

**HB 5015 A BUDGET REPORT and MEASURE SUMMARY**

**Carrier:** Rep. Gomberg

**Joint Committee On Ways and Means**

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**Action Date:** 06/11/21

**Action:** Do pass with amendments. (Printed A-Eng.)

**House Vote**

**Yeas:** 11 - Bynum, Drazan, Gomberg, Leif, McLain, Nosse, Rayfield, Sanchez, Smith G, Sollman, Stark

**Senate Vote**

**Yeas:** 12 - Anderson, Frederick, Girod, Golden, Gorsek, Hansell, Johnson, Knopp, Lieber, Steiner Hayward, Taylor, Thomsen

**Prepared By:** April McDonald, Department of Administrative Services

**Reviewed By:** Benjamin Ruef, Legislative Fiscal Office

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**Bureau of Labor and Industries  
2021-23**

**Budget Summary\***

	2019-21	2021 - 23	2021-23	Committee Change from 2019-21	
	Legislatively Approved Budget <sup>(1)</sup>	Current Service Level	Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
				\$ Change	% Change
General Fund	\$ 14,585,247	\$ 15,725,680	\$ 17,829,892	\$ 3,244,645	22.2%
Lottery Funds	\$ 260,230	\$ -	\$ 261,416	\$ 1,186	0.5%
Other Funds Limited	\$ 14,812,241	\$ 14,679,546	\$ 14,980,246	\$ 168,005	1.1%
Other Funds Nonlimited	\$ 900,000	\$ 938,700	\$ 938,700	\$ 38,700	4.3%
Federal Funds Limited	\$ 1,400,145	\$ 1,502,094	\$ 1,842,766	\$ 442,621	31.6%
Total	\$ 31,957,863	\$ 32,846,020	\$ 35,853,020	\$ 3,895,157	12.2%

**Position Summary**

Authorized Positions	111	108	122	11
Full-time Equivalent (FTE) positions	109.08	106.50	119.50	10.42

<sup>(1)</sup> Includes adjustments through January 2021

\* Excludes Capital Construction expenditures

**Summary of Revenue Changes**

The Bureau of Labor and Industries (BOLI) is supported by General Fund, Lottery Funds, Other Funds, and Federal Funds revenue. General Fund is appropriated to the Department for a portion of operating expenditures. Lottery Funds come from the Veterans’ Services Fund to support a Veterans’ Employment Apprenticeship Liaison. Other Funds are generated from a variety of sources including fees, publication sales, training, an assessment on public works construction contracts, an assessment on unemployment taxes, and contracts with other government entities. BOLI receives Other Funds revenue for contracts with the Oregon Occupational Safety and Health Division within the Department of Consumer and Business Services for civil rights investigations as well as a transfer from the Oregon Department of Transportation to increase diversity and training in the highway construction workforce. Federal Funds support the work of the Equal Employment Opportunity Commission and Civil Rights Division in contested case hearing proceedings related to discrimination violations.

**Summary of Transportation and Economic Development Subcommittee Action**

BOLI enforces state laws relating to wages; promotes the development of a skilled workforce; enforces state and federal laws relating to unlawful discrimination; and provides educational services to employers.

The Transportation and Economic Development Subcommittee recommended a budget for BOLI of \$35,853,020 total funds, comprised of the following: \$17,829,892 General Fund, \$261,416 Lottery Funds, \$14,980,246 Other Funds expenditure limitation, \$1,842,766 Federal Funds

expenditure limitation, \$938,700 Other Funds Nonlimited expenditures, and 122 positions (119.50 FTE). This represents a 12.2% total funds increase over the 2019-21 legislatively approved budget and a 9.2% increase over the current service level budget.

### **Commissioner's Office / Program Support Services**

The Commissioner's Office provides policy direction and overall management of BOLI's programs. Support Services contains four programs including the Technical Assistance for Employers program, Business Services, External Services and the Administrative Prosecution unit. Functions include employer education and training, budget and fiscal control, employee services (HR), information technology support, adjudication and alternative dispute resolution of contested wage and hour and civil rights cases, communications and legislative and community services, among others.

The Subcommittee recommended a budget of \$5,919,763 General Fund, \$3,736,111 Other Funds expenditure limitation, \$321,006 Federal Funds expenditure limitation and 30 positions (30.00 FTE). This represents a total funds increase of 9.5% over the 2019-21 legislatively approved budget and a 5.5% increase over the current service level budget. The Subcommittee recommended the following packages:

Package 070, Revenue Shortfalls. This package reduces Other Funds expenditure limitation by \$556,656 and eliminates two permanent Training and Development Specialist positions (2.00 FTE) due to a revenue shortfall in the Technical Assistance for Employers Program.

Package 081, April 2020 Emergency Board. This package includes \$261,705 General Fund to support a permanent Human Resources Analyst position (1.00 FTE) granted during the April 2020 Emergency Board.

Package 099, Microsoft 365 Consolidation. This package reduces General Fund for the Support Services Division by \$10,985 and Other Funds expenditure limitation by \$9,972 as part of a statewide effort to consolidate Microsoft 365 within the Office of the State Information Officer. The cost is built into the State Government Service Charge for every agency as an increase for the 2021-23 biennium. This package makes a corresponding reduction to BOLI's budget equivalent to what should be paid for Microsoft 365 in the 2019-21 biennium.

Package 103, Technical Assistance for Employers. This package includes \$556,656 General Fund and restoration of two permanent Training and Development Specialist 2 positions (2.00 FTE) abolished in Package 070 along with services and supplies for the positions due to a shortfall in the Technical Assistance for Employers Program.

Package 105, Administrative Prosecution Unit Caseload Increase. This package includes \$214,952 General Fund to support one permanent Compliance Specialist 3 position (1.00 FTE) as well as related services and supplies. The Administrative Prosecution Unit is experiencing increasing case volume, leading to slower case processing, overloaded employees, and dissatisfied customers. Civil rights cases have notably increased year after year.

Package 106, Information Technology Staff Reclassification. This package reclassifies three Information Services Unit (ISU) positions to align current responsibilities to the appropriate level of classification. BOLI has a small, efficient unit, led by a Principal Executive Manager (PEM) E who serves as the budget director, fiscal services manager, and ISU manager. This unit requires reclassification to reflect the level of work completed, to meet enterprise-wide compliance standards, and to support recruiting and retention. The package includes \$60,529 Other Funds expenditure limitation and reduces General Fund by \$591 through reclassification of BOLI's three ISU positions as such:

- Reclassify position 8390202 from a PEME to a PEMF
- Reclassify position 8390219 from an ISS4 to an ISS7
- Reclassify position 8390218 from an ISS6 to an ISS8

### **Civil Rights**

The Civil Rights Division investigates complaints and enforces state and federal laws prohibiting unlawful discrimination by investigating allegations of civil rights violations in workplaces, career schools, housing, and public accommodations.

The Subcommittee recommended a budget of \$5,647,811 General Fund, \$1,767,735 Other Funds expenditure limitation, \$1,521,760 Federal Funds expenditure limitation and 40 positions (39.50 FTE). This represents a total funds increase of 32.3% over the 2019-21 legislatively approved budget and 23.1% over the current service level budget. This is largely due to an investment to alleviate substantial caseload demands. Details are included in the following recommended packages:

Package 099, Microsoft 365 Consolidation. This package reduces General Fund for the Civil Rights Division by \$13,315, Other Funds expenditure limitation by \$4,016 and Federal Funds expenditure limitation by \$5,497 as part of a statewide effort to consolidate Microsoft 365 within the Office of the State Information Officer. The cost is built into the State Government Service Charge for every agency as an increase for the 2021-23 biennium. This package makes a corresponding reduction to BOLI's budget equivalent to what should be paid for Microsoft 365 in the 2019-21 biennium.

Package 131, CRD HUD/EEOC Policy Issues & Caseload Needs. This package includes \$1,353,174 General Fund and \$346,169 Federal Funds expenditure limitation to support nine permanent positions (9.00 FTE) including eight Civil Rights Field Representatives, and one Operations and Policy Analyst 3. This investment is intended to increase civil rights enforcement capacity and lower investigator caseload to below 45 cases per investigator. This package also responds to an anticipated increase in workload from the U.S. Department of Housing and Urban Development (HUD) fair housing/fair lending enforcement cases. In October 2021, an amendment to ORS 659A.845 will expire, and once again BOLI will take on HUD fair housing/fair lending cases. These cases are reimbursable by the federal government and therefore two Civil Rights Field Representatives (2.00 FTE) proposed for this work will be supported by Federal Funds.

## **Wage and Hour Division**

The Wage and Hour Division is responsible for the administration and enforcement of a broad range of state laws. The Division investigates allegations and claims relating to violations of laws related to minimum wage, overtime, child labor, wage collection, labor contractors, sick time, work schedules, and prevailing wages.

The Subcommittee recommended a budget of \$3,002,425 General Fund, \$6,943,875 Other Funds expenditure limitation, \$938,700 Other Funds Nonlimited expenditures, and 35 positions (33.50 FTE). This represents a total funds increase of 7.7% over the 2019-21 legislatively approved budget and 2.9% over the current service level budget. The Subcommittee recommended the following packages:

Package 087, August 2020 Special Session. This package includes a fund shift of \$235,523 from General Fund to Other Funds expenditure limitation, supported by WSF revenue, for portions of two positions, as directed by SB 5723 during the 2020 2nd special session.

Package 099, Microsoft 365 Consolidation. This package reduces General Fund for the Wage and Hour Division by \$10,524 and Other Funds expenditure limitation by \$13,800 as part of a statewide effort to consolidate Microsoft 365 within the Office of the State Information Officer. The cost is built into the State Government Service Charge for every agency as an increase for the 2021-23 biennium. This package makes a corresponding reduction to BOLI's budget equivalent to what should be paid for Microsoft 365 in the 2019-21 biennium.

Package 141, WHD Proactive Investigator Enforcement Reclassification. This package includes \$3,031 General Fund and \$135,475 Other Funds expenditure limitation to reclassify four Compliance Specialist 2 positions to the Compliance Specialist 3 so they may receive and investigate civil rights complaints as well as wage and hour complaints. Frequently, wage and hour cases co-occur with civil rights complaints. However, due to state classification standards and collective bargaining agreements, the Proactive Investigation and Enforcement Unit cannot field or investigate civil rights violations as they are currently classified. Instead, they must pass any portion of a complaint outside of wage and hour law on to a Civil Rights Investigator, causing redundancies and potentially slowing resolution.

Package 143, WHD and PWR Workload Needs. This package includes \$193,551 Other Funds expenditure limitation to establish a permanent, bilingual Compliance Specialist 2 (1.00 FTE) and reclassify an Administrative Specialist 2 to an Operations and Policy Analyst 1. Currently, BOLI's Eugene field office does not have any bilingual staff; therefore, the establishment of this Compliance Specialist 2 for the office will provide essential support to Spanish speakers in the investigation of wage claims and complaints. The Operations and Policy Analyst position is intended to increase employer familiarity and compliance with Prevailing Wage laws across the state. This package is funded with Other Funds revenues from the WSF.

Package 801, LFO Analyst Adjustments. This package includes a technical adjustment increasing BOLI's position count by one to reflect their legislatively approved position count in the budget system. This is a position adjustment only, impacting position number 8390407, as the

agency's FTE count is accurate. This data anomaly was not identified at the time the PICS system transitioned to ORPICS, and was only discovered after the Governor's Budget was finalized.

### **Apprenticeship and Training**

The Apprenticeship and Training Division promotes the development of a skilled workforce in Oregon through apprenticeship programs and partnerships with government, labor, business, and educational institutions. The Division registers and monitors apprenticeship programs, helps to develop and approve occupational standards, registers apprentices, monitors program completion, and promotes apprenticeship opportunities.

The Subcommittee recommended a budget of \$3,259,893 General Fund, \$261,416 Lottery Funds, \$2,532,525 Other Funds expenditure limitation and 17 positions (16.50 FTE). This represents a total funds increase of 1.2% over the 2019-21 legislatively approved budget and 9.1% over the current service level budget. The Subcommittee recommended the following packages:

Package 070, Revenue Shortfalls. This package reduces Other Funds expenditure limitation by \$131,238 to account for a revenue shortfall in the Apprenticeship and Training Division associated with the Oregon Department of Transportation Highway Diversity Project. The amount of this contract is capped at \$2.1 million and Package 070 brings the project total back in line with the \$2.1 million cap by reducing services and supplies related to inflation factors for the 2021-23 biennium.

Package 087, August 2020 Special Session. This package eliminates three permanent positions (3.00 FTE) from the Apprenticeship and Training Division as part of the 2019-21 biennium statewide reduction measures directed by SB 5723 during the 2020 2nd special session. Positions include an Office Specialist 2 and two Apprenticeship Representatives.

Package 099, Microsoft 365 Consolidation. This package reduces General Fund for the Apprenticeship and Training Division by \$10,134 and Other Funds expenditure limitation by \$1,467 as part of a statewide effort to consolidate Microsoft 365 within the Office of the State Information Officer. The cost is built into the State Government Service Charge for every agency as an increase for the 2021-23 biennium. This package makes a corresponding reduction to BOLI's budget equivalent to what should be paid for Microsoft 365 in the 2019-21 biennium.

Package 151, Eastern OR Apprenticeship Rep & Vet's Outreach. This package includes \$222,691 General Fund and \$261,416 Lottery Funds to continue two limited duration positions (2.00 FTE) and reclassify one manager from a PEM C to a PEM D. During the 2019 legislative session, SB 5516 provided one full-time limited duration Operations and Policy Analyst 2, supported by General Fund, to provide focused customer service and technical assistance specifically to Eastern Oregon employers. During the same session, HB 2202 granted a full-time limited duration Program Analyst 1, supported by Lottery Funds from the Veterans' Services Fund, to serve as a Veterans' Employment Apprenticeship Liaison and conduct outreach as well as coordination with businesses, local workforce, and training partners. This package continues both limited

duration positions and their programs. Additionally, this package reclassifies the Apprenticeship and Training Division Operations Manager equal to comparable positions in the agency.

Package 152, Compliance, Diversity, Equity & Inclusion in Apprenticeship. This package includes \$222,114 General Fund and \$392,771 Other Funds expenditure limitation for the establishment of two positions (2.00 FTE) in the Apprenticeship and Training Division. An Operations and Policy Analyst 3 (1.00 FTE), supported by General Fund, is established to serve as a permanent full-time Diversity, Equity, and Inclusion specialist, working proactively to ensure greater participation and success for women and minorities in apprenticeship. This package also provides a limited duration Compliance Specialist 2 (1.00 FTE), supported by Other Funds from a contract with the Higher Education Coordinating Commission (HECC). This position would fulfill obligations related to an ongoing collaboration with HECC and the Oregon Employment Department to enhance BOLI's apprenticeship database. The collaboration strives to increase functionality and data sharing with other agencies, support for pre-apprenticeship programs, services for apprentices, and the expansion of a cultural competency training program for apprentices and journey workers.

### **Summary of Performance Measure Action**

See attached Legislatively Adopted 2021-23 Key Performance Measures form.

## DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

Bureau of Labor and Industries  
April McDonald -- 503-877-8125

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2019-21 Legislatively Approved Budget at Jan. 2021*	\$ 14,585,247	\$ 260,230	\$ 14,812,241	\$ 900,000	\$ 1,400,145	\$ -	\$ 31,957,863	111	109.08
2021-23 Current Service Level (CSL)*	\$ 15,725,680	\$ -	\$ 14,679,546	\$ 938,700	\$ 1,502,094	\$ -	\$ 32,846,020	108	106.50
<b>SUBCOMMITTEE ADJUSTMENTS (from CSL)</b>									
<b>SCR 010 - Commissioner's Office/Support Services</b>									
Package 070: Revenue Shortfalls									
Personal Services	\$ -	\$ -	\$ (511,806)	\$ -	\$ -	\$ -	\$ (511,806)	-2	-2.00
Services and Supplies	\$ -	\$ -	\$ (44,850)	\$ -	\$ -	\$ -	\$ (44,850)		
Package 081: April 2020 Eboard									
Personal Services	\$ 254,555	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 254,555	1	1.00
Services and Supplies	\$ 7,150	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,150		
Package 099: Microsoft 365 Consolidation									
Services and Supplies	\$ (10,985)	\$ -	\$ (9,972)	\$ -	\$ -	\$ -	\$ (20,957)		
Package 103: Technical Assistance for Employers									
Personal Services	\$ 511,806	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 511,806	2	2.00
Services and Supplies	\$ 44,850	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 44,850		
Package 105: Administrative Prosecution Unit Caseload Increase									
Personal Services	\$ 201,848	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 201,848	1	1.00
Services and Supplies	\$ 13,104	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 13,104		
Package 106: Information Technology Staff Reclass									
Personal Services	\$ (591)	\$ -	\$ 60,529	\$ -	\$ -	\$ -	\$ 59,938	0	0.00
<b>SCR 030 - Civil Rights</b>									
Package 099: Microsoft 365 Consolidation									
Services and Supplies	\$ (13,315)	\$ -	\$ (4,016)	\$ -	\$ (5,497)	\$ -	\$ (22,828)		
Package 131: CRD HUD/EEOC Policy Issues & Caseload Needs									
Personal Services	\$ 1,248,316	\$ -	\$ -	\$ -	\$ 346,169	\$ -	\$ 1,594,485	9	9.00
Services and Supplies	\$ 104,858	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 104,858		
<b>SCR 040 - Wage and Hour</b>									
Package 087: August 2020 Special Session									
Personal Services	\$ (235,523)	\$ -	\$ 235,523	\$ -	\$ -	\$ -	\$ -	0	0.00
Package 099: Microsoft 365 Consolidation									
Services and Supplies	\$ (10,524)	\$ -	\$ (13,800)	\$ -	\$ -	\$ -	\$ (24,324)		



DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Package 141: WHD Proactive Investigator Enforcement Reclass Personal Services	\$ 3,031	\$ -	\$ 135,475	\$ -	\$ -	\$ -	138,506	0	0.00
Package 143: WHD and PWR Workload Needs Personal Services	\$ -	\$ -	\$ 193,551	\$ -	\$ -	\$ -	193,551	1	1.00
Package 801: LFO Analyst Adjustments Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-	1	0.00
<b>SCR 050 - Apprenticeship and Training</b>									
Package 070: Revenue Shortfalls Services and Supplies	\$ -	\$ -	\$ (131,238)	\$ -	\$ -	\$ -	(131,238)		
Package 087: August 2020 Special Session Personal Services	\$ (449,039)	\$ -	\$ -	\$ -	\$ -	\$ -	(449,039)	-3	-3.00
Package 099: Microsoft 365 Consolidation Services and Supplies	\$ (10,134)	\$ -	\$ (1,467)	\$ -	\$ -	\$ -	(11,601)		
Package 151: Eastern OR Apprenticeship Rep & Vet's Outreach Personal Services	\$ 222,691	\$ 162,332	\$ -	\$ -	\$ -	\$ -	385,023	2	2.00
Services and Supplies	\$ -	\$ 99,084	\$ -	\$ -	\$ -	\$ -	99,084		
Package 152: Compliance, Diversity, Equity & Inclusion in Apprenticeship Personal Services	\$ 209,814	\$ -	\$ 173,668	\$ -	\$ -	\$ -	383,482	2	2.00
Services and Supplies	\$ 12,300	\$ -	\$ 219,103	\$ -	\$ -	\$ -	231,403		
<b>TOTAL ADJUSTMENTS</b>	<b>\$ 2,104,212</b>	<b>\$ 261,416</b>	<b>\$ 300,700</b>	<b>\$ -</b>	<b>\$ 340,672</b>	<b>\$ -</b>	<b>3,007,000</b>	<b>14</b>	<b>13.00</b>
<b>SUBCOMMITTEE RECOMMENDATION *</b>	<b>\$ 17,829,892</b>	<b>\$ 261,416</b>	<b>\$ 14,980,246</b>	<b>\$ 938,700</b>	<b>\$ 1,842,766</b>	<b>\$ -</b>	<b>35,853,020</b>	<b>122</b>	<b>119.50</b>
% Change from 2019-21 Leg Approved Budget	22.2%	0.5%	1.1%	4.3%	31.6%	0.0%	12.2%	9.9%	9.6%
% Change from 2021-23 Current Service Level	13.4%	0.0%	2.0%	0.0%	22.7%	0.0%	9.2%	13.0%	12.2%

\*Excludes Capital Construction Expenditures

# Legislatively Approved 2021 - 2023 Key Performance Measures

Published: 5/26/2021 9:57:15 AM

**Agency:** Labor and Industries, Bureau of

**Mission Statement:**

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

Legislatively Approved KPMs	Metrics	Agency Request	Last Reported Result	Target 2022	Target 2023
1. CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information.	a) Overall	Approved	86.37	100	100
	b) Accuracy		86.36	100	100
	c) Availability of Information		79.54	100	100
	d) Expertise		84.09	100	100
	e) Helpfulness		81.82	100	100
	f) Timeliness		86.36	100	100
2. Timely Processing of Civil Rights Complaints - Percentage of target met for timely: intake, completion of perfected charge, initial interview and investigation (composite measure).		Approved	74%	85%	85%
3. Timely Processing of Wage and Hour Complaints - Percentage of target met for timely: intake and jurisdiction determination; demand letter, investigation: Composite measure.		Approved	80%	85%	85%
4. WHD - Percentage of WSF claims processed within fewer than 30 days.		Approved	91	85	85
5. WHD - Percentage of PWR investigations completed within 90 days.		Approved	44	65	65
6. ATD - Number of apprentices receiving journey level certificates.		Approved	1,724	1,200	1,200
7. ATD - Number of newly registered apprentices.		Approved	3,871	3,200	3,200
8. Minority Apprenticeship Participation - Percentage of new apprenticeship participants who are minorities.		Approved	19.85%	25%	25%
9. Administrative Prosecution Unit (APU) - Percentage of cases scheduled for hearing within 30 days of assignment to APU.		Approved	100	88	88
10. TA - Percentage of employer technical assistance calls or emails returned no later than the next business day.		Approved	87%	95%	95%
11. Prevailing Wage Rate Pre-determinations - Response time for requests by public agencies concerning potential coverage of projects under state Prevailing Wage laws.		Approved	100	95	95

**LFO Recommendation:**

The Legislative Fiscal Office recommends Key Performance Measures and targets as presented with changes outlined below.

**KPM #2 - Timely Processing of Civil Rights Complaints:** With the addition of 9 positions in Package 131, the number for Civil Rights Investigators goes from 20 to 29. An increase in the percentage of civil rights cases processed timely is expected. Increase target from 80% to 85%.

**KPM #7 - Number of Newly Registered Apprentices:** Increase target of 2,700 to 3,200, based on data from recent reporting years and the extension of the Eastern Oregon Apprenticeship and Veterans Outreach positions in Package 151.

KPM #8 - Minority Apprenticeship Participation: Increase target from 18.50% to 25%, based on data from recent reporting years and the addition of a full-time Diversity, Equity, and Inclusion Specialist in Package 152.

**SubCommittee Action:**

Approved the recommendation with one adjustment. The Subcommittee voted to increase KPM #3 - *Timely Processing of Wage and Hour Complaints* from 80% to 85% based on recent performance and a desire to maintain the standard of performance exhibited in the past several years.