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112TH CONGRESS }  
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT  
112-569

REPORT ON THE ACTIVITIES  
OF THE  
COMMITTEE ON EDUCATION AND  
THE WORKFORCE  
together with  
MINORITY VIEWS  
THIRD QUARTER OF THE 112TH CONGRESS



JUNE 29, 2012.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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## COMMITTEE ON EDUCATION AND THE WORKFORCE

JOHN KLINE, Minnesota, *Chairman*

Thomas E. Petri, Wisconsin	George Miller, California,
Howard P. "Buck" McKeon, California	<i>Senior Democratic Member</i>
Judy Biggert, Illinois	Dale E. Kildee, Michigan
Todd Russell Platts, Pennsylvania	Robert E. Andrews, New Jersey
Joe Wilson, South Carolina	Robert C. "Bobby" Scott, Virginia
Virginia Foxx, North Carolina	Lynn C. Woolsey, California
Bob Goodlatte, Virginia	Rubén Hinojosa, Texas
Duncan Hunter, California	Carolyn McCarthy, New York
David P. Roe, Tennessee	John F. Tierney, Massachusetts
Glenn Thompson, Pennsylvania	Dennis J. Kucinich, Ohio
Tim Walberg, Michigan	Rush D. Holt, New Jersey
Scott DesJarlais, Tennessee	Susan A. Davis, California
Richard L. Hanna, New York	Raúl M. Grijalva, Arizona
Todd Rokita, Indiana	Timothy H. Bishop, New York
Larry Bucshon, Indiana	David Loebsack, Iowa
Trey Gowdy, South Carolina	Mazie Hirono, Hawaii
Lou Barletta, Pennsylvania	Jason Altmire, Pennsylvania
Kristi L. Noem, South Dakota	Marcia L. Fudge, Ohio
Martha Roby, Alabama	
Joseph J. Heck, Nevada	
Dennis A. Ross, Florida	
Mike Kelly, Pennsylvania	

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Representative Bob Goodlatte (R-VA) rejoined the Committee on Education and the Workforce on May 25, 2011. Representative David Wu (D-OR) resigned from the Committee on Education and the Workforce on August 3, 2011. Representative Jason Altmire (D-PA) rejoined the Committee on Education and the Workforce on September 12, 2011. Representative Donald M. Payne (D-NJ) passed away on March 6, 2012. Representative Marcia L. Fudge (D-OH) was appointed to the Committee on Education and the Workforce on March 20, 2012.

Under Rule X, clause (e) of the Rules of House, the jurisdiction of the Committee on Education and the Workforce is as follows: education and labor generally, food programs for children in schools, labor standards and statistics, mediation and arbitration of labor disputes, child labor, regulation or prevention of importation of foreign laborers under contract, workers' compensation, wages and hours of labor, welfare of miners, work incentive programs, convict labor and the entry of goods made by convicts into interstate commerce, vocational rehabilitation, and Gallaudet University and Howard University and Hospital.

SUBCOMMITTEE ON EARLY CHILDHOOD,  
ELEMENTARY, AND SECONDARY EDUCATION

DUNCAN HUNTER, California, *Chairman*

John Kline, Minnesota	Dale E. Kildee, Michigan
Thomas E. Petri, Wisconsin	<i>Ranking Member</i>
Judy Biggert, Illinois	Robert C. "Bobby" Scott, Virginia
Todd Russell Platts, Pennsylvania	Carolyn McCarthy, New York
Virginia Foxx, North Carolina	Rush D. Holt, New Jersey
Bob Goodlatte, Virginia	Susan A. Davis, California
Richard L. Hanna, New York	Raúl M. Grijalva, Arizona
Lou Barletta, Pennsylvania	Mazie Hirono, Hawaii
Kristi L. Noem, South Dakota	Lynn C. Woolsey, California
Martha Roby, Alabama	Marcia L. Fudge, Ohio
Mike Kelly, Pennsylvania	George Miller, California ( <i>ex officio</i> )

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The Subcommittee on Early Childhood, Elementary, and Secondary Education has jurisdiction over education from early learning through the high school level including, but not limited to, elementary and secondary education, special education, homeless education, and migrant education; overseas dependent schools; career and technical education; school safety and alcohol and drug abuse prevention; school lunch and child nutrition programs; educational research and improvement including the Institute of Education Sciences; environmental education; pre-service and in-service teacher professional development including Title II of the Elementary and Secondary Education Act and Title II of the Higher Education Act; early care and education programs including the Head Start Act and the Child Care and Development Block Grant Act; adolescent development and training programs including, but not limited to, those providing for the care and treatment of certain at-risk youth including the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act; and all matters dealing with child abuse and domestic violence including the Child Abuse Prevention and Treatment Act and child adoption.

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

TIM WALBERG, Michigan, *Chairman*

John Kline, Minnesota	Lynn C. Woolsey, California,
Bob Goodlatte, Virginia	<i>Ranking Member</i>
Todd Rokita, Indiana	Dennis J. Kucinich, Ohio
Larry Bucshon, Indiana	Timothy H. Bishop, New York
Trey Gowdy, South Carolina	Mazie K. Hirono, Hawaii
Kristi L. Noem, South Dakota	George Miller, California
Dennis A. Ross, Florida	Marcia L. Fudge, Ohio
Mike Kelly, Pennsylvania	

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The Subcommittee on Workforce Protections has jurisdiction over wages and hours of workers including, but not limited to, the Davis-Bacon Act, the Walsh-Healey Act, the Service Contract Act, and the Fair Labor Standards Act; workers' compensation including the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act, and the Black Lung Benefits Act; the Migrant and Seasonal Agricultural Worker Protection Act; the Family and Medical Leave Act; the Worker Adjustment and Retraining Notification Act; the Employee Polygraph Protection Act of 1988; trade and immigration issues as they impact employers and workers; and workers' safety and health including, but not limited to, occupational safety and health, mine safety and health, and migrant and agricultural worker safety and health.

## SUBCOMMITTEE ON HIGHER EDUCATION AND WORKFORCE TRAINING

VIRGINIA FOXX, North Carolina, *Chairwoman*

John Kline, Minnesota	Rubén Hinojosa, Texas
Thomas E. Petri, Wisconsin	<i>Ranking Member</i>
Howard P. “Buck” McKeon, California	John F. Tierney, Massachusetts
Judy Biggert, Illinois	Timothy H. Bishop, New York
Todd Russell Platts, Pennsylvania	Robert E. Andrews, New Jersey
David P. Roe, Tennessee	Susan A. Davis, California
Glenn Thompson, Pennsylvania	Raúl M. Grijalva, Arizona
Richard L. Hanna, New York	David Loeb sack, Iowa
Larry Bucshon, Indiana	George Miller, California
Lou Barletta, Pennsylvania	Jason Altmire, Pennsylvania
Joseph J. Heck, Nevada	

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The Subcommittee on Higher Education and Workforce Training has jurisdiction over education and training beyond the high school level including, but not limited to, higher education generally, postsecondary student assistance and employment services, and the Higher Education Act; Title IX of the Education Amendments of 1972; all domestic volunteer programs; all programs related to the arts and humanities, museum and library services, and arts and artifacts indemnity; postsecondary career and technical education, apprenticeship programs, and job training including the Workforce Investment Act, vocational rehabilitation, and training programs from immigration funding; science and technology programs; adult basic education (family literacy); all welfare reform programs including work incentive programs and welfare-to-work requirements; poverty programs including the Community Services Block Grant Act and the Low Income Home Energy Assistance Program (LIHEAP); the Native American Programs Act; the Institute of Peace; and all matters dealing with programs and services for the elderly including nutrition programs and the Older Americans Act.

## SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS

DAVID P. ROE, Tennessee, *Chairman*

Joe Wilson, South Carolina	Robert E. Andrews, New Jersey
Glenn Thompson, Pennsylvania	<i>Ranking Member</i>
Tim Walberg, Michigan	Dennis J. Kucinich, Ohio
Scott DesJarlais, Tennessee	David Loeb sack, Iowa
Richard L. Hanna, New York	Dale E. Kildee, Michigan
Todd Rokita, Indiana	Rubén Hinojosa, Texas
Larry Bucshon, Indiana	Carolyn McCarthy, New York
Lou Barletta, Pennsylvania	John F. Tierney, Massachusetts
Kristi L. Noem, South Dakota	Rush D. Holt, New Jersey
Martha Roby, Alabama	Robert C. “Bobby” Scott, Virginia
Joseph J. Heck, Nevada	Jason Altmire, Pennsylvania
Dennis A. Ross, Florida	George Miller, California ( <i>ex officio</i> )
John Kline, Minnesota ( <i>ex officio</i> )	

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The Subcommittee on Health, Employment, Labor, and Pensions has jurisdiction over all matters dealing with relationships between employers and employees including, but not limited to, the National Labor Relations Act, the Labor-Management Relations Act, and the Labor-Management Reporting and Disclosure Act; the Bureau of Labor Statistics; employment-related health and retirement security including pension, health, and other employee benefits and the Employee Retirement Income Security Act (ERISA); and all matters related to equal employment opportunity and civil rights in employment.

**LETTER OF TRANSMITTAL**

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COMMITTEE ON EDUCATION AND THE WORKFORCE,  
*Washington, DC, June 29, 2012.*

Hon. KAREN L. HAAS,  
*Clerk of the House, The Capitol,*  
*Washington, DC.*

DEAR MS. HAAS: Pursuant to Rule XI, clause 1, paragraph (d) of the Rules of the U.S. House of Representatives, I am hereby transmitting the Report on the Activities of the Committee on Education and the Workforce for the Third Quarter of the 112th Congress.

This report was adopted in a full committee markup session, with a quorum present, on June 27, 2012. I circulated this report to all members on June 27, 2011, and received minority views, which are included in this report.

This report summarizes the activities of the Committee during the Third Quarter of the 112th Session with respect to its legislative and oversight responsibilities.

Sincerely,

JOHN KLINE,  
*Chairman.*



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## INTRODUCTION

Since the beginning of the 112th Congress, the U.S. House Committee on Education and the Workforce has been diligently working to address the challenges facing America's schools, students, employers, and families.

One of the committee's top priorities is advancing legislation to help ensure all students have access to the tools, training, and education opportunities necessary for success in any endeavor. After months of bipartisan discussions and countless meetings with state and local leaders and education stakeholders, the committee approved in February two pieces of legislation to revamp K-12 education law (currently known as No Child Left Behind). The Student Success Act (H.R. 3989) and the Encouraging Innovation and Effective Teachers Act (H.R. 3990) aim to shrink federal intrusion, support better teachers in the classroom, and return responsibility for student progress to states and school districts. With these bills, the committee has taken another step toward lifting the burden of an ineffective law and raising the bar on student achievement.

The committee continues to closely monitor and conduct oversight on issues affecting postsecondary students and institutions, such as federal regulations and initiatives that could make it more difficult for colleges to offer a quality education at an affordable price. Addressing the challenge of rising college costs merits thoughtful discussion among leaders in Washington, state officials, and members of the higher education community. Students and their families need real solutions—not empty promises and short-term initiatives that kick the can down the road. Toward that end, the committee supported the Interest Rate Reduction Act (H.R. 4682), legislation to prevent a scheduled interest rate increase on subsidized Stafford Loans, and is exploring opportunities to help align student loan interest rates more closely with the free market. Additionally, the committee is working to eliminate burdensome federal mandates and protect choice and opportunities in higher education.

Improving and strengthening job training opportunities for American workers is another top priority for committee leaders. Particularly in these times of persistently high unemployment, a strong workforce investment system is critical. The committee recently approved legislation to reauthorize the Workforce Investment Act and make the nation's job training system leaner, more accountable, and better aligned with the needs of job creators. The Workforce Investment Improvement Act (H.R. 4297) advances responsible changes to federal job training assistance by eliminating dozens of ineffective and redundant programs, strengthening the role of employers in workforce development decisions, and promoting new tools and initiatives that will help put more Americans back to work.

In addition to ensuring workers have opportunities to gain the skills necessary to fill in-demand jobs, the committee is also fighting to protect employers from the radical policies advanced by the National Labor Relations Board. For three years, the Obama labor board has been wreaking havoc on America's workplaces, despite concerns raised by workers and job creators. The committee remains determined to protect employee and employer rights under the National Labor Relations Act and ensure union transparency and democracy. The committee has previously advanced legislation designed to rein in the NLRB's activist agenda and reaffirm key workforce protections that have been in place for decades, and remains determined to hold the board accountable for its job-destroying actions.

As one of three committees with jurisdiction over health care, the House Committee on Education and the Workforce continues to examine the effects of the 2010 Patient Protection and Affordable Care Act on job creators and workers. Today, approximately 170 million individuals receive health insurance through an employer. As a result, job creators play a critical role in America's health care system and are especially vulnerable to any change that increases the costs or regulatory burden of providing health insurance. Democrats promised a government takeover of health care would create jobs, lower costs, and provide relief to small businesses. However, the resulting law contains new mandates, regulations, and tax increases that fall especially hard on employers at a time they can least afford it. The committee will continue to support commonsense proposals that remove the law's harmful consequences whenever possible.

Congressional leaders have a responsibility to conduct oversight of the federal government, and the House Committee on Education and the Workforce takes that responsibility seriously. With so many Americans unemployed, it is unacceptable to ignore rules or regulations that stand in the way of job creation. As the national debt passes historic levels, the committee is determined to ensuring agencies spend taxpayer dollars wisely. The committee will also continue to lead aggressive oversight in the areas under our jurisdiction, including policies administered by the U.S. Departments of Labor, Education, Agriculture, and Health and Human Services.

The committee continues to examine the policies and programs within its jurisdiction to determine whether they are serving the best interests of students, workers, and taxpayers, and will remain vigilant in pursuit of policies that promote economic growth, support a stronger workforce, and improve education in America.

## COMMITTEE ACTIVITIES

### FULL COMMITTEE

#### HEARINGS

(LINKS ARE TO THE COMMITTEE WEBSITE)

In the third quarter of the 112th Congress, the full committee held eight hearings, two of which were legislative hearings.

*February 1, 2012—“Expanding Opportunities for Job Creation”*  
(Printed Hearing 112-49)

The purpose of the hearing was to provide a broad overview of issues influencing workers and job creation.

Witnesses: The Honorable Rick Snyder, Governor, State of Michigan, Lansing, Michigan and The Honorable Dannel “Dan” Malloy, Governor, State of Connecticut, Hartford, Connecticut. The witnesses before the second panel included Ms. Kellie Johnson, President, ACE Clearwater Industries, Torrance, California; Dr. Jared Bernstein, Senior Fellow, Center on Budget and Policy Priorities, Washington, D.C.; and Dr. Matthew Mitchell, Senior Research Fellow for Economics, The Mercatus Center at George Mason University, Arlington, Virginia.

*February 7, 2012—“The NLRB Recess Appointments: Implications for America’s Workers and Employers”* (Printed Hearing 112-51)

The purpose of the hearing was to examine the constitutionality and substantive consequences of President Obama’s recent recess appointments of two Democrats (Sharon Block and Richard Griffin) and one Republican (Terence Flynn) to the National Labor Relations Board (NLRB or Board) while the Senate was regularly meeting in pro forma session.

Witnesses: Mr. Charles J. Cooper, Chairman, Cooper & Kirk, PLLC, Washington, D.C.; Mr. Dennis M. Devaney, Member, Devaney, Jacob, Wilson, PLLC, Troy, Michigan; Ms. Susan Davis, Partner, Cohen, Weiss and Simon LLP, New York, New York; and Mr. Stefan J. Marculewicz, Shareholder, Littler Mendelson P.C., Washington, D.C.

*February 16, 2012—H.R. 3989, “Student Success Act” and H.R. 3990, “Encouraging Innovation and Effective Teachers Act”*  
(Printed Hearing 112-52)

The purpose of the hearing was to examine H.R. 3989, the Student Success Act, and H.R. 3990, the Encouraging Innovation and Effective Teachers Act. The legislation strengthens state and local authority and supports effective teachers in the classroom.

Witnesses: Mr. Tom Luna, Superintendent of Public Instruction, Idaho Department of Education, Boise, Idaho; Ms. Delia Pompa, Senior Vice President of Programs, National Council of La Raza, Washington, D.C.; The Honorable Bob Schaffer, Chairman, Colorado State Board of Education, Fort Collins, Colorado; Dr. Robert Balfanz, Co-Director, Everyone Graduates Center School of Education, Johns Hopkins University, Baltimore, Maryland; Ms. Felicia

Kazmier, Art Teacher, Otero Elementary School, Colorado Springs, Colorado; and Mr. Jimmy Cunningham, Superintendent of Schools, Hampton School District, Hampton, Arkansas.

*March 21, 2012—“Reviewing the President’s Fiscal Year 2013 Budget Proposal for the U.S. Department of Labor”* (Printed Hearing 112-55)

The purpose of the hearing was to examine the Department of Labor’s budget request for Fiscal Year 2013 and discuss the administration’s plans regarding jobs and unemployment.

Witness: The Honorable Hilda L. Solis, Secretary, United States Department of Labor, Washington, D.C.

*March 27, 2012—“Learning from the Upper Big Branch Tragedy”* (Printed Hearing 112-56)

The purpose of the hearing was to examine the findings related to the Upper Big Branch tragedy.

Witnesses: The Honorable Joseph A. Main, Assistant Secretary, Mine Safety and Health Administration, United States Department of Labor, Arlington, Virginia. The second panel of witnesses included Mr. Howard Shapiro, Counsel to the Inspector General, United States Department of Labor, Washington, D.C.; Mr. Cecil Edward Roberts, Jr., President, United Mine Workers of America, Triangle, Virginia; and Dr. Jeffery Kohler, Director, Office of Mine Safety and Health Research, National Institute for Occupational Safety and Health, Pittsburgh, Pennsylvania.

*March 28, 2012—“Reviewing the President’s Fiscal Year 2013 Budget Proposal for the U.S. Department of Education”* (Printed Hearing 112-57)

The purpose of the hearing was to examine the Department of Education’s budget request for Fiscal Year 2013.

Witness: The Honorable Arne Duncan, Secretary, United States Department of Education, Washington, D.C.

*April 17, 2012—H.R. 4297, “Workforce Investment Improvement Act of 2012”* (Printed Hearing 112-58)

The purpose of the hearing was to examine H.R. 4297, the Workforce Investment Improvement Act. The legislation reauthorizes the Workforce Investment Act of 1998, improving the nation’s primary assistance for unemployed and underemployed workers.

Witnesses: Ms. Norma Noble, Deputy Secretary of Commerce for Workplace Development, Workforce Solutions, Oklahoma City, Oklahoma; Ms. Laurie Moran, President, Danville Pittsylvania County Chamber of Commerce, Blairs, Virginia; Mr. Andy Van Kleunen, Executive Director, National Skills Coalition, Washington, D.C.; and Ms. Sandy Harmsen, Director, San Bernardino County Department of Workforce Development, San Bernardino, California.

*April 26, 2012—“Reviewing the President’s Fiscal Year 2013 Budget Proposal for the U.S. Department of Health and Human Services”* (Printed Hearing 112-60)

The purpose of this hearing was to examine the Department of Health and Human Services’ budget request for Fiscal Year 2013.

Witness: The Honorable Kathleen Sebelius, Secretary, United States Department of Health and Human Services, Washington, D.C.

#### MARKUPS

(LINKS ARE TO THE COMMITTEE WEBSITE)

In the third quarter of the 112th Congress, the full committee held four markups and filed four reports. No subcommittee markups were held.

*February 28, 2012—H.R. 3989, “Student Success Act”* (Sponsor: John Kline)

The bill offers a better way forward for education reform by returning responsibility for student achievement to states, school districts, and parents while maintaining high expectations; providing states and school districts greater flexibility to meet students’ unique needs; investing limited taxpayer dollars wisely; strengthening programs for schools and targeted populations; and maintaining and strengthening long-standing protections for state and local autonomy. The bill was ordered favorably reported, as amended, to the House by a vote of 23-16, and the committee report was filed April 27, 2012 (House Report 112-458).

*February 28, 2012—H.R. 3990, “Encouraging Innovation and Effective Teachers Act”* (Sponsor: John Kline)

The bill offers a better way forward for education reform by providing information to parents on teacher effectiveness, promoting school choice and engaging parents in their child’s education, increasing state and local innovation to reform public education, eliminating unnecessary and ineffective federal programs, supporting Impact Aid, providing services for homeless students, and strengthening the existing Troops-to-Teachers program. The bill was ordered favorably reported, as amended, to the House by a vote of 23-16, and the committee report was filed on April 27, 2012 (House Report 112-459, Part 1).

*June 7, 2012—H.R. 4297, “Workforce Investment Improvement Act of 2012”* (Sponsor: Virginia Foxx)

The bill reauthorizes the Workforce Investment Act of 1998. The legislation improves employer engagement by creating a demand-driven workforce development system, reining in bureaucracy by removing overly burdensome federal mandates on state and local workforce investment boards, and providing America’s workers with a more dynamic, flexible, and effective network of job training services that are designed to meet the needs of in-demand industries at the local level. The bill was ordered favorably reported, as amended, to the House by a vote of 23-15.

*July 27, 2012—Report of the Activities of the Committee on Education and the Workforce for the Third Quarter of the 112th Congress.*

The Activities Report summarizes the legislative and oversight activities of the committee for the third quarter of the 112th Congress. The Committee Activities Report was ordered favorably reported to the House by a voice vote.

#### FLOOR

(LINKS ARE TO THE HOUSE PASSED BILL)

In the third quarter of the 112th Congress, the committee passed two bills on the House floor, both under a Rule.

*H.R. 2117, “Protecting Academic Freedom in Higher Education Act”*  
(Sponsor: Virginia Foxx)

The bill passed the House under a Rule (H. Res. 563) on February 28, 2012 by a vote of 303-114.

*H.R. 4628, “Interest Rate Reduction Act”* (Sponsor: Judy Biggert)

The bill passed the House under a Rule (H. Res. 631) on April 27, 2012 by a vote of 215- 195.

#### SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY EDUCATION

##### HEARINGS

(LINKS ARE TO THE COMMITTEE WEBSITE)

*May 16, 2012—“Exploring State Success in Expanding Parent and Student Options”* (Printed Hearing 112-61)

The purpose of the hearing was to highlight state and local efforts to encourage parent engagement and choice in a child’s education.

Witnesses: The Honorable Kevin Chavous, Senior Advisor, American Federation for Children, Washington, D.C.; Ms. Gwendolyn Eaddy-Samuel, President, Connecticut Parents Union, Meriden, Connecticut; Dr. Maria A. Fletcher, President, New York State PTA, Albany, New York; and Mr. Todd Ziebarth, Vice President, State Advocacy and Support, National Alliance for Public Charter Schools, Washington, D.C.

#### SUBCOMMITTEE ON WORKFORCE PROTECTIONS

##### HEARINGS

(LINKS ARE TO THE COMMITTEE WEBSITE)

*March 20, 2012—“Ensuring Regulations Protect Access to Affordable and Quality Companion Care”* (Printed Hearing 112-54)

The purpose of the hearing was to examine the Department of Labor’s Wage and Hour Division’s December 27, 2011 proposed rule pertaining to the minimum wage and overtime exemption for companionship services under the Fair Labor Standards Act of 1938.

Witnesses: Ms. Nancy J. Leppink, Deputy Administrator, Wage and Hour Division, United States Department of Labor, Washington, D.C. The witnesses on the second panel included Mr. Wynn Esterline, Franchise Owner, Home Instead Senior Care, Adrian, Michigan; Ms. Marie Woodard, Annandale, Virginia; Ms. Cathy Ruckelshaus, Legal Co-Director, National Employment Law Project, Washington, D.C.; and Mr. William A. Dombi, National Association for Home Care & Hospice, Washington, D.C.

*June 28, 2012—“Promoting Safe Workplaces Through Voluntary Protection Programs”* (Printed Hearing 112-64)

The purpose of the hearing was to examine the Occupational Safety and Health Administration’s (OSHA) Voluntary Protection Programs, a compliance program designed to reduce work-related accidents, injuries, illnesses, and fatalities through management, worker, and OSHA cooperation.

Witnesses: Mr. Mike Lee, Vice President and General Manager, Nucor Steel Decatur, Trinity, Alabama; Mr. R. Davis Layne, Executive Director, Voluntary Protection Programs Participants’ Association, Falls Church, Virginia; Mr. Rob Henson, Process Technician, LydondellBassell, Houston, Texas; Mr. Jordan Barab, Deputy Assistant Secretary of Labor, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C.; Dr. David I. Levine, Eugene E. and Catherine T. Trefethen Professor Business Administration, Haas School of Business, University of California, Berkeley, California.

SUBCOMMITTEE ON HIGHER EDUCATION AND WORKFORCE TRAINING  
HEARINGS

No hearings were held during this time period.

SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS  
HEARINGS

(LINKS ARE TO THE COMMITTEE WEBSITE)

*February 2, 2012—“Examining the Challenges Facing PBGC and Defined Benefit Pension Plans”* (Printed Hearing 112-50)

The purpose of the hearing was to examine the financial condition of the Pension Benefit Guaranty Corporation, the federal backstop for terminated or insolvent defined benefit pension plans established by the Employee Retirement Income Security Act of 1974, and its enforcement activities and administration of terminated plans.

Witnesses: The Honorable Joshua Gotbaum, Director, Pension Benefit Guaranty Corporation (PBGC), Washington, D.C. The second panel of witnesses included Mr. Kenneth W. Porter, President, Benefits Leadership International, LLC, Wilmington, Delaware; Ms. Gretchen Haggerty, Chief Financial Officer, U.S. Steel, Pittsburgh, Pennsylvania; Mr. Randy DeFrehn, Executive Director, National Coordinating Committee for Multiemployer Plans, Washington, D.C.; and Dr. John McGowan, Professor, Saint Louis University, St. Louis, Missouri.

*February 22, 2012—“Health Care Challenges Facing Pennsylvania’s Workers and Job Creators”* (Printed Hearing 112-53)

The purpose of the field hearing in Butler, Pennsylvania, was to examine the consequences of the Patient Protection and Affordable Care Act, enacted in March 2010, on Pennsylvania employers.

Witnesses: The Honorable Donald C. White, Senator PA-41, Pennsylvania State Senate, Harrisburg, Pennsylvania; Ms. Kathleen Bishop, President and CEO, Meadville-Western Crawford County Chamber of Commerce, Meadville, Pennsylvania; Ms. Georgeanne Koehler, Pittsburgh, Pennsylvania; and Ms. Lori Joint, Director of Government Affairs, Manufacturer & Business Association, Erie, Pennsylvania. The second panel of witnesses included Ms. Patti-Ann Kanterman, CFO, Associated Ceramics & Technology, Inc., Sarver, Pennsylvania; Mr. Paul T. Nelson, Owner and CEO, Waldameer Park, Inc., Erie, Pennsylvania; Mr. Ralph Vitt, Owner, Vitt Insure, Pittsburgh, PA; and Mr. Will Knecht, President, Wendell August Forge, Grove City, Pennsylvania.

*April 18, 2012—“Reviewing the Impact of the Office of Federal Contract Compliance Programs’ Regulatory and Enforcement Actions”* (Printed Hearing 112-59)

The purpose of the hearing was to examine the regulatory and enforcement actions of the Department of Labor’s Office of Federal Contract Compliance Programs, the federal agency that enforces nondiscrimination and affirmative action requirements applicable to federal contractors and subcontractors.

Witnesses: Mr. Jeffrey A. Norris, President, Equal Employment Advisory Council, Washington, D.C.; Ms. Dana Bottenfield, Director of Human Resources Information Systems, St. Jude Children’s Research Hospital, Memphis, Tennessee; Ms. Fatima Goss Graves, Vice President for Education and Employment, National Women’s Law Center, Washington, D.C.; and Ms. Alissa Horovitz, Shareholder, Littler Mendelson, P.C., Washington, D.C.

*May 31, 2012—“Barriers to Lower Health Care Costs for Workers and Employers”* (Printed Hearing 112-62)

The purpose of the hearing was to examine the steps employers are taking to control health care costs and identify potential impediments resulting from implementation of the Patient Protection and Affordable Care Act.

Witnesses: Mr. Ed Fensholt, Senior Vice President, Lockton Companies, LLC, Kansas City, Missouri; Mr. Roy Ramthun, President, HAS Consulting Services, Washington, D.C.; Ms. Jody Hall, Founder and Owner, Cupcake Royale, Seattle, Washington; and Mr. Bill Streitberger, Vice President of Human Resources, Red Robin, Greenwood Village, Colorado.

*June 20, 2012—“Assessing the Challenges Facing Multiemployer Pension Plans”* (Printed Hearing 112-63)

The purpose of this hearing was to introduce members to the challenges facing underfunded multiemployer plans.

Witnesses: Ms. Judy R. McReynolds, President and CEO, Arkansas Best Corporation, Fort Smith, Arkansas; Mr. Michael Sander, Administrative Manager, Western Conference of Teamsters Pen-



sion Trust, Seattle, Washington; Mr. Josh Shapiro, Deputy Executive Director for Research and Education, National Coordinating Committee for Multiemployer Plans, Washington, D.C.; Mr. John F. Ring, Partner, Morgan, Lewis & Bockius LLP, Washington, D.C.; and Mr. Scott M. Henderson, Vice President and Treasurer, The Kroger Company, Cincinnati, Ohio.

#### OVERSIGHT

(LINKS ARE TO THE COMMITTEE WEBSITE)

Along with gathering information through hearings, the committee conducts oversight of federal programs under its jurisdiction through general information gathering. To evaluate the effectiveness and administration of federal laws, the committee initiated the following correspondence:

December 12, 2011—Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding the federal regulatory requirements for federal higher education programs.

December 13, 2011—Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding a study of the Pension Benefit Guaranty Corporation multi-employ pension plan insurance program.

December 16, 2011—Letter to Acting General Counsel Lafe Solomon, National Labor Relations Board, requesting documents and communications related to the Board’s complaint against the Boeing Corporation.

December 16, 2011—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Mine Safety and Health Administration’s internal review of the Upper Big Branch mining accident.

December 21, 2011—Letter to Governor Beverly Perdue, State of North Carolina, regarding the release of unemployment numbers gathered by the Bureau of Labor Statistics.

December 21, 2011—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the release of unemployment numbers gathered by the Bureau of Labor Statistics.

December 21, 2011—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Wage and Hour Division’s anticipated rulemaking entitled “Right to Know Under Fair Labor Standards Act.”

December 21, 2011—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding unresponsive answers from the Office of Legislative and Congressional Affairs in response to an October 14, 2011 letter.

December 21, 2011—Letters to offices within the U.S. Department of Education regarding unresponsive answers in response to letters of October 14, 2011, sent to:

- Assistant Secretary Peter Cunningham, Office of Communications and Outreach
- Director John Easton, Institute of Education Sciences
- Assistant Secretary Russlynn Ali, Office of Civil Rights
- Acting Chief Financial Officer Thomas Skelly, Office of the Chief Financial Officer
- Principal Deputy Assistant Secretary Winona Varnon, Office of Management

- Chief Information Officer Danny Harris, Office of the Chief Information Officer
- Assistant Secretary Carmel Martin, Office of Planning, Evaluation, and Policy Development
- Director Karen Cator, Office of Education Technology
- Under Secretary Martha Kantor, Office of the Under Secretary
- Chief Operating Officer Jim Runcie, Office of Federal Student Aid
- Assistant Secretary Brenda Dann-Messier, Office of Vocational and Adult Education
- Assistant Secretary Eduardo Ochoa, Office of Postsecondary Education
- Director Brenda Girton-Mitchell, Center for Faith Based and Neighborhood Partnerships
- Director Maureen McLaughlin, Office of International Affairs
- Deputy Secretary Tony Miller, Office of the Deputy Secretary
- Assistant Deputy Secretary Jim Shelton, Office of Innovation and Improvement
- Assistant Secretary Alexa Posny, Office of Special Education and Rehabilitative Services
- Assistant Deputy Secretary Rosalinda Barrera, Office of English Language Acquisition
- Acting Assistant Secretary Michael Yudin, Office of Elementary and Secondary Education
- Commissioner Lynnae Ruttledge, Rehabilitation Services Administration

December 22, 2011—Letter to Deputy Administrator Nancy Leppink, Wage and Hour Division, U.S. Department of Labor, regarding questions for the record following the hearing “Examining Regulatory and Enforcement Actions Under the Fair Labor Standards Act” held on November 3, 2011.

December 23, 2011—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding the panel of negotiators for the negotiated rulemaking to address student loan issues.

January 6, 2012—Letter to Chairman Mark Pearce, National Labor Relations Board, requesting documents drafted in whole or in part by the January 2012 recess appointees to the National Labor Relations Board during their time of employment by the Board.

January 6, 2012—Letter to Kathryn Ruemmler, Counsel to the President, requesting documents and communications surrounding the January 2012 recess appointments to the National Labor Relations Board.

January 12, 2012—Letter to President Barack Obama opposing the January 2012 recess appointments to the National Labor Relations Board while the Senate was regularly meeting in pro forma session.

January 18, 2012—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding additional information on the President’s “Help Americans Manage Student Loan Debt” plan.

January 27, 2012—Letter to Assistant Secretary Phyllis Borzi, Employee Benefits Security Administration, U.S. Department of Labor, requesting information on the department’s efforts to ex-

pand the definition of “fiduciary” under the Employee Retirement Income Security Act of 1974.

January 27, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Office of Federal Contract Compliance Programs’ proposed regulations under Section 503 of the Rehabilitation Act of 1973 entitled “Affirmative Action and Nondiscrimination Obligations of Contractors Regarding Individuals with Disabilities.”

February 1, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding additional information on the President’s call for “one program, one website, one place” for workers to receive employment support.

February 6, 2012—Letter to Commissioner Douglas Shulman, Internal Revenue Service, regarding regulations impacting public charter schools.

February 9, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the departure of Mr. Jack Kuzar from the Department’s Mine Safety and Health Administration and the Upper Big Branch internal review team.

February 10, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Wage and Hour Division’s proposed regulations to redefine companionship services under the Fair Labor Standards Act.

February 17, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Wage and Hour Division’s proposed regulations under the Fair Labor Standards Act for minors hired as farm workers.

March 21, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding a revised Unemployment Insurance Program Letter.

March 22, 2012—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding implementation of the Opportunity Scholarship Program.

March 22, 2012—Letter to Ellen London, President and CEO, DC Children and Youth Investment Trust Corporation, regarding the implementation of the Opportunity Scholarship Program.

March 27, 2012—Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding the Department of Education’s administration of the Direct Student Loan Program.

March 28, 2012—Letter to Acting General Counsel Lafe Solomon, National Labor Relations Board, regarding the Board’s regional office consolidation pilot program.

March 28, 2012—Letter to Chairman Mark Pearce, National Labor Relations Board, regarding the Board’s information campaign focusing on workers’ rights to engage in protected concerted activity.

March 29, 2012—Letter to Joshua Gotbaum, Director, Pension Benefit Guaranty Corporation, regarding questions for the record following the February 2, 2012 hearing “Examining the Challenges Facing PBGC and Defined Benefit Pension Plans.”

April 13, 2012—Letter to Inspector General David Berry, National Labor Relations Board, regarding possible ex parte communications in the Boeing case by Acting General Counsel Solomon.

April 25, 2012—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding questions for the record from a March 28, 2012 hearing on the department’s FY 2013 Budget.

April 27, 2012—Letter to Assistant Secretary Joe Main, Mine Safety and Health Administration, U.S. Department of Labor, regarding Mine Safety and Health Administration’s efforts to stop advanced notice of mine inspections.

May 4, 2012—Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding a request for a study of individuals served by the Workforce Investment Act Adult and Dislocated Workers program and a study of the performance accountability of the Workforce Investment Act Adult and Dislocated Workers program.

May 9, 2012—Letter to Acting General Counsel Lafe Solomon, National Labor Relations Board, regarding a request for information relating to the Board’s policy changing the timing for representational pre-elections.

May 14, 2012—Letter to Assistant Secretary Joe Main, Mine Safety and Health Administration, U.S. Department of Labor, regarding the illness and injury rate for Mine Safety and Health Administration personnel.

May 15, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding attorney-client relationship concerns raised by interested parties during the comment period for proposed rule-making redefining “advice” under the Labor-Management Reporting and Disclosure Act.

May 17, 2012—Letter to Acting General Counsel Lafe Solomon, National Labor Relations Board, regarding the Board’s position on nationwide enforcement of a regulation in the event of a split in the federal circuit courts.

May 18, 2012—Letter to Comptroller General Gene Dodaro, U.S. General Accountability Office, regarding the challenges states face in implementing teacher and principal evaluations as part of the Race to the Top program at the Department of Education.

May 18, 2012—Letter to Secretary Kathleen Sebelius, U.S. Department of Health and Human Services, regarding questions for the record following the hearing “Reviewing the President’s Fiscal Year 2012 Budget Proposal for the U.S. Department Health and Human Services” held on April 26, 2012.

May 18, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding questions for the record following the hearing “Reviewing the President’s Fiscal Year 2013 Budget Proposal for the U.S. Department of Labor” held on March 21, 2012.

June 1, 2012—Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the department’s proposed modifications to the policies on dissemination of economic data to the news media and the public.

June 4, 2012—Letter to Secretary Arne Duncan, U.S. Department of Education, regarding the department’s regulatory guidance on third party servicer affiliation with any institution of higher education.

June 15, 2012—Letter to Under Secretary of Defense for Personnel and Readiness Erin Conaton, U.S. Department of Defense, requesting information on the implementation of the requirement

that homeschool and other non-traditional education graduates be treated the same as secondary school graduates for U.S. Armed Forces enlistment purposes.

## MINORITY VIEWS

### INTRODUCTION

In the third quarter of the 112th Congress, the House Education and the Workforce Committee repeatedly missed opportunities to move the country and the economy forward on jobs and education. Whether the issue was improving elementary and secondary education, addressing the cost of college, creating jobs, or protecting workers, the Committee's third quarter performance ranged from partisanship to inaction. To address growing frustration with the House's obstruction, brinksmanship, and failure to take constructive action on real issues facing American families, Committee Democrats sought to amend this report to require the Committee to act on pressing national issues within our jurisdiction—including outsourcing, job creation, mine safety, and child abuse—before this Congress ends. The Republican majority, however, rejected all of these efforts.

### EDUCATION

*Elementary and Secondary Education.* In the most recent quarter of this Congress, despite our history of bipartisanship on elementary and secondary education policy, Committee Republicans chose a highly partisan and ideologically-driven Elementary and Secondary Education Act (ESEA) reauthorization approach that, if it became law, would take the country back decades in education. Unfortunately, this preference for partisanship over consensus-driven solutions will leave the country with an outdated law instead of the modern education system we know our schools, communities, families and nation desperately need. Moreover, the Republican proposal for ESEA reauthorization undermines the rights of students with disabilities by lowering expectations and eliminating accountability for their achievement.

Committee Democrats offered a substitute amendment to each of the Republican ESEA reauthorization bills. These substitutes provided all of the necessary high standards and goals of college and career readiness, and other requirements lacking in the Republican proposals. Given the Committee Republicans' failure to produce a bipartisan ESEA reauthorization, Committee Democrats continue to support the Department of Education's efforts to provide states with flexibility from No Child Left Behind. Nearly 40 states have already turned to the Department of Education for waivers from No Child Left Behind in light of Congress's failure to enact reform.

Committee Democrats remain committed to reauthorizing ESEA and believe any such reauthorization must retain a core focus on equity and civil rights while modernizing the education system. We can raise standards to meet the workforce demands of a global economy and empower states and districts to meet the needs of their students and communities without losing sight of the critical federal role of ensuring equal opportunity for all students.

*Higher Education.* Committee Democrats believe that the committee should examine the critical issues of rising college cost, declining state investment in postsecondary education, and ensuring that our nation's federal student aid programs continue to best serve students with financial need. We look forward to thoughtful, bipartisan conversations to address these important issues. However, the majority has thus far failed to engage in such a conversation.

In February, Committee Democrats asked the Chairman to work together to address the issue of rising student loan interest rates. This issue is of critical importance since more than 7 million students would see their interest rates double if Congress fails to act by July 1, 2012, costing the average student \$1,000 in additional repayment costs. No response to that request was received. Instead, a Republican budget was passed in the House that would lock in the doubled interest rates. It was not until President Obama publically spoke about the issue in April that House Republicans offered legislation to keep interest rates low. Unfortunately, that legislation, the Interest Rate Reduction Act (H.R. 4682), bypassed the committee process and included a poison pill (cutting funding for planned breast cancer screenings and child immunizations) to prevent enactment of interest rate relief. House Republicans then blocked any vote on the Democratic solution, the Stop the Rate Hike Act of 2012 (H.R. 4816). At the time of this report, students and families remain uncertain as to whether the interest rate hike will be stopped, complicating their decisions on whether to attend college this fall and how to pay for it. Congress needs to act.

It is also imperative that the Committee engage in appropriate oversight of higher education programs to both protect students and safeguard taxpayer funds. Recent reports on predatory marketing practices and associated high fees that accompany certain on-campus debit cards demand the Committee's attention. Committee Democrats have requested the Department of Education Inspector General and the Consumer Financial Protection Bureau to examine these matters.

*Special Supplemental Program for Women, Infants, and Children (WIC).* The Committee majority has failed to effectively support the goals of the WIC program in promoting healthy meals and good nutrition for women, infants, and children despite the programs overwhelming success. Attacks on the WIC program go unabated in the House and will jeopardize the health and wellbeing of millions of participants. The Republican Agriculture Appropriations bill shortchanges the program and will require continuous monitoring to ensure that the program can meet the needs of all participants, especially if there is an increase in food costs. The bill also fails to provide funding for important set asides in the WIC program for breastfeeding peer counselors, Management Information System (MIS), EBT, or Infrastructure. These cuts eliminate jobs, jeopardize efforts to assure WIC program integrity and manage WIC food costs, and negatively impact efforts to improve child health.

In addition, this year's Republican Agriculture Appropriations bill forces USDA to add particular earmarked foods to the WIC food package rather than abide by the science-based Institute of

Medicine (IOM) recommendation to promote the consumption of under-consumed fruits and vegetables. Committee Democrats oppose efforts in Congress to dictate the foods that should be included in the WIC food packages or otherwise interfere with nutrition and dietary science. WIC food packages should be based on sound, independent science and not the requests of high-powered special interests.

*Child Safety.* Committee Democrats believe child safety is everyone's responsibility. In the 111th Congress, Democrats made child safety a priority, holding numerous hearings on the matter and passing bipartisan legislation that would have reduced abusive seclusion and restraint practices in schools (Keeping All Children Safe Act), stopped child abuse in residential programs for teens (Stop Child Abuse in Residential Programs for Teens Act), and helped keep children safe from sexual predators in schools (Keeping All Students Safe Act). Despite the fact that much work is yet to be done on child safety, this Committee has failed to take any action this Congress. The recent cases in the Los Angeles Unified School District and the handling of abuses by Jerry Sandusky at Pennsylvania State University demonstrate failings of schools and institutions to keep children safe from harm. They raise serious questions about cover ups and insufficient reporting by institutions whose employees have abused children. These failures are consistent with findings from a GAO investigation published in December 2010 that found the ways in which some schools handle accusations of child sexual abuse involving their own staff have led to situations where perpetrators go unpunished, move on to new schools with a fresh start, and violate children all over again.

In the wake of these high profile cases, there is significant national concern over the weaknesses in our nation's child abuse reporting laws. Stopping child abuse is a shared moral imperative, not a partisan issue. The Committee's Senior Democratic Member has twice requested the Chairman to convene the Committee to examine whether federal laws adequately keep our children safe from abuse, but no action has been taken. Moreover, the Committee's majority rejected an amendment to this report that would have required the Committee to conduct robust oversight into the handling of reports of child sexual and physical abuse by elementary and secondary schools, and institutions of higher education. Our children deserve better.

#### LABOR

*Job Creation.* Good jobs support our middle class, strengthen our communities, and grow the economy. Committee Democrats are committed to job creation and ensuring that such opportunities exist by promoting employment solutions and building America's diverse workforce with the skills required to support competitive industries. With aggressive stimulus measures taken in the previous Congress, 4.25 million jobs have been added in the last 26 months. While the economy recovers, more than 40 percent of the nearly 13 million unemployed have been seeking employment for at least 6 months or more. Committee Democrats have introduced a set of job creation proposals to address the unemployment and

underemployment crisis: the President's American Jobs Act, (H.R. 12), a comprehensive package of job creation measures that would among other provisions, invest in modernizing the infrastructure of our schools and community colleges; the Pathways Back to Work Act (H.R. 3425) that would provide opportunities for the unemployed to go back to work through innovative worker retraining programs; and the Local Jobs for America Act (H.R. 2828), which would provide local governments and non-profit agencies funding over two years to save and create local jobs. The Committee has failed to act on these significant job creation proposals.

At a workforce investment markup in June, Committee Democrats offered an amendment to create employment and reemployment opportunities for more than 300,000 construction workers through school and community college modernization programs. The majority rejected that amendment.

At the same markup, Committee Democrats offered an amendment to provide hundreds of thousands of summer and year-round employment opportunities for young people. The majority rejected that amendment.

At the markup of this report, Committee Democrats offered an amendment that would have required this Committee to consider and report legislation to prevent future layoffs of teachers and other school employees and to reemploy those who have been laid off. The majority rejected that amendment.

Another Democratic amendment to this report sought to support the domestic workforce by discouraging outsourcing of American jobs to foreign nations. The majority rejected that amendment.

*Job Training.* The Workforce Investment Act (WIA) provides critically important federal services and support for the unemployed, and the law should be strengthened and reauthorized. In this regard, Committee Democrats have developed forward-thinking proposals to improve job training and reemployment services. Representatives Tierney, Hinojosa, and Miller introduced the Workforce Investment Act of 2012 (H.R. 4227). H.R. 4227, through unified planning, would streamline and coordinate the operation of job training, adult education, and postsecondary education programs. The bill would also encourage innovation in training and reemployment programs and increase engagement with employers on a regional and sectoral basis to ensure workers are trained to meet employer labor demands.

The Republican approach to WIA reauthorization, the Workforce Investment Improvement Act of 2012 (H.R. 4297), converts 26 existing WIA programs into a block grant and eliminates stakeholders from partnering on state and local governing bodies of the workforce system. In addition to other efforts to eliminate services, the Republican bill freezes funding levels for the next five years, resulting in a real funding cut. The proposal threatens access to education, training, and other services for our nation's most vulnerable workers, including youth, older workers, veterans, women, English language learners, and low-income workers. More than 55 stakeholder groups, representing hundreds of more organizations nationwide sent letters of opposition or concern regarding H.R. 4297. Rather than work with Democrats to find a successful, bipar-



tisan path forward on the Workforce Investment Act, the majority reported a partisan, divisive bill that is unlikely to become law.

*National Labor Relations Board (NLRB).* Committee Republicans have committed considerable resources to criticizing the NLRB, which administers and enforces workers' rights to organize and collectively bargain. Numerous hearings about perceived NLRB bias have been held. Countless pages of documents from the NLRB have been requested. Legislation to cripple the NLRB's ability to protect workers' rights has been moved through the House.

But when reports came to light this quarter that a Republican NLRB Member had committed ethical and possibly criminal violations by providing inside information to outside parties for their private benefit, no oversight hearings were held. This scandal was the most corrosive in the Board's history and struck at the heart of the agency's adjudicatory and rulemaking functions. Thanks to the work of the Board's Inspector General and Committee Democrats, this particular threat to the Board's integrity has been stemmed. Committee Democrats believe the resignation of Board Member Terrence Flynn was appropriate and necessary.

Committee Democrats will remain vigilant in overseeing the effective and efficient operation of the NLRB. The free exercise of workers' rights helped build America's middle class. Republican attacks on these rights and the agency that enforces them only weakens the prospects for a fair and sustainable recovery with good jobs for all.

*Wage and Hour Protection.* The Fair Labor Standards Act (FLSA) governs the wages and hours of work. Effective enforcement of this law is critical to family incomes and a fair economy. In the last Congress, Committee Democrats shone a bright light on the need to toughen enforcement of this law and properly handle and pursue workers' complaints. This Congress, Committee Republicans have questioned efforts to enforce the law, including minor initiatives to provide attorney referrals to workers with wage and hour complaints. Committee Democrats will continue to work to ensure that workers have basic minimum wage and overtime protections and will press for solutions to the problems of wage theft and misclassification. Additionally, Committee Democrats will continue to work to ensure that the Department of Labor has adequate resources and effective processes in place to enforce existing wage and hour protections.

Committee Democrats are also committed to ensuring government expenditures are not used to drive down workers' wages. The Davis-Bacon Act, Service Contract Act, and federal project labor agreements are critical protections for construction and service workers on federal projects. House Republicans have repeatedly attempted to roll back these protections during the 112th Congress. Those attempts to undercut workers' wages have been thus far unsuccessful.

*Mine Safety and Health Administration (MSHA).* On April 5, 2010, a massive explosion ripped through Massey's Upper Big Branch (UBB) mine in Montcoal, West Virginia, killing 29 miners and injuring two in the worst coal mine accident in our country in nearly 40 years.

Despite repeated testimony before this Committee by the Assistant Secretary of Labor for Mine Safety asking for reform legislation that would give MSHA additional tools to protect miners in light of the UBB disaster, Committee Republicans stated they want to wait for all of the UBB accident investigation reports to be completed before considering legislative reforms. All of the reports have been in hand for months, and yet there has been no legislative action. Democrats introduced the Robert C. Byrd Mine Safety Protection Act (H.R. 1579), which includes 10 of the legislative recommendations made by the West Virginia Governor's Independent Panel. The legislation contains recommendations from MSHA and the DOL Inspector General. It is available for markup.

In June 2012, family members of the UBB miners met with Republican and Democratic leaders of the Committee and asked them to take action to strengthen mine safety laws. Accordingly, at the markup of this report, Committee Democrats attempted to amend the report to require the committee to consider and report mine safety legislation before the end of this Congress. That amendment was rejected on a party-line vote.

Committee Democrats have continued their oversight of safety at the Massey Energy mines which were acquired by Alpha Natural Resources in June 2011. Committee Democrats have also been investigating the problem of mine operators who refuse to pay overdue fines and penalties for mine safety violations. Several Kentucky mine operators, including the former operators of the Kentucky Darby #1 mine where 5 miners were killed in an explosion in 2006, have failed to pay in excess of \$1.5 million in penalties at several mines.

*Occupational Safety and Health Administration (OSHA).* In 2010, 4,690 workers were killed on the job from traumatic injuries, according to the Bureau of Labor Statistics, and there were at least 3.9 million occupational injuries. Disabling injuries cost the economy between \$159 to \$318 billion in both direct and indirect costs. Rather than enacting pro-worker safety laws that would require employers to promptly abate violations, expand coverage for state and local government workers, provide for modern whistleblower protections or speed the adoption of standards to prevent combustible dust explosions, Committee Republicans have urged OSHA to roll back agency work on proposed standards to prevent silicosis, attacked OSHA proposals to improve recordkeeping of the estimated 962,000 musculoskeletal injuries each year, and called on OSHA to postpone enforcement of OSHA rules that would improve safety protections against fatal falls in residential roofing and repair.

Committee Democrats believe that job safety laws need to be strengthened. The Protecting America's Workers Act (H.R. 190) would bring the Occupational Safety and Health Act of 1970 (OSHAct) into the 21st century. The Offshore Oil and Gas Worker Whistleblower Protection Act (H.R. 503) would implement a key recommendation from the National Commission on the Deepwater Horizon Oil Spill and Offshore Drilling. The Worker Protections Against Combustible Dust Explosions and Fires Act of 2011 (H.R. 522) would speed the adoption of regulations needed to prevent

combustible dust explosions and fires. Unfortunately, none of these important bills have received a hearing in this Congress.

Committee Democrats continue oversight in these areas. In response to a request from Committee Democrats, the Government Accountability Office (GAO) issued a report identifying a number of obstacles that have crippled OSHA's ability to protect workers by issuing OSHA health and safety standards in a timely manner. In response to a request from Committee Democrats, the DOL Inspector General issued a report that estimates the number of additional staff that would be needed for OSHA's whistleblower protection program, in light of its current caseload and large backlog. To assess the fiscal impacts on state OSHA plans from state and federal budget cuts, Committee Democrats have asked GAO to assess whether budget cuts could cause some state plans to cede jurisdiction over private sector workplaces back to federal OSHA because they cannot maintain minimum staffing levels or satisfy federal performance benchmarks.

*Health Care.* The Affordable Care Act (ACA) is resulting in real savings and greater health care security for millions of families across the country. Since the law's enactment over two years ago, the economy has added more than 4 million new private-sector jobs- including an additional 579,300 in the health field. Despite the important progress that has been made, Committee Republicans want to take consumer protections away from families and return control to the billion dollar insurance companies.

The ACA protects American families against some of the worst abuses of the health insurance industry. As a result of the Affordable Care Act, nearly 13 million Americans will benefit from \$1.1 billion in rebates from insurance companies as a result of the law's Medical Loss Ratio requirements. More than 86 million Americans have received one or more free preventative services. One-hundred and five million Americans no longer face a lifetime limit on their coverage, 17 million children with pre-existing conditions can no longer be discriminated against or denied coverage due to that condition and 6.6 million young adults have obtained coverage through their parents' plan. Seniors have also seen greater access to coverage and lower costs. More than 5 million seniors who hit the prescription drug donut hole have saved \$3.7 billion and more than 3 million have accessed a free annual wellness visit. Some small employers have also seen their costs go down as a result of the law's small business tax credit. In 2011, 360,000 small employers received the small business tax credit to help them offer health insurance to 2 million workers.

Despite these benefits, the Committee continues to re-litigate past fights. While the majority has pressed for repeal of the ACA or the overturning of the law by the Supreme Court, the majority has no effective alternatives to protect employers and families. Committee Democrats believe we must continue the implementation of the ACA to ensure that American families have increased long-term access to affordable, quality health care coverage.

*Retirement Security.* Surveys show that after the economy and jobs, Americans are worried about their retirement security. Over half of Americans do not believe they will have adequate income to re-

tire and instead believe they will have to work throughout their senior years. The shift from defined benefit pensions to 401(k) type savings accounts that do not guarantee a pension has further exacerbated workers' retirement insecurity. Over half of workers have less than \$32,000 in retirement savings. The majority has held two hearings related to retirement issues, but to date has put forth no legislation or any vision for improving our nation's retirement system. Committee Democrats support strong protections for workers' retirement funds and urge the committee to take additional steps to expand workers' access to adequate retirement income.

The Committee's hearings related to retirement revealed weaknesses in funding for single and multiemployer pension plans and in the federal back stop, the Pension Benefit Guaranty Corporation (PBGC) which insures defined benefit pension plans. The committee heard testimony from many witnesses who discussed weaknesses and offered solutions to improve workers' retirement security. Also, during this time, the Inspector General of the PBGC issued several reports documenting weaknesses and mismanagement in the PBGC's oversight of its programs and the contractors hired to assist the PBGC. Democrats urge the Committee to work collaboratively to develop and put forth legislation to expand employer based retirement plans, ensure adequate funding for such plans, and strengthen the effectiveness of federal programs that guarantee delivery of promised retirement benefits.

*Civil Rights.* While the Equal Employment Opportunity Commission reports that private sector bias charges are at an all-time high, Committee Republicans have held only one hearing this entire Congress on civil rights—to criticize efforts by the Office of Federal Contractor Compliance Programs (OFCCP) to strengthen civil rights protections for employees of Federal contractors. Committee Democrats continue to press for enactment of legislation to help fight workplace discrimination, such as the Paycheck Fairness Act, the Employment Non-Discrimination Act, and the Protecting Older Workers Against Discrimination Act.

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