

TOM HARKIN, IOWA, CHAIRMAN

BARBARA A. MIKULSKI, MARYLAND  
JEFF BINGAMAN, NEW MEXICO  
PATTY MURRAY, WASHINGTON  
BERNARD SANDERS (I), VERMONT  
ROBERT P. CASEY, JR., PENNSYLVANIA  
KAY R. HAGAN, NORTH CAROLINA  
JEFF MERKLEY, OREGON  
AL FRANKEN, MINNESOTA  
MICHAEL F. BENNET, COLORADO  
SHELDON WHITEHOUSE, RHODE ISLAND  
RICHARD BLUMENTHAL, CONNECTICUT

MICHAEL B. ENZI, WYOMING  
LAMAR ALEXANDER, TENNESSEE  
RICHARD BURR, NORTH CAROLINA  
JOHNNY ISAKSON, GEORGIA  
RAND PAUL, KENTUCKY  
ORRIN HATCH, UTAH  
JOHN MCCAIN, ARIZONA  
PAT ROBERTS, KANSAS  
LISA MURKOWSKI, ALASKA  
MARK KIRK, ILLINOIS

# United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

DANIEL E. SMITH, STAFF DIRECTOR  
FRANK J. MACCHIAROLA, REPUBLICAN STAFF DIRECTOR

<http://help.senate.gov>

November 29, 2011

The Honorable Hilda Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Solis:

I write to express my concern regarding an apparent attempt to circumvent the Senate's constitutional role of advice and consent with respect to a nominee for the Bureau of Labor Statistics at the U.S. Department of Labor.

As an independent statistical agency, the Bureau of Labor Statistics provides essential economic information to support public and private decision-making, including the monthly unemployment numbers, average hourly earnings, the Consumer Price Index and labor productivity. As you are aware, the BLS is intended to be separate and distinct from any policy-making or advocacy activities of the Department of Labor. The BLS commissioner plays the important role of leading the agency and ensuring its independence and objectivity in communicating information to the public. The current commissioner, Keith Hall, has performed this duty well for two Administrations, and had bipartisan support when he was first confirmed by the Senate in 2007.

The current commissioner's term expires in early January 2012, and no nominee has been sent forward to date. Moreover, there is currently no career deputy commissioner in place to lead the agency in an acting capacity. The pending loss of leadership appears intentional given that the former career deputy announced his retirement in June, yet the Department only began the process to fill the position this month. Moreover, seeking outside candidates for this position is almost unprecedented as the BLS has traditionally reassigned existing agency executives to fill it.

In seeking outside candidates, the Department is misrepresenting the longstanding role of the career deputy to make it indistinguishable from that of the senate-confirmed commissioner. For example, instead of serving as an operations officer as has been the role for decades, the new deputy is now described as "exercising leadership in all matters relating to BLS," and developing and conducting general research to support the Department.

Even more concerning, however, is a requirement that the deputy commissioner “assist the Secretary in presenting the Department’s interests and policies to Congress, other government agencies and the public” and conduct studies for “evaluating the effectiveness of Department of Labor programs.”<sup>1</sup> It is inappropriate for an employee in an independent statistical agency – much less the second in command and potential acting head of that agency – to participate directly in advocating for the Department’s overall policies and interests and/or in providing critiques of Departmental programs. Indeed, one of the four basic principles for a statistical agency is that to have credibility, an agency must be free—and must be perceived to be free—of political interference and policy advocacy.<sup>2</sup>

Accordingly, I expect the Department to immediately revise the position description and posting to properly describe the role of the deputy commissioner. Also, I request that all political appointees at the Department be recused from any involvement in selecting or approving the candidate chosen for the deputy position by the selection panel at the Bureau of Labor Statistics. In addition, I would like a list of all officials who developed or approved the new deputy position description as well as a copy of all related correspondence and documents, including meeting minutes and email from or to anyone at the Department of Labor or the Office of Personnel Management.

Thank you for assistance in this important matter. Please have your staff contact Frank Macchiarola, Staff Director, Senate HELP Committee at (202) 224-6770 if you should have any questions.

Sincerely,



Michael B. Enzi  
Ranking Member

cc: The Honorable Tom Harkin, Chairman  
The Honorable William M. Daley, Chief of Staff  
The Honorable Keith Hall, Commissioner of the Bureau of Labor Statistics  
Acting Inspector General Daniel Petrole, Department of Labor

---

<sup>1</sup> <http://www.usajobs.gov/GetJob/ViewDetails/302793900>

<sup>2</sup> *Principles and Practices of a Federal Statistical Agency*, The National Academies Press, 4<sup>th</sup> Edition (“A statistical agency must be distinct from those parts of a department that carry out law enforcement and policy-making activities. It must be able to execute its mission without being subject to pressures to advance a political agenda. It must be impartial and avoid even the appearance that its collection, analysis, and reporting processes might be manipulated for political purposes or that individually identifiable data might be turned over for administrative, regulatory, or law enforcement purposes.”)