 3/8/14) show method of filing as MANBATCH with 9 employer contacts. Would you please provide a statement that the QC team can put in their case files with respect to the potential overpayment due to the system error?

Thank you!

Jodi Douglas

Quality Control Manager, Unemployment Insurance Services
 Iowa Workforce Development
 1000 East Grand Avenue

Des Moines, IA 50319
515-281-5225
Jodi.Douglas@iwd.iowa.gov

From: West, Ryan [IWD]

Sent: Monday, March 10, 2014 10:23 AM

To: Allen, Shannell [IWD]; Anderson, Shantel [IWD]; Andreano, Lori [IWD]; Baccam, Frisco [IWD]; Batten, Gary [IWD]; Beattie, Adam [IWD]; Borgeson, Jill [IWD]; Boten, Brenda [IWD]; Chounlamountry, Pho [IWD]; Close, Kara [IWD]; Cogan, Karen [IWD]; Cozart, Jeanine [IWD]; Croushore, Brianne [IWD]; Dawson, Dianne [IWD]; Densmore, Terryne [IWD]; DeSmidt, James [IWD]; Devine, Roxy [IWD]; Donlin, Michael [IWD]; Dyer, Ray [IWD]; Dykstra, Connie [IWD]; Edmonds, Linda [IWD]; Eklund, David [IWD]; Ellenwood, Kasandra [IWD]; Finck, Christal [IWD]; Garrett, Brent [IWD]; Gaulke-Lilly, Sharon [IWD]; Gifford, Matt [IWD]; Guy, Marlys [IWD]; Hallengren, Jon [IWD]; Hoard, Aaron [IWD]; Holett, Karen [IWD]; Hosier, Michael [IWD]; Irvine, Erin [IWD]; Irvine, Kevan [IWD]; Khounlo, Nhoui [IWD]; Kolontar, Lisa [IWD]; Kooiker, Quentin [IWD]; Landrew, Paul [IWD]; Lewis, Irma [IWD]; Long, Maria [IWD]; Moses, Ryan [IWD]; Nutting, Jenifer [IWD]; Oyibo, Joan [IWD]; Parry, Sharon [IWD]; Peacock, Phillip [IWD]; Prettyman, Laura [IWD]; Ramirez, Rebecca [IWD]; Rieger, Kim [IWD]; Roovaart, Michelle [IWD]; Ruby, Evelyn [IWD]; Saddoris, Michelle [IWD]; Schafer, Cathy [IWD]; Schlumbohm, Spomenka [IWD]; Schmalzried, Leslie [IWD]; Seivert, Shanlyn [IWD]; Shepherd, Deborah [IWD]; Spencer, Barbara [IWD]; Starr, Tracy [IWD]; Steen, Christina [IWD]; Stewart, Brian [IWD]; Stielow, Lisa [IWD]; Tavegia, Thomas [IWD]; Ung, Kham [IWD]; Vo, Vu [IWD]; Vogt, Jennifer [IWD]; Wey, Kevin [IWD]; Wolfe, Kathie [IWD]; Wood, Kirsten [IWD]; Young, Veronica [IWD]; Alden, Carmela [IWD]; Alexander, Marty [IWD]; Brendeland, Deb [IWD]; Buntenbach, Edward [IWD]; Conrath, Mary [IWD]; Dennis, Carla [IWD]; Drake, Denise [IWD]; Dugan, Boyd [IWD]; Gomez, Carmen [IWD]; Greco, Mary [IWD]; Hammond, Simona [IWD]; Harmon, Jeri [IWD]; Koonce, Kerry [IWD]; Kramer, Vicki [IWD]; Milligan, Joy [IWD]; OBrien, Karla [IWD]; Piper, Shari [IWD]; Rodriguez, Maria [IWD]; Shaw, Carmela [IWD]; Summy, Kelly [IWD]; Tate, Sherry [IWD]; Woods, Tamar [IWD]; Woods, Tina [IWD]; Batten, Ellen [IWD]; Douglas, Jodi [IWD]; Gilkison, Judy [IWD]; Halferty, Dan [IWD]; Jergenson, Kathy [IWD]; Lainson, Geralyn [IWD]; Piagentini, Mary [IWD]; Putzier, Juli [IWD]; Shenk, Jim [IWD]; Van Syoc, Jim [IWD]

Cc: Wilkinson, Michael [IWD]; Adams, Lori [IWD]

Subject: Add the week if you get a call

Importance: High

Please add the week for any and all claimants who call us today because of issues over the weekend. They should not have to call us back today once we get them off the phone.

Ryan West

Regional Operations Manager

Phone (515) 725-3732

Fax (515) 281-9321

 Description:
titlegraphic

Message: Re: Add the week if you get a call**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:53 PM
 Item ID: 40862304
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:03:01 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Re: Add the week if you get a call**

From Wilkinson, Michael [IWD] **Date** Monday, March 17, 2014 12:29 PM
To Eklund, David [IWD]
Cc

After the BOA call

Sent from my iPhone

On Mar 17, 2014, at 12:27 PM, "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov> wrote:

Absolutely. Before or after our 1:00 with BOA? I am on my way back from Taco Johns now...

----- Original message -----

From: "Wilkinson, Michael [IWD]"
Date: 03/17/2014 12:13 PM (GMT-06:00)
To: "Eklund, David [IWD]"
Subject: FW: Add the week if you get a call

[Let's discuss before you respond.](#)

From: Douglas, Jodi [IWD]
Sent: Monday, March 17, 2014 11:18 AM
To: Eklund, David [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: FW: Add the week if you get a call
Importance: High

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Thank you!

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To: Allen, Shannell [IWD]; Anderson, Shantel [IWD]; Andreano, Lori [IWD]; Baccam, Frisco [IWD]; Batten, Gary [IWD]; Beattie, Adam [IWD]; Borgeson, Jill [IWD]; Boten, Brenda [IWD]; Chounlamountry, Pho [IWD]; Close, Kara [IWD]; Cogan, Karen [IWD]; Cozart, Jeanine [IWD]; Croushore, Brianne [IWD]; Dawson, Dianne [IWD]; Densmore, Terryne [IWD]; DeSmidt, James [IWD]; Devine, Roxy [IWD]; Donlin, Michael [IWD]; Dyer, Ray [IWD]; Dykstra, Connie [IWD]; Edmonds, Linda [IWD]; Eklund, David [IWD]; Ellenwood, Kasandra [IWD]; Finck, Christal [IWD]; Garrett, Brent [IWD]; Gaulke-Lilly, Sharon [IWD]; Gifford, Matt [IWD]; Guy, Marlys [IWD]; Hallengren, Jon [IWD]; Hoard, Aaron [IWD]; Holett, Karen [IWD]; Hosier, Michael [IWD]; Irvine, Erin [IWD]; Irvine, Kevan [IWD]; Khounlo, Nhoui [IWD]; Kolontar, Lisa [IWD]; Kooiker, Quentin [IWD]; Landrew, Paul [IWD]; Lewis, Irma [IWD]; Long, Maria [IWD]; Moses, Ryan [IWD]; Nutting, Jenifer [IWD]; Oyibo, Joan [IWD]; Parry, Sharon [IWD]; Peacock, Phillip [IWD]; Prettyman, Laura [IWD]; Ramirez, Rebecca [IWD]; Rieger, Kim [IWD]; Roovaart, Michelle [IWD]; Ruby, Evelyn [IWD]; Sadoris, Michelle [IWD]; Schafer, Cathy [IWD]; Schlumbohm, Spomenka [IWD]; Schmalzried, Leslie [IWD]; Seivert, Shanlyn [IWD]; Shepherd, Deborah [IWD]; Spencer, Barbara [IWD]; Starr, Tracy [IWD]; Steen, Christina [IWD]; Stewart, Brian [IWD]; Stielow, Lisa [IWD]; Tavegia, Thomas [IWD]; Ung, Kham [IWD]; Vo, Vu [IWD]; Vogt, Jennifer [IWD]; Wey, Kevin [IWD]; Wolfe, Kathie [IWD]; Wood, Kirsten [IWD]; Young, Veronica [IWD]; Alden, Carmela [IWD]; Alexander, Marty [IWD]; Brendeland, Deb [IWD]; Buntentbach, Edward [IWD]; Conrath, Mary [IWD]; Dennis, Carla [IWD]; Drake, Denise [IWD]; Dugan, Boyd [IWD]; Gomez, Carmen [IWD]; Greco, Mary [IWD]; Hammond, Simona [IWD]; Harmon, Jeri [IWD]; Koonce, Kerry [IWD]; Kramer, Vicki [IWD]; Milligan, Joy [IWD]; OBrien, Karla [IWD]; Piper, Shari [IWD]; Rodriguez, Maria [IWD]; Shaw, Carmela [IWD]; Summy, Kelly [IWD]; Tate, Sherry [IWD]; Woods, Tamar [IWD]; Woods, Tina [IWD]; Batten, Ellen [IWD]; Douglas, Jodi [IWD]; Gilkison, Judy [IWD]; Halferty, Dan [IWD]; Jergenson, Kathy [IWD]; Lainson, Geralyn [IWD]; Piagentini, Mary [IWD]; Putzier, Juli [IWD]; Shenk, Jim [IWD]; Van Syoc, Jim [IWD]
Cc: Wilkinson, Michael [IWD]; Adams, Lori [IWD]

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Importance: High

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Ryan West
Regional Operations Manager
Phone (515) 725-3732
Fax (515) 281-9321

<image001.jpg>

Message: FW: BYE Performance Measure ALPs for CY 2014**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:52 PM
 Item ID: 40862265
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:03:01 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ FW: BYE Performance Measure ALPs for CY 2014

From Wilkinson, Michael [IWD] **Date** Friday, March 14, 2014 3:37 PM
To Douglas, Jodi [IWD]; Boten, Brenda [IWD]; Eklund, David [IWD]; West, Ryan [IWD]
Cc

 [BYE_BASE_CY10_CY12.docx](#) (16 Kb HTML)

We need to have a discussion that includes QC staff about what we can do to be more aggressive about reducing this rate. Jodi, I will leave this in your court to coordinate a discussion.

From: Schloesser, Betsy - ETA [mailto:schloesser.betsy@dol.gov]
Sent: Friday, March 14, 2014 9:52 AM
To: Amy Haller; Bennie Shobe; Bob Rodriguez; Brett Flachsbarth; Cindy Morris; Jeff Becker; Jim Hegman; JoAnne Vogt; Douglas, Jodi [IWD]; John Henige; Josh Richardson; Wilkinson, Michael [IWD]; Shaun Thomas; Spencer Clark; Stephen Geskey; Sue Austin; Summer Boyer; Valerie Okleshen; Wayne Johnson
Cc: Scott, John - ETA; Scott, Steven - ETA; Rainault, Robert - ETA; Hernandez, Patricia - ETA; Belmonte, Steffanie - ETA; Skinner, Richard - ETA
Subject: BYE Performance Measure ALPs for CY 2014

The state and U.S. targets for the BYE overpayment performance measure for CY 2014 are attached. The targets represent a 25 percent reduction from the CY 2010 - CY 2012 baseline. States will continue to meet the ALP by reducing their BYE rate below their baseline rate to meet either their state target or the U. S. target.

We will transmit these targets to the states formally in a change to UIPL No.34-11.

Thanks.

Benefit Year Earnings Overpayment Performance Measure

CY 2010 to CY 2012

BYE Baseline

UI Benefits CY 2010- CY 2014

ST Sample Paid CY 2012 ALP*

AK	1,451	\$552,066,989	2.742%	2.057%
AL	1,455	\$1,205,912,977	3.284%	2.463%
AR	1,440	\$1,196,235,764	6.307%	4.730%
AZ	1,483	\$1,733,276,269	5.516%	4.137%
CA	2,755	\$22,941,683,679	2.485%	1.864%
CO	1,446	\$2,186,311,955	3.156%	2.367%
CT	1,442	\$2,712,288,308	2.000%	1.500%
DC	1,094	\$513,328,661	6.205%	4.653%
DE	1,080	\$401,994,519	4.261%	3.196%
FL	1,449	\$5,222,703,217	2.366%	1.775%
GA	1,229	\$2,410,509,682	1.918%	1.438%
HI	1,086	\$881,271,241	1.179%	.884%
IA	1,440	\$1,511,558,468	3.159%	2.369%
ID	1,468	\$693,800,444	3.100%	2.325%
IL	1,418	\$7,809,946,681	4.432%	3.324%
IN	1,448	\$2,684,852,525	5.205%	3.904%
KS	1,470	\$1,361,749,201	2.675%	2.006%
KY	1,463	\$1,712,879,403	2.555%	1.916%

LA	1,471	\$1,021,531,215	11.211%	8.409%
MA	1,736	\$5,459,019,420	2.703%	2.028%
MD	1,443	\$2,576,032,395	3.743%	2.807%
ME	1,448	\$582,914,578	1.773%	1.330%
MI	1,440	\$4,844,880,610	4.137%	3.102%
MN	1,487	\$3,083,902,887	3.706%	2.780%
MO	1,440	\$1,989,331,797	3.753%	2.815%
MS	1,461	\$656,955,937	6.527%	4.896%
MT	1,080	\$437,873,321	3.765%	2.824%
NC	1,570	\$4,885,345,076	4.471%	3.353%
ND	1,084	\$197,124,170	2.388%	1.791%
NE	1,080	\$460,152,715	3.823%	2.867%
NH	1,094	\$396,088,332	2.792%	2.094%
NJ	1,377	\$7,625,503,388	4.221%	3.166%
NM	1,301	\$766,257,172	5.744%	4.308%
NV	1,446	\$1,852,491,121	6.522%	4.892%
NY	1,433	\$11,026,534,171	2.366%	1.775%
OH	1,451	\$4,402,940,941	2.764%	2.073%
OK	1,446	\$983,627,588	2.747%	2.060%
OR	1,456	\$2,633,511,055	3.489%	2.617%
PA	1,456	\$9,849,828,044	5.114%	3.836%
PR	1,448	\$732,413,156	5.230%	3.923%

* Target rate equals 25 percent reduction from baseline rate.

Prepared By ETA Office of Unemployment Insurance on 05 Feb 14

Benefit Year Earnings Overpayment Performance Measure

CY 2010 to CY 2012

BYE Baseline

UI Benefits CY 2010- CY 2014

ST Sample Paid CY 2012 ALP*

RI	1,440	\$846,304,960	2.567%	1.925%
SC	1,535	\$1,341,119,108	7.522%	5.641%
SD	1,079	\$126,783,597	1.862%	1.397%
TN	1,440	\$1,568,111,338	3.889%	2.917%
TX	1,456	\$7,623,938,822	2.555%	1.916%
UT	1,445	\$932,355,291	2.875%	2.156%
VA	1,472	\$2,126,379,813	2.710%	2.032%
VT	1,083	\$363,763,988	1.722%	1.291%
WA	1,449	\$4,565,641,304	1.952%	1.464%
WI	1,461	\$3,347,188,385	4.271%	3.203%
WV	1,440	\$680,909,280	1.711%	1.284%
WY	1,081	\$287,471,949	4.218%	3.164%
US	73,146	\$148,006,596,907	3.453%	2.590%

* Target rate equals 25 percent reduction from baseline rate.

Prepared By ETA Office of Unemployment Insurance on 05 Feb 14

Message: Out_of_State_Travel_Worksheet (Steve Wise 8-13).doc

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:14 PM
Item ID: 40861443
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Out_of_State_Travel_Worksheet (Steve Wise 8-13).doc**

From Wise, Steve [IWD] **Date** Thursday, August 22, 2013 9:38 AM
To Wahlert, Teresa [IWD]
Cc Castillo, Lisa [IWD]

 [Out_of_State_Travel_Worksheet \(Steve Wise 8-13\).doc](#) (92 Kb HTML)

I've attached my Out of State Travel worksheet for the Nat'l Assn of ALJ Conference in Chicago in September. I have already secured a scholarship to attend the conference from the Iowa Association of Administrative Law Judges and will not be requesting any reimbursement for conference expenses. I'm submitting this document because you've approved attending the conference as work time.

Thank you

Steve

Out-of-State Travel Request Worksheet

If attending more than one conference or convention, please complete separate Worksheets.

Name		Steve Wise		Employee Vendor Number		wisesteve63	
Title		Administrative Law Judge II		IWD Department Number		309	
Division		UI Appeals		# Previous Trips this FY		0	
Additional staff/Contractors attending?				Yes, Lynette Donner, Deb Wise, Susan Ackerman			
Departure From:		Des Moines IA		Traveling to:		Chicago	
Leaving Date		September 15, 2013		Returning Date		September 19, 2013	
Mode of Travel:		Air <input checked="" type="checkbox"/> Personal Vehicle <input type="checkbox"/>		State Vehicle <input type="checkbox"/>		Train <input type="checkbox"/> Other <input type="checkbox"/>	
Name of meeting/conference		National Administrative Law Judiciary Annual Educational Conference					
Start Date		September 16, 2013		End Date		September 18, 2013	
Reason for Travel:		Training and Continuing Legal Education credit					
Normal Job Duties		<input type="checkbox"/> Meeting <input type="checkbox"/>		Training <input checked="" type="checkbox"/>		Conference/Seminar/Forum <input checked="" type="checkbox"/>	
Staff Development		<input type="checkbox"/> Required by Federal <input type="checkbox"/>		Other <input type="checkbox"/>			
Explanation for Travel:		Training					
Are expenses being fully/partially reimbursed by an outside organization? If Yes, state above.						Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Breakdown of Funds		State %		Federal %		Other 100 %	
						Explain: 100% IAALJ Scholarship	
ESTIMATED COSTS		LEVEL OF CITY (1-4)		FUND		Cost Code	
		4					
Air Fare	\$ 0.00	Personal Vehicle	\$ 0.00	Rental Vehicle	\$ 0.00	Train	\$ 0.00
Baggage Fees		\$ 0.00	Parking		\$ 0 (airport @ \$5/day max; hotel parking as charged)		

Meals								\$ 0							
Lodging:								Per night	\$ 0	+ Tax	\$ 0	x No. of Nights	0	=	\$ 0
Registration:										\$ 0					
Ground Transportation								Cab	\$ 0	Shuttle	\$ 0	Other \$	0		
Other								\$ 0	List "Other"						
Total Dollars for Travel:										\$ 0					
Signature of Immediate Supervisor								Signature/Approval of Bureau Chief/Division Administrator (if different from Immediate Supervisor)							

Out-of-State Meal Rates

	Level 1	Level 2	Level 3	Level 4
Breakfast	\$ 7.00	\$ 7.00	\$ 8.00	\$ 9.00
Lunch	8.00	9.00	10.00	11.00
Dinner	16.00	21.00	25.00	30.00
	\$31.00	\$37.00	\$43.00	\$50.00

Meal Calculation Workspace:

Breakfasts	\$	x No. of Breakfasts	= \$	0.00
Lunches	\$	x No. of Lunches	= \$	0.00
Dinners	\$	x No. of Dinners	= \$	0.00
Total for meals			= \$	0.00

NOTES

- If the cost for Training EXCEEDS \$5,000 – it may be necessary for the staff person to sign a Letter of Retention Agreement before approval.

Message: Susan AutoText Word format

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:26 PM
Item ID: 40861716
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **Susan AutoText Word format**

From Wise, Steve [IWD] **Date** Wednesday, October 16, 2013 9:16 PM
To Ackerman, Susan [IWD]
Cc

 [Susan's Auto Text.doc](#) (316 Kb HTML)

Steven A. Wise
Administrative Law Judge
515-281-3747

 BE GREEN – Please consider the environment before printing this e-mail.

Auto Text

Thursday, March 14, 2013 11:36 PM

Auto Text entries in Global: NORMALDOT

..>

1 inasmuch

Inasmuch as the claimant did not give the employer an opportunity to resolve h

complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

1kelly

The definition of misconduct focuses on whether the employee's conduct was deliberate, intentional or culpable. Kelly v. Iowa Department of Job Service, 386 N.VV.2d 552, 554 (Iowa App. 1986).

1shontz

Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. Shantz v. IESC, 248 N.VV.2d 88 (Iowa 1 976).

2inasmuch

Inasmuch as the claimant did inform the employer of objections to and gave the employer an opportunity to resolve complaints prior to leaving employment, the separation was with good cause attributable to the employer. Benefits are ed.

2shontz

Iowa Code Section 96.5(1) has been interpreted to provide that voluntary quitting is not attributable to an employer if it is caused by an illness or injury not connected to the employment. Shantz v. IESC, 248 N.VV.2d SS. 91 (Iowa 1976).

2white

"[I]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." White v Employment Appeal Board, 487 N.VV.2d 342, 345 (Iowa 1992) (citing Butts v. Iowa Dept of Jolz Serv., 328 N.VV.2d 515, 517 (Iowa 1983)).

3inasmuch

Inasmuch as the employer has not established a current or final act of misconduct, benefits are allowed.

3xncns

The issue is whether the reasons for the claimant's separation from employment qualify h to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code Sections 95.5-1. The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify h . Iowa Code Section 96.6. 2.

Ref 163 (delete subsection 1 and add subsection 4 from 166)

The claimant was deemed a voluntary quit on . 200 after three days of no-call/no-show. The claimant failed to participate in the hearing and there is no evidence to establish that he quit with good cause attributable to the employer. Benefits are therefore denied.

Aalbers

Although the definition of misconduct in 871 IAC 24.32(1) excludes "good faith errors in judgment or discretion," a claimant's subjective understanding and intent are not the end of the analysis. "The key question is what a reasonable person would have believed under the circumstances.

accordingly

The administrative law judge concludes that the employer has failed to meet its burden of proof to offer a preponderance of the evidence that the claimant was discharged for misconduct. Accordingly, the administrative law judge concludes that the claimant v./as discharged but not for misconduct, and, as a consequence, he is qualified for unemployment insurance benefits.

acobb

An individual who voluntarily leaves employment because of intolerable or detrimental working conditions must first notify the employer she may quit if certain concerns or not resolved or addressed by the employer. Cobb v. Employment Appeal Board, 506 N.VV.2d 445 (Iowa 1993).

admin

administrative law judge

aharris

The Iowa Supreme Court has ruled that an employer cannot establish disqualifying misconduct based on a drug test performed in violation of Iowa's drug testing laws. Harrison v. Employment

Appeal Board, 659 N.VV.2d 581 (Iowa 2003); Eaton v. Employment Appeal Board, 602 N.W.2d 553, 558 (Iowa 1999). As the court in Eaton stated, It would be contrary to the spirit of chapter 730 to allow an employer to benefit from an unauthorized drug test by relying on it as a basis to disqualify an employee from unemployment compensation benefits.' Eaton, 602 N.VV.2d at 558

AKELLY

It is not sufficient for the employer to show that it was unhappy with the way an employee performed the job. Kelly v. Iowa Department of Job Service, 386 N.VV.2d 552 (Iowa App. 1986).

alangley

The claimant must initially meet the burden of proof of her basic eligibility for benefits. After that burden has been met, the burden shifts to the employer on the issue of disqualification, including disqualification because of a voluntary leaving of employment. Langley v. EAB, 490 N.VV.2d 300 (Iowa App. 1992).

alate

The first issue in this case is whether the party's request, to reopen the record after the hearing had concluded, should be granted or denied. If a party responds to a hearing notice after the record has been closed, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

Allegations

Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. 871 IAC. 24.32(4).

Almir

Almir Muhamedagic participated as interpreter

ALTER BARGE

ALTER BARGE LINE INC

2117 STATE STREET SUITE G50 BETTENDORF IA 52722-1440

Ames

Mere speculation of violence is insufficient to justify a refusal to cross a picket line. Ames

v. EAB. 439 N.W.2d 669 (Iowa 1989).

amph

amphetamines

APAC

APAC CUSTOMER SERVICES INC

PO TALX UCM SERVICES INC

PO BOX 283

ST LOUIS MO 63166.0283

Appel Appellant

APSECT

Iowa Code § 96.6-2 - Timeliness of Appeal

araffety

Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956).

aremand

An issue as to whether the claimant reported income from his new employer arose as a result of the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded to Quality Control for an investigation and determination as to whether the claimant had earned but unreported wages. 871 IAC 26.14(5).

ARVADA

PO UNEMPLOYMENT SERVICES LLC

PO BOX 749000

ARVADA CO 80006.9000

asect

Iowa Code § 96.4-3 - Able and Available for Work

available

The provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate.

BARNETT

° BARNETT ASSOCIATES INC PO BOX 7340

GARDEN CITY NY 11530

base period

The employer is not a base period employer and its account is not subject to any charges during the claimant's current benefit year. If the claimant establishes a subsequent benefit year, the wage credits he earned from through , would be subject to charge since the employer discharged for non-disqualifying reasons. claimant quit employment with good cause attributable to the employer.

bcobb

The law presumes a claimant has left employment with good cause when quits because of intolerable or detrimental working conditions. 671 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the

employee believes are intolerable or detrimental and that intends to quit unless the conditions are corrected. The employer must be allowed the chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board. 506 N.VV.2d 445 (Iowa 1993).

Beardslee

Beardslee v. Iowa Department of Job Service, 276 N.VV.2d 373 (Iowa 1979)

beyond

The serious nature of the policy violation when balanced against the claimant s reason for violating the policy, take it beyond a mere isolated incident or a good faith error in judgment or discretion.

blate

The contacted the Appeals Section for the first time on , 200 . al

.m. The record closed at .m. The received the

hearing notice prior to the 200 hearing. **The** instructions inform the parties that if the party does

not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing, the party will not be called for the hearing. The had not read all the information on the hearing notice. and had assumed that

would be called. The requested that the record be reopened.

brandi

The refusal to accept reasonable changes in job duties constitutes job misconduct since the employer has the right to allocate personnel in accordance with its needs and resources. Brandi v. IDJS. (Unpublished, Iowa App. 1986).

bremand

The issues raised by the employer as to the claimant's were not included in **the Notice of** hearing for this case. and the case will be remanded for an investigation and determination on those issues. 871 IAC 26.14(5).

Brockway

The Court previously denied benefits to a claimant who was injured on the job but did not return to work upon release by a physician. Brockway v. EAB, 469 N.VV.2d 256 (Iowa 1991).

BSECT

Section 96.3-5 - Business Closing

bshell

Section Break (Continuous)

10\NA WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Section 1000 East Grand—Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

68-0157 (7-97)— 3091078 - EI

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

OC-: Claimant: ()		ColurrRBrak Appellant Respondent
This Decision Shall Become Final , unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.		(Administrative Law Judge) (Decision Dated & Mailed) --Section Break (Continuous)

btaylor

An individual who quits employment without good cause attributable to the employer to the employer should be disqualified even if that individual has given up job insurance benefits to accept the work which he then considered unsuitable. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985).

budding

The Court has previously held that isolated incidents of vulgar language where decorous language is not required is "unsatisfactory conduct" or a "mere peccadillo" rather than job misconduct. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983).

Butts

Unemployment insurance was "not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." White v. Employment Appeal Bd., 487 N.W.2d 342, 345 (Iowa 1992) (citing Butts v. Iowa Dep't of Job Serv., 328 N.W.2d 515, 517 (Iowa 1983)); quoted in Gilmore v. Employment Appeal Board, No. 4-670 / 03-2099 (Iowa App. 11/15/2004).

Appeal No. 04A-UI--B1

Cio

or

CARMONY

ATTORNEY MIKE CARMONY

2222 GRAND AVENUE DES MOINES IA 50312

cdec

The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

CEDAR RAPIDS

CEDAR RAPIDS IA 5240

CENTRAL

CENTRAL IOWA HOSPITAL CORP

%o HUMAN RESOURCES

1313 HIGH ST STE 111

DES MOINES IA 50309-3119

certified

certified nurse's aide

chiggins

The claimant's absences were not excused and were not due to illness or other reasonable grounds. The claimant had previously been warned that future absences could result in termination. Higgins v. IDJS, 350 N.W.2d 187 (Iowa 1984). The employer discharged the claimant **for reasons amounting** to work-connected misconduct.

CINCIN

%io TALX EMPLOYER SERVICES

PO BOX 429543

CINCINNATI OH 45242-9503**Cityof**

Insubordination does not equal misconduct if it is reasonable under the circumstances. City of Des Moines v. Picray, (Unpublished, Iowa App. 1986).

claimant

The claimant participate in the hearing.

clate

At issue is a request to reopen the record made after the hearing had concluded. **The** request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

Page

Appeal No. 04A-UI--B1

cobb

The law presumes a claimant has left employment with good cause when quits because of intolerable or detrimental working conditions. 671 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the

employee believes are intolerable or detrimental and that intends to quit unless the conditions are corrected. The employer must be allowed the chance **to** correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

code

Iowa Code §

colleen

Colleen McGuinty, Unemployment Benefits Administrator and . Account Coordinator.

connolly

After the claimant has met his or her burden of proof of basic eligibility for benefits, the burden shifts to the employer on the issue of disqualification, including disqualification because of voluntary leaving of employment. Connolly Brothers Masonry v. DES. Division of Job Service 507 N.W.2d 709 (Iowa App. 1993).

COUNCIL

COUNCIL BLUFFS IA 51501

cozad

Where a successor employer alters the contract of hire a claimant had with the predecessor employer. the claimant should be told of those changes at the time the successor employer takes over the business. If the contract of hire is substantially changed, a voluntary resignation is for good cause attributable to the employer. Cozad v. IDJS. (Unpublished, Iowa App. 1984).

crane

A collective bargaining agreement requiring warnings before a discharge is irrelevant to a determination of job misconduct. Crane v. IDJS, 412 N.W.2d 194 (Iowa App. 1987).

credibility

The findings of fact reflect a resolution of the disputed factual issues in this case based on a careful assessment of the credibility of the witnesses and reliability of **the** evidence.

customer

customer service representative

DECOR

DECORAH IA 52101

defined

Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are

Page

Appeal No. 04A-UI--B1

Dehmel

The issue in this case is whether the claimant voluntarily quit for good cause attributable to the employer.

Ref 50

In Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). the Iowa Supreme Cour ruled that a 25 percent to 35 percent reduction in hours was as a matter of law, a

substantia change in the contract of hire. Further. the Court stated that:

It is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer . . . [G]ood cause attributable to the employer can exist even though the employer be free from all negligence or %,vrongdoing in connection therewith.

Therefore, under the reasoning of Dehmel, the fact the pay reduction may have been due to circumstances beyond the employer's control is immaterial in deciding whether the claimant left employment with or without good cause attributable to the employer.

deliberate

The definition of misconduct focuses on whether the employee's conduct was deliberate, intentional or culpable. Lee v. Employment Appeal Board, 386 N.W.2d 552 (Iowa App. 1986).

Deshler

In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 2 N.VV.2d 332 (Nebraska 1942).

Diggs

Diggs v. Employment Appeal Board, 478 N.W.2d 432 (Iowa App. 1991)

DIMAS

FLEETGUARD INC

ADP-UCS

PO BOX 6000

SAN DIMAS CA 91733

Page 4

Appeal No. 04A-UI--B1

dissatisfied

The claimant has the burden of proving that the voluntary leaving was for a good cause that

would not disqualify h . Iowa Code Section 96.6-2. Leaving because of unlawful, intolerable or detrimental working conditions would be good cause. 871 IAC 24.26(3)(4). Leaving because of a dissatisfaction with the work environment is not good cause.

871 IAC 24.25(21). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida

App. 1973). The claimant has not satisfied his burden. Benefits **are denied**.

DOLGENCORP DOLGENCORP

DOLLAR GENERAL

c/o TALX UCM SVCS INC PO BOX 283

ST LOUIS MO 63166-0283

DRAKE

DRAKE-BRENNAN INC

SNELLING PERSONNEL SERVICES

3810 INGERSOLL AVE

DES MOINES IA 50312.3413

remanded

The matter is remanded to **the** Claims Section for investigation and determination of the issue.

DSM

DES MOINES IA 503

due

Due notice was issued scheduling the matter for a telephone hearing to be held

200. Because a decision fully favorable to **the** part could be made based on

the record as it stood, a hearing was deemed unnecessary.

Eaton

In order for a violation of an employer's drug or alcohol policy to be disqualifying misconduct, it must be based on a drug test performed in compliance with Iowa's drug testing laws. Eaton v. Iowa Employment Appeal Board, 602 N.W.2d 553, 558 (Iowa 1999). **The Eaton** court said, It would be contrary to the spirit of chapter 730 to allow an employer to benefit from an unauthorized drug test by relying on it as a basis **to** disqualify an employee from

unemployment compensation benefits." Eaton, 602 N.W.2d at 558.

edec

The claimant is not eligible to receive unemployment insurance benefits because was discharged from work for misconduct. Benefits are withheld until has worked in and been paid wages for insured work equal to ten times weekly benefit amount, provided is otherwise eligible.

Page

Appeal No. 04A-UI--B1

egregious

It should be noted the employer initially advised their representative that the claimant was not discharged for misconduct and that they were not protesting benefits. The employer representative protested benefits anyway and subsequently appealed the initial decision allowing benefits. The employer representative appealed benefits stating that the claimant was discharged for failing a substance abuse screening which is completely and grossly inaccurate. The employer representative's actions resulted in an egregious misuse of this department's time and resources.

ELECTRONIC ELECTRONIC DATA SYSTEMS c/o FRICK COMPANY P O BOX 283

ST LOUIS MO 63166-0283

EMPLOYER

c/o TALX EMPLOYER SERVICES PO BOX 1160

COLUMBUS OH 43216-1160

ESTHERVILLE

ESTHERVILLE IA 51334

excessive

excessive unexcused absenteeism

exhibit

Exhibit was admitted into evidence.

falsifying

The claimant was discharged for falsifying time records. which is a terminable offense

Falsification of time records is clearly contrary to the employer's interests as it has the result of the employer paying an individual for time not actually worked. Such conduct constitutes theft which is contrary to the standards of behavior an employer has the right to expect.

fdec

The claimant was discharged. Misconduct has not been established. Benefits are allowed provided the claimant is other wise eligible.

flate

The received the hearing notice prior to the 2001 hearing. The instructions inform the parties that if the party does not contact the Appeals Section and provide the phone number at which the party can be contacted for the hearing. the party ..ill not be called for the

hearing. The first time the directly contacted the Appeals Section was on

2001, after the start time for the hearing. The had not read all the information on

the hearing notice, and had assumed that was sufficient. The requested that the hearing be reopened.

flesher

Repeated violations of a security rule may indicate substantial disregard of the employer's

Page E

Appeal No. 04A-UI--B1

Frances

A claimant who confronts h employer with a demand that he be discharged and is

discharged actually quits h employment. Job insurance benefits are not determinable by the course of semantic gymnastics." Frances v. IDJS. (Unpublished, Iowa App. 1986).

Franklin

Franklin v. Iowa Department of Job Service

FREDER

FREDERICKSBURG IA 50630**full-time**

A full-time week is the number of hours or days per week currently established by schedule, custom or otherwise. 871 IAC 24.1(135)(c).

GATES DSM

0 GATES MCDONALD & COMPANY P O BOX 3930

DES MOINES IA 50322-3930

grievance

A decision regarding eligibility for unemployment insurance benefits is not controlled by the grievance procedures set forth in the contract. See Crane v. Iowa Department of Job Service 412 N.W.2d 194 (Iowa App. 1987). Grievance procedures are not binding on Iowa Workforce Development determinations. See Briem v. Ross, 419 N.Y.S.2d 241, 71A.2d 752 (1979) Welsh v. UCBR, 402 A.2d 1154 (1979).

gsect

Iowa Code § 96.5(2)(b) - Gross Misconduct

HARVEYS

HARVEYS IOWA MANAGEMENT CO INC

HARRAHS COUNCIL BLUFFS CASINO

1 HARVEYS BOULEVARD

COUNCIL BLUFFS IA 51501

HAWAR

HAWARDEN IA 51023

hdec

The claimant voluntarily quit employment with good cause attributable to the employe' and is qualified to receive unemployment insurance benefits provided is otherWiSE eligible.

hedges

A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. White v. Employment Appeal Board, 487 N.W.2d 342, 345 (Iowa 1992) (citing Heckles v. Iowa Department of Job Service, 368 N.W.2d 862, 867 (Iowa App. 1985)).

Page -/

Appeal No. 04A-UI--B1

HILLIARDc₁₀ TALX UCM SERVICES INC

3455 MILL RUN DR HILLIARD OH 43026

holt

A failure to successfully complete required course work is not evidence of misconduct where there is an attempt in good faith to satisfy the requirements. Holt v. IWS, 318 N.W.2d 28 {Iowa App. 1982}.

huntoon

Misconduct connotes volition. A failure in job performance which results from inability or incapacity is not volitional and therefore, not misconduct. Huntoon v. Iowa Department of Job Service, 275 N.W.2c1445 {Iowa 1979}.

hurtado

The grounds for discharge listed under a contract of hire are irrelevant to determination o

eligibility for Job Service benefits in a misconduct situation. Hurtado v. Iowa Department of Job Service, 393 N.W.2c1309 {Iowa 1986}.

iacode

871 IAC 24.).

IBPabs

The employer has a 14 point absenteeism policy. in which **an** employee is given a notice after 3 points, a letter after 6 points, another letter after 12 points, and is discharged after 14 points in a running year. Absences excused in advance are not scored; an excused absence is scored 1 point, and an unexcused absence is scored 3 points. **At** the point of discharge, the claimant [lac reached the 14 point level

ilate

The first issue in this case is whether the request to reopen the hearing should be granted or denied. If a party responds to a hearing notice after the record has been closed, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and {4

The first time the called the Appeals Section for the , 2001 hearing was after the hearing had been closed. Although the intended to participate in the hearing, the failed to read or follow the hearing notice instructions and did not contact the Appeals Section prior to the hearing. The did not establish good cause to reopen the hearing. Therefore the 's request to reopen the hearing is denied.

Page

Appeal No. 04A-UI--B1

impartiality

The did not follow the hearing notice instructions by immediately calling the Appeals Section to provide telephone number. The contends that it took a while to get

through to the Appeals Section when it called on , 200 and when it got through, it was minutes after the scheduled start time of the hearing. The administrative law judge cannot speculate as to what time the appellant attempted to contact the Appeals Section and can only go by the recorded time of the telephone call. Each party's experiences may bear potential extenuating circumstances that could be construed in its favor when applying the law 5 to late calls. However, the administrative law judge is required to treat all parties with

impartiality, which cannot be done if all parties are not treated the same. The did not

establish good cause to reopen the hearing. Therefore, the request to reopen the hearing is denied.

incumbent

When misconduct is alleged as the reason for the discharge and subsequent disqualification of benefits, it is incumbent upon the employer to present evidence in support of its allegations. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. 871 IAC 24.32(4). The employer did not participate in the hearing and failed to provide any evidence. The evidence provided by the claimant does not rise to the level of job misconduct as that term is defined in the above stated Administrative Rule. The employer failed to meet its burden. Work-connected misconduct has not been established in this case

and benefits are allowed.

inefficiency

The sole reason cited by the employer for discharging the claimant is Under the

circumstances of this case, the claimant's was the result of inefficiency, unsatisfactory conduct, inadvertence or ordinary negligence in an isolated instance, and was a good faith error in judgment or discretion. The claimant's actions were not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

intended

Although the intended to participate in the hearing, that is not the determining factor when evaluating whether good cause exists to reopen the record when a party fails to participate.

Page

Appeal No. 04A-UI--B1

intent

Iowa Code § 96.5-1 provides a disqualification for individuals who voluntarily quit employment

and Iowa Code § 96.5-1-d operates as an exception to that rule for individuals who voluntarily leave employment due to pregnancy under certain circumstances. To voluntarily quit, however, means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438 440 (Iowa App. 1992). In this case, the claimant never quit employment or intended to leave

his job. He desired to continue to work but the employer would not allow him to work.

"*The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27),

interpreted

interpreted on behalf of the claimant.

IOWA BEEF PROCESSORS IOWA BEEF PROCESSORS INC 910 FRICK UC EXPRESS

P O BOX 283

ST LOUIS MO 63166.0283

IOWA WORKFORCE IOWA WORKFORCE

DEVELOPMENT DEPARTMENT

isolated

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity
inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment of
discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

issue

The issue is whether the reasons for the claimant's separation from employment qualify to
receive unemployment insurance benefits.

Iverson

Iverson Construction v. Department of Employment Services 449 N.W.2d 356 (Iowa 1989)

JOHNSON &

91 JOHNSON & ASSOCIATES P O BOX 6007

OMAHA NE 68106-0007

Page 1C

Appeal No. 04A-UI--B1

JON-J

91 JON-JAY ASSOCIATES P O BOX 182523

COLUMBUS OH 43218

jonday

91 JON-JAY ASSOCIATES

100 CORPORATE PLACE 4TH FLOOR PEABODY MA 01960

Jones

It is a violation of public policy to terminate an employee for refusing to do an illegal act. Jones

v. Lake Park Care Ctr.. Inc., 569 N.W.2d 369, 377 (Iowa 1997).

Kehde

Kehde v. Iowa Division of Job Service, 318 N.W.2d 202 (Iowa 1982)

Kemal

Kemal Delilovic, an interpreter, translated during the hearing.

KRAFT FOODS

KRAFT FOODS MANUFACTURING MIDWEST INC

84 NORTHEAST LOOP 410 SUITE 400 SAN ANTONIO TX 78216

LABOR

LABOR READY MIDWEST INC

ATTN PAYROLL TAX DEPARTMENT

PO BOX 2910

TACOMA WA 98401-2901

leasing

L A LEASING INC PRO STAFF

612 VALLEY DRIVE MOLINE IL 61265

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Appeal No. 04A-UI--B1

leave

A leave of absence negotiated with the consent of both parties, employer and employee, is

deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period. 871 IAC 24.22{2(j)}. If at the end of a period of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits. 871 IAC 24.22(2)011). On the other hand, if the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits. 871 IAC 24.22(j)(2).

The evidence in the record establishes that the claimant did, in fact, fail to return to the employment at the end of the leave of absence. Accordingly, the separation from the employment is deemed a voluntary quit and claimant is disqualified for benefits unless the quit is found to be for good cause attributable to the employer.

Lee

The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 66E (Iowa 2000).

legal

The claimant established a legal excuse for filing a late appeal. 871 IAC 24.35(2). Therefore, the Appeals Section has jurisdiction to address the merits of the claimant's appeal.

Lloyd

Discharge of an at-will employee is unlawful when it violates public policy. Lloyd v. Drake Univ. 686 N.W.2d 225 (Iowa 2004).

Local Lodge

Local Lodge #1426 v. Allison Trailer, 289 N.W.2d 608, 612 (Iowa 1980)

L A LEASING L A LEASING INC SEDONA STAFFING 612 VALLEY DR MOLINE IL 61265

page 1:

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manifests

Willful misconduct can be established where an employee manifests an intent to disobey a future reasonable instruction of her employer. Myers v. IDJS, 373 N.W.2d 507 (Iowa 1983).

manuf

Manufacturing

MAQUOKETA

MAQUOKETA IA 52060**marl**

marijuana

Marsh

MARSHALLTOWN IA 50158

martin

Punching a fellow employee's time card can constitute job misconduct. Martin v. IDJS. {Unpublished. Iowa App. 3/23/88}.

mburden

The employer has the burden to prove the claimant was discharged for work-connected misconduct as **defined** by the unemployment insurance law. Cosper v. Iowa Department of Job Service. 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. **The** law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Newman v. Iowa Department of Job Service. 351 N.VV.2d 806 (Iowa App. 1984).

mcconnell

Hearsay evidence is generally admissible in an administrative proceeding and under federal administrative law may constitute substantial evidence. McConnell v Iowa Department of Job Service. 327 N.VV.2d 234 {Iowa 1982}.

Meredith

Meredith Publishing Company v. Iowa Employment Security Commission. 232 Iowa 666, 672. 6 N.VV.2d 6. 10 (1942)

Meskwaki Bingo.

Meskwaki Bingo, Casino and Hotel (employer)

millar

Poor work performance is not misconduct in the absence of intent. **Miller v. Employment Appea**

Board. 423 N.W.2d 211 (Iowa App. 1988).

MISSOURI VALLEY

MISSOURI VALLEY IA 51555**modified**

modified in favor of the appellant.

Moorman

Moorman Manufacturing Company v. IUCC, 230 Iowa 123, 137, 296 N.W. 791, 797 {1941}

msect

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

myers

The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made." This is ordinarily a fact question for the Agency. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983) is overruled to the extent [it] contradicts this position. Myers v. Employment Appeal Board, 462 N.W.2d 734 {Iowa App. 1990}.

OR But even then, the 'question of whether the use of improper language in the workplace is misconduct is nearly always a fact question. It must be considered with other relevant factors....." Myers v. Employment Appeal Board, 462 N.W.2d 734, 738 (Iowa App. 1990),

Newman

Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984)

no-call

no-call/no-show

nocrea

The claimant was absent from work for three days without giving notice to the employer. The

employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant is deemed to have voluntarily quit based on his absence from work for three days without giving notice to the employer. There is no evidence of good cause attributable to the employer and benefits are denied.

Norland

An offer of temporary work is not, as a matter of law, unsuitable. Suitability of work is a question

of fact, and the temporary nature of **the** work offered is one fact which may be considered in evaluating the suitability of that work. Norland v. Iowa Department of Job Service, 412 N.W.2d 904 (Iowa 1987).

notissue

The issue is not whether **the** employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. Infante v. LDJS, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate decisions. Pierce v. IDJS, 425 N.W.2d 679 (Iowa App. 1984)

OELWEIN

Olson

The court held that a claimant's resignation seven months after a substantial change in the contract of hire was a disqualifiable event because the claimant was held to have acquiesced in the changes. Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa App. 1990).

op41a

Iowa Code section 96.3(7) provides that benefits must be recovered from a claimant who

receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code section 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated in the initial fact-finding proceeding that resulted in the initial decision to award benefits.

Workforce Development determines there has been an overpayment of benefits, the employee will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

opd41a

The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

OPd ec

The claimant is overpaid benefits in the amount of \$.00.

opting

If the reasons for a discharge would be disqualifying, an employee cannot escape disqualification simply by opting to quit prior to being discharged. It

osec

Iowa Code § 96.3-7 - Overpayment

osect

Iowa Code § 96,3-7 - Overpayment

OSKAL**OSKALOOSA IA 52577**

other

The issue to be determined is whether the reasons for the claimant's separation from employment qualify h to receive unemployment insurance benefits. The claimant is no qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code Section 96.5-1. The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify h . IOWE Code Section 96.6-2.

Ref 3. 102

The evidence shows the claimant voluntarily quit h employment on

to accept other employment. Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, he did leave in order to accept other employment. Accordingly, benefits are allowed and the employer's account shall not be charged.

over-the

over-the-road truck driver

pa ra

paraphernalia

Parkhurst

An individual who said "fuck you to a supervisor in a kitchen where vulgar language had been commonly used in the past was not guilty of job misconduct due to this isolated instance even after a prior reprimand. Parkhurst v. IDJS, (Unpublished. Iowa App. 1986).

participated

The employer participated through

past acts

While past acts and warnings can be used to determine the magnitude of the current act o

misconduct, a discharge or disciplinary suspension for misconduct cannot be based on such

past act(s). The termination or disciplinary suspension of employment must be based on a current act. See 871 IAC 24.32(6). In determining whether the conduct that prompted the discharge constituted a "current act," the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified the claimant that the conduct subjected the claimant to possible discharge. See also Greene v EAB, 426 N.W.2d 659, 662 (Iowa App. 1988).

peck

An employee quits his job only if he intends to quit and carries out that intent by some overt act. Peck v. Employment Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

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Pepsi

However, a postage meter mark on the last day for filing document does not perfect timely appeal if postmark affixed by United States Postal Service is beyond the filing date. Pepsi-Cola Bottling Company of Cedar Rapids v. EAB, 465 N.W.2d 674 (Iowa App. 1990),

PER MAR

PER MAR SECURITY & RESEARCH CORP

PER MAR SECURITY SERVICES

PER MAR TALX EMPLOYER SERVICES

PO BOX 1160

COLUMBUS OH 43216-1160

personally

While the administrative law judge personally feels the equities and justice in this matter .voulc

arrant a decision in favor of the claimant, she is not free to make such determinations basec
on personal considerations but must make the decision based on fact and law. In the presen

case those require a decision in favor of the or denying a recalculation o benefits based on a
business closing.

PERSONNEL

° PERSONNEL PLANNERS INC

913 WEST VAN BUREN N-3A

CHICAGO IL 60607

pfeiler

An incident of horseplay may constitute job disqualifying misconduct where there has been e

previous record of discipline and warnings. Pfeiler v. Employment Appeal Board, 455 N.W.2c
307 (Iowa App. 1990).

Polley

Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991)

presumes

The law presumes it is a quit without good cause attributable to the employer when an

employee leaves . 871 IAC 24.2).

PRINCIPAL

PRINCIPAL LIFE INSURANCE CO

° SHARON SAMS

711 HIGH STREET

DES MOINES IA 50392

protest

. The employer filed its protest late because he had been out of town and feels the time limit should have been extended. If Iowa Workforce Development granted extensions to employers who are out of the office when the notice of claim is mailed, then there might as well not be a due date. Obviously that would not work and employers should know that businesses continue to operate even if one employer happens to be on vacation.

Page 1

Appeal No. 04A-UI--B1

PSECT

Iowa Code § 96.6-2 - Timeliness of Protest

qburden

The claimant voluntarily quit on . 20D has the burden of proving that

the voluntary quit was for a good reason that would not disqualify h . Iowa Code Section 96.6-2.

qnodischarge

The evidence in the record clearly establishes that the claimant left h employment and was not discharged by **the** employer. Iowa Code Section 96.5-2-a is, therefore, not applicable in making a determination relating to the nature of the claimant's termination of employment.

QSECT

Iowa Code § 96.5-1 - Voluntary Quit

qualified

The claimant is not qualified to receive unemployment insurance benefits if he voluntarily

quit without good cause attributable to the employer or if the employer discharged h for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

RACING ASSN**RACING ASSN OF CENTRAL IOWA****PRAIRIE MEADOWS**c_i ADP-UCS

P O BOX 1000

ALTOONA IA 50009-1000

requisite

Since the claimant did not have the requisite intent necessary to sever the employment relationship so as to treat the separation as a "voluntary quit" for unemployment insurance purposes, it must be treated as a discharge.

resolve

The claimant did not inform h employer of the problems he was having before he voluntarily quit h employment. Inasmuch as the employer did not have the opportunity to resolve h complaints prior to the claimant leaving, the separation ova= without good cause attributable to the employer. Benefits are denied.

Resp

Respondent

Roberts

Roberts v. Iowa Department of Job Service, 356 N.W.2d 218 (Iowa 1984)

rooney

A quit because of a medical condition attributable to the employer need not be upon the advice of a physician. IvicComber applies. Iowa Code § 96.5-1-cl does not. Rooney v. EAB, 44E N.VV.2d 313 (Iowa 1989).

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Appeal No, 04A-UI--B1

Rosemary Paramo-Ricoy Rosemary Pararno-Ricoy

Ross

Ross v. Iowa Department of Job Service, 376 N.W.2d 642 (Iowa App. 1985)

sackerman sackerman

SALEM

SALEM MANAGEMENT INC

RUDY SALEM EMPLOYMENT AGENCY

PO BOX 3124

SIOUX CITY IA 51102

savage

In order to establish the claimant acted out of self-defense, he would need to show freedom from fault, a necessity to fight back and an attempt to retreat. Savage v. Employment Appeal Board, 529 N.W.2d 640 (Iowa App. 1995).

SEDONA

L A LEASING

SEDONA STAFFING 612 VALLEY DR MOLINIE IL 61265

SHEAKLEY

9/0 SHEAKLEY UNISERVICE INC PO BOX 1160

COLUMBUS OH 43216-1160

shontz

Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. Shantz v. IESC, 248 N.W.2d 88 (Iowa 1976).

Simpson

The head start program meets the definition of an educational institution and if employees have a reasonable assurance of continued employment in the successive academic term, benefits must be denied. Simpson v. Iowa Department of Job Service, 327 N.W.2d 775 (Iowa App. 1982).

Sincerely yours, Sincerely yours,

Smith

As persuasive authority, the falsification of an activity log book constitutes job misconduct. Smith v. Sorensen, 222 Nebraska 599, 386 N.W.2d 5 (1986).

SSECT

Section 96.5-5 — Receipt of Severance

State of Iowa State of Iowa

Page 1.c

Appeal No. 04A-UI--B1

subpoena

participated pursuant to a subpoena issued on behalf of the

substantial

The change in which was to have been implemented was a substantial change in the claimant's contract of hire.

suluki

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993).

SUMMIT

C10 UNEMPLOYMENT INSURANCE SVCS PO BOX 104

LEE'S SUMMIT MO 64063

super

superintendent

Susan Brightman Susan Brightman

Swanson

Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996)

TALX

C10 TALX UCM SVCS INC

PO BOX 283

ST LOUIS MO 63166-0283

taylor

When a claimant gives several different reasons for leaving unemployment. Job Service is required to consider all stated reasons which might have combined to give the claimant good cause attributable to the employer. Taylor v. Iowa Department of Job Service, 362 N.W.2d 53 (Iowa 1985),

telephone

The did not comply with the hearing notice instructions and did not call in to provide a telephone number at which could be contacted, and therefore, did not participate.

tempdec

The claimant's separation was not a voluntary quit but was the completion of a temporal assignment. The claimant is qualified to receive unemployment insurance benefits, if is otherwise eligible.

Page 2C

Appeal No. 04A-UI--B1

tempissue

The first issue in this case is whether the claimant voluntarily quit.

Refs 1. 97

The employer considered the claimant's assignment to have been completed. The completion of a temporary employment assignment, regardless of whether the claimant reported for a new assignment, is deemed to be a separation other than voluntary leaving, and benefits are allowed.

temprefusal

Iowa Code Section 96.5-3-a provides that an individual can be disqualified from unemployment insurance benefits if the individual fails to accept suitable work when offered. Rule 871 IAC 26 (19) makes this requirement to employees of temporary employment agencies. Among the factors to be considered as to whether a claimant has refused a suitable offer of work. the Agency considers the length of unemployment, the distance from the available work, and whether the hours are less favorable than other work. 871 IAC 24.24(15).

test

Page C

Appeal No, 04A-U1--B1

10 .A WORKFORCE DEVELOPMENT

Unemployment Insurance Appeals Section 1000 East Grand—Des Moines, Iowa 50319

(Administrative Law Judge)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

68-0157 (7-97)— 3091078 - EI

(Decision Dated & Mailed) Section Break (Next Page).

IOWA WORKFORCE

DEVELOPMENT DEPARTMENT

OC: ColurriR.13rfik

Claimant: Appellant

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed' written Notice of Appeal, directly to **the Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

The name, address **and social security number o` the claimant.**

A reference to the decision from **which the** appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds_ It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

Appeal No, 04A-UI--BT

sd b!

871 IAC 24.2(1a & h(1) & (2) - Backdating STATEMENT OF THE CASE:

(claimant) appealed an unemployment insurance decision dated

200 , reference 0 . which denied request to backdate claim

prior to . After a hearing notice was mailed to the party's last-known

address of record, a hearing was held on , 200

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the

evidence in the record. finds that: filed a claim for benefits with an effective date

of . 200

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant's request to backdate h claim

should be granted. For the reasons that follow, the administrative law judge concludes

the claimant's request to backdate claim is

Ref 13

is not considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is denied.

DECISION:

The unemployment insurance decision dated 200

reference 0 , is ed. The claimant's request to backdate claim is

Appeal No. 04A-U1--BT

THOMAS

THOMAS AND THORNGREN

PO BOX 280100

NASHVILLE IA 37228

To Whom It May Concern: Tc Whom It May Concern:

TSECT

Iowa Code § 96.6-2 - Timeliness of Appeal

Turkes

Turkessa Hill, Human Resources Coordinator

UCEX

UC EXPRESS

PO BOX 66945

ST LOUIS MO 63166

unbekno

An employer's policy is not automatically void simply because numerous employees choose not to follow it. particularly when the violation is unbeknownst to the employer.

understanding

The claimant violated a known company rule with the understanding that discharge would result.

unemployment insurance benefits unemployment insurance benefits

VanMaaren

The Court has held that the disclosure of confidential payroll information to a fellow employee constitutes job misconduct. Van rilaaren v. IDJS. (Unpublished, Iowa App. 1986).

VIA AIRMAIL VIA AIRMAIL

VIA FACSIMILE VIA FACSIMILE

VIA OVERNIGHT MAIL VIA OVERNIGHT MAIL

VSECT

Iowa Code § 96.5-7 — Receipt of Vacation Pay

WAL-MART

WAL-MART STORES INC

010 THE FRICK COMPANY-UC EXPRESS

P O BOX 283

ST LOUIS MO 63166-0283

Page 3

Appeal No. 04A-UI--BT

sd b!

warrant

Although the employer did not participate. **the** claimant presented sufficient evidence on
h own to establish misconduct and warrant a denial of benefits.

WATERLOO

WATERLOO IA 50703

wdshell

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF **THE** CASE:

) appealed an unemployment insurance decision dated

200 reference 0 A hearing was scheduled for 200 Prior to the hearing being held, **the** appellant
requested **the** appeal be withdrawn,

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: A
request has been made by the appealing party to withdraw the appeal. The request has been
submitted

REASONING AND CONCLUSIONS OF LAW:

Ref 51

The administrative law judge has reviewed the records and files herein and concludes that the request of the appealing party to withdraw the appeal should be approved.

DECISION:

The unemployment insurance decision dated , 200

reference 0 , is affirmed. The request of the appealing party to withdraw the **appeal is approved**, and the decision of the representative shall stand and remain in full force and effect.

Page 4

Appeal No, 04A-U1--BT

weight

The weight of the evidence indicates that quit the employment and was not discharged.

WESTSTAFF USA

WESTSTAFF USA INC

9/0 **EMPLOYMENT TAX CONSULTING 440 WEST COLORADO STREET #204 GLENDALE
CA 91204**

wiese

In Wiese v. Iowa Department of Job Service, 389 N.W.2d 676 (Iowa 1986). the Iowa Supreme Court stated: We believe that a good faith effort by an employer to continue to provide employment for his employees may be considered in examining whether contract changes are substantial and whether such changes are the cause of an employee quit attributable to the employer."

willful

The claimant's shows a willful or wanton disregard of the standard of behavior the

employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties and obligations to the employer.

wills

The employer asserts that the claimant is on an extended medical leave of absence.

The claimant asserts there has been a separation from the employment initiated by the employer. In Wills v. Employment Appeal Board, the Supreme Court of Iowa held that an employee did not voluntarily separate from employment where the employee presented a 25-pound lifting restriction and the employer, as a matter of policy, precluded the employee from working so long as the medical restriction continued in place. See Wills v. Employment Appeal Board, 447 N.W.2d 137 (Iowa 1989). The lifting restriction in Wills was based on a non-work-related medical condition and while the Court found that the 25-pound lifting restrictions may have limited the employee's ability to perform regular duties, the lifting restriction did not make the employee unable to work as a general principle. The employer asserted that it had nowork available that would meet the employee's medical restrictions but the Court concluded that the employer's actions were tantamount to a discharge.

WINNEBAGO

WINNEBAGO INDUSTRIES PO BOX 152

FOREST CITY IA 50436.0152

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Appeal No. 04A-UI--BT

with good cause attributable to

with good cause attributable to the employer

without good

without good cause attributable to the employer

wolf's

A voluntary quit is not attributable to the employer if caused by illness not connected to the employment. Wolfs v. IESCI, 244 Iowa 999, 59 N.W.2d 216 (1953),

work-

work-related misconduct

worker

Worker's Compensation

Workf

Workforce Development

Appeal No. 04A-UI--BT

The representative's . 1999 decision (reference 0) is reversed. The claimant did refuse a suitable offer of work.

workrefushell

Section 96.5-3-a — Work Refusal STATEMENT OF THE CASE:

(claimant) appealed a representative's 1999 decision (reference 0) that concluded was not qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on 2000. The claimant did not participate in the hearing. appeared on the employer's behalf. Based on the evidence, the arguments of the and the law. the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant refused a suitable offer of work,

18

DECISION:

The , 1999, reference 0 , decision is

DECISION:

Appeal No. 04A-UI--BT

ld/

Yours truly, Yours truly.

zeches

An individual who referred to supervisors as "the stupid mother tickers in the office" within the hearing of a company auditor and customers was held to be guilty of job misconduct. Zeches v. IDJS, 333 N.W.2d 735 (Iowa App. 1983).

adopted

Administrative Law Judge conducted an initial hearing on this matter in appeal

A-UI- T in v, which benefits were . The appealed the decision

indicating it did not participate due to . The Employment Appeal Board remanded

for a new hearing in an order dated . 20 .

ahiggins

Excessive unexcused absenteeism, a concept which includes tardiness, is misconduct. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

bhiggins

The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

volquit

The issue is whether the claimant's voluntary separation from employment qualifies

h to receive unemployment insurance benefits. is not qualified to receive

unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492

N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated h intent to quit and acted to carry it out by

It is the claimant's burden to prove that the voluntary quit was for a good cause that

would not disqualify . Iowa Code § 96.6-2. has satisfied that burden and benefits are

boehrn

Two consecutive no-call/no-show absences can constitute job misconduct. *Boehm v. IALS*,

(Unpublished. Iowa App. 1986).

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Appeal No. 04A-U1--BT

gilliam

Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990).

bke l ly

When an individual is discharged due to a failure in job performance, proof of that individual's ability to do the job is required to justify disqualification, rather than accepting the employers subjective view. To do so is to impermissibly shift the burden of proof to the claimant. *Kelly v. Iowa Department of Job Service*. 386 N.W.2d 552 {Iowa App. 1986),

harlan

Absenteeism arising out of matters of purely personal responsibilities such as childcare and transportation has not been held excusable by the Court. *Harlan v. Iowa Department of Job Service*. 350 N.W.2d 192 (Iowa 1984).

mccourt

In light of good faith effort, absences due to inability to obtain child care for sick infant. although excessive, did not constitute misconduct. *McCourtney v. imprimis Technology, Inc.*, 465 N.W.2d 721 (Minn. App. 1991).

CASEY'S

CASEY'S MARKETING COMPANY

CASEY'S GENERAL STORES

©/c, **TALC UCM SVCS INC**

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ST LOUIS MO 63166-0283

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Appeal No. 04A-UI--BT

written

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy. However, if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for unemployment insurance benefits related to that separation. Inasmuch as employer had not previously warned the claimant about any of the issues leading to the separation, it has not met the burden of proof to establish that claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Benefits are allowed.

opfa

The claimant filed a claim for unemployment insurance benefits effective

20 and has received benefits after the separation from employment.

separate

Iowa does not have a separate set of laws for non-English speaking claimants. The

Agency specifically employs bilingual work advisors to assist non-English speaking claimants and it is ultimately the claimant's responsibility to avail him or herself of that resource or some other comparable community or personal resource available to the claimant.

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Appeal No. 04A-UI--BT

warning

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy. However, if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for unemployment insurance benefits related to that separation. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. Inasmuch as the employer had not previously warned the claimant about any of the issues

leading to the separation, it has not met the burden of proof to establish that claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be given. Benefits are allowed,

gimbel

Misconduct must be substantial in nature to support a disqualification from unemployment benefits. *Gimbel v. Employment Appeal Board*. 489 N.W.2d 36. 39 (Iowa Ct. App. 1982). The focus is on deliberate, intentional, or culpable acts by the employee. *Id.*

LONDON

HY-VEE INC

10 CORPORATE COST CONTROL INC

PO BOX 1180

LONDONDERRY NH 03053

cre m

The case is remanded for a review and determination on the unreported wage issue.

traile

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*. 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492

N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by

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meaningful

Here, the claimant's lack of proficiency in English created a language barrier. which played a key role in the claimant's ability to understand and follow through with the

hearing process. His inability to personally understand the affected his ability to respond to its contents, so did he lack the ability to effectively participate in the hearing. H nonparticipation in the hearing was through no fault of the claimant. Although the claimant may have received the

Notice of Hearing, it was not meaningful to h . There is no question that due process principles apply in the context of hearings for persons seeking unemployment benefits. *Silva v. Employment Appeal Board*. 547 N.W.2d 232 (Iowa App. 1996). Two of the benchmarks of due process are adequate notice and meaningful opportunity to be heard. Iowa courts have held that due process requires "the opportunity to be heard at a meaningful time and a meaningful manner." *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

The claimant was not afforded due process rights. The claimant was precluded from fully participating in the hearing before the administrative law judge because

the notice was not "meaningful" when he received it and required further

effort on h part to gain its meaning. While the claimant was literally provided notice and the subsequent decision, these documents had no meaningful effect such that he could timely comply either documents' instructions. Thus, the notice did not give the claimant an opportunity to be heard at a meaningful time **and**

in a meaningful manner. And h failure to understand the Notice of

Decision due to the language barrier, surely affected h ability to respond.

TITAN

TITAN TIRE CORPORATION 2345 EAST MARKET ST DES MOINES IA 50317

ERNST

ERNST AND YOUNG LLP PO BOX 226776

DALLAS TX 75222

Appeal No. 04A-UI--BT

hilde

A series of accidents attributable to negligence, occurring periodically and with

consistent regularity so as to produce substantial financial loss to the employer will support the conclusion that the claimant is guilty of job misconduct (in this case, seven incidents of breakage by a trucker in seven weeks). *Hildebrand v. Ials*. (Unpublished, Affirmed by Operation of Law on 3/3 Split, Iowa App, 1968).

NASHUA

HY-VEE INC

CORPORATE COST CONTROL INC 50 NASHUA RD STE 200A

LONDONDERRY NH 03053-3429

noquit

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the

employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The claimant was

consistent in expressing h wish to return to work with the employer. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.VV.2d 606, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1994 The claimant did not exhibit the intent to quit and did not act to carry it out Since the claimant did not have the requisite intent necessary to sever the employment relationship so as to treat the separation as a "voluntary quit" for unemployment insurance purposes. it must be treated as a discharge.

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prefer

In an at-will employment environment, an employer may discharge an employee for any

number of reasons or no reason at all if it is not contrary to public policy. However, if it fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, the employer incurs potential liability for unemployment insurance benefits related to that separation. Inasmuch as the employer had not previously warned the claimant about any of the issues leading to the separation, it has not met the burden of proof to establish that the claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need to be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed, and reasonable notice should be

given. Benefits are therefore allowed.

probat

Credible, probative evidence establishes that the claimant's failure to correct h

performance and attitude to levels within h proven capabilities following numerous

warnings and ample opportunity to make such corrections was the result of willful and wanton disregard for the work and the employer's interests.

Acet

Acetaminophen

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Appeal No. 04A-UI--BT

good cause

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EA13*, 494 N.W.2d 660, 662 (Iowa 1993) citing *Wiese v. Iowa Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)), The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "[C]ommon sense and prudence must be exercised in evaluating **all** of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* 'Good cause attributable to the employer' does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 730, 702 (Iowa 1988) ("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shantz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)(The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself rather than the employer personally and still satisfy the requirements of the Act. E.g. *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956). There is no question that the claimant felt unsafe and her fears were substantiated.

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Appeal No. 04A-U1--BT

<http://www.ioweworkforce.org/Aii/appeals/index.html>

fair

In an at-will employment environment, an employer may discharge an employee for any

number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, the employer incurs potential liability for unemployment insurance benefits related to that separation. Inasmuch as the employer had not previously warned the claimant about any of the issues leading to the separation, it has not met the burden of proof to establish that claimant acted deliberately or with recurrent negligence in violation of company policy. procedure. or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate (preferably written), detailed. and reasonable notice should be given. Benefits are allowed.

explicit

A contract of hire need not be an explicit written contract but can be established by schedule. custom or otherwise.

EDGE

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PO BOX 351567

WESTMINSTER CO 60035-1567

WESTMIN

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aware

e was aware of h responsibilities. was capable of performing h duties, and had been warned of the consequences of h actions.

web

Appeal No. 04A-UI--BT

warre II

Use of foul language can alone be a sufficient ground for a misconduct disqualification

for unemployment benefits. *Warrell v Iowa Dept. or Job Service*. 356 N.W.2d 587 (Iowa Ct. App. 1984). An isolated incident of vulgarity can constitute misconduct and warrant disqualification from unemployment benefits, if it serves to undermine a superior's

authority. *Deever v. Hawkeye Window Cleaning, Inc.* 447 N.W.2d 418 (Iowa Ct. App. 1989).

Because that final warning essentially placed the claimant on a last chance or

probationary status because of his prior bad acts, he will not be afforded the same protection as other employees. See *Warrell v. Iowa Department of Job Service*, 356 N.W.2d 587 (Iowa App. 1984).

VOLT

VOLT MANAGEMENT CORP
EMPLOYERS EDGE PO BOX 351576

WESTMINSTER CO 60035

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Appeal No. 04A-UI--BT

contract

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Ref 1.50

The claimant quit his employment on June 11, 2011 due to a change in the contract of hire. A "change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676,

679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*. 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

or The law presumes a claimant has left employment with good cause when

he quits because of a change in the contract of hire. 871 IAC 24.26(1). However, in order to show good cause for leaving employment based on a change in the contract of hire, an employee is required to take the reasonable step of informing the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa

1993). In the case herein, . The employer was not able to accommodate

the claimant. The voluntary quit was with good cause attributable to the employer and benefits are

It is the claimant's burden to prove that the voluntary quit was for a good cause that

would not disqualify h . Iowa Code § 96.6-2. The claimant has satisfied that burden. Benefits are

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Appeal No. 04A-UI--BT

goodwin

When an employer discharges an employee for misconduct, the employee is disqualified

from receiving unemployment benefits. It is consistent with the statutory framework to extend that analysis to hold that in situations in which an employer demotes an employee for misconduct warranting discharge, an employee who leaves employment should be disqualified from receiving benefits. *Goodwin v. BPS Guard Services, Inc.*, 524 N.W.2d 28 (Minnesota App. 1994).

into!

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 671 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1986) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2035).

proof

Proof that a document was properly mailed raises a presumption that it was received. *Cf.*

Montgomery Ward, Inc. v. Davis, 396 N.W.2d 869, 870 (Iowa 1967).

past

The only remaining issue is whether the discharge occurred for a past act. While past

acts and warnings can be used to determine the magnitude of the current act of misconduct. a discharge or disciplinary suspension for misconduct cannot be based on such past act(s). The termination or disciplinary suspension of employment must be based on a current act. See 671 IAC 24.32(8). In determining whether the conduct that prompted the discharge constituted a "current act." the administrative law judge considers the date on which the conduct came to the attention of the employer and the date on which the employer notified **the** claimant that the conduct subjected the claimant to possible discharge. See also *Greene v. EAB*. 426 N.W.2d 659, 662 (Iowa App. 1988).

davoren

The claimant has **the** burden of proof in establishing h ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979).

CRST INC

CRST INC

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PO BOX 283

ST LOUIS MO 63166-0283

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Appeal No. 04A-UI--BT

A TTO

ATTORNEY AT LAW

on-call

Because the claimant was hired to work only on-call or as needed, he is not

considered to be unemployed within the meaning of the law. When an individual is hired to work on-call, the implied agreement is that they will only work when work is available and that work will not be regularly available. Thus, any diminution in hours is directly related to the on-call status v./hen work is not available, as no regular hours were guaranteed.

fax

OR

Fax Number: (515)281-7191

child

The law presumes it is a quit without good cause attributable to the employer when an employee leaves due to lack of childcare. 871 IAC 24.25(17).

uniweld

"Good cause" for leaving employment must be that which is reasonable to the average

person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 627 (Florida App. 1973).

lwhite

An adequate record in a case involving a quit for medical reasons must include sufficient

evidence from which it can be determined if the medical condition was caused or aggravated by working conditions. *White v. Employment Appeal Board*. 487 N.W.2d 342 (Iowa 1992).

blangley

The Iowa Court of Appeals considers it a voluntary quit when a claimant gives notice of

resignation which is accepted by the employer. even though the claimant subsequently attempts to withdraw **the** resignation. *Langley v. BAB*. 490 N.W.2d 300 (Iowa App. 1992).

floyd

The FMLA provisions in particular were enacted to be an employee protection and

shield, not a sword to be used by an employer as a weapon against the employee. Here, the employer knew or should have known that the claimant would be absent for an extended period of time. *Floyd v. Iowa Dept. of Job Service*, 338 N.W.2d 536 (Iowa App. 1986).

gaborit

Absenteeism can constitute misconduct: however, to be misconduct, absences must be

both excessive and unexcused, 871 IAC 24.32(7). A determination as to whether an absence is excused or unexcused does not rest solely on the interpretation or application of the employers attendance policy. Absences due to properly reported illness cannot constitute work-connected misconduct since they are not volitional, even if the employer was fully within its rights to assess points or impose discipline up to or including discharge for the absence under its attendance policy. 871 IAC 24.32(7): *Cosper*. supra: *Gaborit v. Employment Appeal Board*, 734 N.W.2d 554 (Iowa App. 2007).

fmla

The FM LA provisions were enacted to be an employee protection and shield, not a sword to be used by an employer as a weapon against the employee.

fmla2

The Family Medical Leave Act (FIVILA) is a federal law that protects the jobs of eligible employees who may take up to 12-weeks off work due to serious health issues. Although FMLA was enacted to be an employee protection. it protects and provides rights for both the employee and the employer.

An employer has the right to require an employee to submit a doctors certification that a medical leave is necessary and the right to require a fitness for duty certification from a doctor stating the employee is able to resume work. An employee must provide that medical certification within a timely manner and failure to do so eliminates the job protection the Act provides.

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Appeal No, 04A-UI--BT

The first issue to be determined if the hearing had been held was whether the 's appeal was timely.

recd

871 IAC 26.8(5 - Decision on the Record **STATEMENT OF THE CASE:**

Josh Brennan (claimant) appealed an unemployment insurance decision dated March 1, 2012, reference 05, which held that he was not eligible for unemployment insurance benefits because he was discharged from Septagon Construction Company, Inc. (employer) for work-related misconduct. A hearing was scheduled for

20. The appellant did not participate in the hearing. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

The issue is whether the unemployment insurance decision should be affirmed,

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The

appellant failed to provide a telephone number at which could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing

as required by the hearing notice. There is no evidence the hearing notice was returned by the postal service as undeliverable for any reason.

The appellant was not available when called at the number provided and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

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Appeal No. 04A-UI--BT

DECISION:

The administrative law judge has conducted a careful review of the available documents in the administrative file to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

Ref 79

The administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed. If the appellant does not present any evidence at the appeal hearing, the administrative law judge has no grounds in law or fact to reverse the initial decision.

The administrative law judge has carefully reviewed the record and concludes that the claimant must first establish he filed a timely appeal before the reasons for the underlying separation can be reviewed. The administrative law judge further concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed. If the appellant does not present any evidence at the appeal hearing, the administrative law judge has no grounds in law or fact to reverse the initial decision.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

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Appeal No. 04A-UI--BT

The unemployment insurance decision dated March 1, 2012, reference 05, is affirmed.

The decision disqualifying the claimant from receiving benefits holding the claimant qualified for benefits remains in effect. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

Susan D. Ackerman

Administrative Law Judge

Decision Dated and Mailed

sdal

sallis

A single unexcused absence does not constitute excessive unexcused absenteeism. *Sallis v. Employment Appeal Board*. 437 N.W.2d 895 (Iowa 1989),

Spike

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989),

asallis

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989),

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Appeal No. 04A-UI--BT

misconduct

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Ref 14. 15

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989),

Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are

infante

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989), The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988). Misconduct serious enough to warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. *Miller v. Employment Appeal Board*, 423 N.W.2d 211 (Iowa App. 1988).

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Appeal No, 04A-UI--BT

lee

The propriety of a discharge is not at issue in an unemployment insurance case. An

employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

misc

The issue is whether the employer discharged the claimant for work-connected

misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Ref 14, 15

The employer has the burden to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa

1989).

Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are

cook

When an individual's own conduct renders her unemployable by her employer, she is

guilty of misconduct within the meaning of the law. Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. See *Cook v. Iowa Department of Job Service*, 299 N.W.2d 698 (Iowa 1980).

heneck

An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the employee from receipt of unemployment insurance benefits. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995).

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Appeal No. 04A-UI--BT

henecke

An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the employee from receipt of unemployment insurance benefits. *Henecke v. Iowa Department of Job Service*, 533 N.W.2d 573 (Iowa App. 1995),

UNITY

EMPLOYERS UNITY LLC

PO BOX 173836

DENVER CO 80217

waived

The separation issues issue of whether the claimant's appeal was timely

w inadvertently left off the hearing notice. Both parties waived their right to a

formal notice of th issue so could be addressed in the hearing today.

endicott

The question of whether **the** refusal to perform a specific task constitutes misconduct must be determined The administrative law judge must analyze situations involving alleged insubordination by evaluating the reasonableness of the employer's request in light of **all** circumstances and the employee's reason for noncompliance. *Endicott v. Iowa Department of Job Service*. 367 N.W.2d 300 (Iowa App. 1985).

woods

An employee's failure to perform a specific task may not constitute misconduct if such failure is in good faith or for good cause. See *Woods v. Iowa Department of Job Service*, 327 N.W.2c1 768, 771 (Iowa 1982).

lagrange

Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. *LaGrange v. Iowa Department of Job Service*. (Unpublished Iowa Appeals 1984).

Sandy

Sandy Matt, Human Resources Specialist

hipaa

The HIPAA Privacy Rule, or Standards for the Privacy of Individually Identifiable Health Information, issued by the Department of Health and Human Services implements the requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It establishes national standards for maintaining the confidentiality of protected health information (PHI): which effectively prohibits the release of that information without the patient's express written permission, except as provided by law.

Unemployment insurance benefits are not intended to substitute for health or disability benefits. *White v. Employment Appeal Board*, 487 N.W.2d 342 (Iowa 1992).

awarra nt

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

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Appeal No. 04A-UI--BT

userra

The Uniformed Services Employment and Reemployment Rights Act of 1994, known as

USERRA, is codified at 38 U.S. Code 4301 through 4335. Implementation regulations are found at 20 CFR 1002. The law was enacted to protect military service members from discrimination in the workplace based on their military service. In general, an employee who is absent from a civilian job to serve in the military is eligible for reemployment under USERRA provided that the employer had advance notice of the employee's service, the employee returns to work in accordance with USERRA guidelines, and the employee was honorably discharged. To be eligible for USERRA protection, an employee who served more than 180 days, must reapply or report back to work within 90 days of the completion of military service, 20 CFR 1002.115(4) The

evidence in this case establishes that qualifies for USERRA protection.

Iowa Code Chapter 96 governs eligibility for unemployment compensation. Iowa Code 96.4 provides, in pertinent part,

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

...3. The individual is able to work, is available for work, and is earnestly and actively seeking work.

The claimant was honorably discharged from the military and the employer has work available. In accordance with USERRA, he has no obligation to report to work until the expiration of 90 days and cannot be prejudiced by his refusal to return to work until the 90 day period has run. However, this protection does not extend to unemployment benefits. The USERRA protection guaranteed his reemployment

after 90 days and this occurred. Or the claimant is scheduled to return on

. Because USERRA is silent on the subject of unemployment benefits, state law controls. Honorably discharged soldiers are eligible for unemployment benefits, but are not excused from meeting state law eligibility criteria.

WINNAVEGAS

WINNEBAGO TRIBE OF NEBRASKA

WINNAVEGAS

ATTN: COMPTROLLER

1500 — 330^T ST

SLOAN IA 51055-0913

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Appeal No. 04A-UI--BT

agaborit

Consistent with the explicit public policy regarding the unemployment insurance law as

set out in Iowa Code § 96.2, the unemployment insurance law is to be applied liberally to achieve the legislative goal of minimizing the burden" of unemployment on individuals; the law's disqualification provisions are to be construed strictly. *Gaborit v. Employment Appeal Board*, 734 N.W.2d 554 (Iowa App. 2007).

Clark

Three incidents of tardiness or absenteeism after a warning constitute misconduct. *Clark v. Iowa Department of Job Service*, 317 N.W.2d 517 (Iowa App. 1982)

date

2D

op4

Iowa Code § 96.3(7) provides that benefits must be recovered from a claimant who

receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code § 96.3(7)(b). Under the revised law, a claimant will not be required to

about:blank

7/22/2014

repay an overpayment of benefits if all of the following factors are met. First the prior award of benefits must have been made in connection with a decision regarding the claimants separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in **the** initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, **the** administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment. the amount of the overpayment. and whether the claimant will have to repay the benefits.

empathize empathize

Page 30

Appeal No. 04A-UI--BT

facebook

Posting one's personal feelings on a social networking site and expecting those feelings to remain private is extremely naive and posting feelings about one's job can be hazardous to one's employment.

raffety

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 96.2. *O'Brien v. EAB*, 494 N.VV.2d 660, 662 (Iowa 1993){citing *Wiese v Iowa Dep't of Job Sent.*. 389 N.VV.2d 676, 680 (Iowa 1986)}. "The **term encompasses real circumstances, adequate excuses that will bear the** test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Sere.*. 389 N.W.2d 676, 680 (Iowa 1986). "[C]ommon sense and prudence must be exercised in evaluating **all** of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Board*, 433 N.VV.2d 700. 702 (Iowa 1988) ("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shantz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer 'free from fault'); *Raffety v. Iowa Employment Security Commission*, 76 N.VV.2d 787. 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Employment Security Commission*, 76 N.VV.2d 787. 788 (Iowa 1956). There is no question that the claimant felt unsafe and her fears were substantiated.

OR

"Good cause" need not be based on fault or wrongdoing on the part of the employer. but may be attributable to the employment itself. *Raffety v. Iowa Employment Security Commission*, 76 N.VV.2d 787 (Iowa 1956).

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kleidosty

Under the definition of misconduct for purposes of unemployment benefit

disqualification, the conduct in question must be 'work connected.' *Diggs v Employment Appeal Board*. 478 N.W.2d 432 (Iowa App. 1991). However, the court has concluded that some off duty conduct can have the requisite element of work connection. *Kleidosty v. Employment Appeal Board*. 482 N.W.2d 416, 418 (Iowa 1992). There still must be some connection between the off-duty conduct and the employment, even if the employer has a rule prohibiting the conduct. The off-duty conduct would not be "misconduct in connection with the individual's employment" unless the employer establishes some harm or potential harm to its interests from the conduct beyond the fact that a rule was violated. See *Dray v. Director*. 930 S.VV.2d 390 (Ark. App 1996): *In re Kotrba*. 418 N.VV.2d 313 (SD 1988). quoting *Nelson v. Department of Employment Security*, 655 P.2d 242 (WA 1982): 76 Am. Jur. 2d. Unemployment Compensation §§77-78.

Under the unique facts of this case. while the employer's off-duty conduct policy might otherwise be somewhat vague, the claimant knew or should have known that, at a

minimum, the type of conduct in which he engaged on the evening of was conduct which would 'reflect adversely' on the employer. Furthermore. there is a clear and strong connection between the claimant's off-duty

conduct and the duties of h employment.

ataylor

A voluntary quit based on illness is clearly disqualifying except upon the advice of a licensed and practicing physician. *Taylor v. Iowa Department of Job Service*, 362 N.VV.2d 534 (Iowa 1985).

crosser

If a party has the power to produce more explicit and direct evidence than it chooses to

do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. *Crosser v. Iowa Department of Public Safety*, 240 N.W.2d 682 (Iowa 1976).

bartelt

The evidence establishes the claimant voluntarily agreed to sell his business on

20 and effectively caused his own separation. He was not

compelled to sell his business but simply chose to sell it, as he did not believe it could be successful. Unlike the business owner in *Bartelt v. Employment Appeal Board*, 494 N.W.2d 664 (Iowa 1993), the claimant's business was not facing a forced sell

or near certain bankruptcy. As a result of his decision to sell his company, the

claimant had no employment, and the law still provides that he must be

unemployed through no fault of his own in order to receive job insurance benefits.

SWIFT

SWIFT PORK COMPANY

10 TALX UCM SERVICES INC 11000 WESTER/100R CIR STE 200

WESTMINSTER CO 60021

henry

Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v Iowa Department of Job Service*, 391 N.W.2d 731 (Iowa App. 1986),

Aurel

Aurelliano Diaz. Human Resources Manager

au re

Aurelliano Diaz. Human Resources Manager

FRICK

10 FRICK UC EXPRESS PO BOX 283

SAINT LOUIS MO 63166

green

The failure to acknowledge the receipt of a written reprimand by signing it constitutes job misconduct as a matter of law. *Green v.* 299 N.W.2d 651 {Iowa 1980}

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gilmore

The court in *Gilmore v. Empl. Appeal Bd.* 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Employment Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dept of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The statute provides an exception where:

The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy. when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and ... the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible. Iowa Code § 96.5(1)(d).

Section 96.5(1)(d) specifically requires that the employee has recovered from the illness or injury, and this recovery has been certified by a physician. **The** exception in section 96.5(1)(d) only applies when an employee is fully recovered and the employer has not held open the employee's position. *White*. 487 N.W.2d at 346; *Hedges v. Iowa Dept of Job Serv.*, 368 N.W.2d 862, 867 (Iowa Ct. App. 1985): see also *Geiken v. Lutheran Home for the Aged Assm.* 468 N.W.2d 223, 226 (Iowa 1991) (noting the full recovery standard of section 96.5(1)(d)).

In the present case, the evidence clearly shows Gilmore was not fully recovered from his injury until March 6, 2003. Gilmore is unable to show that he comes within the exception of section 96.5(1)(d). Therefore, because his injury was not connected to his employment, he is considered to have voluntarily quit without good cause attributable to the employer, and is not entitled to unemployment ... benefits. See *White*. 487 N.W.2d at 345; *Shontz*, 248 N.W.2d at 91.

RSECT

Iowa Code § 96.5-3-a - Refusal of Suitable Work

Appeal No. 04A-UI--BT

quit

The issue is whether the claimant's voluntary separation from employment qualifies

h to receive unemployment insurance benefits. is not qualified to receive

unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

It is the claimant's burden to prove that the voluntary quit was for a good cause that

would not disqualify h . Iowa Code § 96.6-2. has satisfied that burden and benefits are

lay-off

The claimant experienced a one-week, temporary lay-off that entitled h to claim for

and receive benefits for that period. As a temporary laid-off employee, he remains

attached to the employer and is not required to search for work or otherwise be available to work for any other employer.

inter

interpreted on behalf of the claimant.

myiowa

NOTE TO EMPLOYER:

If you wish to change your mailing address of record please access your account at:

<https://m..m.myiowaui.org/UITIPTaxWebi>.

Helpful information about using this site may be found at:

<http://www.iowaworkforce.org/iulluiemployers.htm> and http://m,ww.youtube.com/watch?v=_mpCIAFGaDY

v=_mpCIAFGaDY

REMAND: REMAND:

The fraud and overpayment issues delineated in the findings of fact and reasoning and conclusions of law are remanded to the Investigations and Recovery and Claims sections of Iowa Workforce Development for an initial investigation and determination.

decision

A-UI- -BT

Appeal No. 04A-UI--BT

nohearing

Due notice was issued scheduling the matter for a telephone hearing to be held

20 . Because a decision fully favorable to the part could be

made based on the administrative record, a hearing was deemed unnecessary. Based on the evidence and the law. the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

sievert

In *Sievertsen v. EAB*. 483 N.W.2d 818 (1992), the Iowa Supreme court held that held that general principals of estoppels could not be used to force the agency to waive erroneous overpayment of benefits.

duties

The employer has the burden to prove the discharged employee is disqualified for

benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d

895, 896 (Iowa 1989). The claimant was discharged on . 20 for

repeatedly failing to follow directives and not performing h job duties. e had

been advised h job was in jeopardy as a result of h failure to perform

h job duties as required. Repeated failure to follow an employer's instructions in the performance of duties is misconduct. *Gilliam v. Atlantic Bottling Company*, 453

N.VV.2d 230 (Iowa App. 1990), The claimant's failure to do h work as required is a violation of the duties and responsibilities the employer has the right to expect of an employee. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

ahurtado

Sleeping on the job on two occasions, one year apart. can constitute job misconduct. *Hurtado v. Iowa Department of Job Service*, 393 N.W.2d 309 (Iowa 1986).

cosper

Excessive absences are not misconduct unless unexcused. Absences due to properly reported

illness can never constitute job misconduct since they are not volitional. *Casper v. Iowa Department of Job Service*. 321 N.W.2d 6 (Iowa 1982).

FIVE

FIVE STAR QUALITY CARE INC c/o THOMAS AND THORNGREN PO BOX 28011)D
NASHVILLE IA 37228

Page 36

Appeal No. 04A-UI--BT

fifth

The claimant did not dispute the employer's evidence and did not offer any evidence but opted to plead the Fifth Amendment.

A rarely seen provision of the Employment Security Law addresses self-incrimination in unemployment hearings. That section states that no person shall be excused from attending and testifying ...before the department, or the appeal board...on the ground that the testimony ... required of the person may tend to incriminate the person." Iowa

Code §96.11(9). There is no right to take the Fifth when claiming unemployment benefits. The Administrative Law Judge would be free. if the Claimant takes the Fifth, to draw an adverse inference on the testimony. Iowa Code §96.11(9): *Baxter v. Palmigiano*, 425 U.S. 338, 318. 96 S.Ct. 1551. 1553. 47 L.Ed.2d 810 {1976}: *Quintal v. Commissioner of Dept. of Employment and Training*, 641 N.E.2d 1338 (Mass. 1994). As precursor to drawing such an inference, the administrative law judge should advise the claimant that a refusal to respond to a specific question, even if based on the Fifth Amendment, could result in drawing an adverse inference on the subject matter covered by the question.

In the case herein, the claimant was advised of that possibility and since the administrative law judge is unaware of any criminal charges pending against him at the time of the hearing, his silence is telling. If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. *Crosser v. Iowa Department of Public Safety*. 240 N.W.2d 682 (Iowa 1976).

employed

The claimant was employed from through and
was most recently working as a -time

CHARLES

CHARLES CITY IA 50616

control

When parties call the Appeals Section to provide their telephone number. they are provided with a control number for verification they complied with the hearing notice instructions, just in case a mistake is made.

211

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources by dialing 211 or

at <http://65.166.193.134/IFTWSOL4prodiowalpublic.aspx>.

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payroll

©1₀ PAYROLL TAX DEPARTMENT 2613 CAMINO RAMON

SAN RAMON CA 94583-9128

UCM

©1₀ ADP UCM

PO BOX 66744

ST LOUIS MO 63166-6744

QPS

QPS EMPLOYMENT GROUP INC

©1₀ RHONDA HEFTER DE SANTISTEBAN

40403 E STATE ST

ROCKFORD IL 61106

EXPRESS

EXPRESS SERVICES INC

PO BOX 720664

OKLAHOMA CITY OK 73162

eggen

THE UNIVERSITY OF IOWA '0 MARY EGGENBURG 120 USB — BENEFITS OFFICE IOWA
CITY IA 52242

wsect

871 IAC 26.8(1) —Withdrawal of Appeal

BDSECT

871 IAC 24.2(1)a & h(1) & (2) - Backdating

FSECT

871 IAC 24.2(1)e - Failure to Report

MASON

MASON CITY IA 50401

burden

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify h . Iowa Code § 96.6-2. has satisfied that

burden. Benefits are

hearsay

The administrative law judge concludes that the hearsay evidence provided by the employer is not more persuasive than the claimant's denial of such conduct. The employer has not carried its burden of proof to establish that the claimant committed any act of misconduct in connection with employment for which he was discharged. Misconduct has not been established. The claimant is allowed unemployment insurance benefits.

The employer's hearsay testimony that does not overcome h credible, sworn testimony to the contrary.

When the record is composed solely of hearsay evidence, that evidence must be examined closely in light of the entire record. *Schmitz v. IDHS*, 461 N.W.2d 603, 637 (Iowa App. 1990). Both the quality and the quantity of the evidence must be evaluated to see whether it rises to the necessary levels of trustworthiness, credibility, and accuracy required by a reasonably prudent person in the conduct of serious affairs. See Iowa Code § 17A.14(1). In making the evaluation, the fact-finder should conduct a common sense evaluation of (1) the nature of the hearsay; (2) the availability of better evidence; (3) the cost of acquiring better information; (4) the need for precision; and (5) the administrative policy to be fulfilled. *Schmitz*, 461 N.W.2d at 608.

loudermill

On December 5, 2012, the employer met with the claimant for a pre-termination

Loudermill hearing. See *Cleveland Bd, Of Ed. v. Loudenil*, 470 U.S. 532 (1985). The United States Supreme Court held that certain public sector employees have a property interest in their employment and consequently, due process entitles the employee to have some kind of hearing" before being terminated. *Id.* So while it was likely that the claimant was going to be terminated, the employer would have to obtain authorization from five different individuals before a final decision would have been made.

suffi

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

LSECT

871 IAC 24.1(113)a - Separation Due to Layoff

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Appeal No. 04A-U1--BT

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record

Health care personnel are required to have a record check evaluation completed prior to

employment and during employment if the person's background check indicates a criminal, dependent adult abuse or child abuse record. See 441 IAC 119. Iowa Code

135C.33 provides procedures for the record check evaluations by the department of human services. An employer may request a current criminal or dependent adult or child abuse record

check when the employer learns from any source that a current employee has a current record that has not been previously evaluated by the health care program. 441 IAC 119.2(2).

The employer and the employee complete Form 470-2310, the record check evaluation, and submit it to the Iowa Department of Human Services (IDHS). 441 IAC 119.3(1). The employer must pay a fee and the request will not be processed unless it is signed by the employee. An initial determination could be made stating that further research is necessary and additional documents could be requested. 441 IAC 119.3(2). Once the record check is completed, IDHS will provide a decision as to whether the employee may or may not work in the employer's health care facility. 441 IAC 119.4(2). IDHS has final authority in determining whether prohibition of the person's employment is warranted.

fairfield

The evidence showed no willful violation after he was placed on notice that his driving was a problem. *Fairfield Toyota, Inc. v. Bruegge*, 449 N.W.2d 395 (Iowa App. 19E5).

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Message: RE: UI Seminar in Sioux Center on Nov 7

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:27 PM
Item ID: 40861750
Policy Action: Not Specified

Mark History:



No reviewing has been done

Policies:

No Policies attached

 **RE: UI Seminar in Sioux Center on Nov 7**

From Wise, Steve [IWD] **Date** Wednesday, November 06, 2013 10:27 AM
To Conner, Elizabeth [IWD]
Cc

 [UI Presentation \(Wise 11-6-13\).pdf](#) (1806 Kb HTML)  [image001.jpg](#) (4 Kb HTML)

Here is what I need printed and copied as handouts for the seminar tomorrow.

Let me know if you have any questions.

Steve

From: Wise, Steve [IWD]
Sent: Monday, November 04, 2013 12:23 PM
To: Conner, Elizabeth [IWD]
Cc: Wilkinson, Michael [IWD]
Subject: RE: UI Seminar in Sioux Center on Nov 7

As mentioned in our phone call, I will have the handouts to you by Wednesday.

I have included my bio and will submitted my other materials ASAP.

From: Wilkinson, Michael [IWD]
Sent: Monday, November 04, 2013 11:45 AM
To: Conner, Elizabeth [IWD]; Wise, Steve [IWD]

Subject: Re: UI Seminar in Sioux Center on Nov 7


Steve will be doing the presentation on his own.

From: Conner, Elizabeth [IWD]
Sent: Monday, November 04, 2013 11:04 AM
To: Wise, Steve [IWD]; Wilkinson, Michael [IWD]
Subject: UI Seminar in Sioux Center on Nov 7

Good morning, Steve and Mike:
Do you have handouts for Thursday's seminar that need to be copied?

Answered by Elizabeth Conner
Wise, Steve; Wilkinson, Michael

Hi Steve and Mike,
Yes I do have some.
I'll bring them to the seminar.
I'll bring them to the seminar - I'll bring them to the seminar.
I'll bring them to the seminar - I'll bring them to the seminar.

 Microsoft Word document: Microsoft Word document: Microsoft Word document - Iowa Workforce Development - Northwest
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 - [Image 2](#)
 - [Image 3](#)
 - [Image 4](#)
 - [Image 5](#)
 - [Image 6](#)
 - [Image 7](#)
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BASISE PERIOD

Basise Period 4 of 8

ALLIANCE ACTIVE BASIS PEER HOBB

1. The purpose of this document is to provide a clear and concise overview of the Alliance Active Basis Peer Hobb. This document is intended for the use of all members of the Alliance Active Basis Peer Hobb and is subject to change without notice.

2. The Alliance Active Basis Peer Hobb is a non-profit organization that is dedicated to providing support and resources to its members. The Alliance Active Basis Peer Hobb is committed to the highest standards of integrity and transparency.

3. Purpose

The purpose of this document is to provide a clear and concise overview of the Alliance Active Basis Peer Hobb. This document is intended for the use of all members of the Alliance Active Basis Peer Hobb and is subject to change without notice. The Alliance Active Basis Peer Hobb is a non-profit organization that is dedicated to providing support and resources to its members. The Alliance Active Basis Peer Hobb is committed to the highest standards of integrity and transparency.

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The Alliance Active Basis Peer Hobb is a non-profit organization that is dedicated to providing support and resources to its members.

including bonuses or sick pay)

11. Received vacation pay

10. If the claimant worked during the week of their separation, please provide:

Number of hours worked that week:

Gross wages paid:

Failure to provide the time period to which the vacation pay applies shall result in the entire amount being applied to the 5 working days following the last day worked.

12. Received severance pay, dismissal pay, separation allowance or wages in lieu of notice:

Number of days/hours:

Gross amount paid:

14. Gross wages earned (YTD):

Number of hours/days/weeks:

Gross amount paid:

(If yes, please attach a copy of the agreement)

Was there a severance agreement? No Yes

13. Received holiday pay for:

Date

Supporting documents may be submitted with this form to be considered during the telephone fact-finding interview. Information submitted concerning this Unemployment Insurance claim will be available to interested parties.

Fact-Finding Interview Information

If you checked disqualification(s) 2 thru 9, a fact-finding interview may be necessary. You will be notified by mail of the time for the fact-finding interview and the fact-finding interview will be conducted by telephone unless it is impractical to do so.

Name

Title

Telephone #

Fax #

65-5317 (10-13)

Message: Final Notice! - Iowa ALJ CLE Spring 2013 - April 22, 2013 - Agenda and Registration

Case Information:

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:56 PM
 Item ID: 40860845
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

Final Notice! - Iowa ALJ CLE Spring 2013 - April 22, 2013 - Agenda and Registration

From Wise, Steve [IWD] **Date** Wednesday, April 10, 2013 9:11 PM
To Wise, Steve [IWD]
Cc

[IA_ALJ_CLE_Spring_2013_Agenda+Registration.doc](#) (76 Kb HTML)

The Iowa Association of Administrative Law Judges Spring 2013 ALJ CLE is scheduled for Monday, April 22, 2013, at the Iowa State Bar Association Building at 625 E. Court Ave, Des Moines, Iowa. You can find the schedule and registration form below and attached. Registration deadline is April 17.

Our keynote presenter Professor Michael Hutter from Albany Law School. Professor Hutter is a sought-after presenter on evidence and is on the faculty of the New York Administrative Justice Institute. He authored the Conduct of the Hearing and Evidence sections of the *Manual for Administrative Law Judges and Hearing Officers*, New York State Department of Civil Service, (Rev. 2011).

The Iowa Office of Professional Regulation recently announced that attorneys must have three hours of ethics instruction every ethics biennium and approved instruction on mental health and substance abuse for ethics credit. The CLE committee has decided to include such instruction in our spring CLE, and we have lined up presentations by Hugh Grady, Director Iowa Lawyers Assistance Program, and Roxann Ryan, Attorney, Iowa Department of Public Safety, on this important topic.

Administrative Law Judge CLE Spring 2013
Monday, April 22, 2013
Iowa State Bar Association Building
625 E. Court Ave, Des Moines, Iowa
 Directions - <http://tinyurl.com/dewq7e>

AGENDA

7:30 – 8 am	Registration
8 – 9:30 am	Issues in Handling Electronic Evidence. Michael Hutter, Professor, Albany Law School
9:30 – 9:45 am	Break
9:45 – 10:45 am	Handling Electronic Evidence (continued)
10:45 – 11:45 am	The Nature of the Judicial Process Steve Wise, Administrative Law Judge, Iowa Workforce Development
11:45 am – 12:15 pm	Word Origins for Lawyers Rick Autry, Staff Attorney, Employment Appeal Board
12:15 – 1 pm	Lunch
1 – 1:30 pm	The Mental Process Privilege for Judges Andy Teas, Office of Citizens' Aide/Ombudsman; William Hill, Attorney General's Office

1:30 – 2 pm	Judicial Immunity Meghan Gavin and Matt Oetker, Attorney General’s Office
2 – 3 pm	Mental Health, Substance Abuse, and the Importance of Balance Hugh Grady, Director Iowa Lawyers Assistance Program
3 – 3:15 pm	Break
3:15 – 4:15 pm	Legal Ethics Issues with Stress, Substance Abuse, and Mental Illness Roxann Ryan, Attorney, Iowa Department of Public Safety
4:15 – 4:45 pm	View from Bench – Judicial Review Judge Eliza Ovrom, Polk County District Court

A short Iowa Association of Administrative Law Judges Business Meeting will follow the CLE, including elections of officers. IAALJ dues of \$35 for 2013-2014 year, due in July, can be paid now. You don’t have to be an ALJ to become a member of IAALJ or the National Association of Administrative Law Judiciary as associate memberships are available. Paying IAALJ dues makes you a member of NAALJ with the membership benefits of the NAALJ Journal, conference discounts, and scholarships for conference and the National Judicial College.

Contact Chris Scase at Christie.Scase@dia.iowa.gov (515- 281-7114) or Lynette Donner at Lynette.Donner@iwd.iowa.gov (515-727-4007) if you have CLE questions.

To register for this CLE, please print out, complete, and return this form by April 17, 2013, along with a check for your registration fee of \$60 made out to “**IAALJ**,” to:

ALJ CLE, Iowa Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, 3rd Floor, 502 E. 9th Street, Des Moines IA 50319.

Name: _____

Work Phone: _____

Address: _____

Email: _____

Lunch: (Provided by Contemporary Catering)

Please check your entrée choice

___ Chicken Marsala (Mushroom and Garlic in a Marsala Wine Demi-Glace)

___ Filet of Pork Tenderloin in a White Wine, Shallot, Garlic and Dijon Cream Sauce

___ Broccoli, Garlic, Mushroom and Olive Oil Bowtie Pasta

Administrative Law Judge CLE Spring 2013**Monday, April 22, 2013****Iowa State Bar Association Building****625 E. Court Ave, Des Moines, Iowa**Directions - <http://tinyurl.com/dewq7e>**AGENDA**

7:30 – 8 am	Registration
8 – 9:30 am	Issues in Handling Electronic Evidence. Michael Hutter, Professor, Albany Law School
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12:15 – 1 pm	Lunch
1 – 1:30 pm	The Mental Process Privilege for Judges Andy Teas, Office of Citizens' Aide/Ombudsman; William Hill, Attorney General's Office
1:30 – 2 pm	Judicial Immunity Meghan Gavin and Matt Oetker, Attorney General's Office
2 – 3 pm	Mental Health, Substance Abuse, and the Importance of Balance Hugh Grady, Director Iowa Lawyers Assistance Program
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3:15 – 4:15 pm	Legal Ethics Issues with Stress, Substance Abuse, and Mental Illness Roxann Ryan, Attorney, Iowa Department of Public Safety
4:15 – 4:45	View from Bench – Judicial Review

pm Judge Eliza Ovrrom, Polk County District Court

A short Iowa Association of Administrative Law Judges Business Meeting will follow the CLE, including elections of officers. IAALJ dues of \$35 for 2013-2014 year, due in July, can be paid now. You don't have to be an ALJ to become a member of IAALJ or the National Association of Administrative Law Judiciary as associate memberships are available. Paying IAALJ dues makes you a member of NAALJ with the membership benefits of the NAALJ Journal, conference discounts, and scholarships for conference and the National Judicial College.

Contact Chris Scase at Christie.Scase@dia.iowa.gov (515- 281-7114) or Lynette Donner at Lynette.Donner@iwd.iowa.gov (515-727-4007) if you have CLE questions.

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Name: _____

Work Phone: _____

Address: _____

Email: _____

Lunch: (Provided by Contemporary Catering)

Please check your entrée choice

___ Chicken Marsala (Mushroom and Garlic in a Marsala Wine Demi-Glace)

___ Filet of Pork Tenderloin in a White Wine, Shallot, Garlic and Dijon Cream Sauce

___ Broccoli, Garlic, Mushroom and Olive Oil Bowtie Pasta

Message: ASAP Withdrawal 10350.sw.doc

Case Information:


Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:16 PM
Item ID: 40860732
Policy Action: Not Specified

Mark History:


Date	Action Status	Reviewer
7/22/2014 9:05:38 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **ASAP Withdrawal 10350.sw.doc**

From Wise, Steve [IWD] **Date** Friday, October 28, 2011 10:56 AM
To UI
Cc

 [10350.sw.doc](#) (42 Kb HTML)

Could have sworn I sent this in before, but apparently not.

Steve Wise
Administrative Law Judge
515-281-3747

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

<p>DONALD R FOSTER 2225 W 2ND ST DAVENPORT IA 52802 KIMBERLY CHRYSLER PLYMOUTH INC C/O EMPLOYERS UNITY LLC PO BOX 487 ARVADA CO 80001</p>	<p>68-0157 (9-06) - 3091078 - EI APPEAL NO. 11A-UI-10350-SWT ADMINISTRATIVE LAW JUDGE DECISION</p> <p>APPEAL RIGHTS: This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to: <i>Employment Appeal Board</i> <i>4th Floor – Lucas Building</i> <i>Des Moines, Iowa 50319</i> OR <i>Fax Number: (515)281-7191</i></p> <p>The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. AN APPEAL TO THE BOARD SHALL STATE CLEARLY: The name, address and social security number of the claimant. A reference to the decision from which the appeal is taken. That an appeal from such decision is being made and such appeal is signed. The grounds upon which such appeal is based. YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits. SERVICE INFORMATION: A true and correct copy of this decision was mailed to each of the parties listed.</p>
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**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

<p>DONALD R FOSTER Claimant KIMBERLY CHRYSLER PLYMOUTH INC Employer</p>	<p>68-0157 (9-06) - 3091078 - EI APPEAL NO. 11A-UI-10350- SWT ADMINISTRATIVE LAW JUDGE DECISION OC: 06/12/11 Claimant: Appellant (1)</p>
--	--

Section 871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated July 26, 2011, reference 01. A hearing was scheduled for August 30, 2011. Prior to the hearing being held, the appellant requested the appeal be withdrawn.

FINDINGS OF FACT:

A request has been made by the appealing party to withdraw the appeal. The request was submitted in writing.

REASONING AND CONCLUSIONS OF LAW:

ref51

The administrative law judge has reviewed the records and files herein and concludes that the request of the appealing party to withdraw the appeal should be approved.

DECISION:

The unemployment insurance decision dated July 26, 2011, reference 01, is affirmed. The decision granting benefits remains in effect.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed
saw/

Message: RE: Olympus

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:16 PM
Item ID: 40860725
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:05:38 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **RE: Olympus**

From Wise, Steve [IWD] **Date** Thursday, October 27, 2011 3:32 PM
To Mormann, Marlon [IWD]
Cc

Yes I can. In terms of timing, if we do it after the meeting--cannot be sure when the meeting will be done. Wahlert is supposed to come to the meeting at 2:15. I can do it immediately after the meeting gets over or if you want to come in at noon, I can do it before the meeting. I have no preference.

Steve Wise
Administrative Law Judge
515-281-3747

From: Mormann, Marlon [IWD]
Sent: Thursday, October 27, 2011 2:33 PM
To: Wise, Steve [IWD]
Subject: Olympus

Will you be able to install my Olympus tomorrow. Schedule?

Marlon Mormann, Administrative Law Judge

Message: RE: Olympus**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:16 PM
 Item ID: 40860727
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:05:38 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ RE: Olympus

From Wise, Steve [IWD] **Date** Thursday, October 27, 2011 4:48 PM
To Mormann, Marlon [IWD]
Cc

Works for me.

Steve Wise
 Administrative Law Judge
 515-281-3747

From: Mormann, Marlon [IWD]
Sent: Thursday, October 27, 2011 4:41 PM
To: Wise, Steve [IWD]
Subject: RE: Olympus

Lets us start at noon. Is that ok. Thanks again for your help on this.

Marlon Mormann, Administrative Law Judge

From: Wise, Steve [IWD]
Sent: Thursday, October 27, 2011 3:32 PM
To: Mormann, Marlon [IWD]
Subject: RE: Olympus

Yes I can. In terms of timing, if we do it after the meeting--cannot be sure when the meeting will be done. Wahlert is supposed to come to the meeting at 2:15. I can do it immediately after the meeting gets over or if you want to come in at noon, I can do it before the meeting. I have no preference.

Steve Wise

Administrative Law Judge
515-281-3747

From: Mormann, Marlon [IWD]
Sent: Thursday, October 27, 2011 2:33 PM
To: Wise, Steve [IWD]
Subject: Olympus

Will you be able to install my Olympus tomorrow. Schedule?

Marlon Mormann, Administrative Law Judge

Message: 10/27 due, 12240.sw.doc 10-11 hearing

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:31:15 PM
Item ID: 40860721
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:05:38 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **10/27 due, 12240.sw.doc 10-11 hearing**

From Wise, Steve [IWD] **Date** Thursday, October 27, 2011 12:51 AM
To UI
Cc

 [12240.sw.doc](#) (46 Kb HTML)

Steve Wise
Administrative Law Judge
515-281-3747

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

<p>BRANDY M COE 2641 CHICAGO AVE DES MOINES IA 50317- 2606 PLEASANT HILL 1 LLC 920 ADELINE CT ST PAUL MN 55118</p>	<p>68-0157 (9-06) - 3091078 - EI</p> <p align="center">APPEAL NO. 11A-UI-12240-SW ADMINISTRATIVE LAW JUDGE DECISION</p> <p>APPEAL RIGHTS: This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:</p> <p align="center"><i>Employment Appeal Board</i> <i>4th Floor – Lucas Building</i> <i>Des Moines, Iowa 50319</i> OR <i>Fax Number: (515)281-7191</i></p> <p>The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.</p> <p>AN APPEAL TO THE BOARD SHALL STATE CLEARLY: The name, address and social security number of the claimant. A reference to the decision from which the appeal is taken. That an appeal from such decision is being made and such appeal is signed. The grounds upon which such appeal is based.</p> <p>YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.</p> <p>SERVICE INFORMATION: A true and correct copy of this decision was mailed to each of the parties listed.</p>
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**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

<p>BRANDY M COE Claimant PLEASANT HILL 1 LLC Employer</p>	<p>68-0157 (9-06) - 3091078 - EI</p> <p align="center">APPEAL NO. 11A-UI-12240-SW ADMINISTRATIVE LAW JUDGE DECISION</p> <p align="right">OC: 08/07/11 Claimant: Appellant (1)</p>
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Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 9, 2011, reference 01, that concluded the claimant was discharged for work-connected misconduct. A hearing was held on October 11, 2011, in Des Moines, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing. K’Lee Latham participated in the hearing on behalf of the employer with witnesses, Kelly Deaver and Marvah Davis. Exhibits One, Two, and A were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a care attendant from January 7, 2011, to

August 8, 2011. The written policy regarding meal breaks in effect until the end of July 2011 was that "A meal period lasts 30 minutes. Meal period are unpaid time. You must clock/sign out if you leave the building." The claimant reasonably believed that his meant that employees were allowed to leave the building during their meal breaks as long as they clocked out. She was never informed prior to August 2011 that employees working the 11 p.m. to 7 a.m. shift were subject to a different policy prohibiting them from leaving the building for their 30-minute meal break.

The claimant was working the 11 p.m. to 7 a.m. shift July 26-27, 2011. She punched out and left the building on July 27, 2011, for her meal break. She did not willfully violate any policy when she left that day. She had done the same thing in the past and had observed other employees doing the same thing and did not know it was against the rule.

The administrator had observed the claimant and other employee leave the building during the 11 p.m. to 7 a.m. shift. It was clear that the written policy was ambiguous so the employer revised the written policy to add: "Please note! If you are working the 11 p.m. to 7 a.m. shift, you may NOT leave the building during your break period." The revised policy was announced and discussed at an all staff meeting in July, but the claimant did not attend the meeting and was never given the revised policy.

On August 5, 2011, another employer who the claimant had worked with on 11 p.m. to 7 a.m. shift told the claimant that she had been suspended for three days for leaving the building during her meal break. This was the first time the claimant was aware that she was not to leave the building on a meal break on the overnight shift.

The claimant worked the 11 p.m. to 7 a.m. shift on August 5-6. Near the end of her shift, her supervisor instructed her to leave the facility and report back on August 8, 2011.

When the claimant reported back on August 8, 2011, her supervisor notified her that she was being discharged for leaving the building on July 27, 2011, for her meal break. The supervisor tried to get her to sign a statement dated August 8th that read as follows: "You were educated on 7-27-11 about not leaving the building w/ 2 people when we talked in K'Lees office about you going home to get your car from Husband or getting your Dads car. If you do again you will be terminated." The claimant did not sign it because she had not been educated about this on July 27.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the

payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The change in the policy, Davis's uncertainty about the dates, and Davis's handwritten statement of August 8 trying to cover for the lack of prior documentation all undercut the employer's assertion that the claimant knew and was warned about leaving the building for her meal break. The claimant's testimony was consistent and credible about the chronology of what happened. No willful and substantial misconduct has been proven in this case. I believe the claimant's testimony that she never willfully violated any policy about leaving the building for the meal break.

DECISION:

The unemployment insurance decision dated September 9, 2011, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed
saw/

Message: Special Eval 4-28-14

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:21 PM
 Item ID: 40861655
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Special Eval 4-28-14**

From Wilkinson, Michael [IWD] **Date** Monday, April 28, 2014 12:56 PM
To Wilkinson, Michael [IWD]
Cc

 [Eklund IPP 4-28-14 special eval.docx](#) (42 Kb HTML)

Met with David Eklund at 10:00 a.m. in my office to discuss several items that came to light the week of April 21 while he was on vacation:

1. Discovered that Dave gave me a hiring justification for two Investigators but failed to complete the scoring of the interviews. As well, it came out that he had a personal relationship with one of the candidates interviewed and did not disclose that information to me or HR. Consequently I am conducting second interviews and will make the final decision. I told Dave that since he is a veteran of the hiring process he clearly should have known better and that he placed the agency in a potentially compromising situation.
2. Discussed a specific claimant: Ronnie Haakma. Claimant states that Dave Eklund has been entering his continued claims each week knowing that he was not able and available for work. According to a statement on April 21 he has not been A/a for at least 2.5 to 3 months. However, Dave submitted the continued claims and it offset the fraud overpayment. Dave denies knowing that the claimant was not A/A. He stated that when there is an administrative penalty, the claimant is not able to submit weekly claims, consequently they had to be entered manually. While I cannot prove it, I do not find Dave's denial believable as the claimant has nothing to lose by telling us the truth.
3. Discussed the extreme backlog in overpayments (backed up to January 2014) and 201 Holiday Pay protests (backed up to August 2013. He stated that he was not aware it was backed up that much. He was told that West and Boten are making arrangements to get the backlog cleaned up and that we will meet as a team to reorganize the work so it can stay caught up.
4. Dave was asked if these were deliberate since he has been coached on the back log and told he should have known better on the Personnel and Haakma issues. He had no response and did not see them as deliberate. Dave stated that he felt at a disadvantage since he was losing so many investigators and they were going unfilled. I told him that on two different occasions help was offered by me from other areas of the UISC and UI Division but he failed to take advantage. I told him that he does not do a good job reaching out to his co-managers when there is a problem.
5. Dave was told that these were all serious and that both the Director and I are very disappointed; told he has a lot of ground to make up.
6. Dave was told that he is to focus his time and efforts on training the new investigators and the Pondera products for identifying potential fraud and that we would meet as a management team to discuss a reorganization of the work.

State of Iowa Individual Performance Plan and Evaluation – Part 1 – Employee, Position, and Agency Information

Name:	David Eklund		Department:	Iowa Workforce Development	
Class Title:	Bureau Chief - PSE 2		Division/Bureau:	Unemployment Insurance Services Division	
Position Number:	309-107-CAUM-00784-001		Work Unit:	Des Moines - UISC	
Period Covered:	12/6/2013	to	04/28/2014	Work Location:	150 Des Moines Street, Des Moines, IA
Purpose:	<input type="checkbox"/> Annual Review	<input type="checkbox"/>	Probationary Review	Time in Current Position:	2.5 years
	<input checked="" type="checkbox"/> Other:	Special Evaluation			
State Vision:	One Iowa, One Unlimited Future.	Enterprise Goal (s):	Ensure that Iowa has enough workers with the necessary skills to meet current and future workforce needs. Increase the number of high-wage, high-skill jobs. Support the initiatives that enhance Iowa's quality of life, and tell Iowa's story as a desirable place to live, work, and play.		
Agency Strategic Plan Goal (s):	1. Ensure that Iowa has enough workers with the necessary skills to meet current and future workforce needs. 2. Develop and enrich the skills, talents and diversity of IWD's current and future workforce to fulfill the agency's mission. 3. Create a performance-based framework within IWD that ensures the efficient delivery of value-added services. 4. Enhance the value of IWD to the state's workforce and economy by providing a system of efficient, effective and open communication between the public, stakeholders and IWD employees. 5. Successfully fund a comprehensive system of workforce development programs in a fiscally responsible manner to meet public demand.				
Performance Plan Core Function(s):	Economic Supports/Unemployment Insurance – The purpose of this core function is to provide temporary funds for eligible, unemployed workers in order to maintain Iowa's skilled workforce and stabilize Iowa's economy. It includes Iowa's Unemployment Insurance Services and child support intercept linkages.				
Agency Mission Statement:	Iowa Workforce Development contributes to the economic security of Iowa's workers, businesses and communities through a comprehensive statewide system of employment services, education and regulation of health, safety and employment laws.				
Job Contributes to the Mission by:	Providing leadership to teams within the Unemployment Insurance Services Division for the implementation of UI Tax, UI Benefits, and UI Quality Control.				
Work Performed/Core Responsibilities—activities, services provided and/or products produced by this position (or attach copy of PDQ):					
See PDQ.					
The Performance Plan for this period has been discussed by the employee and the supervisor.					
Employee Signature	Date	Supervisor Signature	Date		
Next Higher Management Level Signature:			Date:		

State of Iowa Individual Performance Plan and Evaluation – Part 2 – Alignment with the Agency Performance Plan

STRATEGIES FOR THIS RATING PERIOD
--

EXPECTATIONS AND EVALUATION			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
1. Collaborative Leadership	2. Builds teamwork. Exhibits effective training skills. Promotes employee development and career growth. Provides timely informal performance feedback. Shows fairness and impartiality in interactions with staff. Resolves conflicts and disputes among employees. Encourages innovation. Prepares and conducts meaningful and objective performance evaluations on each employee supervised at least once annually. Handles corrective discipline and employee grievances appropriately. Administers applicable rules, contracts, policies and procedures effectively.	3. Provide appropriate and effective direction to staff. 4. Motivate staff to accomplish goals. 5. Encourage an environment of teamwork throughout the division and the entire agency. 6. Always commits to the good of the agency. 7. Positive, helpful and constructive leadership.	8. Daily/Ongoing
9. RESULTS: It is clear that David needs to do a better job collaborating with his co-managers to address back-log. He has recently been counseled on this issue. David is working well with the field managers answer questions and following up on constituent inquiries. He does a very good job representing the agency in grievances. Needs to do a better job keeping up with evaluations.			
10. <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			
11.			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
12. Customer Focus	13. Responds promptly, courteously and respectfully to all customers. Demonstrates commitment to continuously improving service to internal and external customers. Displays a pleasant manner and positive outlook. Effectively manages difficult customer situations. Identifies external and internal customers and works proactively to meet their requirements or needs. Sees self as face of state government.	14. Set a positive example of IWD in a professional and customer courteous manner.	15. Daily/Ongoing
16. RESULTS: David's failure to take action on backlog reflects poorly on the department.			
17. <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			
18.			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
19. Work Quality/Quantity and Results	20. Completes tasks/projects in a timely manner, without prompting. Work is thorough, lacking in errors and does not have to be redone. Continuously reviews own work to ensure quality and achievement of expectations. Completes work according to rules, laws, procedures, standards, etc. applicable to the job. Anticipates potential threats and opportunities.	21. Maintain high standards in the quality and quantity of work completed. 22. Handle complex issues from a cross of state, federal and local boundaries.	23. Daily/Ongoing

24. RESULTS: Backlogs continue to be a problem in several areas under David's control including the set up of overpayments, UI Fraud Inbox, and 201 protests for Holiday pay and wages.			
25. <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			
26.			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
27. Technical Knowledge	28. Demonstrates technical knowledge necessary to do the job and skill levels required to complete assignments. Learns and adapts to changing skill requirements. Pursues development opportunities relating to job responsibilities.	29. Possession of vast technical knowledge about various division programs.	30. Daily/Ongoing
31. RESULTS: David is very knowledgeable about most programs have recent events surrounding the hiring of Investigators and the handling of a recovery of an overpayment for a calimant that is not A/A. these kind of errors are not acceptable for a manager with Dave's tenure.			
32. <input checked="" type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			
33.			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
34. Support for Organization	35. Supports mission and goals. Seeks best use of resources to maximize efficiency and effectiveness. Provides effective communication. Is knowledgeable about and in compliance with the state's EEO/AA policies. Promotes workforce diversity.	36. Consultative approach to successful agency operations	37. Daily/Ongoing
38. RESULTS: Recent events suggest that David is not always supportive of our goals of UI Integrity.			
39. <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			
40.			
Individual Performance Strategy (Goal)	Action Steps	Performance Criteria	Timetable
41. Long-range Thinking	42. Takes a long-term view and initiates change for the future. Builds the vision with others. Spots opportunities to move the organization ahead.	43. Initiate and anticipate change for the future.	44. Daily/Ongoing
45. RESULTS: I would like to see Dave look for more creative approaches to getting the work done and collaborating with all available resources.			
46. <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Meets Expectations <input checked="" type="checkbox"/> Does Not Meet Expectations			

State of Iowa Individual Performance Plan and Evaluation – Part 3 – Achievements, Strengths, and Overall Rating

Supervisor's Comments:	Employee's Comments:
Achievements and Strengths: Communication and responsivenss to the field operations, Ombudsman inquiries, and customer complaints is good.	My noteworthy achievements:
Additional comments:	Additional comments:

<p>Development Plans:</p> <p style="text-align: center;">Project management training as it becomes available.</p> <p style="text-align: center;">It is clear that budgets will restrict our staffing levels. continue to seek out process efficiencies. Take advantage of technology.</p> <p style="text-align: center;">Comply with agency policy and procedures</p> <p style="text-align: center;">Significantly improve collaboration with UI management.</p>	<p>Support I need to improve my performance:</p>
<p>Exceeds Expectations: The employee consistently performs well beyond expectations (strategies/goals, action steps, performance criteria, and timetables) and does outstanding work.</p> <p>Meets Expectations: Performance consistently fulfills the job requirements and expectations (strategies/goals, action steps, performance criteria, and timetables). The employee is doing the job expected for employees in this classification.</p> <p>Does Not Meet Expectations: Performance does not consistently meet expectations (strategies/goals, action steps, performance criteria, and timetables).</p>	
Overall Rating:	<input type="checkbox"/> Exceeds Expectations
	<input type="checkbox"/> Meets Expectations
	<input checked="" type="checkbox"/> Does Not Meet Expectations
<p>I have received a copy of this performance evaluation and it has been discussed with me. I understand that my signature does not necessarily indicate agreement.</p>	
Employee Signature:	Date:
Supervisor Signature:	Date:
Next Higher Level Management Signature:	Date:
<p>Recommended Actions: Salary Increase (for non-contractual positions only) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<input type="checkbox"/> Permanent Status <input checked="" type="checkbox"/> Other (specify):	

Message: Iowa BPC Audit Update

Case Information:

Message Type: Exchange
Message Direction: External, Outbound
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:22 PM
Item ID: 40861659
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Iowa BPC Audit Update**

From Wilkinson, Michael [IWD] **Date** Friday, May 02, 2014 4:12 PM
To 'oss.eta5@dol.gov'
Cc Belmonte, Steffanie - ETA; Eklund, David [IWD]

 [BPC Quarterly update.docx](#) (18 Kb HTML)

To: Steffanie Belmonte, UI Program Specialist, US Department of Labor/ETA

From: Michael Wilkinson, Division Administrator, Iowa Workforce Development

David Eklund, Operations Manager, Iowa Workforce Development

Subject: Quarterly update: May 2, 2014

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in amending the report.

Response: The ETA 9016 will show that Iowa has eliminated over 1500 of the cases in backlog. As of April 29, 2014, we have a backlog of 9,500. Additional staff has been assigned to this project and the backlog will be eliminated in the second quarter report and Iowa will be current.

Finding #3: ETA 227 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in the development, testing and submission of the reports.

Response: Iowa has identified new issues with the ETA 227 report and had to submit manual calculations in several areas. The Investigations manager is working with the IT developer to correct the errors. It is our plan to resubmit the 2nd, 3rd, 4th quarter reports for 2013 and 1st quarter report for 2014.

Finding #4: Determination Timeliness

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in hiring and training of the three additional investigators.

Response: During the past quarter, one investigator retired. IWD has made offers to two new investigators and will make offers to two more in the next 5-7 days. The UI Benefits management team is also reorganizing duties of staff to help address the cross match and new hire workload.

Message: FW: US Treasury Trust Fund available for benefits 5/7/14

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:22 PM
 Item ID: 40861661
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ FW: US Treasury Trust Fund available for benefits 5/7/14

From Wilkinson, Michael [IWD] **Date** Wednesday, May 07, 2014 9:19 AM
To Wahlert, Teresa [IWD]
Cc

On May 7 last year we had a balance of \$724 M. The highest we got in May 2013 was \$760 M. As well, claims and benefit payments are below last year. I have requested the analysis and should have it next week, but based on these differences, I remain optimistic we will see another change in the tables.

From: Windust, Stephanie [IWD]
Sent: Wednesday, May 07, 2014 9:10 AM
To: Bervid, Joseph [IWD]; Koonce, Kerry [IWD]; Mauro, Michael [IWD]; Robinson, Jeffery [LEGIS]; Roederer, David [IDOM]; Wahlert, Teresa [IWD]; Wallace, Edward [IWD]; Wilkinson, Michael [IWD]; Winters, Tammy [IDOM]
Cc: Brown, Lisa [IWD]
Subject: US Treasury Trust Fund available for benefits 5/7/14

UI Contribution in Trust Fund		\$ 853,026,394.55
Deposit 5/07/14	\$ 29,000,000.00	
Less Benefit Payment Withdrawal	\$ (128,000.00)	
Net Deposit / (Withdrawal)		<u>\$ 28,872,000.00</u>
Trust Fund available for Benefits		\$ 881,898,394.55

Stephanie Windust
 Financial Management
 Iowa Workforce Development
 Phone 515-281-7294
 Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: RE: US Treasury Trust Fund available for benefits 5/7/14

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:22 PM
 Item ID: 40861664
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ RE: US Treasury Trust Fund available for benefits 5/7/14

From: Wilkinson, Michael [IWD] **Date:** Wednesday, May 07, 2014 12:43 PM
To: Wahlert, Teresa [IWD]
Cc:

Based on last years' numbers it is around \$900 M. As long as benefit payments stay low, we should pass \$900 M in August.

From: Wahlert, Teresa [IWD]
Sent: Wednesday, May 07, 2014 12:18 PM
To: Wilkinson, Michael [IWD]
Subject: Re: US Treasury Trust Fund available for benefits 5/7/14

What is the number we need to hit?

Sent from my iPad

On May 7, 2014, at 9:19 AM, "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov> wrote:

On May 7 last year we had a balance of \$724 M. The highest we got in May 2013 was \$760 M. As well, claims and benefit payments are below last year. I have requested the analysis and should have it next week, but based on these differences, I remain optimistic we will see another change in the tables.

From: Windust, Stephanie [IWD]
Sent: Wednesday, May 07, 2014 9:10 AM
To: Bervid, Joseph [IWD]; Koonce, Kerry [IWD]; Mauro, Michael [IWD]; Robinson, Jeffery [LEGIS]; Roederer, David [IDOM]; Wahlert, Teresa [IWD]; Wallace, Edward [IWD]; Wilkinson, Michael [IWD]; Winters, Tammy [IDOM]
Cc: Brown, Lisa [IWD]
Subject: US Treasury Trust Fund available for benefits 5/7/14

UI Contribution in Trust Fund		\$ 853,026,394.55
Deposit 5/07/14	\$ 29,000,000.00	
Less Benefit Payment Withdrawal	\$ (128,000.00)	
Net Deposit / (Withdrawal)		<u>\$ 28,872,000.00</u>
Trust Fund available for Benefits		\$ 881,898,394.55

Stephanie Windust
 Financial Management
 Iowa Workforce Development
 Phone 515-281-7294
 Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: FW: alien update**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:22 PM
 Item ID: 40861666
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ FW: alien update

From Wilkinson, Michael [IWD] **Date** Friday, May 09, 2014 3:33 PM
To Wahlert, Teresa [IWD]
Cc

 **image001.jpg** (3 Kb HTML)

I heard you spoke with Dave earlier today. He will have current data for you by Monday.

From: Eklund, David [IWD]
Sent: Friday, May 09, 2014 3:23 PM
To: Wilkinson, Michael [IWD]
Subject: alien update

We are current on 2014 – claims processed today are being verified.
 2013 and 2012 are 100% complete.
 I have three people working 2011.

David Eklund
 Regional Operations Manager
 UI Benefits Services
 Iowa Workforce Development
 Ph: 515/281-5792
 Cell: 515/229-4482
 Fax: 515/281-9033
david.eklund@iwd.iowa.gov

 Description:
titlegraphic

[Preview is not available (conversion excluded for this file type).]

Message: Alien Status Reports

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:21 PM
Item ID: 40861650
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **Alien Status Reports**

From Wilkinson, Michael [IWD] **Date** Friday, April 25, 2014 12:06 PM
To Koonce, Kerry [IWD]; Eklund, David [IWD]; Wahlert, Teresa [IWD]
Cc

Message: RE: Alien reports

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:21 PM
Item ID: 40861651
Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ **RE: Alien reports**

From Wilkinson, Michael [IWD] **Date** Friday, April 25, 2014 12:07 PM
To Wahlert, Teresa [IWD]; Koonce, Kerry [IWD]; Eklund, David [IWD]
Cc

It's on the calendar for your office

From: Wahlert, Teresa [IWD]
Sent: Friday, April 25, 2014 11:45 AM
To: Wilkinson, Michael [IWD]; Koonce, Kerry [IWD]; Eklund, David [IWD]
Subject: Alien reports

May we meet tuesday at 8:30 to review status of these over the last 18 months, price outs, and any preliminary reports
Thx
Teresa Wahlert

Sent from my Verizon Wireless 4G LTE DROID

Message: RE: Alien Status Reports

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:21 PM
 Item ID: 40861654
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:41 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: Alien Status Reports

From Wilkinson, Michael [IWD] **Date** Friday, April 25, 2014 4:12 PM
To Wahlert, Teresa [IWD]
Cc

Yes. earlier in the week

From: Wahlert, Teresa [IWD]
Sent: Friday, April 25, 2014 3:37 PM
To: Wilkinson, Michael [IWD]
Subject: Re: Alien Status Reports
Sensitivity: Private

Did you ever write or call?

Teresa Wahlert

Sent from my Verizon Wireless 4G LTE DROID

"Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov> wrote:

Message: RE: New hire numbers

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:41 PM
 Item ID: 40861956
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

 **RE: New hire numbers**

From Wilkinson, Michael [IWD] **Date** Tuesday, April 08, 2014 10:10 AM
To Eklund, David [IWD]
Cc

 [image001.jpg](#) (3 Kb HTML)

Perfect. Thank you.

From: Eklund, David [IWD]
Sent: Tuesday, April 08, 2014 9:49 AM
To: Wilkinson, Michael [IWD]
Subject: New hire numbers

For calendar year 2013.

The new hires crossmatch resulted in:
 903 Fraud overpayment decisions for \$333,171
 553 Non-fraud overpayment decisions for \$132,479

Combined:
 1456 decisions. \$465,650 in overpayments

David Eklund
 Regional Operations Manager
 UI Benefits Services
 Iowa Workforce Development
 Ph: 515/281-5792
 Cell: 515/229-4482
 Fax: 515/281-9033
david.eklund@iwd.iowa.gov

 Description:
 titlegraphic

[Preview is not available (conversion excluded for this file type).]

Message: FW: NASWA UI Cmte – Senate Passes EUC extension**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:41 PM
 Item ID: 40861957
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/22/2014 9:04:09 AM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

✉ FW: NASWA UI Cmte – Senate Passes EUC extension

From Wilkinson, Michael [IWD] **Date** Tuesday, April 08, 2014 10:18 AM
To Borgeson, Jill [IWD]; Boten, Brenda [IWD]; Dawson, Dianne [IWD]; Eklund, David [IWD]; Holett, Karen [IWD]; Prettyman, Laura [IWD]; West, Ryan [IWD]; Wood, Kirsten [IWD]
Cc

 [CREC-2014-04-07-senate.pdf](#) (524 Kb HTML)  [BILLS-113hr3979eas.pdf](#) (402 Kb HTML)

From: blangley@naswa.org [mailto:blangley@naswa.org]
Sent: Tuesday, April 08, 2014 9:02 AM
To: Wilkinson, Michael [IWD]
Subject: NASWA UI Cmte – Senate Passes EUC extension

***** This email was sent to the following individuals in your state:**

Paul Mikkelsen, Ed Wallace, Michael Wilkinson

***** The following groups were sent this email:**

Unemployment Insurance Committee, Deputy Administrators/Operations Directors, UI Directors, Finance or Administrative Directors, NASWA Staff Members

Dear UI Committee members:

Last night, the Senate passed the Protecting Volunteer Firefighters and Emergency Responders Act of 2014 (H.R. 3979). The Senate used this House bill as the vehicle to attach the EUC language found in Senate bill 2149, Emergency Unemployment Compensation Extension Act of 2014. The EUC amendment to H.R. 3979 mirrors the language found in S. 2149 with no changes.

Below is a CQ article that indicates the week of April 28th would probably be the first week the House could consider the EUC extension.

NASWA plans on sharing the recent EUC survey results to states shortly. Preliminary responses show the majority of states will have to take 3 to 8 weeks to implement the new EUC provisions and only 12 states have continued to collect EUC claimant information since the program ended last December.

The recent survey responses also reinforce NASWA's implementation concerns that were communicated to the Senate leadership in the January 30, 2014, and March 19, 2014, letters.

Attached are a copy of the amendment and a copy of the complete bill that the Senate passed last night. Please contact me if you have questions about this EUC legislation.

Thanks.

Brian Langley, NASWA UI Director, 202.434.8025

Cc: State Administrators, Deputy Administrators, A&F Administrators, and UI Directors

CQ NEWS

April 7, 2014 – 6:20 p.m.

Unemployment Benefits Bill Heads to House

By Sarah Chacko, CQ Roll Call

The Senate passed a bill Monday that would extend expired jobless benefits through May, though it may not clear Congress until late April.

The bill (HR 3979), which senators passed 59-38, would provide benefits to job seekers who have exhausted the standard compensation program.

Last week, the Senate voted 61-35 to limit debate on the bill. The Senate also agreed, 60-36, to waive a budget point of order against the bill.

The benefits would be paid retroactively from the time the program expired in late December, and would continue through May 31. Under the proposal, the five-month extension would be paid for by a combination of offsets including temporarily reducing companies' pension payments — also known as pension smoothing — and extending U.S. Customs and Border Protection user fees through 2024.

The bill also would include language to deny jobless aid to individuals with adjusted gross incomes of \$1 million or more.

A substitute amendment with the extension language was adopted by voice vote last week. The original bill would have amended the tax code to ensure emergency services volunteers are not counted as employees under the requirements of the 2010 health care law (PL 111-148, PL 111-152).

House Prospects

The measure now heads to the House, where Democrats are donning stickers that show the number of people in their state who would benefit from the extension.

A group of House Republicans is also urging immediate floor action on the bill or a similar measure. Following the Senate vote, seven members from New York, New Jersey and Nevada sent a letter to that effect to House Speaker John A. Boehner, R-Ohio, and Majority Leader Eric Cantor, R-Va. The same group sent a similar letter to leaders before the program expired in December.

“Since then, many more people have lost benefits each week, bringing the number of long-term unemployed Americans without government assistance to greater than two million,” the letter said. “As many Americans continue to struggle without benefits, we respectfully request that the House immediately consider this bill or a similar measure to restore unemployment benefits to struggling Americans.”

The top negotiators of the Senate measure — Jack Reed, D-R.I., and Dean Heller, R-Nev. — said they would speak with House leaders to stress the need for quick action. If the House does not move this week on the Senate bill, it would have to wait until April 28, when lawmakers return from a two-week recess.

Other House Republicans are considering amendments they say would spur job growth, including job training programs and repeal of a medical device tax. Some are looking at removing provisions that would apply the benefits retroactively, since state workforce agencies have raised concerns about how that would work.

However, Senate Majority Leader Harry Reid, D-Nev., said he had no plans to open talks with House Republicans to tweak the package. A senior White House official said Monday that the Obama administration would be willing to have constructive talks with Republicans about the program but so far has not seen a proposal that could pass the Senate.

Senate Democrats also blocked consideration of several GOP amendments, including proposals that would approve the Keystone XL pipeline, prohibit EPA regulations of greenhouse gas emissions for coal-fired power plants, and repeal parts of the health care law.

Boehner spokesman Michael Steel said in an email that the speaker is willing to look at extending the program as long as the bill includes provisions to help create more private sector jobs.

“But, last week, Senate Democratic leaders ruled out adding any jobs measures at all,” Steel said.

Steven T. Dennis contributed to this report.

NASWA / CESER | 444 North Capitol Street, N.W. | Suite 142 | Washington, D.C. 20001 | (202) 434-8020 | (202) 434-8033 fax

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Image 1

Congressional Record

UNUM EP LURIBUS

United States

of America PROCEEDINGS AND DEBATES OF THE **113**
th
CONGRESS, SECOND SESSION

∑ This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

S2169

Vol. 160 WASHINGTON, MONDAY, APRIL 7, 2014 *No. 56*

Senate

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER MURPHY, a Senator from the State of Connecticut.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:
Let us pray.

Lord of life, hear our prayers. Fill us with Your spirit so that we may please You. Today, empower our lawmakers. Help them not to have an excessive focus on temporary things while ignoring the eternal. May their lives bring glory and honor to Your Name as they receive Your approbation for their faithfulness. Lord, create in them humble and contrite hearts that are willing to serve You and humanity. Shelter them in their coming in and going out, so that You can use them to advance the work of Your kingdom.

We pray in Your great Name. Amen.

f

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

f

APPOINTMENT OF ACTING

PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. L

EAHY).

The assistant legislative clerk read the following letter:
U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, April 7, 2014.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable C

HRISTOPHER MURPHY,

a Senator from the State of Connecticut, to perform the duties of the Chair.
P

ATRICK J. LEAHY,
President pro tempore.

Mr. MURPHY thereupon assumed the Chair as Acting President pro tempore.
f

RECOGNITION OF THE MAJORITY

LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

f

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, if there are any, the Senate will be in morning business until 5 p.m.

At 5 p.m. the Senate will resume H.R. 3979, as amended, the unemployment insurance extension, postcloture.

At 5:30 p.m. there will be a rollcall vote and passage of that legislation.

f

SPONSORING AMERICANS

Mr. REID. Mr. President, NASCAR fans can easily find their favorite drivers simply by looking at the cars as they fly by because of corporate emblems on the hood of the car. In fact, they are all over the car. For our clothing here in the Senate, we don't bear any commercial logos. Many Republican leaders these days may as well wear the Koch Industries insignia, but as Members of the Senate, there should never be any doubt as to our sponsors—the American people.

We are in the Senate for one reason: To give Americans a fair shot at providing for their families and having their voices heard, but Republicans seem more willing to identify themselves by their billionaire sponsors. While they don't wear Koch Industries ties and jackets, they display their sponsors proudly through their actions in the Senate. So it comes as no surprise Republican Senators stood on the Senate floor and voiced their support for Charles and David Koch. Senate Republicans depend on the Koch brothers to make their job easier.

I appreciate the forthrightness of those who expressed their support of the Koch brothers. The chairman of the National Republican Senatorial Campaign Committee came to this floor praising the richest brothers in the world. If Charles and David Koch helped Republican Members in this Chamber, they should not be ashamed to defend the Kochs' power. If the Koch brothers have bankrolled efforts to keep Senators in their seats, those Members should publicly acknowledge their providers.

If my Republican colleagues find my criticism of the Kochs' shadowy influence unjust, they should take their case to the American people. Senate Republicans should come to the Senate floor and take up the cause of the persecuted multimillionaires, but Senate Republicans shouldn't expect Americans to be easily fooled into ignoring the fact that the Koch brothers are trying to sweep middle-class families under the rug.

Regardless of the words Charles Koch espouses, for example, in his Wall Street Journal op-ed last week, he and his brother don't have the interests of average Americans in mind. They have in mind increasing their wealth and hiding their efforts behind words such as dignity, respect, equality, and freedom. That ran throughout the column they wrote.

Dignity? What about the dignity of struggling, long-term unemployed families? The Koch brothers continue closing plants and laying off employees in Alaska, Arkansas, North Carolina, and other places, devastating the economies in those communities. Americans need a fair shot at getting back on their feet and finding work, but Koch-backed groups are actively opposing the extension of benefits for the long-term unemployed.

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Image 2

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What about the dignity of a single mother from Las Vegas, Christina, who is stuck living in her elderly grandmother's living room because she and her son were evicted when Christina's benefits were cut off? Perhaps Charles and David Koch should spend their nights sharing one air mattress, as Christina and her son do, and see what dignity there is living as Christina and her boy do. The Koch brothers want

Americans to be dignified as they lose their cars and homes and security.

The Koch brothers hide behind words such as "respect." What about treating the American voter with respect? Instead, the Koch brothers have dumped hundreds of millions of dollars in dishonest ads about health care reform, trying to fool American families into thinking that affordable health care is bad for them. It is good for them. If the Affordable Care Act was so awful, why did Koch Industries use it to their advantage? Koch Industries applied for and participated in the temporary program called the Early Retiree Reinsurance Program, part of the Affordable Care Act. This program helped the company Koch Industries pay health insurance costs to retirees who were not covered by Medicare. In other words, the government helped subsidize health care which Koch Industries promised to its retiring employees. So it is OK for Koch Industries to save money through ObamaCare, but if an American family wants a fair shot at health care, they risk being labeled as collectivists. That was all through the article, the op-ed piece, "collectivists." Is that the new rightwing buzz word for Communists? That doesn't sound like respect to me.

The Kochs throw around phrases such as "equality under the law." What about equality for hard-working American women? Yet the Republicans in Congress who carry water for the Kochs are actively campaigning against legislation that will ensure that women are paid equally with their male counterparts for doing the exact same work.

I have a daughter. I have four sons. My daughter, if she does the same work as any of my four boys, should be paid the same as they are, but that isn't how it is in America. She is paid only 76 or 77 cents on the dollar for what men make doing the same work.

One of the Koch organizations is ironically called the Independent Women's Forum. They do this all the time. They fund money for the Chamber of Commerce, many other organizations, but one of their organizations is called the Independent Women's Forum, which is making the argument that the disparity between men's and women's salaries is a myth. But this tactic shouldn't surprise anyone, given the Republicans' utter disregard for women that is on display here in Washington.

We are going to vote on Wednesday on a fair pay piece of legislation, simply saying women should get the same amount of money a man does doing the

same work—not too absurd, not too radical. That is what we are trying to do. I repeat. This tactic shouldn't surprise anyone, given the Republicans' disregard for women that is on display here in Washington.

For example, on one of the Sunday shows yesterday comments were made by former Director of the CIA Michael Hayden, who was there for a long time. In responding to the Senate Intelligence Committee's attempts to shed light on the CIA's questionable interrogation methods, General Hayden condescendingly accused D

IANNE FEINSTEIN

of being too emotional. How about that—D

IANNE FEINSTEIN being too emotional. This woman has been an outstanding leader of the Senate Intelligence Committee. She has been fearless. She has been thorough and fair. For this man to say that because she criticizes tactics led by General Hayden as torture she was too emotional—I don't think so. Does this sound like a

person or a party who respects women?
So much for equality under the law as
seen by the Koch brothers.

Finally, the Koch brothers claim they are fighting to restore a free society—also some buzz words: “Free society.” Free in what way? They single-handedly turned the American electoral process into a pay-to-play scheme. The Koch brothers’ endgame is to elect officials, to elect people who will help overhaul our system of government and replace it with something more to their liking to increase their wealth. Even though they are the richest people in the world, they want to be richer.

So I again extend the invitation to my colleagues, if you bear the logo of the Koch brothers, come on down and announce your affiliation openly. The Koch brothers’ agenda is an agenda that is not my agenda, it is not our agenda, but is it your agenda, my Republican friends? If it is, come and tell your constituents that is the case. Let this Nation know where you stand. As for we Democrats, we will continue to defend American families from these oil baron bullies who want nothing more than to enrich themselves. We will continue to oppose their efforts to buy our democracy because we work for America, not just rich Americans.

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RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business for today.
The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

f

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 5 p.m. with Senators therein being permitted to speak for up to 10 minutes each.

Mr. REID. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.
The legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

f

ARCTIC DEVELOPMENT

Ms. MURKOWSKI. Mr. President, I have come to the floor today to discuss the opportunity we have as a nation to truly take a leadership role when it comes to responsible development of the Arctic region. As we discuss the great opportunities and the challenges that face us, I think it is fair to say that I will also be expressing some disappointment with the general lack of resources our Federal Government has invested in this important issue, including, just most recently, through the President’s annual budget request.

Back in May 2013 the Obama administration released its “National Strategy for the Arctic Region.” The national strategy was really designed to set forth this government’s strategic priorities for the Arctic—pretty important to recognize what our priorities are going forward. While that might sound impressive—a national strategy for the Arctic region—what we ended up seeing was just an 11-page document, and it is really hard to describe it as strategic.

Perhaps a more accurate description is that it was a glorified memo, a general outline, but there were a lot of gaps that needed to be filled.

Recognizing that this is a new area for us in terms of opportunities and, really, for vision, I was prepared to sit back and listen to what the administration had to say and work with them as they built this strategic vision. So when they released their implementation plan for the national strategy in late January, I was looking forward to it. I was looking forward to what had been gathered in meetings not only in Alaska—the State of Alaska is what makes the United States an Arctic nation—but it was broader than just Alaskans' input; it was input from so many of our agencies, so many of our departments. Yet, when the implementation of our national strategy was released, I have to admit that, again, I was underwhelmed.

I made certain the President and members of the administration knew my concerns, and I told him—these were my words when I wrote to him—my concern was that his plan does not offer a vision to make the United States a leader in the Arctic, particularly as we prepare for the chairmanship of the Arctic Council in May 2015, nor does it suggest that the Arctic is a national priority. Instead, the plan provides a snapshot of existing Arctic-related programs and projects with numerous assessments to be undertaken but no real path of action.

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It was important to me as someone who cares very deeply about our role as an Arctic nation and our role not only within the confines of the Federal Government but our role going forward in the world among the other Arctic nations and truly all of the nations throughout our planet in terms of where the United States sits when it comes to our vision and our view for the Arctic.

The administration's plan would maintain our rather meager status quo in the Arctic while the other Arctic nations—the rest of the international community—seem to be devoting increasing amounts of resources to the region.

It would also leave the residents of the Far North—U.S. citizens up there in Alaska—out in the cold when it comes to the U.S. Government's own priorities. Rather than advance an agenda that will benefit those who live in the Arctic, they are, instead, regulated to being part of a science project for observation and conservation.

Let me give you an example of that. One of the proposed initiatives within the implementation plan is to "Improve Arctic Community Sustainability, Well-being, and Cultural and Linguistic Heritage." I have to say, that is a pretty laudable goal. We certainly want to maintain, we certainly want to pass down the culture of our indigenous populations to future generations. We certainly want to improve their quality of life. Yet within this initiative, the administration has designated the Smithsonian Institution to be the lead agency for this particular initiative. It is as if the people of the Far North—it is as if the Inuit, the Eskimo, the Aleut, the Yupik—are somehow or other people to be observed as part of a museum exhibit or perhaps placed under a glass bubble. Combine this with the implementation plan's heavy emphasis on conservation, research into climate change, and preemption of development on State Native and Federal lands, and it is difficult for me to see any support by this administration for economic development, for job creation, or really for a better quality of

life for the people who live in the Far North.

So again, when we talk about the “Implementation Plan for the National Strategy for the Arctic Region,” climate is absolutely an issue that needs to be discussed and addressed—absolutely. Development issues clearly need to be addressed. Conservation clearly needs to be addressed. But we have to remember there are people who live and raise their families and work up in the Arctic. So making sure we are thinking about them as we advance an implementation plan is key.

But even with the implementation plan being rolled out in January, I thought: OK, there is still not enough meat on the bones here for me to understand how we move forward with a set of priorities, a real vision for the

Arctic. But I knew the President’s budget was going to be coming out in March, and that is the opportunity for any President to establish his or her priorities when it comes to the budget.

So I held out hope that when we saw the fiscal year 2015 budget request that was where we would finally start to see some kind of a coherent strategy come together. I expected it would at least demonstrate the administration’s desire to show some level of leadership in the Arctic. My office was told that part of the purpose of the implementation plan and the designation of lead and support agencies was to gain an ability to propose jointly supported Arctic projects that OMB would then deem important enough to be included in the budget request.

But, again, we looked through the budget, and I am disappointed, sorely disappointed. My immediate reaction to the budget request was we are seeing so much spending here through the budget proposal, but yet so very little attention paid to our needs and our opportunities in the Arctic.

A search of the 1,400-plus page detailed appendix for the administration’s budget reveals only 5 requests—5 requests—for Arctic-related activity. Two are for longstanding programs that have been funded for many years. One is the U.S. Arctic Research Commission—very important—and then, of course, the North Pacific Research Board. Another is for international fisheries work done through the Arctic Council. And the last two are for climate change-related activities. That is it. Five references—five references—out of a 1,400-plus page appendix for the budget speak to any Arctic-related activity.

Now, you may ask why I am disappointed, underwhelmed, perhaps a little bit agitated about where we are with advancing an implementation plan, a strategic vision for the Arctic. Well, in about a year from now, the United States will take over the chair of the Arctic Council. That chairmanship is currently held by Canada.

I have had opportunities to sit down with the chair of the Arctic Council, Leona Aglukkaq, who is from the Nunavut area, and talk about what Canada is doing to really lead in so many different areas when it comes to Arctic policy and Arctic strategy—not only for their nation but all the Arctic nations and beyond.

I look with a little bit of longing at how Canada has truly embraced their leadership role as an Arctic nation, not only with statements of intention that are backed up by real resources, but an appreciation for what the future can hold for the Arctic.

So over the last several weeks we

have had our Appropriations subcommittees that are really starting to kick into gear here, and I have had the opportunity to ask several Cabinet members—Secretary Johnson from the Department of Homeland Security and Secretary Jewell from the Department

of Interior—I have had a chance to ask both of them about their Departments' budget priorities for the Arctic and, specifically, the programs for which their Departments have been designated as the lead agency within this implementation plan for fiscal year 2015. And both Cabinet members have assured me, they have said, yes, the Arctic is a priority, it is important to the United States. But neither one of these Cabinet members could tell me what their Department's budget request contained for the Arctic. They have assured me they are going to be going back and seeing if they cannot fill in those details for me, but, to me, that is symbolic of the Arctic's overall standing within the administration. There are lots of good words when asked about it. Everyone is saying, yes, it should be a priority. But yet it does not seem to be important enough to be proactive on or to even be familiar with without prompting.

We all know that any President's budget request, regardless of party, is not likely to be enacted word for word, and, quite honestly, recognizing politics, more likely than not it is not going to be enacted at all. But if a budget request does signify something, it is the message, it is the signal of what the administration's priorities for that fiscal year and beyond are.

So it is apparent, at least in my view, that this administration is not willing to devote the resources necessary to make the Arctic a true priority. That, to me, is very shortsighted. I think it is a failure of leadership, a failure to think ahead and to take the long view.

I recognize, as we all do, that we are at a time of budget constraint and restraint, that there is competition for all dollars, as we look to make wise decisions here. But as we are setting priorities, as we are thinking toward the future and a longer term view, we have to ensure—we have to ensure—that the Arctic is placed as a priority. Some people would ask why we should care about it. Is this just an Alaska-specific issue? Are these just Alaska projects we are talking about? Why should the Arctic really matter to the United States?

First, the reality is that the Arctic is a relatively blank slate right now. It is not presently an area that is subject to longstanding disputes or entrenched views. Think about the significance of that. When you look at the Arctic, you have your eight Arctic nations around it, but whether it is Finland, Norway, Canada, the United States, Russia, the area that occupies the Arctic is not one that is known for conflict.

Think about the role Secretary Kerry has. He does not have to worry about hotspots in the Arctic in the sense of political hotspots. You just do not have those longstanding disputes. It is not a hotspot for potential conflict. It is, however, a region that is garnering increased international attention and recognition because of its tremendous potential, and it is generating cooperation amongst Arctic nations. Now,

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isn't that a concept—that something is actually generating cooperation?

Let me give you an example. I was at the 2013 Arctic Council Ministerial Meeting in Sweden, and I was there with Secretary Kerry. When you think about the issues in front of our Secretary of State, at that time back in May, there was no shortage of differences and disagreements with the Russian Government at that moment.

Yet at that ministerial meeting, we had Secretary of State Kerry and Russian Foreign Minister Lavrov side by side signing a binding agreement on oilspill preparedness and response capabilities in the Arctic. But this was all going on while differences over Syria and U.S. Embassy spy charges were hanging over their heads. So despite all the other issues those two gentlemen were dealing with, they were able to come together in Sweden and join on to a joint document of cooperation among Arctic nations as it related to oilspill preparedness and response capabilities. From a foreign policy perspective, the Arctic is an area for cooperation and relationship building, and that is a good and a positive that we should look to build on.

From an economic perspective, our neighbors—Russia to the west and Canada to the east—continue with aggressive national plans that include state investment to develop northern resources and advance commerce in the region. They know—they know all too well—that this will help create jobs and economic growth in areas that face extraordinary challenges.

A recent report by the Norwegian Shipowners' Association shows that the regions bordering the Arctic Ocean are experiencing higher annual economic growth than the rest of their respective nations on average and are considered drivers for economic growth in the Arctic countries.

Russia's territorial claim to a large swath of the Arctic seabed received a boost when an area in the Sea of Okhotsk was recognized as part of its extended continental shelf by the same commission examining its Arctic claims. These are territorial claims that Russia is able to make because they are a party to the Convention of the Law of the Sea, while the United States is not.

I will just make a particular aside at this point in time that I have long been a proponent of the U.S. Senate ratifying the Convention on the Law of the Sea. As we engage in the Arctic, as we not only work on areas of cooperation, I think we need to ensure that we, as an Arctic nation, have a seat at the table on the issues that face the Arctic. While we sit on the sidelines, because we have failed to ratify the law of the sea, we miss out. We miss out.

Even non-Arctic nations are embracing the opportunities that come with diminished polar sea ice representing the transit benefits, conducting scientific research and moving ahead with resource exploration and development

activities. Nations such as China, South Korea, and Japan each have icebreakers. China is in the process of constructing a second larger icebreaker. It is even India's intention to have an icebreaker by the end of 2016. Think how far India is from the Arctic.

You may ask the question: Well, where is the United States when it comes to its number of icebreakers?

We have one heavy icebreaker, the *Polar Star*. We have a second, the *Polar Sea*, which is going to effectively be

mothballed. We have a medium breaker, the *Healy*, which is primarily used for research missions, and the useful life of the *Polar Star* is expected to be concluded in less than 10 years.

Right now, as I talk to those within the administration about the plans to move forward on a polar icebreaker, it is pretty dismal. The proposal thus far in the President's budget is that there will be \$6 million to advance, as far as studies go. We know we need a heavy polar-class icebreaker. In fact, we know we need three heavy icebreakers and three medium icebreakers. But it is a big capital investment. It has not been made a priority. It is yet one of those initiatives that I think we look at from a shortsighted perspective by failing to place an imperative on it now.

Even Singapore—not exactly synonymous with the Arctic—has designated an Arctic ambassador and is actively participating in the Arctic Council and other Arctic-related forums around the globe.

So there are non-Arctic nations that are building ice-capable ships. There are non-Arctic nations that are asking to be observers in the Arctic Council. There are non-Arctic nations stepping forward and saying: We want to have an Arctic ambassador, somebody who is there as part of the discussions on issues in an area of the globe that is evolving so quickly; where there are so many opportunities; where there are challenges, yes, but where there are so many opportunities. We want to be part of that.

You would think the United States would not only jump in and say “me too,” but that we would be leading as one of the eight Arctic nations. This activity by other nations is going to continue—in fact, accelerate—regardless of whether the United States engages. But if we do engage, we will also benefit and we will also be in a better position to ensure that any development, that any commerce, that any activity is carried out safely and responsibly.

There is a lot of discussion about the energy potential, the potential for natural resource wealth and what that might bring to the Arctic. This is a map that shows the extent of the yearlong ice in the Arctic. Setting aside the natural resource potential, which is in the range of 30 billion barrels of oil and 220 trillion cubic feet of natural gas in the United States Arctic OCS alone—we recognize that the natural resource

potential is significant, but it is not just about the natural resources. Let me give an example of the activity that is already underway in the Arctic, its impact on us here in the United States, and the opportunity our Nation has to embrace that potential.

With the decreasing amount of sea ice in the Arctic, we are seeing a corresponding increase in maritime activity.

So, again, this is a chart that shows the extent of the sea ice in the year 2000. So your sea ice is the whiter area, with your opportunities for maritime activity limited as you are moving through Canada here and even through Russia there.

This next chart shows the extent of the sea ice and vessel activity in the Arctic in 2011. So you can see increased activity is taking place where the sea ice used to be. So here is the sea ice now, but notice the passage you have transiting through the Bering Strait,

over the top of Alaska, through the Northwest Passage, and out over to Europe.

Notice also going through the Northern Sea Route from Russia over to the Baltic States. The colored lines you see are not necessarily oil and gas exploration ships; they are cargo ships, they are tankers, and they are icebreakers. They are fishing vessels, research vessels, passenger vessels, cruise ships, and others. So in a decade, what you are seeing is a level of maritime traffic that is really unprecedented—and unprecedented because we have not had the ability to transit in these waters because they were locked by ice for almost the full extent of the year.

So here is a closer look at the vessel activity in the Bering Strait region in 2013. So this is going to look like this amazing blur of color. But here we have Alaska. This is Russia. Where all of these lines seem to be converging, at the center here, is where we have Little Diomedes and Big Diomedes. Big Diomedes is owned by Russia, Little Diomedes is held by the United States, and 2.5 miles separates the two islands. In truth, we can see Russia from Little Diomedes. I was there last summer.

But when you appreciate that the distance between Alaska and Russia outside of the very narrow area between Big and Little Diomedes is just 57 miles—we have a 57-mile choke point here in the Bering Strait where we have incredible amounts of maritime commerce coming through: tankers, cargo ships, tugs, towing ships, passenger vessels, fishing vessels, search and rescue, military, law enforcement, and others. This is what we are seeing in the year 2013. Transits have doubled in the past 5 years.

The next chart comes from the recently released U.S. Navy Arctic Roadmap. This map shows the predicted sea ice coverage by the year 2030. So here we were at 2012 with the sea ice covering all of this. By 2020 it is shrinking. Here it is by 2025, by 2030. This is the

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predicted model for our sea ice coverage by 2030. We can see an even larger portion of the Arctic is expected to be open to maritime commerce.

The Navy predicts that the traffic through the Bering Strait will double again in the next 10 years. Again, that is going to happen whether or not the United States participates. Foreign vessels, if not American vessels, will be traveling across Alaska's western and northern coast. That is a given.

The last chart I have shows the Bering Strait as the gateway between the Pacific and the Arctic Oceans. Again, when we talk about Alaska, we are talking about its strategic geographic location, where it is on the globe. We are very proud of the military opportunities we have for amazing training ranges in Alaska when it comes to our assets in the air and on the ground.

But look at where Alaska sits in terms of its strategic location to not only Asia—we are sitting literally halfway between Nagoya, Japan, and Seattle, Washington, when you are at Adak. It is just as easy for me to get to Japan as it is to get to Seattle if I go as the crow flies. Unfortunately, I do not have anything that will take me as the crow flies.

But I think it is important for us to

recognize this: That whether it is passage over the Northwest Passage, which is still relatively problematic, the increased traffic we are seeing from the Northern Sea Route coming over Russia, or potentially the transpolar route at some point in time, everything funnels through the Bering Strait here—the 57 miles between Russia and the United States—and then has to exit or cut through the Aleutian chain here.

So when we think about where Alaska sits, we truly are the gateway between the Pacific and the Arctic Oceans. With the predicting of a doubling of vessel activity in the Arctic via the Bering Strait in the next 10 years, the time to develop the infrastructure and support capacity to handle this growing amount of traffic is now—actually, it was yesterday.

This is not a region that is devoid of activity, but it is a region that lacks adequate levels of investment, government resources, and attention. Deepwater ports, navigational aids, search and rescue capabilities, and icebreakers are all needed now and, in addition, the basic charting of many of our Arctic waters, which some of us have recognized is seriously lacking. This is going to take a very collaborative effort across all of our agencies and working with our Arctic neighbors to achieve that.

With a vision, it is not difficult to see how we could have a transshipment facility developed in the Aleutian chain to capitalize on the intersection between the North Pacific great circle route and the three Arctic Sea routes. Imagine you have cargo that is transiting the Arctic from Europe, coming from the Northwest Passage or coming over the Northern Sea Route.

Imagine that cargo then being offloaded at Adak. Adak is a former Navy base and, quite honestly, the infrastructure that is there is—well, it is a little bit old—pretty amazing. You could then offload in either Adak or Unalaska and load that cargo onto ships transiting the North Pacific and to the west coast—and vice versa.

Ice-strengthened ships could be used entirely within the Arctic, rather than traveling all the way to Singapore or Hong Kong. It would save time, it would save money, and it would allow for an increased number of transits. I am looking at it and saying: This could be a real win, a win for consumers, a win for business, and a win for national security by being able to keep a closer eye on commerce traveling to the United States.

It is clear—I hope it is clear—that people recognize that we have such opportunity, we have such capacity for opportunity and growth within the Arctic. But we have to be careful, we have to be considerate, and we have to be sure that the necessary resources and infrastructure necessary are there.

The United States has never been last in a race to the future, but absent visionary leadership and meaningful resourcing, we will continue to take a back seat and fail to capitalize on all that the Arctic has to offer. We will miss out on resource development and shipping efficiencies and, in turn, new opportunities to create new jobs and generate needed economic growth.

I don't believe that we can afford to sit idle any longer, which means that it is time for our Federal Government and this administration to really start taking the Arctic seriously and dedicate the necessary resources to the region.

I don't mean to suggest that the efforts that have been made to date are not important. We have come quite far in the past few years, but you have to remember, we were starting from ground zero. There was nothing, really. We have made some strides, and it is

important that we have these documents coming out of our agencies, and it is important that we have framework because it is on these that we will build. But I feel like I need to lend an air of urgency that it is not just about methodically chipping away year by year with yet another document—another strategy plan that will sit on the bookshelf.

I have a lot of those on the Arctic. I think many do. It is how we are a true participant in a level of engagement in a region that holds such excitement and such potential that nations around the world are turning their eyes northward with excitement and enthusiasm.

The United States should be leading with equal enthusiasm about what our opportunities hold.

I thank the Chair, and I suggest the absence of a quorum.
The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. K

ING). Without objection, it is so ordered.
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UNEMPLOYMENT EXTENSION

Mr. COATS. Mr. President, I come to the floor today to discuss the vote that is about to occur on the unemployment benefits extension act. I have repeatedly said that the Senate should have a full and open debate on this important issue and that debate should include the opportunity for those of us in the minority—and perhaps those in the majority—to offer amendments and changes that would represent the view of the people they represent in Congress. Those amendments could strengthen the bill, make it better, and perhaps make it something that the House could consider, since they have not taken up this legislation.

Clearly, for those who are truly in need and for those who have played by the rules, the issue of extended unemployment benefits is a legitimate issue for debate—and for many here, for passage. I have not only worked with my colleagues on the Republican side of the aisle, but also with my Democratic colleagues, to secure two items which would give me a better sense of where we are going and would provide for better legislation—legislation that could perhaps work its way through the Congress and onto the President's desk.

One of those two items was a legitimate pay-for. We clearly have a fiscal situation where, if we can't offset new spending with spending on programs that have not proven their worth, then we are going to continue to spend more than we take in, continue to add to our national debt, and continue to trot down the precipitous road to a fiscal crisis—\$17 trillion-plus and counting, an ever-accumulating debt and continued unbalanced budgets. You can only run a business, a family or a government for so long when you do not make ends meet by having your revenues there to pay for your expenses. So having a legitimate pay-for was one of the criteria that I was trying to address along with my colleagues.

Secondly was reforms to the program. It was the President himself who publicly acknowledged that the unemployment insurance program needed reforms. There were abuses in the program. It was not reaching all of the people it was intended to reach. It had some flaws and needed to be fixed. Once again, all of those attempts for reasonable reforms—not only by me, but by a number of my colleagues—were to provide what I believe is deemed, even on a bipartisan basis, as reasonable, but

they have been rejected. They have been rejected not because we had a debate and voted and didn't achieve the requisite number of votes for passage, but they were rejected because the majority leader simply used procedures,

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once again, to deny the minority any opportunity—and, of course, that also includes the majority—to stand on this floor, to offer an amendment, to debate that amendment, to have a vote on it, to accept the result, and then move to forward.

The two reforms I had mentioned—and that I thought made eminent sense—didn't really have much opposition to them. One was to simply end a process that resulted in a waste of taxpayers' money by violation of the law. The law requires that if you apply for unemployment benefits, you must prove you are able to work and that you have been seeking work—but most importantly, you are capable of working.

The Social Security Disability Insurance Program requires, by law, that you are unable to work. Therefore, you cannot be eligible for those benefits unless you can prove—through a medical process or evidence—your inability to work. Yet the Government Accountability Office has found a significant number of folks in our country who are receiving checks from both programs. You can't have it both ways. You can't say you are not able to work and therefore receive a disability payment, and at the same time—and in the same mailbox—receive a government check for unemployment insurance where you have to prove you are willing to work. I don't know what provision might be more logical than that in terms of reforming the program. It saves the taxpayer money, it eliminates fraud, and it simply puts the program on better footing. Given our fiscal plight today, it is the least we can do. Yet I have been denied—and my colleagues who have tried to offer the same amendment have been denied—the opportunity to do just that.

Had we had the opportunity to come down here and offer that amendment, we could have had a debate. Those who saw it another way or didn't agree with what we were saying would have had every opportunity to vote no and turn down that amendment. They would then be accountable for their no or yes when they went back home—one way or another. There are people on both sides of the reform issue, and that is how the Senate is designed to work.

The Senate is not designed to simply shut off a debate and deny the minority the opportunity to offer amendments. We are not asking for passage. We are simply saying: Give us a chance to make our case, and we will have to accept the outcome. That way every Member of this body will be responsible for how they voted and will go home and tell folks: This is why I did such and such. That is how the system is designed to work.

Yet we find ourselves in a dysfunctional situation where there is no opportunity to have a debate and no opportunity to vote and to let people know where we stand. Maybe it is designed that way. Maybe we don't want people to know where we stand. I don't

think anyone in this body can go home and tell the people they represent—their constituents: We are not going to tell you how we feel about that. I didn't want to put my vote on the

record, and therefore, we are not going to have an opportunity to do that.

It is a black mark on the Senate. It is a dysfunctional situation. It is no wonder that the American public holds us in such low regard. This body, which was created by our Founding Fathers, enshrined in the Constitution, and labeled as the greatest deliberative body in the world has simply turned into something totally different and totally opposite from that. We are a

rubberstamp Senate, depending on what the majority leader decides he wants or doesn't want. I think that is a great disservice to the American people, and it is a great disservice to this institution.

Having had the opportunity to serve here on two different occasions, the contrast between my two tenures in the Senate could not be more stark. When I first came, the rights of the minority were recognized by a variety of majority leaders who simply said: This is the Senate. You take tough votes, you have the debate, and you allow the minority their rights. As a consequence, the Senate has functioned as the world's greatest deliberative body for more than 200 years.

Suddenly, we are now in a situation where that is not the case, and we have turned this simply into somewhat of a fiefdom where the majority leader has the full power to deny the minority their rights.

I think we will come to rue the day when this practice was first initiated and rue the day when it has been accepted because it denies those of us who have had the great honor and privilege of representing our States the opportunity to do just that.

Along with the amendment that I had for suitability, which simply gives States more flexibility in terms of providing suitable work for the unemployed—if it is provided to them, they have to accept it or they don't receive the unemployment checks. Those two amendments are two of the many suggested reforms that I think would make sense. But whether you agree with that or not, shouldn't we have the opportunity to present to the American people an honest, intellectual, rational debate on legislation—whether it fails or passes—so we can have a full understanding and they can have a full understanding of how to measure us in terms of whether we are true representatives of those who sent us here?

Having said that, I yield the floor and note the absence of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.
Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I hope for and expect a strong bipartisan vote today for legislation to extend emergency unemployment benefits through the end of May and applies retroactively from the point emergency benefits expired in December.

This is an important victory I wish had come much sooner—sooner for the 80,000 Michiganians who already have gone without unemployment benefits and for the thousands more who stand to lose them if Congress fails to act.

These benefits keep food on the table and a roof overhead for families affected by job loss through no fault of

their own. The idea that some of our colleagues have advanced—that unemployment insurance gives workers an excuse not to find a job—is as inaccurate as it is insulting. For all but a handful of recipients, unemployment benefits are not a free pass from working but the economic lifeline that keeps them going while searching for the job they so desperately want and need.

I wish to commend Senators on both sides of the aisle who have not given up on this issue and who worked so hard to forge a compromise, led by Senators J

ACK REED and DEAN HELLER. Republicans have joined with Democrats on the procedural votes necessary to move this bill forward, and I hope the bipartisan support for this measure in the Senate will prompt Speaker B

OEHNER

to bring it to a vote in the House. There is a strong bipartisan majority for passage in the House. It is now up to Speaker B

OEHNER to respond to the

will of the American people who understand that people who are unemployed don't want to be unemployed. There may be a few exceptions and a few stories and a few anecdotes, but that is about it. The unemployed in this country are suffering. They have suffered for too long. The job growth that has come following the recession has been weak, and the least we can do is respond.

There is a bipartisan majority to do that here. It will be strong. My hunch is it will be well over 60, perhaps over two-thirds of the Senate, and there is no excuse for Speaker B

OEHNER not to

bring this bill to the floor of the House. I hope he does so. It is just in all conscience essential that he do so. I yield the floor and note the absence

of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.
The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

f

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR
Mr. DURBIN. I ask unanimous consent that following the vote on H.R. 3979, the Senate proceed to executive

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session to consider Calendar Nos. 688, 706, and 549; that there be 2 minutes for debate equally divided between the two leaders or their designees prior to each vote; that upon the use or yielding back of time the Senate proceed to vote, without intervening action or debate, on the nominations in the order listed; that any rollcall votes be 10

minutes in length; the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nominations; that any statements related to the nominations be printed in the R

ECORD; that

the President be immediately notified of the Senate's action and the Senate then resume legislative session.
The PRESIDING OFFICER. Without

objection, it is so ordered.

f

CONCLUSION OF MORNING
BUSINESS
The PRESIDING OFFICER. Morning business is closed.

f

PROTECTING VOLUNTEER FIREFIGHTERS AND EMERGENCY RESPONDERS ACT OF 2014
The PRESIDING OFFICER. Under

the previous order, the Senate will resume consideration of H.R. 3979, which the clerk will report.
The assistant legislative clerk read

as follows:

A bill (H.R. 3979) to amend the Internal Revenue Code of 1986 to ensure that emergency services volunteers are not taken into account as employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act.

The PRESIDING OFFICER. Under the previous order, the time until 5:30 p.m. will be equally divided and controlled between the two leaders or their designees.

Mr. DURBIN. I ask unanimous consent that all time be charged equally during quorum calls.

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. GRASSLEY. Mr. President, I would like to take a few minutes to discuss the unemployment insurance extension bill currently being considered. There is little question that the job market remains tight providing few job opportunities for those who are currently unemployed. The unemployment rate remains at historically high levels of around 6.7 percent. However, the unemployment rate only tells part of the story. Millions of Americans have become discouraged and left the labor market entirely or are underemployed. When you consider these Americans, the unemployment rate isn't 6.7 percent, but a much starker 12.7 percent.

It is obvious from these numbers that many Americans continue to struggle in the face of a historically tepid recovery. Republicans and Democrats agree that there are things we can and should do to help the millions of Amer-

icans who are out of work and struggling to make ends meet. However, we have conflicting views on the best way to achieve this goal.

In 2008, Congress established the extended Emergency Unemployment Compensation program that provided Federal funded unemployment insurance benefits to the long-term unemployed. This benefit was on top of the 26 weeks of unemployment compensation ordinarily provided by the States. This program was never meant to go on forever. It is a temporary program that was designed to provide relief while we were in the depths of a recession.

This program has since been extended 11 times and we are now debating extending it for the 12th. There are reasonable arguments that at this time the emergency unemployment benefits should be extended once more. But if

we are to extend the emergency unemployment program it should be done in a fiscally responsible way.

While the majority argues that the extension is fully offset, this is only true through a budgetary sleight of hand. The largest offset used to pay for the unemployment program is a so-called pension smoothing provision. This provision essentially allows sponsors of pension plans to underfund their pensions over the next few years. This raises concerns that pensions could be underfunded in future years, hurting pensioners, and potentially putting taxpayers on the hook for these plans should they need be taken over by the Pension Benefit Guaranty Corporation.

The Joint Committee on Taxation, JCT, estimates that over the long term the provision will actually cost the Treasury billions of dollars in revenue. As a result, the Congressional Budget Office, CBO, and JCT estimate that overall the bill before us would increase deficits by more than \$5 billion between 2024 and 2033.

Moreover, while an extension of emergency employment benefits is well intentioned, it serves only to treat the symptoms of unemployment, while doing nothing to address its cause. Instead of the debate we are having on extending unemployment benefits we should be focused on what can be done to ensure those who want to work are able to find good paying jobs.

Republicans have offered such an approach with the Good Jobs, Good Wages, and Good Hours Act, which was filed as an amendment to the underlying unemployment insurance bill.

This amendment is targeted at job creation by providing small businesses who are responsible for creating 70 percent of jobs in our economy with permanent tax relief aimed at

incentivizing new investments. It would further cut red tape that imposes unnecessary burdens on job creators and would modify or repeal provisions of Obamacare that are proven job killers. Moreover, the amendment would spur job creation by increasing energy development by, amongst other

things, authorizing the construction of the Keystone XL Pipeline. I ask unanimous consent that a summary of this amendment be printed in the R

ECORD.

Unfortunately, the majority leader filled the amendment tree, thereby blocking all amendments. This prevented us from having an up-or-down vote on the jobs amendment I just described as well as several other amendments that sought to improve the underlying bill. As a result, the underlying bill is not fiscally responsible and would do nothing to address the causes of weak job creation. As such, I cannot in good conscience vote in favor of extending unemployment insurance at this time.

There being no objection, the material was ordered to be printed in the R

ECORD, as follows:
GOOD JOBS, GOOD WAGES, GOOD HOURS ACT—
OMNIBUS ALTERNATIVE TO UI
TITLE I—ENERGY DEVELOPMENT

Approve Keystone XL and LNG Exports:
This provision would approve the Keystone XL pipeline by removing the requirement of a presidential permit. It would also require the Department of Energy to automatically approve LNG export applications to Ukraine, Japan, and other NATO countries. (Hoeven UI Amdt. #2891)

The Saving Coal Jobs Act: This provision would block EPA regulations of greenhouse

gas emissions for new and existing power plants. It would also streamline the mine permitting process and automatically approve permits the EPA has not acted on after a certain period of time. (McConnell UI Amdt. #2955)

Prohibit a Carbon Tax: This provision would create a point of order against any legislation that would establish a carbon tax. (Blunt UI Amdt. #2885)

TITLE II—OBAMACARE RELIEF

Restore the 40-hour Workweek: This provision would amend the definition of a full-time employee under ObamaCare from an employee who works 30 hours per week to an employee who works 40 hours per week. (S. 1188—Collins)

Repeal the ObamaCare Individual Mandate: This provision would permanently repeal the individual mandate under ObamaCare. (S. 40—Hatch)

Repeal the Medical Device Tax: This provision would repeal the 2.3% ObamaCare medical device tax, which has already destroyed over 30,000 jobs. (S. 232—Hatch/Toomey/Coats)

Exempt the Long-Term Unemployed from ObamaCare Employer Mandate: This provision would exempt long-term unemployed from the ObamaCare employer mandate headcount. (Thune UI Amdt. #2899)

Hire More Heroes Act: This provision would exempt veterans from the ObamaCare employer mandate headcount. A similar provision passed that House 406-1. (S. 2190—Blunt)

Full Repeal of ObamaCare: This provision repeals those sections of ObamaCare that were not repealed by the preceding sections.

TITLE III—TAX AND REGULATORY RELIEF

Permanent Expansion Section 179 Expensing: This section would make the \$500,000 Section 179 expensing permanent. Without any changes to the current law, the Section 179 expensing allowance would drop to \$25,000 for qualified assets acquired and placed in service in 2014.

Permanent Expansion of Section 1202 Stock: This provision would make permanent the 100 percent exclusion for Section

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1202 small business stock, increase the gross asset limit to \$150 million, and index this limit for inflation. To encourage investment in start-up businesses, investors may exclude 100 percent (reverted back to 50 percent in 2014) of the capital gains from selling Section 1202 stock that was acquired at original issue and held for more than five years.

Permanent Double Deductions for Start-up Businesses: This provision would permanently double the maximum allowable deduction for start-up costs to \$10,000.

Permanent Reduction in S-Corporation Built-In Gains Tax: Corporations that convert to S-corporation status are subject to a tax on appreciated assets that the corporation held before the conversion. The required holding period was shortened from 10 years to five years for sales of assets in 2012 and 2013. This provision would make permanent the five-year holding period.

Permanent Deduction for Health Insurance Costs in Computing Self-Employment Taxes:

This provision would permanently place the self-employed on a level playing field with other businesses that currently exclude health insurance costs for both income and payroll tax purposes.

Permanent Expansion of Cash Accounting: This provision would permanently expand cash accounting to firms with annual gross receipts of up to \$10 million and inventories of up to the \$10 million—current law is \$5 million. Cash accounting affords small businesses greater flexibility in managing their cash flow, as it allows recognition of income and expenses when they are realized rather than when events give rise to the income (such as when a contract is signed).

Regulatory Accountability: This provision would enact targeted reforms of the federal rulemaking process. It would require that agencies conduct a cost-benefit analysis and consider alternatives to proposed regulations, and it would require advanced public notice of major rulemakings with greater than \$100 million in annual costs. (S. 1606 from the 112th Congress—Portman)

TITLE IV—SKILLS ACT

Strengthen Federal Worker Training Programs: This provision includes the House-passed SKILLS Act, which reforms and streamlines federal worker training programs and empowers Governors to further improve worker training programs. (Scott UI Amdt. #2899)

Mr. DURBIN. I suggest the absence of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.
Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.
Under the previous order, all

postcloture time is considered expired.
The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.
The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall it pass?
Mr. BARRASSO. I ask for the yeas and nays.
The PRESIDING OFFICER. Is there a sufficient second?
There appears to be a sufficient second.
The clerk will call the roll.

The assistant legislative clerk called the roll.
The PRESIDING OFFICER (Mr. D

ON-

NELLY). Are there any other Senators in the Chamber desiring to vote?
Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Missouri (Mrs. MCCASKILL) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. C

OBURN).

The result was announced—yeas 59, nays 38, as follows:
[Rollcall Vote No. 101 Leg.]

YEAS—59

Ayotte
Baldwin
Begich
Bennet
Blumenthal
Booker
Boxer
Brown
Cantwell
Cardin
Carper
Casey
Collins
Coons
Donnelly
Durbin
Feinstein
Franken
Gillibrand
Hagan

Harkin
Heinrich
Heitkamp
Heller
Hirono
Johnson (SD)
Kaine
King
Kirk
Klobuchar
Leahy
Levin
Manchin
Markey
Menendez
Merkley
Mikulski
Murkowski
Murphy
Murray

Nelson
Portman
Pryor
Reed
Reid
Rockefeller
Sanders
Schatz
Schumer
Shaheen
Stabenow
Tester
Udall (CO)
Udall (NM)
Walsh
Warner
Warren
Whitehouse
Wyden

NAYS—38

Alexander
Barrasso
Blunt
Boozman
Burr
Chambliss
Coats
Cochran
Corker
Comyn
Crapo
Cruz
Enzi

Fischer
Flake
Graham
Grassley
Hatch
Hoeven
Inhofe
Isakson
Johanns
Johnson (WI)

Lee
McCain
McConnell

Moran
Paul
Risch
Roberts
Rubio
Scott
Sessions
Shelby
Thune
Toomey
Vitter
Wicker

NOT VOTING—3

Coburn Landrieu McCaskill

The bill (H.R. 3979), as amended, was passed, as follows:

H.R. 3979

Resolved, That the bill from the House of Representatives (H.R. 3979) entitled “An Act to amend the Internal Revenue Code of 1986 to ensure that emergency services volunteers are not taken into account as employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act”, do pass with the following amendment:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the “Emergency Unemployment Compensation Extension Act of 2014”.

(b) *T*

ABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Extension of emergency unemployment

compensation program.

Sec. 3. Temporary extension of extended benefit provisions.

Sec. 4. Extension of funding for reemployment services and reemployment and

eligibility assessment activities.

Sec. 5. Additional extended unemployment benefits under the Railroad Unem-

ployment Insurance Act.

Sec. 6. Flexibility for unemployment program agreements.

Sec. 7. Ending unemployment payments to jobless millionaires and billionaires.

Sec. 8. GAO study on the use of work suitability requirements in unemployment insurance programs.

Sec. 9. Funding stabilization.

Sec. 10. Prepayment of certain PBGC premiums.

Sec. 11. Extension of customs user fees.

Sec. 12. Emergency services, government, and

certain nonprofit volunteers.

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) *EXTENSION*.—Section 4007(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “January 1, 2014” and inserting “June 1, 2014”.

(b) *F*

UNINDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (I), by striking “and” at the end;

(2) in subparagraph (J), by inserting “and” at the end; and

(3) by inserting after subparagraph (J) the following:

“(K) the amendment made by section 2(a) of the Emergency Unemployment Compensation Extension Act of 2014;”.

(c) E

FFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

SEC. 3. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking “December 31, 2013” each place it appears and inserting “May 31, 2014”; and
(2) in subsection (c), by striking “June 30, 2014” and inserting “November 30, 2014”.

(b) E

XTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking “June 30, 2014” and inserting “November 30, 2014”.

(c) E

XTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “December 31, 2013” and inserting “May 31, 2014”; and
(2) in subsection (f)(2), by striking “December 31, 2013” and inserting “May 31, 2014”.

(d) E

FFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

SEC. 4. EXTENSION OF FUNDING FOR REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) EXTENSION.—

(1) IN GENERAL.—Section 4004(c)(2)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “through fiscal year 2014” and inserting “through the first five months of fiscal year 2015”.

(2) E

FFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the American Taxpayer Relief Act of 2012 (Public Law 112–240).

(b) T

IMING FOR SERVICES AND ACTIVITIES.—

*(1) IN GENERAL.—Section 4001(i)(1)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new sentence:
 “At a minimum, such reemployment services and reemployment and eligibility assessment activities shall be provided to an individual within a time period (determined appropriate by the Secretary) after the date the individual begins to receive amounts under section 4002(b) (first tier benefits) and, if applicable, again within a time period (determined appropriate by the Secretary) after the date the individual begins to*

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receive amounts under section 4002(d) (third tier benefits).''.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply on and after the date of the enactment of this Act.

(c) P

URPOSES OF SERVICES AND ACTIVITIES.

The purposes of the reemployment services and reemployment and eligibility assessment activities under section 4001(i) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) are—

(1) to better link the unemployed with the overall workforce system by bringing individuals receiving unemployment insurance benefits in for personalized assessments and referrals to reemployment services; and

(2) to provide individuals receiving unemployment insurance benefits with early access to specific strategies that can help get them back into the workforce faster, including through—

(A) the development of a reemployment plan;

(B) the provision of access to relevant labor market information;

(C) the provision of access to information about industry-recognized credentials that are regionally relevant or nationally portable;

(D) the provision of referrals to reemployment services and training; and

(E) an assessment of the individual's on-going eligibility for unemployment insurance benefits.

SEC. 5. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) **EXTENSION.**—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)(D)(iii)) is amended—

(1) by striking "June 30, 2013" and inserting "November 30, 2013"; and

(2) by striking "December 31, 2013" and inserting "May 31, 2014".

(b) C

LARIFICATION ON AUTHORITY TO USE

FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) F

UNDING FOR ADMINISTRATION.

—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$105,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

SEC. 6. FLEXIBILITY FOR UNEMPLOYMENT PROGRAM AGREEMENTS.

(a) **FLEXIBILITY.**—

(1) **IN GENERAL.**—Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before December 1, 2013, that, upon taking effect, would violate such subsection.

(2) E

EFFECTIVE DATE.—Paragraph (1) is effective with respect to weeks of unemployment beginning on or after December 29, 2013.

(b) P

ERMITTING A SUBSEQUENT AGREEMENT.

—Nothing in title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall preclude a State whose agreement under such title was terminated from entering into a subsequent agreement under

such title on or after the date of the enactment of this Act if the State, taking into account the application of subsection (a), would otherwise meet the requirements for an agreement under such title.

SEC. 7. ENDING UNEMPLOYMENT PAYMENTS TO JOBLESS MILLIONAIRES AND BILLIONAIRES.

(a) *PROHIBITION.*—Notwithstanding any other provision of law, no Federal funds may be used for payments of unemployment compensation under the emergency unemployment compensation program under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) to an individual whose adjusted gross income in the preceding year was equal to or greater than \$1,000,000.

(b) C

OMPLLANCE.—Unemployment Insurance applications shall include a form or procedure for an individual applicant to certify the individual's adjusted gross income was not equal to or greater than \$1,000,000 in the preceding year.

(c) A

UDITS.—The certifications required by subsection (b) shall be auditable by the U.S. Department of Labor or the U.S. Government Accountability Office.

(d) S

TATUS OF APPLICANTS.—It is the duty of the States to verify the residency, employment, legal, and income status of applicants for Unemployment Insurance and no Federal funds may be expended for purposes of determining whether or not the prohibition under subsection (a) applies with respect to an individual.

(e) E

FFECTIVE DATE.—The prohibition under subsection (a) shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act.

SEC. 8. GAO STUDY ON THE USE OF WORK SUITABILITY REQUIREMENTS IN UNEMPLOYMENT INSURANCE PROGRAMS.

(a) *STUDY.*—The Comptroller General of the United States shall conduct a study on the use of work suitability requirements to strengthen requirements to ensure that unemployment insurance benefits are being provided to individuals who are actively looking for work and who truly want to return to the labor force. Such study shall include an analysis of—

- (1) how work suitability requirements work under both State and Federal unemployment insurance programs; and
 - (2) how to incorporate and improve such requirements under Federal unemployment insurance programs; and
 - (3) other items determined appropriate by the Comptroller General.
- (b) B

RIEFING.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall brief Congress on the ongoing study required under subsection (a). Such briefing shall include preliminary recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 9. FUNDING STABILIZATION.

(a) *FUNDING STABILIZATION UNDER THE INTERNAL REVENUE CODE.*—The table in subclause (II) of section 430(h)(2)(C)(iv) of the Internal Revenue Code of 1986 is amended to read as follows:

“If the calendar year is: The applicable minimum percentage is: The applicable maximum percentage is:

2012, 2013, 2014, 2015, 2016, or 2017	90%	..... 110%
2018	85%	..... 115%
2019	80%	..... 120%
2020	75%	..... 125%
After 2020	70%	..... 130%”.

(b) FUNDING STABILIZATION UNDER ERISA.—
(1) IN GENERAL.—The table in subclause (I) of section 303(h)(2)(C)(iv) of the Employee Retirement

Income Security Act of 1974 is amended to read as follows:

''If the calendar year is: The applicable minimum percentage is: The applicable maximum percentage is:

2012, 2013, 2014, 2015, 2016, or 2017	90%	.....	110%
2018	85%	.....	115%
2019	80%	.....	120%
2020	75%	.....	125%
After 2020	70%	.....	130%''.

(2) CONFORMING AMENDMENT.—
(A) IN GENERAL.—Clause (ii) of section 101(f)(2)(D) of such Act is amended by striking ''2015'' and inserting ''2020''.

(B) S

TATEMENTS.—The Secretary of Labor shall modify the statements required under subclauses (I) and (II) of section 101(f)(2)(D)(i) of such Act to conform to the amendments made by this section.

(c) S

TABILIZATION NOT TO APPLY FOR PURPOSES OF CERTAIN ACCELERATED BENEFIT DISTRIBUTION RULES.—
(1) INTERNAL REVENUE CODE OF 1986.—The second sentence of paragraph (2) of section 436(d) of the Internal Revenue Code of 1986 is amended

by striking ''of such plan'' and inserting ''of such plan (determined by not taking into account any adjustment of segment rates under section 430(h)(2)(C)(iv))''.

(2) E

MPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—The second sentence of subparagraph (B) of section 206(g)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)(3)(B)) is amended by striking ''of such plan'' and inserting ''of such plan (determined by not taking into account any adjustment of segment rates under section 303(h)(2)(C)(iv))''.

(3) E

FFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to plan years beginning after December 31, 2014.

(B) C

OLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements, the amendments made by this subsection shall apply to plan years beginning after December 31, 2015.

(4) P

ROVISIONS RELATING TO PLAN AMENDMENTS.—
(A) IN GENERAL.—If this paragraph applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of

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the plan during the period described in subparagraph (B)(ii).
 (B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any plan or annuity contract which is made—
 (I) pursuant to the amendments made by this subsection, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under any provision as so amended, and

(II) on or before the last day of the first plan year beginning on or after January 1, 2016, or such later date as the Secretary of the Treasury may prescribe.

(ii) C

CONDITIONS.—This subsection shall not apply to any amendment unless, during the period—
 (I) beginning on the date that the amendments made by this subsection or the regulation described in clause (i)(I) takes effect (or in the case of a plan or contract amendment not required by such amendments or such regulation, the effective date specified by the plan), and

(II) ending on the date described in clause (i)(II) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and such plan or contract amendment applies retroactively for such period.

(C) A

NTI-CUTBACK RELIEF.—A plan shall not be treated as failing to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 and section 411(d)(6) of the Internal Revenue Code of 1986 solely by reason of a plan amendment to which this paragraph applies.

(d) M

MODIFICATION OF FUNDING TARGET DETERMINATION PERIODS.—
 (1) INTERNAL REVENUE CODE OF 1986.—Clause (i) of section 430(h)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "the first day of the plan year" and inserting "the valuation date for the plan year".

(2) E

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Clause (i) of section 303(h)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)(B)(i)) is amended by striking "the first day of the plan year" and inserting "the valuation date for the plan year".

(e) E

EFFECTIVE DATE.—
 (1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply with respect to plan years beginning after December 31, 2012.

(2) E

ELECTIONS.—A plan sponsor may elect not to have the amendments made by subsections (a), (b), and (d) apply to any plan year beginning before January 1, 2014, either (as specified in the election)—

(A) for all purposes for which such amendments apply, or
 (B) solely for purposes of determining the adjusted funding target attainment percentage under sections 436 of the Internal Revenue Code of 1986 and 206(g) of the Employee Retirement Income Security Act of 1974 for such plan year. A plan shall not be treated as failing to meet the requirements of section 204(g) of such Act and section 411(d)(6) of such Code solely by reason of an election under this paragraph.

SEC. 10. PREPAYMENT OF CERTAIN PBGC PREMIUMS.

(a) IN GENERAL.—Section 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307) is amended by adding at the end the following new subsection:

“(f) E

LECTION TO PREPAY FLAT DOLLAR PREMIUMS.—

“(1) **IN GENERAL.**—The designated payor may elect to prepay during any plan year the premiums due under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for the number of consecutive subsequent plan years (not greater than 5) specified in the election.

“(2) A

MOUNT OF PREPAYMENT.—

“(A) **IN GENERAL.**—The amount of the prepayment for any subsequent plan year under paragraph (1) shall be equal to the amount of the premium determined under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for the plan year in which the prepayment is made.

“(B) A

DDITIONAL PARTICIPANTS.—If there is an increase in the number of participants in the plan during any plan year with respect to which a prepayment has been made, the designated payor shall pay a premium for such additional participants at the premium rate in effect under clause (i) or (v), whichever is applicable, of section 4006(a)(3)(A) for such plan year. No credit or other refund shall be granted in the case of a plan that has a decrease in number of participants during a plan year with respect to which a prepayment has been made.

“(C) C

COORDINATION WITH PREMIUM FOR UNFUNDED VESTED BENEFITS.—The amount of the premium determined under section

4006(a)(3)(A)(i) for the purpose of determining the prepayment amount for any plan year shall be determined without regard to the increase in such premium under section 4006(a)(3)(E). Such increase shall be paid in the same amount and at the same time as it would otherwise be paid without regard to this subsection.

“(3) E

LECTION.—The election under this subsection shall be made at such time and in such manner as the corporation may prescribe.”.

(b) C

ONFORMING AMENDMENT.—The second sentence of subsection (a) of section 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307) is amended by striking “Premiums” and inserting “Except as provided in subsection (f), premiums”.

(c) E

FFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 11. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “September 30, 2023” and inserting “September 30, 2024”; and

(2) in subparagraph (B)(i), by striking “September 30, 2023” and inserting “September 30, 2024”.

SEC. 12. EMERGENCY SERVICES, GOVERNMENT, AND CERTAIN NONPROFIT VOLUNTEERS.

(a) **IN GENERAL.**—Section 4980H(c) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) S

PECIAL RULES FOR CERTAIN EMERGENCY SERVICES, GOVERNMENT, AND NONPROFIT VOLUNTEERS.—

“(A) **EMERGENCY SERVICES VOLUNTEERS.—**

Qualified services rendered as a bona fide volunteer to an eligible employer shall not be taken into account under this section as service provided by an employee. For purposes of the preceding sentence, the terms ‘qualified services’, ‘bona fide volunteer’, and ‘eligible employer’

shall have the respective meanings given such terms under section 457(e).

“(B) C

ERTAIN OTHER GOVERNMENT AND NONPROFIT VOLUNTEERS.—

“(i) **IN GENERAL.**—Services rendered as a bona fide volunteer to a specified employer shall not be taken into account under this section as service provided by an employee.

“(ii) B

ONA FIDE VOLUNTEER.—For purposes of this subparagraph, the term ‘bona fide volunteer’ means an employee of a specified employer whose only compensation from such employer is in the form of—

“(I) reimbursement for (or reasonable allowance for) reasonable expenses incurred in the performance of services by volunteers, or

“(II) reasonable benefits (including length of service awards), and nominal fees, customarily paid by similar entities in connection with the performance of services by volunteers.

“(iii) S

PECIFIED EMPLOYER.—For purposes of this subparagraph, the term ‘specified employer’ means—

“(I) any government entity, and

“(II) any organization described in section 501(c) and exempt from tax under section 501(a).

“(iv) C

COORDINATION WITH SUBPARAGRAPH

(A).—This subparagraph shall not fail to apply with respect to services merely because such services are qualified services (as defined in section 457(e)(11)(C)).”.

(b) E

FFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2013.

f

EXECUTIVE SESSION

NOMINATION OF FRANCIS XAVIER TAYLOR TO BE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY

NOMINATION OF L. REGINALD BROTHERS, JR., TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY

NOMINATION OF MARK BRADLEY CHILDRESS TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Francis Xavier Taylor, of Maryland, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security; L. Reginald Brothers, Jr., of Massachusetts, to be Under Secretary for Science and Technology, Department of Homeland Security; Department of State, Mark Bradley Childress, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tanzania.

Mr. REID. Mr. President, I yield back all time on those nominations.
The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON TAYLOR NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Francis Xavier Taylor, of Maryland, to be Under Secretary for Intelligence and Analysis, Department of Homeland Security?

The nomination was confirmed.

VOTE ON BROTHERS NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of L. Reginald Brothers, Jr., of Massachusetts, to be Under Secretary for Science and Technology, Department of Homeland Security?

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The nomination was confirmed.
VOTE ON CHILDRRESS NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Mark Bradley Childress, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania?

The nomination was confirmed.
The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table. Under the previous order, the President will be immediately notified of the Senate's action.

f

LEGISLATIVE SESSION
The PRESIDING OFFICER. The Senate will resume legislative session.
f

PAYCHECK FAIRNESS ACT—
MOTION TO PROCEED
Mr. REID. Mr. President, I now move to proceed to Calendar No. 345, S. 2199.

The PRESIDING OFFICER. The clerk will report the bill.
The assistant legislative clerk read as follows:

A bill (S. 2199) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.
The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 345, S. 2199, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

Harry Reid, Barbara A. Mikulski, Patty Murray, Richard J. Durbin, Kirsten E. Gillibrand, Brian Schatz, Heidi Heitkamp, Martin Heinrich, Tammy Baldwin, Barbara Boxer, Debbie Stabenow, Mazie Hirono, Kay R. Hagan, Mary Landrieu, Claire McCaskill, Jeanne Shaheen, Dianne Feinstein, Amy Klobuchar.

Mr. REID. Mr. President, I ask unanimous consent the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?
Without objection, it is so ordered.

The Senator from Colorado.

WIND ENERGY

Mr. BENNET. Mr. President, I come to the floor today to talk about jobs and about one sector in particular that has created tremendous economic growth in Colorado and across the United States, and that is wind energy and the jobs it has brought to our State.

During last Thursday's markup in the Finance Committee, we worked in a bipartisan fashion to include a 2-year extension of the production tax credit, known as the PTC, and the investment tax credit, known as the ITC, for wind energy.

The wind credit has enjoyed broad bipartisan support from both sides of the aisle over a number of years, ranging from its original champion—who continues to be a champion—Senator G

RASSLEY from Iowa, to my friend and colleague from Colorado Senator MARK UDALL, who has been a tireless and relentless supporter over the years for wind energy jobs in Colorado. I know he will be a supportive advocate when the extenders bill reaches the floor. If enacted into the law, the extension of the production tax credit and investment tax credit will continue to drive job growth in my State of Colorado.

Sometimes I hear people say the government should not pick winners and losers in their critique of the wind energy tax credits. I actually agree with that notion, but what I would say to people who are listening to this on the TV is that when you hear someone in Washington say you shouldn't pick winners and losers, that is when you should hold onto your wallet. They say that is as if those decisions haven't already been made—as if winners haven't already been produced somewhere deep in the Tax Code in the last century or the regulatory code or the statute books. It is a reminder to ask yourself: Who is more likely to have benefits in this town? Is it the incumbent industries that have been working on these for decade after decade or is it the innovators in our economy? And, of course, time and time again it is the legacy firms that have the upper hand in these debates. I don't blame them for fighting for that advantage. But I also know they are not necessarily going to be the industries that are going to create the 21st century jobs we need, and whether we know it or not that is fundamentally the debate we are having. It is not a left-right debate in this town. It is future versus past debate, and it is critically important to

the next generation of Americans that we get this right.

This is an updated version of a chart I have been bringing to the floor for the last 4 years that shows some interesting relationships of lines relating to our economy. The top chart is GDP growth in the United States, and that is the green line. Here is the recession right here. You can see we are actually producing much more as an economy today than when we went into the recession. There is much greater gross domestic product.

This is the unemployment level. You can see at the depths of the recession the destruction in jobs the Presiding Officer saw in his home State, and we saw it in my home State. We were in a very difficult period at that time. We have actually begun to add jobs again, and we are almost back to where we

were. I think we are back to where we were in terms of job creation. This is a very stubborn and difficult issue for the people at home and the people I represent. This shows what has happened to median family and household income over periods of economic growth and over periods of economic decline. A way of thinking about that line is: What is happening to the middle-class income in this country? What is happening is the growth of middle-class income has decoupled from our economic growth. That, among other causes, has produced the worst income inequality we have seen in this country since 1928, I would argue, with the educational outcomes we have seen for kids, the most significant opportunity gap we have had in our lifetimes.

Why has this happened? There are a variety of reasons, but let me call your attention to this line. This is the productivity index in the United States. This shows how productive and efficient our economy has become. It has become incredibly efficient partly because of the use of technology, that is true, partly because of reaction to competition from overseas from China and India, and partly because the recession itself, which you can see, drove the line straight up because firms had to figure out how to get by with fewer people. That is our challenge. That is our central economic dilemma as we move into the second decade of this 21st century.

It is my view that there are two principal answers to that challenge. The first is education. I am not here to talk about that tonight, but just as a reminder, we are not going to recognize ourselves in this new century if we continue to perpetuate a set of outcomes in our K-12 system where if you are born poor in the United States, your chances of graduating with the equivalent of a college degree are roughly 9 in 100. That is completely unsatisfactory and outrageous, particularly for the kids we are talking about.

The other is innovation. We have to make sure we have the most innovative economy in the United States, and whether we are willing to lead the world; it is the companies that will start next week, the week after that, and the week after that, and the venture-backed companies that are somebody's bright idea today in their garage, but tomorrow could become the next Apple or Google. That is where the job growth and the wage growth is going to come from.

In my view the wind credit cuts right to the core of whether we are going to compete in a global economy. We are not talking about a fly-by-night experimental industry. This credit has triggered tremendous economic growth in Colorado and across the country. In Colorado alone, these tax credits directly support 5,000 jobs.

Vestas, which manufactures wind turbines, employs over 1,400 workers across four factories in our State from

Pueblo all the way up I-25 to Brighton

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and Windsor. They have hired 400 new workers this year with another 450 projected to be added before the end of 2014. This is it. Right here. Bricks and mortar. Real jobs. Made in America. It is not just manufacturing and design jobs near urban centers; it is also construction and operation jobs at the actual wind farms.

One Thursday night I left this floor, as I do almost every week—or it was a Friday morning, I guess. I flew back to Colorado. I got in the car and drove up to Peetz, where we have a wind farm. I climbed up to the top of a wind turbine. I thought that was it. I was in the pod at the top. That is not the technical term, but that is what it was. I thought I could then go home. When I got up there, they opened a trap door in the ceiling, and then I had to climb out on the roof of this thing, swaying over the Wyoming border, in the very shoes I wear on the floor of the Senate. That was an uncomfortable feeling, even though I was clipped in.

There was a guy up there who was one of the operators, one of the workers. He said: I would never have had this job in this community if it were not for this wind farm. If it were not for a vision somebody imagined several years ago but was unimaginable a decade ago, I would not have this job in this community.

This industry drives economic growth across our State from the conference rooms of tech startups in Boulder and Denver and all the way to 6,000-acre Kit Carson Wind Power Generating Site just west of the Kansas State line.

These are good jobs. In 2012, median household income for a single male in this country was just under \$37,000. Compare this figure to jobs in the wind industry—and these are all from the Bureau of Labor Statistics. Crane and wind tower operators have a median annual wage of over \$47,000. These are jobs that can't be exported overseas. They can't be exported overseas. The electricians on wind projects average nearly \$50,000 annually. Land acquisition specialists who secure the land where wind projects are located have a median salary of \$74,000, and site managers for wind projects make over \$100,000 a year.

So if we are looking for a way to say we would like to see median family income start to rise again in this country instead of going down whether we are in a period of economic growth or decline, we might start to look at things such as the wind industry. These are good-paying jobs, and we are seeing it more and more in Colorado and all across the country.

The production tax credit has driven \$105 billion in private investment, opened 550 industrial facilities, and provided \$180 million in lease payments to farmers, ranchers, and landowners who host wind farms. Wind power accounts for more than a third of all new U.S. electric generation in recent years. It has moved our State toward a

more diversified and cleaner energy portfolio. Colorado is in the lead in many ways, and we are proud of that.

Most importantly, 70 percent of a U.S. wind turbine is produced right here in the United States, and that creates 80,000 American jobs. When we travel the highways of my State, we see the component parts of these wind turbines moving from one plant to another, reflecting manufacturing jobs right here in the United States of America.

So I am delighted, I am glad, that we are moving to restore the wind credit that expired at the end of last year. We have seen this before where the PTC expired without a prompt extension, and it doesn't end well. Each time the credit has expired in the past, new installations fell between 76 and 93 percent, dealing a blow to the industry and its employees—and a reminder once again that what we don't do here actually matters out there in the real lives of people.

I know I sound like a broken record, but the world is not waiting for us to get out of our own way. We can't keep going through this unnecessary political boom-and-bust cycle. I am pleased the Senate Finance Committee took an important first step last week by reporting out a 2-year extension. We need to follow that with good work by bringing the extenders package to the floor and passing it into law. That outcome will give much-needed certainty to our industries and help secure the economic future for Colorado families who work in the wind industry.

With that, I thank the Chair for allowing me to speak this evening, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

f

DENYING ADMISSION TO THE UNITED STATES

Mr. CRUZ. Mr. President, the nomination of Hamid Aboutalebi to be the Ambassador from the Islamic Republic of Iran to the United Nations is a deliberate and unambiguous insult to the United States. Mr. Aboutalebi was an active participant in the terrorist group that took 52 Americans hostage on November 4, 1979, and held them for 444 days. There are no circumstances under which the United States should grant such a person a visa, and our immediate concern is to prevent Mr. Aboutalebi from ever setting foot on American soil.

But this nomination is not an isolated incident that is taking place in a vacuum. It is part of Iran's clear and consistent pattern of virulent anti-Americanism that has defined their foreign policy since 1979.

Given the larger strategic threat to the United States and our allies represented by Iran's nuclear ambitions, this is not the moment for diplomatic niceties. We need to send Tehran an equally clear message: The Senate is not going to ignore this most recent insult but, rather, is going to give our

President the authority to affirmatively reject it. Unanimous passage of the bill I have introduced, which specifies that engaging in terrorism against the United States is a basis to deny a foreign U.N. ambassador a visa to enter our country, will do just that, while also signaling to other unfriendly nations that we see this kind of offensive behavior for what it is, and we will not tolerate it.

I wish in particular to thank Senator C

OATS, who is a cosponsor of this bill, as well as Senator GRAHAM, Senator MCCAIN, and Senator KIRK for their leadership. I also wish to thank my friends across the aisle and, in particular, Senator S

CHUMER, Senator

LEAHY, and Senator MENENDEZ for working together with my office to reach bipartisan agreement. I am proud to join with all of my colleagues on both sides of the aisle in this effort, and I am encouraged that we can all come together in a bipartisan manner on this national security issue that transcends political parties. I am encouraged that the Senate can speak unanimously in a bipartisan voice defending the interests of our Nation.

Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. 2195 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?
Without objection, it is so ordered.

The clerk will report the bill by title.
The legislative clerk read as follows:

A bill (S. 2195) to deny admission to the United States to any representative to the United Nations who is engaged in espionage activities against the United States, poses a threat to United States national security interests, or has engaged in a terrorist activity against the United States.

There being no objection, the Senate proceeded to consider the bill.
Mr. CRUZ. Mr. President, I ask unanimous consent that the Cruz amendment at the desk be agreed to, the bill be read a third time and passed, the Cruz amendment to the title be agreed to, and the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.
The amendment (No. 2960) was agreed to, as follows:

On page 2, line 4, insert “been found to have been” after “has”.
The bill (S. 2195), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISA LIMITATION FOR CERTAIN REPRESENTATIVES TO THE UNITED NATIONS.

Section 407(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (8 U.S.C. 1102 note) is amended—

(1) by striking “such individual has been found to have been engaged in espionage activities” and inserting the following: “such individual—

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“(1) has been found to have been engaged in espionage activities or a terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)))”; and

(2) by striking “allies and may pose” and inserting the following: “allies; and
“(2) may pose”.

The amendment (No. 2361) was agreed to, as follows:
Amend the title so as to read: “A bill to deny admission to the United States to any

representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests.”.

The PRESIDING OFFICER. The Senator from New York.
Mr. SCHUMER. Mr. President, I know my colleagues and good friends are waiting. I will be very brief. I agree with the Senator from Texas that it was totally inappropriate that Mr. Aboutalebi was nominated in the first place. He was a member of the Muslim Student Followers of the Imam's Line, the group that seized the embassy on November 4, 1979, and held American staff hostage until 1981. There were New Yorkers I knew among that group.

While I believe that Mr. Aboutalebi's actions certainly would have made him ineligible for a visa under the Immigration and Nationality Act, I believe it is worth it to clear up all doubt about our ability to deny him a visa under U.S. law by passing this bill.

I am fully aware that now is a sensitive time in our negotiations with Iran regarding the future of the nuclear program. Nevertheless, it is exactly for this reason that Iran's leadership should not have unnecessarily escalated tensions with the United States by seeking to appoint an ambassador to the United Nations who materially aided terrorists who abducted American citizens. We should not further aggravate the pain of the individuals and families who suffered through the hostage crisis by allowing this individual to have a visa and diplomatic immunity within the United States.

So I support this legislation. I am glad it has moved forward in a bipartisan way. I thank my colleagues from both sides of the aisle for supporting this legislation.

I yield the floor.
The PRESIDING OFFICER. The Senator from South Carolina.
Mr. GRAHAM. Mr. President, I wish to recognize that this is a very important moment for the Senate to speak with one voice at a time when I think it matters to former hostages and their families. We heard you, Senator C

RUZ

heard you, I heard you, and our friends on the other side heard you. So it is good to know that the Senate is listening to people who have suffered in the past from this regime and Iran.

To Senators L

EAHY, MENENDEZ, and

SCHUMER, thank you very much for working with Senator CRUZ so we could reach this moment. I will do everything I can to get the House to act accordingly.

At the end of the day, it is very important that the Iranians not mistake how we view them. We have had our differences about Syria. We have had foreign policy disputes between the administration and Republicans, and sometimes Democrats, regarding how to move forward in the world. But this is a unique moment when all 100 Senators support the following statement to the Iranians: We remember who you are. We remember what you have done to our country and to our fellow citizens, and we are not going to forget. If you are listening in Iran, we have a very clear-eyed view in the Senate of who we are dealing with. So this is a very appropriate time to speak with one voice. I hope the Iranians will understand that we are resolved, Republicans and Democrats, to make sure they never possess a nuclear weapon.

With that, I yield the floor.
The PRESIDING OFFICER. The Senator from Ohio.
Mr. PORTMAN. Mr. President, as a cosponsor of this legislation, I applaud my colleagues who are here tonight. I think this is the right message to send. It is a sensitive time, so therefore we need to stand and be counted. I hope the House will act swiftly on this legislation.

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PAYCHECK FAIRNESS ACT—
MOTION TO PROCEED—Continued
JOBS AND THE ECONOMY

Mr. PORTMAN. Mr. President, I rise tonight at a time when we face a quiet crisis in this country. President Obama and many on the other side of the aisle tell us the economy has improved, we have turned a corner, we are out of the woods, but I can tell my colleagues too many Americans are being left behind. In fact, historic numbers of Americans are disconnected from work. It is a quiet crisis. It is affecting them and their families. It is affecting our economy in very fundamental ways. It is one of the reasons we haven't seen the economic growth we had hoped for because not enough Americans are involved in active work because so many are out of work. The unemployment numbers, by the way, don't show the degree of the problem. An unemployment number around 7 percent doesn't show the fact that a lot of folks have left the work force all together.

This crisis includes also 3.7 million long-term unemployed. These are people who have been out of work for 6 months or more. This is also at historic levels. During this recent recession and during this weak recovery over the last 5 years, we have had numbers of long-term unemployed, over 6 months, at historic levels. In fact, the number of long-term unemployed right now is higher than it has been during any recession in our Nation's history, except for the most recent one 5 years ago.

Second, we have a lot of people who have left looking for work all together. So a lot of these folks were long-term

unemployed, and they have now given up looking for work. Some 10.5 million Americans aren't even counted in the unemployment numbers because they have given up looking for work. The economists call this the labor participation rate. It is at historic lows for men, going back to the 1940s. In other words, more men are out of work—and that means not working or not even looking for a job—than we have ever had as a percentage of our population since we started keeping track of these statistics in the 1940s.

For men and women combined, we can go back to the 1970s—the numbers are so low for the participation rate in work. That goes back to the Carter era, when we had double-digit unemployment, double-digit inflation, and double-digit interest rates. We have to go back to that economy that was cratering in order to see the numbers of people who are out of work, not looking for work, and not even trying.

So we have a real problem in this country, and we are not addressing it. To make matters worse, people are saying: Well, Rob, this is actually the baby boomers, and it is people retiring early, so it is not that bad. That is not true. To make matters worse, it is a lot of young people. There was a recent Brookings study that came out a couple weeks ago which indicates that actually a lot of the problem is young men, single men, who are choosing not to work or cannot find a job and, therefore, they drop out of the workforce altogether. Again, this is not reflected in the unemployment numbers. This is not even reflected in the long-term unemployment numbers.

Disappointment after disappointment for many of these workers leads them to give up looking for work altogether. These Americans feel as if what we are doing here in Washington does not really affect them and their lives. They feel as if we are not dealing with this issue, so the underemployed, the unemployed, the long-term unemployed—the folks who are so disconnected from

work that they are not even looking for a job—they are looking at us in Washington saying: What are you going to do to help?

They are the reason I supported tonight this extension of unemployment insurance. Now, this was not exactly the legislation I wanted. But, also, it is not exactly the legislation that was brought to the floor. The other side of the aisle, the Democrats, brought legislation to the floor that was a long-term extension on an emergency basis. This is for people who have been out of work for over 26 weeks. This is the Federal addition to the State unemployment insurance that generally is in place for people for up to 26 weeks. The Democratic version was long-term—over a year. It also was not paid for, which would take us further into debt and deficit, which would hurt the economy. It also did not have any reforms.

The legislation that passed tonight with my vote—and some other Republicans—had three things. No. 1, it is

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short term—5 months instead of a year. No. 2, it is paid for, so it does not take us further into debt and deficit. No. 3, it does have some reforms to try to make the unemployment system work better to help these people who are long-term unemployed who otherwise have very little prospect of getting gainful employment, being productive members of our economy.

In fact, there are some studies out there saying that only 10 to 15 percent of them would normally be likely to get a job once they are out of work for 6 months or more because of the resume gap, because of the skills gap. So we have in this legislation—that I will talk about later in more detail—some reforms that add some skills training for the long-term unemployed. The notion here is that there are jobs available out there, and there are a lot of people, as we talked about, who are out of work—or the long-term unemployed, in this case—but they do not have the skills to match the jobs that are out there. So the notion is to bring the skills and the jobs together to deal with the skills gap.

Most on my side of the aisle—all but, I think, six of us—were against this unemployment extension because they argued that, instead, we need progrowth policies to get this economy moving. I totally agree with them about the progrowth policies. The ultimate solution here is not another extension of unemployment insurance; it is to reform the program rather than just have another check, to add the skills training, which we will talk about in a second. We need to do more there, but we also have to do what Jack Kennedy used to talk about. President Kennedy said, famously: A rising tide lifts all boats.

We need a rising tide. We need to create more economic growth and opportunity, and there is a plan to do this. It is called the Jobs for America Plan. The Senate Republicans have all signed off on it. It has seven elements, all of which make a lot of sense.

One is to ensure, on health care, we actually reduce the cost, increase choice. The economy is hurting now because the costs are going up, not down,

and sometimes dramatically.

Another is an all-of-the-above energy strategy, to use the energy here in the ground; having an all-of-the-above energy strategy to get America's economy going, moving our economy forward. We can do a lot more there.

Another is living within our means. The reason this unemployment insurance extension was paid for is because we Republicans insisted on it. Why? Because the debt and deficit are like a wet blanket over the economy. We do have to keep ourselves from going further into debt with our \$17 trillion debt.

Another is having Tax Code reforms that are necessary to spur economic growth. Both on the individual side and the business side our Tax Code is antiquated and inefficient. It will help to

give the economy a shot in the arm if we can reform the Tax Code. Another deals with regulations, unshackling job creators, helping to ensure that regulations are sensible, that they are not making it more difficult for small businesses to create jobs and opportunity. This is something we should be doing on a bipartisan basis.

Another is increasing exports. That means jobs. This President, this administration, has not been able to move forward with any export agreements because the President has not been able to get trade promotion authority. In fact, some on the other side of the aisle have said he will not get it. That would be tragic for America's workers, for America's farmers, for the people who provide services, who want to push for more exports because they create good-paying jobs and good benefits.

Then, finally, and significantly, part of this Republican plan for jobs is to create a competitive workforce to close the skills gap. That is what we are talking about here with the unemployment insurance issue. We need to ensure that our workforce is meeting the needs of the 21st century—meaning a lot of technology jobs, even in manufacturing, advanced manufacturing, bioscience jobs, information technology jobs. Those jobs are out there, as I said earlier. But, unfortunately, the Federal Government has not done a good job in providing the skills, giving people the tools to access those jobs.

So we have made some steps in this legislation. The legislation we passed tonight ensures that job training reforms are part of long-term unemployment insurance. The reforms require officials to connect with the unemployed early in the process and provide important information they are now not getting about the skills and credentials that businesses in their area, in their region, are looking for.

We have also included provisions to strengthen the skills assessment process to ensure that the long-term unemployed have a better idea of the specific skills necessary to become more competitive in the job market. That assessment is really important. A lot of these folks are starting to give up hope. The assessment is important for them to understand where they are and where they can be.

These measures are intended to give the unemployed the opportunity to attain critical skills and credentials that are regionally relevant and nationally portable so they can access not only available jobs in their area but so that they can find other jobs around the country. There are some States, as you know, where you have unemployment as low as 3 percent, and other States where unemployment is as high as 9 percent. So people do need to know what the opportunities are, should they be able and willing to move.

So that is part of this unemployment extension we did tonight, and that is something that was put in place be-

cause of negotiations between Republicans and Democrats alike to ensure that, yes, it was paid for, and, yes, it was not long term—it was short term—and, third, that we did put some skills training in place. I want to thank Senator J

ACK REED, Senator DEAN HELLER, and others who worked with us to ensure that was part of this package. But, folks, that is just the beginning. We have to do a lot more in terms of ensuring that our workforce programs in the Federal Government are meeting the needs of the 21st century.

So part of the Republican jobs plan is to say: Let's take the next step. By the way, there is a commitment from both sides of the aisle, from the people who worked this out, to work during this short-term extension to try to increase the opportunities to provide people the tools they need.

We have big problems, as I said. We have a lot of people who are long-term unemployed. It is at historic levels. We have historic levels of people who are disconnected from work altogether, and yet we have jobs that are out there and available.

They say there are 3.9 million jobs around the country currently available and unfilled—3.9 million jobs. That means about 25 percent of those who are out of the workforce could have an opportunity for a job if they had the skills and had the ability to meet the requirements for those jobs.

In Ohio, we have over 100,000 jobs available. You can go on the Web site and see them. These are not just part-time or minimum-wage positions. According to a recent study, Ohio is third—behind only California and Texas—in skilled factory job openings, full-time jobs with benefits that often turn into long-term careers.

The problem of chronic unemployment is holding back our economy. By not having the people to fill those jobs, the economy is not reaching its potential. In fact, some of those jobs are going overseas to find those skilled workers. The Manufacturing Institute recently concluded that 74 percent of manufacturers are experiencing workforce shortages or skills deficiency that keeps them from expanding their operations; 74 percent of manufacturers are not expanding plants and equipment and creating more jobs, as they could, because they do not have the workforce.

So I view this unemployment insurance debate as an opportunity—an opportunity to talk about this issue, an opportunity to put in place some initial reforms, some first steps for more skills assessment, more training, to encourage people to get the credentials they need to get a job. But it is only the first step. We should do much, much more.

The Federal Government is already very involved, by the way, in work retraining—not in a very productive way but very involved. There are 47 different Federal workforce training programs spread over 7, 8 or 9 departments

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and agencies, often overlapping. Often the right hand does not know what the left hand is doing. It costs us, by the

way, as taxpayers about \$15 billion a year. So about \$15 billion a year is going into worker retraining. Yet look at the results—again, record numbers of the long-term unemployed, record numbers of men disconnected from work. Something is not working.

The Government Accountability Office found that very little is known about the effectiveness of these 47 programs. They have said, unbelievably, that only five of these Federal programs have conducted an impact study of their efforts since 2004. So 47 programs and only 5 have conducted the kind of performance measures you would expect the government to do to be sure the taxpayers' money is being spent right and that you certainly would be doing in the private sector.

The GAO is kind of generous in its assessment because those millions of unfilled jobs and millions more struggling workers are as incriminating an indictment of our worker training programs as any impact study could ever be.

This is the story I hear all the time. Back home in Ohio, when I talk to workers, when I talk to businesses, when I talk to educators, people are frustrated. People are seeing these Federal dollars being spent but not for actual training. What is unbelievable to me is recent data shows us that the number of credentials people are getting through these Federal workforce training programs is actually going down, not up—at a time when it is clear that credentials are a key way to get a job.

It is unfair to employers who have open positions that they cannot find qualified candidates to fill them. It is unfair to taxpayers who send money to Washington believing the government is going to be a good steward of those funds, and it is not. And, of course, it is unfair to the millions of Americans who want to build a better life for themselves and for their families, but they need the tools.

A lot of jobs were lost in this last recession. Unfortunately, I believe a lot of them are not coming back. But other jobs are being created. But, again, they are jobs that require a higher level of skill. We have to be sure we are doing a better job providing people with those tools to get the skills they need. It is part of the plan that Senate Republicans are talking about.

A small step was taken tonight with the unemployment insurance extension. I do not think we necessarily explained it very well to all of our colleagues, but it was part of what happened tonight on the floor of the Senate. I am hopeful over the next few months we will take the next important step, which is actually to change the way these Federal programs work so they are more effective at dealing with this crisis.

I have a specific proposal that I like. It is called the CAREER Act. The CA-

REER Act—you can look at it on line. Go to portman.senate.gov. My cosponsor is M

ICHAEL BENNET, who spoke here earlier tonight. He is a Democrat from Colorado. He is a former education superintendent. He understands we need to change these programs to make them more efficient. To incentivize success, we have performance measures in our proposal, for instance. We do need to streamline and consolidate these programs. We also need to be sure we are rewarding job training providers that produce measurable results in actual job placement. It seems it is a pretty simple concept, but it is not happening now, as the GAO told us.

The unemployment extension, in my view, buys us a couple more months.

But that is time where we ought to be doing the hard work to ensure that workers have the skills they need to compete in this global economy. Again, companies look globally for workers these days—particularly larger companies. If we are not providing the skilled workforce here, our economy is not as productive as it could be, not meeting its potential, the rising tide is not lifting all boats because it is not rising. But we are also going to lose jobs overseas where there is more focus on the STEM disciplines, on engineering and math, on skills training.

We have to do a much better job at the Federal Government level, working with the States, working with the private sector. One thing we do in the CAREER Act is we connect the Federal funds with the actual private-sector jobs that out there to ensure we are getting a better result—not training people for jobs that are not even available.

So let's spend these next few months working on more strategies to help folks get jobs. Let's work on all of this because we need to have a growing economy. But with regard to the training part, let's fix a system that is not serving the unemployed. It is not serving the taxpayer. Let's deal with this crisis. Let's restore hope and opportunity to America's workers.

With that, I yield back my time.
The PRESIDING OFFICER. The Senator from North Carolina.

WAGE DISCRIMINATION

Mrs. HAGAN. Mr. President, I rise to join with my colleagues in addressing an issue that affects women and families across America every day; that is, wage discrimination. Over 50 years have passed since the Equal Pay Act was signed into law to require that men and women earn equal pay for equal work. Yet the wage gap between men and women remains persistently wide.

Tomorrow, April 8, is Equal Pay Day, the day that women's earnings finally catch up to what men earned during the previous calendar year. Women across our country have had to work more than 3 months into this year to match what their male colleagues made in 2013. It is time to end gender discrimination in pay.

That is why I am proud to again stand on the Senate floor as a cosponsor and strong supporter of the Paycheck Fairness Act. This important bill would close loopholes in our existing equal pay laws and ensure that gender-based pay discrimination cannot happen in the first place.

Some still question why we need this legislation. The numbers make it pretty clear. More than 50 years after the Equal Pay Act was passed women in America still earn only 77 cents for every dollar earned by men. In North Carolina it is a little better but still far from equal. Women earn 82 cents for every dollar earned by men doing the same work. To be sure, we have seen remarkable progress among women in North Carolina over the last 20 years.

Women have higher levels of education than men of the same age, and the share of employed women in my State who work in managerial and professional occupations has increased from 26 to 40 percent. While increased education has improved women's pay, it has not reduced the pay gap. Men are earning more money than women across all major sectors of the economy and at every educational level.

In fact, women in North Carolina who have some college education or an associates degree still earn less on average than men who have only received a high school diploma. In 2014, that is

simply unacceptable.

I will never forget a constituent whom I met at an event back home in North Carolina. A woman had her young son with her. They both had T-shirts on that had a number on the front. The mother's shirt said "94." The son's shirt said "50." If earnings continue at the slow pace at which they are growing now, those numbers, the 94 and the 50, signify the ages those two individuals will be when pay equality is finally achieved.

Sadly, at the rate we are progressing, most of us in the Senate will not live to see that day. We cannot afford to wait another few decades for this change. This wage gap has real consequences, not just for women but for their families too. In North Carolina alone, women head over 500,000 households. Women and families' economic security is put at risk when they are paid less than men for performing the same job.

In North Carolina women who are employed full time lose approximately \$9.8 billion each year due to the wage gap. Once again, just in North Carolina, these women, employed full time, lose approximately \$9.8 billion. That is real money. That is money that could be spent on a downpayment or a mortgage for a home, put away for their child's college savings or invested in a secure retirement.

Also in North Carolina there are 108,000 households with incomes below the poverty line headed by women. Closing the wage gap would help put food on the table for them, gas in their

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car, and pay basic necessities such as rent and utilities. In fact, closing the wage gap would allow a working woman in North Carolina to afford 63 more weeks of food, 6 more months of mortgage and utility payments, 10 more months of rent or 2,200 additional gallons of gas by changing that wage gap.

Addressing those disparities is critical to promoting the well-being of local economies across North Carolina and nationwide. When women thrive at work, their families and communities prosper as well. Later this week I will be voting for equal pay and to end wage discrimination. I am hopeful that partisan gamesmanship does not get in the way of a bipartisan issue that Democrats and Republicans, women and men across the country, overwhelmingly support. Congress needs to come together and pass the Paycheck Fairness Act because we need a stronger equal pay law to prohibit employers from retaliating against employees who discuss salary information with their coworkers. We need a stronger equal pay law to empower women to better negotiate their salaries and wages. We need a stronger equal pay law to provide businesses, especially small ones, assistance with equal pay practices.

On this eve of the anniversary of the Equal Pay Act, we need to close the loophole that allows pay discrimination to happen in the first place. The Paycheck Fairness Act would do just that by helping women successfully fight for the equal pay they have earned. In today's tough economic landscape, equal pay is about more than just principle, it is about ensuring

an economically sound future for all of our families.

I yield the floor and I suggest the absence of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.
Mr. MENENDEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLOMBIA

Mr. MENENDEZ. Mr. President, I come to the floor to speak to two issues, both in the Western Hemisphere, that I think are incredibly important. I come to the floor to speak about labor rights in Colombia and labor rights of workers around the world.

Three years ago today the U.S. and Colombian Governments announced the creation of a Labor Action Plan that identified concrete steps to address the challenges faced by Colombian workers—threats, deadly violence, and widespread informality that opens the door to worker abuse.

Both governments said that the implementation of the plan would be a precondition to enacting the free-trade agreement between our two countries. At the time I advocated that the standards laid out in the Labor Action Plan should have been part of the formal

free-trade agreement and should have included provisions for monitoring the plan's implementation.
It is true that the Colombian Govern-

ment initially made impressive steps, but unfortunately other aspects of the plan have not been fulfilled. Today the AFL-CIO and Colombia's National Union School have released reports evaluating the Labor Action Plan and identifying key areas where implementation has fallen short. I come to the floor to share these key findings.

In February I traveled to Colombia and met with Colombian union leaders and representatives of the National Labor School. I had a chance to meet with President Santos and Minister of Labor Rafael Pardo. We had the opportunity to review the important steps the Colombian Government has taken and what still needs to be done.

Shortly after the Labor Action Plan was established in April of 2011, nearly overnight Colombia established an independent Ministry of Labor. To date, the Ministry has hired more than 480 new labor inspectors and created a formal complaint mechanism for workers and unionists.

The Colombian Government reformed its penal code to strengthen sanctions against employers violating rights to free association. The Ministry of Labor has opened nearly 400 investigations of violations and issued nearly 70 sanctions. The government has directed its protection units to concentrate efforts on labor activists who are under threat. As a result of these steps, Colombia has made progress. According to the Colombian Government's own statistics, more than 530,000 jobs have been formalized in accordance with government standards.

While it is important to acknowledge the progress that has been made, the reports released today by the AFL-CIO and Colombia's National Union School

remind us that much more needs to be done. Aspects of the Labor Action Plan remain unfinished and risks to Colombian workers continue, specifically in the palm oil industry, sugar sector, oil industry, and ports sector.

Both reports point out, while some trade unionists have seen better protection from the government, others continue to face threats and violence. In 2013, 26 trade unionists were murdered. Equally troubling was the fact that in the cases of murdered trade unionists, 86.8 percent go unresolved in terms of the cases. The two reports recognize that in response to the Labor Action Plan, the Colombian Government took steps to address irregular contracting practices, specifically focusing on associated work cooperatives or CTAs as they are known.

But given the loopholes in new labor regulations that have come to light, the government has been unable to stem the rise of alternate hiring, such as simplified joint stock companies that keep workers from being directly hired and being entitled to benefits and collective bargaining rights. So there has been progress but clearly more needs to be done.

The report rightfully applauds the creation of the Ministry of Labor but also notes that the hiring of labor inspectors did not comply with international labor organization standards, severely affecting these inspectors' autonomy and technical capacity. As further evidence of the challenges of informal labor arrangements, a majority of labor inspectors are provisional hires.

When it comes to finding those guilty of violations, the Colombian Government has levied millions of dollars in fines against companies violating labor standards, but both the AFL-CIO and the National Labor School point out that not a single dollar of those millions of fines has been collected—one.

Fines hardly constitute a deterrent if companies know they will never have to pay the bill. As the U.S. and Colombian Governments along with organized labor in the United States and Colombia look forward, it is important that everyone come to the table, identify targeted goals, and establish benchmarks that will bring the kind of change we are all looking for, lasting change that protects workers and worker rights.

Given that the United States and Colombia renewed the Labor Action Plan through the end of 2014, now is the time to renew political commitment. Now is the time for collective action. Having met with Minister Pardo and knowing our colleagues in the Department of Labor, I know the political will is there. Now is the time for swift action.

Lessons from Colombia should be lessons for all of us, as the United States continues to engage in trade negotiations around the world. Our trade agreements must include the highest labor standards, concrete benchmarks for guaranteeing compliance with these standards, and a clear plan to monitor implementation. Anything less will leave the most vulnerable around the world at risk.

We are moving in the right direction when it comes to protecting workers and workers' rights in Colombia and around the world. Let's keep moving forward and aspire to the highest labor standards in every nation.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. MENENDEZ. I ask unanimous consent that the order for the quorum

call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBA

Mr. MENENDEZ. As the attention of the world has been focused on the pre-1991 Soviet behavior of President Putin in Crimea, I come to the floor to remind the American public and Members of this body that there is also a full-fledged humanitarian rights crisis ongoing in our own hemisphere, just 90 miles away from our shores in Cuba.

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As Ukrainians courageously fight to protect the democracy they won when the Berlin Wall fell 25 years ago this summer, the Cuban people continue to suffer from the oppression of a Soviet-style dictatorship that denies them the most basic rights. When the Soviet Union dissolved in 1991, millions of people—from Kiev to Budapest to Africa to Asia—were given their first chances in decades to build their own governments, a first chance to organize democratic elections, the chance to begin to determine their own futures.

Since the end of the Cold War, peace, prosperity and progress has largely been the order of the day for hundreds of millions of people but not for the people of Cuba. Not one of those core principles of democracy can be found on the island. Fidel and Raul Castro have been the only names on any ballot in over 50 years. Not one free election has been held, not one Cuban has been allowed to own their own company, not one legitimate trade union has been allowed to be organized, and not one peaceful protest has occurred without being brutally squashed by the regime.

No, this is the reality of Cuba today. It was the reality when the Berlin Wall fell, and it has been Cuba's reality for almost 60 years since Fidel Castro began taking control of every aspect of Cuban life. This reality in Cuba, a decades-long brutal oppression of simple human democratic rights, with total disdain for the aspirations of a people by the Castro regime, its military and communist lackey thugs who penetrate and control people's lives at all levels, should not be overlooked, should not be romanticized and it can never be explained away.

But, unlike Ukraine, where we have watched in horror as people have been ruthlessly beaten and killed for simply aspiring to democratic and transparent government, the Castro regime does not allow images of its oppression to be broadcast around the globe, let alone at home. Just because we do not see those images streaming across television sets and in the newspapers does not mean the world should not be watching. It does not mean we have turned the other way, and it does not mean we have overlooked the brutal and oftentimes lethal oppression of the Castro regime.

The number of people the regime has murdered or abducted is in the tens of thousands. Hundreds of thousands of children have been separated from their parents, maybe hundreds of thousands of families have been torn apart.

We don't even know how many have died in the Florida straits in search of freedom.

Millions of men, women, and young people have been forced into fields to cut sugarcane and perform other hard labor against their will. The average human worker lives on an income of less than \$1 a day. The Castro regime has been most adept—not at spreading education and prosperity—I listened to some of my colleagues recently on the

floor and, oh my God, what a paradise, a paradise that people are willing to take to makeshift rafts to flee from and die on the high seas, a paradise that has long lines at the U.S. interests section waiting to be able to come to the United States, such a paradise that there are well over 1 million Cuban Americans in the United States and others in Spain and throughout the world.

It is not a paradise that I think people flee from. But they are great—not at spreading education and prosperity, but at instilling a penetrating fear and terror in the style of a Stalinist police state. It has been going on since 1959. Unfortunately, these are all of the realities. It is not a thing of the past.

Let us not overlook the fact that arbitrary and politically motivated arrests in Cuba reportedly topped 1,000 for a third straight month this February, according to the Cuban Commission for Human Rights and National Reconciliation, a group inside of Cuba, formed and founded by Elizardo Sanchez Santa-Cruz—whose mission is to bring change and freedom—to report to the world. The commission reported that:

... arrests in the past three months have nearly doubled from the monthly averages of the previous 2 years.

We must remind ourselves every day of the continued oppression and human suffering that is happening, not halfway around the world but 90 miles from our own shores. The ongoing oppressive behavior of the Cuban regime we saw for the last half of the 20th century still haunts our hemisphere today.

While Putin has annexed Crimea, while one wonders what is next, while Assad continues to kill his own people in Syria, while the world is watching the Taliban in Afghanistan, and violence continues in the Central African Republic taking countless lives, the oppression of the Castro regime keeps rolling along unabated.

If there is a single symbol of that oppression, of the longing for freedom in Cuba, it is the Ladies in White, Damas de Blanco, and their leader Berta Soler.

This is a picture of Berta. The courage she has displayed, along with all the other women, to promote democracy and political freedom in Cuba has served as an extraordinary example for all of us and everyone around the world who longs to be free. Every Sunday they protest the jailing of their relatives by attending mass and quietly marching through the streets of Havana, praying for nothing more than the freedom of their relatives and respect for the human rights of all Cubans.

But, as we see in this picture, often arrested, roughed-up—let's go to the previous picture. These are some of the of the Ladies in White. All they do is dress up in white, they march with a gladiola—quietly—toward church. The response of the state regime is to detain them, beat them, jail them, and hold them for days, maybe weeks. They are released, then jailed again.

The Ladies in White are the symbol of freedom, and women such as Laura Pollan represent the story of thousands. She was a schoolteacher living

with her husband Hector, the leader of the outlawed Cuban Liberal Party. They were living a normal life in a small house on Neptune Street in Havana.

Early one morning there was a pounding on the front door. The police came in, searched everything. There was a sham trial held in Cuba. Hector was imprisoned, sentenced to 20 years in jail, and accused of acting against national security. His crime was dreaming of a free Cuba and putting that dream in writing.

Since I last came to the floor to speak about Cuba, I met Rosa Maria Paya, the daughter of the long-time political activist Oswaldo Paya. He was a Catholic and head of the Christian Liberation Movement who collected 25,000 signatures under a project called the Varela Project, a peaceful effort to petition the regime under the existing Cuban Constitution for freedom of speech and freedom of assembly. For his peaceful efforts he was awarded the Sakharov prize by the European Parliament.

His peaceful efforts were seen as a danger to the regime, a threat for which he was detained and arrested many times. Many times he suffered at the hands of the regime, and last year he died in Cuba, killed as Cuban state security rammed his car off the road.

What we know is that the car, driven by a Spanish politician from Spain, Angel Carronero, a citizen of Spain, and Jens Aron Modig, a party activist in Sweden, was involved in the fatal automobile accident that killed Paya and his Cuban colleague Harold Cepero. The circumstances surrounding Paya's death lead any reasonable person to conclude what really happened on that road in eastern Cuba that took the life of Oswaldo was an assassination. His daughter Rosa Maria immediately challenged the regime's version of events, stating that the family had received information from the survivors that their car was repeatedly rammed by another vehicle. She said:

So we think it's not an accident. They wanted to do harm and then ended up killing my father.

Ms. Paya was in Washington not long ago accepting a posthumous award from the National Endowment for Democracy on behalf of another Cuban activist who died alongside her father. At the time the U.N. Ambassador to the United Nations Samantha Power had come before the Foreign Relations Committee during the nominations process and assured me she would reach out to Ms. Paya when confirmed. Since then, she has not only met with Rosa Maria but also to directly challenge Cuba's Foreign Minister to permit an independent international investigation into Mr. Paya's death.

I want to commend Ambassador Power for standing with those still suffering in Cuba and with the family of

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Image 18

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Oswaldo Paya who died for advocating peaceful, democratic change and Christian values. But Cuba's reach doesn't end with

the detention or the death of dissidents
such as Paya. It doesn't end at the
water's edge. It goes much farther.
Cuba is the head of a new and dire

crisis in our hemisphere that we cannot ignore, and now we see the same
oppression of peaceful activists in Cuba
on the streets of Caracas.

Venezuela's political crisis is growing: 40 dead, hundreds injured, the nation's economy deteriorating, inflation
at record levels, and a scarcity of basic
food and goods. It sounds like Cuba to
me.

But behind Venezuela's economic crisis we can see Cuba's failed policies, expropriation, and nationalization of various sectors of the economy, fixed
prices in the consumer economy, criminalization of business leaders and
their companies, currency manipulation, and rationing of basic foodstuffs.
Behind Venezuela's political crisis we
can clearly see familiar Cuban tactics—the demonization of the dissent,
intolerance, and oppression of any form
of opposition, politicizing of the military and judiciary, the silencing of
independent television and radio stations, the shutting down of newspapers,
and the arrests of political opponents
doing nothing more than exercising
basic rights to freedom of assembly.

We see Cuba's destabilizing presence
is deeply intertwined in Venezuela's
crisis, not simply because of the actions but because of these facts. It
started with the discovery of 29 Cuban
spies on Margarita Island in Venezuela.

It grew steadily and insidiously
throughout the Chavez years with the
Cuban presence and key advisers from
Havana in almost every institution of
national government in Venezuela,
from the military, to intelligence agencies, to the health sector, to industrial
policy. And the result? Democracy subverted and innocent people dying from
bullets fired by the government and its
thugs, just like in Cuba.

Yet knowing the instability the
Cuban regime continues to spread,
amazing, amazing European nations,
nations in Latin America, then the
Caribbean, some of my colleagues in
this Chamber are seeking new opportunities to engage the Cuban regime by
easing sanctions at a critical moment
and fundamentally redefining our relationship with Cuba.

I couldn't disagree more. We can
never turn our back on what has happened and continues to happen inside
of Cuba. We can never have a wink and
a nod and say, well, it has been almost
50 years, that is long enough. Things
are changing for the better in Cuba so
we should ease sanctions when, in fact,
that is not the case at all.

As I listen to these human rights activists who finally have been able to
come from Cuba and visit with us, to a
person, they have said to me when I
have asked them, is there change?

They laugh and say: Senator, no, of
course, there is no change. Is there a
change in the economic system? No,
there is no change. Is there change in
your ability to organize? No, there is
no change.

They call for some of the most significant measures that I could imagine—based upon them being in the
belly of the beast, not some romanticism from outside. So, no, we should
not ease sanctions. That is not what
they are calling for. We should not let
up and we should not reward the Castro
regime for its human rights violations,
for the suffering it continues to cause
the people of Cuba. We should not reward the regime of the long dark years
that have been brought to the island.
And we should not ease tourism restrictions simply because the clock is
ticking. Those who wish to pursue that
type of engagement with Cuba must
not forget Cuba's history. It is also its
present state of torture and oppression,
its systemic curtailment of freedom.

Recent events tell us a different story than those who have the sense of romanticism about the Castro regime. It is the story of two terrorist states: Cuba and North Korea.

There is unshakable, undeniable, incontrovertible proof that the Cuban Government, colluding with North Korea, violated United Nations security sanctions regimes.

In July of last year, a North Korean ship was docked in Cuba's new Mariel Port facility. The North Korean ship—suspicious even to the most untrained observer—left the dock, and it wasn't long afterward it was seized by the Panamanian Government when it attempted to enter the Panama Canal. Panamanian authorities boarded the ship and what did they find? There in the cargo bays, under some 200,000 bags of sugar, authorities discovered 240 tons of weapons—bound for where? For where? North Korea, another terrorist state.

Apparently this evidence, to some of my colleagues, is not of concern, but that is not the end of the story. When authorities inventoried the 240 tons of weapons hidden beneath the 200,000 bags of sugar they found on the North Korean ship, they found 2 MiG aircraft, several SA-2, SA-3 surface-to-air missile systems, missile and radar components, and a cache of small arms and rocket-propelled grenades.

This is a depiction from the U.N. sources of what was found. I ask my colleagues, is this the behavior of a tired and old, benign regime, one that deserves our sympathy? Is there a misunderstanding that does not check enough terrorist boxes? Is this something we should justifiably ignore, falling under the category of Castro will be Castro or is this, at its core, the active and dangerous play of a terrorist state that we would not tolerate from any other Nation?

It seems to me that supplying a rogue nation such as North Korea with a secret cache of weapons demands

something more than the loosening of travel restrictions and the opening of trade. It demands exactly the opposite. We should treat Cuba and the Castro regime as we would treat any other state sponsor of terrorism, because it is. Yet here I am once again forced to come to the floor of the Senate to point to pictures of a North Korean ship in a Cuban port smuggling MiG aircraft and surface-to-air missiles and ask: Why should we turn a blind eye to what we clearly would not accept from Iran, Syria or Sudan? And why in God's name would we want to take this opportunity to reward the regime with cashflow so they can continue to oppress their people and subvert neighboring countries? Why should we accept the lame excuses given by the Cuban regime that somehow—despite the fact that many of the arms were still in their original packaging, despite the fact that others had been recently calibrated, despite the fact there was a fresh coat of paint over the insignia of the Cuban Air Force on the side of the MiGs to hide their origin, despite the fact that the entire shipment was covered with 200,000 bags of sugar to deceive—this was a purely innocent business transaction, an innocent business transaction, and that the arms were being sent to North Korea for maintenance and would have been returned to the island?

Does anyone actually believe such a ludicrous claim? Can we and should we simply ignore it and move on, even though U.N. weapons inspectors found that the shipment was a clear violation—a clear violation—of U.N. sanctions, that Cuba was the first country in the Western Hemisphere to violate international sanctions related to North Korea and that the shipment constituted the largest amount of arms shipped to or from North Korea since the adoption of Security Council resolution 1874 in 2009 and resolution 2094 in

2013? I repeat, the largest amount of arms shipped to or from North Korea. If that is not food for thought when it comes to easing restrictions against a terrorist state to our south, I don't know what is.

In recent years some would have us believe—and I have listened to some of my colleagues—that reforms led by Raul Castro placed Cuba on a path to economic progress, but if we look at the new law on foreign investment Cuba just passed last week, we get a clearer picture of the truth behind Cuba's economic model.

Let's be clear about this economic model. Under Cuba's new foreign investment law, investment projects will be allowed to be fully funded by foreign capital, business taxes on profits would be cut by 50 percent, foreign companies would be exempt from paying taxes for the first 8 years of operations in Cuba, and many foreigners living in Cuba would be let off the hook from paying income taxes at all. Think about it. The question is, Who wins? Who wins? Not the people of Cuba.

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Image 19

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The most glaring omission in this law is any benefit at all to the Cuban people. Instead of receiving a new investment opportunity or benefiting from tax cuts—although Cubans don't make enough to benefit from any tax cuts—they will continue to live under restrictive laws and regulations, unable to start their own business, unable to follow a dream or build a better life. They are left to live under the most restrictive laws preventing them from ever realizing their dreams for themselves and their families.

In fact, the Cuban regime has permitted people to work for themselves but only in 200 types of jobs the government officially sanctions. They have a list of authorized jobs that includes sewing buttons, filling cigarette lighters, street performing—not exactly lucrative startups that can build an economy. These authorized jobs bear more resemblance to a feudal economy than anything we would recognize as economic opportunity.

At the same time the government has moved aggressively to close inhome movie theaters, secondhand clothing markets, and fledgling private restaurants that it considers too large or too successful. Why? Because anything that allows Cubans to meet legally, lawfully, and as a group is seen as a threat to the regime. Simply allowing people to come together for what we take for granted in our country and most countries in the world is seen as a threat to the regime because God knows what those Cubans would do if they started talking to each other in a place where they had no fear.

While the Cuban Government offers new incentives to foreign investors and continues to clamp down on self-employed workers, the real economic change in Cuba is the growing role of the Cuban Armed Forces in the country's economy. Under the watchful eye of Raul Castro's son-in-law, a general in the Cuban Armed Forces, the military holding company, GAESA, has amassed control of more than 40 percent of Cuba's economy. Through companies such as GAESA, the government and the Armed Forces—those most loyal to the Castros—are laying a foundation for its future control of Cuba and the Cuban economy.

On the economic front, I think it is important to make the point that when people argue for travel and trade with

Cuba, they are arguing to do so with who—with Castro's monopolies. Let us be clear: Regular Cubans are prohibited from engaging in foreign trade and commerce. So do we want to trade with Castro's state-owned monopolies—monopolies that are largely controlled by the Armed Forces of Cuba? Do we? Do we truly want to reward a regime that sends the biggest amount of weapons to North Korea in violation of U.N. Security Council resolutions?

The U.S. Government's own report of agricultural sales to Cuba states how every single transaction with Cuba, by hundreds of American agricultural

companies, has only one counterpart—Castro's food monopoly through a state-owned company named Alimport. That hasn't helped the people one bit. So do we truly want to unleash billions to Castro's monopolies?

Also, every single foreign people-to-people traveler who currently stays at a hotel or resort owned by whom? By the Cuban military. No exceptions. No exceptions. So how does that promote independence of the Cuban people from the regime as President Obama's policy statement upon release of this regulation states? At the very least they should be compelled to stay at what we call a casa particular, which means a private home that used to be able to take in a visitor, but staying at the military facilities owned by the military or copartnering by the military with some foreign private sector contravenes the President's own policy statement.

This hardly constitutes an economic opening for the people of Cuba. By the way, if you are an individual Cuban, you can't go to a foreign company. You can't even go to the hotels in your own country unless you are invited in by a foreigner. You work there if the state sends you there. Those of us who get to work here, we actually would only be here because the state would send us here, not because through our abilities and competency we would have earned the opportunity to be employed here or anywhere else in this country or in the private sector. That is not possible for the average Cuban. So in their own country they cannot go to a hotel unless they are invited in by a foreigner. Imagine visiting throughout our country and not being able to go into a hotel unless somebody from some other country tells you you can go into it.

However, if there is one positive trend to be found in Cuba today it is that after decades of fear and self-imposed silence there is a growing and growing number of Cuban citizens beginning to speak out critically, increasingly in public.

In June of 2012, Jorge Luis Garcia Perez—known as Antunez—testified at my invitation before the Foreign Relations Committee via Skype from the U.S. intrasection, as you can see in this photograph. After he testified he was beaten and detained for his testimony on human rights abuses on the island, but that didn't stop him. It didn't stop the bloggers from the Cuban diaspora from getting the word out.

After decades of being manipulated by the Castros, the people of Cuba no longer identify with the government. While the government still holds power through its security operations, its legitimacy is plummeting in the opinions of its people. So after 55 years of dictatorship, it is our responsibility in the international community to encourage this independence and help the people of Cuba reclaim their rights—rights to freedom of expression, rights to organize unions, rights to freedom of

assembly, rights to freedom of the

press, rights to freedom of religion—universal human rights, the rights and freedoms that will be the building blocks of a new and Democratic Cuba of the future.

But let us not be misled. Although Berto Soler—the ladies in white that I showed earlier—is now allowed by the regime to visit the United States and Europe after an enormous amount of international pressure, when she returns to Cuba there is no change in the status of the ladies in white. The pictures I showed of the beatings and the arrests is still their reality. Every move she and her courageous partners make is monitored by the Castro regime. They are physically harassed intimidated and arrested. Why? For simply wanting what any mother in any country on the face of the Earth wants—to learn the fate of her husband, her son or daughter who has been harassed, beaten and jailed by an aging, illegitimate regime.

According to the Cuban Commissioner for Human Rights and National Reconciliation, there were more than 15,000 cases of arbitrarily, politically motivated detentions since the start of 2012. In January of this year, when 30 heads of State from Latin America and the Caribbean came together, as well as the Secretary General of the United Nations and the Secretary General of the OAS, at a summit in Havana, there were more than 1,050 detentions over the course of 1 month.

In one prominent case, a leading Afro-Cuban political activist, intellectual, and known leftist Manuel Cuesta Morua was arrested after attempting—to do what? To organize a parallel civil society summit during the visit by the heads of state.

This simple practice—a practice not uncommon and, in fact ubiquitous throughout Latin America and the world—is not tolerated by the Castro regime.

Instead, Mr. Cuesta Morua faced 5 days of intensive interrogation and has been charged with “disseminating false news against international peace,” joining prominent activists Jorge Luis Garcia Perez Antunez and Guillermo Farinas—who was awarded the Sakharov Prize by the European Parliament—simply because they knew there were heads of state throughout Latin America and of major international organizations wanting to hold a parallel meeting, peacefully doing so to promote their vision of what human rights and democracy should be inside of their country. Their result was to ultimately be jailed and face the charges which can leave them for many years in jail.

Unfortunately, except for one or two, most of the leaders of the hemisphere who went to that meeting didn't even try to meet with the human rights activists, political dissidents, or independent journalists because they did not want to insult the Castro regime.

Here is Farinas shown being taken away by the police. These activists

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have faced repeated brutal acts at the

hands of the Castro regime—no less violent than the regimes of any other terrorist state.

Finally, it is important to note that detentions, violence, and harassment are not reserved for political activists alone but also directed at labor rights activists as well. In early March of this year AFL-CIO President Trumka called on the Cuban Government to end its harassment of Mr. Cuesta Morua and all independent union activists advocating for labor rights to protect Cuban workers, such as Morua and Maria Elena Mir and her colleagues.

American workers are not turning a blind eye to what the Cuban regime is doing to limit worker rights, and we should not turn a blind eye either. We must support those such as Morua and Maria who are willing to step forward for labor rights in the face of a repressive regime that will not stop at anything to silence them.

As the people of Cuba look to cast off the shackles of five decades of dictatorial rule, we must stand with and speak out in support of all those who seek to reclaim their civil and political rights and promote political pluralism and democratic values. We cannot turn our back on Cuba's human rights violations record for decades simply because "enough time has passed." If that is the case, enough time has surely passed in places such as Syria, Sudan, Iran, and North Korea.

To me and to the thousands who have suffered at the hands of this regime, the clock has nothing to do with our policy options. Engagement and sanctions relief have to be earned. It can't be timed out. It must come through real change, not Xs on a calendar or the ticking of a clock. And the clock is ticking for Alan Gross.

On December 4, 2009, Alan Gross, a private subcontractor for the U.S. Government, working to bring information to the Jewish community inside of Cuba, was arrested in Cuba. Mr. Gross, a 64-year-old development professional who worked in dozens of countries around the world with programs to help people get access to basic information, was doing nothing different. That is why I am amazed with this uproar which exists by some who want to paint this picture that, my God, we actually were trying to assist the Cuban people to have greater access to the Internet through a Twitter program. That is what we do throughout the world. Even the foreign operations legislation talks about tens of millions of dollars—not several hundred million dollars—to be promoting Internet access in closed societies.

It seems to me that freedom of information is one of the most fundamental elements, and yet we have this bit of a firestorm going on over simply creating the possibility for people to have access to information so they can speak for themselves and hear unfettered what is happening in the outside world. We all condemned what is hap-

pening in Turkey when the head of Turkey ultimately tried to shut down Twitter, but somehow it is OK to shut down the people of Cuba.

Since 2009, Alan Gross has been detained in Villa Marista, a prison in Havana notorious for its treatment of political prisoners by the Cuban National Security Agency. This is not a minimum-security prison where foreigners are routinely held. It is a harsh, repressive prison reserved for Cuban dissidents. He is still being held at Villa Marista, and it is time for the Castro regime to let this American be released. He did nothing wrong. After serving 4 years now of a 15-year sentence, this 64-year-old American's mental health is reported to be deteriorating and his life may well be in danger.

The case of Alan Gross is only one example of why we cannot let up until the dead weight of this oppressive regime is lifted once and for all.

We have supported democracy movements around the world. I have been a

big advocate of that in my 21 years in the Congress, in the House and the Senate, serving on both foreign policy committees. I am a big advocate because freedom and democracy and human rights, when they are observed, mean we deal with countries in which we will have less conflict and more opportunity. It is the idea upon which this Nation was founded, and it is who we are as a people and what we stand for in the eyes of the world.

We can no longer condone, through inaction and outright support—in some cases even from some of my colleagues in this Chamber—the actions of a repressive regime 90 miles from our own shores simply because of the passage of time or because of some romantic idea of what the Castro regime is all about.

So to my colleagues, let me say, I know I have come to this floor on many occasions demanding action. I have come to this floor demanding that we live up to our rhetoric and our values. I ask that we hold the Castro brothers accountable for the suffering of the Cuban people—not only the years of brutality and oppression which have deprived the Cuban people of the basic human rights we so proudly proclaim to support around the world, but also for the continuing reality of the suppression of those human rights today. I will come to the floor again and again to ask for nothing less, to ask that we never allow the Castro regime to profit from increased trade which would benefit the regime and will use these dollars for repression but not put one ounce of food on the plates of Cuban families.

I will end with this photograph of a man being arrested in Havana and flashing a sign recognized across Cuba and throughout the world. The sign is “L” for liberty. Libertad. That is all we ask for the people of Cuba, and I won't rest until we achieve it.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.
The assistant legislative clerk proceeded to call the roll.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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MORNING BUSINESS

Mr. MENENDEZ. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

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LEAGUE OF WOMEN VOTERS OF LAS VEGAS VALLEY

Mr. REID. Mr. President, I rise today to honor and recognize the 50th anniversary for the League of Women Voters of the Las Vegas Valley. On May 7, 1964, the league held their first meeting, which was attended by just a handful of women in Las Vegas. Fifty years later, because of the hard work and relentless service of its founding members and their predecessors, the league today continues to be a resounding voice for Southern Nevadans on issues that matter most to women, families, and communities.

Upon the league's inception and formal recognition from the National

League of Women Voters in 1965, the group began organizing around issues such as school integration, open housing, environmental conservation, and education. By coming together, league members found great success on many of the issues they championed. Today, the league remains a vital force in the Las Vegas Valley around similar, important social causes. Some of the league's earliest members included distinguished Southern Nevadans, many of whom are personal role models of mine, like Flora Duncan, Margaret Quinn, and Jean Ford. Over the years, countless others began their path to leadership with the League.

As I stand to honor the league on this special occasion, it is also important to recognize that this year we celebrate the 100th anniversary of women having the right to vote in Nevada. In 1920, the 19th Amendment to the U.S. Constitution was passed to prohibit any United States citizen from being denied the right to vote on the basis of sex. I am proud that in my home State, we had already recognized women's right to vote 6 years earlier.

Nevada was a leader among States in the fight for women's suffrage—undoubtedly, this achievement was due to the remarkable and pioneer-like spirit of those Nevadans behind the movement. This spirit still exists today among organizations like the league and its members.

Across the U.S. and in every State, women have had the constitutional

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right to vote for just short of a century. It is important that citizens, both women and men, do not take for granted their right to be heard. For this reason, it is fitting that we honor the League of Women Voters of Las Vegas Valley as their work offers each new generation the reminder that civic engagement has been, and continues to be, one of the most important rights we have as we strive to make our community and our country a better place to live. I applaud and celebrate with the League of Women Voters of Las Vegas Valley on their 50th anniversary.

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MARRIAGE EQUALITY IN VERMONT

Mr. LEAHY. Mr. President, today I am particularly proud of my home State, as we commemorate the fifth anniversary of the passage of

Vermont's law guaranteeing marriage equality.

Throughout history, Vermont has taken a leadership role in America's journey to build a more just society. Vermont was the first State in the Union to outlaw slavery, and

Vermonters offered shelter to runaway slaves seeking refuge while in transit to Canada—serving as one of the last stops on the Underground Railroad. Vermont was also the first to adopt universal manhood suffrage, regardless of property ownership.

It is because of this history that it is not surprising that Vermont has been at the forefront of our Nation's march

toward marriage equality: Vermont was the first State to provide civil unions to same-sex couples back in 2000. On April 7, 2009, Vermont took the next step, overriding a veto to pass legislation affording marriage equality to all Vermonters in loving relationships who wanted their commitment recognized by the State. Once again

Vermont led the Nation by granting marriage equality for the first time through democratically elected officials on a bipartisan basis, instead of through the courts.

This is not to say that it was easy. The initial move toward civil unions fomented heated debate among Vermonters and throughout the Nation. Several courageous leaders, such as the late Republican U.S. Senator from Vermont Bob Stafford, and State Representatives Bill Lippert and Marion Milne, among others, showed us the way, and their advocacy for equality was powerfully moving. Like many Vermonters, I listened to advocates, friends, and neighbors who reminded us that love and commitment are values to encourage and not to fear. I continue to be inspired by the inclusive example set by Vermont.

Now, 5 years later, 3,766 same-sex couples have married in the State of Vermont, 17 States and the District of Columbia have marriage equality, and the Supreme Court has decided a landmark case on the issue of same-sex marriage. In that case—United States

v. Windsor—the Court struck down Section 3 of the Defense of Marriage Act, which defined marriage for purposes of Federal law as “only a legal union between one man and one woman.” The Court reasoned that the law deprived couples of equal liberty as protected by our Fifth Amendment. All Americans deserve equal justice under the law, and Marcelle and I, married for more than 50 years, celebrated this important decision, which pushed the Nation farther on its path toward equality.

As chairman of the Senate Judiciary Committee, I have long worked to make civil rights a focal point of our committee’s agenda and a priority in the Senate. I often hear from those who think that the struggle for civil rights is over—that this issue is one for the history books. I remind them that this is our recent history and that while we have made great strides, there is still much work to be done. The march toward equality must continue until all individuals—regardless of sexual orientation, gender or gender identity, race, ethnicity, religion, or disability—are protected and respected, equally, under our laws. I am confident that Vermont will continue to lead the way, and I am proud of all that we have already accomplished.

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SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH

Mr. LEAHY. Mr. President, April is Sexual Assault Awareness and Prevention Month, and it is an important reminder of the ongoing problem of sexual assault in our nation.

The Violence Against Women Act, VAWA, which first passed in 1994, has had an astounding impact on reducing sexual and domestic assault in our country. The annual incidence of domestic violence has dropped more than 50 percent since VAWA became law. This groundbreaking bipartisan legislation included many provisions critical to supporting and improving services for all victims of sexual assault and ensuring that law enforcement has the tools it needs to find and prosecute perpetrators. I was proud to author the Leahy-Crapo Violence Against Women Reauthorization Act of 2013, which was signed into law by President Obama last year.

The Leahy-Crapo Violence Against Women Act built upon past successes and expanded its protections to more inclusive to the victims most at risk of domestic violence and sexual assault, including LGBT, Native American, and immigrant victims. One aspect of this important effort that did not receive much attention is how it increased focus on sexual assault prevention, enforcement, and services to encourage reporting. It also increased support for programs that improve law enforcement and forensic responses to sexual assault and to address backlogs of untested rape kits. These improvements, along with the many others made in

the reauthorization, will continue to advance the national response to sexual assault. Our bipartisan effort last year is

making lives better today, but there is much more we must do. The National Network to End Domestic Violence, in their annual National Domestic Violence Counts Census, found that every day 9,000 service requests go unmet because of a lack of resources. This is not acceptable. Every day tens of thousands of victims turn to domestic and sexual violence services providers for support through emergency safe shelters, legal assistance, and child support groups, and we must do all we can to ensure these needs are met.

We cannot stop by simply supporting a strong VAWA law. That is why I was proud to support the 2013 National Defense Authorization Act, which included historic reforms to sexual assault prevention and response within the military. I was also heartened last month when the Senate came together to pass the Victims Protection Act of 2014 by a vote of 97 to 0. This legislation takes even greater steps to encourage military servicemembers to come forward and report sexual assault. As I have said many times, a victim, is a victim, is a victim. We must protect all victims, including our Nation's service men and women, and that means working to decrease the fear of stigma or inaction that can often deter reporting.

Following the reauthorization of VAWA, the passage of the NDAA, and the Victims Protection Act, I hope the Senate will soon approve the bipartisan Justice for All Act reauthorization that I authored with Senator J

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CORNYN. I was proud to author the original legislation, and our reauthorization includes many critical provisions for victims. Importantly, our bill reauthorizes the Debbie Smith DNA Backlog Grant Program, which seeks to reduce the backlog of untested rape kits and other DNA evidence. This program is named after Debbie Smith, who waited years after being attacked before her rape kit was tested and the perpetrator was caught. Every Senate Democrat has cleared the way for passage the bipartisan Justice For All Act reauthorization, and I hope Senate Republicans will act quickly so we can pass this measure that means so much to rape survivors and all victims of crime.

I applaud the tireless work of the many advocates who work on behalf of victims each day and thank them for their dedication to this critical problem. Together we have taken significant steps to ensure victims of sexual assault have access to the services they need to rebuild their lives, that law enforcement have the tools they need to prosecute those who commit these horrific crimes, and to reduce future incidences of sexual assault through education and prevention efforts. Last year, the Senate stood up for the survivors of rape by passing the Leahy-

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Image 22

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Crapo Violence Against Women Act reauthorization. Today, as we mark Sexual Assault Awareness and Prevention month, I hope Senate Republicans will join Senate Democrats to stand with them again by passing the Leahy-Cornyn Justice For All Act.

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TRIBUTE TO SERGEANT JESSE T. WETHINGTON

Mr. MCCONNELL. Mr. President, this past Saturday, April 5, I was extremely pleased and honored to be a part of the awarding of the Purple Heart Medal to a brave soldier Kentucky is proud to call one of its own. SGT Jesse T. Wethington of Liberty, KY, received his Purple Heart for wounds suffered while serving our country in Iraq. I want to share the honor and majesty of this event with my colleagues and so therefore ask unanimous consent that the full text of my remarks at the ceremony to award SGT Jesse T.

Wethington his Purple Heart, as well as the text of the proclamation for the Purple Heart be printed in the R

ECORD

following my remarks.
There being no objection, the material was ordered to be printed in the R

ECORD, as follows:

SENATOR MCCONNELL'S REMARKS AT AWARDING OF PURPLE HEART TO SERGEANT JESSE T. WETHINGTON, APRIL 5, 2014
Thank you for that kind introduction.

Thank you, General Dolan, for the invocation. It is my great honor to be here for the presentation of the Purple Heart Medal to Sergeant Jesse T. Wethington of Liberty, Kentucky, for wounds received in action while in service to our country in Iraq. It is an honor that is long overdue.

Because we are here to recognize the service of a brave soldier, it is fitting to be at VFW Post 1170. I want to thank our hosts, led by VFW Post Commander Dwight Riggle. I also want to thank VFW State Commander Joe Schnitterbaum and VFW leaders Brian Duffy and Carl Kaelin for all they have done in support of America's veterans.

It's a pleasure to have Chris Smrt and the Kentucky chapter of the Military Order of the Purple Heart here today to welcome Sergeant Wethington into their ranks. Chris and the Military Order of the Purple Heart, like the VFW, are strong advocates for our veterans.

And on this day when we're honoring a Kentucky Guardsman, it's wonderful to see so many Kentucky Guard soldiers and airmen here today, including our outstanding Adjutant General, Ed Tomini.

Finally, I'd like to welcome the folks who came here from Jesse's hometown of Liberty, including Jesse's wife, Ashley; his daughter, Hannah; his mother, Gayle; Jesse's brother, Chris, and Chris's wife, Dorothy; Jesse's mother-in-law, Mrs. Hope Metz; and Liberty VFW Post Commander and former State VFW Commander Claude Wyatt. Welcome to VFW Post 1170.

The original Purple Heart, also known as the Badge of Military Merit, was established by George Washington himself, and as such, the Purple Heart is the oldest existing military award that is still given to servicemembers.

I think the commander of the Continental Army and our first president can speak better than I to the courage and bravery which this award represents. In July of 1776, at the outbreak of the War for Independence, Gen-

eral Washington wrote in his own hand the

weight of the task that had befallen him and his army. He said:
“The fate of unborn millions will now de-

pend, under God, on the courage and conduct of this Army . . . we have therefore to resolve to conquer or die. . . . Let us therefore rely upon the goodness of the cause, and the aid of the Supreme Being, in whose hands victory is, to animate and encourage us to great and noble actions. The eyes of all our countrymen are now upon us.”

That same patriotism—that same Spirit of ’76—which was embodied by the leader of the Revolutionary Army lives on today in those in uniform such as Jesse. Perhaps that is inevitable in Jesse’s case, given that he hails from a place called Liberty, a town founded by Revolutionary War veterans in 1806.

Although warfare has changed dramatically since the Revolutionary Era, the valor of our warfighters, such as Jesse, remains the same. That valor would have been instantly recognizable to George Washington.

It is the same valor that propelled Americans to victory against the mighty British Empire. The same valor that propelled Americans to die for other men’s freedoms in the Civil War. The same valor we remember in the Greatest Generation, men and women who sacrificed halfway around the globe to save democracy. The same valor displayed in Cold War conflicts in Korea and Vietnam.

Sergeant Wethington’s service is simply the latest chapter in a long and unbroken line of heroism and sacrifice, a line that is as old as our country.

The story of Jesse Wethington, the soldier from Liberty, is like that of those who served in the Revolutionary War—it is the story of a volunteer. Jesse could have chosen any number of paths, paths that would not have involved protecting “the fate of unborn millions,” paths that would not have placed him in imminent danger.

Instead, Jesse volunteered to serve in the Kentucky Army National Guard. He volunteered to go on the road in a Humvee that would be targeted by the enemy in Iraq. He volunteered to sit in the gunner’s turret. And even after his injury in combat, Jesse volunteered again to sit right back in that gunner’s turret through the end of his tour of duty.

Jesse was mobilized with Battery B, First Battalion, 623rd Field Artillery of the Kentucky Army National Guard in late 2004, and he deployed to Iraq in January 2005. He served as a communications specialist and worked in the tactical operations center at the forward operating base.

In his communications role, Jesse had a view of his entire unit’s activities. He saw the gun trucks and Humvees that deployed every day, and how often they were targeted by the enemy’s IEDs. He saw good men, friends of his, injured. He saw the deaths of three soldiers in his unit, Kentuckians all.

Knowing these things, knowing all the risks involved, Jesse still volunteered. And when a spot opened up in a gun truck, Jesse stepped forward and said, “Send me.” Jesse volunteered yet again to serve as a gunner. He encountered several IEDs on the road, but always came away uninjured. Until the fateful day of September 30, 2005.

On that day, Jesse’s Humvee was moving slowly through congested traffic as part of a convoy. It stopped, and Jesse stood up in the gunner’s hatch to direct traffic. Suddenly, an IED struck the right side of the truck with devastating force. The impact from the blast was so great it sent shrapnel hurtling through the back window, just missing Jesse’s right leg and embedding itself into a storage bin within the Humvee.

Jesse suffered injury to his throat and the back of his head. After the explosion, he

could not hear, and his vision and thoughts were blurred. Yet, amazingly, he continued his mission. Upon returning to the base, Jesse received medical care, and after a few days of light duty returned to the gunner's turret. He finished out his tour of duty through the end of the year and returned from Iraq in January 2006.

Unfortunately, Jesse's departure from the battlefield didn't end his struggles. He suffered traumatic brain injury, hearing loss, and post-traumatic stress disorder, and he is continually confronted by the effects of his injuries.

Through all these difficulties, I know Jesse's greatest source of strength and support is his family, especially, Ashley and Hannah.

Coincidentally, the very same day Jesse found out he would be receiving this Purple Heart, he and Ashley also discovered they would be having a baby boy. It is entirely fitting that news of both events arrived on the same day, given Jesse's valor in defending the "fate of unborn millions."

Before the presentation of the Purple Heart Medal, I want to note that there is another hero in this story. It's Jesse's friend and fellow soldier, retired Staff Sergeant Glen Phillips, who we heard from earlier this morning.

It was Staff Sergeant Phillips who gathered the facts in order for Jesse to receive his Purple Heart today. Glen, who is also from Liberty, has helped look out for Jesse and many other veterans over the years.

When Jesse told Glen he didn't think anyone would care that he had yet to receive his Purple Heart, this is what Glen had to say: "Jesse, I care, the VA cares, the U.S. Army cares, and people you don't even know care across this great land."

I couldn't agree more. I think the witnesses here today for this solemn occasion are proof positive that Kentucky does indeed care and cares deeply about you, Jesse, and your bravery in uniform. And we are grateful for all you have done and continue to do to make us proud.

And I believe that many people who are not present today—including, one day, your son—will see how you served in Iraq with dignity and honor, will see that you continue to carry yourself with dignity and honor here at home, and will see the Purple Heart proclamation of your heroism. And they too will be moved by your service and your sacrifice.

The presentation of this Purple Heart Medal is just a small recognition of the wealth of respect you deserve for your service to our country. Your service in protecting all of us. And your service to the values that make America the greatest nation on earth—values expressed by General Washington and the men who founded a place called Liberty more than two centuries ago.

Now, the solemn moment we're gathered here today for has arrived. Sergeant Jesse T. Wethington, Ashley, and Hannah—please join me for the reading of the proclamation and the presentation of the Purple Heart Medal.

T

EXT OF PURPLE HEART MEDAL
PROCLAMATION

THE UNITED STATES OF AMERICA
To All Who Shall See These Presents, Greeting:
This is to Certify That the President of the

United States of America Has Awarded
the PURPLE HEART
Established by General George Washington

At Newburgh, New York, August 7, 1782 to:
Specialist Jesse T. Wethington
United States Army
For Wounds Received in Action
On 30 September 2005 in Iraq
Given Under my Hand in the City of Washington

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tjames on DSK3TPTVN1PROD with SENATE

Image 23

CONGRESSIONAL RECORD — SENATE S2191 *April 7, 2014*

This 5th Day of March 2014
David K. MacEwen
THE ADJUTANT GENERAL
Permanent Order 064-08, 5 March 2014
United States Army Human Resources Com-

mand

Fort Knox, Kentucky 40122-5408
John M. McHugh
SECRETARY OF THE ARMY
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SCHOOL FOOD MODERNIZATION ACT

Ms. HEITKAMP. Mr. President, our kids spend at least 7 hours a day at school working, learning, growing, and trying to build themselves into the people they want to grow up to become. It is our job to help them. That means giving them the education they deserve. It means giving them the support they need to keep working hard. And it means making sure they get healthy meals to keep them strong and to give them the fuel they need to focus in class.

That is why Senator S

USAN COLLINS

from Maine and I introduced the School Food Modernization Act, which would help schools provide healthier meals to students in North Dakota and throughout the country. This bill would continue ongoing efforts to provide healthy meals for our children during the school day and make sure schools have the resources they need to get the most nutritious food to students.

Providing healthy meals is particularly important as childhood obesity rates in the U.S. have tripled over the last three decades. More than 23 million adolescents and children in our country—nearly 1 in 3 young people nationwide—are obese or overweight. According to the American Heart Association, it is the No. 1 healthy concern among parents—more than drug abuse and smoking. Even in my State of North Dakota, which is consistently ranked as one of the healthiest States in the country, more than 1 in 8 adolescents are overweight or obese.

Improving the nutritional quality of school meals can help fight the obesity epidemic, putting children on strong footing to prevent long-term health concerns related to obesity, such as diabetes, heart disease, and stroke. In 2010, Congress passed the Healthy and Hunger Free Kids Act to improve the school nutrition standards. It made important improvements to nutrition standards in school meals, but was not perfect. Most importantly, it mandated school lunch requirements without offering real support to reach those standards.

Senator C

OLLINS and I are working to improve these standards in order to provide greater flexibility to school

meal planners to make sure they can provide students with the nutrition they need in workable fashion. We are also offering grant assistance to help schools get resources to comply with standards.

Another way we can help provide more nutritious meals to students is by providing our schools with the necessary tools to prepare meals and store

fresh produce. While nutritional standards for meals served in our schools have increased considerably, support for schools to implement these important changes has lagged behind.

Many school kitchens were built decades ago and designed with little capacity beyond reheating and holding food for dining service. In fact, according to the Pew Charitable Trusts, 74 percent of school districts in North Dakota need at least one piece of kitchen equipment to better serve healthy meals. We can do better than that.

The legislation we introduced would give schools greater access to the equipment they need to prepare healthy meals, reduce waste, and make resources stretch further.

Specifically, our legislation would provide targeted grant assistance to school administrators and food service directors to upgrade kitchen infrastructure or purchase high-quality, durable kitchen equipment such as commercial ovens, steamers, and stoves. Additionally, our legislation would establish a loan assistance program within USDA to help schools acquire new equipment to prepare and serve healthier, more nutritious meals to students. School administrators and other eligible borrowers would be able to obtain Federal guarantees for 90 percent of the loan value needed to construct, remodel, or expand their kitchens, dining, or food storage infrastructure. Finally, our legislation would

strengthen training and provide technical assistance to aid school food service personnel in meeting the updated nutrition guidelines. Not every school food service employee is equipped with the expertise to comply with healthier meal and food preparation standards. Our bill authorizes USDA to provide support on a competitive basis to highly qualified third-party trainers to develop and administer training and technical assistance.

USDA has a long history of providing support for schools to upgrade meal preparation equipment; however, this support has been sporadic and unreliable for long-term planning. And in recent years, the demand for support has been great with requests for assistance far outpacing availability.

As the Senate agriculture committee begins to consider reauthorization of the school nutrition program, I look forward to working with my colleagues on improving school meal offerings and providing schools with the tools needed to give our children the nutritional fuel necessary to learn and grow.

As the daughter of a school cook, I understand the work that goes into preparing many healthy meals each day for kids, and this bill would help make limited resources stretch as far as possible to provide support to communities that need it in North Dakota and throughout the U.S. That just makes sense for our students, parents, teachers, and school cooks.

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THE MINIMUM WAGE
Ms. HIRONO. Mr. President, growing up, my mother was a single parent. She

raised three children by herself. I know what it is like to run out of money at the end of the month, what it is like when every dime matters.

The minimum wage is a poverty wage. Today, the minimum wage hasn't kept up with inflation. If the

minimum wage had kept up with inflation in 1968, the minimum wage today would be \$10.68. If you do the math, minimum wage workers today earn less than \$15,000 per year. If you are supporting a child or an elderly parent, that is a family income below the Federal poverty line. Raising the minimum wage from \$7.25 to \$10.10 would help lift nearly a million workers and their families out of poverty. In Hawaii, nearly 100,000 women would get a raise.

This is especially important for women. More and more women serve as heads of households. And nearly two-thirds of minimum wage workers are women. Nearly two-thirds of workers in tipped occupations are women.

The situation is even more dire in Hawaii, where the cost of living is higher. In Hawaii, one out of five Hawaii women workers would get a raise if we raised the minimum wage from \$7.25 to \$10.10. A person working full time making \$7.25 per hour makes \$14,500 per year. The average rent in Hawaii for a one-bedroom is \$1,278. That is more than \$15,000 per year. That is why many in Hawaii have to work more than one job.

And there are stories all across the country of women struggling. Hawaii Catholic Charities recently shared their story with me of a woman in Hawaii working for minimum wage who was unable to afford basic living expenses for herself and her son. She had to move back in with her parents. Over the course of a few years she was able to change jobs to a department store, where she eventually earned \$10 per hour. At that wage she was able to contribute to her family's household expenses and start a savings account for her son. We all hear stories like this often. It's why we must raise the minimum wage—so that hard working families have a chance at building a better life for themselves and their children.

Some critics claim the minimum wage will cost jobs. The CBO report looked at old studies and not the latest research. Just last week, a Goldman Sachs report said the CBO estimate of 0.3 percent job loss is too high because raising the minimum wage would actually increase demand. Minimum-wage workers spend that money right away, at local businesses in their communities. A survey of small business owners found that three out of five supported raising the minimum wage. They said a higher minimum wage would increase consumer spending on their goods and services. The Goldman Sachs report said that States which raised their minimum wage in 2014 actually created more jobs than other states.

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tjames on DSK3TPTVN1PROD with SENATE

Image 24

CONGRESSIONAL RECORD — SENATES2192 April 7, 2014

In Hawaii, a large part of our economy is hospitality and tourism. Many workers earn the tipped minimum wage, which is lower than the regular wage. I have met restaurant workers who can't afford to eat at the restaurant where they work. I heard one mother say she had to choose between buying diapers for her kids or eating lunch that day. Women should not have to make that choice. Back in 2007, the last time Congress raised the minimum wage, the restaurant industry said it would cost their industry jobs. But in 2013, the restaurant industry forecast said, "Restaurants remain among the leaders in job creation." The Bureau of Labor Statistics reports that between 2007 and 2013, restaurants added 724,000 jobs.

Raising the minimum wage also saves taxpayer money on social services. When companies pay a low minimum wage, workers in poverty can't afford to eat. Taxpayers are picking up the tab—we're subsidizing low-wage companies. If we raise the wage to \$10.10, we reduce taxpayer costs for the Supplemental Nutrition Assistance Program, or food stamps, by \$4.6 billion a year. In Hawaii, over 15,000 workers would no longer need SNAP benefits.

In America, we believe that if you work hard and play by the rules, you can get ahead. Let's increase the minimum wage, to give all Americans a fair shot.

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ADDITIONAL STATEMENTS

REMEMBERING NICHOLAS J. HALIAS

Σ Ms. AYOTTE. Mr. President, today I wish to recognize the exceptional public service of Nicholas J. "Nick" Halias who passed away on March 3, 2014. Nick most recently served as the chief of police of the University of New Hampshire Police Department and previously served as a major in the New Hampshire State Police. His law enforcement career extended for more than 42 years of dedicated service to our State and nation.

Nick began his law enforcement career with the New Hampshire State Police in 1969. Through hard work, dedication, and an innate leadership ability, Nick advanced through the ranks of the New Hampshire State Police culminating in his promotion to major. Major Halias was a graduate of the FBI National Academy, earned a master's degree from Fitchburg State University, and graduated from the New England Institute of Law Enforcement Management at Babson College.

Following his retirement from the New Hampshire State Police, Nick continued his law enforcement career serving as the chief of police for the University of New Hampshire Police Department from 2000 to 2012. Nick led that agency to accreditation by the Commission on Law Enforcement Accreditation and became an accredita-

tion mentor and assessor for police organizations across the United States. It was my privilege during my service as New Hampshire's attorney general to work directly with Nick on many law enforcement initiatives. Nick earned the respect and admiration of his peers in law enforcement. He was also highly regarded by members of other disciplines including advocates for reducing domestic and sexual violence, victim witness advocates, and many others across New Hampshire. Nick was a thoughtful and effective participant in efforts to improve the criminal justice system and public safety in New Hampshire. He also was a down-to-earth, kind man who regularly volunteered at annual multidisciplinary conferences conducted by the attorney general's office. He participated as an instructor, but also consistently helped set up and tear down. Nick was fun to work with. I will miss his wise counsel and his friendship.

As the New Hampshire law enforcement community gathers on April 10, 2014 to honor Nicholas J. Halias' extraordinary life of public service, I join all in commending Nick's exceptional contribution to law enforcement and public safety in New Hampshire. New Hampshire is safer and our quality of life is better because of the work done by Nicholas J. Halias. I extend heartfelt condolences to Nick's wife Linda and to his family. Σ

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RECOGNIZING DR. ROBERT SPENCE

Σ Mr. BLUNT. Mr. President, I wish to honor Dr. Robert H. Spence, who is retiring as president of Evangel University after 40 years of dedicated service in that role—making him the longest tenured college president in the State of Missouri and one of the longest tenured college presidents in the United States.

Under his vision and leadership over the last 40 years, Evangel has been transformed from what was once a World War II-era Army hospital campus—complete with metal huts—into a modern institution with a dozen new facilities. Today, Evangel boasts an impressive campus with two residence halls, a 2,200 seat chapel, a state-of-the-

art fitness center, dining hall, student union, fine arts center, two major classroom buildings and a 66,000-square-foot administration building. The expansion of facilities reflects the fact that Evangel's enrollment has doubled, and the school has added nine masters programs. With Dr. Spence at the helm, Evangel University has flourished.

Evangel is located in my hometown of Springfield, MO, so I have personally witnessed the growth and development of the university and can attest to Dr. Spence's dynamic leadership and commitment. He is active in the community, serving on numerous boards and institutions, dedicating his time and energy to Springfield's citizens on- and off-campus. In recognition of his com-

munity work, the Springfield Area Chamber of Commerce, where Dr. Spence once served as chairman of the board, honored him for a "Career of Character," naming him Springfieldian of the Year in 2004. In 2012 he received the Springfield Business Journal's Lifetime Achievement in Business Award. These recognitions are well deserved.

I join many other community leaders in Springfield in thanking Dr. Spence for his lifetime of work as an inspirational minister, messenger, and educator. As a former university president, I applaud him for his commitment to Evangel University over the last four decades. I have always relied on Dr. Spence's sound counsel and judgment and wish him and his wife Ann a long and enjoyable retirement. They have certainly earned this time to relax.Σ

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TRIBUTE TO CHIEF WARRANT OFFICER JOHN ALAN FISHER
Σ Mr. BLUNT. Mr. President, it is a pleasure to honor CW5 John Alan Fisher as he retires from a 30-year career with the Missouri Army National Guard. Chief Fisher has had an extraordinary career with the Guard and has made incredible contributions little-known outside his field. I am glad to be able to recognize him for his accomplishments today.

Chief Fisher began his career as a young Marine, earning the Vietnam Service Medal, the Navy Unit Commendation Medal and the Humanitarian Service Medal over the course of his 8 years of service. In 1980, after fulfilling his commitment to the Marines, Chief Fisher enlisted in the Army National Guard. In the three decades since, he and his team of professionals have helped supply and maintain mission-ready aircraft without a single aircraft accident or incident reported.

Chief Fisher's career has been in aviation maintenance, leading efforts to identify problems with the helicopter fleet that is serviced in my hometown of Springfield, MO. Early in his career, Chief Fisher recognized problems with wiring that compromised the Guard's ability to maintain combat-readiness in its helicopter fleet. While others thought the modules for the fleet were wearing out, it was Chief Fisher who recognized that the problem was in fact a failure of the wiring. Since that time, he and his team have developed the first protocol to rewire literally miles of wiring in helicopters. His efforts ensure the reliability of the fleet for 14 States.

Under Chief Fisher's leadership, these programs have grown into a world-class operation at the Missouri Theater Aviation Sustainment Maintenance Group, MO-TASMG, in Springfield. Today, Springfield remains the only National Guard site in the Nation that specializes in rewiring air frames for America's military helicopters. Officer Fisher has been an incredible asset to this mission, as has the team

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Image 25

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of highly-skilled professionals he helped train. The crew at MO-TASMG are able to build and repair some of the most complex parts of virtually any aircraft in the Army inventory. Many of these components have been integral to the success of missions in Operation Iraqi Freedom and Operation Enduring Freedom. In fact, in 2004 you could open nearly any avionics compartment in an aircraft in theater to find a repaired component label identifying Chief Fisher's team as the source of its repair.

With multiple deployments to both Operation Enduring Freedom and Operation Iraqi Freedom, these accomplishments only scratch the surface of Chief Fisher's many contributions throughout his nearly four decades of service. I am also pleased to note that Chief Fisher's legacy extends beyond his own service, as his son Shane Fisher also serves in the Missouri National Guard. I am thankful to both of them for their service. Congratulations again to Chief Fisher on his well-deserved retirement. He has certainly earned this time to relax with his family.Σ

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PROJECT HOME

Σ Mr. CASEY. Mr. President, I wish to recognize Project HOME on the occasion of their 25th anniversary. Founded in Philadelphia, PA, Project HOME is a national leader in combating homelessness and providing life-saving services to countless individuals. Project HOME has a mission that not only includes providing shelter to those in need, but also helping to break the cycle of chronic homelessness by examining the root causes.

Project HOME was co-founded in 1989 by Sister Mary Scullion and Joan Dawson McConnon. Their first shelter, the Mother Katherine Drexel Residence for chronically homeless men, was established shortly thereafter. Then, in the summer of 1990, Project HOME opened its first transitional house, the Diamond Street Residence, which provided a safe environment for up to 12 men.

Over the last 25 years Project HOME has grown dramatically, providing the care and support that is necessary to combat Philadelphia's battle with homelessness. The strong leadership of Sister Mary Scullion and Joan Dawson McConnon has allowed Project HOME to expand from a single winter shelter into an organization with 535 units of affordable housing.

The vision of Project HOME is simple: none of us are home until all of us are home. Sister Mary and Joan, along with their dedicated staff, strive to make this vision a reality every day. Project HOME has empowered countless individuals in Philadelphia to realize their full potential. Their commitment to promoting compassion and a community spirit has benefited the City of Philadelphia and served as a model within the Commonwealth and across the country. It is a privilege and an honor to recognize Project HOME

for its tremendous work as they celebrate 25 years of activism and advocacy.Σ

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TRIBUTE TO COLONEL GREGORY
A. SCHEIDHAUER
Σ Ms. MURKOWSKI. Mr. President, I

express deep gratitude to COL Gregory A. Scheidhauer for his past 2 years of exemplary dedication to duty and service as a congressional budget liaison for the Secretary of the Army. Greg was recently selected to serve the Army and Congress as the chief of Army Reserve Legislative Affairs. We wish him well in his new position.

A native of Bowie, MD, Colonel Scheidhauer earned a bachelor of science degree at West Virginia University and was commissioned a quartermaster officer in the Army in 1990. He has earned advanced degrees in public administration, public health education, and strategic studies.

Greg has served in a broad range of duty stations and assignments during his 23 years of service. As a lieutenant, he served as a transportation platoon leader and battalion logistics officer. As a captain, he served as a supply and services officer in Tennessee and as a training officer in Fort Buchanan, PR. Prior to his current assignment, Greg was the director J4, Joint Forces Special Operations Component Command, Iraq.

In 2009, following his assignment with the First Army Division East, Colonel Scheidhauer was selected as a military fellow in then-Representative J

OE DONNELLY's personal office, serving the people of Indiana's Second Congressional District. After this, he served as a legislative liaison in the Office of the Chief of Army Reserve, and then as a congressional budget liaison officer in the Office of the Assistant Secretary of the Army for Financial Management and Comptroller. In this capacity, Greg was tasked with managing the Army's research, development, test and evaluation portfolio as well as its aviation portfolio. As a budget liaison officer, he worked directly with the Senate and House Appropriations Committees to educate and inform Senators, Representatives, and staff on critical Army issues.

Throughout his 23-year career, COL Gregory Scheidhauer has positively impacted his soldiers, peers, and superiors, and I am grateful that he has chosen to continue to serve as an Army leader. I join my colleagues today in honoring his dedication to our Nation and invaluable service to the U.S. Congress as an Army congressional budget liaison.

Greg is accustomed to working long hours in his congressional relations work. So let me also acknowledge Greg's wife Andrea, and their children Alexis, Brennan, and Christopher, thank them for their sacrifices and wish them all the best for continued success in the future.Σ

MESSAGES FROM THE PRESIDENT
Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

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EXECUTIVE MESSAGES REFERRED
As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

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REPORT ON THE CONTINUATION
OF THE NATIONAL EMERGENCY
ORIGINALLY DECLARED IN EXECUTIVE ORDER 13536 ON APRIL
12, 2010 WITH RESPECT TO SOMALIA—PM 39

The PRESIDING OFFICER laid be-

fore the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:
Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency declared in Executive Order 13536 of April 12, 2010, with respect to Somalia is to continue in effect beyond April 12, 2014.

On January 17, 2013, the United States Government announced its recognition of the Government of Somalia. The United States had not recognized a government in Somalia for the previous 22 years. Although the U.S. recognition underscores a strong commitment to Somalia's stabilization, it does not remove the importance of U.S. sanctions, especially against persons undermining the stability of Somalia. For this reason, I have determined that it is necessary to continue the national emergency with respect to Somalia and to maintain in force the sanctions to respond to this threat.

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ARACK OBAMA.

THE WHITE HOUSE, *April 7, 2014.*
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MESSAGE FROM THE HOUSE
At 2:45 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

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tjames on DSK3TPTVN1PROD with SENATE

Image 26

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H.R. 1874. An act to amend the Congressional Budget Act of 1974 to provide for macroeconomic analysis of the impact of legislation.

H.R. 2575. An act to amend the Internal Revenue Code of 1986 to repeal the 30-hour threshold for classification as a full-time employee for purposes of the employer mandate in the Patient Protection and Affordable Care Act and replace it with 40 hours.

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MEASURES REFERRED
The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1874. An act to amend the Congressional Budget Act of 1974 to provide for macroeconomic analysis of the impact of legislation; to the Committee on the Budget.

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MEASURES READ THE FIRST TIME

The following bill was read the first time:
H.R. 2575. An act to amend the Internal Revenue Code of 1986 to repeal the 30-hour threshold for classification as a full-time employee for purposes of the employer mandate in the Patient Protection and Affordable Care Act and replace it with 40 hours.

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EXECUTIVE AND OTHER
COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5228. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the 52nd Annual Report of the activities of the Federal Maritime Commission for fiscal year 2013; to the Committee on Commerce, Science, and Transportation.

EC-5229. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Pacific Halibut Fisheries; Catch Sharing Plan" (RIN0648-BD82) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5230. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking and Importing Marine Mammals; Precision Strike Weapon and Air-to-Surface Gunnery Training and Testing Operations at Eglin Air Force Base, FL" (RIN0648-BC46) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5231. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer" (RIN0648-XD156) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5232. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Aleutian Is-

lands Subarea of the Bering Sea and Aleutian Islands Management Area" (RIN0648-XD190) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5233. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Butterfish Trip Limit Reduction" (RIN0648-XD167) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5234. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska" (RIN0648-XD166) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5235. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 feet (18.3 Meters) Length Overall Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XD175) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC-5236. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Hook-and-Line Gear in the Central

Regulatory Area of the Gulf of Alaska’’ (RIN0648–XD184) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5237. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘‘Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Hook-and-Line Gear in the Western Regulatory Area of the Gulf of Alaska’’ (RIN0648–XD181) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5238. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘‘Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska’’ (RIN0648–XD189) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5239. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ‘‘Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category Fishery’’ (RIN0648–XD201) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5240. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ‘‘Gross Combination Weight Rating; Definition’’ (RIN2126–AB70; Formerly RIN2126–AB53) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5241. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ‘‘Hazardous Materials: Adoption of Certain Special Permits and Competent Authorities into Regulations’’ (RIN2137–AE82) received in the Office of the President of the Senate on April 2, 2014; to the Committee on Commerce, Science, and Transportation.

f

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RUBIO:

S. 2214. A bill to prevent a taxpayer bailout of health insurance issuers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORNYN:

S. 2215. A bill to protect taxpayers from improper audits by the Internal Revenue Service; to the Committee on Finance.

By Mr. PAUL:

S. 2216. A bill to provide small businesses with a grace period for a regulatory violation, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. TESTER (for himself, Mrs.

G

ILLIBRAND, Mr. BLUMENTHAL, and Mr. WALSH):

S. 2217. A bill to amend title 10, United States Code, to enhance the participation of mental health professionals in boards for the correction of military records and boards for the review of the discharge or dismissal of members of the Armed Forces; to the Committee on Armed Services.

f

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. CARDIN, Mr. MCCAIN, and Mr. RISCH):
S. Res. 412. A resolution reaffirming the

strong support of the United States Government for freedom of navigation and other internationally lawful uses of sea and airspace in the Asia-Pacific region, and for the peaceful diplomatic resolution of outstanding territorial and maritime claims and disputes; to the Committee on Foreign Relations.

By Mr. COONS (for himself, Mr. M

ENENDEZ, and Mr. FLAKE):
S. Res. 413. A resolution recognizing 20 years since the genocide in Rwanda, and affirming it is in the national interest of the United States to work in close coordination with international partners to help prevent and mitigate acts of genocide and mass atrocities; to the Committee on Foreign Relations.

By Mr. SESSIONS (for himself and Mr. C

ARDIN):

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S. Res. 414. A resolution designating April 2014 as “National Congenital Diaphragmatic Hernia Awareness Month”; considered and agreed to.

By Mr. UDALL of New Mexico (for himself, Mr. B

ROWN, Mr. WHITEHOUSE,

Mr. CARDIN, Mr. JOHNSON of South Dakota, Mr. SCHUMER, Mr. BEGICH, Ms. WARREN, Ms. HEITKAMP, and Mrs. HAGAN):
S. Res. 415. A resolution supporting the goals and ideals of National Public Health Week; considered and agreed to.

By Mr. REID (for himself and Mr. M

CCONNELL):

S. Res. 416. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

f

ADDITIONAL COSPONSORS
S. 132

At the request of Mr. CARPER, the name of the Senator from New Jersey (Mr. B

OOKER) was added as a cosponsor of S. 132, a bill to provide for the admission of the State of New Columbia into the Union.

S. 392

At the request of Mr. UDALL of New

Mexico, the name of the Senator from Delaware (Mr. C

OONS) was added as a

cosponsor of S. 392, a bill to support and encourage the health and well-being of elementary school and secondary school students by enhancing school physical education and health education.

S. 429

At the request of Mr. NELSON, the name of the Senator from Illinois (Mr. D

URBIN) was added as a cosponsor of S. 429, a bill to enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products.

S. 462

At the request of Mrs. BOXER, the name of the Senator from Washington (Mrs. M

URRAY) was added as a cosponsor of S. 462, a bill to enhance the strategic partnership between the United States and Israel.

S. 554

At the request of Mr. ISAKSON, the name of the Senator from Nebraska (Mrs. F

ISCHER) was added as a cosponsor of S. 554, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 1695

At the request of Ms. CANTWELL, the names of the Senator from Illinois (Mr. D

URBIN), the Senator from Minnesota (Mr. FRANKEN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1695, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 1764

At the request of Ms. AYOTTE, the name of the Senator from Idaho (Mr.

RISCH) was added as a cosponsor of S. 1764, a bill to limit the retirement of A-10 aircraft.

S. 1793

At the request of Ms. KLOBUCHAR, the name of the Senator from Massachusetts (Mr. M

ARKEY) was added as a cosponsor of S. 1793, a bill to encourage States to require the installation of residential carbon monoxide detectors in homes, and for other purposes.

S. 1862

At the request of Mr. BLUNT, the names of the Senator from Florida (Mr. R

UBIO), the Senator from Massachusetts (Ms. WARREN) and the Senator

from New Mexico (Mr. HEINRICH) were added as cosponsors of S. 1862, a bill to grant the Congressional Gold Medal, collectively, to the Monuments Men, in recognition of their heroic role in the preservation, protection, and restitution of monuments, works of art, and artifacts of cultural importance during and following World War II.

S. 1923

At the request of Mr. MANCHIN, the name of the Senator from Minnesota (Ms. K

LOBUCHAR) was added as a cosponsor of S. 1923, a bill to amend the Securities Exchange Act of 1934 to exempt from registration brokers performing services in connection with the transfer of ownership of smaller privately held companies.

S. 2043

At the request of Mrs. FISCHER, the names of the Senator from Idaho (Mr. C

RAPO), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Texas (Mr. CORNYN) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 2043, a bill to prohibit the Internal Revenue Service from asking taxpayers questions regarding religious, political, or social beliefs.

S. 2044

At the request of Mrs. FISCHER, the names of the Senator from Arkansas (Mr. B

OOZMAN), the Senator from Missouri (Mr. BLUNT), the Senator from Texas (Mr. CORNYN) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 2044, a bill to improve transparency and efficiency with respect to audits and communications between taxpayers and the Internal Revenue Service.

S. 2053

At the request of Ms. WARREN, the name of the Senator from Pennsylvania (Mr. T

OOMEY) was added as a cosponsor of S. 2053, a bill to direct the Architect of the Capitol to place a chair honoring American Prisoners of War/Missing in Action on the Capitol Grounds.

S. 2091

At the request of Mr. HELLER, the name of the Senator from Minnesota (Ms. K

LOBUCHAR) was added as a cosponsor of S. 2091, a bill to amend title 38, United States Code, to improve the processing by the Department of Veterans Affairs of claims for benefits

under laws administered by the Secretary of Veterans Affairs, and for other purposes.

S. 2113

At the request of Ms. COLLINS, the names of the Senator from West Virginia (Mr. M

ANCHIN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Missouri (Mr. BLUNT), the Senator from Indiana (Mr. COATS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAPO), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. LEE), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Kansas

(Mr. ROBERTS), the Senator from Florida (Mr. RUBIO), the Senator from Alabama (Mr. SESSIONS), the Senator from South Dakota (Mr. THUNE), the Senator from Pennsylvania (Mr. TOOMEY) and the Senator from Mississippi (Mr. W

ICKER) were added as cosponsors of S. 2113, a bill to provide taxpayers with an annual report disclosing the cost and performance of Government programs and areas of duplication among them, and for other purposes.

S. 2125

At the request of Mr. JOHNSON of South Dakota, the names of the Senator from California (Mrs. B

OXER) and

the Senator from Montana (Mr. T

ESTER) were added as cosponsors of S. 2125, a bill to amend the Communications Act of 1934 to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications.

S. 2133

At the request of Ms. BALDWIN, the name of the Senator from Massachusetts (Mr. M

ARKEY) was added as a cosponsor of S. 2133, a bill to amend title VII of the Civil Rights Act of 1964 and other statutes to clarify appropriate liability standards for Federal antidiscrimination claims.

S. 2141

At the request of Mr. REED, the name of the Senator from Delaware (Mr. C

OONS) was added as a cosponsor of S. 2141, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide an alternative process for review of safety and effectiveness of nonprescription sunscreen active ingredients and for other purposes.

S. 2146

At the request of Mrs. FEINSTEIN, the name of the Senator from Wyoming (Mr. E

NZI) was added as a cosponsor of S. 2146, a bill to establish a United States Patent and Trademark Office Innovation Promotion Fund, and for other purposes.

S. 2156

At the request of Mr. VITTER, the names of the Senator from Idaho (Mr. R

ISCH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2156, a bill to amend the Federal Water Pollution Control Act to

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confirm the scope of the authority of

the Administrator of the Environmental Protection Agency to deny or restrict the use of defined areas as disposal sites.

S. 2178

At the request of Mr. ALEXANDER, the name of the Senator from Florida (Mr. R

UBIO) was added as a cosponsor of S. 2178, a bill to amend the National Labor Relations Act with respect to the timing of elections and pre-election hearings and the identification of pre-election issues, and to require that lists of employees eligible to vote in organizing elections be provided to the National Labor Relations Board.

S. 2190

At the request of Mr. BLUNT, the name of the Senator from Wisconsin (Mr. J

OHNSON) was added as a cosponsor of S. 2190, a bill to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

S. 2195

At the request of Mr. CRUZ, the names of the Senator from Indiana (Mr. C

OATS), the Senator from Louisiana (Mr. VITTER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. PORTMAN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 2195, a bill to deny admission to the United States to any representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests.

S. 2199

At the request of Ms. MIKULSKI, the names of the Senator from Wisconsin (Ms. B

ALDWIN), the Senator from Alaska (Mr. BEGICH), the Senator from Ohio (Mr. BROWN), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. CARDIN), the Senator from North Carolina (Mrs. H

AGAN), the Senator from Hawaii (Ms. HIRONO), the Senator from West Virginia (Mr. MANCHIN), the Senator from Massachusetts (Mr. MARKEY), the Senator from Oregon (Mr. MERKLEY), the Senator from Arkansas (Mr. PRYOR), the Senator from Rhode Island (Mr. R

EED), the Senator from Vermont (Mr. SANDERS), the Senator from Michigan (Ms. STABENOW), the Senator from Montana (Mr. WALSH) and the Senator from Massachusetts (Ms. WARREN) were added as cosponsors of S. 2199, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 2209

At the request of Mr. CARDIN, the name of the Senator from New Jersey (Mr. M

ENENDEZ) was added as a cospon-

sor of S. 2209, a bill to require a report on accountability for war crimes and crimes against humanity in Syria.

S. 2212

At the request of Mrs. FISCHER, the names of the Senator from Wyoming (Mr. B

ARRASSO), the Senator from Oklahoma (Mr. INHOFE) and the Senator from South Carolina (Mr. SCOTT) were added as cosponsors of S. 2212, a bill to amend the Consumer Financial Protection Act of 2010 to strengthen the review authority of the Financial Stability Oversight Council of regulations issued by the Bureau of Consumer Financial Protection, and for other purposes.

S. 2213

At the request of Mrs. FISCHER, the names of the Senator from Wyoming (Mr. B

ARRASSO), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Maine (Ms. COLLINS), the Senator from Wisconsin (Mr. JOHNSON) and the Senator from South Carolina (Mr. S

COTT) were added as cosponsors of S. 2213, a bill to replace the Director of the Bureau of Consumer Financial Protection with a five-person Commission.

S. CON. RES. 33

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Ms. M

URKOWSKI) was added as a cosponsor of S. Con. Res. 33, a concurrent resolution celebrating the 100th anniversary of the enactment of the Smith-Lever Act, which established the nationwide Cooperative Extension System.

S. RES. 369

At the request of Mr. MENENDEZ, the name of the Senator from Virginia (Mr. K

AINE) was added as a cosponsor of S. Res. 369, a resolution to designate May 22, 2014 as "United States Foreign Service Day" in recognition of the men and women who have served, or are presently serving, in the Foreign Service of the United States, and to honor those in the Foreign Service who have given their lives in the line of duty.

S. RES. 402

At the request of Mr. FRANKEN, the names of the Senator from Minnesota (Ms. K

LOBUCHAR) and the Senator from Wisconsin (Ms. BALDWIN) were added as cosponsors of S. Res. 402, a resolution expressing the regret of the Senate for the passage of section 3 of the Expatriation Act of 1907 (34 Stat. 1228) that revoked the United States citizenship of women who married foreign nationals.

S. RES. 410

At the request of Mr. MENENDEZ, the names of the Senator from California (Mrs. F

EINSTEIN), the Senator from

Massachusetts (Mr. MARKEY), the Senator from California (Mrs. BOXER), the Senator from Rhode Island (Mr. REED) and the Senator from Rhode Island (Mr. W

HTEHOUSE) were added as cosponsors of S. Res. 410, a resolution expressing the sense of the Senate regarding the anniversary of the Armenian Genocide.

S. RES. 411

At the request of Mr. INHOFE, the names of the Senator from Alabama

(Mr. SESSIONS) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Res. 411, a resolution expressing the sense of the Senate with respect to the territorial integrity and sovereignty of the Republic of

Moldova.

f

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. CORNYN:
S. 2215. A bill to protect taxpayers from improper audits by the Internal Revenue Service; to the Committee on Finance.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the R

ECORD.

There being no objection, the text of the bill was ordered to be printed in the R

ECORD, as follows:
S. 2215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Eliminating Improper and Abusive IRS Audits Act of 2014”.

(b) T

ABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Civil damages allowed for reckless or

intentional disregard of internal revenue laws.
Sec. 3. Modifications relating to certain offenses by officers and employ-

ees in connection with revenue laws.
Sec. 4. Modifications relating to civil damages for unauthorized inspec-

tion or disclosure of returns and return information.
Sec. 5. Extension of time for contesting IRS levy.
Sec. 6. Increase in monetary penalties for

certain unauthorized disclosures of information.
Sec. 7. Ban on raising new issues on appeal.
Sec. 8. Limitation on enforcement of liens against principal residences.
Sec. 9. Additional provisions relating to mandatory termination for misconduct.
Sec. 10. Extension of declaratory judgment procedures to social welfare organizations.
Sec. 11. Review by the Treasury Inspector General for Tax Administration.

SEC. 2. CIVIL DAMAGES ALLOWED FOR RECKLESS OR INTENTIONAL DISREGARD OF INTERNAL REVENUE LAWS.

(a) INCREASE IN AMOUNT OF DAMAGES.—Section 7433(b) of the Internal Revenue Code of 1986 is amended by striking “\$1,000,000 (\$100,000, in the case of negligence)” and inserting “\$3,000,000 (\$300,000, in the case of negligence)”.

(b) E

XTENSION OF TIME TO BRING ACTION.—Section 7433(d)(3) of the Internal Revenue Code of 1986 is amended by striking “2 years” and inserting “5 years”.

(c) E

FFECTIVE DATE.—The amendments made by this section shall apply to actions of employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 3. MODIFICATIONS RELATING TO CERTAIN OFFENSES BY OFFICERS AND EMPLOYEES IN CONNECTION WITH REVENUE LAWS.

(a) INCREASE IN PENALTY.—Section 7214 of the Internal Revenue Code of 1986 is amended—

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(1) by striking “\$10,000” in subsection (a) and inserting “\$25,000”, and
(2) by striking “\$5,000” in subsection (b) and inserting “\$10,000”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. MODIFICATIONS RELATING TO CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) INCREASE IN AMOUNT OF DAMAGES.—Subparagraph (A) of section 7431(c)(1) of the Internal Revenue Code of 1986 is amended by striking “\$1,000” and inserting “\$10,000”.

(b) E

FFECTIVE DATE.—The amendment made by this section shall apply to inspections and disclosure occurring on and after the date of the enactment of this Act.

SEC. 5. EXTENSION OF TIME FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 of the Internal Revenue Code of 1986 is amended by striking “9 months” and inserting “3 years”.

(b) P

ERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 of the Internal Revenue Code of 1986 is amended—
(1) in paragraph (1) by striking “9 months” and inserting “3 years”, and

(2) in paragraph (2) by striking “9-month” and inserting “3-year”.

(c) E

FFECTIVE DATE.—The amendments made by this section shall apply to—
(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such

date.

SEC. 6. INCREASE IN MONETARY PENALTIES FOR CERTAIN UNAUTHORIZED DISCLOSURES OF INFORMATION.

(a) IN GENERAL.—Paragraphs (1), (2), (3), and (4) of section 7213(a) of the Internal Revenue Code of 1986 are each amended by striking “\$5,000” and inserting “\$10,000”.

(b) E

EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 7. BAN ON RAISING NEW ISSUES ON APPEAL.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 7529. PROHIBITION ON INTERNAL REVENUE SERVICE RAISING NEW ISSUES IN AN INTERNAL APPEAL.

“(a) IN GENERAL.—In reviewing an appeal of any determination initially made by the Internal Revenue Service, the Internal Revenue Service Office of Appeals may not consider or decide any issue that is not within the scope of the initial determination.

“(b) C

CERTAIN ISSUES DEEMED OUTSIDE OF SCOPE OF DETERMINATION.—For purposes of subsection (a), the following matters shall be considered to be not within the scope of a determination:

“(1) Any issue that was not raised in a notice of deficiency or an examiner’s report which is the subject of the appeal.

“(2) Any deficiency in tax which was not included in the initial determination.

“(3) Any theory or justification for a tax deficiency which was not considered in the initial determination.

“(c) N

NO INFERENCE WITH RESPECT TO ISSUES RAISED BY TAXPAYERS.—Nothing in this section shall be construed to provide any limitation in addition to any limitations in effect on the date of the enactment of this section on the right of a taxpayer to raise an issue, theory, or justification on an appeal from a determination initially made by the

Internal Revenue Service that was not within the scope of the initial determination.”.

(b) C

VERBAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

“Sec. 7529. Prohibition on Internal Revenue

Service raising new issues in an internal appeal.”.

(c) E

EFFECTIVE DATE.—The amendments made by this section shall apply to matters filed or pending with the Internal Revenue Service Office of Appeals on or after the date of the enactment of this Act.

SEC. 8. LIMITATION ON ENFORCEMENT OF LIENS AGAINST PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 7403(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking “In any case” and inserting the following:

“(1) IN GENERAL.—In any case”, and

(2) by adding at the end the following new paragraph:

“(2) LIMITATION WITH RESPECT TO PRINCIPAL RESIDENCE.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any property used as the principal residence of the taxpayer (within the meaning of section 121) unless the Secretary of the

Treasury makes a written determination that—

“(i) all other property of the taxpayer, if sold, is insufficient to pay the tax or discharge the liability, and

“(ii) such action will not create an economic hardship for the taxpayer.”
“(B) D

ELEGATION.—For purposes of this paragraph, the Secretary of the Treasury may not delegate any responsibilities under subparagraph (A) to any person other than—

“(i) the Commissioner of Internal Revenue, or
“(ii) a district director or assistant district director of the Internal Revenue Service.”.

(b) E

FFECTIVE DATE.—The amendments made by this section shall apply to actions filed after the date of the enactment of this Act.

SEC. 9. ADDITIONAL PROVISIONS RELATING TO MANDATORY TERMINATION FOR MISCONDUCT.

(a) TERMINATION OF UNEMPLOYMENT FOR INAPPROPRIATE REVIEW OF TAX-EXEMPT STATUS.—Section 1203(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “; and”, and by adding at the end the following new paragraph:

“(11) in the case of any review of an application for tax-exempt status by an organization described in section 501(c) of the Internal Revenue Code of 1986, developing or using any methodology that applies disproportionate scrutiny to any applicant based on the ideology expressed in the name or purpose of the organization.”.

(b) M

MANDATORY UNPAID ADMINISTRATIVE LEAVE FOR MISCONDUCT.—Paragraph (1) of Section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by adding at the end the following new sentence: “Notwithstanding the preceding sentence, if the Commissioner of Internal Revenue takes a personnel action other than termination for an act or omission described in subsection (b), the Commissioner shall place the employee on unpaid administrative leave for a period of not less than 30 days.”.

(c) L

IMITATION ON ALTERNATIVE PUNISHMENT.—Paragraph (1) of section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking “The Commissioner” and inserting “Except in the case of an act

or omission described in subsection (b)(3)(A), the Commissioner”.

SEC. 10. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO SOCIAL WELFARE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (C) and by adding at the end the following new subparagraph:

“(E) with respect to the initial classification or continuing classification of an organization described in section 501(c)(4) which is exempt from tax under section 501(a), or”.

(b) E

FFECTIVE DATE.—The amendments made by this section shall apply with respect to pleading filed after the date of the enactment of this Act.

SEC. 11. REVIEW BY THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) REVIEW.—Subsection (k)(1) of section 8D of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—
 (1) in subparagraph (C), by striking “and” at the end;

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) shall—

“(i) review any criteria employed by the Internal Revenue Service to select tax returns (including applications for recognition of tax-exempt status) for examination or audit, assessment or collection of deficiencies, criminal investigation or referral, refunds for amounts paid, or any heightened scrutiny or review in order to determine whether the criteria discriminates against taxpayers on the basis of race, religion, or political ideology; and

“(ii) consult with the Internal Revenue Service on recommended amendments to such criteria in order to eliminate any discrimination identified pursuant to the review described in clause (i); and”;

(4) in subparagraph (E), as so redesignated, by striking “and (C)” and inserting “(C), and (D)”.

(b) S

EMIANNUAL REPORT.—Subsection (g) of such section is amended by adding at the end the following new paragraph:

“(3) Any semiannual report made by the Treasury Inspector General for Tax Administration that is required pursuant to section 5(a) shall include—

“(A) a statement affirming that the Treasury Inspector General for Tax Administration has reviewed the criteria described in subsection (k)(1)(D) and consulted with the Internal Revenue Service regarding such criteria; and

“(B) a description and explanation of any such criteria that was identified as discriminatory by the Treasury Inspector General for Tax Administration.”.

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SUBMITTED RESOLUTIONS

SENATE RESOLUTION 412—REAFFIRMING THE STRONG SUPPORT OF THE UNITED STATES GOVERNMENT FOR FREEDOM OF NAVIGATION AND OTHER INTERNATIONALLY LAWFUL USES OF SEA AND AIRSPACE IN THE ASIA-PACIFIC REGION, AND FOR THE PEACEFUL DIPLOMATIC RESOLUTION OF OUTSTANDING TERRITORIAL AND MARITIME CLAIMS AND DISPUTES
 Mr. MENENDEZ (for himself, Mr.

R

UBIO, Mr. CARDIN, Mr. MCCAIN, and

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Image 30

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Mr. RISCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 412

Whereas Asia-Pacific's maritime domains, which include both the sea and airspace above the domains, are critical to the region's prosperity, stability, and security, including global commerce;

Whereas the United States is a longstanding Asia-Pacific power and has a national interest in maintaining freedom of operations in international waters and airspace both in the Asia-Pacific region and around

the world;

Whereas, for over 60 years, the United States Government, alongside United States allies and partners, has played an instrumental role in maintaining stability in the Asia-Pacific, including safeguarding the prosperity and economic growth and development of the Asia-Pacific region;

Whereas the United States, from the earliest days of the Republic, has had a deep and abiding national security interest in freedom of navigation, freedom of the seas, respect for international law, and unimpeded lawful commerce, including in the East China and South China Seas;

Whereas the United States alliance relationships in the region, including with Japan, Korea, Australia, the Philippines, and Thailand, are at the heart of United States policy and engagement in the Asia-Pacific region, and share a common approach to supporting the maintenance of peace and stability, freedom of navigation, and other internationally lawful uses of sea and airspace in the Asia-Pacific region;

Whereas territorial and maritime claims must be derived from land features and otherwise comport with international law;

Whereas the United States Government has a clear interest in encouraging and supporting the nations of the region to work collaboratively and diplomatically to resolve disputes and is firmly opposed to coercion, intimidation, threats, or the use of force;

Whereas the South China Sea contains great natural resources, and their stewardship and responsible use offers immense potential benefit for generations to come;

Whereas the United States is not a claimant party in either the East China or South China Seas, but does have an interest in the peaceful diplomatic resolution of disputed claims in accordance with international law, in freedom of operations, and in the free-flow of commerce free of coercion, intimidation, or the use of force;

Whereas the United States supports the obligation of all members of the United Nations to seek to resolve disputes by peaceful means;

Whereas freedom of navigation and other lawful uses of sea and airspace in the Asia-Pacific region are embodied in international law, not granted by certain states to others;

Whereas, on November 23, 2013, the People's Republic of China unilaterally and without prior consultations with the United States, Japan, the Republic of Korea or other nations of the Asia-Pacific region, declared an Air Defense Identification Zone (ADIZ) in the East China Sea, also announcing that all aircraft entering the PRC's self-declared ADIZ, even if they do not intend to enter Chinese territorial airspace, would have to submit flight plans, maintain radio contact, and follow directions from the Chinese Ministry of National Defense or face "emergency defensive measures";

Whereas the "rules of engagement" declared by China, including the "emergency defensive measures", are in violation of the concept of "due regard for the safety of civil aviation" under the Chicago Convention of

the International Civil Aviation Organization's Chicago Convention and thereby are a departure from accepted practice;
Whereas the Chicago Convention of the

International Civil Aviation Organization distinguishes between civilian aircraft and state aircraft and provides for the specific obligations of state parties, consistent with customary law, to "refrain from resorting to the use of weapons against civil aircraft in flight and . . . in case of interception, the lives of persons on board and the safety of aircraft must not be endangered";

Whereas international civil aviation is regulated by international agreements, including standards and regulations set by ICAO for aviation safety, security, efficiency and regularity, as well as for aviation environmental protection;

Whereas, in accordance with the norm of airborne innocent passage, the United States

does not recognize the right of a coastal nation to apply its ADIZ procedures to foreign state aircraft not intending to enter national airspace nor does the United States apply its ADIZ procedures to foreign state aircraft not intending to enter United States airspace;

Whereas the United States Government expressed profound concerns with China's unilateral, provocative, dangerous, and destabilizing declaration of such a zone, including the potential for misunderstandings and miscalculations by aircraft operating lawfully in international airspace;

Whereas the People's Republic of China's declaration of an ADIZ in the East China Sea will not alter how the United States Government conducts operations in the region or the unwavering United States commitment to peace, security and stability in the Asia-Pacific region;

Whereas the Government of Japan expressed deep concern about the People's Republic of China's declaration of such a zone, regarding it as an effort to unduly infringe upon the freedom of flight in international airspace and to change the status quo that could escalate tensions and potentially cause unintentional consequences in the East China Sea;

Whereas the Government of the Republic of Korea has expressed concern over China's declared ADIZ, and on December 9, 2013, announced an adjustment to its longstanding Air Defense Identification Zone, which does not encompass territory administered by another country, and did so only after undertaking a deliberate process of consultations with the United States, Japan, and China;

Whereas the Government of the Philippines has stressed that China's declared ADIZ seeks to transfer an entire air zone into Chinese domestic airspace, infringes on freedom of flight in international airspace, and compromises the safety of civil aviation and the national security of affected states, and has called on China to ensure that its actions do not jeopardize regional security and stability;

Whereas, on November 26, 2013, the Government of Australia made clear in a statement its opposition to any coercive or unilateral actions to change the status quo in the East China Sea;

Whereas, on March 10, 2014, the United States Government and the Government of Japan jointly submitted a letter to the ICAO Secretariat regarding the issue of freedom of overflight by civil aircraft in international airspace and the effective management of civil air traffic within allocated Flight Information Regions (FIR);

Whereas Indonesia Foreign Minister Marty Natalegawa, in a hearing before the Committee on Defense and Foreign Affairs on February 18, 2014, stated, "We have firmly told China we will not accept a similar [Air Defense Identification] Zone if it is adopted

in the South China Sea. And the signal we have received thus far is, China does not plan to adopt a similar Zone in the South China Sea.";

Whereas over half the world's merchant tonnage flows through the South China Sea, and over 15,000,000 barrels of oil per day transit the Strait of Malacca, fueling economic growth and prosperity throughout the Asia-Pacific region;

Whereas the increasing frequency and assertiveness of patrols and competing regulations over disputed territory and maritime areas and airspace in the South China Sea and the East China Sea are raising tensions and increasing the risk of confrontation;

Whereas the Association of Southeast Asian Nations (ASEAN) has promoted multilateral talks on disputed areas without settling the issue of sovereignty, and in 2002 joined with China in signing a Declaration on the Conduct of Parties in the South China Sea that committed all parties to those territorial disputes to "reaffirm their respect for and commitment to the freedom of navigation in and over flight above the South China Sea as provided for by the universally recognized principles of international law" and to "resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force";

Whereas ASEAN and China committed in 2002 to develop an effective Code of Conduct when they adopted the Declaration on the Conduct of Parties in the South China Sea, yet negotiations are irregular and little progress has been made;

Whereas, in recent years, there have been numerous dangerous and destabilizing incidents in waters near the coasts of the Philippines, China, Malaysia, and Vietnam;

Whereas the United States Government is deeply concerned about unilateral actions by any claimant seeking to change the status quo through the use of coercion, intimidation, or military force, including the continued restrictions on access to Scarborough Reef and pressure on long-standing Philippine presence at the Second Thomas Shoal by the People's Republic of China; actions by any state to prevent any other state from exercising its sovereign rights to the resources of the exclusive economic zone (EEZ) and continental shelf by making claims to those areas that have no support in international law; declarations of administrative and military districts in contested areas in the South China Sea; and the imposition of new fishing regulations covering disputed areas, which have raised tensions in the region;

Whereas international law is important to safeguard the rights and freedoms of all states in the Asia-Pacific region, and the lack of clarity in accordance with international law by claimants with regard to their South China Sea claims can create uncertainty, insecurity, and instability;

Whereas the United States Government opposes the use of intimidation, coercion, or force to assert a territorial claim in the South China Sea;

Whereas claims in the South China Sea must accord with international law, and those that are not derived from land features are fundamentally flawed;

Whereas ASEAN issued Six-Point Principles on the South China Sea on July 20, 2012, whereby ASEAN's Foreign Ministers reiterated and reaffirmed "the commitment of ASEAN Member States to: . . . 1. the full implementation of the Declaration on the Conduct of Parties in the South China Sea (2002);... 2. the Guidelines for the Implementation of the Declaration on the Conduct of Parties in the South China Sea (2011);... 3. the early conclusion of a Regional Code of Conduct in the South China Sea;... 4. the full respect of the universally recognized

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Image 31

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principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS);... 5. the continued exercise of self-restraint and non-use of force by all parties; and... 6. the peaceful resolution of disputes, in accordance with universally recognized principles of International Law, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS).";

Whereas, in 2013, the Republic of the Philippines properly exercised its rights to peaceful settlement mechanisms with the filing of arbitration case under Article 287 and Annex VII of the Convention on the Law of the Sea in order to achieve a peaceful and durable solution to the dispute, and the United States hopes that all parties in any dispute ultimately abide by the rulings of internationally recognized dispute-settlement bodies;

Whereas China and Japan are the world's second and third largest economies, and have a shared interest in preserving stable maritime domains to continue to support economic growth;

Whereas there has been an unprecedented increase in dangerous activities by Chinese maritime agencies in areas near the Senkaku islands, including between 6 and 25 ships of the Government of China intruding into the Japanese territorial sea each month

since September 2012, between 26 and 124 ships entering the “contiguous zone” in the same time period, and 9 ships intruding into the territorial sea and 33 ships entering in the contiguous zone in February 2014;

Whereas, although the United States Government does not take a position on the ultimate sovereignty of the Senkaku Islands, the United States Government acknowledges that they are under the administration of Japan and opposes any unilateral actions that would seek to undermine such administration;

Whereas the United States Senate has previously affirmed that the unilateral actions of a third party will not affect the United States’ acknowledgment of the administration of Japan over the Senkaku Islands;

Whereas the United States remains committed under the Treaty of Mutual Cooperation and Security to respond to any armed attack in the territories under the administration of Japan, has urged all parties to take steps to prevent incidents and manage disagreements through peaceful means, and commends the Government of Japan for its restrained approach in this regard;

Whereas both the United States and the People’s Republic of China are parties to and are obligated to observe the rules of the Convention on the International Regulations for Preventing Collisions at Sea, done at London October 12, 1972 (COLREGs);

Whereas on December 5, 2013, the USS Cowpens was lawfully operating in international waters in the South China Sea when a People’s Liberation Army Navy vessel reportedly crossed its bow at a distance of less than 500 yards and stopped in the water, forcing the USS Cowpens to take evasive action to avoid a collision;

Whereas the reported actions taken by the People’s Liberation Army Navy vessel in the USS Cowpens’ incident, as publicly reported, appear contrary to the international legal obligations of the People’s Republic of China under COLREGs;

Whereas, on January 19, 1998, the United States and People’s Republic of China signed the Military Maritime Consultative Agreement, creating a mechanism for consultation

and coordination on operational safety issues in the maritime domain between the United States and the People’s Republic of China;

Whereas the Western Pacific Naval Symposium, inaugurated in 1988 and comprising the navies of Australia, Brunei, Cambodia, Canada, Chile, France, Indonesia, Japan, Malaysia, New Zealand, Papua New Guinea, the People’s Republic of China, the Philippines, the Republic of Korea, the Russian Federation, Singapore, Thailand, Tonga, the United States, and Vietnam, whose countries all border the Pacific Ocean region, provides a forum where leaders of regional navies can meet to discuss cooperative initiatives, discuss regional and global maritime issues, and undertake exercises to strengthen norms and practices that contribute to operational safety, including protocols for unexpected encounters at sea, common ways of communication, common ways of operating, and common ways of engagement;

Whereas, Japan and the People’s Republic of China sought to negotiate a Maritime Communications Mechanism between the defense authorities and a Maritime Search and Rescue Agreement and agreed in principle to these agreements to address operational safety on the maritime domains but failed to sign them;

Whereas the Changi Command and Control Center in Singapore provides a platform for all the countries of the Western Pacific to share information on what kind of contact at sea and to provide a common operational picture for the region;

Whereas 2014 commemorates the 35th anniversary of normalization of diplomatic relations between the United States and the People’s Republic of China, and the United States welcomes the development of a peaceful and prosperous China that becomes a responsible international stakeholder, the government of which respects international norms, international laws, international institutions, and international rules; enhances security and peace; and seeks to advance relations between the United States and China;

and

Whereas ASEAN plays an important role,

in partnership with others in the regional and international community, in addressing maritime security issues in the Asia-Pacific region and the Indian Ocean, including open access to the maritime domain of Asia; Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE.

The Senate—

(1) condemns coercive and threatening ac-

tions or the use of force to impede freedom of operations in international airspace by military or civilian aircraft, to alter the status quo or to destabilize the Asia-Pacific region;

(2) urges the Government of the People's Republic of China to refrain from implementing the declared East China Sea Air Defense Identification Zone (ADIZ), which is contrary to freedom of overflight in international airspace, and to refrain from taking similar provocative actions elsewhere in the Asia-Pacific region; and

(3) commends the Governments of Japan and of the Republic of Korea for their restraint, and commends the Government of the Republic of Korea for engaging in a deliberate process of consultations with the United States, Japan and China prior to announcing its adjustment of its Air Defense Identification Zone on December 9, 2013, and for its commitment to implement this adjusted Air Defense Identification Zone

(ADIZ) in a manner consistent with international practice and respect for the freedom of overflight and other internationally lawful uses of international airspace.

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to—

(1) reaffirm its unwavering commitment and support for allies and partners in the Asia-Pacific region, including longstanding United States policy regarding Article V of the United States-Philippines Mutual Defense Treaty and that Article V of the United States-Japan Mutual Defense Treaty applies to the Japanese-administered Senkaku Islands;

(2) oppose claims that impinge on the rights, freedoms, and lawful use of the sea that belong to all nations;

(3) urge all parties to refrain from engaging in destabilizing activities, including illegal occupation or efforts to unlawfully assert administration over disputed claims;

(4) ensure that disputes are managed without intimidation, coercion, or force;

(5) call on all claimants to clarify or adjust claims in accordance with international law;

(6) support efforts by ASEAN and the People's Republic of China to develop an effective Code of Conduct, including the "early harvest" of agreed-upon elements in the Code of Conduct that can be implemented immediately;

(7) reaffirm that an existing body of international rules and guidelines, including the International Regulations for Preventing Collisions at Sea, done at London October 12, 1972 (COLREGs), is sufficient to ensure the safety of navigation between the United States Armed Forces and the forces of other countries, including the People's Republic of China;

(8) support the development of regional institutions and bodies, including the ASEAN Regional Forum, the ASEAN Defense Minister's Meeting Plus, the East Asia Summit, and the expanded ASEAN Maritime Forum, to build practical cooperation in the region and reinforce the role of international law;

(9) encourage the adoption of mechanisms such as hotlines or emergency procedures for preventing incidents in sensitive areas, managing them if they occur, and preventing disputes from escalating;

(10) fully support the rights of claimants to exercise rights they may have to avail themselves of peaceful dispute settlement mechanisms;

(11) encourage claimants not to undertake new unilateral attempts to change the status quo since the signing of the 2002 Declaration of Conduct, including not asserting administrative measures or controls in disputed areas in the South China Sea;

(12) encourage the deepening of partnerships with other countries in the region for maritime domain awareness and capacity building, as well as efforts by the United States Government to explore the development of appropriate multilateral mechanisms for a "common operating picture" in the South China Sea that would serve to help countries avoid destabilizing behavior and deter risky and dangerous activities; and

(13) assure the continuity of operations by the United States in the Asia-Pacific region,

including, when appropriate, in cooperation with partners and allies, to reaffirm the principle of freedom of operations in international waters and airspace in accordance with established principles and practices of international law.

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CONGRESSIONAL RECORD — SENATES2200 *April 7, 2014*

SENATE RESOLUTION 413—RECOGNIZING 20 YEARS SINCE THE GENOCIDE IN RWANDA, AND AFFIRMING IT IS IN THE NATIONAL INTEREST OF THE UNITED STATES TO WORK IN CLOSE COORDINATION WITH INTERNATIONAL PARTNERS TO HELP PREVENT AND MITIGATE ACTS OF GENOCIDE AND MASS ATROCITIES
Mr. COONS (for himself, Mr. M

ENEN-

DEZ, and Mr. FLAKE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 413

Whereas, in the aftermath of the Holocaust, the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide declaring that genocide, whether committed in a time of peace or war, is a crime under international law;

Whereas the United States was the first country to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

Whereas, for approximately 100 days between April 7, 1994, and July 1994, more than 800,000 civilians were killed in a genocide in Rwanda that targeted members of the Tutsi, moderate Hutu, and Twa populations, resulting in the horrific deaths of nearly 70 percent of the Tutsi population living in Rwanda;

Whereas the massacres of innocent Rwandan civilians were premeditated and systematic attempts to eliminate the Tutsi population by Hutu extremists, fueled by hatred and incitement propagated by newspapers and radio;

Whereas, in addition to systematic targeting of an ethnic minority in Rwanda resulting in the mass slaughter of innocent civilians, rape was also used as a weapon of war;

Whereas, despite the deployment of the United Nations Assistance Mission for Rwanda (UNAMIR) in October 1993 following the end of the Rwandan Civil War, its mandate was insufficient to ensure the protection of large swathes of the population, demonstrating the inability of the United Nations to effectively respond to the unfolding genocide and stop or mitigate its impact;

Whereas, on July 4, 1994, the Rwandan Patriotic Front, a trained military group consisting of formerly exiled Tutsis, began its takeover of the country, which resulted in an ending of the genocide, though not a complete end to the violence, including retribution;

Whereas, in October 1994, the International Criminal Tribunal for Rwanda (ICTR) was established as the first international tribunal with the mandate to prosecute the crime of genocide and ultimately prosecuted 63 individuals for war crimes, including genocide and crimes against humanity as well as the first convictions for rape as a weapon of war;

Whereas the United States Government supports initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and has committed to work with international partners to help prevent genocide and mass atrocities and identify and support a range of actions to protect civilian populations at risk;

Whereas, in July 2004, the Senate adopted Senate Concurrent Resolution 133 and the House of Representatives adopted House Concurrent Resolution 467, declaring that

“the atrocities unfolding in Darfur, Sudan, are genocide”, and calling on the United States Government and the international community to take measures to address the situation immediately;

Whereas, in September 2004, the United States Government, in testimony by Secretary of State Colin Powell before the Committee on Foreign Relations of the Senate, declared the ongoing conflict in Darfur, Sudan a “genocide” perpetrated by the government based in Khartoum against its own people and affecting over 2,400,000 people in Sudan, including an estimated 200,000 fatalities;

Whereas, in September 2005, the United States joined other members of the United Nations in adopting United Nations General Assembly Resolution 60/1, which affirmed that the international community has a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI (Military enforcement) and VIII (Regional Arrangements) of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity;

Whereas, in December 2011, the Senate unanimously passed Senate Concurrent Resolution 71, recognizing the United States’ national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and urging the development of a whole of government approach to prevent and mitigate such acts;

Whereas, in April 2012, President Barack Obama established the Atrocities Prevention Board within the United States inter-agency structure, chaired by National Security staff, to help identify and more effectively address atrocity threats, including genocide, as a core national security interest and core moral responsibility;

Whereas, in July 2013, the National Intelligence Council completed the first ever National Intelligence Estimate on the global risk for mass atrocities and genocide;

Whereas, in January 2014, the National Director of Intelligence testified before the Select Committee on Intelligence of the Senate, stating that “the overall risk of mass atrocities worldwide will probably increase in 2014 and beyond . . . Much of the world will almost certainly turn to the United States for leadership to prevent and respond to mass atrocities.”;

Whereas, despite measures taken by the United States Government and other governments since 1994, the international community still faces the challenges of responding to escalation of violence, atrocities, and religious-based conflict in many corners of the globe, including Syria and the Central African Republic, and a failure of the international community to appropriately respond to and address the rapidly deteriorating situation could result in further atrocities;

Whereas the United Nations Security Council was unable to pass a resolution condemning the Government of Bashar al Assad of Syria for the use of chemical weapons against civilians, killing more than 1,400 of his own people in August 2013; and

Whereas United Nations Secretary-General Ban Ki-moon recommended to the United Nations Security Council the establishment of a United Nations peacekeeping mission in the Central African Republic with the primary mandate to protect civilians: Now, therefore, be it

Resolved, That the Senate—

- (1) recognizes the United Nations’ designation of April 7th as the International Day of Reflection on the Genocide in Rwanda;
- (2) honors the memory of the more than 800,000 victims of the Rwandan genocide and

expresses sympathy for those whose lives were forever changed by this horrific event;

- (3) expresses support for the people of Rwanda as they remember the victims of genocide;

- (4) affirms it is in the national interest of the United States to work in close coordination with international partners to prevent and mitigate acts of genocide and mass atrocities;

- (5) condemns ongoing acts of violence and

mass atrocities perpetrated against innocent civilians in Syria, the Central African Republic, South Sudan, Sudan and elsewhere;

(6) urges the President to confer with Congress on an ongoing basis regarding the priorities and objectives of the Atrocities Prevention Board;

(7) urges the President to work with Congress to strengthen the United States Government's ability to identify and more rapidly respond to genocide and mass atrocities in order to prevent where possible and mitigate the impact of such events; and

(8) supports ongoing United States and international efforts to—

(A) strengthen multilateral peacekeeping capacities;

(B) build capacity for democratic rule of law, security sector reform, and other measures to improve civilian protection in areas of conflict;

(C) ensure measures of accountability for perpetrators of mass atrocities and crimes against humanity; and

(D) strengthen the work of United States and international institutions, such as the Holocaust Memorial Museum, which are working to document, identify, and prevent mass atrocities and inspire citizens and leaders worldwide to confront hatred and prevent genocide.

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SENATE RESOLUTION 414—DESIGNATING APRIL 2014 AS “NATIONAL CONGENITAL DIAPHRAGMATIC HERNIA AWARENESS MONTH”

Mr. SESSIONS (for himself and Mr.

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ARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 414

Whereas congenital diaphragmatic hernia (referred to in this preamble as “CDH”) occurs when the diaphragm fails to fully form, allowing abdominal organs to migrate into the chest cavity and preventing lung growth;

Whereas the Centers for Disease Control and Prevention recognizes CDH as a birth defect;

Whereas the majority of CDH patients suffer from underdeveloped lungs or poor pulmonary function;

Whereas babies born with CDH endure extended hospital stays in intensive care with multiple surgeries;

Whereas CDH patients often endure long-term complications, such as pulmonary hypertension, pulmonary hypoplasia, asthma, gastrointestinal reflux, feeding disorders, and developmental delays;

Whereas CDH survivors sometimes endure long-term mechanical ventilation dependency, skeletal malformations, supplemental oxygen dependency, enteral and parenteral nutrition, and hypoxic brain injury;

Whereas CDH is treated through mechanical ventilation, a heart and lung bypass (commonly known as “extracorporeal membrane oxygenation”), machines, and surgical repair;

Whereas surgical repair is often not a permanent solution for CDH and can lead to reherniation and require additional surgery;

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CONGRESSIONAL RECORD — SENATE S2201 April 7, 2014

Whereas CDH is diagnosed in utero in less

than 50 percent of cases;

Whereas infants born with CDH have a

high mortality rate, ranging from 20 to 60 percent, depending on the severity of the defect and interventions available at delivery;

Whereas CDH has a rate of occurrence of 1 in every 3,800 live births worldwide; Whereas CDH affects approximately 1,088 babies each year in the United States;

Whereas CDH has affected more than 700,000 babies worldwide since 2000; Whereas CDH does not discriminate based on race, gender, or socioeconomic status;

Whereas the cause of CDH is unknown; Whereas the average CDH survivor will face postnatal care of at least \$100,000; and Whereas Federal support for CDH research at the National Institutes of Health for 2013 is estimated to be not more than \$3,000,000: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2014 as “National Congenital Diaphragmatic Hernia Awareness Month”;

(2) declares that steps should be taken to—

(A) raise awareness of and increase public knowledge about congenital diaphragmatic hernia (referred to in this resolution as “CDH”);

(B) inform minority populations about CDH;

(C) disseminate information on the importance of quality neonatal care of CDH patients;

(D) promote quality prenatal care and ultrasounds to detect CDH in utero; and

(E) increase research funding in an amount commensurate with the burden of CDH to—

(i) improve screening and treatment for CDH;

(ii) discover the causes of CDH; and

(iii) develop a cure for CDH; and

(3) calls on the people of the United States, interest groups, and affected persons to—

(A) promote awareness of CDH;

(B) take an active role in the fight against this devastating birth defect; and

(C) observe National Congenital Diaphragmatic Hernia Awareness Month with appropriate ceremonies and activities.

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SENATE RESOLUTION 415—SUPPORTING THE GOALS AND IDEALS OF NATIONAL PUBLIC HEALTH WEEK

Mr. UDALL of New Mexico (for him-

self, Mr. B

ROWN, Mr. WHITEHOUSE, Mr.

CARDIN, Mr. JOHNSON of South Dakota,

Mr. SCHUMER, Mr. BEGICH, Ms. WARREN,

Ms. HEITKAMP, and Mrs. HAGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 415

Whereas the week of April 7 through April 13, 2014, is National Public Health Week, and the theme for 2014 is “Public Health: Start Here”;

Whereas since 1995, public health organizations have used National Public Health Week to educate the public, policymakers, and public health professionals about issues that are important to improving the health of the people of the United States;

Whereas the public health system that keeps our communities healthy and safe is changing as technologies advance, public attitudes toward health shift, and more health and safety options become available;

Whereas the value of a strong public health system is in the air we breathe, the water we drink, the food we eat, and the places where we live, learn, work, and play;

Whereas public health professionals help

communities prepare for, withstand, and re-

cover from the impact of natural and man-made disasters;

Whereas according to the Institute of Medicine, despite being one of the wealthiest nations in the world, the United States still ranks below many other economically prosperous countries in life expectancy, infant mortality, low birth weight, and many other indicators of public health;

Whereas studies have shown that small strategic investments in preventive health care could result in significant savings in overall health care costs;

Whereas research suggests that each 10 percent increase in local public health spending contributes to a 6.9 percent decrease in infant deaths, a 3.2 percent decrease in cardiovascular deaths, a 1.4 percent decrease in deaths due to diabetes, and a 1.1 percent decrease in cancer deaths;

Whereas in communities across the country, people are changing the way they care for their health by avoiding tobacco use, eating well, being physically active, and preventing injuries at home and in the workplace; and

Whereas by adequately supporting public health and preventive health care, we can continue to transition from a public health system focused on treating illness to one focused on preventing disease and promoting wellness: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Public Health Week;
(2) recognizes the efforts of public health professionals, the Federal Government, States, Tribes, municipalities, local communities, and individuals in preventing disease and injury;

(3) recognizes the role of the public health system in improving the health of individuals in the United States;

(4) encourages increasing the efforts and resources devoted to improving the health of people in the United States and to making the United States the healthiest nation in the world in one generation through—

(A) greater opportunities to improve community health and prevent disease and injury; and

(B) strengthening the public health system of the United States; and

(5) encourages the people of the United States to learn about the role of the public health system in improving health in the United States.

f

SENATE RESOLUTION 416—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. REID (for himself and Mr. M

CONNELL) submitted the following resolution; which was considered and agreed to.:

S. RES. 416

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, May 6, 2014, at the hour of 2:15 p.m.

S

EC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

AMENDMENTS SUBMITTED AND

PROPOSED

SA 2960. Mr. CRUZ proposed an amendment to the bill S. 2195, to deny admission to the United States to any representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests.

SA 2961. Mr. CRUZ proposed an amendment to the bill S. 2195, supra.

f

TEXT OF AMENDMENTS

SA 2960. Mr. CRUZ proposed an amendment to the bill S. 2195, to deny admission to the United States to any representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests; as follows:

On page 2, line 4, insert “been found to have been” after “has”.

SA 2961. Mr. CRUZ proposed an amendment to the bill S. 2195, to deny admission to the United States to any representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests; as follows:

Amend the title so as to read: “A bill to deny admission to the United States to any representative to the United Nations who has been found to have been engaged in espionage activities or a terrorist activity against the United States and poses a threat to United States national security interests.”.

f

NOTICE OF HEARING
COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Ms. LANDRIEU. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, April 10, 2014, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The title of this oversight hearing is “Keeping the Lights On—Are We Doing Enough to Ensure the Reliability and Security of the U.S. Electric Grid?”

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to dan_adamson@energy.senate.gov, or kristen_granier@energy.senate.gov.

For further information, please contact Dan Adamson at (202) 224-2871, Kristen Granier at (202) 224-1219, or Afion Zaunbrecher at (202) 224-5479.

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CONGRESSIONAL RECORD — SENATES2202 *April 7, 2014*AUTHORIZING USE OF CAPITOL
GROUNDS

Mr. MENENDEZ. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H. Con. Res. 92, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 92) authorizing the use of the Capitol Grounds for the National Peace Officers Memorial Service and the National Honor Guard and Pipe Band Exhibition.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MENENDEZ. I ask unanimous consent the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.
The concurrent resolution (H. Con. Res. 92) was agreed to.

f

RESOLUTIONS SUBMITTED TODAY

Mr. MENENDEZ. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration en bloc of the following resolutions which were submitted earlier today: S. Res. 414; S. Res. 415; and S. Res. 416.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. MENENDEZ. I ask unanimous consent that the resolutions be agreed to, the preambles, where applicable, be agreed to, and the motions to reconsider be laid upon the table en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.
The resolutions en bloc were agreed to.

The preambles were agreed to.
(The resolutions, with their preambles, are printed in today's R

ECORD

under "Submitted Resolutions.")

MEASURE READ THE FIRST
TIME—H.R. 2575

Mr. MENENDEZ. Mr. President, I understand that H.R. 2575 has been received from the House and is at the desk. I would ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 2575) to amend the Internal Revenue Code of 1986 to repeal the 30-hour threshold for classification as a full-time employee for purposes of the employer mandate in the Patient Protection and Affordable Care Act and replace it with 40 hours.

Mr. MENENDEZ. Mr. President, I would ask for a second reading and object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

f

ORDERS FOR TUESDAY, APRIL 8, 2014

Mr. MENENDEZ. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 8, 2014; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for weekly caucus meetings; further, that the majority control the time from 2:15 p.m. until 3:15 p.m. and the Republicans control the time from 3:15 p.m. until 4:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

f

PROGRAM

Mr. MENENDEZ. Mr. President, this evening cloture was filed on the motion

to proceed to the equal pay bill. Under the rules the cloture vote will be Wednesday morning.

f

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MENENDEZ. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate at 7:57 p.m., adjourned until Tuesday, April 8, 2014, at 10 a.m.

f

NOMINATIONS

Executive nominations received by the Senate:
HARRY S TRUMAN SCHOLARSHIP FOUNDATION

STEVEN H. COHEN, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2019. (REAPPOINTMENT)

DEPARTMENT OF DEFENSE

GORDON O. TANNER, OF ALABAMA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE, VICE CHARLES A. BLANCHARD, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

JANE TOSHIKO NISHIDA, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE MICHELLE DEPASS, RESIGNED.

DEPARTMENT OF STATE

THOMAS P. KELLY III, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

INTERNATIONAL MONETARY FUND

SUNIL SABHARWAL, OF CALIFORNIA, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS, VICE DOUGLAS A. REDIKER, RESIGNED.

f

CONFIRMATIONS

Executive nominations confirmed by the Senate April 7, 2014:
DEPARTMENT OF STATE

MARK BRADLEY CHILDRESS, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

DEPARTMENT OF HOMELAND SECURITY

FRANCIS XAVIER TAYLOR, OF MARYLAND, TO BE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY.

L. REGINALD BROTHERS, JR., OF MASSACHUSETTS, TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY.

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Image 1

In the Senate of the United States,
April 7, 2014.

Resolved, That the bill from the House of Representatives (H.R. 3979) entitled “An Act to amend the Internal Revenue Code of 1986 to ensure that emergency services volunteers are not taken into account as employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act.”, do pass with the following

AMENDMENT:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. 1

(a) *SHORT TITLE.*—*This Act may be cited as the 2*

“Emergency Unemployment Compensation Extension Act 3
of 2014”. 4

(b) *TABLE OF CONTENTS.*—*The table of contents of this 5*

Act is as follows: 6

Sec. 1. Short title; table of contents.

Sec. 2. Extension of emergency unemployment compensation program.

Sec. 3. Temporary extension of extended benefit provisions.

Sec. 4. Extension of funding for reemployment services and reemployment and
eligibility assessment activities.

Sec. 5. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

Sec. 6. Flexibility for unemployment program agreements.

Image 2

2

† HR 3979 EAS

Sec. 7. Ending unemployment payments to jobless millionaires and billionaires.

Sec. 8. GAO study on the use of work suitability requirements in unemployment insurance programs.

Sec. 9. Funding stabilization.

Sec. 10. Prepayment of certain PBGC premiums.

Sec. 11. Extension of customs user fees.

Sec. 12. Emergency services, government, and certain nonprofit volunteers.

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COM-

1

PENSATION PROGRAM. 2

*(a) EXTENSION.—Section 4007(a)(2) of the Supple-3
mental Appropriations Act, 2008 (Public Law 110–252; 26 4*

*U.S.C. 3304 note) is amended by striking “January 1, 5
2014” and inserting “June 1, 2014”. 6*

*(b) FUNDING.—Section 4004(e)(1) of the Supplemental 7
Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 8
3304 note) is amended— 9*

*(1) in subparagraph (I), by striking “and” at 10
the end; 11*

*(2) in subparagraph (J), by inserting “and” at 12
the end; and 13*

*(3) by inserting after subparagraph (J) the fol-14
lowing: 15*

*“(K) the amendment made by section 2(a) 16
of the Emergency Unemployment Compensation 17
Extension Act of 2014;”. 18*

*(c) EFFECTIVE DATE.—The amendments made by this 19
section shall take effect as if included in the enactment of 20
the American Taxpayer Relief Act of 2012 (Public Law 21
112–240). 22*

Image 3

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† HR 3979 EAS

SEC. 3. TEMPORARY EXTENSION OF EXTENDED BENEFIT 1

PROVISIONS. 2

(a) *IN GENERAL.*—Section 2005 of the Assistance for 3
Unemployed Workers and Struggling Families Act, as con-4
tained in Public Law 111–5 (26 U.S.C. 3304 note), is 5
amended— 6

(1) by striking “December 31, 2013” each place 7
it appears and inserting “May 31, 2014”; and 8

(2) in subsection (c), by striking “June 30, 9
2014” and inserting “November 30, 2014”. 10

(b) *EXTENSION OF MATCHING FOR STATES WITH NO* 11
WAITING WEEK.—Section 5 of the Unemployment Com-12
pensation Extension Act of 2008 (Public Law 110–449; 26 13
U.S.C. 3304 note) is amended by striking “June 30, 2014” 14
and inserting “November 30, 2014”. 15

(c) *EXTENSION OF MODIFICATION OF INDICATORS* 16
UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 17
of the Federal-State Extended Unemployment Compensa-18
tion Act of 1970 (26 U.S.C. 3304 note) is amended— 19

(1) in subsection (d), by striking “December 31, 20
2013” and inserting “May 31, 2014”; and 21

(2) in subsection (f)(2), by striking “December 22
31, 2013” and inserting “May 31, 2014”. 23

(d) *EFFECTIVE DATE.*—The amendments made by this 24
section shall take effect as if included in the enactment of 25

Image 4

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† HR 3979 EAS

the American Taxpayer Relief Act of 2012 (Public Law 1
112–240). 2

SEC. 4. EXTENSION OF FUNDING FOR REEMPLOYMENT 3**SERVICES AND REEMPLOYMENT AND ELIGI-**4**BILITY ASSESSMENT ACTIVITIES.** 5

(a) *EXTENSION.*— 6

(1) *IN GENERAL.*—Section 4004(c)(2)(A) of the 7
Supplemental Appropriations Act, 2008 (Public Law 8
110–252; 26 U.S.C. 3304 note) is amended by strik-9
ing ‘‘through fiscal year 2014’’ and inserting 10
‘‘through the first five months of fiscal year 2015’’. 11

(2) *EFFECTIVE DATE.*—The amendment made by 12
this subsection shall take effect as if included in the 13
enactment of the American Taxpayer Relief Act of 14
2012 (Public Law 112–240). 15

(b) *TIMING FOR SERVICES AND ACTIVITIES.*— 16

(1) *IN GENERAL.*—Section 4001(i)(1)(A) of the 17
Supplemental Appropriations Act, 2008 (Public Law 18
110–252; 26 U.S.C. 3304 note) is amended by adding 19
at the end the following new sentence: 20

‘‘At a minimum, such reemployment services 21
and reemployment and eligibility assessment ac-22
tivities shall be provided to an individual within 23
a time period (determined appropriate by the 24
Secretary) after the date the individual begins to 25

Image 5

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† HR 3979 EAS

receive amounts under section 4002(b) (first tier 1
benefits) and, if applicable, again within a time 2
period (determined appropriate by the Sec-3
retary) after the date the individual begins to re-4

ceive amounts under section 4002(d) (third tier 5
benefits).'' 6

(2) EFFECTIVE DATE.—The amendment made by 7
this subsection shall apply on and after the date of 8
the enactment of this Act. 9

(c) PURPOSES OF SERVICES AND ACTIVITIES.—The 10
purposes of the reemployment services and reemployment 11
and eligibility assessment activities under section 4001(i) 12
of the Supplemental Appropriations Act, 2008 (Public Law 13
110–252; 26 U.S.C. 3304 note) are— 14

(1) to better link the unemployed with the overall 15
workforce system by bringing individuals receiving 16
unemployment insurance benefits in for personalized 17
assessments and referrals to reemployment services; 18
and 19

(2) to provide individuals receiving unemploy-20
ment insurance benefits with early access to specific 21
strategies that can help get them back into the work-22
force faster, including through— 23

(A) the development of a reemployment 24
plan; 25

Image 6

6

† HR 3979 EAS

(B) the provision of access to relevant labor 1
market information; 2

(C) the provision of access to information 3
about industry-recognized credentials that are re-4
gionally relevant or nationally portable; 5

(D) the provision of referrals to reemploy-6

ment services and training; and 7
 (E) an assessment of the individual's on- 8
 going eligibility for unemployment insurance 9
 benefits. 10

SEC. 5. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS 11

UNDER THE RAILROAD UNEMPLOYMENT IN-12

SURANCE ACT. 13

(a) *EXTENSION.*—Section 2(c)(2)(D)(iii) of the Rail-14
 road Unemployment Insurance Act (45 U.S.C. 15
 352(c)(2)(D)(iii)) is amended— 16

(1) by striking “June 30, 2013” and inserting 17
 “November 30, 2013”; and 18

(2) by striking “December 31, 2013” and insert-19
 ing “May 31, 2014”. 20

(b) *CLARIFICATION ON AUTHORITY TO USE FUNDS.*— 21
 Funds appropriated under either the first or second sen-22
 tence of clause (iv) of section 2(c)(2)(D) of the Railroad Un-23
 employment Insurance Act shall be available to cover the 24
 cost of additional extended unemployment benefits provided 25

Image 7

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† HR 3979 EAS

under such section 2(c)(2)(D) by reason of the amendments 1
 made by subsection (a) as well as to cover the cost of such 2
 benefits provided under such section 2(c)(2)(D), as in effect 3
 on the day before the date of enactment of this Act. 4

(c) *FUNDING FOR ADMINISTRATION.*—Out of any 5
 funds in the Treasury not otherwise appropriated, there are 6
 appropriated to the Railroad Retirement Board \$105,000 7
 for administrative expenses associated with the payment of 8

*additional extended unemployment benefits provided under 9
section 2(c)(2)(D) of the Railroad Unemployment Insur-10
ance Act by reason of the amendments made by subsection 11
(a), to remain available until expended. 12*

SEC. 6. FLEXIBILITY FOR UNEMPLOYMENT PROGRAM 13

AGREEMENTS. 14

(a) FLEXIBILITY.— 15

*(1) IN GENERAL.—Subsection (g) of section 4001 16
of the Supplemental Appropriations Act, 2008 (Pub-17
lic Law 110–252; 26 U.S.C. 3304 note) shall not 18
apply with respect to a State that has enacted a law 19
before December 1, 2013, that, upon taking effect, 20
would violate such subsection. 21*

*(2) EFFECTIVE DATE.—Paragraph (1) is effec-22
tive with respect to weeks of unemployment beginning 23
on or after December 29, 2013. 24*

Image 8

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† HR 3979 EAS

*(b) PERMITTING A SUBSEQUENT AGREEMENT.—Noth-1
ing in title IV of the Supplemental Appropriations Act, 2
2008 (Public Law 110–252; 26 U.S.C. 3304 note) shall pre-3
clude a State whose agreement under such title was termi-4
nated from entering into a subsequent agreement under 5
such title on or after the date of the enactment of this Act 6
if the State, taking into account the application of sub-7
section (a), would otherwise meet the requirements for an 8
agreement under such title. 9*

SEC. 7. ENDING UNEMPLOYMENT PAYMENTS TO JOBLESS 10

MILLIONAIRES AND BILLIONAIRES. 11

(a) *PROHIBITION.*—Notwithstanding any other provision of law, no Federal funds may be used for payments of unemployment compensation under the emergency unemployment compensation program under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) to an individual whose adjusted gross income in the preceding year was equal to or greater than \$1,000,000. 19

(b) *COMPLIANCE.*—Unemployment Insurance applications shall include a form or procedure for an individual applicant to certify the individual's adjusted gross income was not equal to or greater than \$1,000,000 in the preceding year. 24

Image 9

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† HR 3979 EAS

(c) *AUDITS.*—The certifications required by subsection (b) shall be auditable by the U.S. Department of Labor or the U.S. Government Accountability Office. 3

(d) *STATUS OF APPLICANTS.*—It is the duty of the States to verify the residency, employment, legal, and income status of applicants for Unemployment Insurance and no Federal funds may be expended for purposes of determining whether or not the prohibition under subsection (a) applies with respect to an individual. 9

(e) *EFFECTIVE DATE.*—The prohibition under subsection (a) shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act. 12

SEC. 8. GAO STUDY ON THE USE OF WORK SUITABILITY REQUIREMENTS IN UNEMPLOYMENT INSURANCE. 13-14

ANCE PROGRAMS. 15

(a) *STUDY.*—The Comptroller General of the United States shall conduct a study on the use of work suitability requirements to strengthen requirements to ensure that un-employment insurance benefits are being provided to individuals who are actively looking for work and who truly want to return to the labor force. Such study shall include an analysis of—

(1) how work suitability requirements work under both State and Federal unemployment insurance programs; and

Image 10

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† HR 3979 EAS

(2) how to incorporate and improve such requirements under Federal unemployment insurance programs; and

(3) other items determined appropriate by the Comptroller General.

(b) *BRIEFING.*—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall brief Congress on the ongoing study required under subsection (a). Such briefing shall include preliminary recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 9. FUNDING STABILIZATION. 13

(a) *FUNDING STABILIZATION UNDER THE INTERNAL REVENUE CODE.*—The table in subclause (II) of section 430(h)(2)(C)(iv) of the Internal Revenue Code of 1986 is

amended to read as follows: 17

*“If the calendar year is:
The applicable minimum
percentage is:
The applicable maximum*

percentage is:

*2012, 2013, 2014, 2015,
2016, or 2017.
90% 110%*

2018 85% 115%

2019 80% 120%

2020 75% 125%

After 2020 70% 130%”.

(b) FUNDING STABILIZATION UNDER ERISA.— 18

*(1) IN GENERAL.—The table in subclause (II) of 19
section 303(h)(2)(C)(iv) of the Employee Retirement 20*

Image 11

11

† HR 3979 EAS

Income Security Act of 1974 is amended to read as 1

follows: 2

*“If the calendar year is: The applicable minimum
percentage is:
The applicable maximum
percentage is:*

*2012, 2013, 2014, 2015,
2016, or 2017.
90% 110%*

2018 85% 115%

2019 80% 120%

2020 75% 125%

After 2020 70% 130%”.

(2) CONFORMING AMENDMENT.— 3

*(A) IN GENERAL.—Clause (ii) of section 4
101(f)(2)(D) of such Act is amended by striking 5*

“2015” and inserting “2020”. 6

*(B) STATEMENTS.—The Secretary of Labor 7
shall modify the statements required under sub-8*

clauses (I) and (II) of section 101(f)(2)(D)(i) of 9
such Act to conform to the amendments made by 10
this section. 11

(c) STABILIZATION NOT TO APPLY FOR PURPOSES OF 12
CERTAIN ACCELERATED BENEFIT DISTRIBUTION RULES.— 13

(1) INTERNAL REVENUE CODE OF 1986.—The sec-14
ond sentence of paragraph (2) of section 436(d) of the 15
Internal Revenue Code of 1986 is amended by strik-16
ing ‘of such plan’ and inserting ‘of such plan (deter-17
mined by not taking into account any adjustment of 18
segment rates under section 430(h)(2)(C)(iv))’. 19

(2) EMPLOYEE RETIREMENT INCOME SECURITY 20
ACT OF 1974.—The second sentence of subparagraph 21

Image 12

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† HR 3979 EAS

(B) of section 206(g)(3) of the Employee Retirement 1
Income Security Act of 1974 (29 U.S.C. 2
1056(g)(3)(B)) is amended by striking ‘of such plan’ 3
and inserting ‘of such plan (determined by not tak-4
ing into account any adjustment of segment rates 5
under section 303(h)(2)(C)(iv))’. 6

(3) EFFECTIVE DATE.— 7

(A) IN GENERAL.—Except as provided in 8
subparagraph (B), the amendments made by this 9
subsection shall apply to plan years beginning 10
after December 31, 2014. 11

(B) COLLECTIVELY BARGAINED PLANS.—In 12
the case of a plan maintained pursuant to 1 or 13
more collective bargaining agreements, the 14

*amendments made by this subsection shall apply 15
to plan years beginning after December 31, 2015. 16*

*(4) PROVISIONS RELATING TO PLAN AMEND-17
MENTS.— 18*

*(A) IN GENERAL.—If this paragraph ap-19
plies to any amendment to any plan or annuity 20
contract, such plan or contract shall be treated 21
as being operated in accordance with the terms 22
of the plan during the period described in sub-23
paragraph (B)(ii). 24*

Image 13

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† HR 3979 EAS

*(B) AMENDMENTS TO WHICH PARAGRAPH 1
APPLIES.— 2*

*(i) IN GENERAL.—This paragraph 3
shall apply to any amendment to any plan 4
or annuity contract which is made— 5*

*(I) pursuant to the amendments 6
made by this subsection, or pursuant 7
to any regulation issued by the Sec-8
retary of the Treasury or the Secretary 9
of Labor under any provision as so 10
amended, and 11*

*(II) on or before the last day of 12
the first plan year beginning on or 13
after January 1, 2016, or such later 14
date as the Secretary of the Treasury 15
may prescribe. 16*

(ii) CONDITIONS.—This subsection 17

shall not apply to any amendment unless, 18
 during the period— 19
 (I) beginning on the date that the 20
 amendments made by this subsection 21
 or the regulation described in clause 22
 (i)(I) takes effect (or in the case of a 23
 plan or contract amendment not re-24
 quired by such amendments or such 25

Image 14

14

† HR 3979 EAS

regulation, the effective date specified 1
 by the plan), and 2
 (II) ending on the date described 3
 in clause (i)(II) (or, if earlier, the date 4
 the plan or contract amendment is 5
 adopted), 6
 the plan or contract is operated as if such 7
 plan or contract amendment were in effect, 8
 and such plan or contract amendment ap-9
 plies retroactively for such period. 10
 (C) ANTI-CUTBACK RELIEF.—A plan shall 11
 not be treated as failing to meet the requirements 12
 of section 204(g) of the Employee Retirement In-13
 come Security Act of 1974 and section 411(d)(6) 14
 of the Internal Revenue Code of 1986 solely by 15
 reason of a plan amendment to which this para-16
 graph applies. 17
 (d) MODIFICATION OF FUNDING TARGET DETERMINA-18
 TION PERIODS.— 19

(1) INTERNAL REVENUE CODE OF 1986.—Clause 20
(i) of section 430(h)(2)(B) of the Internal Revenue
Code of 1986 is amended by striking “the first day 22
of the plan year” and inserting “the valuation date 23
for the plan year”. 24

Image 15

15

† HR 3979 EAS

(2) EMPLOYEE RETIREMENT INCOME SECURITY 1
ACT OF 1974.—Clause (i) of section 303(h)(2)(B) of the 2
Employee Retirement Income Security Act of 1974 3
(29 U.S.C. 1083(h)(2)(B)(i)) is amended by striking 4
“the first day of the plan year” and inserting “the 5
valuation date for the plan year”. 6

(e) EFFECTIVE DATE.— 7

(1) IN GENERAL.—The amendments made by 8
subsections (a), (b), and (d) shall apply with respect 9
to plan years beginning after December 31, 2012. 10

(2) ELECTIONS.—A plan sponsor may elect not 11
to have the amendments made by subsections (a), (b), 12
and (d) apply to any plan year beginning before Jan-13
uary 1, 2014, either (as specified in the election)— 14
(A) for all purposes for which such amend-15
ments apply, or 16

(B) solely for purposes of determining the 17
adjusted funding target attainment percentage 18
under sections 436 of the Internal Revenue Code 19
of 1986 and 206(g) of the Employee Retirement 20
Income Security Act of 1974 for such plan year. 21
A plan shall not be treated as failing to meet the re-22

quirements of section 204(g) of such Act and section 23
411(d)(6) of such Code solely by reason of an election 24
under this paragraph. 25

Image 16

16

† HR 3979 EAS

SEC. 10. PREPAYMENT OF CERTAIN PBGC PREMIUMS. 1

(a) IN GENERAL.—Section 4007 of the Employee Re-2
tirement Income Security Act of 1974 (29 U.S.C. 1307) is 3
amended by adding at the end the following new subsection: 4

“(f) ELECTION TO PREPAY FLAT DOLLAR PRE-5
MIUMS.— 6

“(1) IN GENERAL.—The designated payor may 7
elect to prepay during any plan year the premiums 8
due under clause (i) or (v), whichever is applicable, 9
of section 4006(a)(3)(A) for the number of consecutive 10
subsequent plan years (not greater than 5) specified 11
in the election. 12

“(2) AMOUNT OF PREPAYMENT.— 13

“(A) IN GENERAL.—The amount of the pre-14
payment for any subsequent plan year under 15
paragraph (1) shall be equal to the amount of 16
the premium determined under clause (i) or (v), 17
whichever is applicable, of section 4006(a)(3)(A) 18
for the plan year in which the prepayment is 19
made. 20

“(B) ADDITIONAL PARTICIPANTS.—If there 21
is an increase in the number of participants in 22
the plan during any plan year with respect to 23
which a prepayment has been made, the des-24

ignated payor shall pay a premium for such ad-25
ditional participants at the premium rate in ef-26

Image 17

17

† HR 3979 EAS

fect under clause (i) or (v), whichever is applica-1
ble, of section 4006(a)(3)(A) for such plan year. 2
No credit or other refund shall be granted in the 3
case of a plan that has a decrease in number of 4
participants during a plan year with respect to 5
which a prepayment has been made. 6

“(C) COORDINATION WITH PREMIUM FOR 7
UNFUNDED VESTED BENEFITS.—The amount of 8
the premium determined under section 9
4006(a)(3)(A)(i) for the purpose of determining 10
the prepayment amount for any plan year shall 11
be determined without regard to the increase in 12
such premium under section 4006(a)(3)(E). Such 13
increase shall be paid in the same amount and 14
at the same time as it would otherwise be paid 15
without regard to this subsection. 16

“(3) ELECTION.—The election under this sub-17
section shall be made at such time and in such man-18
ner as the corporation may prescribe.”. 19

(b) CONFORMING AMENDMENT.—The second sentence 20
of subsection (a) of section 4007 of the Employee Retirement 21
Income Security Act of 1974 (29 U.S.C. 1307) is amended 22
by striking “Premiums” and inserting “Except as provided 23
in subsection (f), premiums”. 24

Image 18

18

† HR 3979 EAS

*(c) EFFECTIVE DATE.—The amendments made by this 1
section shall apply to plan years beginning after the date 2
of the enactment of this Act. 3*

SEC. 11. EXTENSION OF CUSTOMS USER FEES. 4

*Section 13031(j)(3) of the Consolidated Omnibus 5
Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is 6
amended— 7*

*(1) in subparagraph (A), by striking “September 8
30, 2023” and inserting “September 30, 2024”; and 9*

*(2) in subparagraph (B)(i), by striking “Sep-10
tember 30, 2023” and inserting “September 30, 11
2024”. 12*

SEC. 12. EMERGENCY SERVICES, GOVERNMENT, AND CER-13

TAIN NONPROFIT VOLUNTEERS. 14

*(a) IN GENERAL.—Section 4980H(c) of the Internal 15
Revenue Code of 1986 is amended by redesignating para-16
graphs (5), (6), and (7) as paragraphs (6), (7), and (8), 17
respectively, and by inserting after paragraph (4) the fol-18
lowing new paragraph: 19*

*“(5) SPECIAL RULES FOR CERTAIN EMERGENCY 20
SERVICES, GOVERNMENT, AND NONPROFIT VOLUN-21
TEERS.— 22*

*“(A) EMERGENCY SERVICES VOLUN-23
TEERS.—Qualified services rendered as a bona 24
fide volunteer to an eligible employer shall not be 25*

Image 19

19

† HR 3979 EAS

taken into account under this section as service 1
provided by an employee. For purposes of the 2
preceding sentence, the terms ‘qualified services’, 3
‘bona fide volunteer’, and ‘eligible employer’ 4
shall have the respective meanings given such 5
terms under section 457(e). 6

“(B) CERTAIN OTHER GOVERNMENT AND 7
NONPROFIT VOLUNTEERS.— 8

“(i) IN GENERAL.—Services rendered 9
as a bona fide volunteer to a specified em-10
ployer shall not be taken into account under 11
this section as service provided by an em-12
ployee. 13

“(ii) BONA FIDE VOLUNTEER.—For 14
purposes of this subparagraph, the term 15
‘bona fide volunteer’ means an employee of 16
a specified employer whose only compensa-17
tion from such employer is in the form of— 18

“(I) reimbursement for (or reason-19
able allowance for) reasonable expenses 20
incurred in the performance of services 21
by volunteers, or 22

“(II) reasonable benefits (includ-23
ing length of service awards), and 24
nominal fees, customarily paid by 25

Image 20

20

† HR 3979 EAS

similar entities in connection with the 1
performance of services by volunteers. 2

“(iii) *SPECIFIED EMPLOYER.*—For 3
purposes of this subparagraph, the term 4
‘specified employer’ means— 5
“(I) any government entity, and 6
“(II) any organization described 7
in section 501(c) and exempt from tax 8
under section 501(a). 9

“(iv) *COORDINATION WITH SUBPARA-10
GRAPH (A).*—This subparagraph shall not 11
fail to apply with respect to services merely 12
because such services are qualified services 13
(as defined in section 457(e)(11)(C)).” 14

(b) *EFFECTIVE DATE.*—The amendments made by this 15
section shall apply to months beginning after December 31, 16
2013. 17

Attest:

Secretary.

Image 21

Image 22

113TH CONGRESS

2D SESSION **H.R. 3979**

AMENDMENT

Terry E. Branstad, Governor

Kim Reynolds, Lt. Governor

Teresa Wahlert, Director



May 27, 2014

Byron Zuidema
Regional Administrator
US Department of Labor, ETA
230 S. Dearborn St. #1086
Chicago, IL 60604

Dear Byron,

In September 2013, your office conducted a review and monitoring of the Iowa Unemployment Insurance Benefit Payment Control program. As a result it was found that our program had a backlog of claims going back as far as 2010 that required verification of the claimant's alien registration status. I am very pleased to report that as of today, the program is current and all backlog eliminated. Procedures and staff are in place to ensure that alien registration status is verified daily.

Using the Systematic Alien Verification for Entitlements (SAVE) program hosted by the Department of Homeland Security, staff verified over 20,000 claims dating from 2010 through 2013. During that same time period it is estimated that 90 of those claims would have resulted in a denial of benefits, or less than one half of one percent.

Your office has also commented on the number of staff dedicated to this program. Iowa Workforce Development has recently added four more fraud investigators to our team in Benefit Payment Control, with plans of adding two more as funding permits. Our UI Division Administrator has worked diligently with his team to streamline processes and refocus investigators on identifying and prosecuting UI fraud, while utilizing other resources to manage non-fraud related interviews.

I want to thank you, John Scott, and Steffanie Belmonte for your on-going support while we eliminated this issue from the monitoring report.

Sincerely,

A handwritten signature in cursive script that reads "Teresa Wahlert".

Teresa Wahlert
Director

cc. Steffanie Belmonte

Wilkinson, Michael [IWD]

From: Wilkinson, Michael [IWD]
Sent: Tuesday, December 10, 2013 8:10 PM
To: 'Belmonte, Steffanie - ETA'
Subject: RE: Iowa \$500 Million Special Distribution
Attachments: ARRA Special Distribution update 12-10-13.docx

Steffanie, please find attached the requested update. Let me know if you have questions. For the most part, we are still on target.

From: Belmonte, Steffanie - ETA [mailto:Belmonte.Steffanie@dol.gov]
Sent: Wednesday, December 04, 2013 7:51 AM
To: Wilkinson, Michael [IWD]
Subject: Iowa \$500 Million Special Distribution

Hi Mike,

In June, 2013 you provided ETA a summary of Iowa's plan to expend the remaining \$500 Million Special Distribution of ARRA funds (Attachment 3). Please provide me with an update of Attachment 3? For example, is Iowa still on track with the areas identified in the plan, are contracts in place, etc.?

Please provide this information by c.o.b. Thursday, December 12, 2013.

Thanks.

Steffanie Belmonte

U.I. Program Specialist

U.S. Department of Labor/ETA

Chicago - Region 5

(Ph) 312-596-5436 (Fx) 312-596-5401

belmonte.steffanie@dol.gov

ARRA Special Distribution – UI Modernization

Iowa will have spent approximately \$1,475,000 of the ARRA Special Distribution by June 30, 2013. While a couple projects had to be delayed due to Sequestration, we have established and implemented a budget for July 1, 2013 through June 30, 2014 that will expend the balance in a similar manner as described below (original proposal). All funds are currently obligated.

Iowa's plan for the ARRA Special Distribution (aka UI Modernization funds) is to dedicate those resources towards

1. Supplement system redesign of both the Benefits and Tax systems.
2. Addressing serious backlogs in our UI Benefits, investigations, recovery, and tax bureaus as the result of current system changes and planned and system redesigns;
3. Accommodate a major service delivery shift in the UI Benefits operations involving investments in communications, software, hardware, and training.

System Redesigns: **Completed or obligated by September 30, 2013.**

1. Core functionality is nearly complete for the new UI Tax system called My Iowa UI (MIUI). However a majority of the development has been completed by contract staff that will leave or be redeployed to other projects by February 2013. The IWD CIO has identified three staff that will be responsible for the maintenance and on-going change requests. They will begin training immediately and prepared to take over the MIUI.
 - a. **Update: This is nearly complete. MIUI core functionality will be complete by October 1 and IT staff have already started taking over some of the support functions but will continue their training.**
 - b. **Update 12-10-13: All core functionality is complete and staff are being trained in "Field Audit" the last function developed.**
2. IWD will invest in staff time and contractors to rewrite the Internet claim application. It is our plan to rely almost exclusively on this application for all types of claims. The agency has already tested our ability to "auto process" initial Iowa claims without staff intervention, resulting in nearly 45% of all claims filed over the Internet automatically processing which contributes significantly to timely first payments. This project will require an investment of at least 4 staff years to complete and integrate in the Benefits Redesign model.
 - a. **Update: Design and requirements will be complete by July 11, 2013 and developers will begin work with a target implementation of October 14, 2014.**
 - b. **Enhancements to capture separation information from the claimant at the time of filing are underway.**
 - c. **Update 12-10-13: the initial claim application is in the final stages of development. Testing is anticipated to begin in the first quarter of 2014. Full implementation is still on schedule for October 2014. Requirements and design underway for translation in other languages and how to auto process a higher percentage of claims.**
3. IWD will invest in staff time and contractors to create secure claimant "profiles" on the internet that will allow the claimant to access information and documents retained on the IWD data base. Benefits Redesign in Iowa is focused on reducing our reliance on US Postal Service for routine communications. This project aligned with SIDES and E-Response is significant to increasing performance measures for timely first payments and reducing staff costs.
 - a. **Update: The first phase of developing a common portal is complete**

- b. Phase two requirements that will include authentication and electronic correspondence is in process. Requirements to be complete August 1, 2013 and implementation in October 2013.
 - c. Update 12-10-13: The Profile portal is behind schedule and is being tested in December 2013. Electronic correspondence with claimants is on schedule for August 2014. Requirements for Identity authentication are complete and integrated with the Profile portal and initial claim application. Implementation will occur simultaneously with the roll out of the initial claim application.
4. IWD will invest in Customer Relations Management software; this software will allow a single view of detail of the 75,000 employers in the state of Iowa doing business with IWD. Specifically, the person in the business responsible for specific functions, tax rates, job orders placed, claims filed and outcomes, etc.
- a. this project is in the design stage with requirements to be complete this fall and implementation in the spring of 2014.
 - b. Update 12-10-13: This project is still on target for completion June 30, 2014.

Backlogs: As a result of the increased workloads during the recession as the result of current system changes and planned and system redesigns, serious backlogs of work have occurred. It is our belief that with targeted overtime projects, Iowa can eliminate the majority of this workload before **June 30, 2013**. This will have a significant impact on UI Integrity, timeliness and TPS performance standards.

Update: We have made a significant impact on backlogs, however continue to have backlog in tax and benefit payment control. Will continue to focus our efforts and ARRA funds on these activities.

UI Benefits Operations: Historically, Iowa has supported UI operations in the field offices. Budget reductions, retirement, and concerns over the quality of customer service, UI operations in Iowa will be transitioned to a centralized system in Des Moines. This will require increasing staff levels at our Des Moines UI Service Center while we transition staff out of the field offices. We anticipate completing this transition no later than **June 30, 2014**. Test data strongly supports this approach, as we will be able to serve more employers and claimants faster by telephone and e-mail. As well, training and oversight will increase efficiency, accuracy, and response time.

Update: Still on target.

Due Oct 10, 2013

U.S. Department of Labor



Employment and Training Administration
REGION V

John C. Kluczynski Building
230 South Dearborn Street, 6th Floor
Chicago, IL 60604-1505

<http://www.doleta.gov/regions/reg05>

September 10, 2013

Teresa Wahlert, Director
Iowa Workforce Development
1000 E. Grand Avenue
Des Moines, IA 50319-0209

Dear Ms. Wahlert:

During the period July 29-31, 2013, the U.S. Department of Labor, Employment and Training Administration conducted a review of your organization's Unemployment Insurance Benefit Payment Control program. The enclosed report outlines the review scope, any identified compliance findings, required corrective actions, and areas of concern. The report is based on information and documents provided as of the date of the review.

The report has identified four findings, which require corrective action. Please submit a response to the findings outlined in the report electronically to oss.etar5@dol.gov within 30 days of receipt of this report. The report also identified one area of concern which is accompanied by a technical recommendation aimed at improving the general management and administration of the program. While you are not required to respond to the area of concern, your comments and description of any planned actions pertaining to the concerns will be appreciated.

We hope that our review has been helpful to you. Please express our appreciation to your staff for their assistance during this review and providing necessary details on various elements of the program and for completing the required materials.

If you have any questions, please contact Steffanie Belmonte at (312) 596-5436 or belmonte.steffanie@dol.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron Zuidema". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Byron Zuidema
Regional Administrator

cc:
Mike Wilkinson
Dave Eklund

Monitoring Report

Iowa Workforce Development

Unemployment Insurance Benefit Payment Control Program

*Issued by the Chicago Regional Office
September 9, 2013*

eta

UNITED STATES DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION

EXECUTIVE SUMMARY

The U.S. Department of Labor, Employment and Training Administration (ETA) recently conducted a review of the Unemployment Insurance (UI) Benefit Payment Control (BPC) Program in Iowa Workforce Development (IWD). The purpose of the review was to evaluate the management and administration of the BPC operation, to analyze the State's law and policy, and the performance of the BPC operation in the areas of prevention, detection, investigation, collection and prosecution for both nonfraud and fraud overpayments in order to determine if the program is operating in compliance with Federal regulations.

The reviewer identified the following findings:

- **Finding 1:** The data on the ETA 9016 Alien Claims Activities Report submitted was incorrect and does not accurately reflect the information obtained from Systematic Alien Verification for Entitlement (SAVE) system about an alien's immigration status that supports the determination of the alien's eligibility for unemployment compensation.

Required Action: The state must verify alien status of every new and additional claim through the SAVE system. The state must ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook. The state should also assess whether internal policies or procedures need to be updated, and whether training is needed to ensure this requirement is fulfilled on a consistent basis.

- **Finding 2:** Claimants prosecuted for UI fraud are ordered to make restitution via wage garnishment facilitated through the 99 county sheriffs' offices. Under this process, the payments are not forwarded to the state in a timely manner. Withholding of moneys destined for the state is contrary to the mandates put forward in the Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards.

Required Action: The state must put in place policy and procedures with the county sheriffs' offices to facilitate the return of UI moneys to the Unemployment Trust Fund (UTF).

UI Benefit Payment Control Review – Des Moines, IA

- **Finding 3:** The data on the ETA 227 Overpayment Detection and Recovery Activities Report submitted was incorrect and does not accurately reflect the activities that the state is undertaking to establish and recover overpayments. Several coding issues were identified with the ETA 227 Report.

Required Action: The state must program the updated version of the ETA 227 Report in accordance with UIPL No. 08-12, review the report for accuracy and ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook.

- **Finding 4:** Ten of the 20 overpayment cases reviewed took two to six months to establish an overpayment determination from the receipt of the wage verification from both the employer and the claimant.

Required Action: The state must take immediate corrective action to address the back log of cases and establish overpayments promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to ensure the payment of benefits when due.

There are no questioned costs related to this review.

An official response to the finding and corrective action outlined above must be submitted to this Regional Office within 30 days of receipt of this report.

REVIEW SCOPE**Dates of Review**

July 29-31, 2013

Site(s) Visited

IWD
Des Moines, IA

ETA Reviewer(s)

Steffanie Belmonte, UI Program Specialist, Region V

Program Reviewed

UI BPC Program

Time Period for Data Covered in Review

N/A

Date of Exit Conference

July 31, 2013

In Attendance

Mike Wilkinson, Division Administrator, IWD
Dave Eklund, Regional Operations Manager, IWD

The purpose of the review was to:

- Evaluate the State's BPC program for compliance with provisions contained in law, regulations and procedures;
- Review the State's BPC operation as it relates to the prevention, detection, investigation, collection and prosecution for nonfraud and fraud overpayments;
- Review of case files; and
- Identify any technical assistance needs.

ETA reviewed the State's responses on the BPC Federal Review Guide for State Unemployment Insurance Operations; examined State policies and procedures; reviewed ETA 9016 Alien Claims Activities Reports and ETA 227 Overpayment Detection and Recovery Activities Reports for the previous three calendar years; and observed program operational processes.

REVIEW SCOPE – Basis for Review

The reviewer used the ETA BPC Federal Review Guide for State UI Operations as the primary tools for conducting the review. The following areas of the BPC Review Guide were covered in the review:

- Three Year Comparison of BPC Performance with Claims Activities
- State Law Provisions for Fraud and Overpayments
- Part I: Organization and Management
- Part II: Detection of Overpayments
- Part III: Investigations
- Part IV: Determinations
- Part V: Prosecutions
- Part VI: Fictitious Employers
- Part VII: Collection of Overpayments
- Part VIII: Maintenance and Evaluation of Administrative Data
- Part IX: Local Office Operations
- Part X: Case Review
- Part XI: New Initiatives

The review did not cover any areas outside the defined scope. Although no material issues came to the reviewers' attention other than those contained in this report, there is no assurance that other issues may not exist.

BACKGROUND

Overpayment prevention and detection are central to effective UI administration, and the Department has made reducing overpayments a priority. The reduction of overpayments within the UI program remains one of the Secretary of Labor's primary goals, and the Detection of Overpayments is included as part of UI Performs as a Core Measure. ETA staff conducted this review, consistent with the objectives of the U.S. Department of Labor's "UI Performs," a comprehensive performance system in which the state and federal government work together as partners to strengthen the UI system. One of the primary goals of the system is to achieve continuous improvement of overall performance quality.

COMPLIANCE FINDINGS

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data (Part II – Detection of Overpayments)

The ETA 9016 Alien Claims Activities Report is designed so ETA and the state can monitor an alien's immigration status that will allow them to determine the alien's eligibility for unemployment compensation. To facilitate the required verification, the Immigration and Naturalization Service (INS), developed the Systematic Alien Verification for Entitlement

(SAVE) system. The information provided on the report assesses the magnitude of alien claims and issues affecting eligibility; make decisions as to the appropriateness and value of state use of the SAVE system; and determine whether a state's administrative costs associated with SAVE are reasonable.

The data on the ETA 9016 Reports submitted was incorrect and does not accurately reflect the information obtained from SAVE about an alien's immigration status that will allow the determination of the alien's eligibility for unemployment compensation. The reporting issues identified were:

Line 2, Number of Claimants Whose Alien Status was Verified through the INS Primary System, the state is not verifying every new and additional claims filed during the quarter where the claimant indicated or was otherwise discovered not to be a citizen of the United States through the SAVE system.

Required Action: The state must verify alien status of every new and additional claim through the SAVE system. The state must ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook. The state should also assess whether internal policies or procedures need to be updated, and whether training is needed to ensure this requirement is fulfilled on a consistent basis.

Finding #2: Immediate Deposit and Withdrawal Standards
(Part V – Prosecutions)

Claimants prosecuted for UI fraud are ordered to make restitution via wage garnishment facilitated through the 99 county sheriffs' offices. The sheriffs' offices will hold the garnished wages until the full amount requested is recovered or the maximum amount is garnished for the calendar year under Iowa law. The sheriffs' offices then forward the funds to IWD. There is no uniform system by which these 99 county sheriff's offices submit restitution payments to the state; the process varies from county to county. Under this process, the payments are not forwarded to the state in a timely manner. Withholding of moneys destined for the state is contrary to the mandates put forward in the Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards.

The Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards clearly delineates the responsibility of state agencies to deposit moneys designated for the Unemployment Trust Fund (UTF) to be deposited in a timely manner. The IPL indicates in part..." Section 3304(a)(3), FUTA, requires as a condition of employers in a State receiving credit against the Federal unemployment tax, that:

All money received in the unemployment fund shall...immediately upon such receipt be paid over to the Secretary of Treasury to the credit of the Unemployment Trust Fund established by Section 904 of the Social Security Act.

This “immediate deposit” requirement is also found in Section 303(a)(4), SSA, as a condition for a State receiving administrative grants. The UIPL continues:

When Moneys Become Part of a State’s Unemployment Fund. Moneys need not be in any of the three main parts to be in the fund. The exact time moneys become part of the State’s unemployment fund is statutorily controlled by the immediate deposit requirement which requires the payment by the State of “all money received in the unemployment fund...immediately upon such receipt” to the Secretary of Treasury to the credit of the UTF.

The Department interprets the phrase “received in the unemployment fund” to mean that any money received for purpose of the trust (i.e., the payment of UC) is “in” the State’s unemployment fund at the instant of its receipt by the State or its agent. This interpretation assures that transfers of moneys in a State’s possession are not delayed, thereby giving effect to the immediate deposit requirement that all moneys be immediately paid over to the UTF and assuring the beneficiary has forwarded moneys to the trustee for investment.

Required Action: The state must put in place policy and procedures with the county sheriffs’ offices to facilitate the return of UI moneys to the UTF.

Finding #3: ETA 227 Report - Reporting Errors and Validity of Data
(Part VIII – Maintenance and Evaluation of Administration Data)

The ETA 227 Overpayment Detection and Recovery Activities Report is designed so ETA and the state can monitor the integrity of the benefit payment processes in the UI system. The principal detection areas of benefit payment control are shown on the report. Data are provided for the establishment of overpayments, recoveries of overpayments, criminal and civil actions involving overpayments obtained fraudulently, and an aging schedule of outstanding benefit overpayment account. The recorded data is reviewed to assure that the state’s system is operating in an efficient and cost effective manner and meets the requirements in accordance with Section 303(a)(6), SSA, requires:

“the making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports”

The data on the ETA 227 Report submitted was incorrect and does not accurately reflect the activities that the state is undertaking to establish and recover overpayments. Because the state has not programmed the updated version of the ETA 227 Report in accordance with UIPL No. 08-12 Consolidation of the Employment and Training Administration (ETA) 9000 and ETA 227 Reports issued on January 11, 2012, the coding issues identified were:

Section A. Overpayments Established – Causes; Line 112, High Dollar Fraud Overpayments, the line is not populated to report those fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.

Section A. Overpayments Established – Causes; Line 113, High Dollar Non-fraud Overpayments, the line is not populated to report those non-fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.

Section B. Overpayments Established – Methods of Detection; Line 204, State Directory of New Hire (SDNH), the line is not populated with the total cases investigated and established through the use of the SDNH. The SDNH cases are combined with Line 210, National Directory of New Hires.

Section D. Criminal/Civil Actions; Line 404, Number of Convictions Obtained, in Calendar Year (CY) 2012 the line item indicates 277 convictions obtained, however, in reviewing the number of fraud cases only 13 were referred for prosecution. It was determined during discussions with the state it was a typographical error.

Section D. Criminal/Civil Actions; Line 405, Number of Cases Referred for Civil Action, in CY 2012 the state decreased their activity and referred one case for civil action when compared to previous years the referral rate was approximately 16-18 cases.

Section D. Criminal/Civil Actions; Line 406, Number of Civil Actions Obtained, in CY 2012 because the state decreased their activity only one case received civil action.

Required Action: The state must program the updated version of the ETA 227 Report in accordance with UIPL No. 08-12, review the report for accuracy and ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook.

Finding #4: Determination Timeliness
(Part XI – Case Review)

Ten of the 20 overpayment cases reviewed took two to six months to establish an overpayment determination from the receipt of the wage verification from both the employer and the claimant.

Section 303(a)(1), of the Social Security Act (SSA), requires, as a condition for a State to receive administrative grants for the Unemployment Compensation program, that a State law include provision for:

UI Benefit Payment Control Review – Des Moines, IA

“Such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.”

20 CFR 640.1(2) Standard for Benefit Payment Promptness-Unemployment Compensation, “adequate performance is contingent upon the prompt determination of eligibility by the State as a condition for payment or denial of benefits. Accordingly, implicit in prompt performance with respect to benefit payment is the corresponding need for promptness by the State in making determinations of eligibility.”

In accordance with UIPL No. 11-45, in 1971, the Supreme Court issued its decision in *California Department of Human Resource Development v. Java*, 402 U.S. 121 (1971), Procedures for Implementing the Java Decision’s Requirements, Attachment to UIPL No. 11-45 Promptness of Determination and Payment.

The state has lost experienced staff through attrition and has been unable to fill vacancies to effectively investigate and make timely determinations on all overpayment cases. When a BPC unit is not properly staffed the impact on program integrity can ultimately affect the state’s performance.

Required Action: The state must take immediate corrective action to address the back log of cases and establish overpayments promptly and prior to a determination of an individual’s right to benefits, such facts pertaining thereto as will be sufficient reasonably to ensure the payment of benefits when due.

Area of Concern #1: Collections Activity (Part XI – Case Review)

Fifteen of the 20 overpayment cases reviewed recovery was not obtained. The UI overpayment recovery measure that is addressed in UIPL No. 09-13 is based on the ETA 227 and ETA 227 EUC data for the Improper Payments Information Act (IPIA), period July 1, 2012 to June 30, 2013. A state that fails to meet the Acceptable Levels of Performance for the 2013 IPIA reporting period will be expected to develop a CAP as part of the FY 2015 SQSP.

Suggestion: ETA recommends that the state direct additional resources to the recovery of UI overpayments so the state meets the UI overpayment recovery measure that will take effect in FY 2015.

- End of Report -

Wilkinson, Michael [IWD]

From: Wilkinson, Michael [IWD]
Sent: Thursday, October 10, 2013 4:41 PM
To: 'oss.etar5@dol.gov'
Cc: Belmonte, Steffanie - ETA; Scott, John - ETA (Scott.John@dol.gov); Eklund, David [IWD]
Subject: Iowa UI BPC Monitoring
Attachments: COMPLIANCE FINDINGS 9-13.docx

Please find attached Iowa's response to the compliance findings from the review of Iowa's Unemployment Insurance Benefit Payment Control operation July 29-31. The Findings and responses have been reviewed and approved by IWD Director Teresa Wahlert and Division Administrator Michael Wilkinson. Please let me know if you have any questions or concerns with the response. Look forward to hearing from you....and having you back on the job!

COMPLIANCE FINDINGS

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

(Part II – Detection of Overpayments)

The ETA 9016 Alien Claims Activities Report is designed so ETA and the state can monitor an alien's immigration status that will allow them to determine the alien's eligibility for unemployment compensation. To facilitate the required verification, the Immigration and Naturalization Service (INS), developed the Systematic Alien Verification for Entitlement (SAVE) system. The information provided on the report assesses the magnitude of alien claims and issues affecting eligibility; make decisions as to the appropriateness and value of state use of the SAVE system; and determine whether a state's administrative costs associated with SAVE are reasonable.

The data on the ETA 9016 Reports submitted was incorrect and does not accurately reflect the information obtained from SAVE about an alien's immigration status that will allow the determination of the alien's eligibility for unemployment compensation. The reporting issues identified were:

Line 2, Number of Claimants Whose Alien Status was Verified through the INS Primary System, the state is not verifying every new and additional claims filed during the quarter where the claimant indicated or was otherwise discovered not to be a citizen of the United States through the SAVE system.

Required Action: The state must verify alien status of every new and additional claim through the SAVE system. The state must ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook. The state should also assess whether internal policies or procedures need to be updated, and whether training is needed to ensure this requirement is fulfilled on a consistent basis.

Response: The Unemployment Insurance Service Center (UISC) has identified and trained a workforce advisor to query SAVE, follow-up with the claimant on discrepancies, and disqualify the claimant if warranted. The person was trained in early September and started conducting verification approximately September 18, 2013. Going forward 100% of all new and additional claims will be verified.

Finding #2: Immediate Deposit and Withdrawal Standards

(Part V – Prosecutions)

Claimants prosecuted for UI fraud are ordered to make restitution via wage garnishment facilitated through the 99 county sheriffs' offices. The sheriffs' offices will hold the garnished wages until the full amount requested is recovered or the maximum amount is garnished for the calendar year under Iowa law. The sheriffs' offices then forward the funds to IWD. There is no uniform system by which these 99 county sheriff's offices submit restitution payments to the state; the process varies from county to county. Under this process, the payments are not forwarded to the state in a timely manner.

Withholding of moneys destined for the state is contrary to the mandates put forward in the Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards.

The Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards clearly delineates the responsibility of state agencies to deposit moneys designated for the Unemployment Trust Fund (UTF) to be deposited in a timely manner. The UIPL indicates in part..." Section 3304(a)(3), FUTA, requires as a condition of employers in a State receiving credit against the Federal unemployment tax, that:

All money received in the unemployment fund shall...immediately upon such receipt be paid over to the Secretary of Treasury to the credit of the Unemployment Trust Fund established by Section 904 of the Social Security Act.

This "immediate deposit" requirement is also found in Section 303(a)(4), SSA, as a condition for a State receiving administrative grants. The UIPL continues:

When Moneys Become Part of a State's Unemployment Fund. Moneys need not be in any of the three main parts to be in the fund. The exact time moneys become part of the State's unemployment fund is statutorily controlled by the immediate deposit requirement which requires the payment by the State of "all money received in the unemployment fund...immediately upon such receipt" to the Secretary of Treasury to the credit of the UTF.

The Department interprets the phrase "received in the unemployment fund" to mean that any money received for purpose of the trust (i.e., the payment of UC) is "in" the State's unemployment fund at the instant of its receipt by the State or its agent. This interpretation assures that transfers of moneys in a State's possession are not delayed, thereby giving effect to the immediate deposit requirement that all moneys be immediately paid over to the UTF and assuring the beneficiary has forwarded moneys to the trustee for investment.

Required Action: The state must put in place policy and procedures with the county sheriffs' offices to facilitate the return of UI moneys to the UTF.

Response: As a point of clarification, garnishments are not used for prosecutions. Restitution is a condition of the settlement and paid immediately to IWD. Garnishments were used in fraud and non-fraud overpayments that were not subject to prosecution.

As well it should be pointed out that the Sheriff's office is not an agent of IWD. Garnishments are sent through the county clerk of court, who in turn uses the county sheriff to deliver the notice. Garnishments can only be released to IWD through an order of the court.

In early September 2013, IWD made the decisions to temporarily cease garnishments, request the outstanding collections from the respective clerk of court, and balance the debt in preparation for sending a request for recovery through the Treasury Offset Program (TOP). As we are limited in the amount we can recover annually from an individual through garnishments, we will wait to evaluate

the efficacy of garnishments following our recovery efforts through TOP and State income tax (I-Tax). There are a small number of counties that will immediately turn over garnishments, however the vast majority retain the garnishment until the order is fulfilled. There is no policy/procedure we can make with the sheriff's office, or individual county courthouses. The funds are released to us only after we file an "Application to Condemn Funds" with the respective court, and that court files an order granting our Application. No policy or procedure with the sheriff's office, nor the individual county courts will alter this. It is required by law, as is what specifically has to be stated in the Application and what notices need to have been given.

Finding #3: ETA 227 Report - Reporting Errors and Validity of Data

(Part VIII – Maintenance and Evaluation of Administration Data)

The ETA 227 Overpayment Detection and Recovery Activities Report is designed so ETA and the state can monitor the integrity of the benefit payment processes in the UI system. The principal detection areas of benefit payment control are shown on the report. Data are provided for the establishment of overpayments, recoveries of overpayments, criminal and civil actions involving overpayments obtained fraudulently, and an aging schedule of outstanding benefit overpayment account. The recorded data is reviewed to assure that the state's system is operating in an efficient and cost effective manner and meets the requirements in accordance with Section 303(a)(6), SSA, requires:

“the making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports”

The data on the ETA 227 Report submitted was incorrect and does not accurately reflect the activities that the state is undertaking to establish and recover overpayments. Because the state has not programmed the updated version of the ETA 227 Report in accordance with UIPL No. 08-12 Consolidation of the Employment and Training Administration (ETA) 9000 and ETA 227 Reports issued on January 11, 2012, the coding issues identified were:

- Section A. Overpayments Established – Causes; Line 112, High Dollar Fraud Overpayments, the line is not populated to report those fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.
- Section A. Overpayments Established – Causes; Line 113, High Dollar Non-fraud Overpayments, the line is not populated to report those non-fraud cases and dollar amounts of overpayments to an individual that exceeds \$5,000 for a single payment or for cumulative payments made during or prior to the reporting quarter.
- Section B. Overpayments Established – Methods of Detection; Line 204, State Directory of New Hire (SDNH), the line is not populated with the total cases investigated and established through the use of the SDNH. The SDNH cases are combined with Line 210, National Directory of New Hires.

- Section D. Criminal/Civil Actions; Line 404, Number of Convictions Obtained, in Calendar Year (CY) 2012 the line item indicates 277 convictions obtained, however, in reviewing the number of fraud cases only 13 were referred for prosecution. It was determined during discussions with the state it was a typographical error.
- Section D. Criminal/Civil Actions; Line 405, Number of Cases Referred for Civil Action, in CY 2012 the state decreased their activity and referred one case for civil action when compared to previous years the referral rate was approximately 16-18 cases.
- Section D. Criminal/Civil Actions; Line 406, Number of Civil Actions Obtained, in CY 2012 because the state decreased their activity only one case received civil action.

Required Action: The state must program the updated version of the ETA 227 Report in accordance with UIPL No. 08-12, review the report for accuracy and ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook.

Response: IWD is nearly complete developing the updated version of the ETA 227 report. At the time of the audit the new format was in development and is currently being tested. The third quarter 2013 ETA 227 report will be submitted in the new format by October 31, 2013.

Finding #4: Determination Timeliness

(Part XI – Case Review)

Ten of the 20 overpayment cases reviewed took two to six months to establish an overpayment determination from the receipt of the wage verification from both the employer and the claimant.

Section 303(a)(1), of the Social Security Act (SSA), requires, as a condition for a State to receive administrative grants for the Unemployment Compensation program, that a State law include provision for:

“Such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.”

20 CFR 640.1(2) Standard for Benefit Payment Promptness-Unemployment Compensation, “adequate performance is contingent upon the prompt determination of eligibility by the State as a condition for payment or denial of benefits. Accordingly, implicit in prompt performance with respect to benefit payment is the corresponding need for promptness by the State in making determinations of eligibility.”

In accordance with UIPL No. 11-45, in 1971, the Supreme Court issued its decision in California Department of Human Resource Development v. Java, 402 U.S. 121 (1971), Procedures for Implementing the Java Decision’s Requirements, Attachment to UIPL No. 11-45 Promptness of Determination and Payment.

The state has lost experienced staff through attrition and has been unable to fill vacancies to effectively investigate and make timely determinations on all overpayment cases. When a BPC unit is not properly staffed the impact on program integrity can ultimately affect the state’s performance.

Required Action: The state must take immediate corrective action to address the back log of cases and establish overpayments promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to ensure the payment of benefits when due.

Response: IWD is committed to ensuring that all potential overpayments are promptly investigated. On September 13, 2013, a significant reorganization provided an opportunity to reassign more of the NDNH matches and cross-match audits for two weeks or less of earnings to fact finding interviewers. This will provide more time for the Fraud Investigator to address cross match audits with three weeks or more of earnings. As well, IWD Director Teresa Wahlert and the Division Administrator, Michael Wilkinson, have discussed the addition of Fraud Investigators, however this has been delayed in light of the federal shut down and resulting furloughs at IWD. The process will resume following the resolution of the federal budget.

U.S. Department of Labor



Employment and Training Administration
REGION V

John C. Kluczynski Building
230 South Dearborn Street, 6th Floor
Chicago, IL 60604-1505

http://www.doleta.gov/regions/reg05

December 23, 2013

Teresa Wahlert, Director
Iowa Workforce Development
1000 Grand Avenue
Des Moines, IA 50319-0209


Dear Ms. Wahlert:

Thank you for your October 10, 2013 response to the September 10, 2013 monitoring report for the U.S. Department of Labor (USDOL), Employment and Training Administration (ETA) review of the Iowa Benefit Payment Control program undertaken during the period of July 29-31, 2013.

The enclosed summary provides a response to your update. Finding number 2 is now resolved. Findings number 1, 3 and 4 have an acceptable corrective action plan in place and remains "open" until their plans are carried out in full and satisfactorily documented for ETA within the prescribed timeframes, where applicable. Please provide the ETA with an update to findings number 1, 3 and 4 within 30 days of receipt of this report. Please submit the information electronically to oss.etar5@dol.gov.

Thank you again for your timely response and swift action to resolve the findings outlined in the report. If you have any questions, please feel free contact Steffanie Belmonte at (312) 596-5436 or belmonte.steffanie@dol.gov.

Sincerely,



Byron Zuidema
Regional Administrator

Enclosure

cc:
Mike Wilkinson
Dave Eklund

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The corrective action plan outlined in the IWD's response is acceptable. The finding will be fully resolved when the IWD amends the quarterly reports for 2011, 2012 and the first three quarters of 2013 and submits the corrected data on the ETA 9016 Alien Claims Activities Report.

Finding #2: Immediate Deposit and Withdrawal Standards

Status: Resolved.

Finding #3: ETA 227 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The corrective action plan outlined in the IWD's response is acceptable. The finding will be fully resolved when the IWD amends the quarterly reports for June 30, 2012 through June 30, 2013 and submits the corrected data on the ETA 227 Overpayment Detection and Recovery Report.

Finding #4: Determination Timeliness

Status: Unresolved.

The corrective action plan outlined in the IWD's response is acceptable. The finding will be fully resolved when the IWD verifies to the ETA that the backlog no longer exists.

Withholding of moneys destined for the state is contrary to the mandates put forward in the Unemployment Insurance Program Letter (UIPL) No. 22-96 The Immediate Deposit and Withdrawal Standards.

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Area of Concern #1: Collections Activity

(Part XI – Case Review)

Fifteen of the 20 overpayment cases reviewed recovery was not obtained. The UI overpayment recovery measure that is addressed in UIPL No. 09-13 is based on the ETA 227 and ETA 227 EUC data for the Improper Payments Information Act (IPIA), period July 1, 2012 to June 30, 2013. A state that fails to meet the Acceptable Levels of Performance for the 2013 IPIA reporting period will be expected to develop a CAP as part of the FY 2015 SQSP.

Suggestion: ETA recommends that the state direct additional resources to the recovery of UI overpayments so the state meets the UI overpayment recovery measure that will take effect in FY 2015.

-

Wilkinson, Michael [IWD]

From: Wilkinson, Michael [IWD]
Sent: Friday, May 02, 2014 4:12 PM
To: 'oss.eta5@dol.gov'
Cc: Belmonte, Steffanie - ETA; Eklund, David [IWD]
Subject: Iowa BPC Audit Update
Attachments: BPC Quarterly update.docx

To: Steffanie Belmonte, UI Program Specialist, US Department of Labor/ETA

From: Michael Wilkinson, Division Administrator, Iowa Workforce Development
David Eklund, Operations Manager, Iowa Workforce Development

Subject: Quarterly update: May 2, 2014

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in amending the report.

Response: The ETA 9016 will show that Iowa has eliminated over 1500 of the cases in backlog. As of April 29, 2014, we have a backlog of 9,500. Additional staff has been assigned to this project and the backlog will be eliminated in the second quarter report and Iowa will be current.

Finding #3: ETA 227 Report – Reporting Errors and Validity of Data

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in the development, testing and submission of the reports.

Response: Iowa has identified new issues with the ETA 227 report and had to submit manual calculations in several areas. The Investigations manager is working with the IT developer to correct the errors. It is our plan to resubmit the 2nd, 3rd, 4th quarter reports for 2013 and 1st quarter report for 2014.

Finding #4: Determination Timeliness

Status: Unresolved.

The IWD made significant progress in addressing this finding. In order to close this finding, the IWD must continue with the corrective action plan outlined and verify quarterly to the ETA the progress made in hiring and training of the three additional investigators.

Response: During the past quarter, one investigator retired. IWD has made offers to two new investigators and will make offers to two more in the next 5-7 days. The UI Benefits management team is also reorganizing duties of staff to help address the cross match and new hire workload.

Message: FW: Certificate of Insurance Needed, Please

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:59 PM
Item ID: 40862504
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Certificate of Insurance Needed, Please**

From Schippers, Denise [IWD] **Date** Wednesday, March 26, 2014 11:32 AM
To Henrich, Michael [IWD]
Cc Gotta, Antonina [IWD]

 [certificate.pdf](#) (73 Kb HTML)

Attached is the certificate of insurance for:

Hy-Vee
1300 N. 2nd
Cherokee, IA 51012

Thank you!

Denise Schippers
Business Services Manager | Foreign Labor Certification | OFCCP
Iowa Workforce Development | Workforce Services Division
1000 East Grand Avenue – 1st floor West
Des Moines, IA 50319
Phone: 515-281-7538
Cell: 515-360-9542
Fax: 515-725-2999

Image 1

DATE (MM/DD/YYYY)

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).
CONTACTPRODUCER

NAME:

FAXPHONE

(A/C, No):(A/C, No, Ext):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

INSURER A :

INSURED INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

ADDL SUBRINSR POLICY EFF POLICY EXP

TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT

COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO

ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

AUTOS AUTOS

NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS

\$

UMBRELLA LIAB EACH OCCURRENCE \$OCCUR

EXCESS LIAB CLAIMS-MADE AGGREGATE \$

\$DED RETENTION \$

WC STATU- OTH-WORKERS COMPENSATION

TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N

ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?

(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

If yes, describe under

E.L. DISEASE - POLICY LIMIT \$DESCRIPTION OF OPERATIONS below

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Message: FW: Certificate of Insurance Needed, Please**Case Information:**

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:59 PM
Item ID: 40862512
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: Certificate of Insurance Needed, Please

From Schippers, Denise [IWD] **Date** Wednesday, March 26, 2014 3:01 PM
To Elliott, Grant [IWD]
Cc Gotta, Antonina [IWD]

 [certificate.pdf](#) (73 Kb HTML)

Hi Grant,

I went ahead and requested the Workers' Compensation certificate of insurance for Proteus. Please ensure you provide the business with a copy prior to the start of the internship.

Thank you,
Denise

Denise Schippers
Business Services Manager | Foreign Labor Certification | OFCCP
Iowa Workforce Development | Workforce Services Division
1000 East Grand Avenue – 1st floor West
Des Moines, IA 50319
Phone: 515-281-7538
Cell: 515-360-9542
Fax: 515-725-2999

Image 1

DATE (MM/DD/YYYY)

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).
CONTACTPRODUCER

NAME:

FAXPHONE

(A/C, No):(A/C, No, Ext):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

INSURER A :

INSURED INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

ADDL SUBRINSR POLICY EFF POLICY EXP

TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GENL AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT
COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO
ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

AUTOS AUTOS

NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS
\$

UMBRELLA LIAB EACH OCCURRENCE \$OCCUR
EXCESS LIAB CLAIMS-MADE AGGREGATE \$

\$DED RETENTION \$
WC STATU- OTH-WORKERS COMPENSATION
TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N
ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?
(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

If yes, describe under

E.L. DISEASE - POLICY LIMIT \$DESCRIPTION OF OPERATIONS below

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

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AUTHORIZED REPRESENTATIVE

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Message: FW: Certificate of Insurance Needed

Case Information:


Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:35 PM
Item ID: 40861809
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Certificate of Insurance Needed**

From Schippers, Denise [IWD] **Date** Friday, March 28, 2014 7:44 AM
To Bowers, Sharon [IWD]
Cc Gotta, Antonina [IWD]

 [certificate.pdf](#) (73 Kb HTML)

Sharon,

Attached is the certificate of insurance for:

Garment Designs
1080 Lyons Lane
Marion, IA 52302

Denise Schippers
Business Services Manager | Foreign Labor Certification | OFCCP
Iowa Workforce Development | Workforce Services Division
1000 East Grand Avenue – 1st floor West
Des Moines, IA 50319
Phone: 515-281-7538
Cell: 515-360-9542
Fax: 515-725-2999

Image 1

DATE (MM/DD/YYYY)

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CONTACTPRODUCER

NAME:

FAXPHONE
(A/C, No):(A/C, No, Ext):
E-MAIL
ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

INSURER A :

INSURED INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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ADDL SUBRINSR POLICY EFF POLICY EXP

TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT
COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO
ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

AUTOS AUTOS

NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS
\$

UMBRELLA LIAB EACH OCCURRENCE \$OCCUR
EXCESS LIAB CLAIMS-MADE AGGREGATE \$

\$DED RETENTION \$
WC STATU- OTH-WORKERS COMPENSATION
TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N
ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?
(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

If yes, describe under

E.L. DISEASE - POLICY LIMIT \$DESCRIPTION OF OPERATIONS below

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Message: FW: Skilled Iowa Weekly Report - 3/28/14

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:36 PM
 Item ID: 40861826
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

FW: Skilled Iowa Weekly Report - 3/28/14

From Schippers, Denise [IWD] **Date** Friday, March 28, 2014 11:46 AM
To Murphy, Ryan [IWD]
Cc

[Skilled Iowa Program Tracking_032814.xlsx](#) (81 Kb HTML) [140430 Skilled Iowa Goals-Progress.xlsx](#) (17 Kb HTML)

Hi Ryan,

Congratulations! I just heard about your new job.

I will add you to the distribution list for this weekly report. Lucky you! ☺

Denise

From: Schippers, Denise [IWD]
Sent: Friday, March 28, 2014 8:37 AM
To: Wahlert, Teresa [IWD]; Wallace, Edward [IWD]; Adams, Lori [IWD]; Wilkinson, Michael [IWD]; Koonce, Kerry [IWD]; Olivencia, Nicholas [IWD]; Gotta, Antonina [IWD]; Bateman, Gary [IWD]
Cc: Brooks, Douglas [IWD]; Butcher, Marilyn [IWD]; Farley, Carolyn [IWD]; Gray, Linda [IWD]; Jones, Marlys [IWD]; Konig, Angie [IWD]; Loecke, Marla [IWD]; Mather, Scott [IWD]; McCann, Stephen [IWD]; Messerly, Sara [IWD]; Neri, Diane [IWD]; Robinson, Gina [IWD]; Rouse, Linda [IWD]; Slagle, Ronee [IWD]; Spencer, Todd [IWD]; Vega, Carlos [IWD]; Weidlein, Elaine [IWD]; Witt, Michael [IWD]; Andorf, Carla [IWD]; Arends, Paula [IWD]; Axtell, Ron [IWD]; Bonney, Val [IWD]; Chamberlin, Jeff [IWD]; DeVore, Barbara [IWD]; Dowell, Debbie [IWD]; Fick, Shawn [IWD]; Fuchs, Jennifer [IWD]; Lawson, Mick [IWD]; Rissman, Fern [IWD]; "Ron Ludwig"; Winquist, Beth [IWD]; Wright, Jeanie [IWD]; Immerfall, Craig [IWD]; Nilles, Chris [IWD]; Hommer, Kathryn [IWD]; Dawson, Annette [IWD]; Andrade, Jennifer [IWD]; Becker, Robert [IWD]; Born, Kirstin [IWD]; Bowers, Sharon [IWD]; Cano, Gloria [IWD]; Davy, Anthony [IWD]; Ellenberger, Susan [IWD]; Fox, Debra [IWD]; Gardner, Dee [IWD]; Hodges-Harmon, Debra [IWD]; Holloway, Mark [IWD]; Immerfall, Craig [IWD]; Johnson, Theodore [IWD]; Loverink, Carla [IWD]; Marion, Sherri [IWD]; Miller, Faith [IWD]; Morgan, Carol [IWD]; Murad, Jonathan [IWD]; Murray, Peggy [IWD]; Nelson-Schoon, Catherine [IWD]; Noe, Brenda [IWD]; Rempfer, Doug [IWD]; Rivera, Ruby [IWD]; Rubero, Frank [IWD]; Sanchez, Arturo [IWD]; Stevens, Corey [IWD]; Vaughn, Sherri [IWD]; Waigand, Elizabeth [IWD]; Buls, Danna [IWD]; Crowley, Jason [IWD]; Nelson, Nicole [IWD]
Subject: Skilled Iowa Weekly Report - 3/28/14

Skilled Iowa Weekly Report – 3/28/14

Attached is the tracking for the current goals. Final results will be provided after April Skilled Iowa metrics and high school reports are available.

Total Number of Member Business locations statewide: **9,216**

NCRC Update

Number of NCRC certificates awarded statewide the week of March 17 - 23, 2014:

Certificate total: 452
 Platinum: 3
 Gold: 87
 Silver: 265
 Bronze: 97

Total number of NCRC certificates awarded statewide since June 11, 2012, announcement of Skilled Iowa:

Certificate total: 25,882
 Platinum: 112
 Gold: 5,891
 Silver: 14,934
 Bronze: 4,944

Total number of NCRC certificates awarded statewide (beginning 2008):

Certificate total: 40,482
 Platinum: 238
 Gold: 9,782
 Silver: 22,927
 Bronze: 7,864

Skilled Iowa Internships

Region	Internships
1	<ul style="list-style-type: none"> IBM – Done, 6 internships, trying to reschedule QA NEW! Postville Radio Inc. KPLV – Approved, 2 internships, searching for candidates
2	<ul style="list-style-type: none"> North Iowa Broadcasting – Done, 1 internship, no job offer

3&4	<ul style="list-style-type: none"> Hart Family Hotels/Days Inn – Approved, 1 internship, intern selected, started 3/25/14 NEW! GKN Armstrong Wheels – Approved, 1 internship, intern selected, started 3/26/14
5	
6	<ul style="list-style-type: none"> JBS – Approved, 9 internships, interns selected, start date 3/31/14 NEW! Q3 Contracting – Approved, 1 internship, intern selected, new start date being determined
7	<ul style="list-style-type: none"> Hudson Flower Shop – Approved, 1 internship, searching for candidates NEW! Waterloo Community School District – Approved, 2 internships, school reviewing candidates
8	<ul style="list-style-type: none"> Hy-Vee – Done, 1 internship (customer service), waiting hire info Hy-Vee – Done, 1 internship, waiting hire info Hy-Vee – Done, 1 internship, need QA
9	<ul style="list-style-type: none"> HON Industries – Approved, 2 interns, interns selected, started 3/24/14
10	<ul style="list-style-type: none"> NEW! Proteus Inc. – Approved, 1 intern, searching for candidates NEW! Garment Designs – Training plans being revised by region, 3 internships, searching for candidates
11	<ul style="list-style-type: none"> Crystal Clear Water Co. – Approved, 1 internship, candidate search in process USDA – Approved, 2 internships, both selected, new start dates being determined Q3 Contracting – Approved, 3 internships, interns selected, new start date being determined Job Corps/Cornerstone Solutions – Approved, 1 internship, searching for candidates
12	<ul style="list-style-type: none"> NEW! Hy-Vee/Cherokee – Approved, 1 internship, intern selected, started 3/28/14
13	<ul style="list-style-type: none"> MidAmerican Energy – Approved, 2 internships, business reviewing candidates, determining new start date
14	<ul style="list-style-type: none"> MATURA – Done, 2 internships, waiting hire info
15	<ul style="list-style-type: none"> Ottumwa Job Corps – Approved, 1 internship, intern selected, started 3/10/14 IHCC – Done, 1 internship, no job offer IHCC – Done, 1 internship, intern selected, need QA IHCC – Done, 1 internship, intern selected, need QA Hy-Vee – Approved, 1 internship, intern selected, started 3/24/14 NEW! IHCC – Approved, 1 internship, intern selected, started 3/24/14
16	<ul style="list-style-type: none"> PPG Industries – Done, 1 internship, QA scheduled

Number of Participating Businesses/Organizations*	Total Number of ALL Internship
156	225

*Number of businesses with an internship in process, very recently completed internship or having requested an internship

Skilled Iowa Communities

Adams County	Monona County	Union County
Des Moines County	Onawa County	Wasson County
Jones County	Ringgold County	

Skilled Iowa Presentations to Area Groups or

Organizations

Date	Region	Location	Group/Audience	Topic
Mar. 31	2	Lake Mills High School	Seniors	Skilled Iowa
Apr. 1	2	Cummins Filtration, Lake Mills	Employees	NCRC and Internships
Apr. 1	2	NIACC, Mason City	LPN students	Skilled Iowa
Apr. 2	13	Logan	Harrison county Leadership Class 2014	Skilled Iowa
Apr. 2	14	SWCC, Creston – Annual Employment Fair		NCRC and Skilled Iowa
Apr. 3	2	Cummins Filtration, Lake Mills	Employees	NCRC and internships
Apr. 7	13	Malvern	Malvern City Council	Skilled Iowa
Apr. 8	9	Maquoketa High School	Students, Parents, Teachers	Skilled Iowa
Apr. 10	2	Charles City High School	Students/ Parents	Skilled Iowa
Apr. 10	9	Council of Social Agencies	Social Workers	Skilled Iowa/NCRC
Apr. 10	13	Council Bluffs	Council Bluffs Library Teen Job Fair	Skilled Iowa / NCRC / Career Ready 101
May 3	8	Audubon National Guard Armory	Military Personnel	Skilled Iowa, Job Fair

Skilled Iowa Business Contacts

Skilled Iowa Employers Statewide	Total Number of New Employer Contacts	Total Number of Employer Follow-up Contacts*	Newly Signed Skilled Iowa NCRC Letter of Agreement	Number Interested in Internships	Number of Internships Requested
Week ending 3/28/14	161	100	61	7	0
Week ending 3/21/14	117	85	50	6	0

*Follow-up employer tracking start week: 5/6/13

Skilled Iowa Employers Statewide	Total Number of New Employer Contacts	Total Number of Employer Follow-up Contacts*	Newly Signed Skilled Iowa NCRC Letter of Agreement	Number Interested in Internships	Number of Internships Requested
Year-to-date 3/28/14	1684	1252	656	55	7
Year-to-date 2014	1523	1152	595	48	7

Current Job Seeker Pool for Internships (Pulled from IWorks register: WSL – Skilled Iowa)

Region	As of 3/28/14	As of 3/21/14
1	214	219
2	208	211
3 / 4	271	283
5	260	262
6	617	615
7	1263	1268
8	64	67
9	611	601
10	152	156
11	413	414
12	825	826
13	407	434
14	178	183
15	854	866
16	354	349
TOTAL	6691	6754

Current Job Seekers Interested in NCRC (Pulled from IWorks register: Skilled Iowa NCRC for Job Seekers)

This register should reflect the number of individuals interested in taking the NCRC, but have not yet done so. The register should be removed from the customer's IWorks account after the assessments have been taken.

[The NCRC data must be entered into the customer's IWorks account.](#)

Region	As of 3/28/14	As 3/21/14
1	180	180
2	367	369
3 / 4	69	72
5	115	124
6	74	73
7	979	981
8	56	56
9	563	551
10	88	92
11	85	88
12	317	301
13	56	56
14	766	778
15	297	302
16	661	646
TOTAL	4763	4669

Denise Schippers
 Business Services Manager | Foreign Labor Certification | OFCCP
 Iowa Workforce Development | Workforce Services Division
 1000 East Grand Avenue – 1st floor West
 Des Moines, IA 50319
 Phone: 515-281-7538
 Cell: 515-360-9542
 Fax: 515-725-2999

Message: FW: Need Certificate of Insurance, Please

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:36 PM
Item ID: 40861822
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Need Certificate of Insurance, Please**

From Schippers, Denise [IWD] **Date** Friday, March 28, 2014 11:02 AM
To Born, Kirstin [IWD]
Cc Gotta, Antonina [IWD]

 [certificate.pdf](#) (73 Kb HTML)

Certificate of insurance for:

CWA Local 7102
3612 9th Street SW
Des Moines, IA 50315

Thank!

Denise Schippers
Business Services Manager | Foreign Labor Certification | OFCCP
Iowa Workforce Development | Workforce Services Division
1000 East Grand Avenue – 1st floor West
Des Moines, IA 50319
Phone: 515-281-7538
Cell: 515-360-9542
Fax: 515-725-2999

Image 1

DATE (MM/DD/YYYY)

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CONTACTPRODUCER

NAME:

FAXPHONE

(A/C, No):(A/C, No, Ext):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

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INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT
COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO
ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

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NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS
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WC STATU- OTH-WORKERS COMPENSATION
TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N
ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?
(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

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Message: RE: Skilled Iowa Internship with Goodwill of The Great Plains

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:39 PM
 Item ID: 40861925
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: Skilled Iowa Internship with Goodwill of The Great Plains

From Schippers, Denise [IWD] **Date** Friday, April 04, 2014 12:19 PM
To Becker, Robert [IWD]
Cc

 [certificates 9.pdf](#) (80 Kb HTML)  [image002.png](#) (71 Kb HTML)  [image003.jpg](#) (2 Kb HTML)

Attached is a copy of the current certificate of insurance.

Thanks,
Denise

From: Becker, Robert [IWD]
Sent: Friday, April 04, 2014 10:18 AM
To: Schippers, Denise [IWD]; Gotta, Antonina [IWD]
Cc: Olivencia, Nicholas [IWD]
Subject: Skilled Iowa Internship with Goodwill of The Great Plains

Denise, Nina, Nick,

Consider this my request for a Workers Compensation insurance certificate for Goodwill of the Great Plains in Spencer if you don't already have one in place.

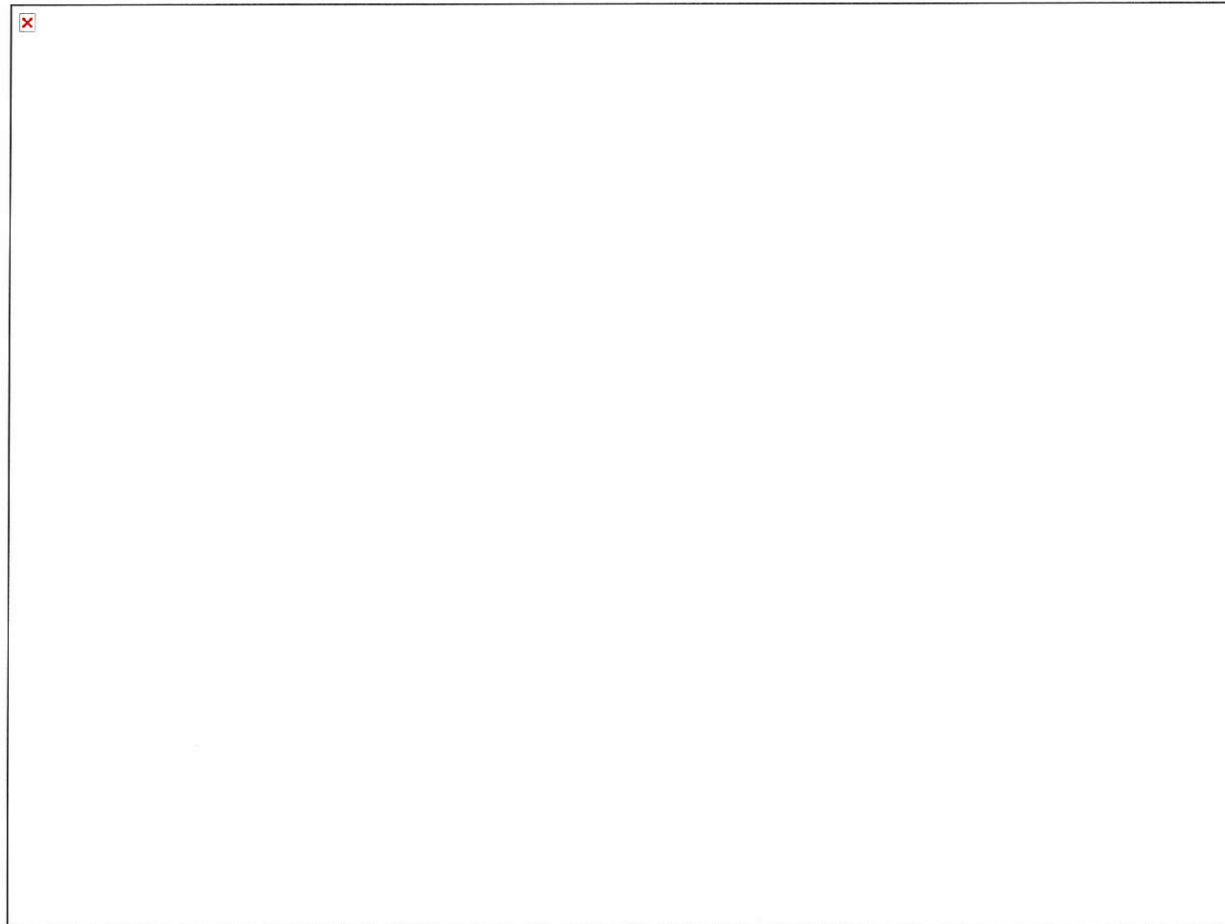
Goodwill of the Great Plains, 1108 4th Ave, S.W., Spencer, Iowa 51301. Alyce Townsend will be the Promise Jobs candidate. She will start next week April 10 and 11 (Thursdays and Fridays) and April 17 and 18 (Thursday and Friday) for a two week internship from 9:00 a.m. to 4:00 p.m.

I will not need Convenience Learning modules.

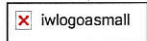
We already have an agreement with Goodwill of the Great Plains and this will be the third internship we will have done – all for retail worker.

See WSL below:

Thanks – Bob Becker



Bob Becker, Workforce Advisor



217 West Fifth Street, POB 1087
Spencer, Iowa 51301-1087
Email: Robert.Becker@iwd.iowa.gov
Phone: 712-262-1971 x126 Fax: 712-262-1963

Image 1

DATE (MM/DD/YYYY)

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).
CONTACTPRODUCER

NAME:

FAXPHONE

(A/C, No):(A/C, No, Ext):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

INSURER A :

INSURED INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

ADDL SUBRINSR POLICY EFF POLICY EXP

TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT
COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO
ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

AUTOS AUTOS

NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS
\$

UMBRELLA LIAB EACH OCCURRENCE \$OCCUR
EXCESS LIAB CLAIMS-MADE AGGREGATE \$

\$DED RETENTION \$
WC STATU- OTH-WORKERS COMPENSATION
TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N
ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?
(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

If yes, describe under

E.L. DISEASE - POLICY LIMIT \$DESCRIPTION OF OPERATIONS below

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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[Preview is not available (conversion excluded for this file type).]

[Preview is not available (conversion excluded for this file type).]

Message: FW: Certificate of Insurance Needed, Please

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:42 PM
Item ID: 40861966
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: Certificate of Insurance Needed, Please**

From Schippers, Denise [IWD] **Date** Tuesday, April 08, 2014 2:07 PM
To Waigand, Elizabeth [IWD]; Gotta, Antonina [IWD]
Cc

 [certificate.pdf](#) (123 Kb HTML)

Attached is the certificate of insurance for:

Iowa Steel Fabrication, LLC
1525 E Eddy Saylor Pkwy
Osceola, IA 50213

Thank you,
Denise Schippers
Business Services Manager | Foreign Labor Certification | OFCCP
Iowa Workforce Development | Workforce Services Division
1000 East Grand Avenue -- 1st floor West
Des Moines, IA 50319
Phone: 515-281-7538
Cell: 515-360-9542
Fax: 515-725-2999

Image 1

DATE (MM/DD/YYYY)

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CONTACTPRODUCER

NAME:

FAXPHONE

(A/C, No):(A/C, No, Ext):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE NAIC #

INSURER A :

INSURED INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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ADDL SUBRINSR POLICY EFF POLICY EXP

TYPE OF INSURANCE LIMITSPOLICY NUMBERLTR (MM/DD/YYYY) (MM/DD/YYYY)INSR WVD
GENERAL LIABILITY EACH OCCURRENCE \$

DAMAGE TO RENTED

COMMERCIAL GENERAL LIABILITY \$PREMISES (Ea occurrence)

CLAIMS-MADE OCCUR MED EXP (Any one person) \$

PERSONAL & ADV INJURY \$

GENERAL AGGREGATE \$

GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG \$

PRO- \$POLICY LOCJECT
COMBINED SINGLE LIMIT

AUTOMOBILE LIABILITY

(Ea accident) \$

BODILY INJURY (Per person) \$ANY AUTO
ALL OWNED SCHEDULED BODILY INJURY (Per accident) \$

AUTOS AUTOS

NON-OWNED PROPERTY DAMAGE \$HIRED AUTOS (PER ACCIDENT)AUTOS
\$

UMBRELLA LIAB EACH OCCURRENCE \$OCCUR
EXCESS LIAB CLAIMS-MADE AGGREGATE \$

\$DED RETENTION \$
WC STATU- OTH-WORKERS COMPENSATION
TORY LIMITS ERAND EMPLOYERS' LIABILITY Y / N
ANY PROPRIETOR/PARTNER/EXECUTIVE E.L. EACH ACCIDENT \$

N / AOFFICER/MEMBER EXCLUDED?
(Mandatory in NH) E.L. DISEASE - EA EMPLOYEE \$

If yes, describe under

E.L. DISEASE - POLICY LIMIT \$DESCRIPTION OF OPERATIONS below

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Message: Skilled Iowa Weekly Report - 3/28/14

Case Information:

Message Type: Exchange
 Message Direction: External, Outbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:35 PM
 Item ID: 40861814
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

Skilled Iowa Weekly Report - 3/28/14

From Schippers, Denise [IWD]

Date
 Friday,
 March 28,
 2014 8:37
 AM

To Wahlert, Teresa [IWD]; Wallace, Edward [IWD]; Adams, Lori [IWD]; Wilkinson, Michael [IWD]; Koonce, Kerry [IWD]; Olivencia, Nicholas [IWD]; Gotta, Antonina [IWD]; Bateman, Gary [IWD]

Cc Brooks, Douglas [IWD]; Butcher, Marilyn [IWD]; Farley, Carolyn [IWD]; Gray, Linda [IWD]; Jones, Marlys [IWD]; Konig, Angie [IWD]; Loecke, Marla [IWD]; Mather, Scott [IWD]; McCann, Stephen [IWD]; Messerly, Sara [IWD]; Neri, Diane [IWD]; Robinson, Gina [IWD]; Rouse, Linda [IWD]; Slagle, Ronee [IWD]; Spencer, Todd [IWD]; Vega, Carlos [IWD]; Weidlein, Elaine [IWD]; Witt, Michael [IWD]; Andorf, Carla [IWD]; Arends, Paula [IWD]; Axtell, Ron [IWD]; Bonney, Val [IWD]; Chamberlin, Jeff [IWD]; DeVore, Barbara [IWD]; Dowell, Debbie [IWD]; Fick, Shawn [IWD]; Fuchs, Jennifer [IWD]; Lawson, Mick [IWD]; Rissman, Fern [IWD]; "Ron Ludwig"; Winquist, Beth [IWD]; Wright, Jeanie [IWD]; Immerfall, Craig [IWD]; Nilles, Chris [IWD]; Hommer, Kathryn [IWD]; Dawson, Annette [IWD]; Andrade, Jennifer [IWD]; Becker, Robert [IWD]; Born, Kirstin [IWD]; Bowers, Sharon [IWD]; Cano, Gloria [IWD]; Davy, Anthony [IWD]; Ellenberger, Susan [IWD]; Fox, Debra [IWD]; Gardner, Dee [IWD]; Hodges-Harmon, Debra [IWD]; Holloway, Mark [IWD]; Immerfall, Craig [IWD]; Johnson, Theodore [IWD]; Loverink, Carla [IWD]; Marion, Sherri [IWD]; Miller, Faith [IWD]; Morgan, Carol [IWD]; Murad, Jonathan [IWD]; Murray, Peggy [IWD]; Nelson-Schoon, Catherine [IWD]; Noe, Brenda [IWD]; Rempfer, Doug [IWD]; Rivera, Ruby [IWD]; Rubero, Frank [IWD]; Sanchez, Arturo [IWD]; Stevens, Corey [IWD]; Vaughn, Sherri [IWD]; Waigand, Elizabeth [IWD]; Buls, Danna [IWD]; Crowley, Jason [IWD]; Nelson, Nicole [IWD]

[Skilled Iowa Program Tracking_032814.xlsx](#) (81 Kb HTML) [140430 Skilled Iowa Goals-Progress.xlsx](#) (17 Kb HTML)

Skilled Iowa Weekly Report - 3/28/14

Attached is the tracking for the current goals. Final results will be provided after April Skilled Iowa metrics and high school reports are available.

Total Number of Member Business locations statewide: 9,216

NCRC Update

Number of NCRC certificates awarded statewide the week of March 17 - 23, 2014:

Certificate total: 452
 Platinum: 3
 Gold: 87
 Silver: 265
 Bronze: 97

Total number of NCRC certificates awarded statewide since June 11, 2012, announcement of Skilled Iowa:

Certificate total: 25,882
 Platinum: 112
 Gold: 5,891
 Silver: 14,934
 Bronze: 4,944

Total number of NCRC certificates awarded statewide (beginning 2008):

Certificate total: 40,482
 Platinum: 238
 Gold: 9,782
 Silver: 22,927
 Bronze: 7,864

Skilled Iowa Internships

Region	Internships
1	<ul style="list-style-type: none"> IBM – Done, 6 internships, trying to reschedule QA NEW! Postville Radio Inc. KPLV – Approved, 2 internships, searching for candidates
2	<ul style="list-style-type: none"> North Iowa Broadcasting – Done, 1 internship, no job offer
3&4	<ul style="list-style-type: none"> Hart Family Hotels/Days Inn – Approved, 1 internship, intern selected, started 3/25/14 NEW! GKN Armstrong Wheels – Approved, 1 internship, intern selected, started 3/26/14
5	

6	<ul style="list-style-type: none"> JBS – Approved, 9 internships, interns selected, start date 3/31/14 NEW! Q3 Contracting – Approved, 1 internship, intern selected, new start date being determined
7	<ul style="list-style-type: none"> Hudson Flower Shop – Approved, 1 internship, searching for candidates NEW! Waterloo Community School District – Approved, 2 internships, school reviewing candidates
8	<ul style="list-style-type: none"> Hy-Vee – Done, 1 internship (customer service), waiting hire info Hy-Vee – Done, 1 internship, waiting hire info Hy-Vee – Done, 1 internship, need QA
9	<ul style="list-style-type: none"> HON Industries – Approved, 2 interns, interns selected, started 3/24/14
10	<ul style="list-style-type: none"> NEW! Proteus Inc. – Approved, 1 intern, searching for candidates NEW! Garment Designs – Training plans being revised by region, 3 internships, searching for candidates
11	<ul style="list-style-type: none"> Crystal Clear Water Co. – Approved, 1 internship, candidate search in process USDA – Approved, 2 internships, both selected, new start dates being determined Q3 Contracting – Approved, 3 internships, interns selected, new start date being determined Job Corps/Cornerstone Solutions – Approved, 1 internship, searching for candidates
12	<ul style="list-style-type: none"> NEW! Hy-Vee/Cherokee – Approved, 1 internship, intern selected, started 3/28/14
13	<ul style="list-style-type: none"> MidAmerican Energy – Approved, 2 internships, business reviewing candidates, determining new start date
14	<ul style="list-style-type: none"> MATURA – Done, 2 internships, waiting hire info
15	<ul style="list-style-type: none"> Ottumwa Job Corps – Approved, 1 internship, intern selected, started 3/10/14 IHCC – Done, 1 internship, no job offer IHCC – Done, 1 internship, intern selected, need QA IHCC – Done, 1 internship, intern selected, need QA Hy-Vee – Approved, 1 internship, intern selected, started 3/24/14 NEW! IHCC – Approved, 1 internship, intern selected, started 3/24/14
16	<ul style="list-style-type: none"> PPG Industries – Done, 1 internship, QA scheduled

Number of Participating Businesses/Organizations*	Total Number of ALL Internship
156	225

*Number of businesses with an internship in process, very recently completed internship or having requested an internship

Skilled Iowa Communities

Adams County	Monona County	Union County
Des Moines County	Onawa County	Webster County
Jones County	Ringgold County	

Skilled Iowa Presentations to Area Groups or Organizations

Date	Region	Location	Group/Audience	Topic
Mar. 31	2	Lake Mills High School	Seniors	Skilled Iowa
Apr. 1	2	Cummins Filtration, Lake Mills	Employees	NCRC and Internships
Apr. 1	2	NIACC, Mason City	LPN students	Skilled Iowa
Apr. 2	13	Logan	Harrison county Leadership Class 2014	Skilled Iowa
Apr. 2	14	SWCC, Creston – Annual Employment Fair		NCRC and Skilled Iowa
Apr. 3	2	Cummins Filtration, Lake Mills	Employees	NCRC and internships
Apr. 7	13	Malvern	Malvern City Council	Skilled Iowa
Apr. 8	9	Maquoketa High School	Students, Parents, Teachers	Skilled Iowa
Apr. 10	2	Charles City High School	Students/ Parents	Skilled Iowa
Apr. 10	9	Council of Social Agencies	Social Workers	Skilled Iowa/NCRC
Apr. 10	13	Council Bluffs	Council Bluffs Library Teen Job Fair	Skilled Iowa / NCRC / Career Ready 101
May 3	8	Audubon National Guard Armory	Military Personnel	Skilled Iowa, Job Fair

Skilled Iowa Business Contacts

Skilled Iowa Employers Statewide	Total Number of New Employer Contacts	Total Number of Employer Follow-up Contacts*	Newly Signed Skilled Iowa NCRC Letter of Agreement	Number Interested in Internships	Number of Internships Requested
Week ending 3/28/14	161	100	61	7	0
Week ending 3/21/14	117	85	50	6	0

*Follow-up employer tracking start week: 5/6/13

Skilled Iowa Employers Statewide	Total Number of New Employer Contacts	Total Number of Employer Follow-up Contacts*	Newly Signed Skilled Iowa NCRC Letter of Agreement	Number Interested in Internships	Number of Internships Requested
Year-to-date 3/28/14	1684	1252	656	55	7
Year-to-date 2014	1523	1152	595	48	7

Current Job Seeker Pool for Internships (Pulled from IWorks register: WSL – Skilled Iowa)

--	--

Region	As of 3/28/14	As of 3/21/14
1	214	219
2	208	211
3 / 4	271	283
5	260	262
6	617	615
7	1263	1268
8	64	67
9	611	601
10	152	156
11	413	414
12	825	826
13	407	434
14	178	183
15	854	866
16	354	349
TOTAL	6691	6754

Current Job Seekers Interested in NCRC (Pulled from IWorks register: Skilled Iowa NCRC for Job Seekers)

This register should reflect the number of individuals interested in taking the NCRC, but have not yet done so. The register should be removed from the customer's IWorks account after the assessments have been taken.

[The NCRC data must be entered into the customer's IWorks account.](#)

Region	As of 3/28/14	As 3/21/14
1	180	180
2	367	369
3 / 4	69	72
5	115	124
6	74	73
7	979	981
8	56	56
9	563	551
10	88	92
11	85	88
12	317	301
13	56	56
14	766	778
15	297	302
16	661	646
TOTAL	4763	4669

Denise Schippers
 Business Services Manager | Foreign Labor Certification | OFCCP
 Iowa Workforce Development | Workforce Services Division
 1000 East Grand Avenue – 1st floor West
 Des Moines, IA 50319
 Phone: 515-281-7538
 Cell: 515-360-9542
 Fax: 515-725-2999

Message: 13282BR - coding for hire.xls

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:36 PM
Item ID: 40861825
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **13282BR - coding for hire.xls**

From Semke, Heather [IWD] **Date** Friday, March 28, 2014 11:15 AM
To Wilkinson, Michael [IWD]
Cc

 [image001.jpg](#) (3 Kb HTML)  [13282BR - coding for hire.xls](#) (30 Kb HTML)

Mike, here is the list to code for Brass Ring. Thanks!



*Heather Semke, Employee Services
Human Resource Associate
Phone: (515) 281-5902 | Fax: (515) 281-7596
heather.semke@iwd.iowa.gov
<http://www.iowaworkforce.org/>*

Even if I knew that tomorrow the world would go to pieces, I would still plant my apple tree. Martin Luther

[Preview is not available (conversion excluded for this file type).]

13282BR - 00827:UNEMPLOYMENT INSURANCE MANAGER
309-Iowa Workforce Development
Issued: 2/21/2014
Expires: 5/22/2014
Coding
Last
First
Non-confidential
Cross
Amanda
Ellis
Renaldo
Munsinger
Russ
Saddoris
Michelle
Snyder
Trudi
CODING
H
Hired
I
Interviewed, Not Hired
C
Considered, Not Interviewed
F
Failed to Respond to Dept
R
Resume Not Submitted
N
Applicant Not Interested-Dept Added
OD
Offer Rescinded - Dept
OP
Offer Rejected - Pay
OO
Offer Rejected - Other Employment
ON
Offer Rejected - Not Interested
Hiring Supervisor may code applicant hire list
And return to PA for processing.

Message: RE: Scanning error by Tax**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:42 PM
 Item ID: 40861981
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/15/2014 5:00:52 PM	Unreviewed	Koonce, Kerry
7/15/2014 4:56:19 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

RE: Scanning error by Tax

From Cummings, Brandie [IWD] **Date** Monday, March 03, 2014 10:12 AM
To Wilkinson, Michael [IWD]; O'Brien, Carie [IWD]; Reed, Amy [IWD]
Cc

To my knowledge, Amy had been checking every day to make sure the scanned totals match total provided by Stephanie. If the bank hasn't sent us a discrepancy yet, I would also like to see the copy of the checks. If there is no discrepancy from the bank, maybe the scanned total was correct; that would be the amount that was actually deposited.

One thing that could be happening is that whoever is reviewing the payment/applying the payment on the claims side is not looking at the correct amount of the check? We use the hand-written long-hand amount if there is a discrepancy with the short-hand amount. Or else, the check was scanned as wrong amount and potentially deposited as wrong amount, because we haven't received notice from the bank.

Amy, can you shed light on this?

From: Wilkinson, Michael [IWD]
Sent: Monday, March 03, 2014 9:54 AM
To: O'Brien, Carie [IWD]; Cummings, Brandie [IWD]
Subject: Fwd: Scanning error by Tax

What can we do about this?

Sent from my iPhone

Begin forwarded message:

From: "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov>
Date: March 3, 2014 at 8:35:50 AM CST
To: "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov>
Subject: FW: Scanning error by Tax

Apparently this has happened once or twice before, but never this many at once.
 Some of these folks could be pretty upset. Just FYI

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 8:21 AM
To: Eklund, David [IWD]
Subject: FW: Scanning error by Tax

From: Windust, Stephanie [IWD]
Sent: Monday, March 03, 2014 7:43 AM
To: Khounlo, Nhoui [IWD]
Subject: RE: Scanning error by Tax

I'll see what I can do.

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 7:24 AM
To: Windust, Stephanie [IWD]
Subject: RE: Scanning error by Tax

Step, do you still had the checks? If you do I need to have all copies of the checks because when I set up and the claimant will upset about the overpayment and I need to have some prove from the bank. Thanks!!

From: Windust, Stephanie [IWD]
Sent: Friday, February 28, 2014 12:33 PM
To: Khounlo, Nhoui [IWD]
Subject: Scanning error by Tax

Nhoui,

Check [REDACTED] for [REDACTED] was scanned by tax as [REDACTED] for claimant [REDACTED]. Need to set up \$.50 overpayment. If you set up, please let me know which program you set up.

Check [REDACTED] for [REDACTED] was scanned by tax as [REDACTED] for Claimant [REDACTED]. Need to set up .60 overpayment. If you set up, please let me know which program you set up.

Check [REDACTED] for [REDACTED] was scanned by tax as [REDACTED] for claimant [REDACTED]. Need to set up overpayment for \$5,336.10. Please let me know which program you set up.

Check [REDACTED] for [REDACTED] was scanned by tax as [REDACTED] for claimant [REDACTED]. Need to set up overpayment for \$100. Please let me know which program you set up.

Sorry to have taken so long, I've been waiting to see if the bank had caught these errors, so far I haven't seen anything come through Wells Fargo stating that the amounts scanned were incorrectly entered. If you have any questions, please call me.

Stephanie Windust
Financial Management
Iowa Workforce Development
Phone 515-281-7294
Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: FW: Scanning error by Tax**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:42 PM
 Item ID: 40861982
 Policy Action: Not Specified

Mark History:

Date	Action Status	Reviewer
7/15/2014 5:00:52 PM	Unreviewed	Koonce, Kerry
7/15/2014 4:56:19 PM	Reviewed	Koonce, Kerry

Policies:

No Policies attached

FW: Scanning error by Tax

From Cummings, Brandie [IWD] **Date** Monday, March 03, 2014 1:36 PM
To O'Brien, Carie [IWD]; Wilkinson, Michael [IWD]
Cc

We need to talk a little bit more about this in person (too hard to explain in email) to get all of us on the same page. Amy started asking me today – Is it absolutely necessary for us to deposit benefits checks through Opex? I wrote down some more detailed information from Amy on why she feels like it is somewhat a waste of our time AND Stephanie's time to deposit benefits checks through Opex. Additionally, I have some critical balancing questions I have tried to ask people over in finance/department of treasurer before and never really got an answer.

It won't be too tough for me to explain or you to understand if we could set up a time to discuss.
 Brandie

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 12:09 PM
To: Cummings, Brandie [IWD]
Subject: RE: Scanning error by Tax

I got all the info Stephanie could give me. It was mostly the copies of checks I gave her when Benefits didn't balance (these are not items she is researching to see what was mis-keyed, these are items she has never received a DAN notice on to show that the bank made corrections. These are all mis-keyed items. The dates range from November of last year to current so this is not a recent flood of mistakes. I began researching who made the errors. I found one from Laina and one from Tyler that were outright bad mistakes and decided it would be a colossal waste of time to look them all up.
 Two of the payments has the cent amount mis keyed as zero due to very sloppy writing.

Amy Reed

Iowa Workforce Development | 1000 E Grand | Des Moines, IA 50319
 Ph: 515-281-8096 Fax: 515-242-5247
Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:53 AM
To: Reed, Amy [IWD]
Subject: RE: Scanning error by Tax

Will you touch base with Stephanie about those two items, so we can research root cause of problem?

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 10:47 AM
To: Cummings, Brandie [IWD]
Subject: RE: Scanning error by Tax

It will be impossible without a date or a batch.

Amy Reed

Iowa Workforce Development | 1000 E Grand | Des Moines, IA 50319
 Ph: 515-281-8096 Fax: 515-242-5247
Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:47 AM
To: Reed, Amy [IWD]
Subject: RE: Scanning error by Tax

I figured that. I think we need to look at checks...can you easily find them? No dates below, so will that be tough?

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 10:45 AM
To: Cummings, Brandie [IWD]

Subject: RE: Scanning error by Tax

Brandie,

I'll get right on this.

Just FYI. These did not all just happen. In Steph's email she states these are old and she had been waiting to hear from the bank.

Amy Reed

Iowa Workforce Development | 1000 E Grand | Des Moines, IA 50319
Ph: 515-281-8096 Fax: 515-242-5247
Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:12 AM
To: Wilkinson, Michael [IWD]; O'Brien, Carie [IWD]; Reed, Amy [IWD]
Subject: RE: Scanning error by Tax

To my knowledge, Amy had been checking every day to make sure the scanned totals match total provided by Stephanie. If the bank hasn't sent us a discrepancy yet, I would also like to see the copy of the checks. If there is no discrepancy from the bank, maybe the scanned total was correct; that would be the amount that was actually deposited.

One thing that could be happening is that whoever is reviewing the payment/applying the payment on the claims side is not looking at the correct amount of the check? We use the hand-written long-hand amount if there is a discrepancy with the short-hand amount. Or else, the check was scanned as wrong amount and potentially deposited as wrong amount, because we haven't received notice from the bank.

Amy, can you shed light on this?

From: Wilkinson, Michael [IWD]
Sent: Monday, March 03, 2014 9:54 AM
To: O'Brien, Carie [IWD]; Cummings, Brandie [IWD]
Subject: Fwd: Scanning error by Tax

What can we do about this?

Sent from my iPhone

Begin forwarded message:

From: "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov>
Date: March 3, 2014 at 8:35:50 AM CST
To: "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov>
Subject: FW: Scanning error by Tax

Apparently this has happened once or twice before, but never this many at once.
Some of these folks could be pretty upset. Just FYI

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 8:21 AM
To: Eklund, David [IWD]
Subject: FW: Scanning error by Tax

From: Windust, Stephanie [IWD]
Sent: Monday, March 03, 2014 7:43 AM
To: Khounlo, Nhoui [IWD]
Subject: RE: Scanning error by Tax

I'll see what I can do.

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 7:24 AM
To: Windust, Stephanie [IWD]
Subject: RE: Scanning error by Tax

Step, do you still had the checks? If you do I need to have all copies of the checks because when I set up and the claimant will upset about the overpayment and I need to have some prove from the bank. Thanks!!

From: Windust, Stephanie [IWD]
Sent: Friday, February 28, 2014 12:33 PM
To: Khounlo, Nhoui [IWD]
Subject: Scanning error by Tax

Nhoui,

Check # [REDACTED] for \$ [REDACTED] was scanned by tax as \$ [REDACTED] for claimant [REDACTED] # [REDACTED]. Need to set up \$.50 overpayment. If you set up, please let me know which program you set up.

Check # [REDACTED] for \$ [REDACTED] was scanned by tax as \$ [REDACTED] for Claimant [REDACTED] # [REDACTED]. Need to set up .60 overpayment. If you set up, please let me know which program you set up.

Check # [REDACTED] for \$ [REDACTED] was scanned by tax as \$ [REDACTED] for claimant [REDACTED] # [REDACTED]. Need to set up overpayment for \$5,336.10. Please let me know which program you set up.

Check # [REDACTED] for \$ [REDACTED] was scanned by tax as \$ [REDACTED] for claimant [REDACTED] # [REDACTED]. Need to set up overpayment for \$100. Please let me know which program you

set up.

Sorry to have taken so long, I've been waiting to see if the bank had caught these errors, so far I haven't seen anything come through Wells Fargo stating that the amounts scanned were incorrectly entered. If you have any questions, please call me.

Stephanie Windust
Financial Management
Iowa Workforce Development
Phone 515-281-7294
Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

COMPLIANCE FINDINGS

Finding #1: ETA 9016 Report – Reporting Errors and Validity of Data

(Part II – Detection of Overpayments)

The ETA 9016 Alien Claims Activities Report is designed so ETA and the state can monitor an alien's immigration status that will allow them to determine the alien's eligibility for unemployment compensation. To facilitate the required verification, the Immigration and Naturalization Service (INS), developed the Systematic Alien Verification for Entitlement (SAVE) system. The information provided on the report assesses the magnitude of alien claims and issues affecting eligibility; make decisions as to the appropriateness and value of state use of the SAVE system; and determine whether a state's administrative costs associated with SAVE are reasonable.

The data on the ETA 9016 Reports submitted was incorrect and does not accurately reflect the information obtained from SAVE about an alien's immigration status that will allow the determination of the alien's eligibility for unemployment compensation. The reporting issues identified were:

Line 2, Number of Claimants Whose Alien Status was Verified through the INS Primary System, the state is not verifying every new and additional claims filed during the quarter where the claimant indicated or was otherwise discovered not to be a citizen of the United States through the SAVE system.

Required Action: The state must verify alien status of every new and additional claim through the SAVE system. The state must ensure all data is corrected and resubmitted as required in the ET Handbook No. 401, Unemployment Insurance Reports Handbook. The state should also assess whether internal policies or procedures need to be updated, and whether training is needed to ensure this requirement is fulfilled on a consistent basis.

Response: The Unemployment Insurance Service Center (UISC) has identified and trained a workforce advisor to query SAVE, follow-up with the claimant on discrepancies, and disqualify the claimant if warranted. The person was trained in early September and started conducting verification approximately September 18, 2013. Going forward 100% of all new and additional claims will be verified.

Finding #2: Immediate Deposit and Withdrawal Standards

(Part V – Prosecutions)

Claimants prosecuted for UI fraud are ordered to make restitution via wage garnishment facilitated through the 99 county sheriffs' offices. The sheriffs' offices will hold the garnished wages until the full amount requested is recovered or the maximum amount is garnished for the calendar year under Iowa law. The sheriffs' offices then forward the funds to IWD. There is no uniform system by which these 99 county sheriff's offices submit restitution payments to the state; the process varies from county to county. Under this process, the payments are not forwarded to the state in a timely manner.

Message: FW: Overpayment**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:42 PM
 Item ID: 40861983
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: Overpayment

From UI Claims Help **Date** Tuesday, March 04, 2014 11:22 AM
To Eklund, David [IWD]
Cc

Here is a claimant with an overpayment with a question on repaying back the overpayment. Thank you.

Adam

From: Robert Schroepfer [mailto:robtschroepfer@gmail.com]
Sent: Tuesday, March 04, 2014 11:07 AM
To: UI Claims Help
Subject: Re: Overpayment

Robert schroepfer, 2051, 10/09/1985, 1 dependent on claim

On Tuesday, March 4, 2014, UI Claims Help <uiclaimshelp@iwd.iowa.gov> wrote:
 IN ORDER TO RECEIVE A REPOSENSE FROM IWD, we will need ALL of the following questions answered for security reasons:

Your FULL name:
 The last 4 digits of your ssn:
 Your date of birth:
 The number of dependents you claimed on your unemployment claim:

If you would rather not communicate this information over the internet, our help line may be called at 1-866-239-0843.

If we do not receive your response to our request for information, your request for information will be deleted.

By responding to this message, you certify that you are requesting information for your claim and that you are the claimant. Thank you.

Note: This message and any attachments is intended solely for the use of the individual or entity to which it is addressed and may contain information that is non-public, proprietary, legally privileged, confidential, and/or exempt from disclosure. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this

communication in error, please notify the original sender immediately by telephone or return email and destroy or delete this message along with any attachments immediately.

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, March 04, 2014 9:33 AM
To: UI Claims Help
Subject: Overpayment

Hi my name is [REDACTED] and I am needing to pay back my overpayment. I called a couple weeks ago and was told to write a letter and state how much a month I can pay back for a payment plan. I mailed that letter and haven't heard anything I filed my taxes with my wife and I don't want them to recapture any. We have a baby on the way and need that money for that so is there anyway I can be reassured that none of my taxes will be taken? I am willing to make this effort to pay back as much a month as I can afford and even with my taxes I'll pay some more. Please let me know so my family can stop worrying. Thank you

Sent from my iPhone

Message: FW: I can be reached at

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:45 PM
Item ID: 40862086
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: I can be reached at

From UI Claims Help **Date** Thursday, March 06, 2014 4:06 PM
To Eklund, David [IWD]
Cc

This would be for you I believe. Please let me know otherwise. Thank you.
Adam

From: Brenda Kingery [mailto:bkinge513@hotmail.com]
Sent: Thursday, March 06, 2014 12:00 PM
To: UI Claims Help
Subject: I can be reached at

Hi, My name is Brenda Kingery and I owe an overpayment of \$434. I was told by the IRS you guys have had my state tax since Febuary 4th, 2014. I am wondering why its taking so long to get the remainder of my money left over after you guys take your share? Please let me know ASAP!! I can be reached at 715-520-0678

Message: Re: social security numbers

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:31:37 PM
 Item ID: 40860793
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

Re: social security numbers

From West, Ryan [IWD] **Date** Monday, June 04, 2012 8:57 AM
To Eklund, David [IWD]
Cc

Friday is 5 days away.

Sent from my iPhone

On Jun 4, 2012, at 8:49 AM, "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov> wrote:

Is my life not tough enough?

From: Wahlert, Teresa [IWD]
Sent: Saturday, June 02, 2012 3:58 PM
To: Wilkinson, Michael [IWD]
Cc: Eklund, David [IWD]
Subject: Re: social security numbers

Then tell her

Sent from my iPhone

On Jun 2, 2012, at 12:01 PM, "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov> wrote:

It should go directly to Dave Eklund

Sent from my iPad

On Jun 1, 2012, at 8:43 PM, "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov> wrote:

Who or where should she be sending this info to?
Teresa

Sent from my iPhone

Begin forwarded message:

From: "Lewis, Irma [IWD]" <Irma.Lewis@iwd.iowa.gov>
Date: June 1, 2012 7:19:19 AM CDT
To: "Wahlert, Teresa [IWD]" <Teresa.Wahlert@iwd.iowa.gov>
Subject: FW: social security numbers

<image001.gif>
 Would you please forward this to whomever is doing the social security report now; I know you said there were four people in that position, but if you told me specifically who was doing the social security report, I missed it; thanks

Irma

From: Richards, Vicki [IWD]
Sent: Thursday, May 31, 2012 3:19 PM
To: Lewis, Irma [IWD]
Subject: social security numbers

I have a claimant who filed her claim under the social security number [REDACTED] her name is [REDACTED]
 [REDACTED] DOB [REDACTED] I talked to the employer who says she never worked there. They have those wages belonging to [REDACTED]
 [REDACTED] Could you check and let me know what number is correct for [REDACTED] [REDACTED]
 [REDACTED]

Thanks,

Vicki

Vicki Richards
Work Force Advisor/ Deputy 84
Iowa Workforce Development UIISC
P O Box 10332
Des Moines, Iowa 50306-0332
Phone: 515-242-0409 Fax: 515-281-4057
Email: vicki.richards@iwd.iowa.gov

Life isn't about waiting for the storm to pass, it's about learning to dance in the rain.

Message: RE: **Charles Denham/7039**

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:38 PM
Item ID: 40861903
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: **Charles Denham/7039**

From Tavegia, Thomas [IWD] **Date** Thursday, April 03, 2014 10:21 AM
To Eklund, David [IWD]
Cc

 [image001.png](#) (29 Kb HTML)

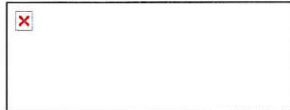
Looked at DD214 and it does say disability retirement. Let me know if I can do anything with this.

From: Eklund, David [IWD]
Sent: Wednesday, April 02, 2014 4:55 PM
To: Tavegia, Thomas [IWD]
Subject: FW: **Charles Denham/7039**

Tommy,
I have not looked at the sup docs. Are the disability payments really deductible?
Thanks.

From: Hamersley, Kathy [IWD]
Sent: Wednesday, April 02, 2014 12:42 PM
To: Eklund, David [IWD]
Subject: **Charles Denham/7039**

David could you look at this claim for me? **Charles** filed his claim effective 11/24/13 was receiving U.I then. When he filed claim he was getting a medical retirement (from the Army), then about 2 weeks ago the V.A. took over and now it is a V.A disability. He now has an overpayment. I did not think Veterans Disability was deducted? Does he need to bring anything in?
Thanks



Kathy Hamersley
WorkForce Advisor
15260 Truman St IHCC N. Campus
Ottumwa, Ia. 52501
641-684-5401 ext 40011
e-mail: Mary.hamersley@iwd.iowa.gov

Message: RE: **Charles Denham/7039**

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:38 PM
Item ID: 40861902
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: **Charles Denham/7039**

From Tavegia, Thomas [IWD] **Date** Thursday, April 03, 2014 10:18 AM
To Eklund, David [IWD]
Cc

 [image001.png](#) (29 Kb HTML)

Disability retirement payments are not deductible. It looks like Christina ran this in December off of an Army protest. According to the sheet it is an employer provided pension. That is why the deduction.

From: Eklund, David [IWD]
Sent: Wednesday, April 02, 2014 4:55 PM
To: Tavegia, Thomas [IWD]
Subject: FW: Charles Denham/7039

Tommy,
I have not looked at the sup docs. Are the disability payments really deductible?
Thanks.

From: Hamersley, Kathy [IWD]
Sent: Wednesday, April 02, 2014 12:42 PM
To: Eklund, David [IWD]
Subject: **Charles Denham/7039**

David could you look at this claim for me? **Charles** filed his claim effective 11/24/13 was receiving U.I then. When he filed claim he was getting a medical retirement (from the Army), then about 2 weeks ago the V.A. took over and now it is a V.A disability. He now has an overpayment. I did not think Veterans Disability was deducted? Does he need to bring anything in?
Thanks



Kathy Hamersley
WorkForce Advisor
15260 Truman St IHCC N. Campus
Ottumwa, Ia. 52501
641-684-5401 ext 40011
e-mail: Mary.hamersley@iwd.iowa.gov

Message: RE: Charles Denham/7039

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:38 PM
 Item ID: 40861897
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: Charles Denham/7039

From Tavegia, Thomas [IWD] **Date** Thursday, April 03, 2014 8:14 AM
To Eklund, David [IWD]
Cc

image001.png (29 Kb HTML)

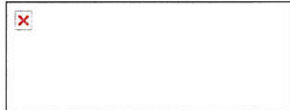
I will look into it.

From: Eklund, David [IWD]
Sent: Wednesday, April 02, 2014 4:55 PM
To: Tavegia, Thomas [IWD]
Subject: FW: Charles Denham/7039

Tommy,
 I have not looked at the sup docs. Are the disability payments really deductible?
 Thanks.

From: Hamersley, Kathy [IWD]
Sent: Wednesday, April 02, 2014 12:42 PM
To: Eklund, David [IWD]
Subject: Charles Denham/7039

David could you look at this claim for me? Charles filed his claim effective 11/24/13 was receiving U.I then. When he filed claim he was getting a medical retirement (from the Army), then about 2 weeks ago the V.A. took over and now it is a V.A disability. He now has an overpayment. I did not think Veterans Disability was deducted? Does he need to bring anything in?
 Thanks



Kathy Hamersley
 WorkForce Advisor
 15260 Truman St IHCC N. Campus
 Ottumwa, Ia. 52501
 641-684-5401 ext 40011
 e-mail: Mary.hamersley@iwd.iowa.gov

Message: FW: [IE]:Re: Loren D Swofford, #8050

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:36 PM
 Item ID: 40861819
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **FW: [IE]:Re: Loren D Swofford, #8050**

From VonBehren, Karen [IWD] **Date** Friday, March 28, 2014 9:54 AM
To Eklund, David [IWD]
Cc

 [image004.jpg](#) (4 Kb HTML)  [image005.jpg](#) (1 Kb HTML)  [image001.jpg](#) (4 Kb HTML)

Dave, I had trouble with the Work number and Jonathan has experienced it also when we are trying to find employers without account numbers. I had contacted Whirlpool directly after no success with the work number. Jon finally was able to get it ordered for me. Matthew O'Brien from Equifax responded to Whirlpool and me so I sent him an email and his responses are attached. He indicated he would try to contact our main contact with Equifax so thought you should be aware you may or may not get inquiries on this. Jonathan would be able to explain the problem well. Thanks. fyi

Karen von Behren
 Investigator

 IWDbwTagSm

1000 N Roosevelt Ave, Suite 9
 Burlington, IA 52601
 Phone 319-753-1671 X31435
 Fax 319-753-5881

From: VonBehren, Karen [IWD]
Sent: Friday, March 28, 2014 9:27 AM
To: 'Matthew O'Brien'
Subject: RE: [IE]:Re: Loren D Swofford, #8050

Sound fine. Jonathan Linnenbrink, Investigator out of Davenport, and I have experienced this problem

since the changeover. Thanks.

Karen von Behren
Investigator

 IWDbwTagSm

1000 N Roosevelt Ave, Suite 9
Burlington, IA 52601
Phone 319-753-1671 X31435
Fax 319-753-5881

From: Matthew O'Brien [mailto:Matthew.O'Brien@equifax.com]
Sent: Friday, March 28, 2014 9:07 AM
To: VonBehren, Karen [IWD]
Subject: RE: [IE]:Re: [REDACTED], #8050

Karen,

Thank you for this information. I work directly with our employer clients such as [REDACTED]. However, we do have a government team that works directly with verifiers and I will work on locating who your main contact for this is. Does this sound ok with you?

Thank you,

Matt O'Brien
Client Relationship Manager
Equifax Workforce Solutions

314-214-7150 office
314-920-2659 Cell
877-879-8132 fax
matthew.o'brien@equifax.com

*** Please remember Workforce Solutions Support (WSS) for immediate assistance. You may dial Workforce Solutions Support directly at 1-877-664-8778. You may also e-mail directly to workforcesolutionsupport@equifax.com for assistance. They are available Monday through Friday between the hours of 7:00 a.m. and 7 p.m. central time***

Join us at the Camelback Inn, Scottsdale, AZ, March 31 - April 2 for FORUM 2014, our annual client-only event. For additional details & to register please visit: www.equifaxworkforce.com/forum. Use the promo code **OBRIEN before January 10th to receive \$200 off registration!**

Equifax offers a Compliance Center platform that automates the completion of all required forms and documents for onboarding new employees as well as other forms that are mandatory throughout the employee lifecycle. It can remove the cost and worry of keeping up with rapidly changing rules and regulations like the Affordable Care Act by ensuring timely delivery, accurate completion, and secure

storage to support an audit or legal inquiry.

From: VonBehren, Karen [IWD] [<mailto:Karen.Vonbehren@iwd.iowa.gov>]
Sent: Friday, March 28, 2014 7:46 AM
To: Matthew O'Brien
Subject: [IE]:RE: [IE]:Re: Loren D Swofford, #8050

Matthew, I did send Judy this response yesterday.

"I had trouble with the Work number ordering yesterday which we have had off and on. The system does not appear to be taking our requests when we do the search component for employer number. We will try again today. Thank you for your response."

After numerous tries, the request did go through. We are auditing this claim due to potential issues regarding his unemployment claim and need the information to proceed with the investigation. If we find this claimant did not report correctly, the overpayment monies we discover will go back into, in this case, the [REDACTED] account. As you know, we conduct these investigations to attempt to ensure the integrity of the Unemployment Insurance trust fund so that the employers' Unemployment taxes do not increase and the monies are paid correctly. I should receive the Work Number information next week but, if I need additional information on this, is there a direct contact person for these issues. I work for the Investigation and Recovery Section of Iowa Workforce Development and I and my counterpart have encountered problems in ordering information when we have to use the search component to obtain an account number.

Thank you for your response.

Karen von Behren
Investigator

 IWDbwTagSm

1000 N Roosevelt Ave, Suite 9
Burlington, IA 52601
Phone 319-753-1671 X31435
Fax 319-753-5881

From: Matthew O'Brien [<mailto:Matthew.O'Brien@equifax.com>]
Sent: Thursday, March 27, 2014 4:52 PM
To: Judy Nieves; VonBehren, Karen [IWD]
Cc: Melissa Little; Debra L Stone; Michael Bradley
Subject: RE: [IE]:Re: Loren D Swofford, #8050

Judy,

I am the client relationship manager for the work number service. If the State of Iowa does not have a

direct contract with the work number we can complete, but this would be considered what we call a manual verification. Normally what happens is the State of Iowa would mail this request to the employer (in this case [REDACTED]) and Whirlpool would have the option to complete internally or mail to the address I have listed on the attached document.

This sounds like an unemployment wage audit. I have also copied Michael Bradley on this email as he is the unemployment client relationship manager for Whirlpool and might be able to add some additional insight on this?

Thank you,

Matt O'Brien
Client Relationship Manager
Equifax Workforce Solutions

314-214-7150 office
314-920-2659 Cell
877-879-8132 fax
matthew.o'brien@equifax.com

*** Please remember Workforce Solutions Support (WSS) for immediate assistance. You may dial Workforce Solutions Support directly at 1-877-664-8778. You may also e-mail directly to workforcesolutionsupport@equifax.com for assistance. They are available Monday through Friday between the hours of 7:00 a.m. and 7 p.m. central time***

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Equifax offers a Compliance Center platform that automates the completion of all required forms and documents for onboarding new employees as well as other forms that are mandatory throughout the employee lifecycle. It can remove the cost and worry of keeping up with rapidly changing rules and regulations like the Affordable Care Act by ensuring timely delivery, accurate completion, and secure storage to support an audit or legal inquiry.

From: Judy Nieves [<mailto:judy.nieves@ngahr.com>]
Sent: Thursday, March 27, 2014 8:12 AM
To: VonBehren, Karen [IWD]
Cc: Matthew O'Brien; Cecelia McGrew; Melissa Little; Debra L Stone; Judy Nieves
Subject: [IE]:Re: Loren D Swofford, #8050

Hi Karen,

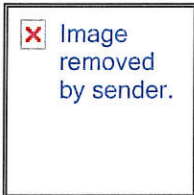
I am the contact for [REDACTED] for the quarterly information and returns.

Whirlpool have a 3rd party that provide IA the weekly information and the company is Equifax. I am coping some of the Equifax email address also some [REDACTED] contact person.

Let me know if you need more information.

Thanks,

Judy Nieves
Tier 3
Payroll Audit and Reconciliation Analyst
513-322-0697 Office
513-284-0925 Comp Cell Phone

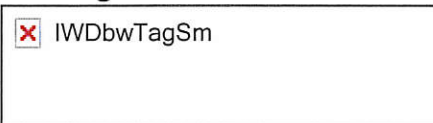


www.ngahr.com/payrollleaders

On 26 March 2014 10:16, VonBehren, Karen [IWD] <Karen.Vonbehren@iwd.iowa.gov> wrote:
Judy, I am an Unemployment Insurance Investigator for the State of Iowa and have been assigned a case on [redacted] Loren D Swofford, #8050, who was listed as an employee for the [redacted] Whirlpool Corporation in Iowa. I am needing weekly payroll information and did not know who I needed to contact at [redacted] Whirlpool. You are listed as a contact for the payroll reports so was wondering if you could provide me the name and contact information of the person who handles these requests at [redacted] Whirlpool. If you are not the appropriate person to contact for this information, could you please let me know who that would be?

Thank you for your cooperation.

Karen von Behren
Investigator



1000 N Roosevelt Ave, Suite 9
Burlington, IA 52601
Phone 319-753-1671 X31435
Fax 319-753-5881

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Northgate has taken reasonable precautions to ensure that no viruses are contained in this email, but does not accept any responsibility once this email has been transmitted. You should scan attachments (if any) for viruses.

Message: FW: Scanning error by Tax**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:43 PM
 Item ID: 40862013
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ FW: Scanning error by Tax

From Wilkinson, Michael [IWD] **Date** Monday, March 03, 2014 1:38 PM
To Eklund, David [IWD]
Cc

I have asked them to include you in this discussion.

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 1:36 PM
To: O'Brien, Carie [IWD]; Wilkinson, Michael [IWD]
Subject: FW: Scanning error by Tax

We need to talk a little bit more about this in person (too hard to explain in email) to get all of us on the same page. Amy started asking me today – Is it absolutely necessary for us to deposit benefits checks through Opex? I wrote down some more detailed information from Amy on why she feels like it is somewhat a waste of our time AND Stephanie's time to deposit benefits checks through Opex. Additionally, I have some critical balancing questions I have tried to ask people over in finance/department of treasurer before and never really got an answer.

It won't be too tough for me to explain or you to understand if we could set up a time to discuss.
 Brandie

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 12:09 PM
To: Cummings, Brandie [IWD]
Subject: RE: Scanning error by Tax

I got all the info Stephanie could give me. It was mostly the copies of checks I gave her when Benefits didn't balance (these are not items she is researching to see what was mis-keyed, these are items she has never received a DAN notice on to show that the bank made corrections. These are all mis-keyed items. The dates range from November of last year to current so this is not a recent flood of mistakes. I began researching who made the errors. I found one from Laina and one from Tyler that were outright bad mistakes and decided it would be a colossal waste of time to look them all up.
 Two of the payments has the cent amount mis keyed as zero due to very sloppy writing.

Amy Reed

Iowa Workforce Development | 1000 E Grand | Des Moines, IA 50319
 Ph: 515-281-8096 Fax: 515-242-5247
Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:53 AM
To: Reed, Amy [IWD]

Subject: RE: Scanning error by Tax

Will you touch base with Stephanie about those two items, so we can research root cause of problem?

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 10:47 AM
To: Cummings, Brandie [IWD]
Subject: RE: Scanning error by Tax

It will be impossible without a date or a batch.

Amy Reed

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Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:47 AM
To: Reed, Amy [IWD]
Subject: RE: Scanning error by Tax

I figured that. I think we need to look at checks...can you easily find them? No dates below, so will that be tough?

From: Reed, Amy [IWD]
Sent: Monday, March 03, 2014 10:45 AM
To: Cummings, Brandie [IWD]
Subject: RE: Scanning error by Tax

Brandie,

I'll get right on this.

Just FYI. These did not all just happen. In Steph's email she states these are old and she had been waiting to hear from the bank.

Amy Reed

Iowa Workforce Development | 1000 E Grand | Des Moines, IA 50319
Ph: 515-281-8096 Fax: 515-242-5247
Amy.Reed@iwd.iowa.gov

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 10:12 AM
To: Wilkinson, Michael [IWD]; O'Brien, Carie [IWD]; Reed, Amy [IWD]
Subject: RE: Scanning error by Tax

To my knowledge, Amy had been checking every day to make sure the scanned totals match total provided by Stephanie. If the bank hasn't sent us a discrepancy yet, I would also like to see the copy of the checks. If there is no discrepancy from the bank, maybe the scanned total was correct; that would be the amount that was actually deposited.

One thing that could be happening is that whoever is reviewing the payment/applying the payment on the claims side is not looking at the correct amount of the check? We use the hand-written long-hand amount if there is a discrepancy with the short-hand amount. Or else, the check was scanned as wrong amount and potentially deposited as wrong amount, because we haven't received notice from the bank.

Amy, can you shed light on this?

From: Wilkinson, Michael [IWD]
Sent: Monday, March 03, 2014 9:54 AM
To: O'Brien, Carie [IWD]; Cummings, Brandie [IWD]
Subject: Fwd: Scanning error by Tax

What can we do about this?

Sent from my iPhone

Begin forwarded message:

From: "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov>
Date: March 3, 2014 at 8:35:50 AM CST
To: "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov>
Subject: FW: Scanning error by Tax

Apparently this has happened once or twice before, but never this many at once.
Some of these folks could be pretty upset. Just FYI

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 8:21 AM
To: Eklund, David [IWD]
Subject: FW: Scanning error by Tax

From: Windust, Stephanie [IWD]
Sent: Monday, March 03, 2014 7:43 AM
To: Khounlo, Nhoui [IWD]
Subject: RE: Scanning error by Tax

I'll see what I can do.

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 7:24 AM
To: Windust, Stephanie [IWD]
Subject: RE: Scanning error by Tax

Step, do you still had the checks? If you do I need to have all copies of the checks because when I set up and the claimant will upset about the overpayment and I need to have some prove from the bank. Thanks!!

From: Windust, Stephanie [IWD]
Sent: Friday, February 28, 2014 12:33 PM
To: Khounlo, Nhoui [IWD]
Subject: Scanning error by Tax

Nhoui,

Check # [redacted] for \$57.50 was scanned by tax as \$5 for claimant Brenda Bendixen #6298. Need to set up \$.50 overpayment. If you set up, please let me know which program you set up.

Check #2079 for \$195.00 was scanned by tax as \$199 for Claimant Robin Pickel #9704. Need to set up .60 overpayment. If you set up, please let me know which program you set up.

Check #100778 for \$5390 was scanned by tax as \$53.90 for claimant Rose Anderson #5606. Need to set up overpayment for \$5,336.10. Please let me know which program you set up.

Check #743 for \$140 was scanned by tax as \$40 for claimant Anthony Gilman #6821. Need to set up overpayment for \$100. Please let me know which program you set up.

Sorry to have taken so long, I've been waiting to see if the bank had caught these errors, so far I haven't seen anything come through Wells Fargo stating that the amounts scanned were incorrectly entered. If you have any questions, please call me.

Stephanie Windust
Financial Management
Iowa Workforce Development
Phone 515-281-7294
Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: RE: Scanning error by Tax**Case Information:**

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:43 PM
 Item ID: 40862014
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

✉ RE: Scanning error by Tax

From Wilkinson, Michael [IWD] **Date** Monday, March 03, 2014 1:37 PM
To Cummings, Brandie [IWD]; O'Brien, Carie [IWD]
Cc

Set up time to discuss. Please include Dave Eklund.

From: Cummings, Brandie [IWD]
Sent: Monday, March 03, 2014 1:36 PM
To: O'Brien, Carie [IWD]; Wilkinson, Michael [IWD]
Subject: FW: Scanning error by Tax

We need to talk a little bit more about this in person (too hard to explain in email) to get all of us on the same page. Amy started asking me today – Is it absolutely necessary for us to deposit benefits checks through Opex? I wrote down some more detailed information from Amy on why she feels like it is somewhat a waste of our time AND Stephanie's time to deposit benefits checks through Opex. Additionally, I have some critical balancing questions I have tried to ask people over in finance/department of treasurer before and never really got an answer.

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Subject: RE: Scanning error by Tax

I got all the info Stephanie could give me. It was mostly the copies of checks I gave her when Benefits didn't balance (these are not items she is researching to see what was mis-keyed, these are items she has never received a DAN notice on to show that the bank made corrections. These are all mis-keyed items. The dates range from November of last year to current so this is not a recent flood of mistakes. I began researching who made the errors. I found one from Linda and one from Tyler that were outright bad mistakes and decided it would be a colossal waste of time to look them all up.
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From: Cummings, Brandie [IWD]
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To: Reed, Amy [IWD]

Subject: RE: Scanning error by Tax

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Sent: Monday, March 03, 2014 10:47 AM
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Subject: RE: Scanning error by Tax

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Amy Reed

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Just FYI. These did not all just happen. In Steph's email she states these are old and she had been waiting to hear from the bank.

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To my knowledge, Amy had been checking every day to make sure the scanned totals match total provided by Stephanie. If the bank hasn't sent us a discrepancy yet, I would also like to see the copy of the checks. If there is no discrepancy from the bank, maybe the scanned total was correct; that would be the amount that was actually deposited.

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Amy, can you shed light on this?

From: Wilkinson, Michael [IWD]
Sent: Monday, March 03, 2014 9:54 AM
To: O'Brien, Carie [IWD]; Cummings, Brandie [IWD]
Subject: Fwd: Scanning error by Tax

What can we do about this?

Sent from my iPhone

Begin forwarded message:

From: "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov>
Date: March 3, 2014 at 8:35:50 AM CST
To: "Wilkinson, Michael [IWD]" <Michael.Wilkinson@iwd.iowa.gov>
Subject: FW: Scanning error by Tax

Apparently this has happened once or twice before, but never this many at once. Some of these folks could be pretty upset. Just FYI

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 8:21 AM
To: Eklund, David [IWD]
Subject: FW: Scanning error by Tax

From: Windust, Stephanie [IWD]
Sent: Monday, March 03, 2014 7:43 AM
To: Khounlo, Nhoui [IWD]
Subject: RE: Scanning error by Tax

I'll see what I can do.

From: Khounlo, Nhoui [IWD]
Sent: Monday, March 03, 2014 7:24 AM
To: Windust, Stephanie [IWD]
Subject: RE: Scanning error by Tax

Step, do you still had the checks? If you do I need to have all copies of the checks because when I set up and the claimant will upset about the overpayment and I need to have some prove from the bank. Thanks!!

From: Windust, Stephanie [IWD]
Sent: Friday, February 28, 2014 12:33 PM
To: Khounlo, Nhoui [IWD]
Subject: Scanning error by Tax

Nhoui,

Check #7427 for \$57.50 was scanned by tax as \$5 for claimant Brenda Bendixen #6298. Need to set up \$.50 overpayment. If you set up, please let me know which program you set up.

Check #2079 for \$195.60 was scanned by tax as \$195 for Claimant Robin Pickel #9704. Need to set up .60 overpayment. If you set up, please let me know which program you set up.

Check #100773 for \$5390 was scanned by tax as \$53.90 for claimant Rose Anderson #5666. Need to set up overpayment for \$5,336.10. Please let me know which program you set up.

Check #743 for \$140 was scanned by tax as \$40 for claimant Anthony Gilman #6821. Need to set up overpayment for \$100. Please let me know which program you set up.

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 Financial Management
 Iowa Workforce Development
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 Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: Fwd: Scanning error by Tax

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:43 PM
 Item ID: 40862025
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

Fwd: Scanning error by Tax

From Wilkinson, Michael [IWD] **Date** Monday, March 03, 2014 9:53 AM
To O'Brien, Carie [IWD]; Cummings, Brandie [IWD]
Cc

What can we do about this?

Sent from my iPhone

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From: "Eklund, David [IWD]" <David.Eklund@iwd.iowa.gov>
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To: Windust, Stephanie [IWD]
Subject: RE: Scanning error by Tax

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To: Khounlo, Nhoui [IWD]
Subject: Scanning error by Tax

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Check #100778 for \$5390 was scanned by tax as \$53.90 for claimant Rose Anderson #5606. Need to set up overpayment for \$5,336.10. Please let me know which program you set up.

Check # [REDACTED] for \$140 was scanned by tax as \$40 for claimant Anthony Gilman #6821. Need to set up overpayment for \$100. Please let me know which program you set up.

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Stephanie Windust
Financial Management
Iowa Workforce Development
Phone 515-281-7294
Fax 515-281-6046
stephanie.windust@iwd.iowa.gov

Message: RE: UI Overpayment/Fraud

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:38 PM
 Item ID: 40861901
 Policy Action: Not Specified

Mark History:


Date	Action Status	Reviewer
7/21/2014 5:22:28 PM	Reviewed	Koonce, Kerry

Policies:


No Policies attached

✉ RE: UI Overpayment/Fraud

From West, Ryan [IWD] **Date** Thursday, April 03, 2014 9:08 AM
To Vega, Carlos [IWD]; Boten, Brenda [IWD]
Cc Eklund, David [IWD]

 (3 Kb HTML)

Ryan West
 Regional Operations Manager
 Phone (515) 725-3732
 Fax (515) 281-9321

 Description: titlegraphic

From: Vega, Carlos [IWD]
Sent: Thursday, April 03, 2014 8:49 AM
To: West, Ryan [IWD]; Boten, Brenda [IWD]
Subject: FW: UI Overpayment/Fraud

We have always told individuals when they call in with complaints like this that they need to notify UI in Des Moines in writing about this issues. How should this be done?

From: Bowers, Sharon [IWD]
Sent: Wednesday, April 02, 2014 3:55 PM
To: Ellenberger, Susan [IWD]
Cc: Vega, Carlos [IWD]
Subject: UI Overpayment/Fraud

Dorothy Evans of **Family Dollar** called to see if **Michelle Joyce** was still collecting UI because she overheard him bragging about it. He has had at least 3 weeks of OT because the assistant manager quit. He has reported wages. He gets paid 9.36/hour. He had 51 hours last week. He will have 55 hours this week. Their week goes Sunday to Saturday. You can contact her at 319.258.1592 for more information.

Sharon Bowers
Business Services Representative
 4444 First Ave NE
 Cedar Rapids, IA 52402
 319.365.9474. x31134
Sharon.Bowers@iowa.iwd.gov

Message: RE: CL [redacted] (1640) has overpayment balance that he tried to pay last year

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:48 PM
 Item ID: 40862166
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: CL [redacted] (1640) has overpayment balance that he tried to pay last year

From West, Ryan [IWD] **Date** Tuesday, March 11, 2014 8:50 AM
To Sanchez, Maria [IWD]
Cc Eklund, David [IWD]

image001.jpg (3 Kb HTML)

Ryan West
 Regional Operations Manager
 Phone (515) 725-3732
 Fax (515) 281-9321

Description:
 titlegraphic

From: Sanchez, Maria [IWD]
Sent: Tuesday, March 11, 2014 8:38 AM
To: West, Ryan [IWD]
Subject: CL [redacted] (1640) has overpayment balance that he tried to pay last year

Spoke with the wife of [redacted] at [redacted] and she just received a garnishment notice for the \$100 he owes us. She is frustrated because she had tried to pay the overpayment in July of last year, and the original person she had spoken with about the overpayment was unhelpful and instead of cashing her check he kept it on his desk and started an appeal. Then she had called the appeals section and someone here said that we would stop the appeal and get the cash checked, but instead the CL still have the overpayment balance.
 Told her I would contact you to take care of this.

Thanks,

Maria Sanchez
 Iowa Workforce Development
 UI Appeals Bureau
 Ph: 515-281-3748
 Fax: 515-242-5144

Description:
 titlegraphic

Message: RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**

Case Information:

Message Type: Exchange
 Message Direction: Internal
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:44 PM
 Item ID: 40862049
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**

From West, Ryan [IWD] **Date** Tuesday, March 04, 2014 3:42 PM
To Gomez, Carmen [IWD]; Tavegia, Thomas [IWD]
Cc Koonce, Kerry [IWD]

Correct. I believe the clamant is under the impression that he is entitled to unemployment for as long as he is in school because of his military service.

Ryan West
 Regional Operations Manager
 Phone (515) 725-3732
 Fax (515) 281-9321



From: Gomez, Carmen [IWD]
Sent: Tuesday, March 04, 2014 3:41 PM
To: West, Ryan [IWD]; Tavegia, Thomas [IWD]
Cc: Koonce, Kerry [IWD]
Subject: RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**


Oh - I see.

The PROGRAM on DBRO show X that is what signifies the Military/Federal wages right... not to mention the DBIN screen.

Thank you,

Carmen Gomez

Customer Service Bureau Chief



1000 E Grand Avenue | Des Moines, Iowa 50319
 Phone: 515-281-5981 | Cell: 515-720-4686 | Fax: 515-281-4698

From: West, Ryan [IWD]
Sent: Tuesday, March 04, 2014 3:39 PM
To: Gomez, Carmen [IWD]; Tavegia, Thomas [IWD]
Cc: Koonce, Kerry [IWD]
Subject: RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**

Actually, between us, this claimant is running the risk of having an overpayment set up for the TEB benefits he received in the fall of 2012 because he never sent us his school schedule.

Ryan West
 Regional Operations Manager
 Phone (515) 725-3732
 Fax (515) 281-9321



From: Gomez, Carmen [IWD]
Sent: Tuesday, March 04, 2014 3:31 PM
To: West, Ryan [IWD]; Tavegia, Thomas [IWD]

Cc: Koonce, Kerry [IWD]
Subject: RE: Deputy Director Constituent | [Redacted] Newton, Levi - Federal Wages

So not military and not federal? I there anyway that I could tell that if it were?

Thank you,

Carmen Gomez

Customer Service Bureau Chief

Iowa Workforce Development - Smart. Results.

1000 E Grand Avenue | Des Moines, Iowa 50319
Phone: 515-281-5981 | Cell: 515-720-4686 | Fax: 515-281-4698

From: West, Ryan [IWD]
Sent: Tuesday, March 04, 2014 3:30 PM
To: Gomez, Carmen [IWD]; Tavegia, Thomas [IWD]
Cc: Koonce, Kerry [IWD]
Subject: RE: Deputy Director Constituent | [Redacted] Newton, Levi - Federal Wages

I called and talked to this guy last night. He doesn't have the wages.

Ryan West
Regional Operations Manager
Phone (515) 725-3732
Fax (515) 281-9321

Description: telegraphic

From: Gomez, Carmen [IWD]
Sent: Tuesday, March 04, 2014 3:16 PM
To: Tavegia, Thomas [IWD]
Cc: West, Ryan [IWD]; Koonce, Kerry [IWD]
Subject: Deputy Director Constituent | [Redacted] Newton, Levi - Federal Wages
Importance: High

Tom - can you tell if the military wages have been requested? This gentleman is very upset and on the phone with Ed Wallace, Deputy Director right now.

[Redacted] Levi Newton - 9363

Thank you,

Carmen Gomez

Customer Service Bureau Chief

Iowa Workforce Development - Smart. Results.

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Phone: 515-281-5981 | Cell: 515-720-4686 | Fax: 515-281-4698

Message: RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**

Case Information:

Message Type: Exchange
Message Direction: Internal
Case: IWD Senator Petersen Request - Version 3
Capture Date: 7/10/2014 1:32:44 PM
Item ID: 40862048
Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

RE: Deputy Director Constituent | **Newton, Levi - Federal Wages**

From West, Ryan [IWD] **Date** Tuesday, March 04, 2014 3:39 PM
To Gomez, Carmen [IWD]; Tavegia, Thomas [IWD]
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Cc: West, Ryan [IWD]; Koonce, Kerry [IWD]
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Importance: High

Tom – can you tell if the military wages have been requested? This gentleman is very upset and on the phone with Ed Wallace, Deputy Director right now.

Levi Newton - 9369

Thank you,

Carmen Gomez

Customer Service Bureau Chief



1000 E Grand Avenue | Des Moines, Iowa 50319
Phone: 515-281-5981 | Cell: 515-720-4686 | Fax: 515-281-4698

Message: ALJ decision on Montana Prevailign Wage**Case Information:**

Message Type: Exchange
 Message Direction: External, Inbound
 Case: IWD Senator Petersen Request - Version 3
 Capture Date: 7/10/2014 1:32:21 PM
 Item ID: 40861626
 Policy Action: Not Specified

Mark History:

No reviewing has been done

Policies:

No Policies attached

 **ALJ decision on Montana Prevailign Wage**

From H2ASWA, Chicago - ETA SVC

Date

Tuesday,
February
25, 2014
2:06 PM

To Adalberto Rubio; Agricultural Services; Alberto Isiordia; Alesia Brown; Alicia Boyd; Allan MacKinnon; Amdrew Szilvasi; Angela Balderas; Angelica Vasquez; Anthony Baker; Arah Lockhart; Barbara Lusinger; Barbara Lusinger; Barbara Wheatley; Barry Hirshbein; Belen Ledezma; Cutter, Bernarda - ETA; Bernice Zampano; Betsie Rodriguez Vega; Billy Green; Bobbi Krob; Bonnie Lance ; Brian Clark; Camille Nieves; Carlos Roman; Carol Kanayama; Cecil Sandlin; Cecilia Garduno; Cecilia Garduno ; Chris Ramos; Christina Marzello; Claudia Greenwood; Colleen Dubbe; Connie Fuller; Garrett, Conyers - ETA; Daniel Romans; Daniel Valdez; Daniel Valdez; David Niermann; David Slimp; David White; DeAnna Smith; DeAnna Smith; Debi Traylor; Debi Traylor; Debra Larsen; Debra Larsen; Schippers, Denise [IWD]; Desirae Diaz; Walton, Diane - ETA; Dixie Cravens; Dolly Raja; Dolly Raja; Dora Jenkins; Douglas Blakney; Dunnia Aplicano; Edorbale Valentin; Edward Mitchell; Elaine Wentz; Elaine Wentz; Elizabeth Martin; Elizabeth Martin; Elizabeth Warner; Eric Denk; Hernandez, Eric - ETA; Eric L Villegas; Estuardo Rodas; Fernando Gutierrez; Frances Arangure; Frances Pineda; Francis "Frank" Idiong; Francisco Macias; Gayla Reardon; Gloria Bostic; Gloria Harrison ; Gloria

Neal; Henry Gross; Irene Laguna; Jacqueline Blyden; James Eldridge; James Eldridge; Janie Claytor-Woodson; Jeanette Lazelle; Jeanette Pickinpaugh; Jeff Gatewood; Jeffrey Stoller; Jennifer Wilch; Jenny Harris; Jess Rose Rianelli; Joan Modrell; John M. Waters; John Newkirk; John Vowles; Jon Weirether; Jorge Gomez; Jose Ocasio; Joyce Hahn; Regalado, Juan - ETA; Judith Ezop; Julie Keating; Julie O'Connell; Karen Gay; Karyn Paul; Kay Strayer; Kendal Shaver; Kevin Ingalls ; Keyla Rivero-Rodriguez; Kim Morigeau; Kim Rodriguez; Laura Tramontana; Laurie Fuglvog; Leila Jackson; Les Smart; Leticia Yasuda; Lily Kersh; Lisa Shellenberger; Lois Campanelli; Adams, Lori [IWD]; Garcia, Lucia - WHD; Marcie Alling; Adasme, Marco [IWD]; Maria Trammell; Maricela Hernandez-Gray; Mark Olds; Mary Fleming; Mary Lewis; MaryAnn Samuels; Melissa Atkin; Melissa Romero-McKean; Merlin Williams; Merrill Hess; Michele Reynolds; Michelle Abraham; Mickey Lindstrom; Millie Dileo; MSFW; Nicholas Bishop; Nicole Skeek; Norma Martinez; Olga Ruiz; Pablo Nunez; Pamela Szacik; Paul Elkins; Rafael Di Stasio; Rebeca Guerra; Robert Brantley; Robert Kabel; Roman Diaz; Rosa Flores-Quinonez; Rosa Ortega; Rosario Quesada; Rose Lucenti; Ruby Peters; Ruth Lacher; Sandra Valentin; Scott Koblich; Shawn Surface; Shelly Thompson; Sherri Wilson; Sherri Wilson; Sherry Clark; Socorro Page; Stacey Wire; Steve Porr; Steven Aggelis; Sylvia Sanchez; Tamara Keane; Roberts, Thadeus - ETA; Thomas Gonzales; Thomas Gonzalez; Thomas Ukinski; Tiffany Roberts; Tim Lawhorn; Tracy Rolfson; Travis "Chip" Crabtree; Vanessa Perez; Vilda Mayuga; Vincent McQueen; Vint DeGraw; Vivian Hopkins; Vivian Miltenberger; Wanda Mosley; Wendy Lomeli; William "Bubba" Grant; William Downer; William Pendleton; William Reed; Yvette DeLeeuw

Cc Giles, Charlene - ETA; Gonzalez, Chris - ETA; Hamilton, Marva - ETA; Rotterman, John - ETA; Orona, Ben - ETA; Steis, Tatyana - ETA; Brooks, Maria - ETA; Kaura, Nidhi - ETA

 [Administrative Law Judge Decision on Montana Prevailing Wage Survey Findings 01.2014.pdf](#) (567 Kb HTML)

Good Afternoon,

The attached Administrative Law Judge decision of January 31, 2014, pertains to an adverse ruling regarding the prevailing wage survey findings submitted by Montana. In the instant case, the judge found the survey finding unreliable and not representative of the prevailing wage rate for General Farmworker based on the sample size requirements and the estimated total number of workers in the occupation.

We will discuss briefly during the SWA conference call on Wednesday, February 26, 2014.

The full agenda for the conference call will be sent later.

Chicago National Processing Center

- [Image 1](#)
- [Image 2](#)
- [Image 3](#)
- [Image 4](#)
- [Image 5](#)
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- [Image 7](#)
- [Image 8](#)
- [Image 9](#)
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- [Image 41](#)
- [Image 42](#)

Image 1

U.S. Department of Labor Office of Administrative Law Judges
800 K Street, NW, Suite 400-N

Washington, DC 20001-8002

(202) 693-7300

(202) 693-7365 (FAX)

In Matter of:

F 3 S PARTNERSHIP, LLC OALJ Case No: 2014 TLC 6

(ETA Case No: H-300-13336-869969),

and

ROBERT J. WUESTE, LLC OALJ Case No: 2014 TLC 7

(ETA Case No: H-300-13338-454800),

and

R BAR N RANCH, LLC OALJ Case No: 2014 TLC 8

(ETA Case No: H-300-13331-795696),

and

HUNTSMAN RANCH CO. OALJ Case No: 2014 TLC 9

(ETA Case No: H-300-13325-475069),

and

GEORGE STOLTZ (STOLTZ LAND AND CATTLE CO), OALJ Case No: 2014 TLC

10

(ETA Case No: H-300-13340-772175),

and

SANTANA RANCH (ROBERT DIXON) OALJ Case No: 2014 TLC 11

(ETA Case No: H-300-13331-262707),

and

5 L RANCH CORP. OALJ Case No: 2014 TLC 14

(ETA Case No: H-300-13351-400078),
and
MCCOY CATTLE, LLC OALJ Case No: 2014 TLC 16

(ETA Case No: H-300-13357-517591),
Employers

Certifying Officer: Mr. John Rotterman

BEFORE: Richard T. Stansell-Gamm

Administrative Law Judge

**DECISION AND ORDER –
REVERSING CERTIFYING OFFICER’S**

NOTICES OF DEFICIENCY

The above-captioned cases involve a request for certification of nonimmigrant foreign workers (H-2A workers) for temporary or seasonal agricultural employment under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1101(a)(15)(H)(ii)(a), and the implementing 20 C.F.R. Part 655.

Image 2

- 2 -

Background

Between November 21 and December 23, 2013, the Employers filed with the U.S. Department of Labor (“DOL”) multiple Employment and Training Administration (“ETA”)

Forms 790 (Agricultural and Food Processing Clearance form), and ETA Forms 9142A (H-2A

Application for Temporary Employment Certification), with attachments, for a “Farm/Irrigation/Livestock Worker.” On December 9, December 23, and December 30, 2013,

DOL issued Notices of Deficiency (“NOD”) for failure to offer the required wage under 20

C.F.R. § 655.120(a). On December 13, 2013, December 27, 2013, and January 2, 2014, through counsel, the Employers requested a *de novo* hearing.

Pursuant to the stated availability of counsel, and under the provisions of 20 C.F.R. §655.171(b), I conducted a telephonic *de novo* hearing on January 10, 2014, with Mr. Wendel V.

Hall for the Employers and Mr. Jonathan R. Hammer for the Certifying Officer (“CO”). Posthearing, Mr. Matthew Brent entered an appearance on behalf of the Certifying Officer and

submitted the CO’s post-hearing brief. My decision in this case is based on the sworn testimony

presented at the hearing and the following documents admitted into evidence: EX 1 to EX 10,

and CO 1 to CO 10.

1

Issue

2

Whether the CO’s determination to issue Notices of Deficiencies for the Employers’ H2A Applications for Temporary Employment Certification with offered hourly wages of \$10.00

to \$10.19 for general farmworkers in the state of Montana due to a failure to offer the December

2, 2012 prevailing wage of \$12.50 for general farmworkers in the state of Montana as set out in

the Agricultural Online Wage Library should be affirmed, reversed, or modified.

¹The following notations appear in this decision: EX – Employer exhibit; CO – Certifying Officer exhibit; and TR

– Transcript. Prior to the hearing, CO 1 to CO 7 were in my possession. On January 14, 2014, I received CO 8 and

EX 1 to EX 10. On January 17, 2010, I received CO 9 and CO 10.

²At the January 10, 2014 hearing, Employer’s counsel withdrew the issue regarding the area of intended

employment notice of deficiency in 2014 TLC 16. Employer’s counsel also observed that the issue regarding the

irrigator prevailing wage notice of deficiency had been resolved with a change in the CO’s determination to “no

finding” for the irrigator prevailing wage in all eight cases. TR, pp. 10-12. Finally, during the January

10, 2014 hearing, Employers' counsel raised a new issue concerning the issuance of second NODs in three cases (R Bar N Ranch, 2014 TLC 8; Huntsman Ranch, 2014 TLC 9; and Santana Ranch, 2014 TLC 11). At the close of the hearing, Employers' counsel's expressed some uncertainty whether he would continue to pursue the issue. And, in his closing brief, Employers' counsel did not address the second NODs issue. Consequently, in the absence of a stated post-hearing position from Employers' counsel, I will not address the issuance of second NODs, including the second NOD issued in 2014 TLC 9, after the employer had received a Notice of Acceptance.

Image 3

- 3 -

Parties Positions

Employers

3

The CO's decision to issue NODs was based on an invalid prevailing wage rate determination for general farmworkers in the state of Montana and should be vacated and reversed. The Employers' certification applications, offering between \$10.00 and \$10.19, would have been accepted but for the CO's belief that since the prevailing wage was \$12.50, the

Employers were not offering the highest of the wage rates required under the applicable standard. However, that belief is unsupported by fact. There was an insufficient basis for the prevailing wage rate determination. As a result, the highest of the four regulatory wage rates was the AEW (Adverse Employment Wage Rate) of \$9.99, and the Employers' offered wages exceeded that amount.

For a *de novo* on-the-record hearing conducted under 29 C.F.R. Part 18, and the Administrative Procedures Act, case law establishes that while employers bear the burden of