

**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2019**

THURSDAY, APRIL 12, 2018

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:20 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Roy Blunt (chairman) presiding.

Present: Senators Blunt, Alexander, Capito, Kennedy, Murray, Baldwin, Murphy, and Manchin.

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. R. ALEXANDER ACOSTA, SECRETARY

OPENING STATEMENT OF SENATOR ROY BLUNT

Senator BLUNT. The Appropriations Subcommittee on Labor, Health and Human Services, and Education, and Related Agencies will come to order.

Secretary Acosta, we are certainly glad you are here with us today to talk about the Department of Labor's request. I know you are in the last month of your first year and I will say, I think your work at the Department has made a big difference.

We have actually now confirmed one person of the nominees that have been appointed to come and help you at the confirmed level, and hopefully we can do more of that before long.

But your ability to deal with the process, to insist on timing that makes sense, I know is appreciated by me and our committee. The President must also think you are doing a great job because he thinks you can do it with 11 percent less money next year than you had last year and we will see how that goes.

We look forward to your testimony, to your discussion of your priorities, and new proposals that you have seen in the last year that will make a difference at the Department.

Certainly the economic news, the strength of the economy, the strength of the unemployment numbers, and even better, obviously, the employment numbers; 4.1 percent unemployment is the lowest in 17 years.

While the low unemployment rate is good news, I think we all should continue to be concerned that many Americans are still un-

deremployed, and many Americans have just simply given up on looking for work. We are going to turn to you for ways we can deal with that in a better way and also your views on how we can prepare the workforce for the jobs that are likely to be out there. I know we have had discussions in the past about looking at employment assistance and things besides just traditional higher education.

In energy, healthcare, and agriculture, there are obvious areas of growth that are going to be out there in our economy, and we want to be sure we have a skilled workforce that has the skills necessary for the jobs that are going to be there.

I think regulation was overreaching in the last several years and your efforts to look at the regulations that are out there, and to see what needs to be done about them, are appreciated by me. And I think our whole committee is more than willing to look at those regulations, work with you to eliminate regulations that provide little benefit or no benefit and maybe stand in the way of people having the kinds of jobs, the good paying jobs, they would like to have.

Response to the tax bill, at least where I live, has been very good, and I think it has been very good in the country for a number of companies, big and small, moving forward.

Last week, near my hometown in Springfield, Missouri, I was looking at a solar company that just announced they were going to add 30 jobs and expand their operations in both Springfield and Kansas City. Another company, Mid-Am Metal Forming has 140 employees in Rogersville, Missouri. All their employees will receive a cash bonus this year.

I think when you talk to those employers, it is in anticipation of maintaining a great workforce in a growing economy. We want to continue to see that, whether in Missouri it is Wal-Mart, or Boeing, or that 140-employee company in Rogersville, Missouri, those things are happening.

We are glad you are here to talk about what we can do to prepare workers for higher skilled jobs, to help those who have lost their jobs get back on their feet, to protect workers' rights and benefits, and to support a safe and productive workplace.

[The statement follows:]

PREPARED STATEMENT OF SENATOR ROY BLUNT

Good morning. Thank you, Secretary Acosta, for appearing before the Subcommittee today to discuss the Department of Labor's fiscal year 2019 budget request.

The Department's request, once again, is under significant budgetary constraints this year. The proposal reduces funding for the Department by \$1.3 billion, a decrease of 11 percent.

We look forward to hearing your testimony and discussing your priorities, new proposals, and programs you think we should consider scaling back.

Last week we continued to receive good news about the strength of the American economy, with the unemployment rate remaining steady at 4.1 percent—its lowest level in over 17 years. However, millions of Americans are still underemployed or have stopped looking for work altogether.

We need to make sure that Americans have access to training programs—especially those that provide on-the-job training and those focused on in-demand jobs like healthcare and energy.

Having a highly-skilled workforce is critical, but it is only half of the equation. We must also continue advancing common-sense solutions to create an economic environment where businesses can thrive and create good, well-paying jobs.

As we saw with the last Administration, excessive government regulations and overreach are major impediments to job growth.

To grow the economy and decrease unemployment, we must rein in unnecessary regulatory burdens that make it harder for businesses to create jobs.

The Senate, working with the Administration, has taken important steps toward eliminating regulations that provide little to no benefit. Teamed with the recently passed tax reform bill, we will continue working to ensure our job creators can succeed.

In my home State of Missouri, companies are expanding the workforce, growing their businesses, and showing their employees how much they're valued in a growing economy.

Just last week, a Springfield-based solar company announced it will add 30 jobs and expand operations in the Springfield and Kansas-city areas. Every one of Mid-AM Metal Forming's 140 employees in Rogersville, Missouri will receive a cash bonus this year. Larger companies, like Walmart and Boeing, are expanding benefits and planning major new capital investments.

This has been a year of significant growth and record optimism for the U.S. economy and the American workforce. We need to make sure the Federal Government continues to support programs to prepare workers for higher skill jobs, help those who have lost their jobs get back on their feet, protect workers' rights and benefits, and support safe and productive workplaces.

As the fiscal year 2019 appropriations process moves forward, I know we will continue to work together to identify priorities and find common ground on how best to responsibly allocate taxpayers' resources.

Thank you.

Senator BLUNT. I am glad to be joined by my partner in this effort, Senator Murray. And Senator Murray, let us go to you for your opening statement.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Well, thank you very much, Chairman Blunt. Welcome, Secretary Acosta. Good to have you here today.

At the outset, I do want to express my hope that Republicans and Democrats will come together to reject this budget, President Trump's fiscal year 2019 budget. Just as we rejected the deep cuts that were proposed to workforce programs in his 2018 budget, which is a clear signal of the bipartisan support we have here for those investments.

I also hope Republicans will stand with Democrats in vigorously opposing any effort to undo the 2018 omnibus bill we passed and the President signed only this month because, frankly, this budget in front of us shows just how far apart the Trump Administration's priorities are from what Congress just agreed on and sent to the President.

President Trump, it seems, is willing to explode our debt and deficit to give billionaires and corporations a massive tax giveaway, all the while gutting programs working families rely on to get ahead.

We have all seen the tweets and heard the rhetoric about President Trump's promise to put workers first. Yet, the reality is this budget proposes to cut high quality workforce training programs that help our workers get good jobs and improve the efficiency of businesses and grow our economy.

Connecting workers to good jobs and employers to a skilled workforce has been the Department of Labor's central mission for decades. Yet, this budget proposes more than \$1 billion in cuts to the Department's employment and training programs.

Mr. Secretary, the President's budget would mean that millions of workers, including dislocated coalminers and veterans, could lose

access to these critical services next year. The Department's own data shows that more than 5 million private sector jobs were unfilled at the start of this year.

If the Administration were serious about its commitment to our country's workforce, it would strive to get that number as low as possible instead of its deficit-busting drive to reduce the corporate tax rate.

REGISTERED APPRENTICESHIP PROGRAM

Mr. Secretary, you know the Registered Apprenticeship program is a top priority of mine, which is why I am very pleased we were able to increase the funding by over 50 percent in the 2018 omnibus.

Yet, I do remain greatly concerned about the Administration's efforts to weaken the program by attempting to create a duplicative, nonregistered program that would allow unqualified for-profits and business groups to certify unaccountable, low wage and lower quality apprenticeships.

The 2018 omnibus is clear: the funding provided is for expanding registered apprenticeship opportunities.

Evidence clearly shows that over 90 percent of apprentices are employed after completing these programs with starting wages above \$60,000 and for every dollar spent on apprenticeships, employers get an average of \$1.47 back in increased productivity and greater frontline innovation.

It is critical that Federal dollars are focused where there is strong evidence and a return on investment rather than on duplicative systems that do not guarantee quality training and provide fewer safeguards for workers and employers.

And the budget not only fails to adequately invest in the skills of our workforce, it also falls short of what is needed to ensure workers receive the protection of our labor laws that make sure workers have fundamental rights at work, including the right to a fair day's pay for a hard day's work, and a right to a safe workplace.

PROPOSED TIP POOLING RULE

Mr. Secretary, I am glad we were able to work together to come to an agreement after your Department proposed a rule that would have allowed employers to steal workers' tips, and I appreciate your work on that.

But I am still concerned the Wage and Hour Division is understaffed, making it unable to fully enforce important protections including the new protection for workers' tips, equal pay protections, leave protected under the Family and Medical Leave Act, and more.

CUTS TO WOMEN'S BUREAU

The Department's Women's Bureau also plays a critical role with respect to gender-based pay discrimination, paid leave, protection for workers who are pregnant, and so many other critical issues for working women. Unfortunately, this budget inexplicably slashes

the Bureau's funding 74 percent below the level we provided for the current year.

And finally, I am troubled the Administration is using this budget to advance the Trump Care agenda proposing an Association Health Plan rule that will allow fly-by-night operators to sell junk coverage that do not comply with consumer protections, further undermining families' healthcare and raising costs for people with preexisting conditions.

So Mr. Chairman, thank you for this opportunity today. I look forward to working with you to continue our practice, over the last 2 years, of rejecting devastating cuts and continuing needed investments in programs that both train and protect our Nation's workers.

Thank you.

Senator BLUNT. Thank you, Senator Murray.

Secretary Acosta, we are pleased to have you here today, and if you would like to start with an opening statement, this would be a good time to do that.

SUMMARY STATEMENT OF HON. R. ALEXANDER ACOSTA

Secretary ACOSTA. Mr. Chairman and Ranking Member Murray, thank you for your opening statements. Members of the Subcommittee, thank you for being here.

I am pleased to appear before you to discuss the important work of the Department of Labor and its proposed budget for the upcoming fiscal year.

In its first year, the Trump Administration delivered strong opportunities for American workers, American job seekers, and American job creators. At the Department, 2017 was also a busy and productive year. I would like to offer some data, if I could.

DEPARTMENT OF LABOR ACCOMPLISHMENTS IN 2017

The Employment Benefit Security Administration, EBSA, recovered nearly \$700 million in enforcement actions, obtained 93 criminal indictments, and recovered an additional \$437 million on behalf of nearly 400,000 plan participants and beneficiaries.

The Mine Safety and Health Administration fulfilled fully its statutory mandate to inspect all underground mines four times per year and all surface mines two times per year. And combined with additional non-mandatory inspections, conducted more than 40,000; actually, nearly 43,000 inspections.

OSHA (Occupational Safety and Health Administration) conducted nearly 32,000 inspections, and that is a particularly important figure because 2017 marked the first time in 5 years that inspections increased year over year despite suspension of enforcement for short periods of time in certain regions during hurricane recovery efforts.

The Office of Federal Contract Compliance Programs obtained more than \$30 million in monetary remedies for more than 17,000 job seekers and employees—an average of about \$1,700 per person—and reached the largest pay discrimination settlement in more than a decade. A corporation agreed to pay \$5 million in back wages and interest to settle allegations of discrimination against 300 women.

The Office of Labor Management Standards, OLMS, investigated 121 union officer elections after complaints of violations, conducted 265 criminal investigations, and recorded 82 indictments.

The Office of Workers' Compensation Programs implemented aggressive program integrity and pharmaceutical cost control measures that resulted in paying \$221 million less in payments than in 2016 as a result of the Office of Workers' Compensation Programs' program integrity efforts.

The Wage and Hour Division recovered more than \$269 million back wages for more than 241,000 employees—an average of about \$1,100 per employee—and conducted more than 29,000 cases.

UPCOMING DEPARTMENT OF LABOR ACTIVITIES

The Department looks forward to an equally productive year in 2018. I would like to highlight a few programs in particular.

With respect to mine operators, most mine operators are serious about safety and remedy issues when they arise. However, some mine operators have chosen not to pay their fines. And so, we did an audit and we discovered that there are \$67 million in unpaid fines at MSHA (Mine Safety and Health Administration) that have accrued since 2007.

Now, Americans know when they get a parking ticket, they need to pay their fine. The fact that for the last several years these mining operators were not paying their fines, I think is deeply troubling.

And so, we have started a program in the last several weeks that focuses, with particularity, on these unpaid fines and we will begin legal action against the mine operators. We have notified them, we expect the fines paid, and we will begin legal action against them, if needed.

With respect to the Wage and Hour Division, we have reinstituted opinion letters. The Department is committed to providing meaningful compliance assistance to help employees understand their rights and ensure that employers have the tools necessary to comply with the law.

Americans want to know, what does the law mean? And opinion letters for decades did exactly that. It told them, "This is what the law means." And so, we have reinstituted the opinion letter program.

I want to touch briefly on occupational licensing and I have had conversations with several members of the Committee about this.

Today, we announced a \$7.5 million grant or request, actually, for a proposal to issue grants to fund State reviews of occupational licensing.

One of the points that we made in the release is that we do not just want a review; we want a plan of action as to how States are going to address this issue. We are not looking for another report. Report after report—this is a bipartisan issue—say occupational licensing is a problem.

A study by a scholar at the Federal Reserve Bank estimated a loss of 1.6 million jobs. Brookings [Institute] said that number is wrong. It is actually closer to 3 million jobs. It is something that needs to be addressed and unfortunately, what I see a lot of, are studies.

And so, hopefully this is seed money that can encourage States to come up with specific plans of action to address occupational licensing. It is a very important issue.

Finally, I want to acknowledge and thank Ranking Member Murray, and others in leadership on both sides of the aisle, for working to pass what, I really think, is a win-win bipartisan solution to the tip credit issue that arose. From our perspective, it is a win. I think from the other aisle's perspective, it is a win.

If we can communicate and talk, often we find solutions. I think that is a great outcome and perhaps a model of the way that things can proceed.

And so, I look forward to your questions, and thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. R. ALEXANDER ACOSTA

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 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 9 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 healthcare, 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 fiscal year 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

Healthcare 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 fiscal year 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 fiscal year 2019 Budget request for EBSA includes increases from the fiscal year 2018 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 fiscal year 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 5 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 fiscal year 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 fiscal year 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 rehabilita-

tion, 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 fiscal year 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.

Senator BLUNT. Well, thank you, Mr. Secretary.

We will have time for more than one round of questions, but let us try to restrict to the 5 minute frame, and then everybody gets a chance to ask their questions, and ask second ones, if they would like to.

So pleased that you are here; again, let me say that.

INCREASE IN ENFORCEMENT PROBLEM BUDGETS

I did notice in the budget that the enforcement programs were the programs that consistently appeared to have an increase in the request. Wage and Hour, you have mentioned already. OSHA has been mentioned; the Office of Labor Management Standards and compliance on Employee Retirement Income Security Act.

Would you talk a little bit about why those particular areas are areas where even your initial request, in a budget that is significantly below what you are spending this year, would be more money than you had this year?

Secretary ACOSTA. Certainly, Mr. Chairman.

As you mentioned, the enforcement agencies, in general, are at the prior level or slight increases from the prior level and that is because I think those are priorities.

I spent my opening 5 minutes going through the various statistics from the enforcement agencies, and that was an intentional decision to make the point that we are enforcing these laws; that these laws matter. They have been passed by Congress. They are the laws of the land. They need to be enforced. The men and women at the Department of Labor need the resources to enforce them. Over time, even if budgets remain flat, life gets more expensive.

And so, we have asked for slight increases to continue the efforts that, I think, we have done this year because, as I said, enforcement matters.

Senator BLUNT. Well, I think your request shows that and the numbers you have shared with us today also show that your enforcement efforts are at a higher level than they have been.

BUDGET INCREASES FOR APPRENTICESHIP PROGRAMS

Now, as Senator Murray mentioned, we increased, in the omnibus bill, apprenticeship funding by 53 percent from \$95 million to \$145 million. Here is an area where you are asking for another significant increase beyond that. I think your request is \$200 million, which would be 100 percent higher than it was in the year we just completed.

I think this is one of the areas that the Administration has led on and I think there are still ways to expand both access to these programs and even potentially expanding Pell Grants and other things that would allow the right kind of certified program to be one of the other alternatives for higher education.

But here you have a program you are suggesting we would double year over year. I think we ought to probably hear about that doubling.

Secretary ACOSTA. Mr. Chairman, you are correct.

First, let me say, we very much appreciate the 50 percent increase that was in this year's budget just recently approved as part

of the Omnibus. The budget that was submitted actually requested an even greater increase for the upcoming fiscal year.

As the Ranking Member pointed out, the apprenticeship model works and we want to ensure that we have high quality apprenticeships. Whether it is the Registered Apprenticeship program that will continue—and Congress has fully funded—that money will continue to go out; or whether it is the industry-recognized apprenticeship that has a fundamentally different structure, on-the-job learning works. All the research shows that that is one of the best ways to provide job skills.

It is not just about providing job skills. One of the things that apprenticeships do is provide a career path. It provides stackable credentials. It is not simply saying, “Here. You have a skill. You can go have a job.”

You come in at Level One and then you can proceed to Level Two, to Level Three, to Level Four through a series of stackable credentials of lifelong learning. I think that type of on-the-job training is something that we need to engage in much more of.

EXTENDING PELL GRANT FUNDING

As the Chairman noted, related to that are various recommendations in the Administration’s infrastructure proposal. One of those has to do with Pell, and I think the Pell recommendation is related where we have proposed to extend Pell funding from the degree programs. Currently, to be Pell eligible, you need to have a program that is 600 hours or more to certificate programs. And so, here is the reason behind that.

If a community college has a great program that provides the skills for someone to get a certificate, and then go work, and continue on-the-job training while they are working, and maybe complete their degree later, why should Pell not be available for those certificate programs?

And so, as the Chairman mentioned, we believe that is important as well.

Senator BLUNT. And your next step on that would be to work with the Department of Education, to work with the authorizing committee.

What do you have in mind to move in that direction?

Secretary ACOSTA. Mr. Chairman, in the President’s infrastructure proposal, there are both labor and education-related proposals that are in the President’s infrastructure plan.

One of those has to do with Pell and the proposal in the infrastructure plan is to extend Pell from the 600 hour requirement that is currently in place to certificate programs.

EXTENDING PERKINS AND WORK-STUDY FUNDING

The second has to do with Perkins CTE and to provide additional access at the high school level for Perkins CTE money.

And the third is budget neutral. It has to do with the work-study formula. Because the work-study formula right now—the key phrase is “hold harmless”—is distributed and then when additional monies come out, the additional monies are distributed.

The universities that received work-study many, many years ago have a disproportionately large percentage of the work-study money.

And so, the President's infrastructure proposal suggests using the current distribution of Pell money as a framework to distribute work-study money in a way that provides students at some of the newer institutions—some of the community colleges that, in our opinion, have the greatest need—greater access to that work-study money.

Senator BLUNT. We have the Chairman and the Ranking Member of the authorizing committee sitting on either side of me too, so we can do some double duty here today.

Secretary ACOSTA. I could not help but notice.

Senator BLUNT. I am sure you did.

Senator Murray.

Senator MURRAY. Well, thank you very much, Mr. Chairman.

APPRENTICESHIP GRANTS

Secretary Acosta, as I said, providing workers with the skills that they need to succeed in the economy today is one of the smartest investments we can make to grow our economy.

So I am really pleased that you recently committed to continuing the Apprenticeship USA grants with the funding that Congress provided in 2017. It is why, as we talked about, Chairman Blunt and I agreed to significantly increase the funding for registered apprenticeships in the 2018 omnibus.

NON-REGISTERED APPRENTICESHIP PROGRAM

But I have to say, I am deeply concerned about the Administration's continued efforts to create a duplicative, nonregistered program, especially as you used the burden on corporations as an excuse.

I have actually heard quite the opposite from employers across multiple industries, including Microsoft, which is in my home State of Washington. Microsoft recently said, "A nationally registered apprenticeship is an essential tool to create a talent ecosystem for our industry."

I wanted to ask you: In your Apprenticeship Task Force meeting this week, you indicated the apprenticeship funding Congress appropriated in the 2018 omnibus can only be used to support and expand registered apprenticeship programs.

Will you confirm that for the record?

Secretary ACOSTA. Ranking Member Murray, I am happy to confirm that. We can look up the statute. That is what Congress wrote.

Senator MURRAY. Right, correct, and what your budget says. So I just wanted to make sure we were all clear on that.

Secretary ACOSTA. And that is what I said at the public meeting because I wanted to make sure that the Task Force fully understood that because I was not sure if they did.

Senator MURRAY. Okay, thank you. Let me ask you another question.

ENDING WORKPLACE HARASSMENT

As more women and men come forward with stories about workplace sexual harassment, it is clear that it is well past time for ac-

tion here. I want to thank you for your response to my letter on the steps DOL (Department of Labor) is taking to address workplace harassment within the Department.

Now, you also indicated the Department is finalizing online training for all contractors and employees that emphasizes the ban on retaliation, which is so important given this is the top reason workers do not report harassment.

In addition to those steps, I really urge you to consider the Department's role in ending harassment in workplaces across the country.

I wanted to ask you today, give me two concrete steps the Department can take to ensure all workplaces are free from harassment.

Secretary ACOSTA. Well, Senator Murray, thank you for the question.

And as you indicated, we are taking it very seriously. We have had mandatory training of all managers within the Department.

Senator MURRAY. Yes.

Secretary ACOSTA. We are working on online tools.

Certainly the Women's Bureau is looking at this issue very closely, and I will be working with them to address this. I am also happy to work with this Committee.

Ultimately, the Department implements the laws of Congress and enforces those laws. We can certainly provide information. We can provide online training tools. We can provide data. We can encourage. We can exhort.

To the extent that there are legislative changes, those changes would have to come from Congress.

Senator MURRAY. Right. What I am worried about is that we are not focused on a lot of industries where there is not the famous person talking about it, but a lot of people who, especially in lower wage jobs, do not have that kind of voice.

I am urging your Department to do what you can to raise that issue and make people aware that we are watching.

Secretary ACOSTA. Senator, you mentioned retaliation and whistleblower protections.

Senator MURRAY. Right.

Secretary ACOSTA. Those are both issues that, I think, are of paramount importance.

Enforcing retaliation provisions—this goes back to my point, and they are already in place—enforcing those vigorously is very important and enforcing whistleblower provisions.

We recently obtained, I believe it was the largest whistleblower settlement—I am pulling on memory here—but I believe it was one of the largest whistleblower settlements, if not the largest, whistleblower settlements ever as part of one of our whistleblower actions. So that is something I take very seriously.

Senator MURRAY. Okay, I appreciate that.

ECONOMIC IMPACTS OF WORKPLACE HARASSMENT

I did want to draw your attention that in January, 21 Senators and I sent you a letter asking you to study the economic impacts of workplace harassment, and really urging you to collect data on the prevalence and cost of sexual harassment, so that we can better

address the problem. And I wanted to make sure you are aware of that and are looking at how you can collect that.

Secretary ACOSTA. Senator, I am aware of that. The letter was directed to BLS; that is the entity that collects that data. They are aware of it.

We are very careful in how we direct the Bureau of Labor Statistics for obvious reasons. It is important that those statistical agencies, that collect data, have some degree of protection and insularity from the political process.

But I am aware of the data request; BLS (Bureau of Labor Statistics) is aware of the data request. I believe BLS already sent a response, and if they have not sent a response that should be arriving shortly.

Senator MURRAY. Okay, great.

Secretary ACOSTA. I am aware of the response, which is why I thought it might have been sent.

Senator MURRAY. Okay, all right. We will be watching for that. Thank you very much.

Secretary ACOSTA. And Senator, if I could, I just confirmed, it was the largest whistleblower case ever and the response has now been sent. So it is somewhere between our Department—

Senator MURRAY. Here and there.

Secretary ACOSTA [continuing]. And your office.

Senator MURRAY. Okay, thank you very much.

Senator BLUNT. Senator Alexander, then followed by Senator Manchin.

Senator ALEXANDER. Thank you, Mr. Chairman.

Welcome, Mr. Secretary.

COST OF HEALTH INSURANCE

Mr. Secretary, I want to use my 5 minutes to talk about the Tennessee plumber who is making \$60,000 or \$70,000 and paying \$20,000 for health insurance. Or the farmer named Marty who came up to me in a Chick-fil-A and said, "My monthly premium was \$300 a month and now it is \$1,300 a month." It has gone up under Obamacare that much.

I could spend the whole 5 minutes talking about my disappointment that we could not agree on our proposal supported by the President, and Senator McConnell, and Speaker Ryan to reduce those premiums by up to 40 percent, according to independent experts. That would have meant that a \$20,000 premium could have gone down to \$12,000 over 3 years.

ASSOCIATION HEALTH PLANS

I think we have now conclusively proved that Democrats and Republicans cannot agree on changing a single sentence of the Affordable Care Act. But you appear to have found a solution—and I want to make sure I understand it—with your proposal for Associated Health Plans.

Now, the plumber and the farmer are part of 9 million Americans who are not eligible for subsidies under the Affordable Care Act. So they are in, what we call, the individual market.

People who are in Medicare or Medicaid get some government subsidy.

More than half of Americans get their insurance on the job from employers. My figures show that the subsidy they get is about \$5,000 a person because, in general, spending by the employer on employee insurance is exempt from income or payroll taxes.

Does that sound about right to you?

Secretary ACOSTA. Senator, those strike me as reasonable numbers.

Senator ALEXANDER. So the difference between someone who gets insurance at IBM and someone who is self-employed, and paying for their own without subsidy, starts out with a, roughly, \$5,000 cost differential.

So we could lower the cost of health insurance by \$5,000 if we could find a way to make more of the small businesspeople or the self-employed people, the farmer and the plumber, eligible for the same kind of insurance that large group people have.

I assume that is your objective.

Secretary ACOSTA. Senator, that is the objective. We have what we call a small group plan.

Senator ALEXANDER. Now, let me go a little more rapidly because I have only 2.5 minutes.

COVERAGE UNDER ASSOCIATION HEALTH PLANS

What we are not talking about are the short-term, limited duration insurance plans. That is something else, right?

Secretary ACOSTA. Something else.

Senator ALEXANDER. We are talking about giving employees of smaller businesses the same kind of insurance coverage employees of large business get.

Secretary ACOSTA. That is correct.

Senator ALEXANDER. That would mean local bakeries from Nashville or Phoenix could band together, or Uber or Lyft drivers could band together, and get the same kind of coverage that employees at IBM or Wal-Mart enjoy.

Mr. Secretary, would the new protections afforded by the Affordable Care Act for the large group market, the Wal-Mart and IBM people, apply to the Association Health Plans you propose?

Secretary ACOSTA. Senator, Association Health Plans, as proposed, would be in the large group market. Therefore, the answer is the protections of a large group market apply.

Senator ALEXANDER. Give me as short an answer as you can.

Secretary ACOSTA. Yes.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan would be banned from charging patients higher premiums because of a preexisting health condition. Yes?

Secretary ACOSTA. That is correct.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan would not be allowed to ban or deny coverage of a preexisting health condition.

Secretary ACOSTA. As proposed, that is correct.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan would be required to offer coverage to dependent children up to age 26.

Secretary ACOSTA. As proposed, that is correct.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan could not cancel an employee's plan because the employee got sick.

Secretary ACOSTA. As proposed, that is correct.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan cannot place a ban on annual or lifetime limits or benefit coverage.

Secretary ACOSTA. As proposed, that is correct.

Senator ALEXANDER. Just as under the large group market, an Association Health Plan must provide coverage of preventive health services free of charge to the patient.

Is that correct?

Secretary ACOSTA. As proposed, that is correct.

Senator ALEXANDER. So, in effect, your proposed rule would give the same opportunities and provide the same protections to self-employed Americans and Americans working for small businesses that are available to people with coverage from large employers today.

Secretary ACOSTA. Senator that is the crux of the proposed rule.

Senator ALEXANDER. And so, I could say to the plumber and to the small farmer in Tennessee that if they could, under the terms of your rule, associate with others in a similar profession to meet those qualifications, that they could buy the same sort of insurance with the same protections and at the same cost advantage that the IBM, or Wal-Mart, or the employee of a large group has today.

In other words, the small percentage of people in the individual market who pay their own way, the 9 million Americans, would have the same kind of healthcare that 160 million Americans have in large group employer insurance.

Secretary ACOSTA. Senator, as you pointed out—may I answer, Mr. Chairman?

Senator BLUNT. Yes.

Secretary ACOSTA. As you pointed out, the theme of the proposal with the appropriate caveat that this is a proposal and not yet final, the theme of the proposal is we have small group plans and large group plans. And within the small group market, there are a number of Americans that do not even have healthcare because the small business that they work for does not provide healthcare.

So by associating together, they would have access to the large group market. So the employees of the small business would have access to the same market as the employees of Microsoft or any other large corporation with all the same protections that are afforded those employees.

Senator ALEXANDER. And the cost advantage as well.

Secretary ACOSTA. And the cost advantage, which is quite significant between the large group and the small group market.

Senator ALEXANDER. Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Senator.

Senator MANCHIN.

Senator MANCHIN. Thank you, Mr. Chairman.

BIPARTISAN HEALTHCARE REFORM

First of all, I want to say my good friend from Tennessee, Senator Alexander, I was one of the 12 Democratic cosponsors along

with 12 Republican cosponsors for a major fix on healthcare. I have to be honest with you. I am befuddled why we have not done it, why we have not come to an agreement because I thought we were moving most progressive.

I am a small businessperson, so I am very much concerned. It would be very helpful for my family, and all the families I work with, to have healthcare that everyone can benefit by.

So the door is open. I am ready to go again, sir. You had wonderful meetings. You brought us all together. I would like for that to happen again.

MINERS PROTECTION ACT

With that being said, I want to go to the Miners Protection Act. The miners in West Virginia, and all over this country, have done the heavy lifting for our country, given us the country we have today, and I am very proud. I know Senator Capito and I have cosponsored many bills to help the mining profession, if you will, and the miners who have sacrificed.

The Miners Pension Plan has over 86,000 miners involved. We have 26,000 West Virginians. By 2022, it goes down, as you know. And sir, the only thing I can tell you, it is going to be a horrible situation because the average coalminer, or most of them, are widows who are receiving these pensions, only \$595 a month. And that means a difference between do they make some payments? Do they have any quality of care, or a home, or not?

So we sure are asking for your involvement in this and a solution for this problem because it is a big one, and it is a multilayered plan. There is a Mid State debacle going on right now and they are all rolled into one.

But the miners are the only ones who have, basically, a piece of legislation that is guaranteed they be able to be taken care of. And we would hope that you would be able to give the attention we need to that.

Secretary ACOSTA. Senator, as you know, you, Senator Capito, and I were——

Senator MANCHIN. And I want to thank you for that too and you still remember that, and you told me you had the picture hanging, so we are very appreciative.

Secretary ACOSTA. I do.

Senator MANCHIN. You are an official West Virginian now because you have gone down under.

Secretary ACOSTA. It is a tough job and they deserve that we work together——

Senator MANCHIN. Yes.

Secretary ACOSTA [continuing]. To address a solution.

MSHA SAFETY STANDARDS

Senator MANCHIN. Let me just say this. The Mine Safety and Health Administration, MSHA as we know it, I am concerned about some of the proposed rollbacks. I know the funding has been increased, but some of the rollbacks of the safety measures, especially air quality standards, I am very much concerned about that, sir, because we have come a long way.

But let me tell you what really bothers me more than anything. Since the beginning of 2017, 19 miners have died in America, coalminers. Ten of them have been in my State and Senator Capito's State of West Virginia. That is totally unacceptable. It is going the wrong direction.

I have been to too many funerals and sat with too many families over the years. And I have experienced it myself in my own family.

But I introduced the Robert C. Byrd Mine Safety Protection Act with Senator Casey and a few others. It strengthens safety standards, whistleblower protection, and penalties for bad actors.

I do not know if you have looked at that bill and if you have taken a stand on that bill, and if you would comment, if you had.

Secretary ACOSTA. Senator, I have not looked at that, but I will commit to looking at that bill.

DISLOCATED WORKER GRANTS AND FIGHTING THE OPIOID EPIDEMIC

Senator MANCHIN. The other thing we have is the Dislocated Worker Grants to help fight the opioid epidemic, and you know it is just a horrible tragedy on our country.

But really, we are ground zero in West Virginia because of the heavy lifting. Sometimes they are prescribed prescriptions that are very addictive and it has really destroyed their lives.

I do not know; have you committed? Have you looked at this from the working standpoint?

I have fallen down to around 50 percent or 49 percent of my working adults that are capable and able of working, actually working. A lot of it is because either addiction or skill sets, or a combination of both.

Secretary ACOSTA. Senator, if I could comment on that.

I had the opportunity to visit an opioid treatment center. One thing I was struck by is that they did a good job at treating, but they did not integrate that with job opportunities.

And so, we have announced a little over \$20 million in grant opportunities to create pilot programs. And the money, I believe, does come from the Dislocated Worker Grant money to create grant opportunities.

From my perspective, if you are treating someone and then saying, "Now, you have been treated. Go forth," but you do not have a job or a job opportunity, that treatment is not complete.

Senator MANCHIN. Right.

Secretary ACOSTA. What I would love to see—and I mention this because of the overlap between the Appropriations and the authorizing committees—is the integration of career, education, and career opportunities into opioid treatment, I think it is important.

We have been able to allocate \$20 million toward that and I hope we have greater opportunity to talk about that. That is a very important issue.

Senator MANCHIN. Mr. Chairman, if I could, just one question, very quickly to follow up with.

SPECIAL BENEFITS FOR DISABLED COAL MINERS PROGRAM

The Special Benefits for coalminers program, it is very disturbing because the President has proposed cutting this \$45 million from Special Benefits for Disabled Coal Miners. They are going from \$69

million down to \$24 million. It is mostly for black lung and we have people, basically, right in there. I mean, they are at the frontlines, if you will. To have that kind of a cut of \$45 million into the Special Benefits, which is mostly used for black lung, and they are having a hard time.

If you are not prepared to answer that and have not looked into it, maybe we can provide you with it. We would love to have a follow up.

You have been very, very attentive, and I appreciate that. This is a big one.

Secretary ACOSTA. Senator, I do not know if that is discretionary or mandatory. So I need to look into that.

Yes, I will get back to you on that.

AIR QUALITY STANDARD FOR MINES

Senator MANCHIN. Yes, because we have a rise, especially young miners going into these mines now. Remember, I talked to you about the air quality?

Well, if we change the standards of air quality, I can guarantee you, the black lung disease will continue to increase. This is the only way we had to fight that and to try to stop it.

But if you can, sir, I would just appreciate your attention.

Secretary ACOSTA. Absolutely, and to just follow up briefly because there is a misconception out there around the air quality.

In a prior rulemaking, the Department committed to engage in an air quality study. That was a preexisting commitment that goes back several years.

And so, when the Department indicated that it was engaging in that study, that was pursuant to a prior commitment. That is not initiating a new rulemaking process.

Senator MANCHIN. Thank you.

Thank you, Mr. Chairman. I am sorry for the extra time.

Senator BLUNT. Senator Capito.

Senator CAPITO. Thank you to the Chairman and the Ranking Member.

I want to thank the Secretary for the visit to West Virginia. The visits to West Virginia and going underground, I think, does really make you realize what a tough job coalmining is. Even with all the mechanization and everything, it is always eye opening. And I have the same picture hanging in my office too. So it was a good day and thank you for that.

FOCUSING ON MINE SAFETY

Several of the questions that Senator Manchin asked, I had, obviously, with MSHA and with the 19, in the last year and a half or year and several months, deaths.

Can you speak to what you are doing that may be making changes to when you recognize some of these accidents? I know some of them are vehicular.

What kind of special emphasis are you doing through MSHA to try to alleviate that?

Secretary ACOSTA. Senator, and if I could, as I see Senator Manchin exiting, I have a quick answer to his question.

The reductions are based on workload and not a benefit cut. It is mandatory funding. To the extent that the need exists, because it is mandatory, it automatically kicks in. It is mandatory not discretionary funding.

Senator CAPITO. Thank you.

Secretary ACOSTA. With respect to your question, Senator Capito, and so, yes, a number of them are vehicular and we are looking with specificity both on focusing enforcements efforts around that and on whether there are new rules or approaches that we can put into place to address some of those.

It has been, in part, we have new miners who have not been underground before.

Senator CAPITO. Right.

Secretary ACOSTA. And so, we need to be extra vigilant and extra careful in their education around safety issues.

But it may be that we also need to look at some rules or warning signs around those vehicles, and MSHA is looking at that.

Senator CAPITO. Well certainly, technology is leading us with a push for autonomous vehicles, technology is leading us to all kinds of different cameras, and different angles, and everything that may be very helpful with that.

Secretary ACOSTA. And warnings as individuals get within a danger zone of a certain vehicle. Correct.

Senator CAPITO. Right. I did want to ask you about apprenticeship, but Senator Murray covered that, and I think you talked about that pretty deeply too.

RESPIRABLE DUST RULE

I also want to thank you for—in my reaction to—your announcement on the dust rule. You did come to my office to clarify it, and I am glad you clarified that before the committee today.

There is no rolling back of the standard of the dust rule that was passed. You are simply deciding when and how to move forward with the study.

Is that correct?

Secretary ACOSTA. That is correct. We are fulfilling a commitment made by the Department to engage in the study.

Senator CAPITO. Thank you.

ASSOCIATION HEALTH PLAN PROPOSAL

And also on the Associated Health Plans, a long time coming; I am glad to see in a regulatory sense you have been able to grasp this one. I think it will have a lot for smaller States, and in particular, with a lot of small businesses it is going to have a great impact.

So these are the two off-the-wall questions that I wanted to ask.

MAKING WORKFORCE TRAINING PROGRAMS MORE EFFICIENT

One of the things that always troubles me, and particularly when you are looking at it from a budgetary standpoint, is all of the different, across many agencies, workforce training programs there are.

You addressed in your statement, in your written statement, about how you are working with education, for instance, and other departments to try to consolidate and make these workforce training programs more efficient.

Could you speak to that briefly?

Secretary ACOSTA. Senator, this is a very, very important topic and that is correct.

There are between, I forget the exact number, there are between 40 and 50 different workforce training programs or workforce education programs we can identify. And I certainly think that there is a great need for consolidation.

Some have been around for quite a while and there is a need to update them. Others, the apprenticeship program, for example, have great results. And so, there is a value to focusing spending on those with great outcomes.

Related to that, we have also requested flexibility in the upcoming budget so that governors have discretion to move money around from funding line to funding line. And that is so important.

Every governor that I have spoken to, on both sides of the aisle, would like the flexibility to move funding around. They will say, "West Virginia is different from Washington, and it is different from Missouri, and so, our needs are different. We would like the flexibility working with the Department to reallocate from Program A to Program B to Program C."

I have very limited flexibility in giving those types of waivers. Even if we cannot consolidate programs, and I understand the difficulty of doing that legislatively, providing more discretion on waivers—even if it comes with a report back to Congress on the waivers and why they were granted—I think would empower governors to do what they believe, what he or she believes is best for their State. And I think that is so important.

Senator CAPITO. I have one more question.

Senator BLUNT. Yes.

Senator CAPITO. Thank you.

TAX REFORM BILL AND EMPLOYEE WAGES

With the tax reform bill that was passed at the end of the year, several private entities have initiated raises in their minimum wage.

What kind of role does the Department play in terms of monitoring? I know you do enforcement to make sure minimum wage is being executed properly. But what are you seeing there in terms of what happened last year; any changes? What do you anticipate as we move forward?

Secretary ACOSTA. Well, Senator, certainly based on data that I have seen, we have had more than 4 million individuals receive bonuses or increases as a result of that congressional action.

And one of the reasons that we are asking for additional enforcement action is so we ensure that as companies—

You have all these great employers that are moving forward, and really rewarding their employees, and saying, "We want greater engagement and greater productivity." You have a few bad actors and it is important that the bad actors cannot free ride.

If you let a bad actor get away with something, that hurts all the good employers because it is a lot harder for those good employers to compete.

And so, my view of enforcement is you do not enforce only because there is a bad actor. You also enforce because you need to level the playing field to let all those good actors, who are giving all these wage increases and tax bonuses, the opportunity to compete on an even playing field.

Senator CAPITO. Thank you.

Thank you, Mr. Chair.

Secretary ACOSTA. Thank you, Senator.

Senator BLUNT. Thank you, Senator.

Senator MURRAY.

Senator MURRAY. Thank you very much.

BIPARTISAN BUDGET AGREEMENT OF 2018

Mr. Secretary, we are hearing, it is being reported that President Trump is developing a rescission package that would undo the compromise bipartisan budget agreement of 2018 we just passed and he signed into law.

Now, the omnibus bill that we implemented was not one I would have written or Senator Blunt would have written. It was hours of negotiated agreement that allowed us to get the votes that we needed to get out of here. So it was bipartisan.

I wanted to ask you which parts of our bipartisan agreement are you recommending to the President to be undone?

Secretary ACOSTA. Senator, I am hearing exactly what you are hearing from the same sources, which is the media. So at this point, I have received no request to make any recommendations for any rescissions.

Let me comment more generally.

The budget process is a process and those of us that have been through this, even if for only a year, recognize that. And so, I recognize I am here. I am testifying. You are all going to make the decisions you make and that is the way the process works.

Senator MURRAY. Well, I appreciate that and I would just say, in general, that reneging on an agreement that took us a long time—it was very hard to get there—if we undo that, it is going to be very hard moving forward for us to be able to know that agreements are agreements, and we move on. So I hope we do not go down that road. Just for the record.

Let me ask you one more question.

OVERTIME RULE

In 2016, the Obama Administration finalized an overtime rule which would have strengthened worker protections to make sure about 13 million workers are paid for the hours they work.

As you know, this rule is blocked in court by corporate interests, and last year, the Trump Administration decided to abandon the workers and the overtime rule.

Since that time, it has now been estimated that in my home State alone, we have lost more than \$11 million in wages they would have been received if the Obama overtime rule had been in place. By the end of this year, without strong overtime protections,

the country's workers will lose an estimated \$1.2 billion in wages had the rule been in effect.

So it has been 6 months now since the comment period closed on your request for information on a new overtime rulemaking. I want to ask you what your timeline is and when this is going to be implemented.

Secretary ACOSTA. Senator, thank you, for the question.

We are working diligently on this rule. As we have spoken before, we are looking to rewrite it.

Senator MURRAY. What is the timeline on that?

Secretary ACOSTA. These rules have taken, in the past, years. My hope is that we are faster than previous administrations.

And so, I cannot commit to a specific timeline other than to say I am hoping it does not take nearly as long as it has in the past.

Senator MURRAY. Which is not saying much. Well, a lot of people are waiting. This is a critical rule and we hope that you urge your Department to move quickly on it.

Secretary ACOSTA. I understand, Senator.

Senator MURRAY. Thank you.

Senator BLUNT. Let me ask, I have a few questions left, let me ask one of them while Senator Baldwin gets ready to ask her questions in a moment or two.

JOBS STATISTICS

This is a Bureau of Labor Statistics question. You mentioned the Bureau earlier, that you were not involved in trying to manage their numbers, of course, but we would like their numbers to be accurate.

In December of 2017, there was a "Wall Street Journal" article entitled, "25 Cities Adding (and Losing) the Most Jobs in 2017." That article ran again in "USA Today". It listed Cape Girardeau, Missouri as the number one area in job loss for 2017. Bad enough to hear that if it is true; worse to hear it if it is not true.

I am sure that the Cape Girardeau Chamber President John Mehner would like me to be sure and mention today that it was not accurate.

All of their local information indicated it was not accurate, but there really appears to have been, at that point at least, no recourse at the Bureau of Labor Statistics to say anything about this in the same public manner that the "Wall Street Journal" article did.

So I think what we found out by March was that the numbers were released and corrected. But clearly, a thought was put in peoples' minds about what is happening to both their local economy and people looking at that economy as a place they might want to move to, or might want to invest in.

As it turned out, they had job growth as the local university statistics indicated and their own statistics indicated they did.

So I guess the question is can you tell us what we can do to have more transparency there, to have some recourse if cities want to dispute their data, and what we need to do moving forward to be sure that we do not have communities listed as losing jobs on preliminary statistics when it turns out that they were a community, as that community has for years, that were gaining jobs?

Secretary ACOSTA. Mr. Chairman, having been someone that sees headlines about the Department sometimes and scratches one's head saying, "That is contrary to fact", I not only fully empathize with the President of the Chamber of Commerce, who was put in that situation, but it is a very bad situation to be put in because once that headline is out there, it is very, very difficult to retract it.

I know that our staff at BLS, and yours, has discussed this. One of the issues here is when you have preliminary data that data, as a statistical matter, will vary. Sometimes it is close, sometimes it is not.

I see this often, for example, with the unemployment numbers where there are revisions, and the revisions will actually show that there was more employment than we thought, but the headlines never picked that up.

One thing that I think is particularly important is the Commissioner for BLS has been pending on the floor. And in leadership, they have had no leadership, no confirmed leadership now for several months.

And so, I would encourage that we move on the Commissioner because with the Commissioner in place, it is much easier to look at those. Are we reporting preliminary data too early? Should we wait a little bit longer to make sure that the data is fact?

Because what happened in this case, I am told, is they reported preliminary data. The media ignored the fact that it is preliminary and just assumed that it was final. By the time the final data was reported, the number was corrected. It was just a statistical variance, but those statistical variances have consequences.

Senator BLUNT. Well, and I think what happened with that statistical variance is they did targeted interviews with specific employers.

Secretary ACOSTA. Right.

Senator BLUNT. Who, for whatever reason, those employers had lost jobs, but the community had not come close to losing jobs.

Secretary ACOSTA. Correct.

Senator BLUNT. And we all have seen the growth numbers that turn out to be, one way or another, different a month later than they were. The economic growth numbers, the unemployment numbers; that has some impact. I think it has more impact if you are talking about a specific community or a specific employer. There may be some reason to rush preliminary numbers out in a greater context.

I really cannot imagine what the reason would be, the merit would be to have preliminary numbers that may very well be wrong in a more specific context. That would be my advice on that.

Your point is well taken that you need some help over there. I think we finally, after 11 months on the job, you now have one Senate—confirmed nominee, and that is a problem of ours, and we would accept that.

However, this is a problem that was in December of last year. It is a fairly recent problem.

Secretary ACOSTA. It is a substantial problem when it impacts a city because it is hard for the city to forget that headline.

And so, one of the difficulties is I am hesitant as Secretary to get into the statistical methodology of a statistical agency, and I know you have acknowledged that.

But having a confirmed head of BLS, I think, would be helpful.

Senator BLUNT. It would be helpful. This may require a community visit on your part or something, Mr. Secretary. I do not know how they will be able to recover otherwise.

Senator Baldwin followed by Senator Murphy.

Senator BALDWIN. Thank you, Mr. Chairman.

And Secretary Acosta, welcome.

OSHA ELECTRONIC INJURY REPORTING ANTI-RETALIATION RULE

In 2016, OSHA issued the OSHA Electronic Injury Reporting Anti-Retaliation Rule in an attempt to move OSHA into the 21st century, gather more detailed workplace injury data, target limited resources to high hazard industries, and protect workers who report hazards.

In your agency's latest regulatory agenda, the Department of Labor announced plans to revise or revoke certain parts of the rule.

Secretary Acosta—and I am hoping you can give me a yes, or a no, or short answers since I have so many questions—do you agree that it is important for OSHA to have access to accurate injury and illness data so as to target limited resources to the most dangerous workplaces? And if data is not informing your priorities, then tell me what is.

Secretary ACOSTA. I believe that data that can be helpful in targeting enforcement is, in fact, important.

Senator BALDWIN. Is the Department of Labor planning to repeal OSHA's electronic injury reporting and anti-retaliation rule?

Secretary ACOSTA. Senator, briefly, if I could comment, yes-no answers are sometimes difficult on this.

I very much believe that information, so that we can target enforcement, is important and matters. I also think it is important to respect the privacy of individuals and employees.

And so, we are looking at methods where we can obtain this data, while at the same time respecting the privacy of individuals. We are looking at methods where we can obtain the data en masse without individual identifying information because once we receive the data, it can eventually become subject to disclosure.

The concern around this not whether we want data on exactly what is happening in a workplace, because I do think data is important, but how we can get that data in an aggregate form without that individual identifiable information.

Senator BALDWIN. So will you commit, then, to at least keeping that ability intact?

Secretary ACOSTA. Senator, it is my wish and desire to. I believe that data is important so we can target enforcement.

In my opening statement, I talked about how in OSHA enforcement we have actually had more inspections. I think that it is not just more inspections, but inspections that are better focused on where injuries are occurring, and what types of injuries.

I do want that data. I want to gather it in a form that respects privacy.

Senator BALDWIN. Certainly in other contexts, I know, large agencies have been able to anonymize data. So I would hope this would be a pretty straightforward task.

Secretary ACOSTA. Unfortunately, it is not anonymizing, as Congress has recently found out, it is not as straightforward as one may think. In the aggregate, this is data that, I think, is useful and necessary.

Senator BALDWIN. Okay.

APPRENTICESHIP AND THE PARTNERS BILL

I understand that earlier this week you hosted your third meeting with the Department of Labor's Apprenticeship Task Force. As your Department continues to work towards expansion of apprenticeship and work-based learning, it is important that we are engaging small and local businesses, community colleges, as well as the national and local community-based workforce organizations.

I am currently working with Senator Isakson to craft, what we are calling, the PARTNERS Act. The PARTNERS Act would establish a grant program to support the creation and expansion of industry and sector partnerships to help small and medium sized businesses develop work-based learning programs and provide mentoring and support services for workers.

How would the Department of Labor's plans to spend the fiscal year 2019 funding work to support local, industry-driven sector partnerships, help businesses expand apprenticeships, and help workers access those opportunities, as my PARTNERS bill aims to do?

And I will just note before you answer, as soon as we finalize our bill language, I will be making sure you get a copy for input.

Secretary ACOSTA. Senator, as the Ranking Member pointed out a little bit earlier, the apprenticeship funding that is currently appropriated under the apprenticeship budget line is focused on registered apprenticeships. For the most part, small businesses do not engage in registered apprenticeships.

This is one reason why we are looking to set up a second type of apprenticeship, which is the industry-recognized apprenticeship structure. So that small businesses—that are interested in having work-based learning—can work with industry associations that can provide guidance. That could provide quality control. That could provide curriculum, and could work with community colleges, and push and expand that apprenticeship model to small businesses. So I fully, fully agree with that.

Let me also pick up and highlight something that you said that is very important, which is partnerships.

Some of the best programs that I have seen are programs where community colleges come together with businesses often with a little bit of seed money from the Department.

I am thinking of a program that I saw in Reno around HVAC (heating, ventilation, and air conditioning). I think it was Truckee Meadows Community College. I am thinking of Indian Hills Community College in Iowa that actually works with one of our Job Corps centers that is co-located.

One of the things that I have been speaking about with the American Association of Community Colleges—Dr. Bumphus, who

is their President—are about ways that we can support partnerships between community colleges and business.

Critical to that is, I think, businesses need to have skin in the game. I think that if you have a true partnership, it cannot be enough to say, “We have a business partner.” But there should be some type of in-kind, or matching contribution, or something like that because then you really are creating a partnership. And where those interests are aligned, I have seen really incredible, and I could share the stories later, but I have seen really incredible success.

Senator BALDWIN. Yes. I have had a chance to have some visits in the State of Wisconsin where I feel I am seeing very much the same thing to the great advantage of smaller and medium sized businesses, as well as the participants. In one case, the apprentice said his only challenge was that all of his coworkers are jealous that he is getting that opportunity and they did not.

Secretary ACOSTA. Yes.

Senator BALDWIN. One other question.

Senator BLUNT. There will be time for a second round of questions.

Senator BALDWIN. Okay.

Senator BLUNT. Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman.

MENTAL HEALTH PARITY

Let me thank you and the Ranking Member for all of the attention you have given to the issue of mental health funding, and the conversation we have been having over the last few years around the issue of mental health parity. And that is the subject of the first question I wanted to ask you about, Mr. Secretary.

I want to commend you on comments that you made before President Trump’s opioid commission. In that meeting, you mentioned that it would be helpful if the Department had additional authority, that it does not have currently in law, to levy civil monetary penalties for mental health parity violations and the ability to enforce the law on insurance companies.

We received, actually on this subcommittee, I believe, a new report maybe from about 6 months ago, which detailed the unjustifiable difference in the way that insurance companies reimburse for opioid and addiction treatment versus how they reimburse for other types of treatment. And everybody who has been in an addiction situation can tell you that story very personally.

So I raised this issue yesterday at a HELP committee hearing that we had on a package of bills that Senator Murray and Senator Alexander are thinking about putting forward.

I just wanted to ask you to comment on why you think that these new capacities, these new authorities, are important to make sure the industry is in compliance with mental health parity laws?

Secretary ACOSTA. Well, Senator, thank you for the question, and I did testify at the President’s Commission. I think the President’s Commission adopted the recommendations.

Senator MURPHY. They did.

Secretary ACOSTA. We have been tasked with enforcing these mental health parity laws, but the way we enforce them is against each individual insurance plan.

And so, if you have an insurance company with 500 insurance plans, we would have to enforce as against each insurance plan. What we do is notify the insurance company and the good insurance companies, of course, would change all their plans to be in accordance.

But as someone that thinks of things, to some extent, from a law enforcement perspective, if you have one person that has umbrella authority over the content of the various plans, to enforce against each individual plan is a highly inefficient enforcement mechanism.

The second point I would make is the reality is there are always limited resources. And as companies are looking to ensure that benefits are, in fact, keeping with the law, as a general matter, the presence of a civil penalty tends to focus attention more than the absence of a penalty.

Senator MURPHY. And you do not have that authority, under existing law, either to look at the insurance company writ large versus the individual plans or to levy civil penalties.

Secretary ACOSTA. We do not have enforcement as against the insurer.

Senator MURPHY. Right.

Secretary ACOSTA. And we do not have penalty assessment authority.

Senator MURPHY. Well, I look forward to working with you, and with Senator Murray, and Senator Alexander to try to reconcile that, try to fix that for you.

EASTERN CONNECTICUT MANUFACTURING PIPELINE INITIATIVE

The second question is on the interaction and integration that you have with the Department of Defense. The Department of Defense has been given a slug of new resources. They are going to be purchasing a lot more from suppliers and contractors all across the country. That will be happening in Connecticut where we are going to be asked, and are glad to be asked, to produce additional under-sea capacity for the Navy.

Your Department has had a longstanding, very important partnership with the Eastern Connecticut Manufacturing Pipeline Initiative, which is a really innovative program in which Electric Boat, the local workforce development port, and the Department of Labor have aligned resources that have resulted in 600 job placements through this pipeline, ending up at Electric Boat.

Given the fact that Electric Boat is going to be asked to do more, this pipeline now becomes more important than ever, because if we cannot find the workers to do this work here in the United States, either we will not deliver the product, or we will be forced to buy more of this overseas, especially the parts that go into the submarines. And I could tell you the same story with respect to jet engines or helicopters.

But I would love to have you come at some point and see the very smart investment the Department of Labor has made in the Eastern Workforce Pipeline Initiative. And I just wanted you to comment on how important it is to make sure that all of this new

military programming gets done in the United States, because we have made investments in the workforce.

Secretary ACOSTA. Senator, I am a big fan of having it done in the United States, and I am happy to commit to visit. I try to visit various places to learn. I see great partnerships sometimes with community colleges, as I mentioned to Senator Baldwin, and I think it is important to get out there. So I am happy to commit to that.

Senator MURPHY. Great.

Thank you, Mr. Chairman. Thank you, Mr. Secretary.

Senator BLUNT. Thank you, Senator Murphy.

I have two more questions and then anybody else that has more, we will move toward finishing here.

H-2B VISAS

On H-2B visas, once again, the Congress failed to give you, and the Department of Homeland Security, specific guidance on how to solve this problem. However, the Omnibus did give you exactly the same guidance you had last time.

So two parts to this question are, since the guidance in the new law is exactly the same as it was a year ago, is it necessary to go through another rulemaking process?

The second part of that question is, if it is necessary, how quickly does that start?

At a hearing yesterday, the Secretary of Homeland Security said that she was going to reach out to you this week to talk about moving forward sooner rather than later.

What is the answer to those two questions?

Secretary ACOSTA. Well, Senator, as the Secretary said, that she indicated she was going to reach out to me and now has reached out to me.

I think this is a very frustrating situation for the American people. In private conversations, I urged several Senators and several members of the House to come up with a specific number.

One of the concerns that I raised in private conversations is that if there is a discretionary authority, that that discretionary authority requires rulemaking. And while we can expedite the rulemaking, it is subject to discussion with counsel, but my preliminary view is that that rulemaking is required.

I think this puts the American people in a really difficult situation because every year they ask, "Are we going to get our visas? Are we not going to get our visas?"

As difficult as it is to make a decision, I think we owe it to the American people to come up with a number and that way they know, "This is the number." They do not have to sit around and wait until April, May, June, or July by which point, some of those visas are no longer of benefit anyhow.

There is value in certainty and certainly, I can talk about some suggested reforms. The provisions, the drafts that I saw, would not have been the way I would have written them, but they were a compromise, and I think compromises are sometimes better than nothing at all. And so, I would encourage, this time around, Congress to—

I am happy to even personally work with members to develop some kind of approach where we can bring certainty to this.

Senator BLUNT. Well, I agree with that need for certainty totally. We were moving, I thought, in the right direction to give you some specific things to work with and then did not.

I would just suggest that you might seek a second legal opinion and see if it is possible since the situation is exactly where it was a year ago, if that requires a new rule. And if it does require a new rule, whatever could be done to appropriately expedite that until the Congress can do its job, which is tell you what needs to be done here.

These are workers that come for less than year round employment and then return at some point to the country they came from. These are not visas where people come and permanently stay in the United States. They are critical in some short-term employment situations.

As you know better than anybody else, because of all the requests you get, the effort they have to make to hire people in this country before they can turn to this program and take advantage of it.

FIDUCIARY RULE

My last question would be on the 15th of March, the Fifth Circuit Court of Appeals in New Orleans vacated the fiduciary rule saying it constituted unreasonableness. I think at that time, the following Monday, your Department told CNBC that pending further review, it would not be enforcing the 2016 fiduciary rule.

Is that your position still?

Secretary ACOSTA. Senator, we are not enforcing, pending that court decision, we are not enforcing the rule. We already had an 18-month delay on portions of the rule, but we are not enforcing. We have not yet made a determination as an administration how to proceed on this matter.

H-2B VISA APPLICATION PROCESS

If I could, if I could go back in the short time I have left to the earlier question around the visas, there is a second issue related to that, that I want to highlight for the Committee that, I think, is a simple, good government matter.

The current process for issuing those visas is horribly antiquated. We asked for specific funding to update that process. And it strikes me that, irrespective of the difficult decision as to the amount of visas, the updating of the process is something that everyone should agree on.

Under the current computer system, someone applies to the Department of Labor. We review and certify the application. We then actually print out a certification on secure paper and we send it back to the applicant.

The applicant then puts it in the mail, and sends it to the Department of Homeland Security that then reviews it, and then puts it in the mail, and sends it to the State Department.

We are at a point where we should have the technology to have someone apply, and much like most of us have on various apps, see where the application is and have it proceed electronically through

the process with a database where Americans can see what jobs are available in case Americans want to apply for these jobs.

We have asked for funding now twice to put this project into place. It is a small amount. It gets caught up in the issues around the visa, but I want to highlight it because I just think this is a good government matter.

Senator BLUNT. Okay. We may want to pursue what the complicating issues are, but we will look at that carefully, I can assure you.

Senator Kennedy, are you ready?

Senator KENNEDY. I am, Mr. Chairman. Thanks, very much.

I will be brief, Mr. Secretary. I am sorry I was late. I apologize and I understand Senator Murray has already asked this question, but I was not here, obviously, to hear the answer.

QUANTIFYING COSTS OF SEXUAL HARASSMENT

Is it possible to quantify the economic costs of sexual harassment?

Secretary ACOSTA. Senator, I do not think you can quantify the economic costs. Is it possible, it is a broad question, but I have no idea how you would do that.

Senator KENNEDY. Well, we know it has a cost.

Secretary ACOSTA. It has a cost, but I think to say that the costs are limited to economic costs is an overstatement. There is certainly—

One could measure the economic costs associated with the harassment, but I do not think those are the only costs of the harassment.

Senator KENNEDY. I agree. I absolutely agree with that, but I am just thinking in terms of breaking it down into bite-sized pieces.

Secretary ACOSTA. I see.

Senator KENNEDY. If you are sexually harassed, it is obviously going to affect your productivity.

Secretary ACOSTA. Sure.

Senator KENNEDY. Is there some way to measure that impact on Gross Domestic Product?

Secretary ACOSTA. Senator, there may be.

Senator KENNEDY. Would you look into that?

Secretary ACOSTA. Senator, I am glad to.

One of the comments that I made to the Ranking Member is I am aware of the request. I have shared that with the Bureau of Labor Statistics.

One of the areas that I will just mention, that I think is important for someone in my position to be careful about, is being overly directive with respect to a statistical agency such as BLS because there is a value to having a little bit of separation between agencies that gather things like the unemployment data and the Secretary's Office.

And so, while I am happy to talk about thematics, I think my telling them how to measure something would cross the line.

Senator KENNEDY. Sure, yes. Well, I would not want you to do anything inappropriate.

I just think it will help the American people understand the issue better. Obviously, money is not everything, but it is a telling statistic.

My profession is law and I remember, for example, 35, 40 years ago, or at least I have read about it, a lot of the larger law firms did not have women partners or women associates. And then, I think some of them changed because it was the right thing to do.

Some of them changed, though, because they said, "Whoa, this is costing us money. This bright, young law graduate, who happens to be a woman, is smarter than any of her colleagues and works harder. So maybe we ought to. We ran the numbers and we have been born again."

Now, I am not saying that was always the case, but I think it did happen.

LABOR PARTICIPATION RATE

Let me ask you another quick question. Labor participation rate. Certainly, the unemployment rate is important, but in my State, our unemployment rate has come down like everyone else's. We are still higher than more States. But our labor participation rate is dismal.

What can we do about that?

Secretary ACOSTA. Senator, this is an issue that has baffled a lot of folks. You have, I believe, 4.5 percent unemployment rate in your State, but it is similar to the rest of the Nation. The labor participation rate is probably somewhere in the low 60 percent.

Senator KENNEDY. Which, actually, I think our labor force participation rate is actually lower than that. It is an embarrassingly low figure.

Secretary ACOSTA. So there are a few issues behind it, and they are worth discussing and breaking down.

First, the population as a whole is aging. It peaked somewhere around 15 years ago. If you look at the labor force participation rate of what is called "prime age," the 25-54, it is much higher than the 55 and above. And so, there has been just under a 10 percent shift from prime age to 55 and above that may impact some States more than others, and that is certainly part of labor force participation.

A second really important part of labor force participation has to do with younger Americans. There was a time when we measured college graduation in 4 years, and now we are measuring college graduation in 6 years.

Senator KENNEDY. That is a good point.

Secretary ACOSTA. I think that we need to have a discussion as a Nation about, whether higher education doing what it should to ensure that folks are not just lifelong learners, but lifelong earners?

And so, I like to say when I talk about this, have individuals been to a study abroad or do they know someone who has been to a study abroad? If they do, would it make sense to have a criminology major study at a police academy for a semester? Or for someone who is prelaw to spend a semester working at a law firm so that they learn not just theory, but life skills? I also think that would lead to, if someone knew that upon graduation, they had a

job as a police officer, or as a legal assistant, or something else waiting for them, they might graduate sooner and faster.

The labor force participation rate among young Americans has declined by a level of magnitude.

EFFECTS OF OPIOID CRISIS ON LABOR PARTICIPATION RATES

Thirdly, I would just cite the opioid crisis. I believe it was under President Obama, BLS did a survey and they asked adult men not in the labor force that were prime age, 25 to 54, "Did you take a painkiller yesterday?" And 44 percent said, "Yes."

Senator KENNEDY. My God. Could you repeat that?

Secretary ACOSTA. Adult men between 25 and 54 not in the labor force. I am happy to provide the Senator with the data. I am working off memory, 44 percent said yes.

Then I believe an individual, I am blanking on the name now, who is a professor at Princeton, he was one of President Obama's economic advisors. (I am citing the prior administration to show the bipartisanship of this issue.) He followed up with a subset of that study.

Professor Alan Krueger, followed up with a subset of the data for painkillers and opioids, and 31 percent said yes. The use was not last month or last week, but was yesterday. I do think that some States are harder hit by this issue.

So when you have 31 percent of men not working between the ages of 25 and 54 saying they took an opioid yesterday, I think that that highlights a third issue with the labor force participation that I think is important.

Senator KENNEDY. I am out of time, Mr. Secretary, but I really do appreciate it, and if you could send me that, that is breath-taking.

Secretary ACOSTA. We will do that.

Senator KENNEDY. I am sorry I went over, Mr. Chairman.

Senator BLUNT. Interesting question and a very interesting answer, both of the young people in the workforce and people who are outside the workforce, those are both statistics that go a long way toward explaining some of these numbers that we have a hard time wrapping our mind around, I think.

Senator Baldwin, do you have another?

Senator BALDWIN. I do.

Senator BLUNT. Go right ahead.

Senator BALDWIN. Thank you.

I wanted to just wrap up the question I was asking before, or at least clarify something on the apprenticeships, and then ask you a question about Trade Adjustment Assistance.

REGISTERED APPRENTICESHIP PROGRAMS

You were talking about the current grant programs for registered apprenticeships and then providing more opportunities for small and medium sized businesses moving for industry recognition.

I just wanted to emphasize that one of the things I am looking at is making it easier for small and medium sized manufacturers and businesses to work in partnership for the primary apprenticeship, which would be a registered apprenticeship.

Secretary ACOSTA. That is fair. Thank you, Senator.

TRADE ADJUSTMENT ASSISTANCE

Senator BALDWIN. On Trade Adjustment Assistance.

Secretary, the Department of Labor has certified that at least 25,000 Wisconsin workers have lost their jobs due to NAFTA (North American Free Trade Agreement). The same number of workers has received vital job training supports through the Department of Labor's Trade Adjustment Assistance program. This training helps workers build new skills and get back into the workforce as soon as possible.

The President's budget includes a proposal to refocus the TAA (Trade Adjustment Assistance) program on apprenticeships, what we were just talking about. Yet, the legislative change results, as I read it, in a \$1.7 billion cut to the TAA program.

Wisconsin workers, manufacturers, and farmers are all concerned about this Administration's trade strategy and how it might cost them jobs, depending on how these things play out.

Given this concern, how can you justify cutting the Trade Adjustment Assistance program, which has helped so many Wisconsin workers retrain after losing a job due to NAFTA?

Secretary ACOSTA. Senator, thank you for the question. Let me try to break that apart into a few questions, because I do not think it is as portrayed, but I will try to explain that.

The Trade Adjustment Assistance program, I think, is very important and is really intended to help individuals who lost jobs because of something like NAFTA.

If you look at the data, less than half of individuals that received TAA receive actual training and effectively zero percent—I think, 369 out of more than 57,000 receive on-the-job training. And so, it is our hope and intent, if approved, to focus the TAA program for on-the-job training.

The TAA jobs particularly involve sometimes older workers or second career workers who are not looking to go back to sit in a classroom, that are not looking for online. And so, apprenticeships, or on-the-job training, or others, we believe, is the best way to address their needs.

Secretary ACOSTA. This, I believe, this is a mandatory spending line, correct?

So this is a mandatory spending line. Because it is mandatory, once someone is certified, the money is spent. Congress is not appropriating it year to year.

The budget estimates—and this is an OMB (Office of Management and Budget) and CBO issue—that because of the greater success, the overall impact on the budget will go down by the amount that you specified because of savings in unemployment insurance because people are going to go back to work that much sooner.

So it is not a cut in the benefit, but it is a reduction in the budget because of greater success in the program.

Did that make sense?

Senator BALDWIN. It did. I may want to follow up with you on more details just to see how OMB approached that.

One additional question, you noted that TAA comes into effect when something like NAFTA, I think I am quoting you, is at play.

TARIFFS AND TAA

Given all the trade-related tariff discussions that are going on right now, do you believe you have the authority to use TAA to retrain workers who may, in the future, lose their jobs due to tariff retaliation, for example?

Secretary ACOSTA. Senator, I said something like NAFTA because TAA is a very complicated program and statute. And while as a general matter, you need a Free Trade Agreement or an agreement in play, it is not quite that simple. And so, when an individual loses their job because of a tariff or trade, it is really a fact-bound determination.

So, for example, with respect to the recent solar panel tariffs, I believe we have—have we not provided about 400? I apologize.

Secretary ACOSTA. Four hundred thirty-seven individuals with TAA arising from the solar panel tariffs that were recently imposed.

What I will commit to the Senator is this: To the extent that I do not have authority under TAA, we also have access to the dislocated worker monies. And so, States could apply for Dislocated Worker Funds. I certainly would want to use my discretion to use those funds where TAA is not available.

Senator BALDWIN. Well, given that I am a glass half full person, I am hearing interest in making this work.

Secretary ACOSTA. I want to help.

Senator BALDWIN. If you would keep in touch, especially over the next few weeks and months, as a lot of things are playing out at once. Whether you believe you have authority without a change of law and then let the committee know if there are further tools that need to come under the consideration of this committee that would be helpful.

Secretary ACOSTA. I will do so, Senator. Thank you.

Senator BLUNT. Thank you, Senator.

Secretary, is there a topic we have not brought up, or do you have anything you want to say in your final comments before we gavel out here?

TIP CREDIT ANALYSIS

Secretary ACOSTA. Yes, I would like to take a minute to address an issue, and it is an issue that has a good story at the end, but I have not talked about it, in part, because I do think it is important that we proceed with care. But it has to do with, I thought, the bipartisan outcome that we got on the tip credit.

I could not help but notice that there were stories about whether we did a quantitative versus a qualitative analysis. As I mentioned to some Senators privately, my predecessor, when the rule was written in 2011, did a qualitative analysis, and we did the exact same thing, yet there was no outcry at the time in 2011. And so, I wanted to just talk a little bit about the data that we have and just put it on the record. And so, here is what we know.

We know that total wages paid to bartenders and waitstaff in the United States is about \$81 billion. We know that the portion of these wages—and this is all public data—we know that the portion of these wages that go to tipped employees is about \$29 billion. We

know that of this \$29 billion, about \$15 to \$16 billion is the amount of wages required by the relevant minimum wage laws. And so, we know that there is about \$13 to \$14 billion that remains and that is a big pot, and that is composed of a lot of things.

That is composed of wages paid in addition to and above the relevant minimum wage. It is composed of wages paid for overtime, wages paid for commission, and wages paid for tips. That is pretty much all that we know in terms of data.

And so, to measure economic transfers related to employers keeping tips, to the extent employers would keep tips, we need to make a series of assumptions. The most significant, which include:

What percent of this amount is due to tips as opposed to overtime, or commissions, or wages paid in addition to minimum wage?

What percent of this amount is earned in localities or States that do not allow tip pools? And there are several.

What would customer behavior do if customers found out that any establishment would keep a tip? Personally, I think customers would be pretty furious and would make that known.

Would restaurants, in fact, keep tips?

We have little to no data on these questions. So, for example, we could assume that:

- the overtime paid to all employees, that actually get tips in the United States, is zero. I think that is a pretty unrealistic assumption;
- that about one-third of the Nation's tipped employees work in locations that prohibit tip pools. That could be a guess;
- that no customer would object to a restaurant's keeping tips in a way that would impact their behavior, the amount of tips that they give, or the desire to frequent that establishment. I think that is a very unrealistic assumption because customers would, in fact, be pretty upset; and
- that no employee would respond to a restaurant's keeping tips by quitting, by working fewer hours, by working less efficiently. I think that is also a crazy assumption because, I think, employees would be pretty upset. In this era of tight labor markets, most of them would walk.

Now, if we made these wildly crazy assumptions, we could come up with a number and that number would be somewhere upwards of about \$600 million. But those are one set of assumptions, and depending on the assumptions that you make, you could go anywhere from zero to \$13 billion.

One group that commented offered a range of \$523 million to \$13.2 billion.

And so, my point is this, when we write rules, I think it is important that the analysis should be relevant based on realistic assumptions and helpful to the public. It should not be a "check the box" exercise.

Qualitative analysis in NPRM (Notice of Proposed Rulemaking) is used often, and in fact, was used in writing the initial 2011 rule. And so, while no one on this Committee made comments, I could not help but notice that there were public comments made about this, and that those same public comments were not made in 2011.

I think that is indicative of an unfortunate state of affairs that we are at, but that is why I am really glad that we had a happy

ending because from my perspective, I did not think employers would keep tips. I think that is a nasty thing to do. I think people would walk. I think customers would leave. I think they would lose waitstaff and so, making it unlawful is perfectly fine because it should be. From the perspective of others, they thought employers may keep tips, and so, making it unlawful was also a good thing.

From my perspective, there are a lot of hardworking people in the back of the house that really deserve to be part of that tip pool: the cooks, the dishwashers, the folks that make sure that the food arrives warm, on clean dishes. And so the tradeoff between having a tip pool that shares between the front of the house and the back of the house in return for as a matter of law saying, "Employers cannot keep tips," I think it is kind of win-win.

I just wanted to thank the Ranking Member, to thank the Chairman, to thank leadership on both sides. And just say, look, if we can communicate, I think sometimes there are solutions. So thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator BLUNT. Well, thank you, Mr. Secretary, and thank you for your answers, and your time today, and your leadership at the Department.

The record will stay open for one week for additional questions.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

DISLOCATED WORKERS FUNDING

Question. The Omnibus appropriations bill included a new \$30 million Dislocated Workers funding initiative targeted to the Delta Regional Authority and the Appalachian Regional Commission regions. These are two of the hardest hit regions in the country that have unemployment rates much higher than the national average. Many have lost significant jobs during the last Administration's war on coal, and it is important to respond to those employment needs.

Could you discuss your plans for this funding and how it will be focused in this region? In particular, how will you engage the Delta Regional Authority and the Appalachian Regional Commission in your plans?

Answer. The Department welcomes the opportunity to address economic and workforce-related challenges across the Appalachian and Lower Mississippi Delta regions. These funds allow the Department to invest in the planning and implementation of workforce strategies for regions and communities negatively impacted by changes in the coal economy. Since fiscal year 2017, the Department has awarded funds to West Virginia, Kentucky, and Virginia. The Department will continue to contact these States and local areas within Appalachia and Lower Mississippi Delta to ensure the States are aware of the funds and encourage the States to develop innovative and critical projects to help get Americans back to work and into family-sustaining jobs. The Department will continue to engage the Delta Regional Authority and Appalachian Regional Commission to help with outreach to the regions that may benefit from these resources.

HIRE VETS ACT

Question. Every year, nearly 200,000 service members transition from active duty to civilian life and finding the right opportunity in the private sector can prove challenging. It is critical that the Department help ensure veterans can connect with employers that recognize the unique value they bring to the job. The Omnibus included funding and authority to establish the HIRE Vets bill that awards employers based on their contributions to veterans' employment.

Can you discuss how you will implement HIRE Vets?

Answer. The HIRE Vets program will recognize job creators for their investments in recruiting, employing, and retaining our Nation's veterans. The program will recognize large, medium, and small job creators at two levels, platinum or gold, depending on the criteria they meet. Veterans bring experience, adaptability, and focus that employers can use for their competitive advantage.

On November 9, 2017, the Department published the final rule required by the HIRE Vets Act. The HIRE Vets Act is statutorily authorized to begin in 2019 and not sooner. On February 2, 2018, the Department launched the HIRE Vets Medallion Demonstration Program, which allows 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 in November 2018 for their investments in recruiting, employing, and retaining our Nation's veterans. As of April 24, 2018, more than two thousand potential applicants registered in the system and the Department closed the application window upon reaching its established demonstration program goal.

In accordance with the statute, the Department will begin accepting applications for the statutorily-authorized HIRE Vets Medallion Program no later than January 31, 2019, based upon the established selection criteria and will stop accepting applications for 2019 on April 30, 2019.

VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS) FUNDING

In March, we learned that the unemployment rate for all veterans hit its lowest point in almost two decades, declining to 3.7 percent. This is a great sign of both our improving economy and the experience and training veterans bring to the civilian workforce. The Omnibus funding bill passed last month increased funding for veterans employment and training by \$16 million.

Question. How will the Department continue to target the employment needs of the veteran population?

Answer. Within the Department, the Veterans' Employment and Training Service (VETS) is tasked with bringing all of the Department's resources to bear for America's veterans, separating service members, and their families. VETS' mission is focused on four key areas: (1) preparing veterans for meaningful careers; (2) providing them with employment resources and expertise; (3) protecting their employment rights; and, (4) promoting the employment of veterans and related training opportunities to employers across the country.

The Department has the expertise and a nationwide network to provide workforce education and employment opportunities, and veterans receive priority of service. This integrated network and the Department's programs that provide services to our veterans continue to deliver positive employment outcomes for the men and women who have served our country.

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In fiscal year 2018, the Department received additional resources in the Jobs for Veterans State Grant (JVSG) budget activity, the TAP budget activity, the Homeless Veterans' Reintegration Program budget activity, and the Federal Administration budget activity. VETS will use the appropriated resources to support additional JVSG-funded staff to provide services to veterans, fund the delivery of the DOL Employment Workshop and Career Technical Training Track (CTTT) workshops, fund the Veterans Data Exchange Initiative (VDEI), award additional grants to grantees serving homeless veterans, and begin implementing the Honoring Investments in Recruiting and Employing American Military Veterans Act of 2017 (HIRE Vets Act) program.

The Department is using an additional \$7.5 million made available by Congress to address ways in which harmonizing licensing requirements across States can reduce barriers to labor market entry and mobility, particularly for dislocated workers, transitioning service members, veterans, and military spouses. The Department recently announced two funding opportunities to be awarded in the summer of 2018. The first initiative will provide grants to selected States to review and streamline occupational licensing requirements in State-identified occupations and to promote portability of their licenses to other States, which is of particular concern to dislocated workers and military families. The second initiative will award cooperative agreements to fund partnerships to develop bridge curriculum as open educational resources to address military-to-civilian skill gaps related to licensure, which is of

concern to transitioning service members and veterans. The Department will allocate the remaining funds to procure support for the development and dissemination of an interagency technical assistance and outreach/communications strategy related to occupational licensure and remedies to assist military spouses to obtain licensure in their new State of residence.

On May 9, 2018, the President signed Executive Order 13832, Enhancing Non-competitive Civil Service Appointments of Military Spouses (EO). The EO requires the Department to recommend new ways to improve occupational license portability and remove barriers to the employment of military spouses and further demonstrates the Administration's commitment to enhance employment support for military spouses. The Department is actively working to implement the EO. For example, the Department recently launched a professional license and credential finder portal for military spouses. The new webpage brings together license portability resources from across the Federal Government. This new site highlights States' efforts to help military spouses secure good, family-sustaining jobs. The webpage can be found here: <https://www.veterans.gov/milspouses>.

WORKFORCE TRAINING

Question. By 2020, 60 percent of jobs will require education or training beyond high school. Many employers state that the inability to find qualified workers is their biggest obstacle to growth.

How does the Department prioritize youth-targeted workforce development training within the other priorities to grow our future workforce?

Answer. A large portion of the Department's discretionary skills instruction and employment funding, over \$2.8 billion, is prioritized to target youth and young adults, including the Workforce Innovation and Opportunity Act (WIOA) Youth formula grant, YouthBuild, Reentry Employment Opportunities, and Job Corps programs. These programs prioritize youth with barriers to employment by providing services that prepare them for success in employment and post-secondary education. Program activities are aimed at developing a strong career pipeline to provide youth, including out-of-school and justice system-involved youth, with work readiness skills and industry-driven credential attainment opportunities. These programs also equip youth with skills that prepare them for success in growing and in-demand industries.

Through these youth programs, the Department is also providing opportunities for young people to access more earn-and-learn work-based models, such as apprenticeships. Paid work experience alongside the ability to earn educational credentials is one of the most effective ways individuals can prepare for the jobs of today and tomorrow. Currently, the WIOA Youth program emphasizes pre-apprenticeship opportunities by prioritizing work experience alongside education and workforce development. The YouthBuild program is expanding its focus to include in-demand industries beyond construction that are aligned with the apprenticeship model. The Reentry Employment Opportunities grants now include a focus on apprenticeship and other intensive occupational skills instruction models to expand those opportunities to youth involved in the justice system.

YOUTH-TARGETED SKILLS DEVELOPMENT

Question. How can the apprenticeship program help youth-targeted skills development?

Answer. High school is a critical time for youth to make career and educational choices, and communities across the country are starting to launch programs that allow high school students to pursue career-oriented coursework coupled with work-based learning opportunities. These programs have different names, such as high school apprenticeship, school-to-apprenticeship, or youth apprenticeship, but all have the same goals—providing students with access to high-quality, industry-focused education that combines classroom and on-the-job learning with affordable pathways to college and careers in high-demand industries.

High school apprenticeship programs also provide industry with solutions to their workforce needs. By mentoring and providing workforce education to young apprentices, companies can develop employees who are trained to their precise specifications and have learned the company's unique workplace culture. High school apprenticeship programs also provide a source of qualified workers, reducing recruitment costs and ensuring industry has the workforce they need today and for the future. Additionally, high school apprenticeship programs are frequently linked to "adult" apprenticeships, post-high school apprenticeships in which companies hire individuals (18 years of age and older) as full-time employees. Through effective

partnerships, entry into adult apprenticeships can be facilitated through the high school programs.

High school apprenticeships are also valuable for school systems, as applied learning and hands-on experience may enhance school retention, academic performance, and graduation rates. These programs also create stronger linkages between high school and 2- and 4-year colleges, which often provide leadership, technical education, and support to programs. Building on college credits earned in high school, participating students are motivated to continue their education after graduation.

Question. In particular, you have discussed expanding the program to new industries. What new trades does the Department want to focus the expansion?

Answer. The Department is committed to increasing the number of high-quality apprenticeships, including expansion into high-growth, emerging sectors where apprenticeships have historically been rare.

Pursuant to the President's Executive Order 13801, 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. The Executive Order established a Task Force on Apprenticeship Expansion, including members from companies, trade and industry groups, educational institutions, labor unions, and others. The Task Force convened weekly to discuss how to engage more job creators and rapidly expand these models to help more Americans get back to work and issued its Final Report to the President on May 10, 2018. The Department is starting to implement many of the recommendations outlined in the report. Industry-recognized apprenticeships will expand on the successes of the apprenticeship model. Industry-recognized apprenticeships will offer the workforce the benefit of companies, trade and industry groups, educational institutions, labor unions, and others coming together to fill open jobs by discerning the skills demanded by job creators and connecting those skills needed for job seekers. Once private, third-party certifiers are in place, industry-recognized apprenticeships will benefit from a streamlined process that ensures high-quality apprenticeships.

An overwhelming majority of apprenticeship programs registered with the Department and State apprenticeship agencies are limited to job preparation in the traditional trades, such as construction. Our efforts have been focused on expanding the apprenticeship model into non-traditional industries where the Department sees the most growth and opportunity for employment. Industries such as advanced manufacturing, infrastructure, cybersecurity, and healthcare are new to earn-while-you-learn strategies and will benefit from this model. The Department's goal is to supplement, not supplant, the Registered Apprenticeship system in order to rapidly scale up the number of apprenticeships for in-demand occupations.

Question. How would the Department focus these opportunities towards youth who are preparing to enter post-secondary education or the job market?

Answer. The Department has a wide array of youth workforce development activities, including the Workforce Innovation and Opportunity Act (WIOA) Youth formula grant, YouthBuild, Reentry Employment Opportunities, and Job Corps programs. These programs help youth with barriers to employment by providing services that prepare them for success in employment and post-secondary education. Program activities are aimed at developing a strong career pipeline to provide youth, including out-of-school and justice system-involved youth, with work readiness skills and industry-driven credential attainment opportunities. These programs also equip youth with skills that prepare them for success in growing and in-demand industries.

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UNDERPERFORMING JOB CORPS CENTERS

Question. Many may not know that 20 percent of Job Corps centers are run by the U.S. Forest Service. Unfortunately, many of these centers are chronically underperforming. We spend \$1.7 billion a year on Job Corps training and we need to

make certain that every dollar is going towards programs that are preparing young adults to enter the workforce.

Secretary Acosta, can you discuss your proposal to compete contracts to non-Federal entities?

Answer. The Department recognizes the uneven performance of Job Corps centers and is committed to ensuring that students receive high-quality workforce development at high-performing centers. As such, the fiscal year 2019 President's Budget proposes ending the U.S. Department of Agriculture's (USDA) role in the program. Workforce development is not a core USDA function, and the centers it operates are overrepresented in the lowest-performing cohort of centers. The Budget also proposes to allow the Department to competitively select a non-Federal entity to operate the former USDA centers where appropriate. The President's Budget also takes important steps to improve Job Corps for the youth it serves by focusing the program on the older youth for whom the program is more effective; improving center safety; and making other changes to sharpen program quality and efficiency. This can be achieved by entering into agreements with colleges and apprenticeship programs; providing thorough policy guidance in all areas of center/outreach and admissions/career transition services operations; and continuing to deliver a wide-ranging program that prepares youth for the future, among other examples. This will allow the Department to maximize the effectiveness of the Job Corps program and ensure young Americans are learning the skills demanded by job creators in the 21st century.

The Department is conducting a programmatic assessment of performance center by center, surveying physical facilities, assessing programmatic sustainability, and considering the workforce development needs in each State and area served by a Job Corps center. Using this deliberate approach, the Department will develop a plan to allocate the program's fiscal year 2019 resources. It is the Department's expectation that through concentration of Job Corps activities in higher-performing centers, the Department will provide Job Corps participants with higher-quality services that lead to better outcomes.

Question. Will any of the currently run Forest Services centers be closed?

Answer. In April 2018, the Department announced its final decision to close the Golconda Job Corps Center in Golconda, Illinois, based on chronic low performance and student safety concerns. Section 159(j) of the Workforce Innovation and Opportunity Act establishes procedures that must be followed before a Job Corps center may be closed. Prior to the closure of any Job Corps center, the Department is required by statute to announce publicly the proposed closure and allow for a comment period, not to exceed 30 days, before closing the center. The statute also requires that the Department notify the Members of Congress who represent the district in which the center is located. Should the Department determine to close any centers, the Department will provide the Members of Congress and the public with appropriate notification, before closing a center.

QUESTIONS SUBMITTED BY SENATOR CINDY HYDE-SMITH

GULFPORT, MS JOB CORPS CENTER

Question. Secretary Acosta, it is my understanding the Department has been working to rebuild the Gulfport Job Corps Center for a number of years. The rebuilding of this Center was important to my predecessor, and I will continue to work towards its completion to benefit my constituents in South Mississippi. It is my hope that your Department will remain committed to work to ensure that the Center is rebuilt to full capacity, and I commend the progress that has been made in recent years.

Can you please update the Committee on your Department's progress this year? Please give an estimated timeline of completion on the Gulfport Job Corps Center.

Answer. A Memorandum of Agreement (MOA) was signed by the Department of Labor, the Mayor of Gulfport, and the Advisory Council on Historic Preservation, and was effective on September 19, 2017. Since that time, the Department issued the pre-solicitation for the Architect/Engineer (A/E) services and prepared the Scope of Work, which provides guidance to the selected A/E team on various aspects of the design, coordination of the design with all MOA signatories and the concurring party, and coordination with the City of Gulfport and all utility companies required to be involved on the project. The Department received a number of proposals from A/E firms in response to the pre-solicitation, which closed on March 3, 2018. The Department anticipates final award of the design in late 2018.

This project involves the significant elements of historic preservation, façade support to enable preservation, and a multiparty MOA. As such, the Department's projected timeline anticipates that the design phase will take 17 months and the construction phase is expected to take an additional 19 months.

The Department also submits a monthly update to the Committee on its progress, pursuant to Senate Report 115–150 accompanying the Senate bill for Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2018 (S. 1771).

EXPANDING APPRENTICESHIP PROGRAMS IN RURAL AND UNDERSERVED COMMUNITIES

Question. Mr. Secretary, I am aware that the Administration is committed to expanding apprenticeship programs to meet the needs of our evolving workforce. In my home State of Mississippi and other States across the Nation, rural communities are faced with different challenges than urban areas.

Would you tell the Committee what the Department is doing to address the unique workforce challenges faced by rural and underserved communities?

Answer. Under Public Law 115–141, the Consolidated Appropriations Act of 2018, Congress provided \$30 million to the Department to address the employment needs of workers in the Appalachia and the Lower Mississippi Delta region. The Department is currently working with leaders in these regions, including the Delta Regional Authority, to tailor these grants to specifically address the workforce needs in these rural and underserved communities.

In fiscal year 2017, the Department awarded \$50 million in grants to 36 States to expand Registered Apprenticeships across their States. Recently, the Department awarded the Mississippi Department of Employment Security a \$1.2 million State expansion grant to fund the Mississippi Apprenticeship Program, a new initiative to expand Registered Apprenticeship programs in the State and transform workforce development in Mississippi. This initiative, which operates in collaboration with all 15 Mississippi community colleges, focuses on developing apprenticeships in the automotive sector, advanced manufacturing, and other high-demand, emerging industries. The program anticipates serving apprentices throughout Mississippi, with a special emphasis on recruiting dislocated workers, women, veterans, persons of color, and individuals with disabilities.

In addition, the Department's Office of Apprenticeship in Mississippi promotes apprenticeship across the State at job fairs and other local community events, and regularly meets with representatives from local business and industry to promote apprenticeship as an effective workforce development strategy. The Department would be happy to set up a meeting to discuss further.

Question. Does the Department plan to expand apprenticeship programs to meet the needs of rural constituents?

Answer. The Department, through its apprenticeships grants, is committed to increasing the number of high-quality apprenticeships, including expansion into high-growth, emerging sectors and in rural areas where apprenticeships have historically been rare. It is also possible that the Department could utilize a portion of the \$30 million appropriated under Public Law 115–141, the Consolidated Appropriations Act, 2018, to provide employment services, including connecting unemployed workers to applicable apprenticeship programs, to the rural and underserved communities in the Appalachia and Lower Mississippi Delta regions.

In fiscal year 2017, the Department awarded \$50 million in grants to 36 States to expand Registered Apprenticeships. These grants have provided governors and State workforce agencies with the ability to develop programs and upskill workers across all areas of the State.

Pursuant to the President's Executive Order 13801, 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. The Executive Order established a Task Force on Apprenticeship Expansion, including members from companies, trade and industry groups, educational institutions, labor unions, and others. The Task Force convened weekly to discuss how to engage more job creators and rapidly expand these models to help more Americans get back to work and issued its Final Report to the President on May 10, 2018. The Department is starting to implement many of the recommendations outlined in the report. Industry-recognized apprenticeships will expand on the successes of the apprenticeship model. Industry-recognized apprenticeships will offer the workforce the benefit of companies, trade and industry groups, educational institutions, labor unions, and others coming together to fill open jobs by discerning the skills demanded by job creators and connecting those skills needed for job seekers. Once private, third-party certifiers are in place, indus-

try-recognized apprenticeships will benefit from a streamlined process that ensures high-quality apprenticeships.

An overwhelming majority of apprenticeship programs registered with the Department and State apprenticeship agencies are limited to job preparation in the traditional trades, such as construction. Our efforts have been focused on expanding the apprenticeship model into non-traditional industries where the Department sees the most growth and opportunity for employment. Industries such as advanced manufacturing, infrastructure, cybersecurity, and healthcare are new to earn-while-you-learn strategies and will benefit from this model. The Department's goal is to supplement, not supplant, the Registered Apprenticeship system in order to rapidly scale up the number of apprenticeships for in-demand occupations.

DOL REGULATIONS

Question. Mr. Secretary, I am aware that President Trump signed an Executive Order instructing Department Secretaries to review and reduce over-burdensome, costly regulations. My office continues to hear from constituents and businesses in our State concerned about guidance and regulations issued by the previous Administration.

Would you please update the Committee on the Department's continued work to reduce overbearing rules and regulations that adversely affect constituents and small businesses?

Answer. Pursuant to Executive Orders (EO) 13563 (Improving Regulation and Regulatory Review) and 13610 (Identifying and Reducing Regulatory Burdens), and consistent with EO 13771 (Reducing Regulation and Controlling Regulatory Costs) and EO 13777 (Enforcing the Regulatory Reform Agenda) (collectively, EOs), the President directed agencies to review regulations that unnecessarily eliminate jobs, inhibit job creation, are unnecessary, or impose costs that exceed benefits. The Department is directed by EO 13777 to establish a Regulatory Reform Task Force (RRTF) to help with these reviews.

Following the President's directive, the Department is undertaking a comprehensive review of regulations. The Department solicits stakeholder input through ongoing agency-specific engagements, while also taking advantage of opportunities for broader, more formal outreach. For example, staff members from the Department's national and regional offices participated in at least six Regulatory Reform Roundtables across the country hosted by the Small Business Administration's Office of Advocacy. The roundtables were listening sessions allowing Department representatives to hear regulatory reform ideas directly from owners and representatives of small businesses around the country.

The Department incorporates the work of the RRTF into the development of the Department's submission to the Unified Regulatory Agenda. As part of the agenda development, agencies included deregulatory actions repealing, replacing, or modifying outdated, inefficient, or overly burdensome regulations. As a result of this review, the Department included a total of 23 deregulatory actions in its Spring 2018 Unified Regulatory Agenda. Each regulatory agency continues to work diligently to identify regulations or alternative regulatory approaches that will reduce accumulated regulatory burden while ensuring that protections afforded workers are not diminished.

The mere fact that a regulation is expensive is not, taken alone, a reason to rescind it. Sometimes regulations may have significant costs associated, but are necessary to protect the safety and health of hard-working Americans. The Department's regulatory agencies are working diligently to identify regulations or alternative regulatory approaches that will reduce regulations that impose unjustified costs, or that simply ignore costs, to expand opportunity to more Americans while ensuring important health and safety protections for workers. When the Department makes the decision to repeal, replace, or modify economically-significant regulations, the Department is committed to fully considering the costs and benefits of each regulation to inform decisions.

YOUTHBUILD PROGRAM

Question. Mr. Secretary, YouthBuild is a program that positively impacts my home State through five sites across Mississippi. This program provides Mississippi youth with valuable skills necessary to join the workforce.

Would you tell the Committee what the Department is doing to ensure that this program continues to benefit my constituents?

Answer. Under the 2014 reauthorization of the Workforce Innovation and Opportunity Act (WIOA), the YouthBuild program was expanded beyond construction into additional in-demand industries. Known as Construction Plus, YouthBuild now edu-

cates youth for certification and placement into in-demand industries such as healthcare, information technology, logistics, advanced manufacturing, and hospitality. In fiscal year 2018, YouthBuild is strengthening its pre-apprenticeship and apprenticeship opportunities for youth in these new industries to better align with locally in-demand careers. The Department is focusing these funding opportunities on programs that provide young people with the on-the-job skills needed in growing industries to ensure they are prepared to enter into a workforce that is thriving with the skills necessary to compete.

Mississippi has one on-going YouthBuild grant with the Natchez Housing Authority to provide at-risk youth with construction and leadership skills. In addition, awards were provided to CLIMB Community Development Corporation in Gulfport in 2016, the Mississippi Action for Community Education, Inc. in Greenville in 2015, and West Jackson Community Development Corporation in Jackson in 2014.

Question. How does the Department plan to increase these sites in our rural communities?

Answer. The Department continues to emphasize geographic diversity in awarding YouthBuild grants. The expansion into additional in-demand industries also benefits rural communities where construction may not be a growing field, unlike industries such as logistics or healthcare. The Department provides dedicated technical assistance to rural YouthBuild grantees, including a dedicated program coach who provides ongoing support to rural programs and understands rural communities' unique needs. The Department has also met with rural tribes through the National Congress of American Indians to discuss the program model and encourage participation.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

PAID PILOT PROGRAM

Question. Mr. Secretary, your testimony mentioned a new PAID Pilot program at the Wage and Hour division that I am concerned will amount to nothing more than amnesty for employers engaged in wage theft. You further stated that "employers prefer to correct their mistakes and voluntarily pay their employees' wages they are owed."

Is it the case that employers already can audit their pay practices and voluntarily provide backpay to workers, without DOL's involvement?

Answer. The Fair Labor Standards Act (FLSA) allows employers to conclusively settle claims for FLSA wage violations in only two ways: via court-ordered settlement or via Wage and Hour Division (WHD)-supervised settlement. If an employer pays back wages to its employees outside of a court-ordered settlement or the Payroll Audit Independent Determination (PAID) program (a WHD-supervised settlement), then the employer will not have conclusively resolved the violation.

When employers make inadvertent mistakes, the PAID program helps employees receive their overtime and minimum wages as quickly as possible. The PAID program includes significant protections for employees and allows each employee to make the decision that is best for him or her. Employees can accept payment under the PAID program, or they can determine to decline the payment and retain their private right of action. Employees will receive 100 percent of the back wages paid, without having to pay any litigation expenses or attorneys' fees. The PAID program allows employers and employees to resolve inadvertent violations expeditiously and without litigation, and allows employees to accept the payments and release their rights to privately sue the employer for the unpaid wages. In general, PAID will streamline the resolution of compliance issues and improve compliance overall, which WHD expects will enable the agency to focus more of its resources on bad actors who intentionally violate the law.

Question. Why is this pilot program needed if employers already may audit their pay practices and voluntarily provide back pay to workers?

Answer. Please see the response to the prior question.

Question. Are you concerned that this PAID pilot program will erode the deterrent effect to employers stealing wages, leaving workers harmed by unpaid rent and other costs of living, while an employer is able to avoid paying damages for such behavior?

Answer. The Payroll Audit Independent Determination (PAID) program allows more employees to receive 100 percent of their back wages—faster—without having to pay any litigation or attorney's fees. An employer may not initiate the process to resolve any issues if the Wage and Hour Division (WHD) is already investigating the employer, or if the employer is already litigating in court, in arbitration, or oth-

erwise. An employer likewise may not initiate the process when an employee's representative or counsel has already communicated an interest in litigating or settling the issue. Also, employers cannot use the program to repeatedly resolve the same violations; the PAID program is designed to identify and correct non-compliant practices, and to increase overall compliance by educating employers about how to comply in the future.

The PAID program further seeks to improve compliance by providing employers with easy-to-access compliance assistance materials concerning the FLSA, requiring employers to review those materials before they can qualify to participate in the PAID program, and requiring employers to certify that they will comply with the FLSA going forward.

Question. When DOL brings wage and hour claims on behalf of workers, it pursues the higher minimum wages provided for by many States' laws in determining backpay both for minimum wage and overtime pay; will DOL pursue those higher wages for participants in the PAID program?

Answer. The Wage and Hour Division (WHD) does not have jurisdiction to enforce States' or localities' minimum wage laws or supervise the settlement of State law claims. Accordingly, WHD cannot provide waivers of employees' rights under State laws and can only supervise the payment of back wages within the Fair Labor Standards Act (FLSA)'s statute of limitations period.

Question. Under this program, is it true that DOL will not be pursuing interest on the backpay? If so, what differentiates the PAID program from a program allowing employers to take interest-free loans from workers' paychecks without their approval?

Answer. The Wage and Hour Division (WHD) does not charge interest in any cases if employers pay back wages by the next full pay period. Employers under the Payroll Audit Independent Determination (PAID) program 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. Nothing about how or when WHD charges an employer interest will change as a result of this program.

Question. How will the Wage and Hour division (WHD) make determinations consistent with the announced purpose of the program which is, according to its March 6, 2018 press release, "expedites resolution of inadvertent overtime and minimum wage violations under the Fair Labor Standards Act"?

Answer. The Wage and Hour Division (WHD) maintains its discretion to determine whether to accept employers into the Payroll Audit Independent Determination (PAID) program. Potential participants are examined on a case-by-case basis. WHD will accept employers into the PAID program using the following criteria, among others, which are also clearly outlined for employers on WHD's website at www.dol.gov/whd/paid.

- Neither WHD nor a court of law has found within the last 5 years that the employer has violated Fair Labor Standards Act (FLSA) minimum wage and/or overtime requirements by engaging in the same compensation practices at issue in the proposed PAID self-audit.
- The employer is not currently a party to any litigation (private or with WHD) asserting that the compensation practices at issue in the proposed PAID self-audit violate FLSA minimum wage and/or overtime requirements.
- WHD is not currently investigating the compensation practices at issue in the proposed PAID self-audit.
- The employer is not specifically aware of any recent complaints by its employees or their representatives to the employer, to WHD, or to a State wage enforcement agency asserting that the compensation practices at issue in the proposed PAID self-audit violate FLSA minimum wage and/or overtime requirements.
- The employer has not previously participated in the PAID program to resolve potential FLSA minimum wage or overtime violations resulting from the compensation practices at issue in the proposed PAID self-audit.
- The employer has a continuing duty to update WHD on any changes to the above information and/or representations.

Question. Won't the denial of participation of an employer to the PAID pilot and DOL's promise not to investigate such an employer prevent WHD from enforcing the Fair Labor Standards Act for employees not being paid what they are owed under the law?

Answer. The Wage and Hour Division (WHD) does not grant immunity from investigations to employers who request participation in the Payroll Audit Independent Determination (PAID) program. If WHD declines an employer's request to participate, the employer's request to participate will not serve as the basis for a future investigation unless WHD has reason to believe that health or safety are at risk (for example, if there are child labor violations). To illustrate, if an employee

subsequently submits a complaint to WHD concerning the employer's compensation practices, WHD may still investigate that complaint. WHD always maintains its discretion to determine whether to accept employers into the PAID program.

WHD is always ready to help employers understand and comply with their legal obligations. WHD encourages employers to proactively seek compliance or technical assistance to comply with the laws the WHD enforces, and the PAID program is designed to facilitate this process. WHD wants to work with good faith employers to resolve inadvertent violations of FLSA minimum wage and overtime requirements. The Department remains committed to protecting all workers by fully and fairly enforcing the law.

Question. Finally, how does the Wage and Hour division plan to evaluate outcomes of the PAID pilot beyond the increased timeliness of payment of back pay?

Answer. The Wage and Hour Division (WHD) will implement the Payroll Audit Independent Determination (PAID) pilot program nationwide for approximately 6 months. At the end of the pilot period, WHD will review lessons learned and evaluate options for effective implementation moving forward. WHD will use a balanced approach in assessing all aspects of this pilot phase of the program, including quantitative and qualitative measures, as well as feedback from employees, employers, and WHD staff. Given that we remain in the pilot phase, it is too early to begin meaningfully evaluating the pilot.

ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

Question. Secretary Acosta, as a senator from the State of Washington, the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) program is really important to me because we have thousands of workers and their families at the Hanford Nuclear Reservation located in the Tri-Cities who helped America win World War II and the Cold War and continue to support a critical cleanup mission at Hanford. It's also important to other members representing similar heroes and their families who are trying to secure compensation and care in a fair and timely manner. In 2014, Congress established the Advisory Board on Toxic Substances and Worker Health (Advisory Board) to assist the Department in improving the program and process for workers to receive the healthcare and benefits they have earned.

While I appreciate your efforts to seek nomination and reappointment requests for the Advisory Board, the Department has now been reviewing nomination materials for over 5 months. In the meantime you've allowed the terms of all 15 Advisory Board members to expire in February and March of this year. I am very concerned that the great strides the Advisory Board made in recommending ways to improve Part E of EEOICPA is in limbo.

When can we expect the Advisory Board to be appointed and functioning again?

Answer. Twelve members were recently appointed to the Advisory Board on Toxic Substances and Worker Health for the Energy Employees Occupational Illness Compensation Program Act. The Department is currently in the process of notifying the selected appointees as well as the nominees who were not selected. Once the notification process is completed, a public announcement will be made naming each of the selected members. The Board will meet at least twice per year.

OSHA INSPECTOR VACANCIES

Question. Mr. Secretary, the Occupational Safety and Health Administration ("OSHA") has responsibility to set health and safety standards for over 100 million workers at millions of workplaces across the country and investigate corporations that may be putting their workers' lives and wellbeing at risk.

But unfortunately, OSHA does not have the resources to meet this responsibility. Currently Federal OSHA only has the capacity to inspect workplaces under its jurisdiction once every 159 years.

You've acknowledged the need to replace vacant inspectors and provided an exemption to the hiring freeze in order to start the process of hiring inspectors at OSHA. I believe you've stated that as of this month OSHA has about 65 hiring actions underway.

What progress are you making in filling these vacant positions?

Answer. Since the beginning of fiscal year 2018, 42 Compliance Safety and Health Officers (CSHOs) have been hired. In addition, the Occupational Safety and Health Administration (OSHA) has another 40 pending selections currently in process. For 20 of the pending selections, the selected candidates have Entry-on-Duty (EOD) dates and will be on-boarded shortly. For the remaining 20 actions, selections have been made, pending documentation from tentative selections, or required physicals

and/or security clearances. OSHA is also recruiting to ensure there is a continuous pool of CSHO applicants for selection for vacancies.

It should be noted that despite the temporary reduction in inspectors due to attrition and retirements, 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 5 years despite OSHA's suspension of enforcement activities to provide more compliance assistance and to facilitate the provision of personal protective equipment during the hurricane recovery in areas affected by natural disasters this year.

Question. When will these vacancies be filled with inspectors in the field conducting inspections?

Answer. The Occupational Safety and Health Administration (OSHA) requires a comprehensive training program for inspector positions. New hires complete introductory courses at the OSHA Training Institute, on-the-job training, and independent study before being released to do inspections independently. Supervisors evaluate and determine when each new hire has enough hands-on education and experience to conduct inspections independently.

Question. The fiscal year 2019 budget request for OSHA is seeking funding for 42 additional enforcement positions, which I am happy to see. How many of these 42 new enforcement positions are for inspectors?

Answer. The fiscal year 2019 President's Budget request for the Occupational Safety and Health Administration enforcement is for 42 inspector positions.

HIRING FREEZE EXEMPTIONS

Question. I am pleased that you have recognized OSHA does not have enough enforcement personnel and requested an exemption from the hiring freeze to begin hiring those needed staff. Will you be requesting exemptions to hire additional enforcement positions in your other essential agencies, including WHD?

Answer. The Department of Labor no longer has a hiring freeze and there is no longer an exemption process. Following the approval of the Department's fiscal year 2018 Budget, the hiring exemption process was replaced with a streamlined personnel action authorization process that enables program offices, including the Wage and Hour Division (WHD), to expedite recruitment actions for mission critical occupations, particularly those in safety and enforcement positions. While the Department continues to review hiring requests for all position vacancies, the process is much faster, more streamlined, and requires only a one-page signoff for most of the Department's vacant positions, including positions such as wage and hour investigators in WHD, mine safety and health inspectors in the Mine Safety and Health Administration, occupational safety and health professionals in the Occupational Safety and Health Administration, and other investigative positions in the Office of Labor-Management Standards and the Employee and Benefits Security Administration. The streamlined approach puts most of the personnel decisions back in the hands of agency heads, while still requiring a central review for budget and other related considerations.

GAO REPORT ON WORKPLACE VIOLENCE (GAO-16-11)

Question. In 2016, in response to a Government Accountability Office report on workplace violence (GAO-16-11) that I requested along with Representatives Bobby Scott, Joe Courtney and Frederica Wilson, OSHA updated its voluntary guidelines on preventing workplace in healthcare and social services and its enforcement procedures for addressing workplace violence under OSHA's general duty clause. However, OSHA has yet to issue its report that will help compliance officers develop citations in workplace violence cases.

When will the report be issued?

Answer. The Department recognizes the importance of preventing workplace violence in all workplaces, including the healthcare and social assistance sectors, and it has a long history of commitment to protecting healthcare employees from work-related physical harm and threats of physical harm.

In December 2016, the Occupational Safety and Health Administration (OSHA) published a Request for Information (RFI), which will help the agency identify existing workplace violence prevention requirements. OSHA continues to review and analyze the comments submitted to the record in response to OSHA's RFI. OSHA is also conducting a formal assessment of healthcare violence using all data available through the Department (e.g., Bureau of Labor Statistics, OSHA) to establish a baseline for future assessment and is reviewing enforcement data from 2005 to the present to inform this process.

In addition, OSHA is currently working with the Institute for Healthcare Improvement/National Patient Safety Foundation to identify best practices related to the nexus between patient care and healthcare worker protections with industry stakeholders.

OSHA WORKPLACE VIOLENCE STANDARD

Question. In early 2017, OSHA granted a petition from healthcare unions and committed to issuing a workplace violence standard for healthcare and social services, and started to move forward with the rulemaking process. But the Trump administration has sidetracked that effort, taking the workplace violence standard off the active regulatory agenda, placing it in a long-term status with any further action “undetermined.”

Secretary Acosta, do you agree that workplace violence is a serious and growing safety and health threat to workers- particularly women workers?

Answer. The evidence points to workplace violence as a serious and growing concern in the healthcare and social-assistance sectors. In addition to information provided by stakeholders in response to a Request for Information, the Occupational Safety and Health Administration (OSHA) is conducting a formal assessment of healthcare violence using all data available through the Department (e.g., Bureau of Labor Statistics, OSHA) to establish a baseline for future assessment and is reviewing enforcement data from 2005 to the present to inform this process. OSHA is currently working with the Institute for Healthcare Improvement/National Patient Safety Foundation to identify best practices related to the nexus between patient care and healthcare worker protections with industry stakeholders.

OSHA has conducted 60 workplace violence investigations in the healthcare setting in fiscal year 2018. Currently, 20 of these inspection are open. As a result of inspections initiated in fiscal year 2018, OSHA issued 14 hazard alert letters and two violations.

Question. What action is OSHA taking under the Trump administration to address this threat? Will the Trump administration commit to move forward to develop an OSHA workplace violence standard and put the rulemaking back on the active regulatory agenda this spring?

Answer. The Department recognizes the importance of preventing workplace violence in all workplaces, including the healthcare and social assistance sectors, and it has a long history of commitment to protecting healthcare employees from work-related physical harm and threats of physical harm.

In December 2016, the Occupational Safety and Health Administration (OSHA) published a Request for Information (RFI), which will help the agency identify existing workplace violence prevention requirements. OSHA continues to review and analyze the comments submitted to the record in response to OSHA’s RFI. OSHA is also conducting a formal assessment of healthcare violence using all data available through the Department (e.g., Bureau of Labor Statistics, OSHA) to establish a baseline for future assessment and is reviewing enforcement data from 2005 to the present to inform this process.

In addition, OSHA is currently working with the Institute for Healthcare Improvement/National Patient Safety Foundation to identify best practices related to the nexus between patient care and healthcare worker protections with industry stakeholders.

EVIDENCE-BASED PROGRAM INITIATIVES

Question. Please describe the actions the Department is taking to develop more effective indicators for the spread of evidence development and use within and across DOL agencies.

Answer. To develop more effective indicators for the spread of evidence development and use within and across the Department’s agencies, the Performance Management Center (PMC), located in the Office of the Assistant Secretary for Administration and Management, leads the Department’s results-driven management through strategic planning, continuous process improvement, and performance reporting associated with the Government Performance and Results Modernization Act of 2010. To ensure consistency across agencies and programs, PMC works closely with the Office of the Assistant Secretary for Policy.

PMC also manages the Department’s strategic planning process and agency-level operating plans; leads departmental reviews and public reporting to promote analysis, problem solving, risk management, and accountability; and promotes the use of data and evidence to manage programs and make decisions. In addition, PMC supports agencies in designing and executing operational improvements; provides analytical and statistical services to assist agencies in program design and develop-

ment; and provides third-party facilitation of strategic planning, operations planning, or brainstorming activities.

Question. Have you considered adopting the percentage of agencies appropriately applying evidence—as reviewed by the Chief Evaluation Officer—in agency grant programs and programmatic initiatives as a way to further the appropriate development and use of evidence throughout the Department?

Answer. There are a number of strategies underway to ensure that the Department's agencies build and use evidence in program design and execution. Regular reviews of the agencies' operating plans are undertaken to continually improve efficiency and effectiveness of their programs. The Department uses results-based, data-driven management techniques. Each agency in the Department prepares an annual Operating Plan that details the strategies and resources it will apply to reach goals and objectives at all levels of the organization. Departmental leaders review performance against those operating plans each quarter to monitor progress and hold agencies accountable for implementing the plans, achieving milestones, and making adjustments as needed.

To promote the development and use of evidence in agency grant programs, the Department requires as a condition of grant receipt, that all competitive grantees fully participate in Department evaluations. In some cases, grantees are required to procure an independent third-party evaluation with incentives for rigorous designs. Some grant funding announcements use tiered funding, scoring priorities, or bonus scoring for evidence-based interventions or the inclusion of rigorous evaluation. The Chief Evaluation Officer works with program offices to draft grant funding announcements and often reviews grant applications and assesses the extent to which they include evidence-based strategies.

ELIMINATION OF WOMEN'S BUREAU GRANT FUNDING

Question. The Women's Bureau is the only agency dedicated to identifying and promoting opportunities for women in the workplace. For almost 100 years, it has been the leading agency voice on equal pay; and it has a track record of performing cutting-edge research and policy analysis.

This month, we recognized Equal Pay Day, marking how far women had to work into this year to make the same amount that men were paid last year.

How will the Women's Bureau be more effective without grant funding for research on these critical issues and far fewer staff?

Answer. The Women's Bureau's goal of promoting and advancing the interests of working women is important, and portions of that mission are recognized in other agencies across the Department. The Women's Bureau will focus its efforts on helping agencies, within and beyond the Department, to develop policies that advance the interests of working women and their families. This work is done by designing the research necessary to identify issues and solutions for working women, collaborating where appropriate with other agencies such as Employment and Training Administration, Office of Disability Employment Policy, and Veterans' Employment and Training Service, as well as relevant national, State, and local stakeholders outside the Department.

Wage discrimination on the basis of sex is illegal and wrong. To ensure compliance with Federal anti-discrimination laws and provide redress in the event violations are found, Executive Order 11246 vests the Office of Federal Contract Compliance Programs (OFCCP) with the authority to investigate gender-based employment discrimination complaints and to remedy documented cases of pay discrimination for Federal contractors and subcontractors. Executive Order 11246 requires that Federal contractors and subcontractors take affirmative action, prohibits them from discriminating against applicants and employees on the basis of sex, and also prohibits discrimination against applicants or employees who discuss, disclose, or inquire about their compensation or the compensation of others, subject to certain limitations. The fiscal year 2019 President's Budget will focus OFCCP on doing high-impact systemic compliance evaluations, implementing agency reforms that strengthen the contractor workforce development and education to support voluntary compliance with equal employment opportunity and nondiscrimination requirements.

The Wage and Hour Division (WHD) also supports a robust enforcement and compliance assistance operation to ensure workers are remunerated fairly. WHD focuses many of its investigations in industries that typically employ large numbers of women workers. These industries, where labor violations are most prevalent, include the janitorial, healthcare, hotel, day care, garment, and restaurant industries. While WHD does not report gender-disaggregated back wage recovery data, in fiscal year 2017, WHD recovered more than \$270 million in back wages for more than

240,000 employees, an average of \$1,114 per person. In fiscal year 2017, WHD concluded more than 29,000 cases.

In addition to enforcing wage protections, WHD also enforces the provisions of the Family and Medical Leave Act (FMLA), which entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. These protections can make a critical difference in women's ability to deliver on family caregiving obligations without sacrificing job security and long-range earning potential. In fiscal year 2017, WHD recovered almost \$1.5 million in back wages for FMLA violations by employers.

The gender wage gap is a complex issue influenced by a variety of factors. The Department, through a combination of research and analysis, compliance and enforcement activities, and direct service programming delivered through the Federal workforce development system, is working to address this issue. The Women's Bureau serves an important role at the Department, utilizing research and educational tools to better understand and inform the public of the factors that may drive the gender wage gap. The fiscal year 2019 President's Budget will allow the agency to undergo reforms to focus on a narrower set of high-priority policy issues, working in close coordination with the White House and other Federal agencies.

The Employment and Training Administration also supports programs to provide workforce development services for female workers. For example, the Women's Bureau is collaborating with the Office of Apprenticeship to recruit and retain women in pre-apprenticeship and apprenticeship programs as potential pathways for women to non-traditional occupations that may have higher average salaries.

REPORTING LOCAL JOB GROWTH

Question. You and Senator Blunt discussed BLS data that did not reflect the gains in job growth that a community had experienced.

What is the level of additional funding that the Bureau of Labor Statistics must have in order to provide more timely local employment information? Please include the additional funding requirements for both the development of internal BLS systems as well as the additional funding that BLS must provide to its State partners.

Answer. The Current Employment Statistics (CES) program recently reviewed potential enhancements to its program including aligning CES estimates more frequently with population estimates, which would adjust current and historical estimates sooner. Aligning CES estimates with population estimates, or benchmarking, more frequently than once a year would require approximately \$5 or \$9 million per year in additional funding for Bureau of Labor Statistics (BLS) depending on whether benchmarking is done on a semi-annual or quarterly basis. This effort would take 2 years before the semi-annual or quarterly benchmarking could be implemented. In addition to the funding required to conduct more frequent benchmarking, BLS would need an additional \$2.5 million per year to provide to its State partners for analysis of the benchmark revisions and outreach activities.

CLOSING THE CAREER AWARENESS GAP

Question. I appreciate your stated priority to close the "career awareness gap" so that students have the information they need to make good career decisions.

To address this gap, what program improvements will the Bureau of Labor Statistics and the Employment and Training Administration make?

Answer. The Department currently provides career information and career exploration tools that highlight work activities, wages, and typical education preparation, including related apprenticeship programs and certification. These include a site hosted by the Bureau of Labor Statistics (BLS) designed for K-12 use, www.bls.gov/k12, which includes career posters and other materials; the BLS Occupational Outlook Handbook, available online; My Next Move, www.mynextmove.org, which includes a career interest assessment and extensive information on a variety of different occupations and the preparations needed for those careers; and the mobile-friendly Get My Future site, www.careeronestop.org/GetMyFuture, designed for youth. The Department also makes available the workforce data used in these websites for public consumption.

To help further reduce the career awareness gap, the Department's focus on promoting apprenticeship and other work-based learning approaches will provide opportunities to help young people learn of more career options and understand how best to achieve their career goals. Pre-apprenticeships, in particular, provide an important avenue for students to gain career and technical education to prepare them to enter full-time apprenticeship programs. The Department invests funds through YouthBuild, Job Corps, and apprenticeship grants to better connect at-risk students, especially those who have dropped out of high school, with hands-on occupational

workforce education to better prepare them for jobs that they may otherwise be unaware exist.

In accordance with the requirements of the Workforce Innovation and Opportunity Act (WIOA), the Department is also developing an Eligible Training Provider Scorecard. When complete, the Scorecard will provide job seekers, employers, and workforce system administrators with program of study-level information on WIOA-funded workforce development programs. This information, which will include data such as employment rates and earnings levels, will help support informed skills instruction and career decisions. The Department anticipates releasing the Scorecard in late 2019.

Question. What are the budget requirements of these actions?

Answer. The fiscal year 2019 President's Budget requested \$67,194,000 for Workforce Information-Electronic Tools System Building through which the Department supports the collection and communication of workforce information as well as on-line career tools, including maintenance of the Eligible Training Provider Scorecard; \$2,000,000 for Technical Assistance that supports key Workforce Innovation and Opportunity Act implementation activities; \$84,534,000 for YouthBuild; \$200,000,000 for apprenticeships; and \$1,296,938,000 for Job Corps under the Employment and Training Administration. The fiscal year 2019 President's Budget also requested \$273,957,000 for Labor Force Statistics in the Bureau of Labor Statistics' Budget, through which the Department supports activities such as the Occupational Outlook Handbook, Employment Projections, and Occupational Employment Statistics.

PROPOSED TIP POOLING RULE

Question. At the end of your testimony, you spoke at length about the analysis you performed for your proposed tip rule. Just to be certain we have clarity on the issue:

Did DOL perform a quantitative analysis for your proposed tip rule? If so, who made the decision to not include it in the NPRM for the tip rule?

Answer. Thank you, Senator Murray, and all others involved for working with the Department to create a bipartisan, win-win solution to the tip pooling issue. It is a positive outcome for all involved and a great model of how Washington can work together to solve issues affecting working Americans.

Now that Congress has given the Department—for the first time—express authority to prevent employers from taking employees' tips in all circumstances, the Department will use its new enforcement tools to protect American workers' tips—including by recovering all tips unlawfully kept by employers, and imposing liquidated damages and civil monetary penalties as appropriate. Consistent with the law, the Department will likewise use its enforcement tools to prohibit supervisors and managers from participating in tip pools. The Department issued Field Advisory Bulletin 2018-3, which confirms the Department's immediate enforcement of these new statutory provisions.

As for the economic analysis in the Notice of Proposed Rulemaking, the Department looked at a number of options for calculating the potential costs and benefits of the proposal. In the end, the Department determined that the assumptions required to include a specific number were too unrealistic and did not provide accurate or helpful information for the public to use in evaluating the proposed rule. Instead, the Department included a qualitative analysis—just like the Department did in 2011 when it first promulgated the tip rule at issue—and asked the public to provide additional information concerning the assumptions and potential analyses for inclusion in the final rule.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

CAREER PLACEMENT FOR AT-RISK YOUTH

Question. Chicago has experienced a heartbreaking wave of gun violence—in many cases, the areas in the city with the highest unemployment rates are the same as those with the highest rates of violence. Among young people of color in the Chicago metro area, youth disconnection is extremely chronic and concentrated with more than 20 percent of Black youth and more than 11 percent of Latino youth ages 16–24 both out of school and out of work. Youth employment programs in Chicago have played an important role in giving young people economic opportunity. These programs have been shown to reduce violent crime arrests by 33 percent. I've spoken with you several times about the importance of Federal support for programs that help reduce violence and create economic opportunity. In your testimony, you

again mentioned your focus on “eliminating programs that are less efficient or less effective”. I am concerned that this Administration has repeatedly spoken of eliminating certain workforce development programs. We should be working to build up these programs, not eliminate them. I’ve seen what these programs do—I’ve visited them, and I’ve heard from youth whose lives have been changed because they were given a chance at economic opportunity. I recently met with a group of YouthBuild students from Illinois. Each had a powerful story about the way the program had changed their lives, enabling them to develop new skills and become leaders in their communities.

In the past year, what Federal initiatives has DOL supported to ensure that youth, especially those living in communities with high levels of violent crime, will have access to long-term career pathways that create economic mobility?

Answer. The Department shares your concern about helping young people of color residing in high-crime communities access the necessary programs and skills to develop long-term career pathways. Recently, the Department awarded \$84.4 million in Reentry Employment Opportunities (REO) grants to serve ex-offenders and justice system-involved youth residing in high-poverty, high-crime neighborhoods. Some of these awards were made to intermediary and community-based organizations, many of which are focused on serving young adult offenders.

This past year, the Department also awarded \$80 million in YouthBuild grants to 77 localities to allow youth to learn construction and other skills while building homes for low-income or homeless families. The Department also continues to serve at-risk youth through its Workforce Innovation and Opportunity Act Youth Formula programs and Job Corps, which provides education and workforce development services to at-risk youth between the ages of 16–24.

Question. How is your Department working with public- and private-sector partners, including State Workforce Agencies that administer the Work Opportunity Tax Credit, to place at-risk youth into long-term employment after completing job training programs?

Answer. The Department’s Workforce Innovation and Opportunity Act Youth program, YouthBuild, REO grants, and Job Corps engage small, medium, and large companies in order to provide meaningful work experience opportunities for at-risk youth. The Department also works with industry groups, companies, non-profit organizations, unions, and joint labor-management organizations to develop workforce development programs, such as pre-apprenticeship, apprenticeship, and career pathways that allow young people to earn and learn simultaneously, leading to family-sustaining jobs.

The Department provides support to States to administer the Work Opportunity Tax Credit (WOTC) and the Federal Bonding Program. WOTC provides a tax credit to employers that hire formerly-incarcerated youth and young adults. The Federal Bonding Program provides bonds to employers that hire formerly-incarcerated youth and young adults. The Department is committed to promoting effective strategies that help lessen recidivism by partnering with industry, State agencies, and community and faith-based organizations, among others, through grants, technical assistance, and outreach efforts.

TASKFORCE ON APPRENTICESHIP EXPANSION

Question. I have supported expanding access to accountable, nationally-recognized registered apprenticeship and pre-apprenticeship programs. Last November, I sent you a letter asking you to use your role as Chair of the Task Force on Apprenticeship Expansion to identify strategies to increase apprenticeship opportunities for at-risk youth. In your response, you noted some of the great partnerships happening in Chicago between community colleges and companies that have developed their own apprenticeship programs.

Can you provide me with examples of initiatives the Department is pursuing to make federally-supported apprenticeship programs accessible for at-risk youth?

Answer. The Department recently awarded a \$1.3 million grant to the Illinois Department of Commerce and Economic Opportunity to fund the Illinois Apprenticeship Plus System, an initiative for developing a comprehensive and modern apprenticeship system for Illinois. This project is projected to serve more than 3,000 apprentices by 2020. This initiative, which focuses on women, individuals with disabilities, communities of color, at-risk youth, individuals transitioning from incarceration, and low-income persons, will provide these underserved populations with apprenticeship opportunities in high-growth, in-demand occupational fields as manufacturing, healthcare, transportation, and distribution and logistics.

The Department also recently awarded a National Equity contract to the Chicago Women in Trades’ National Center for Women’s Equity in Apprenticeship and Em-

ployment as part of a \$20.4 million initiative to expand apprenticeship opportunities around the country for groups that are historically underrepresented in apprenticeship. This initiative emphasizes expanding access to apprenticeships for women, people of color, and other underrepresented populations in Chicago and its surrounding areas. The National Center will work with a consortium of 10 organizations representing nearly every staffed tradeswomen's organization in the country and national subject matter experts to expand access to apprenticeship opportunities.

In addition, the Department awarded a \$2.5 million grant to Harper College in Palatine, Illinois to fund Apprenticeships on Demand, a program that integrates related technical education and on-the-job learning to educate workers in high-growth and in-demand occupations. Those completing the program may earn Associates' and Bachelor's degrees paid for by employers in fields such as manufacturing, insurance, and information technology. Forming a groundbreaking apprenticeship program in the insurance sector, Harper College partnered with Zurich North America, a global insurance company.

Question. Has DOL continued to consult with stakeholders in Illinois about how apprenticeships can help youth in underserved communities?

Answer. The Department has engaged in ongoing conversations with stakeholders to encourage apprenticeship development in the Chicago metropolitan area. For example, the Department has engaged in dialogues with not-for-profit organizations, such as the City Colleges of Chicago, Thrive Chicago, the Chicagoland Workforce Funder Alliance, and One Million Degrees, in order to explore strategies for expanding the availability of apprenticeships for underserved communities and at-risk youth.

IMPACT OF AUTOMATION ON THE US WORKFORCE

Question. According to Ball State University, 50 to 60 percent of jobs in Illinois could be at risk of becoming automated when broken down by county. These changes in the American labor market will likely have a disproportionate impact on low-income workers. Today's workforce must be able to think and design with computerized tools to work through challenges in a modern manufacturing plant. Employees often find themselves working with advanced equipment and robotic instruments that require programming skills to operate them.

What action does DOL plan to take to respond to changes in the workforce as a result of automation?

Answer. The Department, in collaboration with the Department of Education, is focused on fostering strong collaboration between our workforce and educational systems. This collaboration is crucial to help ensure workers earn the credentials and workplace skills required to gain and maintain family-sustaining jobs.

Further, as the nature of work continues to change, it is clear that we must also change our approach to preparing our workforce for the workplaces of the future. The most visible approach is one of the Department's top priorities—expanding apprenticeship opportunities. Apprenticeship systems must become more flexible to allow key stakeholders to adapt to changes in technology and to evolve to meet the skills demanded by employers.

The Department is committed to increasing the number of high-quality apprenticeships, including expansion into high-growth, emerging sectors and in rural areas where apprenticeships have historically been rare.

Pursuant to the President's Executive Order 13801, 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. The Executive Order established a Task Force on Apprenticeship Expansion, including members from companies, trade and industry groups, educational institutions, labor unions, and others. The Task Force convened weekly to discuss how to engage more job creators and rapidly expand these models to help more Americans get back to work and issued its Final Report to the President on May 10, 2018. The Department is starting to implement many of the recommendations outlined in the report. Industry-recognized apprenticeships will expand on the successes of the apprenticeship model. Industry-recognized apprenticeships will offer the workforce the benefit of companies, trade and industry groups, educational institutions, labor unions, and others coming together to fill open jobs by discerning the skills demanded by job creators and connecting those skills needed for job seekers. Once private, third-party certifiers are in place, industry-recognized apprenticeships will benefit from a streamlined process that ensures high-quality apprenticeships.

An overwhelming majority of apprenticeship programs registered with the Department and State apprenticeship agencies are limited to job preparation in the traditional trades, such as construction. Our efforts have been focused on expanding the apprenticeship model into non-traditional industries where the Department sees the most growth and opportunity for employment. Industries such as advanced manufacturing, infrastructure, cybersecurity, and healthcare are new to earn-while-you-learn strategies and will benefit from this model. The Department's goal is to supplement, not supplant, the Registered Apprenticeship system in order to rapidly scale up the number of apprenticeships for in-demand occupations.

In today's rapidly-changing economy, it is more important than ever to prepare workers to fill existing jobs and to prepare workers for the jobs of the future. Our educational and workforce systems must prepare individuals to acquire new skills as technology advances that enable individuals to become lifelong learners.

Question. Is the Department working with businesses and States to determine what skills and training programs will be needed to address this shift?

Answer. Yes. The Department administers the Workforce Innovation and Opportunity Act (WIOA), which is a State and locally-operated system led by business and industry. The majority of members on State and local workforce development boards consist of employers, who understand the skills needed to fill critically important positions. These boards are responsible for investing the majority of Federal workforce development dollars in communities and are designed to bridge the skills gap between job seekers and in-demand and growing industries. State and local workforce development boards work with governors and local elected officials to align workforce, economic development, education, and social service organizations and funding streams to provide streamlined, seamless services to employers and job seekers. Through this system, the Department, States, local governments, and the boards work together in close coordination with business and industry to provide workers with the skills they need for in-demand jobs in their local labor markets.

American Job Centers also have Business Services Representatives (BSRs), who communicate information about apprenticeships to employers in their regions. This employer engagement is critical to ensuring that apprenticeship is incorporated into local workforce development strategies, supplementing traditional tools used by BSRs such as career fairs and recruitment support. American Job Centers may use work-based job education, internships, and/or workforce development as part of the array of services offered to businesses. BSRs can build on the trust they have developed with employers through these services to engage in a dialogue about apprenticeship.

JOB CORPS MARKETING

Question. The Job Corps program is key to providing disconnected youth with the education and job training necessary to successfully enter the workforce and earn a living wage. In fiscal year 2018, the Committee report urged the Office of Job Corps to strengthen marketing for the Job Corps program and hire additional Outreach and Admissions staff to increase recruitment efforts in large cities in the United States, in particular cities currently experiencing increased levels of community violence. The budget proposal provides very little detail about a proposal to have Outreach and Admissions functions for Job Corps operated by State American Job Centers.

How is the Department currently working with States and other partners to promote Admissions and fill Job Corps Centers, especially in cities with high levels of community violence?

Answer. The Department's Office of Job Corps works primarily through its system of local Outreach and Admissions (OA) contractors to promote admissions and facilitate the enrollment of Job Corps students. OA providers develop relationships with local volunteer and civic organizations, faith-based groups, and other community organizations to promote the Job Corps program. The Office of Job Corps supports its OA contractors by providing a wide array of media and material for use during outreach events and to share with interested youth and groups that provide referrals. To have the greatest impact, Job Corps has targeted its national marketing strategy to digital advertising on online platforms, including social media, that are most likely to reach the Job Corps youth demographic. Job Corps is evaluating its outreach needs in high-crime urban areas that could benefit from more intense, targeted, grass-roots campaign approaches.

JOB CORPS CURRICULUM ADDRESSING LABOR MARKET NEEDS

Question. One of the goals of WIOA is to ensure that workforce training programs are reflective of the economic needs of the local areas they serve. In line with these

goals, Job Corps Centers are required to work closely with local and State Workforce Development Boards and employers in order to ensure that trades and Industry-Recognized Credentials are reflective of local economic needs.

How are the Employment and Training Administration and the National Office of Job Corps working with Centers to ensure that trades offered at Centers are reflective of the local labor market?

Answer. As required by the Workforce Innovation and Opportunity Act (WIOA), all center operations solicitations require that offerors describe the career pathway programming activities that will be offered at the center and describe how the academics and career and technical education reflect State and local employment opportunities, including opportunities in in-demand industry sectors and occupations.

Job Corps policies also require all centers to establish a workforce council to review local labor market information, including related information in the State or local plan, to provide recommendations to the center regarding its Career Technical Training offerings. Workforce councils are required to meet on a semiannual basis and are made up of employers, representatives of labor organizations, and often members of industry and workforce development organizations. Job Corps policy also requires center operators to participate in Local Workforce Development Board meetings and activities to ensure that the center is offering workforce development that aligns with local labor market needs.

Question. Is the National Office of Job Corps working to develop new partnerships in communities that do not have a Center, or have recently experienced a Center closure, to expand access to training in underserved communities?

Answer. The Office of Job Corps actively pursues partnerships at the national, regional, and center levels to expand access to workforce development services in underserved communities. Deliberate efforts are made to ensure that potential program candidates have access to outreach and admission services throughout the Nation. The Department is conducting a programmatic assessment of performance center by center, surveying physical facilities, assessing programmatic sustainability, and considering the workforce development needs in each State and area served by a Job Corps center. Using this deliberate approach, the Department will develop a plan to allocate the program's fiscal year 2019 resources. It is the Department's expectation that through concentration of Job Corps activities in higher-performing centers, the Department will provide Job Corps participants with higher-quality services that lead to better outcomes.

In addition, in areas where a center has closed, efforts are made to ensure at-risk youth in those areas are able to attend centers that are nearby and offer skills instruction in trades that they are interested in pursuing.

Under Title I of Workforce Innovation and Opportunity Act (WIOA), formula funds are provided to States and local workforce areas to deliver a comprehensive array of youth services. WIOA youth formula-funded programs and YouthBuild offer many of the same or similar services delivered through Job Corps in a non-residential setting, such as: tutoring; alternative secondary school services; paid and unpaid work experiences; occupational skills education; leadership development opportunities; support services; comprehensive guidance and counseling; financial literacy education; entrepreneurial skills education; and postsecondary education and workforce development preparation activities. These programs focus on underserved populations, much like the Job Corps program.

Further, the fiscal year 2019 President's Budget takes important steps to improve Job Corps for the youth it serves by focusing the program on the older youth for whom the program is more effective; improving center safety; and making other changes to sharpen program quality and efficiency. This includes ending the U.S. Department of Agriculture's (USDA) role in the Job Corps program. Workforce development is not a core USDA function, and the 25 centers it operates are over-represented in the lowest performing cohort of centers. The fiscal year 2019 Budget continues the authority included in past appropriations bills that would allow the Department to competitively select a non-Federal entity to operate the former USDA centers.

The Department is also working to enter into agreements with colleges and apprenticeship programs; provide thorough policy guidance in all areas of center/outreach and admissions/career transition services operations; and continue to deliver a wide-ranging program that prepares youth for the future. This will allow the Department to maximize the effectiveness of the Job Corps program and ensure young Americans are learning the skills demanded by job creators in the 21st century.

YOUTH SKILLS DEVELOPMENT TRAINING

Question. By 2020, a majority of jobs will require education and/or training beyond high school. If the American workforce is not prepared, there could be a shortage of 5 million workers by 2020. Employers throughout Illinois have expressed concern about their inability to find qualified workers. This is an obstacle to growth for both American businesses and the American workforce. The Federal Government must prioritize providing young Americans with the tools they need to upskill and prepare for the workforce.

How is the Department prioritizing youth workforce and skills development training?

Answer. A large portion of the Department's discretionary skills instruction funding, over \$2.8 billion, is prioritized to target youth and young adults, including the Workforce Innovation and Opportunity Act (WIOA) Youth formula grant, YouthBuild, Reentry Employment Opportunities, and Job Corps programs. These programs prioritize youth with barriers to employment by providing services that prepare them for success in employment and post-secondary education. Program activities are aimed at developing a strong career pipeline to provide youth, including out-of-school and justice system-involved youth, with work readiness skills and industry-driven credential attainment opportunities. These programs also equip youth with skills that prepare them for success in growing and in-demand industries.

Through these youth programs, the Department is also providing opportunities for young people to access more earn-and-learn work-based models, such as apprenticeships. Paid work experience alongside the ability to earn educational credentials is one of the most effective ways individuals can prepare for the jobs of today and tomorrow. Currently, the WIOA Youth program emphasizes pre-apprenticeship opportunities by prioritizing work experience alongside education and workforce development. The YouthBuild program is expanding its focus to additional in-demand industries beyond construction that are aligned with the apprenticeship model. The Reentry Employment Opportunities grants now include a focus on apprenticeship and other intensive occupational skills instruction models to expand those opportunities to youth involved in the justice system.

Question. You have supported expanding the apprenticeship model. How does the Department plan on providing full access to these new opportunities for young people who are preparing to enter the job market?

Answer. Included in the May 2018 Final Report to the President by the Task Force on Apprenticeship Expansion was a recommendation to specifically expand and support pre-apprenticeship activities in middle and secondary schools. In implementing this recommendation, the Department will invest resources to reach out to younger students to educate them on different career paths so that they have a wider array of options and a clearer understanding of how to achieve their career goals from the start. The Department also provides opportunities for young people to access the apprenticeship model through each of the Department's youth programs. The Workforce Innovation and Opportunity Act Youth program emphasizes pre-apprenticeship opportunities by prioritizing work experience alongside education and workforce development. The YouthBuild program is expanding its focus to additional in-demand industries beyond construction that align with the apprenticeship model and is strengthening its pre-apprenticeship programs. The Reentry Employment Opportunities grants now include a focus on apprenticeship to expand those opportunities to youth involved in the justice system.

 QUESTIONS SUBMITTED BY SENATOR JACK REED

UNDERSTANDING CONSEQUENCES OF AUTOMATION FOR MIDDLE-CLASS WORKERS

Question. The fiscal year 2018 Omnibus provides funding for the Department of Transportation to conduct a study with the Department of Labor to better understand the consequences of automation for middle-class workers.

Have you begun coordinating with the Department of Transportation on this study?

Answer. The Department began initial conversations in the spring of 2018 with the Department of Transportation regarding the study.

Question. What are the plans and timeline for conducting the study?

Answer. The Department of Transportation is leading this study. The Department of Labor is consulting with the Department of Transportation regarding plans and timelines, and is scheduled to meet the requested submission date of March 23, 2019.

TASKFORCE ON IMPACT OF AUTOMATION

Question. Do you think that the Department should establish a taskforce on automation and its impact on our workforce, particularly for industries related to transportation?

Answer. On July 19, 2018, President Donald J. Trump issued an Executive Order entitled, “Establishing the President’s National Council for the American Worker.” The Council will provide a forum for the development of a national strategy to address urgent workforce issues, including reskilling workers to account for new technology and automation for future economic growth.

In addition, the Department of Transportation manages the Intelligent Transportation Systems Program Advisory Committee, administered according to the Federal Advisory Committee Act, which deals with all matters relating to the study, development, and implementation of intelligent transportation systems. Membership includes government agencies, companies and trade associations, and educational institutions. Although the Department of Labor is not an official participant on this Committee, the Department regularly coordinates with the Department of Transportation and other agencies to address matters related to workforce development. The Committee meets multiple times a year and addresses topics such as the impact of shared mobility, data-sharing policies for automated and connected vehicles, and workforce development initiatives.

WORKER DISLOCATION RESULTING FROM AUTOMATION

Question. What are your plans to address worker dislocation due to automation through your grant making authority such as through the National Dislocated Worker Grants?

Answer. The Department’s Dislocated Worker programs are currently positioned to assist workers to increase their skill levels as jobs become automated. The Dislocated Worker formula program and the National Dislocated Worker Grants provide resources to individuals and communities impacted by layoffs and other events. These programs help workers attain the skills they need to successfully transition into new careers. The Department is available to work with State and local governments and provide assistance in serving workers who may be impacted by automation in the future.

WORK SHARING PROGRAMS

Question. The Middle Class Tax Relief and Job Creation Act of 2012 included the Layoff Prevention Act, which modernized Federal work sharing laws. According to the Department of Labor, work sharing helped to save over 130,000 jobs before Federal incentives expired in 2015. Multiple studies show that communities with work sharing laws are in a stronger position to weather economic shocks with fewer jobs lost.

Do you believe that work sharing programs also have the capacity to be used innovatively, such as to prevent layoffs due to automation?

Answer. Work-sharing programs have the opportunity to be used innovatively. Short-Time Compensation (STC), also known as work sharing or the shared-work program, is an alternative to layoffs for employers experiencing a reduction in available work. STC preserves employees’ jobs and employers’ workforces during times of lowered economic activity. STC allows employers to reduce hours of work for employees rather than lay off some employees while others continue to work full time. Employees experiencing a reduction in hours are allowed to collect a percentage of their unemployment compensation (UC) benefits to replace a portion of their lost wages. STC cushions the adverse effect of the reduction in business activity on workers by averting layoffs and ensures that these workers will be available to resume prior employment levels when business demand increases.

STC is intended to provide assistance during times of reduced economic activity in anticipation that the employer’s business activity will resume and, ultimately, layoffs will not occur. The STC program is designed to help employers, employees, and communities weather and minimize the impact of downturns due to macroeconomic factors or business-specific situations.

The Dislocated Workers program, authorized under the Workforce Innovation and Opportunity Act, provides funding to States, which may be used to support layoff aversion strategies, including promotion of the STC program to businesses. The Department routinely promotes STC as a lay-off aversion tool, such as through its Rapid Response website (<https://www.doleta.gov/layoff/employers.cfm>), in policy guidance (https://wdr.doleta.gov/directives/attach/TEN/TEN_9_12.pdf), and when

providing technical assistance to States on rapid response and business engagement strategies.

As the marketplace evolves, for example due to new technology, it is critical that employers and businesses adapt. While not a direct solution to layoffs due to automation, it is feasible that STC might support companies and their employees during a transition period as a company adopts new technologies. The program allows for STC participants to attend workforce education to acquire new skills and remain eligible for STC benefits. Thus, STC may be used while impacted employees are being upskilled, for example to repair and service new automated system(s), or transitioned to a different part of the employer's operations.

MATCHING CREDENTIALS WITH LOCAL ECONOMIC NEEDS

Question. Job Corps Centers are required to work closely with local and State Workforce Development Boards and employers in order to ensure that trades and Industry-Recognized Credentials they offer are aligned with local economic needs.

What is the process for a Center to change a trade if they and their local partners deem it necessary?

Answer. Job Corps Career Technical Training change requests require a center to provide justification for the trade change by submitting relevant labor market information and supportive documentation from local and State workforce development boards, employers, and industry councils. This information is verified by the Office of Job Corps, and if determined to be cost effective, the request to change the trade is approved.

Question. How is the Employment and Training Administration and the National Office of Job Corps working with Centers to ensure that trades offered at Centers are aligned with local labor market needs?

Answer. As required by the Workforce Innovation and Opportunity Act (WIOA), all center operations solicitations require that offerors describe the career pathway programming activities that will be offered at the center and describe how the academics and career and technical education reflect State and local employment opportunities, including opportunities in in-demand industry sectors and occupations.

Job Corps policies also require all centers to establish a workforce council to review local labor market information, including related information in the State or local plan, to provide recommendations to the center regarding its Career Technical Training offerings. Workforce councils are required to meet on a semiannual basis and are made up of employers, representatives of labor organizations, and often members of industry and workforce development organizations. Job Corps policy also requires center operators to participate in Local Workforce Development Board meetings and activities to ensure that the center is offering workforce development that aligns with local labor market needs.

JOB CORPS INSTRUCTORS

Question. Is Job Corps facing any teacher shortages?

Answer. Job Corps serves at-risk youth often with multiple learning challenges and delivers educational programming on a twelve-month basis rather than on a traditional school-year calendar. Both of these factors contribute to teacher recruitment and retention challenges nationwide, but the program is not facing a widespread teacher shortage.

Question. How competitive are Job Corps teachers' wages relative to public school teachers?

Answer. Job Corps requires its contractors to pay wages comparable to those in the local market area for similar occupations based on local economic conditions. Contractors must be familiar with the local area labor market when recruiting for occupations that are critical to the performance and operation of the contract, including teachers.

Question. How recently has the Office of Job Corps conducted a survey to update its estimates of market wages for teachers and other Job Corps staff in each locality?

Answer. The Office of Job Corps has incorporated current salary data from the Bureau of Labor Statistic (BLS) into the Independent Government Cost Estimates that are required for center operations, Outreach/Admissions, and Career Transition procurements. The information is updated at a minimum every 2 years using the BLS data, which is locality specific. The last data update was made in the spring of 2016 using 2015 data. The Office of Job Corps is currently engaged in a data update using 2017 data.

WORKFORCE INNOVATION AND OPPORTUNITY ACT IMPLEMENTATION AND PUBLIC
LIBRARIES

Question. The Workforce Innovation and Opportunity Act included language that encouraged States and local workforce boards to partner with public libraries.

How have States included public libraries in their State plans?

Answer. States have used a portion of their Workforce Innovation and Opportunity Act (WIOA) funding for partnerships with public libraries to conduct digital and financial literacy education activities; educate library staff about in-person and virtual employment and workforce development resources available; provide resume writing, interview preparation, and other adult education programs; use libraries' space to provide career assistance and host job fairs; and share workforce and labor market information.

Examples of specific State plans show both innovations in the types of services being provided and institutionalization of library-workforce partnerships. Rhode Island's Family Literacy Initiative has instituted technology workforce education and coaching in two public libraries and at an American Job Center to advance digital literacy. Ohio passed legislation to facilitate better partnerships between American Job Centers and public libraries. The Department understands that this has led to Memoranda of Understanding in several local areas between libraries and the workforce system. The New York Department of Labor awarded a grant using WIOA funding to the Queens Library to implement a curriculum that uses an integrated approach for adult educational providers to help meet the needs of high school equivalency students transitioning into higher education or a career.

Question. How is the Department of Labor collaborating with the Institute of Museum and Library Services to implement these provisions?

Answer. The Department has partnered with the Institute of Museum and Library Services (IMLS) for several years and continues to collaborate with libraries since the passage of Workforce Innovation and Opportunity Act. This collaboration included webinars to ensure both libraries and the workforce development system knew about the assets and services they each had available that could support job-seekers. The Department published guidance to the workforce system reiterating the importance of library partnerships and continues to make the workforce system aware of the resources available in libraries to support workforce development (See Training and Employment Notice 35-15, "Encouraging Collaborations between the Workforce Investment System and Public Libraries to Meet Career and Employment Needs").

QUESTIONS SUBMITTED BY SENATOR JEANNE SHAHEEN

JOB CORPS FUNDING CUTS

Question. As I travel across New Hampshire and talk to stakeholders ranging from small business owners to students getting ready to pursue employment, a common theme I hear is about the importance of apprenticeships and how they help train the next generation to succeed in a changing workforce.

That is why I have advocated for the Job Corps since my time as Governor. And I was proud that a center finally came to New Hampshire in 2015. The Center, which is located in Manchester, serves 350 students annually. In the current program year, the Manchester Center has placed over 94 percent of its graduates in full-time jobs or advanced education.

The Center serves individuals like Michline Cruz-Gonzales, who before arriving at the New Hampshire Job Corps in August 2016 didn't even have her driver's license. However, after 10 months working with the Center, Michline obtained her driver's license and completed Center's Clinical Medical Assistant trade program. Since June 2017, Michline is a full-time Medical Assistant at Portsmouth Internal Medicine making over \$15 an hour.

Unfortunately, similar to last year's budget request, the President is again proposing to ignore this successful program that prepares students for apprenticeships by over \$500 million or 30 percent. All the more concerning is the DOL's continued focus on closing some underperforming centers rather than working to improve their services.

I was pleased that in the bipartisan omnibus that was just signed into law that Congress opposed these unwise cuts and provide Job Corps with the resources the programs need to continue training students. I am hopeful that we will do the exact same thing for this upcoming fiscal year.

That's because—simply put, cutting resources will leave fewer opportunities nationwide for disadvantaged youth to obtain the skills and opportunities they need to gain employment.

Secretary Acosta, if the Department believes that apprenticeships are an important tool to address workforce challenges, why does the Department continue to advocate for dramatic cuts to successful programs, such as the Job Corps?

Answer. The fiscal year 2019 President's Budget takes important steps to improve Job Corps for the youth it serves by focusing the program on the older youth for whom the program is more effective; improving center safety; and making other changes to sharpen program quality and efficiency. This includes ending the U.S. Department of Agriculture's (USDA) role in the Job Corps program. Workforce development is not a core USDA function, and the 25 centers it operates are over-represented in the lowest performing cohort of centers. The fiscal year 2019 Budget continues the authority included in past appropriations bills that would allow the Department to competitively select a non-Federal entity to operate the former USDA centers.

The Department is also working to enter into agreements with colleges and apprenticeship programs; provide thorough policy guidance in all areas of center/out-reach and admissions/career transition services operations; and continue to deliver a wide-ranging program that prepares youth for the future. This will allow the Department to maximize the effectiveness of the Job Corps program and ensure young Americans are learning the skills demanded by job creators in the 21st century.

In addition, the Department is conducting a programmatic assessment of performance center by center, surveying physical facilities, assessing programmatic sustainability, and considering the workforce development needs in each State and area served by a Job Corps center. Using this deliberate approach, the Department will develop a plan to allocate the program's fiscal year 2019 resources. It is the Department's expectation that through concentration of Job Corps activities in higher-performing centers, the Department will provide Job Corps participants with higher-quality services that lead to better outcomes.

JOB CORPS CENTER CLOSURES

Question. Similar to last year's budget request, the budget proposal does not elaborate on how the agency would go about closing Job Corps Centers. If the Department of Labor continues to close Centers, how will you provide sufficient notice to Congress and the public?

Answer. The Department is conducting a programmatic assessment of performance center by center, surveying physical facilities, assessing programmatic sustainability, and considering the workforce development needs in each State and area served by a Job Corps center. Using this deliberate approach, the Department will develop a plan for allocating the program's fiscal year 2019 resources. The Department is also looking for new, innovative strategies to deliver education and workforce development services to students enrolled in the Job Corps program and will work with Congress on implementing those efforts.

Section 159(j) of the Workforce Innovation and Opportunity Act establishes procedures that must be followed before a Job Corps center may be closed. Prior to the closure of any Job Corps center, the Department is required by statute to announce publicly the proposed closure and allow for a comment period, not to exceed 30 days, before closing the center. The statute also requires that the Department notify the Members of Congress who represent the district in which the center is located. Should the Department determine to close any centers, the Department will provide the Members of Congress and the public with appropriate notification, as required by statute, before closing a center.

JOB CORPS STUDENT SLOT CAPACITY

Question. Another issue I am concerned with is the DOL's existing authority to cut student slot capacity for a given Program Year. Last year, the Department issued two information notices that indicated it was planning to cut student capacity by nearly 5,000 prospective students for the 2017 Program Year. You later rescinded this plan, but I wrote to you and asked that you justify why you were making these original capacity cuts. I am concerned the Department may do something similar in the coming program years.

Does the Department intend to cut student capacity for the upcoming program year?

Answer. The Department has made no decisions to cut student capacity at this time. The Department is conducting a programmatic assessment of performance center by center, surveying physical facilities, assessing programmatic sustain-

ability, and considering the workforce development needs in each State and area served by a Job Corps center. Using this deliberate approach, the Department will develop a plan to allocate the program's fiscal year 2019 resources.

Question. Does the Department have an estimate for what the impact of additional center closures will have on student capacity and students served?

Answer. It is the Department's expectation that through concentration of Job Corps activities in higher-performing centers, we will provide Job Corps participants with higher-quality services that lead to better outcomes. Any center that is identified for closure will ensure students enrolled are transferred to nearby centers that offer skills instruction in the fields they are most interested in pursuing.

WIOA STATE FORMULA FUNDING

Question. I am also disappointed with your proposed cuts to State job training programs funded through the Workforce Innovation and Opportunity Act (WIOA). Your budget proposes cutting these programs by over 40 percent in next fiscal year.

The widening skills gap has made it harder for employers to find qualified, skilled workers to fill job openings. Time and again, business leaders across New Hampshire tell me that they have openings and would like to hire and expand, but they can't find enough employees with the right qualifications.

In your prepared testimony, you mentioned the importance of "creating opportunities for Americans to develop the skills to fill—and succeed in—the jobs of today and tomorrow." And I couldn't agree more. To ensure a sustained high-performing economy both in New Hampshire and around the country, we need to excel in aligning the skills required by employers with the skill sets of the local and regional labor pool.

However, cutting this essential source of funding for States would likely have a devastating impact on a State's ability to address these workforce challenges. And a 40 percent cut doesn't seem to align with the message you brought today. For New Hampshire, your fiscal year 2019 budget means more than 6,000 workers will lose assistance. What our State needs is more resources, not less.

How do you think States that have relied on these sources of funding for years will shoulder the burden of these cuts?

Answer. The fiscal year 2019 President's Budget addendum restored the proposed funding cuts for the Workforce Innovation and Opportunity Act (WIOA) formula programs. In addition, the fiscal year 2019 Budget requested broad waiver authority for the core WIOA programs, which would allow State and local leaders to better address their workforce needs. Providing States greater flexibility to administer resources efficiently and effectively is another way to better serve the individualized needs of Americans.

Question. Does the Department have an idea of how these proposed cuts would affect State agencies' ability to address workforce needs?

Answer. The Department is committed to working with States and local governments to ensure the American workforce is the greatest in the world. The fiscal year 2019 President's Budget request prioritizes investments in effective programs that help to align workforce development efforts with market demands.

Question. Were any States consulted as the Department assembled its request?

Answer. The Department has and continues to work with States and local governments to identify what works in the public workforce system, and has included many of these recommendations within its Budget request. Frequently, States have requested flexibility directly from the Department, and where the law allows, the Department has granted waivers to States requesting relief from some of the more burdensome requirements under WIOA. To date, 14 States have received such waivers after requesting such flexibility.

DOL OPIOID-RELATED GRANT PROGRAM

Question. The opioid crisis has not only constituted a public health emergency. But it has also affected businesses across the State. I've heard from many employers who are very concerned about the toll that the opioid crisis has taken on its employees. And when a worker is unable to meet their work obligations because of a substance use problem, it can also harm a company's ability to deliver for its customers.

A report by New Futures found that in New Hampshire, substance abuse imposes a cost of \$2.36 billion annually, equal to \$1,760 per Granite Stater. The report also found that substance abuse causes \$1.6 billion in lost productivity and reduces State and local revenue by \$87.6 million annually.

Secretary Acosta, I am encouraged by the Department's recent announcement that it will issue \$21 million in grants to help provide new skills to workers who have been or are being impacted by the opioid crisis.

Can you elaborate on how the DOL will prioritize applicants for these grants?

Answer. The tragedies of opioid misuse and abuse devastate families and communities, and keep too many Americans out of the workforce. The importance of a job and work in reducing opioid abuse cannot be overstated. This is why the Department announced in March 2018 a National Health Emergency (NHE) Dislocated Worker Demonstration Grant Pilot Program—a grant program focused on returning individuals impacted by opioids to the workplace. Recently, the Department of Labor announced more than \$22 million in this grant funding to six State grantees. The grants will be used to provide reemployment services for individuals impacted by the health and economic effects of widespread opioid use, addiction, and overdose. The six States receiving NHE Dislocated Worker Demonstration Grant funding are: New Hampshire (\$5,000,000); Pennsylvania (\$4,997,287); Washington State (\$4,892,659); Rhode Island (\$3,894,875); Maryland (\$1,975,085); and Alaska (\$1,263,194). The Department recently announced the availability of up to an additional \$100 million for Trade and Economic Transition National Dislocated Worker Grants.

For more information regarding the demonstration program and Trade and Economic Transition National Dislocated Worker Grants, please review Training and Employment Guidance Letters No. 12–17 and No. 2–18, which provide information on eligible applicants, allowable activities, and application requirements.

The Department is committed to helping Americans recover, rebuild, and get back to work.

Question. Is this grant a one-time opportunity? Or does the Department and Administration plan on rolling out similar opportunities in the future?

Answer. The Department is committed to taking the steps necessary to end the opioid crisis. The Bureau of Labor Statistics Time-Use Survey found that 44 percent of prime-age men (aged 25–54) not in the labor force acknowledged taking pain medication the previous day. Recent studies suggested that up to 20 percent of the steady decline in labor force participation among prime-age men may be attributed to opioid use.

The National Health Emergency Dislocated Worker grants are the first phase of funding opportunities available to counter the employment impacts of the opioid crisis. The tragedies of opioid misuse and abuse devastate families and communities, and keep too many Americans out of the workforce. The importance of a job and work in reducing opioid abuse cannot be overstated.

INCREASING H-2B VISAS

Question. As you know, under the Consolidated Appropriations Act for fiscal year 2018, the Secretary of Homeland Security can, after consulting with you, approximately double the number of H-2B visas available for temporary nonagricultural workers for this fiscal year.

I have heard from many small businesses in New Hampshire who desperately need workers for their peak seasons and who are struggling under the current uncertain situation. As a result, I joined a bipartisan group of 32 other Senators in a letter on April 2nd asking you and the Secretary of Homeland Security to take immediate steps to increase the number of available visas and efficiently process pending petitions to ensure that American businesses are able to hire their seasonal workers on time.

What is the status of your consultation with Secretary Nielsen?

Answer. On May 31, 2018, in an effort to assist U.S. businesses that are unable to locate a sufficient number of American workers to fulfill their workforce needs, DOL and DHS jointly published a Temporary Rule: Exercise of Time-Limited Authority to Increase the fiscal year 2018 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program. This temporary rule provides a one-time fiscal year 2018 increase of the H-2B visa cap by up to 15,000 visas to assist those American businesses that are likely to suffer irreparable harm (i.e., permanent and severe financial loss) without the employment of H-2B nonimmigrant workers in fiscal year 2018. These employers must also retain documentation that demonstrates their businesses' likelihood to suffer irreparable harm if they do not receive H-2B workers in fiscal year 2018. For additional details and requirements, the Temporary Rule is published in the Federal Register here: <https://www.gpo.gov/fdsys/pkg/FR-2018-05-31/pdf/2018-11732.pdf>.

In the first five business days of filing with U.S. Citizenship and Immigration Services (USCIS) within DHS for the additional visas (between May 31 and June 6, 2018), USCIS received petitions for more H-2B workers than the additional 15,000 visas available under the fiscal year 2018 temporary rule. USCIS conducted a lottery on June 7, 2018. On June 11, 2018, USCIS announced completion of the

lottery and began issuing notifications to selected employers. Details on the USCIS announcement can be found here: <https://www.uscis.gov/news/alerts/uscis-completes-lottery-temporary-increase-fy-2018-h-2b-cap>.

Question. When can businesses in New Hampshire and across the country expect additional H-2B visas to become available?

Answer. In the first five business days of filing, DHS received petitions for more beneficiaries than the 15,000 visas available under the fiscal year 2018 temporary rule. Accordingly, regulations required DHS to use a computer-generated selection process, commonly known as a lottery, to randomly select enough petitions to meet, but not exceed, the increased H-2B visa cap for fiscal year 2018. DHS conducted this lottery on June 7, 2018, which included petitions received from employers between May 31, 2018, and June 6, 2018. On June 11, 2018, DHS announced completion of the lottery and began issuing notifications to selected employers. Details on the DHS announcement can be found here: <https://www.uscis.gov/news/alerts/uscis-completes-lottery-temporary-increase-fy-2018-h-2b-cap>.

E-DELIVERY OF FINANCIAL INFORMATION

Question. As I'm sure you agree, it is critical for individuals planning for retirement to be able to access information about their investments in a convenient fashion. Unfortunately, some of DOL's rules for employees to receive DOL required information on their retirement plan are out of date. Given the increase in employees accessing retirement information electronically, it makes sense to have electronic delivery be the default method for retirement savers while including important consumer protections for those who would like to continue receiving information on paper. This approach would save costs for retirement savers, save countless amounts of wasted paper, protect the environment and help connect savers with a wealth of online tools and resources to help put them on a better path to a secure retirement.

Secretary Acosta, do you believe that eDelivery would help employees better understand their retirement plans and help them save for retirement?

Answer. Current law requires that workers receive many important disclosures about their benefits, and the Department strives to make sure those disclosures are understandable and useful. Disclosure rules and regulations ought to be carefully crafted in light of the costs and burdens imposed on workers, plan administrators, and employers.

The broader use of electronic delivery may be one way to improve the effectiveness of disclosures and to reduce the costs and expense of furnishing required disclosures. There have been substantial changes in technology since the enactment of the Employee Retirement Income Security Act, both in the workplace and at home. The Department must carefully consider those changes and the opportunities they have created for the Department to improve its disclosure regulations governing employee benefit plans, and consistent with law and sound policy, make required disclosures more accessible and useful to workers while reducing burden and cost.

Question. What steps will you take to ensure savers have access to their financial information in a manner that is commensurate with the 21st century?

Answer. Please see the response to the prior question.

QUESTIONS SUBMITTED BY SENATOR BRIAN SCHATZ

TRADE ADJUSTMENT ASSISTANCE PROGRAM

Question. The fiscal year 2019 Budget Justification proposes a change to the TAA program to focus on apprenticeships and on-the-job training rather than classroom-based training. Specifically, the Department proposes to make "apprenticeship—which provides wages along with a learning component—and on-the-job training the only forms of allowable training, while still allowing participants to access other forms of training if insufficient work-based training opportunities are available in their area."

How will the Department ensure that work-based training opportunities are available in the participants' areas?

Answer. In the fiscal year 2019 President's Budget, the Department proposes legislation to reauthorize the TAA for Workers Program through fiscal year 2028, shifting the focus from traditional classroom education to work-based education. This proposal refocuses the TAA program by emphasizing the importance of on-the-job training, including apprenticeship, which provides wages along with a learning component, and participants would be able to continue to access other forms of skills instruction if insufficient work-based skills instruction opportunities are available in

their area. Focusing the program on these earn-as-you-learn strategies will ensure that participants are obtaining skills for relevant occupations. States will also be encouraged to place a greater emphasis on intensive reemployment services for workers who are not participating in work-based education by getting those workers into the workforce more quickly.

The Department has been working to expand apprenticeship, particularly into non-traditional industries where the Department sees the most growth and opportunity for employment in a local community and region. Industries such as advanced manufacturing, infrastructure, cybersecurity, and healthcare are new to earn-while-you-learn strategies and offer more flexibility and the ability to work remotely, more so than other sectors of the economy.

Question. Will the Department work with local employers to help provide these opportunities?

Answer. Yes. The Department is working with businesses at the State and local level through the State apprenticeship offices under the registered system and State Apprenticeship Agencies, which have Apprenticeship & Training Representatives that provide consultation to all employers. The staff support the employers through the entire process of developing and implementing apprenticeship programs.

The Department also oversees the administration of the Workforce Innovation and Opportunity Act (WIOA), which is a State and locally-operated system led by business and industry. Employers make up 51 percent of the State and local boards that direct funding for employment activities in in-demand and growing industries. Apprenticeships are an integral and proven strategy for helping individuals gain the skills needed to work, and will continue to be a strategy utilized under WIOA. Registered Apprenticeships are also automatically included on the State's Eligible Training Provider List, which streamlines access to WIOA funding.

American Job Centers also have Business Services Representatives (BSRs), who communicate information about apprenticeships to employers in their regions. This employer engagement is critical to ensuring that apprenticeship is incorporated into local workforce development strategies, supplementing traditional tools used by BSRs such as career fairs and recruitment support. American Job Centers may use work-based job education, internships, and/or workforce development as part of the array of services offered to businesses. BSRs can build on the trust they have developed with employers through these services to engage in a dialogue about apprenticeship.

Question. In the past 5 years, what percentage of TAA participants used their funds for 1) on-the-job training only, 2) classroom-based training only, and 3) mix of both?

Answer. From fiscal year 2012 through fiscal year 2017, the Trade Adjustment Assistance (TAA) program provided on-the-job (OJT) and/or classroom instruction to 63 percent of total participants. Of those who received these services, 1 percent received on-the-job services only, 98 percent received classroom-based services only, and 1 percent received both classroom-based and on-the-job services.

TAA PARTICIPANTS WHO RECEIVED OJT/CLASSROOM SERVICES
FISCAL YEAR 2012 THROUGH FISCAL YEAR 2017

Services Received	Percent of Participants
OJT Only	1
Classroom Only	98
Classroom and OJT	1
Total	100

Question. If workers would like to pursue a mix of both—i.e., if the work-based training provides coursework opportunities—will participants be allowed to do so under the Department's proposed changes to the TAA program?

Answer. Yes, work-based education, such as apprenticeships, includes an educational component, which can oftentimes require in-classroom experience. This proposal refocuses the TAA program by emphasizing the importance of on-the-job training, including apprenticeship, which provides wages along with a learning component, and participants would be able to continue to access other forms of skills instruction if insufficient work-based skills instruction opportunities are available in their area. Focusing the program on these earn-as-you-learn strategies will ensure

that participants are obtaining skills for relevant occupations. States will also be encouraged to place a greater emphasis on intensive reemployment services for workers who are not participating in work-based education by getting those workers into the workforce more quickly.

METRICS FOR PAID PILOT PROGRAM

Question. What are metrics of success for the Wage and Hour Division's PAID pilot program? For instance, how much back-wage payment should be made to workers for the Department to deem the pilot a success?

Answer. The Wage and Hour Division (WHD) will implement the Payroll Audit Independent Determination (PAID) pilot program nationwide for approximately 6 months. At the end of the pilot period, WHD will review lessons learned and evaluate options for effective implementation moving forward. WHD will use a balanced approach in assessing all aspects of this pilot phase of the program, including quantitative and qualitative measures, as well as feedback from employees, employers, and WHD staff. Given that we remain in the pilot phase, it is too early to begin meaningfully evaluating the pilot.

ENFORCEMENT ACTIVITY UNDER PAID PILOT PROGRAM

Question. Will the Wage and Hour Division's enforcement activity decrease as a result of the PAID pilot program?

Answer. No. The Wage and Hour Division (WHD) continues to maintain an active and balanced enforcement program that includes both agency-initiated cases and complaint cases, as well as compliance assistance. In fiscal year 2017 alone, WHD found more than \$270 million in back wages—the second-highest amount WHD has ever recorded—for more than 240,000 workers.

Self-audits are one of many existing tools already available to WHD. The Payroll Audit Independent Determination (PAID) pilot provides another avenue to recovery for employees who earned wages, but were not appropriately compensated. In general, PAID will streamline the resolution of compliance issues and improve compliance overall, which WHD expects will enable the agency to focus more of its resources on bad actors who intentionally violate the law. WHD will implement this pilot program nationwide for approximately 6 months. At the end of the pilot period, WHD will evaluate the effectiveness of the pilot program, including its impact on enforcement activity, before determining next steps.

Question. Can you guarantee to me that the resources put behind targeted enforcement will not decrease in fiscal year 2019 as a result of the PAID pilot program?

Answer. The Wage and Hour Division (WHD) will not devote fewer resources to targeted enforcement as a result of the Payroll Audit Independent Determination (PAID) program. The percentage of agency-initiated investigations target, which is a key WHD performance measure, remains at 46 percent from 2018–2022 in the Department's Strategic Plan. WHD will implement this pilot program nationwide for approximately 6 months. At the end of the pilot period, WHD will review lessons learned and evaluate options for effective implementation moving forward. WHD will use a balanced approach in assessing all aspects of this pilot phase of the program, including quantitative and qualitative measures, as well as feedback from employees, employers, and WHD staff.

REGULATION OF THE GIG ECONOMY

Question. You have said in the press that you plan to remove regulations that are holding back the gig economy.

Do you believe regulations are holding back workers, not just companies, in the gig economy?

Answer. Workers in the entrepreneurial economy can benefit from regulatory changes. Many small businesses and their employees have struggled with government restrictions that limit access to quality, affordable health coverage. The recently-finalized Association Health Plan (AHPs) reform will address many of the inequities between small and large businesses in access to that coverage. For the first time, working owners without other employees (including sole proprietors, such as those in the entrepreneurial economy) and their families will be permitted to join AHPs.

The Department remains committed to protecting all workers by fully and fairly enforcing the law. The Department's efforts are carried out in accordance with both well-established case law and existing Department regulations. The entrepreneurial economy is hamstrung by the fact that labor laws were designed for a different time and do not easily apply to many of the technological innovations that are trans-

forming how individuals choose to participate in the workforce. Any change to the law would need to occur through the legislative process.

Question. How does the Department plan to protect gig-economy workers who lack the benefits and protections of full-time employees?

Answer. For the first time, working owners without other employees (including sole proprietors, such as those in the entrepreneurial economy) and their families will be permitted to join Association Health Plans (AHPs). AHPs, under the Department of Labor's newly-finalized rule, are group health plans that employer groups and associations offer to provide health coverage to employees. AHPs allow small employers to band together to purchase the types of coverage that are available to large employers, which can be less expensive and better tailored to the needs of their employees.

QUESTIONS SUBMITTED BY SENATOR TAMMY BALDWIN

OSHA SILICA STANDARDS

Question. OSHA has issued two new standards to better protect workers exposed to respirable crystalline silica, including one for construction and one for general industry and maritime. Worker inhalation of silica can lead to an incurable lung disease known as silicosis, lung cancer, chronic obstructive pulmonary disease, and kidney disease.

I am pleased that OSHA began enforcing the standard for construction on September 23, 2017. OSHA reported that it would offer compliance assistance for the first 30 days, and on October 23 it would begin full enforcement of the silica construction standard.

How many inspections and citations has OSHA issued for that standard since it went into effect?

Answer. The Occupational Safety and Health Administration (OSHA) began enforcing the Respirable Crystalline Silica in Construction standard (29 CFR 1926.1153) on September 23, 2017. Since September 23, 2017, OSHA has conducted 116 not-in-compliance silica inspections, resulting in 188 citations.

Question. Further, OSHA announced it will begin enforcing the standard for general industry and maritime on June 23, 2018. As Secretary, how will you ensure full implementation and enforcement of the silica standards amid the administration's proposed DOL funding decrease for fiscal year 2019?

Answer. OSHA is currently enforcing the silica rule in construction, general industry, and maritime. The fiscal year 2019 President's Budget Request for OSHA does not reflect a programmatic decrease, but rather includes a request for 42 additional compliance safety and health officers. Additionally, OSHA continues to engage with stakeholders in general industry to provide compliance assistance to meet the new standard. OSHA's website has a number of helpful resources including compliance materials, fact sheets, and best practices for those seeking additional information on how to comply with the rule.

FAIR LABOR STANDARDS FOR GIG ECONOMY WORKERS

Question. States and local governments often serve as "Laboratories of Democracy," where they enact new laws, and regulations that eventually become the model for similar Federal action. In recent years, States such as California and New York have taken action to hold accountable so called "gig economy" companies whose business models seem to skirt existing regulations. For example, California's Public Utilities Commission recently announced that Uber fits the State's definition of a transportation network company and has for years unfairly avoided paying the requisite fees by not registering as such. Other States such as New York and Massachusetts have heard court cases on whether companies like Uber and Lyft misclassify their employees as independent contractors.

Mr. Acosta, as these States take action to make sure all businesses are adhering to the same fair labor and business standards, do you believe there is a role for the Department of Labor's Wage and Hour Division to look into whether these companies' labor practices violate the Fair Labor Standards Act?

Answer. The Department remains committed to protecting all workers by fully and fairly enforcing the law. In fiscal year 2017 alone, the Wage and Hour Division (WHD) found more than \$270 million in back wages—the second-highest amount WHD has ever recorded—for more than 240,000 workers. The Department's efforts are carried out in accordance with both well-established case law and existing Department regulations. The entrepreneurial economy is hamstrung by the fact that labor laws were designed for a different time and do not easily apply to many of

the technological innovations that are transforming how individuals choose to participate in the workforce. Nevertheless, WHD continues to work with our State partners in a variety of ways and has entered into memoranda of understanding with more than 40 States to collaborate on compliance assistance and enforcement. WHD remains engaged at the local level via our 54 District Offices, and through its Community Outreach and Resource Planning Specialists, who engage directly with States and stakeholders at the local level nationwide.

Question. Has your Department undertaken such a review? Do you plan to in the future?

Answer. The Department of Labor's Wage and Hour Division (WHD) investigates companies on a case-by-case basis. The Department remains committed to protecting all workers by fully and fairly enforcing the law. The Department's efforts are carried out in accordance with both well-established case law and existing Department regulations.

WHISTLEBLOWER PROTECTION PROGRAM FUNDING

Question. OSHA's Whistleblower Protection Program faces many structural and financial handicaps, making it difficult to enforce the 22 Federal whistleblower statutes that it administers. An audit by the Department of Labor Office of Inspector General in September 2015 concluded: OSHA did not consistently ensure complaint reviews under the Whistleblower Programs were complete, sufficient, and timely; OSHA did not ensure the manual and training reflected the most recent program updates and changing priorities; more than 70 percent of investigations were not conducted within statutory timeframes; and OSHA did not adequately and timely communicate the violations alleged by whistleblowers internally to OSHA's enforcement units or externally to other Federal agencies with jurisdiction to investigate the allegations.

What concrete actions do you plan to take as Secretary to prioritize OSHA's Whistleblower Protection Program amid the proposed DOL funding decrease for fiscal year 2019?

Answer. The fiscal year 2019 President's Budget proposed no funding changes to the Whistleblower Protection Program. The fiscal year 2019 request will enable the Occupational Safety and Health Administration (OSHA) to continue to build on improvements in the program. OSHA expects to receive approximately 3,400 docketed complaints and conduct approximately 3,000 whistleblower investigations. To improve the investigative process, OSHA will continue to pilot new processes, such as the Expedited Case Processing and the Administrative Dismissals Report of Investigation, with the purpose of identifying steps in the investigative process that can be streamlined without compromising quality. Successful pilot programs will then be implemented nationwide and eventually incorporated into the Whistleblower Investigations Manual (WIM).

OSHA INVESTIGATOR STAFF LEVELS

Question. In 2016, at the recommendation of Congress, stakeholder organizations, the GAO, and the Whistleblower Advisory Committee, OSHA made substantial improvements to its Whistleblower Investigations Manual. However, questions remain about effective enforcement of the manual amid limited staff capacity and resources.

As Secretary, what actions would you take to ensure that OSHA whistleblower investigators are fully staffed and in compliance with the updated manual amid the administration's proposed DOL funding decrease for fiscal year 2019?

Answer. The Occupational Safety and Health Administration (OSHA) is working to fill whistleblower investigator vacancies to ensure the agency is fully staffed. Since the start of fiscal year 2018, OSHA has hired four whistleblower investigators, and there are ongoing hiring actions for six additional whistleblower positions. OSHA will continue to offer comprehensive training through webinars and in-person courses at the OSHA Training Institute to provide investigator staff with the most up-to-date techniques, strategies, and tools for conducting successful investigations, consistent with the Whistleblower Investigations Manual.

MODERNIZING WHISTLEBLOWER PROTECTION REGULATIONS

Question. Outdated and inconsistent whistleblower laws (compounded by resource restraints) have hampered DOL's ability to implement the OSHA Whistleblower Protection Program. Most of the DOL-administered whistleblower statutes enacted before 2000 have become obsolete and are virtually unenforceable. For instance, more whistleblower complaints have been filed under Section 11(c) of the Occupational Safety and Health (OSH) Act of 1970 than all other combined whistleblower laws enforced by DOL. However, between fiscal year 2005–2013 whistleblowers

won in less than 2 percent of cases. Part of the problem is the short statute of limitations. One third of DOL's whistleblower laws require employees to file a complaint within 30 days of the adverse action. Yet, workers often do not learn an action is retaliatory until after that timeframe and miss their window. Conversely, employees have 180 days to file a complaint under DOL's last 12 enacted whistleblower laws, increasing their rate of enforcement. Inconsistencies with the burden of proof, due process, and temporary reinstatement, among other areas, also cripple the older statutes. This creates confusion among DOL, employers and employees alike. Conversely, most Federal employees enjoy whistleblower protections under one primary law, the Whistleblower Protection Act, which Congress unanimously strengthened in 2012.

As Secretary, do you support Title II of the Protecting America's Workers Act, which would modernize section 11(c) of the Occupational Safety and Health Act and expand coverage to additional workers?

Answer. The Department fully supports the Occupational Safety and Health Administration's (OSHA) Whistleblower Protection Program (WPP), including ensuring the appropriate and timely sharing of complaints with other agencies and making sure there are appropriate resources to fulfill the WPP's mission. OSHA collaborates with several partners and other agencies impacted by the whistleblower statutes to ensure a basic exchange of information and facilitate referrals between each agency, including cross training investigators, conducting outreach, providing technical support, and sharing information.

Question. Do you think Adjusting the 30 statute of limitations in 11(c) to be more consistent with the 180 days employers have to file a complaint under DOL's last 12 enacted whistleblower laws would make the law more consistent and fair to workers?

Answer. Please see the response to the prior question. In addition, in July 2017, the Occupational Safety and Health Administration revised the Whistleblower Online Complaint form to assist whistleblowers in finding the correct agency in which to file their complaint.

Question. Further, do you support consolidating the 22 DOL-administered whistleblower statutes into one coherent law that reflects the gold-standard whistleblower rights that have received unanimous congressional support over the past decade?

Answer. Please see the response to the prior question.

GREIF INC. OSHA VIOLATIONS

Question. The U.S. Occupational Safety and Health Administration cited the Mid-America Steel Drum facility, located just North of Milwaukee, Wisconsin, for 15 serious violations for exposing workers to chemical and heat-related burns, toxic gases, dangerous noise levels, risk of falls and other hazards. The Milwaukee Journal Sentinel has reported that a former safety consultant to the company, Will Kramer, documented these same safety violations and recommendations to abate the hazards in a detailed report he provided to the company prior to the OSHA investigation that led to these penalties. Mr. Kramer also provided these detailed reports to OSHA prior to the Agency inspecting and citing Mid-America Steel Drum for serious safety violations.

Why were the citations issued by OSHA not classified as willful violations since both OSHA and Mid-America Steel Drum were made aware of the safety violations by Will Kramer prior to the OSHA investigation and the company being cited for 15 serious violations?

Answer. The inspection at the Milwaukee site was opened on October 27, 2016, after receiving an employee complaint, 4 months prior to the Milwaukee Journal article citing allegations.

The actions and classification of penalties as established in statute and the Occupational Safety and Health Administration's (OSHA) Field Operations Manual were appropriate for the actual worksite conditions identified by OSHA. The evidence indicated that the employer had taken steps to correct hazards, and was actively working to improve the overall safety and health of the facility. OSHA documented and issued serious violations during the inspection. The evidence gathered during the inspection did not prove the employer demonstrated intentional disregard or plain indifference to workplace safety and health hazards. At the time of the inspection, the employer had taken actions to correct items identified in the self-audit, and hired a different safety consultant firm to develop safety programs and train workers.

QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN, III

DISLOCATED WORKER GRANTS TO HELP FIGHT THE OPIOID EPIDEMIC

Question. Secretary Acosta, I was pleased to see that the Department of Labor has announced new grants to help communities fight the opioid epidemic by helping those in recovery gain job skills or by helping communities train the professionals needed to provide substance use disorder treatment.

These funds are desperately needed in a place like West Virginia where I hear all the time from businesses that they have jobs and they want to hire, but they simply can't find a clean worker. Our labor force participation rate is the lowest in the Nation at 53 percent.

In the fiscal year 2018 omnibus, this Congress recognized the need to direct funding to the hardest hit States and I can assure you that no State has been hit harder than West Virginia—we've had the highest opioid overdose death rate in the country for years now.

I applaud you for these grants, and I urge you to bring one of those pilot programs to West Virginia.

Secretary Acosta, will you commit to working with me to address the opioid epidemic and bring much needed resources to West Virginia to help our workers train and our communities rebuild?

Answer. The Department is committed to taking the steps necessary to end the opioid crisis. The Bureau of Labor Statistics Time-Use Survey found that 44 percent of prime-age men (aged 25–54) not in the labor force acknowledged taking pain medication the previous day. Recent studies suggested that up to 20 percent of the steady decline in labor force participation among prime-age men may be attributed to opioid use.

The tragedies of opioid misuse and abuse devastate families and communities, and keep too many Americans out of the workforce. The importance of a job and work in reducing opioid abuse cannot be overstated. This is why the Department announced in March 2018 a National Health Emergency (NHE) Dislocated Worker Demonstration Grant Pilot Program—a grant program focused on returning individuals impacted by opioids to the workplace. Recently, the Department of Labor announced more than \$22 million in this grant funding to six State grantees. The grants will be used to provide reemployment services for individuals impacted by the health and economic effects of widespread opioid use, addiction, and overdose. The six States receiving NHE Dislocated Worker Demonstration Grant funding are: New Hampshire (\$5,000,000); Pennsylvania (\$4,997,287); Washington State (\$4,892,659); Rhode Island (\$3,894,875); Maryland (\$1,975,085); and Alaska (\$1,263,194). The Department recently announced the availability of up to an additional \$100 million for Trade and Economic Transition National Dislocated Worker Grants.

For more information regarding the demonstration program and the Trade and Economic Transition National Dislocated Worker Grants, please review Training and Employment Guidance Letters No. 12–17 and No. 2–18, which provide information on eligible applicants, allowable activities, and application requirements.

Additionally, the Department continues to provide grants to support the planning and implementation of workforce strategies for regions and communities that have been negatively impacted by changes in the coal economy. Since 2017, West Virginia has received a total of \$1,056,000 in Dislocated Worker Grants for coal-related projects.

The Department is committed to helping Americans recover, rebuild, and get back to work.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

GENDER PAY GAP

Question. April 10 was Equal Pay Day, which highlights the outrageous fact that women are paid 80 cents on the dollar compared to men. Given the fact that Equal Pay Day is the same week as your appearance before the Subcommittee, I am disappointed that you chose not to make any mention of this issue in your written testimony.

Please explain what actions the Department has taken under your leadership to close the gender pay gap.

Answer. Wage discrimination on the basis of sex is illegal and wrong. To ensure compliance with Federal anti-discrimination laws and provide redress in the event violations are found, Executive Order 11246 vests the Office of Federal Contract

Compliance Programs (OFCCP) with the authority to investigate gender-based employment discrimination complaints and to remedy documented cases of pay discrimination for Federal contractors and subcontractors. Executive Order 11246 requires that Federal contractors and subcontractors take affirmative action, prohibits them from discriminating against applicants and employees on the basis of sex, and also prohibits discrimination against applicants or employees who discuss, disclose, or inquire about their compensation or the compensation of others, subject to certain limitations. The fiscal year 2019 President's Budget will focus OFCCP on doing high-impact systemic compliance evaluations, implementing agency reforms that strengthen the contractor training and education to support voluntary compliance with equal employment opportunity and nondiscrimination requirements.

The Wage and Hour Division (WHD) also supports a robust enforcement and compliance assistance operation to ensure workers are remunerated fairly. WHD focuses many of its investigations in industries that typically employ large numbers of women workers. These industries, where labor violations are most prevalent, include the janitorial, healthcare, hotel, day care, garment, and restaurant industries. While WHD does not report gender-disaggregated back wage recovery data, in fiscal year 2017, WHD recovered more than \$270 million in back wages for more than 240,000 employees, an average of \$1,114 per person. In fiscal year 2017, WHD concluded more than 29,000 cases.

In addition to enforcing wage protections, WHD also enforces the provisions of the Family and Medical Leave Act (FMLA), which entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. These protections can make a critical difference in women's ability to deliver on family caregiving obligations without sacrificing job security and long-range earning potential. In fiscal year 2017, WHD recovered almost \$1.5 million in back wages for FMLA violations by employers.

The gender wage gap is a complex issue influenced by a variety of factors. The Department, through a combination of research and analysis, compliance and enforcement activities, and direct service programming delivered through the Federal workforce development system, is working to address this issue. The Women's Bureau serves an important role at the Department, utilizing research and educational tools to better understand and inform the public of the factors that may drive the gender wage gap. The fiscal year 2019 President's Budget will allow the agency to undergo reforms to focus on a narrower set of high-priority policy issues, working in close coordination with the White House and other Federal agencies.

The Employment and Training Administration also supports programs to provide workforce development services for female workers. For example, the Women's Bureau is collaborating with the Office of Apprenticeship to recruit and retain women in pre-apprenticeship and apprenticeship programs as potential pathways for women to non-traditional occupations that may have higher average salaries.

COMBATING WAGE THEFT

Question. Wage theft is a serious problem that robs hardworking Americans of the paychecks that are duly owed to them. According to a Politico investigation in February, 41 percent of wages that employers are ordered to pay back to employees are not recovered. Lack of enforcement of our wage laws results in an estimated \$15 billion in lost wages for American workers. The same article noted that the Department had more wage and hour investigators in 1948 than it does today, despite the fact that there are seven times as many workers currently in the workforce.

I appreciate the work the Department of Labor does to combat wage theft. You previously testified before the Senate Commerce Committee that you do not need additional authority to enforce our wage laws.

What additional resources would the Department need to make a more meaningful impact on wage theft?

Answer. The recent media investigation you reference focuses on enforcement of State and local minimum wage laws, not the Fair Labor Standards Act (FLSA). The Wage and Hour Division (WHD) understands that various States and localities have implemented laws that require a higher minimum wage than the FLSA requires, and that some States may not robustly enforce their minimum wage laws. WHD does not have jurisdiction, however, to enforce States' or localities' minimum wage laws.

The President's Budget Request for the Wage and Hour Division (WHD) requests \$230,068,000 and 1,393 full-time employees (FTE) in fiscal year 2019, which is an additional \$2,568,000 and 38 FTE above the fiscal year 2018 enacted funding level. WHD is committed to maximizing its resources to achieve the greatest level of compliance. WHD uses strategies to plan the optimal deployment of resources and reso-

lution of cases, focusing investigations on employers with the most serious violations, and publicizing the results in order to educate and deter other employers from violating the law. The fiscal year 2019 President's Budget proposed investments provide resources of updated and modernized compliance assistance, and its accompanying technology, to allow WHD to engage with industry leaders at the national, regional, and local level. These additional resources will enable WHD to operate more efficiently, to expand on its efforts to fully and fairly enforce the law, and to make compliance information more accessible and understandable to the employer community.

WHD's enforcement remains strong. In fiscal year 2017, WHD found more than \$270 million in back wages—the second-highest amount WHD has ever recorded—for more than 240,000 workers.

Question. At a minimum, do you support restoring the number of wage and hour investigators to the 1948 level? If yes, what would this cost? And if not, why not?

Answer. At current levels, WHD's staffing is in line with historical levels, and WHD's enforcement remains strong. In fiscal year 2017, WHD found more than \$270 million in back wages—the second highest-amount WHD has ever recorded—for more than 240,000 workers.

PUBLICATION OF SECRETARY'S TRAVEL AND MEETING SCHEDULE

Question. On December 26, 2017, Politico published an article noting the limited public availability of your travel and meeting schedule.

As someone who has long sought more transparency in our government, can you explain what if any steps you have taken since the publication of that article to improve public access to your travel and meeting schedule?

Answer. At the Secretary's direction, the Department posts the Secretary's monthly calendar on its website: <https://www.dol.gov/dol/foia/readroom.htm>.

SUBCOMMITTEE RECESS

Senator BLUNT. And the subcommittee hearing is adjourned.

[Whereupon, at 11:59 a.m., Wednesday, April 12, the subcommittee was recessed, to reconvene subject to the call of the Chair.]