

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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July 13, 2016

The Honorable Hal Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Rogers and Ranking Member Lowey:

As the Committee prepares to mark up the Fiscal Year 2017 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill, the U.S. Chamber of Commerce urges you to consider the following recommendations and provisions:

- Support increased funding over FY 2016 for Title I grants to school districts for low-income children to ensure that approximately 20 million disadvantaged children in nearly 55,000 public schools obtain the educational skills they need to compete in a global economy.
- Support increased funding for charter schools to foster their continued development and expansion.
- Support expanding Pell Grants to year-round awards to ensure students with financial need are able to accelerate their progress toward completing their degrees.
- Support increased funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006. The Chamber supports programs that ensure students are graduating with industry recognized credentials.
- Support current funding levels for the Workforce Innovation and Opportunity Act. Increasing opportunities for individuals to prepare for and find employment and providing investment in an educated, skilled, and adaptable workforce able to meet the needs of employers is essential to the future of the country.
- Support provisions that would block funding for the development and implementation of the Department of Education college ratings system.

- Support provisions that would prohibit funding for the development and implementation of the Department of Education state authorization regulations, including those related to gainful employment and credit hour.
- Support provisions that would block funding for the promulgation, implementation, or enforcement of regulations implementing the president’s Executive Order 13706, “Establishing Paid Sick Leave for Federal Contractors.”
- Support provisions that would prohibit funding for the Department of Labor to establish the proposed Office of Labor Compliance, a component of the president’s Executive Order 13673, “Fair Pay and Safe Workplaces.” In addition, support any provisions that would prohibit funding for development, promulgation, or issuance of proposed guidance related to the Executive Order.
- Support provisions that would nullify the effective date and legal effect of the Department of Labor’s regulation altering the interpretation of a fiduciary under ERISA.
- Support this bill’s funding levels for the Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), and the National Labor Relations Board (NLRB) as responsible allocations of resources in a restrictive budget climate.
- Support a prohibition of funding for implementation or enforcement of the OSHA rulemaking entitled “Improve Tracking of Workplace Injuries and Illnesses,” published as final regulation in the Federal Register May 12, 2016, RIN: 1218-AC49, as well as the “supplemental” NPRM that will change how Section 11(c) whistleblower protections are enforced, published as part of the final regulation on the same date.
- Support provisions that would prohibit funding for any OSHA inspector to implement any policy, guidance, or interpretation allowing an individual affiliated with a third party to accompany the OSHA inspector on a walk-around inspection, except in accordance with applicable laws and regulations and by a vote of approval of the employees of an affected worksite.
- Support a prohibition of funding for implementation or enforcement of the WHD final regulation, issued May 23, 2016, redefining the exemptions from overtime compensation under the Fair Labor Standards Act found at 29 C.F.R. 541 and 29 C.F.R. 778.
- Support a prohibition of funding to implement or enforce the WHD rulemaking amending the Companionship Exemption under the Fair Labor Standards Act.
- Support restoration of the FY 2012 rider blocking OSHA from finalizing a regulation that would add a column to safety logs to indicate when an injury is a musculoskeletal disorder—the injuries associated with ergonomics. The Occupational Injury and Illness Recording and Reporting Requirements-Musculoskeletal Disorders (MSDs) Column regulation (Regulatory Identification Number 1218-AC45) rulemaking will impose

significant burdens on employers to determine the underlying causes of MSDs and will expose them to higher levels of OSHA enforcement.

- Support a prohibition of funding for implementation or enforcement of the OSHA revised standard on occupational exposure to respirable crystalline silica published as a final regulation in the Federal Register on March 25, 2016 (78 FR 56274), RIN: 1218-AB70.
- Support a prohibition on the Office of Federal Contract Compliance Programs (OFCCP) rulemaking aimed at mandating that contractors turn over vast amounts of employee compensation data even without an allegation or inference of wrongdoing, imposing tremendous new burdens and privacy concerns without justification.
- Support provisions that would require OFCCP to conduct investigations within a reasonable timeframe, as current compliance reviews are too lengthy and unfocused.
- Support a prohibition on the Department of Labor from implementing or enforcing its regulation altering the interpretation of the “advice” exemption of the Labor Management Reporting and Disclosure Act.
- Support provisions that would prevent implementation, application, and enforcement of the NLRB Ambush Election regulation.
- Support provisions that would require the NLRB to adhere to long standing precedent in determining whether two entities are “joint employers” of particular workers.
- Support provisions that would prohibit the NLRB from implementing, applying, and enforcing its *Specialty Healthcare* decision, or other actions that would allow the establishment of micro unions, and mandate compliance with long-standing precedent.
- Support provisions that would prohibit the NLRB from implementing, applying, and enforcing its policy relating to pre-hire arbitration agreements in a manner inconsistent with the holdings in *Murphy Oil USA, Inc. v. NLRB*, 808 F.3d 1013 (5th Cir. 2015) and *D.R. Horton, Inc. v. NLRB*, 737 F.3d 344 (5th Cir. 2013).
- Support provisions that would give businesses the flexibility they previously had in using private wage surveys for the prevailing wage determination process under the H-2B program.
- Support prohibiting funding for certain requirements for H-2B employers contained in “Temporary Non-Agricultural Employment of H-2B Aliens in the United States” (80 FR 24042), RIN: 1205-AB76, such as the definitions of temporary need, corresponding employment, the three-quarter guarantee, and the audit authority and supervised recruitment requirements set forth in the rule.

- Support full funding for contract support costs owed to federally recognized tribes and Alaska Native Corporations. Full funding would help ensure tribal self-determination, continue to foster economic development in Indian Country, and avoid establishing a harmful precedent between the federal government and contractor community overall.
- Support a prohibition of funding for the enforcement of the National Labor Relations Act against any Indian tribe, including any enterprise or institution owned and operated by an Indian tribe and located on its Indian lands. The Chamber, however, would prefer the Senate follow the House's lead and adopt H.R. 511, the "Tribal Labor Sovereignty Act of 2015."

Lastly, the Chamber strongly opposes adoption of any provision that would expand current law in order to blacklist government contractors solely on the basis of a change in the location of their corporate domicile. Debarring contractors who are in full compliance with U.S. law would undermine the principles of full and open competition and best value for the taxpayer. Moreover, enactment of such proposals could place at risk the jobs of American workers who provide goods and services to the U.S. government.

The Chamber appreciates your consideration of these recommendations and provisions as you mark up the Fiscal Year 2017 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." and last name "Josten" being the most legible parts.

R. Bruce Josten

cc: Members of the Committee on Appropriations