



LEGISLATIVE ALERT

June 17, 2015

Honorable Harold Rogers, Chairman
Committee on Appropriations
H-305 Capitol
Washington, DC 20515

Honorable Nita M. Lowey, Ranking Member
Committee on Appropriations
H-305 Capitol
Washington, DC 20515

Dear Chairman Rogers and Ranking Member Lowey:

On behalf of the AFL-CIO, I am writing to express our strong opposition to the 2016 Department of Labor, Health and Human Services and Education (Labor-HHS) Appropriations bill scheduled for Committee consideration soon. The AFL-CIO believes funding for workforce programs, public health, and education must be sufficient to meet the growing needs in these areas. Unfortunately, the Republican allocations for 2016 are inadequate and provide little hope that the Chairman's Labor-HHS draft will adequately fund these vital programs.

Congress should support policies that will help our economy grow, will raise wages, and will work for all people—not just the affluent. Accomplishing this task would have required passing a budget that eliminated the sequestration cuts and allowed sufficient funding to ensure adequate federal recourses for our national, state, and local priorities. Sequestration was never actually intended to take effect, yet for the last several years our economy has been at risk due to its unprecedented caps. There has been no better example of the severity of these cuts than in the Labor-HHS appropriations bill.

The 2016 Labor-HHS bill includes overall cuts of \$3.7 billion below the fiscal 2015-enacted level. It cuts Employment and Training Services, Unemployment Insurance, and Employment Services. The legislation also decreases discretionary funding for the Department of Education by \$2.8 billion—eliminating at least 19 programs and cutting 27 programs. Furthermore, the bill would gut the National Labor Relations Board with a whopping 27% cut from the 2015-enacted funding levels and would decrease the Department of Labor Departmental Management budget by 22%. It also would slash funding for the Mine Safety and Health Administration to \$371 million—\$4.9 million below the fiscal 2015 level and \$23.9 million below the president's request.

The 2016 Labor-HHS bill also includes several policy riders that would limit the authority of key federal agencies to carry out their vital missions. The Subcommittee should reject the riders highlighted below and any other riders that infringe on workers' rights.

Department of Labor

1. ***Fiduciary Rule/Conflict of Interest*** - The AFL-CIO opposes any rider that interferes with the Department of Labor's ongoing rulemaking on the fiduciary issue. This rule would help to ensure that individual retirement savers and retirement plan sponsors and their employees are receiving investment advice in their best interests—and that investment advisors are not providing conflicted or merely suitable investment advice.
2. ***OSHA Inspection Walk-around*** - The bill would bar workers from designating a representative to participate in OSHA inspections on their behalf “except in accordance with applicable laws and regulations and by a vote of approval of the employees of the affected worksite.” The amendment would strip most workers of their legal right under the Occupational Safety and Health Act to have “a representative authorized by employees . . . accompany the Secretary or his authorized representative during the physical inspection of any workplace.” The language appears to require workers represented by a union to have a separate vote to designate an inspection walk-around representative.
3. ***H-2B Visa/Broad “Staggered Crossing”*** - The AFL-CIO opposes efforts to create a broad, expansive “staggered crossing” exemption. The so-called flexibility allowed by this exemption will harm American workers and will compromise the integrity of the labor market test. H-2B employers should hire workers only when there is a timely and demonstrated need, not months after the submission of a labor market test. The AFL-CIO would also oppose any efforts to defund or block the recently introduced H-2B comprehensive interim final rule and final wage rule. The comprehensive rule includes key worker protections, such as a nationwide job registry and labor recruiter protections.
4. ***Minimum Wage for Contractors*** - The bill would prohibit the Department of Labor from enforcing the minimum wage requirement for federal contractors established through executive order and regulations as they pertain to seasonal recreational services employees. This rider would deprive minimum wage and overtime protections to low-wage seasonal workers who need the additional income and protections provided by the regulations. The AFL-CIO opposes this rider and urges that it be deleted from the bill.

National Labor Relations Board

1. ***Tribal Sovereignty*** - The AFL-CIO opposes bill language that would deny protection under the National Labor Relations Act to a large number of workers who are employed by tribal-owned and operated enterprises located on Indian land. Tribal casino enterprises alone employ over 600,000 workers, the vast majority of whom are not Native Americans. This provision would strip all workers in the many Tribal commercial enterprises of their rights and protections under the National Labor Relations Act.

2. ***Electronic Voting*** - The bill would prohibit the National Labor Relations Board from issuing any sort of administrative directive or regulation providing a means for employees to vote electronically on whether or not to form a union. The rider prevents the NLRB from adapting its rules to utilize technology that is used by other federal agencies that administer representation elections. It makes no sense to prevent the NLRB from utilizing current technology to improve its systems. The rider should be deleted.
3. ***Joint Employer*** - The AFL-CIO opposes the policy rider that would prevent the NLRB from modifying its rules for determining whether two or more employers are joint employers under the National Labor Relations Act. The bill would freeze the NLRB's rules in time and prevent the Board from adapting its rules to the modern workplace. The rider should be deleted from the legislation.
4. ***Prohibit Implementation of Election Rule*** - The AFL-CIO opposes the policy rider that would prohibit the NLRB from using any funds to implement its December 2014 rules to streamline and improve representation election procedures. The rules, which took effect on April 14, 2015, make modest improvements to the representation election system and minimize unnecessary litigation that delays elections. The rules should be allowed to stand and should not be blocked by a policy rider.

Department of Health and Human Services

1. ***ACA Funding for Health Services*** - The AFL-CIO opposes policy riders that would callously limit access to health care services funded under the Affordable Care Act (ACA) insurance coverage expansions and prevention programs. We oppose:
 - Prohibitions on funding for the activities of the Center for Consumer Information and Insurance Oversight
 - Elimination of funding for prevention programs
2. ***Elimination of the Agency for Healthcare Research and Quality (AHRQ)*** - The AFL-CIO opposes the total elimination of the Agency for Healthcare Research and Quality. This agency produces crucial data on health care cost trends and on the effectiveness of health care services purchased by federal dollars. Eliminating this agency would blind the government to the effects of many of its payment and coverage policies under Medicare, Medicaid, the ACA, and the Children's Health Insurance Program

Department of Education

3. ***Gainful Employment*** - The AFL-CIO opposes the proposed repeal of the recently finalized gainful employment regulation. This regulation would enforce the Higher Education Act's requirement that all career education programs receiving Title IV funding "prepare students for gainful employment in a recognized occupation." This common-sense regulation is designed to enhance college access and success. It would ensure that students have the information they need to select a career education program and that programs receiving federal funding do not consistently leave students with debts they cannot repay. We call for a strong gainful employment regulation to protect students and taxpayers.

In sum, the 2016 Labor-HHS Appropriations bill represents a misguided approach to funding programs that serve millions of working Americans. The AFL-CIO supports the adequate funding of programs to protect workers and opposes harmful anti-worker riders. We encourage you to vote against this bill and, in the alternative, vote for amendments that seek to restore funding of these programs.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William Samuel, Director
Government Affairs Department