

**STATEMENT OF R. ALEXANDER ACOSTA
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BEFORE THE SUBCOMMITTEE ON LABOR,
HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
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Chairman Blunt, Ranking Member Murray, and members of the Subcommittee, thank you for the invitation to testify today. I am pleased to appear before this Subcommittee to outline the Administration's vision for the Department of Labor in Fiscal Year (FY) 2019 and beyond. I am proud and honored to lead the Department in its critical work.

This has been a year of significant growth for the U.S. economy and workforce. In its first year, the Trump Administration has delivered increased opportunities for working Americans, American job seekers, and American job creators. The President's tax reform is promoting investment in the United States, strengthening the American economy, and putting money back into the pockets of hardworking Americans.

- Since the election, the American economy has added almost 3 million jobs;
- In March 2018, for the sixth month in a row, the unemployment rate was at a 17-year low of 4.1 percent;
- In March 2018, the level of total nonfarm jobs reached an all-time high (148,230,000);
- In March 2018, average hourly earnings rose by 2.7 percent over the previous 12 months and the three-month average increase in earnings was the highest since 2009; and
- In January 2018, the number of job openings was 6.3 million, an all-time high.

This year has been a productive and busy year for the Department of Labor. President Trump's commitment to working Americans and American job seekers is at the heart of the Department's work: (i) Creating Jobs in America; and (ii) Protecting Americans in the Workplace.

We have accomplished much on behalf of working Americans, American job seekers, and American job creators. We are focusing the Department of Labor on its core mission by making smart investments in programs that work, eliminating programs that are less efficient or less effective, while reforming underperforming programs. We are increasing employment opportunities for all Americans, enforcing safe, healthy workplaces for working Americans, and ensuring that the Department's regulations make sense. I am proud and humbled to lead the Department of Labor in this critical work.

Creating Jobs in America

President Trump's priorities for the Department are to create jobs, more jobs, and even more jobs. An important part of that effort is creating favorable conditions to foster job creation in the United States—through common sense regulation, tax reform, and fair trade. An equally important part is creating opportunities for Americans to develop the skills to fill—and succeed in—the jobs of today and tomorrow.

Expanding Apprenticeships in America

The American workforce is the greatest in the world. The American workforce is skilled, hardworking, and innovative. To take advantage of opportunities, however, Americans must have the skills that the jobs of today and tomorrow demand. Apprenticeships are one way the Department is changing our nation's approach to workforce development. The benefits of apprenticeships are well known but a few notable facts are: graduates of Apprenticeship programs earn an average of \$60,000 per year; and more than 8 in 10 graduates retain their employment nine months after exiting their apprenticeships. This represents real opportunity for many Americans.

Consistent with the President's Executive Order on Expanding Apprenticeships in America, the Department is developing a framework for Industry-Recognized Apprenticeships that are flexible and responsive to market needs, less bureaucratic, and more attractive to American job creators. One notable departure from the norm is that these programs will not be micromanaged from Washington, D.C. This initiative will promote high-quality apprenticeships across all industries, including manufacturing, infrastructure, cyber security, and health care, among others.

In October 2017, after considering hundreds of applicants, I announced the members of the President's Task Force on Apprenticeship Expansion. Comprised of companies, trade and industry groups, educational institutions, labor unions, joint labor-management organizations, states, and other third parties, the Task Force is examining how to expand high-quality apprenticeship programs across all industries. The Task Force will issue a report with its recommendations this spring.

The Department's budget prioritizes effective programs and includes \$200 million for Industry-Recognized Apprenticeships, more than doubling available funding and helping align workforce development with market demands.

Returning Flexibility to the States

The Federal Government has more than 40 workforce development programs spread across 14 agencies with a total annual cost of \$17 billion. Despite changes in the recent reauthorization of the Workforce Investment Act of 1998, now called the Workforce Innovation and Opportunity Act (WIOA), the system remains fragmented at the Federal level, perpetuating unnecessary bureaucracy and complicating State and local efforts to meet the needs of Americans seeking workforce-related services. I am working with Secretary DeVos to develop a comprehensive plan to consolidate and reorganize Federal workforce development programs to ensure that American workers receive the highest quality services possible and are prepared to fill the high-growth jobs of today and tomorrow.

Providing States greater flexibility to administer resources efficiently and effectively is another way to better serve the individualized needs of Americans in various states and localities. To that end, the President's FY 2019 Budget proposed broader waiver authority for the core WIOA programs, allowing the Department to trust our nation's governors with the responsibility of how best to operate their workforce systems.

Providing Americans Greater Access to High-Quality Health Coverage

Health care is an important factor for many Americans in making decisions about their careers and job opportunities. Up to 11 million Americans working for small businesses/sole proprietors and their families lack health insurance. Many small employers struggle to offer insurance because it is currently too expensive and cumbersome.

In October 2017, President Trump signed an Executive Order that directed the Department to consider means to expand access to high-quality, affordable health coverage by allowing more employers to form Small Business Health Plans (also known as Association Health Plans or AHPs).

In January 2018, the Department's Notice of Proposed Rulemaking to expand the opportunity to offer AHPs was published in the Federal Register. Under the proposal, small businesses and sole proprietors would have more freedom to band together to provide affordable, quality health insurance for employees. As proposed, the rule would also include consumer protections to prevent plans from discriminating against particular employers or employees based on the perceived health of their workforce.

The proposed improvements could open health insurance coverage for millions of Americans and their families by making it more affordable for thousands of small businesses and sole proprietors. By joining together, employers may reduce administrative costs, strengthen their bargaining position, and offer a wider array of insurance options.

Removing Roadblocks to Job Creation Through Regulatory Reform

The Department of Labor administers and enforces more than 180 Federal laws and the regulations that implement them. All told, these laws and regulations cover more than 150 million working Americans and 10 million American job creators. Consistent with the President's priorities, the Department has worked to identify regulations that unnecessarily eliminate jobs, inhibit job creation, or impose costs that exceed benefits, and is working to reform or eliminate them. Examples include rescinding guidance documents regarding joint employment and independent contractors, and conforming to the federal appellate court test to clarify when interns or students are employees.

Providing Clarity to the Regulated Public

Clarity and consistency in agency interpretations allow the regulated public to comply with the law in a manner that is not unduly burdensome or costly and helps ensure a level playing field.

In June 2017, the Department's Wage and Hour Division (WHD) announced it is resuming its longstanding practice of issuing opinion letters. Opinion letters are official, written opinions provided by the Department that address the application of statutes and regulations in the specific circumstances presented by an employer, employee, or other entity. The letters were previously a Department practice for more than 70 years, until the practice ceased in 2010.

Removing Barriers to Employment Through Occupational Licensing Reform

Today, there are more than 1,100 separate occupations licensed by at least one state. In 1950, only 1 in 20 jobs required an occupational license. Today, more than 1 in 4 Americans needs a license to work. Occupational licensing creates artificial barriers to entry in many occupations across the United States, while stifling competition, and impeding Americans' mobility between states. This is particularly true of America's veterans seeking employment upon returning home. While they may have the skills sought by employers, oftentimes their military training does not transfer directly to a license required by the state. Military spouses, too, may be subject to different state-specific licensing requirements each time their spouse receives a new posting, in some cases every 2-3 years. The Department is engaged with governors across the United States to achieve occupational licensing reform.

Supporting America's Veterans by Helping Veterans, Service Members, and Spouses find Family-Sustaining Jobs

In 2017, the veteran unemployment rate was at its lowest since 2001 at 3.7 percent. The Department serves veterans by providing priority workforce development and placement services, individualized career services, and assistance with the transition to civilian life.

The Department served more than 679,000 veterans in Program Year (PY) 2015 and more than 566,000 veterans in PY 2016. These metrics reflect the changed measures set forth in the Workforce Innovation and Opportunity Act (WIOA) regulations and reporting requirements, which considers only participants who access staff-assisted services. Under the prior Workforce Investment Act (WIA) method, which included veterans who relied on online services in the service measures, the Department served more than one million veterans in PY 2015 and an estimated 915,000 veterans in PY 2016.

In May 2017, President Trump signed the Honoring Investments in Recruiting and Employing American Military Veterans (HIRE Vets) Act and established a program that will go into effect in FY 2019 to recognize employers that recruit, retain, and employ veterans, and that support our nation's veterans. In February, the Department launched the HIRE Vets Medallion Demonstration Program, which will allow the Department to demonstrate the HIRE Vets Medallion Program application process, raise awareness of HIRE Vets, and enable more employers to prepare to successfully garner recognition when HIRE Vets launches in 2019. The Demonstration Program will recognize up to 300 employers for their investments in recruiting, employing, and retaining our nation's veterans.

Protecting Working Americans by Confronting Visa Fraud and Abuse

Companies that commit visa fraud and abuse hurt working Americans and American job creators that play by the rules. These companies cut costs by not providing legally required wages and working conditions and, in some instances, workers' lives are at stake.

In June 2017, I directed the Department to aggressively confront entities committing nonimmigrant visa program fraud and abuse. The Wage and Hour Division (WHD) is using all available tools to conduct civil investigations to enforce labor protections provided by the

nonimmigrant visa programs. I also instructed the Employment and Training Administration (ETA) and WHD to work with the Office of the Solicitor to coordinate the administration and enforcement activities of the nonimmigrant visa programs and make referrals of criminal fraud to the Office of Inspector General (OIG).

Since January 2017, the Department has concluded 661 nonimmigrant visa program cases. The Department recovered more than \$14.4 million in back wages on behalf of 5,919 employees and assessed more than \$3.3 million in civil money penalties. Since January 2017, the average recovery of back wages per worker was more than \$2,400, a 20 percent increase over the same period the previous year.

Protecting Working Americans by Enforcing International Labor Agreements

U.S. labor laws guarantee certain rights for American workers such as minimum wages, overtime standards, and occupational health and safety standards. When trading partners fall short of the labor standards set forth in trade agreements, they create an uneven playing field that hurts working Americans.

Consistent with President Trump's "America First" foreign policy, the Department's Bureau of International Labor Affairs (ILAB) protects American jobs and working Americans from unfair competition by enforcing international labor agreements.

The Department's work extends to reporting on, and combatting, global child labor and modern slavery which, not only hurt working Americans, but are also morally reprehensible. In September 2017, the Department released its annual child labor report, *Findings on the Worst Forms of Child Labor*, representing the most comprehensive research to date on the state of child labor in over 130 countries worldwide. Simultaneously, the Department released a new mobile application, *Comply Chain*, designed to help businesses identify and eradicate child labor and forced labor from global supply chains.

Protecting Americans in the Workplace

The vast majority of employers are responsible actors, fully committed to following worker protection laws and to providing good, safe jobs for their employees. There are, however, bad actors that fail to comply with their obligations. In those instances, the Department vigorously enforces our nation's laws that protect working Americans. Fully enforcing the laws deters bad actors from willfully and repeatedly ignoring their responsibilities under the law. This makes American workplaces safer.

There are, however, also businesses that make good faith attempts to comply with an often complex set of laws and regulations. In those instances, the Department recognizes that working Americans are better served by helping business comply with the laws before incidents occur. The Department provides compliance assistance to help American employers understand and remain in compliance with worker protection laws. Department collaboration and partnership with employers facilitates an increase in compliance with labor laws, thus benefiting American workers.

Employee Benefits Security Administration

The Employee Benefits Security Administration (EBSA) helps ensure the security of the retirement, health, and other workplace related benefits of almost all American workers who have private-sector employer-sponsored plans. EBSA's enforcement authority extends to an estimated 694,000 private retirement plans, 2.2 million health plans, and similar numbers of other welfare benefit plans which together hold \$9.5 trillion in assets. These plans provide critical benefits to America's workers, retirees, and their families.

From January 1, 2017, through December 31, 2017, EBSA recovered more than \$698 million in enforcement actions and its criminal program obtained 93 indictments. During the same time period, EBSA's Benefit Advisors recovered an additional \$437 million on behalf of 382,647 plan participants and beneficiaries through informal dispute resolution conducted pursuant to the agency's participant assistance program.

The President's FY 2019 Budget request for EBSA includes increases from the FY 18 Continuing Resolution to develop policy and enforcement capacity to expand Small Business Health Plans; maintain oversight of the Federal Retirement Thrift Investment Board; and support the ERISA Filing and Acceptance System (EFAST). The updated EFAST system will help companies comply with the ERISA disclosure requirements while ensuring that EBSA, the Pension Benefit Guaranty Corporation (PBGC) and the Internal Revenue Service all receive the information needed to protect America's pension and welfare benefits.

Mine Safety and Health Administration

The Mine Safety and Health Administration (MSHA) works to prevent death, illness, and injury from mining, and promote safe and healthful workplaces for our nation's miners. In the course of its work, MSHA uses an integrated approach to conduct inspections, stakeholder outreach, education and training, and compliance assistance.

In 2017, MSHA fulfilled its statutory mandate to inspect all underground mines four times per year and all surface mines twice per year which, combined with non-mandatory inspections, resulted in 105,195 citations and orders during 42,219 inspections. MSHA's enforcement strategy is grounded in its mandate to regularly inspect all active mines in the United States and its territories. This work is essential to protect miners and advance a culture of safety and health within the mining industry.

In support of its mission, MSHA provides grants and compliance assistance to the mining community. MSHA's District offices also work closely with Educational Field and Small Mine Services to identify industry needs and help mine operators develop and revise training, safety, and health programs to address the conditions specific to their mines. In light of new and inexperienced miners entering the field, in June 2017, MSHA refocused its compliance assistance program for coal mines to provide safety training for miners entering the field for the first time or who are new to their current mining job within the past 12 months.

The President's FY 2019 Budget request for MSHA includes increases for Metal/Non-Metal resources and to modernize the MSHA Standardized Information System.

Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) helps ensure that employers provide safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance. OSHA also administers the whistleblower provisions of more than 20 whistleblower statutes. Compliance assistance and enforcement—driven, by workplace inspections and investigations—play a vital role in OSHA’s efforts to reduce workplace injuries, illnesses, and fatalities.

Between January 1 and December 31, 2017, OSHA conducted 31,944 inspections and issued citations for 52,515 violations. The number of inspections conducted in 2017 increased year over year for the first time in five years despite OSHA’s suspension of enforcement activities to provide more compliance assistance and facilitate the provision of personal protective equipment during the hurricane recovery in areas affected by natural disasters this year.

The President’s FY 2019 Budget request for OSHA includes increases for federal enforcement and for compliance assistance and outreach, including resources for the Voluntary Protection Programs. This investment will allow OSHA to broaden its assistance and support to employers who are trying to best protect their workers.

Office of Federal Contract Compliance Programs

The Department’s Office of Federal Contract Compliance Programs (OFCCP) is tasked with ensuring that Federal contractors and subcontractors comply with their equal employment opportunity obligations.

Since January 2017, OFCCP has obtained more than \$30 million in monetary remedies for more than 17,000 job seekers and employees, an average of more than \$1,700 per person. In 2017, OFCCP conducted 1,035 compliance evaluations. Of those 1,035 compliance evaluations, there were 48 discrimination settlements. There were also seven additional discrimination settlements resulting from complaint investigations.

In 2017, OFCCP conducted approximately 200 outreach and compliance assistance events sponsored by the national and regional offices, including three compliance assistance town hall events that were open to the public.

Office of Labor Management Standards

The Department’s Office of Labor Management Standards (OLMS) administers and enforces most of the provisions of the Labor-Management Reporting and Disclosure Act (LMRDA). The LMRDA promotes union democracy and financial integrity in private sector labor unions, and transparency for labor unions and their officials, employers, labor relations consultants, and surety companies through reporting and disclosure requirements. OLMS enforces similar laws applicable to federal sector unions.

In calendar year 2017, OLMS investigated 121 union officer elections after complaints of violations, supervised 19 rerun elections due to election violations, and conducted 265 criminal investigations, recording 82 indictments. The President's FY 2019 Budget request includes increases for the investigative workforce and reestablishes the International Union Audits enforcement activities. The Department's fall regulatory agenda announced plans to propose restoring several prior union transparency requirements. OLMS can and will do more to protect union members.

Office of Workers' Compensation Programs

OWCP administers four major disability compensation programs covering over two million Federal employees, and a significant number of private sector workers, which provide wage replacement benefits, medical treatment, vocational rehabilitation, and other benefits to certain working Americans, or their dependents, that experience work-related injuries or occupational disease.

OWCP administers prescription benefits for injured Federal workers and is taking aggressive measures to control costs and prevent fraud. OWCP implemented program integrity and pharmaceutical cost control measures in 2017 that resulted in Federal agencies paying \$221 million less than in 2016 for the benefit costs of their injured employees. These savings are in part attributed to decreased opioid prescriptions and use that resulted from these measures, as well as reduction in questionable compound prescriptions.

OWCP and the OIG have worked closely together to eliminate Federal Employees' Compensation Act (FECA) fraud. As the primary OIG charged with investigating FECA fraud government-wide, the DOL OIG works closely with OWCP to facilitate interagency investigation and prosecution efforts by developing best practices on how the OIG community can request FECA data and submit reports of investigations that involve FECA fraud or medical provider fraud.

Wage and Hour Division

WHD is tasked with ensuring compliance with, and enforcement of, many of the nation's fundamental Federal labor laws, including minimum wage, overtime, and child labor laws.

WHD's mission is to promote and achieve compliance to protect America's workers. Since January 2017, WHD has recovered more than \$269 million in back wages for more than 241,000 employees, an average of \$1,114 per person. In 2017, WHD concluded more than 29,000 cases.

In some instances, particularly with American job creators that attempt to comply with Federal labor laws in good faith, compliance assistance rather than after-the-fact enforcement can better serve working Americans by preventing harm in the first place. Since January 2017, WHD has conducted 3,397 outreach events, providing valuable information and compliance assistance to participants across the United States. As part of this effort, WHD employs Community Outreach and Resource Planning Specialists (CORPS) in nearly all district offices nationwide. The CORPS have been successful in establishing collaborative partnerships with industry

associations and employers to offer compliance assistance and educate stakeholders with regard to labor standards. The President's FY 2019 Budget request includes increases to support compliance assistance projects.

Last month, WHD launched the Payroll Audit Independent Determination (PAID) pilot program. This program is designed to resolve self-declared errors by employers that could potentially result in overtime and minimum wage violations under the Fair Labor Standards Act. At times, employers may be the first to uncover violations of overtime or minimum wage laws. Many employers prefer to correct their mistakes and voluntarily pay their employees the wages they are owed. However, currently, employers are unable to simply pay the wages due to conclusively settle overtime or minimum wage violations. The PAID program would allow employers to remedy their mistakes without lengthy and costly litigation.

Through this program, employees will receive 100 percent of the back wages paid, without having to pay any litigation expenses, attorneys' fees, or other fees, and without having to wait for court cases to resolve and potentially lengthy investigations to conclude. To participate in the program, employers must pay all back wages due by the end of the next full pay period after receiving the summary of unpaid wages, and provide proof of payment to WHD expeditiously. These requirements improve the employers' compliance with their minimum wage and overtime obligations and protect the rights of workers.

Significant protections for employees are included in this program. For instance, it is solely the employee's choice whether to accept the payment. If an employee does not accept the payment he or she does not release any private right of action and employers are prohibited from retaliating against the employee for his or her choice. Further, an employer may not use PAID to resolve any issues for which WHD is already investigating the employer, or which the employer is already litigating in court, arbitration, or otherwise. We owe it to our nation's workforce to help employees get their owed wages, faster.

Conclusion

In closing, I hope my statement today makes clear the depth and breadth of the Department's accomplishments this past year. The Department is hard at work supporting Americans' efforts to find, and excel in good, safe, family-sustaining jobs.

We look forward to working with Congress on these important goals.