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COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
2181 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6100

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JASON ALTMIRE, PENNSYLVANIA

December 22, 2011

Honorable 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 Activities Report of the Committee on Education and the Workforce for the Second Quarter of the 112th Congress.

I circulated this report to all members of the Committee on December 16, 2011, and received minority views, which are included in this report.

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

Sincerely,

A handwritten signature in cursive script that reads "John Kline".

John Kline  
Chairman

## Union Calendar No. 000

112TH CONGRESS }  
*1st Session* }

HOUSE OF REPRESENTATIVES

{ REPORT  
112-000

REPORT ON THE ACTIVITIES  
OF THE  
COMMITTEE ON EDUCATION AND  
THE WORKFORCE  
TOGETHER WITH MINORITY VIEWS  
SECOND QUARTER OF THE 112TH CONGRESS



DECEMBER XX, 2011.—Committed to the Committee of the Whole House  
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WASHINGTON : 2011

## Membership, Organization, and Subcommittee Jurisdiction

### Committee on Education and the Workforce

John Kline, Minnesota (Chairman)

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

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 rejoined the Committee on Education and the Workforce on September 12, 2011.

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 D. Hunter, California (Chairman)

John Kline, Minnesota  
Thomas E. Petri, Wisconsin  
Judy Biggert, Illinois  
Todd Russell Platts, Pennsylvania  
Virginia Foxx, North Carolina  
Bob Goodlatte, Virginia  
Richard Hanna, New York  
Lou Barletta, Pennsylvania  
Kristi Noem, South Dakota  
Martha Roby, Alabama  
Mike Kelly, Pennsylvania

Dale Kildee, Michigan  
*(Ranking Member)*  
Donald Payne, New Jersey  
Robert C. "Bobby" Scott, Virginia  
Carolyn McCarthy, New York  
Rush Holt, New Jersey  
Susan Davis, California  
Raul Grijalva, Arizona  
Mazie Hirono, Hawaii  
Lynn C. Woolsey, California  
George Miller, California *(ex officio)*

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  
Bob Goodlatte, Virginia  
Todd Rokita, Indiana  
Larry Bucshon, Indiana  
Trey Gowdy, South Carolina  
Kristi Noem, South Dakota  
Dennis Ross, Florida  
Mike Kelly, Pennsylvania

Lynn Woolsey, California  
*(Ranking Member)*  
Donald Payne, New Jersey  
Dennis Kucinich, Ohio  
Timothy H. Bishop, New York  
Mazie Hirono, Hawaii  
George Miller, California

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 Bishop, New York
Todd Russell Platts, Pennsylvania	Robert Andrews, New Jersey
Phil Roe, Tennessee	Susan Davis, California
Glenn Thompson, Pennsylvania	Raul Grijalva, Arizona
Richard Hanna, New York	David Loebsack, Iowa
Larry Bucshon, Indiana	George Miller, California
Lou Barletta, Pennsylvania	Jason Altmire, Pennsylvania
Joe Heck, Nevada	

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

Phil Roe, Tennessee (Chairman)

Joe Wilson, South Carolina

Glenn Thompson, Pennsylvania

Tim Walberg, Michigan

Scott DesJarlais, Tennessee

Richard Hanna, New York

Todd Rokita, Indiana

Larry Bucshon, Indiana

Lou Barletta, Pennsylvania

Kristi Noem, South Dakota

Martha Roby, Alabama

Joe Heck, Nevada

Dennis Ross, Florida

John Kline, Minnesota (*ex officio*)

Robert Andrews, New Jersey

(*Ranking Member*)

Dennis J. Kucinich, Ohio

David Loebsack, Iowa

Dale Kildee, Michigan

Rubén Hinojosa, Texas

Carolyn McCarthy, New York

John F. Tierney, Massachusetts

Rush Holt, New Jersey

Robert Scott, Virginia

Jason Altmire, Pennsylvania

George Miller, California (*ex officio*)

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.

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## INTRODUCTION

Under the leadership of Rep. John Kline (R-MN), the House Committee on Education and the Workforce has made strong progress in the second quarter of the 112<sup>th</sup> Congress in supporting workers and employers, removing barriers to job growth, and empowering states and school districts to improve education.

Throughout the second quarter of the 112<sup>th</sup> Congress, the committee dedicated significant time to examining the challenges and opportunities facing our nation's education system. Reforming current elementary and secondary education law, known as No Child Left Behind, remains at the forefront of the committee agenda. The committee has worked diligently to craft legislation that will enhance accountability, support more effective teachers, and provide states and school districts with the flexibility necessary to develop effective programs and initiatives that best meet the needs of students. The committee plans to complete its efforts to reauthorize the law next year.

With more than 13 million Americans out of work, improving the nation's job training system is another top committee priority. The committee held several hearings in member districts and Washington, D.C. to explore ways to better prepare workers for success in the 21<sup>st</sup> century workplace. We used what we learned from employers and workers across the country to develop a package of legislation designed to build a more robust and responsive job training system that will efficiently serve workers and taxpayers. These bills will serve as the foundation for the committee's work to reauthorize the Workforce Investment Act in the second session of the 112<sup>th</sup> Congress.

In addition to helping our nation's workers gain important job skills, we must ensure employers have the certainty they need to create jobs and invest in their businesses. Unfortunately, recent actions by the National Labor Relations Board (NLRB) are wreaking havoc on workplaces and threatening employers' free speech and workers' free choice. The committee remains determined to protect employee and employer rights under the National Labor Relations Act and ensure union transparency and democracy; that is why the committee advanced legislation designed to rein in the NLRB's activist agenda and reaffirm key workforce protections that have been in place for decades. The committee will continue to fight federal policies and regulations that stand in the way of economic growth and investment.

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. And with the national debt passing historic levels, we must demand agencies spend taxpayer dollars wisely. The committee has and will continue to demand and lead aggressive oversight in the committee's areas of jurisdiction, including policies administered by the U.S. Departments of Labor, Education, Agriculture, Justice, and Health and Human Services.

The committee continues to actively examine the policies and programs 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 second quarter of the 112<sup>th</sup> Congress, the full committee held six hearings, one of which was a legislative hearing.

[July 7, 2011 - "Rushing Union Elections: Protecting the Interests of Big Labor at the Expense of Workers' Free Choice"](#) (Printed Hearing 112-31)

The purpose of the hearing was to examine the National Labor Relations Board's (NLRB) June 22, 2011 notice of proposed rulemaking (NPRM) that could significantly alter NLRB union representation election procedures.

Witnesses: The Honorable Peter C. Schaumber, Former NLRB Chairman, Washington, DC; Mr. Larry Getts, Tube Press Technician, Dana Corporation, Garrett, Indiana; Mr. Kenneth Dau-Schmidt, Professor, Indiana University, Mauer School of Law, Bloomington, Indiana; Mr. John Carew, President, Carew Concrete & Supply Company, Appleton, Wisconsin, testifying on behalf of himself and the National Ready Mixed Concrete Association; and Mr. Michael J. Lotito, Partner, Jackson Lewis LLP, San Francisco, California.

[July 27, 2011 - "Education Reforms: Exploring Teacher Quality Initiatives"](#) (Printed Hearing 112-35)

The purpose of the hearing was to highlight state and local efforts to improve teacher quality and highlight select teacher reform issues that may be addressed as part of the committee's ongoing effort to reauthorize the Elementary and Secondary Education Act (ESEA).

Witnesses: The Honorable Kevin S. Huffman, Commissioner, Tennessee Department of Education, Nashville, Tennessee; Mr. Tom Boasberg, Superintendent, Denver Public Schools, Denver, Colorado; Ms. Kate Walsh, President, National Council on Teacher Quality, Washington, DC; and Mr. David Cicarella, President, New Haven Federation of Teachers, New Haven, Connecticut.

[August 30, 2011 - "Examining Local Solutions to Strengthen Federal Job Training Programs"](#) Field hearing in Las Vegas, Nevada (Printed Hearing 112-36)

The purpose of the hearing was to highlight the work being done by local businesses and workforce development professionals to respond to the needs of the local economy and workforce.

Witnesses: The first panel included The Honorable Andy A. Hafen, Mayor, City of Henderson, Nevada; Mr. Jeremy Aguero, Principal Analyst, Applied Analysis, Las Vegas, Nevada; Mr. Darren Enns, Secretary Treasurer, Southern Nevada Building and Construction Trades Council, Henderson, Nevada; and Mr. LeRoy Walker, Vice President, Human Resources, St. Rose Dominican Hospitals, Nevada Market, Henderson, Nevada. The second panel included Mr. Edward R. Guthrie, Executive Director, Opportunity Village, Las Vegas, Nevada; Mr. John Ball, Executive Director, Nevada Workforce Connections, Las Vegas, Nevada; and Ms. Rebecca Metty-Burns, Executive Director, Division of Workforce and Economic Development, College of Southern Nevada, Las Vegas, Nevada.

[September 14, 2011 - "Education Reforms: Examining the Federal Role in Public School Accountability"](#) (Printed Hearing 112-38)

The purpose of this hearing was to examine the role of the federal government in holding public schools accountable for student achievement.

Witnesses: Ms. Hanna Skandera, Secretary of Education, New Mexico Department of Public Education, Santa Fe, New Mexico; Dr. Amy F. Sichel, Superintendent of Schools, Abington School District, Abington, Pennsylvania; Ms. Blaine Hawley, Principal, Red Pump Elementary School, Bel Air, Maryland; and Mr. Alberto M. Carvalho, Superintendent of Schools, Miami-Dade County Public Schools, Miami, Florida.

[September 22, 2011 - "Culture of Union Favoritism: Recent Actions of the National Labor Relations Board"](#) (Printed Hearing 112-40)

The purpose of the hearing was to examine: (1) the National Labor Relations Board's (NLRB) June 22, 2011 notice of proposed rulemaking that could significantly alter existing election procedures; (2) the NLRB's August 30, 2011 final rule that would require almost every private employer to post a vague, union-biased notice on employee National Labor Relations Act (NLRA) rights; and (3) the NLRB's August 2011 holdings in *Specialty Healthcare*, *Lamons Gasket*, and *UGL-UNICCO*.

Witnesses: Mr. Curtis L. Mack, Partner, McGuire Woods, Atlanta, Georgia; Mr. G. Roger King, Partner, Jones Day, Columbus, Ohio; Ms. Barbara A. Ivey, Employee, Kaiser Permanente Northwest, Keizer, Oregon; and Mr. Arthur J. Martin, Partner, Schuchat, Cook and Werner, St. Louis, Missouri.

[October 12, 2011 - H.R. 3094, "Workforce Democracy and Fairness Act"](#) (Printed Hearing 112-43)

The purpose of the hearing was to examine H.R. 3094, the Workforce Democracy and Fairness Act, legislation to preempt the National Labor Relations Board's (NLRB) June 22, 2011 notice of proposed rulemaking that could significantly alter existing election procedures and reverse the NLRB's August 26, 2011 holding in *Specialty Healthcare*.

Witnesses: The Honorable Charles Cohen, Senior Counsel, Morgan Lewis, Washington, DC, Former Member of the National Labor Relations Board; Mr. Phillip Russell, Shareholder,

Ogletree Deakins, Tampa, Florida; Mr. Robert Sullivan, President, RG Sullivan Consulting, LLC, Westmoreland, New Hampshire, testifying on behalf of Retail Industry Leaders Association (RILA); and Mr. Michael J. Hunter, Partner, Hunter, Carnahan, Shoub, Byard & Harshman, Columbus, Ohio.

### **Markups**

*(Links are to the committee website)*

In the second quarter of the 112<sup>th</sup> Congress, the full committee held four markups and filed three legislative reports. No subcommittee markups were held.

[July 13, 2011 - H.R. 2445, “State and Local Funding Flexibility Act”](#) (*Sponsor: John Kline*)

The bill provides states and school districts maximum flexibility in the use of federal education funds, giving them greater control over their education decisions, eliminating bureaucratic red tape, and encouraging local innovation to reform public education. The bill was ordered favorably reported, as amended, to the House by a vote of 23-17, and the committee report was filed on July 25, 2011 (House Report 112-180).

[July 13, 2011 - H.R. 2465, “Federal Workers’ Compensation Modernization and Improvement Act”](#) (*Sponsor: John Kline*)

The bill would amend the Federal Employees’ Compensation Act (FECA) to improve the integrity of the FECA program, enhance its efficiency, and modernize benefit levels. The bill was ordered favorably reported to the House by voice vote.

[July 21, 2011 - H.R. 2587, “Protecting Jobs From Government Interference Act”](#) (*Sponsor: Tim Scott*)

The bill would amend the National Labor Relations Act (NLRA) to prohibit the National Labor Relations Board (NLRB), in future and pending cases, from ordering any employer to close, relocate, or transfer employment under any circumstances. The bill was ordered favorably reported, as amended, to the House by a vote of 23-16, and the committee report was filed on July 25, 2011 (House Report 112-179).

[October 26, 2011- H.R. 3094, “Workforce Democracy and Fairness Act”](#) (*Sponsor: John Kline*)

The bill would reinstate the traditional standard for determining which employees make up an appropriate bargaining unit; ensure employers are able to participate in a fair union election; guarantee workers have the ability to make a fully informed decision in a union election; and safeguard employee privacy by allowing workers to decide the type of personal information provided to a union. The bill was ordered favorably reported, as amended, to the House by a vote of 23-16, and the committee report was filed on November 10, 2011 (House Report 112-276).

### **Floor**

*(Links are to the House passed bill)*

In the second quarter of the 112<sup>th</sup> Congress, the committee passed four bills on the House floor, three under a Rule and one under Suspension.

[H.R. 2218, "Empowering Parents through Quality Charter Schools Act"](#) (*sponsor: Duncan Hunter*)

The bill passed the House under a Rule (H.Res. 392) on September 13, 2011 by a vote of 365-54.

[H.R. 2587, “Protecting Jobs From Government Interference Act”](#) (*sponsor: Tim Scott*)

The bill passed the House under a Rule (H.Res. 372) on September 15, 2011, by a vote of 238-186.

[H.R. 2465, “Federal Workers’ Compensation Modernization and Improvement Act”](#) (*sponsor: John Kline*)

The bill passed the House under Suspension on November 29, 2011, by voice vote.

[H.R. 3094, “Workforce Democracy and Fairness Act”](#) (*sponsor: John Kline*)

The bill passed the House under a Rule (H.Res. 470) on November 30, 2011 by a vote of 235-188.

## **SUBCOMMITTEE ACTIVITIES**

### **Hearings**

*(Links are to the committee website)*

#### **Subcommittee on Early Childhood, Elementary and Secondary Education**

In the second quarter of the 112<sup>th</sup> Congress, the subcommittee held two hearings.

[September 21, 2011 - “Education Reforms: Ensuring the Education System is Accountable to Parents and Communities”](#) (Printed Hearing 112-39)

The purpose of this hearing was to examine the role of the federal government in holding public schools accountable for student achievement.

Witnesses: Dr. Jay P. Greene, Professor, University of Arkansas, Fayetteville, Arkansas; Dr. Benny L. Gooden, Superintendent of Schools, Fort Smith Public Schools, Fort Smith, Arkansas; Mr. Bill Jackson, Founder and CEO, GreatSchools, San Francisco, California; and Ms. Laura W. Kaloi, Public Policy Director, National Center for Learning Disabilities, Oak Hill, Virginia.

[November 16, 2011 - “Education Research: Identifying Effective Programs to Support Students and Teachers”](#) (Printed Hearing 112-47)

The purpose of the hearing was to examine the federal role in supporting education research and evaluation; the role of the private and non-profit sectors in supporting education research; and how states, school districts, and other practitioners use data gleaned from research to improve student achievement.

Witnesses: Dr. Grover J. "Russ" Whitehurst, Senior Fellow & Director of the Brown Center on Education Policy, Brookings Institution, Washington, DC; Dr. Caroline M. Hoxby, Scott and Donya Bommer Professor of Economics, Stanford University, Stanford, California; Dr. Eric Smith, former Florida Commissioner of Education, Annapolis, Maryland; and Mr. Steve

Fleischman, Director of the Regional Educational Laboratory (REL) Northwest, Portland, Oregon.

### Subcommittee on Workforce Protections

In the second quarter of the 112<sup>th</sup> Congress, the subcommittee held four hearings.

[July 14, 2011 - "The Fair Labor Standards Act: Is It Meeting the Needs of the Twenty-First Century Workplace?"](#) (Printed Hearing 112-33)

The purpose of the hearing was to provide a broad overview of the current state of the Fair Labor Standards Act, exploring aspects of the law that have fallen behind the times.

Witnesses: Mr. J. Randall MacDonald, Senior Vice President, Human Resources, IBM, Armonk, New York, testifying on behalf of the HR Policy Association; Mr. Richard L. Alfred, Partner, Seyfarth Shaw LLP, Boston, Massachusetts; Mr. Nobumichi Hara, Senior Vice President of Human Capital, Goodwill of Central Arizona, Phoenix, Arizona, testifying on behalf of the Society for Human Resource Management; and Ms. Judith M. Conti, Federal Advocacy Coordinator, National Employment Law Project, Washington, DC.

[September 13, 2011 - "Workforce Challenges Facing the Agriculture Industry"](#) (Printed Hearing 112-37)

The purpose of the hearing was to examine the H-2A visa program for temporary and seasonal agricultural guest workers, which provides the U.S. agriculture industry with foreign workers.

Witnesses: The first panel included the Honorable Jane Oates, Assistant Secretary of Employment and Training Administration, U.S. Department of Labor, Washington, DC. The second panel included Mr. Joe Bailey, Director of Human Resources, Bailey Nurseries, Inc., St. Paul, Minnesota; Ms. Libby Whitley, President, MASLabor, Lovingson, Virginia; the Honorable Leon Sequeira, Senior Counsel, Seyfarth Shaw LLP, Washington, DC. for Assistant Secretary of Labor; and Mr. Bruce Goldstein, Executive Director, Farmworker Justice, Washington, DC.

[October 5, 2011 - "Workplace Safety: Ensuring a Responsible Regulatory Environment"](#) (Printed Hearing 112-42)

The purpose of the hearing was to examine: (1) the Occupational Safety and Health Administration's (OSHA) regulatory priorities announced in the U.S. Department of Labor's Spring 2011 Semi-Annual Regulatory Agenda (published in July); (2) OSHA's increased use of informal directives in lieu of formal notice and comment rulemaking; and (3) the consequences of OSHA's recent regulatory and enforcement activities on workplace safety and health.

Witnesses: The first panel included Dr. David Michaels, Assistant Secretary, Occupational Safety and Health Administration, Washington, DC. The second panel included Mr. Pete Korellis, President and Owner, Korellis Roofing, Inc. Hammond, Indiana; Mr. David Sarvadi, Esq., Partner, Keller & Heckman LLP, Washington, DC; and Ms. Margaret (Peg) Seminario, Director, Occupational Safety and Health, AFL-CIO, Washington, DC.

[November 3, 2011 - “Examining Regulatory and Enforcement Actions Under the Fair Labor Standards Act”](#) (Printed Hearing 112- 46)

The purpose of the hearing was to examine the regulatory and enforcement actions of the U.S. Department of Labor’s Wage and Hour Division under the Fair Labor Standards Act.

Witnesses: The first panel included Ms. Nancy J. Leppink, Acting Wage and Hour Administrator, U.S. Department of Labor, Washington, DC. The second panel included The Honorable Tammy D. McCutchen, Shareholder, Littler Mendelson P.C., Washington, DC; Mr. David S. Fortney, Co-Founder, Fortney & Scott, LLC, Washington, DC; and Ms. Kim Bobo, Executive Director, Interfaith Worker Justice, Chicago, Illinois.

[Subcommittee on Higher Education and Workforce Training](#)

In the second quarter of the 112<sup>th</sup> Congress, the subcommittee held five hearings.

[July 8, 2011- “The Gainful Employment Regulation: Limiting Job Growth and Student Choice”](#)  
Joint hearing with the Committee on Oversight and Government Reform’s Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending (Printed Hearing 112-32)

The purpose of the hearing was to explore the harmful consequences of the U.S. Department of Education’s final gainful employment regulation and how the new requirements impede college access, stifle job creation, and continue the Administration’s federal overreach into the nation’s postsecondary education system.

Witnesses: Mr. Harry C. Alford, President and Chief Executive Officer, National Black Chamber of Commerce, Washington, DC; Dr. Dario A. Cortes, President, Berkeley College, New York City, New York; Ms. Karla Carpenter, Graduate, Herzing University and Program Manager, Quest Software, Dane County, Wisconsin; and Dr. Anthony P. Carnevale, Director, Georgetown University Center on Education and the Workforce, Washington, DC.

[August 16, 2011 - “Reviving Our Economy: The Role of Higher Education in Job Growth and Development”](#) Field hearing in Greenville, South Carolina (Printed Hearing 112-14)

The purpose of the hearing was to explore the role of local higher education institutions in fostering job creation and job growth and to highlight specifically the work being done by local colleges and universities to respond to local and state economic needs.

Witnesses: The first panel included The Honorable Knox White, Mayor, Greenville, South Carolina; Mr. Werner Eikenbusch, Section Manager, Associate Development and Training, BMW Manufacturing Co., Spartanburg, South Carolina; Ms. Laura Harmon, Project Director, Greenville Works, Greenville, South Carolina; and Dr. Brenda Thames, Vice President of Academic Development, Greenville Health System, Greenville, South Carolina. The second panel included Mr. James F. Barker, President, Clemson University, Clemson, South Carolina; Dr. Thomas F. Moore, Chancellor, University of South Carolina Upstate, Spartanburg, South

Carolina; Dr. Keith Miller, President, Greenville Technical College, Greenville, South Carolina; and Ms. Amy Hickman, President, ECPI College of Technology, Greenville, South Carolina.

[October 4, 2011 - “Modernizing the Workforce Investment Act: Developing an Effective Job Training System for Workers and Employers”](#) (Printed Hearing 112-41)

The purpose of the hearing was to focus on the need to provide flexibility and autonomy to state and local leaders to ensure the system is meeting the needs of area businesses and job seekers.

Witnesses: Ms. Kristen Cox, Executive Director, Utah Department of Workforce Services, Salt Lake City, Utah; Ms. Laurie Bouillion Larrea, President, Workforce Solutions Greater Dallas, Dallas, Texas; Mr. Jaime S. Fall, Vice President, Workforce and Talent Development Policy, HR Policy Association, Washington, DC; and Mr. Bruce G. Herman, Organizer and Strategist, National Call to Action, Brooklyn, New York.

[October 25, 2011 - “Government-Run Student Loans: Ensuring the Direct Loan Program is Accountable to Students and Taxpayers”](#) (Printed Hearing 112-45)

The purpose of the hearing was to learn more about the U.S. Department of Education's and institutions' implementation of the Direct Loan (DL) program.

Witnesses: Mr. James Runcie, Chief Operating Officer, Office of Federal Student Aid, U.S. Department of Education, Washington, DC; Mr. Ron Day, Director of Financial Aid, Kennesaw State University, Kennesaw, Georgia; Mr. Mark A. Bandré, Vice President for Enrollment Management and Student Affairs, Baker University, Baldwin City, Kansas; and Ms. Nancy Hoover, Director of Financial Aid, Denison University, Granville, Ohio.

[November 30, 2011 - “Keeping College within Reach: Discussing Ways Institutions Can Streamline Costs and Reduce Tuition”](#) (Printed Hearing 112-48)

The purpose of the hearing was to examine the issue of rising college costs.

Witnesses: Ms. Jane V. Wellman, Executive Director, Delta Project on Postsecondary Costs, Productivity, and Accountability, Washington, D.C.; Dr. Ronald E. Manahan, President, Grace College and Seminary, Winona Lake, Indiana; Mr. Tim Foster, President, Colorado Mesa University, Grand Junction, Colorado; and Mr. Jamie P. Merisotis, President and Chief Executive Officer, Lumina Foundation for Education, Indianapolis, Indiana.

### **Subcommittee on Health, Employment, Labor and Pensions**

In the second quarter of the 112<sup>th</sup> Congress, the subcommittee held two hearings.

[July 26, 2011 - “Redefining ‘Fiduciary’: Assessing the Impact of the Labor Department’s Proposal on Workers and Retirees”](#) (Printed Hearing 112-34)

The purpose of the hearing was to examine a proposed rule from the U.S. Department of Labor's Employee Benefits Security Administration amending its long-standing interpretation of the definition of "fiduciary" in the Employee Retirement Income Security Act of 1974.

Witnesses: The first panel included The Honorable Phyllis Borzi, Assistant Secretary of Labor of the Employee Benefits Security Administration, Washington, DC. The second panel included Mr. Kenneth Bentsen, Jr., Executive Vice President, Public Policy and Advocacy at the Securities Industry and Financial Markets Association, Washington, D.C.; Mr. Kent Mason, Partner, Davis & Harman LLP, Washington, DC; Mr. Donald Myers, Partner, Morgan, Lewis & Bockius, LLP, Washington, D.C.; Mr. Jeffrey Tarbell, Director, Houlihan Lokey, San Francisco, California; and Mr. Norman Stein, Professor, Earle Mack School of Law, Drexel University, Philadelphia, Pennsylvania.

[October 13, 2011 - "Regulations, Costs, and Uncertainty in Employer Provided Health Care"](#)  
(Printed Hearing 112-44)

The purpose of this hearing was to examine a tri-agency regulation defining "grandfathered" health care plans under the Patient Protection and Affordable Care Act (PPACA).

Witnesses: Ms. Grace-Marie Turner, President, Galen Institute, Alexandria, Virginia; Mr. Dennis Donahue, Managing Director, Wells Fargo Insurance Services USA, Inc., Chicago, Illinois, testifying on behalf of the Council of Insurance Agents and Brokers; Ms. Robyn Piper, Founder and President, Piper Jordan, San Diego, California; and Mr. Ron Pollack, Founding Executive Director, Families USA, Washington, DC.

## **OVERSIGHT ACTIVITIES**

### **Correspondence**

In addition to the numerous hearings held by the committee to provide oversight of federal programs, the committee initiated the following correspondence in the first session of the 112th Congress consistent with its responsibility to evaluate the effectiveness and administration of federal laws under its jurisdiction.

January 20, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office (GAO), regarding a request for the GAO to report on Science, Technology, Engineering, and Math (STEM) education programs.

January 31, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding the compliance of proposed gainful employment regulations with the Data Quality Act.

February 1, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office (GAO), regarding a GAO report prepared by the Forensic Audit & Special Investigations Unit.

February 3, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office (GAO), regarding a GAO report prepared by the Forensic Audit & Special Investigations Unit.

March 3, 2011 - Letter to Chairman Wilma Liebman, National Labor Relations Board (NLRB), regarding the NLRB budget.

March 4, 2011 - Letter to Chairman Wilma Liebman, National Labor Relations Board (NLRB), regarding NLRB advertisements.

March 7, 2011 - Letter to Assistant Secretary Joseph Main, Mine Safety and Health Administration, U.S. Department of Labor, regarding a request for production of the Office of Accountability documents.

March 7, 2011 - Letter to Chairman Wilma Liebman, National Labor Relations Board, regarding the *Specialty Healthcare* case.

March 21, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding questions for the record following the hearing "Policies and Priorities at the Department of Labor" held on February 16, 2011.

March 23, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding questions for the record following the hearing "State of the American Workforce" held on January 26, 2011.

March 30, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding questions for the record following the hearing "Budget and Policy Proposals of the U.S. Department of Education" held on March 9, 2011.

April 13, 2011 - Letter to Secretary Tom Vilsack, U.S. Department of Agriculture, regarding the implementation of the Hunger Free Kids Act of 2010.

April 14, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, Secretary Timothy Geithner, U.S. Department of the Treasury, and Mr. Douglas Shulman, Commissioner of the

Internal Revenue Service, regarding the proposed regulation on the definition of fiduciary under the Employee Retirement Income Security Act.

April 27, 2011 - Letter to President Barack Obama regarding funding for U.S. Department of Education proposed regulations on gainful employment.

May 5, 2011 - Letter to Acting General Counsel Lafe Solomon, National Labor Relations Board, regarding the *Boeing* case.

May 11, 2011 - Letter to Chairman Wilma Liebman, National Labor Relations Board, regarding the *Specialty Healthcare* case.

May 24, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding the notice of proposed rulemaking on the Family Education Rights and Privacy Act.

June 3, 2011 - Letter to Acting Inspector General Daniel Petrol, U.S. Department of Labor, regarding comprehensive review audits of the enforcement of safety and health regulations by the Mine Safety and Health Administration.

June 6, 2011 - Letter to Assistant Secretary Joseph Main, Mine Safety and Health Administration, U.S. Department of Labor, regarding the proposed rule on respirable coal dust.

June 16, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the Wage and Hour Division's attorney referral program with the American Bar Association.

June 23, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding U.S. Department of Education waivers of the Elementary and Secondary Education Act requirements.

July 8, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding Federal Employees' Compensation Act data.

July 8, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding a request to review the Occupational Safety and Health Administration's enforcement of safety standards, in relation to state plan safety programs.

July 8, 2011 - Letter to Director John Howard, National Institute for Occupational Safety and Health, regarding request for methane gas study materials.

July 22, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office (GAO), regarding GAO study of regulatory burdens faced by schools.

July 27, 2011 - Letter to Assistant Secretary David Michaels, Occupational Safety and Health Administration, U.S. Department of Labor, regarding U.S. Department of Labor interactions with UNITE HERE.

August 4, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding consultant contracts at the U.S. Department of Education.

August 4, 2011 - Letter to Acting Inspector General Daniel Petrol, U.S. Department of Labor, regarding additional information in connection with the June 17, 2011 letter.

August 17, 2011 - Letter to Assistant Secretary David Michaels, Occupational Safety and Health Administration, U.S. Department of Labor, regarding safety standards for telecommunications towers.

August 18, 2011 - Letter to Assistant Secretary David Michaels, Occupational Safety and Health Administration, U.S. Department of Labor, regarding suggested rulemaking on the silica standard.

September 21, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding proposed rulemaking on the advice exception under the Labor-Management Reporting and Disclosure Act.

September 30, 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 the Fair Labor Standards Act."

October 7, 2011 - Letter to Comptroller General Gene Dodaro, U.S. Government Accountability Office, regarding Race to the Top implementation.

October 7, 2011 - Letter to Secretary Hilda Solis, U.S. Department of Labor, regarding the anticipated rulemaking for the definition of companionship services under the regulation for the Fair Labor Standards Act.

October 7, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, regarding inappropriate release of the proposed gainful employment regulations.

October 14, 2011 - Letter to Chairman Mark Pearce, National Labor Relations Board, regarding a request for information on pending union election challenges.

October 14, 2011 - Letters to Offices within the U.S. Departments of Agriculture, Education, Health and Human Services, Interior, Justice, Labor, and the Environmental Protection Agency, in addition to other federal agencies, regarding oversight of activities (42 letters in total).

Department of Agriculture:

- Under Secretary Kevin Concannon, Administration on Food, Nutrition, and Consumer Services

Department of Education:

- 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 Rutledge, Rehabilitation Services Administration

Department of Health and Human Services:

- Acting Assistant Secretary George Sheldon, Administration on Children and Families
- Assistant Secretary Kathy Greenly, Administration on Aging
- Director Yvette Sanchez Fuentes, Office of Head Start
- Director Shannon L. Rudisill, Office of Child Care
- Director Alexia Kelley, Center for Faith-Based and Neighborhood Partnerships

Department of the Interior:

- Assistant Secretary Larry Echo Hawk, Bureau of Indian Affairs

Department of Justice:

- Acting Administrator Jeff Slowikowski, Office of Juvenile Justice and Delinquency Prevention

Department of Labor:

- Assistant Secretary Jane Oates, Employment and Training Administration
- Director Rev. Phil Tom, Center for Faith Based and Neighborhood Partnerships
- Director Edna Primrose, Office of Job Corps
- Acting Assistant Secretary Junior Ortiz, Office of Veterans Employment and Training Service

Environmental Protection Agency:

- Acting Director Lina Younes, Office of Environmental Education

Institute of Museum and Library Sciences:

- Director Susan Hildreth, Office of the Director

National Endowment for the Arts:

- Chairman Rocco Landesman, Office of the Chairman

- Acting Director/Arts Education Program Officer Daniel Beattie, Literature and Arts Education Division
- Acting Presenting Director, Acting Multidisciplinary Arts Team Leader Douglas Sonntag, Multidisciplinary Arts Division: Artists Communities/Folk and Traditional Arts/Presenting
- State and Regional Director, Partnership Team Leader Laura Scanlan, Partnership Division: Accessibility/Challenge America/Local Arts Agencies/States
- Dance Director, Performing Arts Team Leader Douglas Sonntag, Performing Arts Division: Dance/Music/Opera/Musical Theater/Theater
- Museums and Visual Arts Director, Visual Arts Team Leader Robert Frankel, Visual Arts Division: Design/Media Arts/Museums/Visual Arts

National Endowment for the Humanities:

- Chairman Jim Leach, Office of the Chairman

The Corporation for National Community Service

- Acting CEO Robert Velasco, II, Office of the Chief Executive Officer

October 27, 2011 - Letter to Secretary Arne Duncan, U.S. Secretary of Education, regarding proposals to alter federal student aid policies.

October 27, 2011 - Letter to Chairman Mark Pearce, National Labor Relations Board, regarding the June 22, 2011 proposed rule on union election procedures.

October 31, 2011 - Letter to Assistant Secretary Jane Oates, Employment Training Administration, U.S. Department of Labor, regarding questions for the record following the hearing "Workforce Challenges Facing the Agriculture Industry" held on September 13, 2011.

November 15, 2011 - Letter to Secretary Arne Duncan, U.S. Department of Education, and Secretary Kathleen Sebelius, U.S. Department of Health and Human Services, regarding the Early Learning Challenge program.

November 18, 2011 - Letter to Assistant Secretary Phyllis Borzi, Employee Benefits Security Administration, U.S. Department of Labor, regarding the proposed rule to redefine fiduciary under the regulations for the Employee Retirement Income Security Act.

November 18, 2011 - Letter to Chairman Mark Pearce, National Labor Relations Board, regarding the June 22, 2011 proposed rule on union election procedures.

November 30, 2011 - Letter to Assistant Secretary Joseph Main, Mine Safety and Health Administration (MSHA), U.S. Department of Labor, regarding oversight of MSHA technical reports activities.

**Minority Views – Second Quarter Activities Report  
Committee on Education and the Workforce  
Second Quarter of the 112<sup>th</sup> Congress  
December 22, 2011**

**INTRODUCTION**

Committee Democrats are committed to growing and strengthening America's middle class. As laid out in the Minority Views of the First Quarter Activities Report for the 112<sup>th</sup> Congress, the jurisdiction of the Committee on Education and the Workforce provides numerous opportunities via oversight and legislative activity to pursue public policies that support the middle class and those who strive to join it. This means promoting job creation, improving all Americans' access to quality education, addressing the squeeze on Americans' incomes caused by stagnant wages and rising costs, providing security in health and retirement, ensuring equal opportunity for all, and protecting basic health and safety at school and work. Unfortunately, in the second quarter of this Congress, as in the first, the Committee's activities have instead largely focused on pushing a tired ideological agenda.

**EDUCATION POLICY AND OVERSIGHT**

Committee Democrats believe that ensuring all students have access to a top-quality education, from early childhood to university, must be an absolute national priority. Providing all students with an education that prepares them to succeed in the 21<sup>st</sup> century global economy is critical to the long-term strength of our nation.

**Early Education.** Experts in fields as diverse as child development to military readiness agree that access to high quality early childhood education is critical to our nation's future. Early childhood programs are fiscally responsible as they yield savings from improved child outcomes. Nevertheless, funding for programs like Head Start came under assault by House Republicans early in the session. Early childhood issues deserve the Committee's attention. Unfortunately, Committee Republicans have not held a single early childhood hearing this Congress.

**Elementary and Secondary Education.** The intrinsic link between a good education system and a sound economy is why President Obama has called on Congress to reauthorize the Elementary and Secondary Education Act (ESEA) this year. Committee Democrats share the President's concern that the United States is falling further behind our economic peers in education. Since the beginning of this Congress, Committee Democrats have been calling for a bipartisan ESEA reauthorization bill that tackles our current education challenges and modernizes the system as a whole.

Committee Democrats believe that ESEA reauthorization should set high standards and goals of college and career readiness and support a modern assessment system; maintain accountability for all students, including current subgroups, but through a richer index of measures that uses growth and graduation rates; provide states, districts, and schools with the flexibility to improve schools based on their student, school and community needs, including providing wraparound

services; facilitate data-based decision making to support a performance-based system; ensure performance is transparent to parents and communities so that they can participate in their schools and support their success; and support a professional environment for teachers and school leaders and provide them with the information and resources necessary to succeed.

ESEA reauthorization remains to be done. This quarter, the Committee moved a charter schools reform bill with bipartisan support. It also moved highly partisan legislation that eviscerates the very civil rights principles that drove creation of the first ESEA. H.R. 2445, reported out of the Committee with all Democrats voting in opposition, raids federal funding for disadvantaged and minority students and undermines federal efforts at ensuring equal opportunity in schools.

History shows that reauthorization of ESEA requires bipartisanship. For the benefit of students, partisanship should be set aside, and Republicans and Democrats should do the hard work of hammering out a consensus on education reform. Unfortunately, at the end of this session, Committee Republicans have indicated that they have begun work on a partisan ESEA reauthorization bill, putting in peril any hopes of enacting desperately needed updates to the law this Congress.

**Higher Education.** Ensuring access to an affordable college education is critical to a competitive 21<sup>st</sup> Century workforce and a critical responsibility of this Committee. The Majority's report underscores how little attention was paid in this quarter to examining the real obstacles students seeking a college degree face and the federal student aid programs that support students. But for a hearing on the high-cost of college and another on the successful transition to the Direct Lending program, the Majority choose to repackage anti-regulation hearings from the first six months of this Congress and yield policy choices impacting Pell Grant eligibility to appropriators in the eleventh hour. The Pell Grant is the cornerstone of federal student aid and this Committee chose not to hold a single hearing exploring ways to maintain its fullest availability. In light of the changes appropriators made to this important program, this Committee must monitor the impact of these choices very carefully over the next year.

**Child Nutrition.** One in three children is overweight or obese, putting them at greater risk of developing other serious health problems. In the 111<sup>th</sup> Congress, an enacted, bipartisan child nutrition reauthorization established a timeline for the United States Department of Agriculture (USDA) to issue regulations for providing healthier meals to students in school. USDA has already begun this deliberative, science-based process. Unfortunately, the Republican Majority in the House included a provision in the House Agriculture Appropriations Bill to roll back USDA's efforts to improve the quality of school meals for students. A version of this provision was later included in the Consolidated and Further Continuing Appropriations Act, 2012 (H.R. 2112, P.L. 112-55), which was signed into law on November 18, 2011. The final bill allows politics and powerful lobby groups to win over sound science. The law blocks USDA from limiting starchy vegetables to two servings a week (the rule was intended to cut down on french fries, which some schools serve daily); allows USDA to count two tablespoons of tomato paste as a vegetable, which means that pizza could be considered a vegetable; and requires further study on long-term sodium reduction requirements set forth by the USDA guidelines. Committee Democrats strongly oppose these provisions and remain committed to ending the obesity crisis to help children succeed in school and live healthier lives.

**Child Safety.** Republican Committee activities' lack of attention to child safety issues is concerning. These issues demand Committee action.

For example, potential weaknesses in laws designed to keep children safe have come to light in the wake of the alleged sexual crimes committed on the campuses of the Pennsylvania State University and the Citadel. Democrats called on Committee Republicans to hold a hearing to evaluate any inherent weaknesses, inconsistencies, or inadequate implementation of Section 485(f) of Title IV of the Higher Education Act of 1965, also known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act), and the Child Abuse Prevention and Treatment Act that may put children at risk of harm. But no hearing has been scheduled.

Following investigations and oversight work conducted in previous Congresses, Democrats have introduced bills that have received bipartisan support to address child abuse issues in teen residential programs and in school settings. The *Stop Child Abuse in Residential Programs for Teens Act* passed the U.S. House of Representatives twice with bipartisan support in the 110<sup>th</sup> and 111<sup>th</sup> Congresses. The legislation was reintroduced in this Congress earlier this year. The *Keeping All Students Safe Act*, which establishes minimum safety standards on seclusion and restraint of students in schools, was also introduced this year. No Committee action has been taken on either bill or the underlying issues. Every day of inaction puts more children in harm's way.

Concussions among student athletes are an alarmingly common problem that demands immediate attention. Committee Democrats reintroduced the *Protecting Student Athletes from Concussion Act*, which sets minimum safety standards for concussion management in public schools. Despite ample bipartisan support for similar legislation across States and communities, Committee Republicans have failed to take action.

## **LABOR POLICY AND OVERSIGHT**

Labor-related hearings and markups called by Committee Republicans largely focused on ways to undo laws and rules that protect workers and ignored positive legislative solutions that would create and restore good-paying jobs for the American middle class. Save for a bipartisan bill to update benefits and implement program integrity measures under the Federal Employees Compensation Act, labor bills moved by the Committee Republicans aimed to roll back workers' rights. Despite requests from Committee Democrats, the Committee held no hearings on legislation to create jobs, such as President Obama's American Jobs Act. The jobs crisis for approximately 24 million unemployed and underemployed Americans has simply gone unaddressed by the Committee.

**National Labor Relations Board (NLRB).** In lieu of focusing on the jobs crisis, Committee Republicans spent a significant amount of the Committee's time on issues related to the NLRB. Over the past year, Committee Republicans have made repeated attacks against the NLRB, a small independent agency that administers and enforces the National Labor Relations Act (NLRA) and the rights of workers to organize and collectively bargain. The exercise and the

enforcement of those rights appear to be the target of a wide-ranging campaign against labor unions on Capitol Hill and in certain statehouses.

During the first quarter of 112<sup>th</sup> Congress, hearings were held to accuse the NLRB of bias and to question the exercise of workers' First Amendment rights in campaigns to win better wages and working conditions. These hearings came in the context of attempts to cut or eliminate entirely the funding for the NLRB in the year's first appropriations bill.

The second quarter has been little different. A July 7 hearing attacked a proposed NLRB rule to modernize the union election rules by reducing avoidable delays. Such delays are an essential part of the business model used by anti-union consultants to frustrate workers' hopes of having a vote. Delays buy more time to engage in both lawful and unlawful anti-union campaigning. A September 22 hearing attacked three NLRB decisions in August. Two of these reversed Bush-era Board decisions from 2002 and 2007 that had upended decades of precedent which had promoted stability in collective bargaining relationships. A third case involved the application of a traditional community-of-interest standard to bargaining unit determinations in non-acute health care facilities. Though the decisions were well within the mainstream of NLRB jurisprudence, they were held up as examples of the NLRB being out of control and requiring congressional intervention.

The Committee Republicans moved two bills to significantly undermine workers' rights to organize and collectively bargain. The first, H.R. 2587, would eliminate the NLRB's authority to order an employer to restore jobs and production when an employer unlawfully retaliates against employees for exercising their NLRA rights. Effectively, it would make outsourcing jobs to overseas locations easier. The bill passed the House in a very partisan vote with no further action this quarter. The second, H.R. 3094, would operate to delay and ultimately prevent union elections, incentivizing frivolous litigation for that purpose and empowering employers to gerrymander bargaining units as a way to avoid triggering an election altogether. This bill also passed the House in a very partisan vote with no further action this quarter.

Protecting workers' rights helped build America's middle class. Attacks on these rights and the agency that enforces them only weakens prospects for a fair and sustainable recovery with good jobs for all. Committee Democrats will continue to fight for American workers' rights and jobs.

**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, Committee Republicans have stated that they need to wait for investigation reports to be completed before considering reforms.

Multiple major investigative reports have now been issued by the West Virginia Governor's Independent Investigation Panel, MSHA, and the United Mine Workers of America. The reports point to a mine operator that put production over safety time and time again. Miners were intimidated from speaking out. MSHA inspections were frustrated by a company practice of

providing advance notice of an inspector's visit. The corporate culture tolerated safety violations that put miners at risk. Not only did the operators of the Upper Big Branch mine repeatedly violate the Mine Act, their "practices and procedures encouraged non-compliance," according to MSHA's most recent report on the incident. And, importantly, the reports called for statutory reforms to better protect miners.

On April 15, 2011, Democrats introduced the Robert C. Byrd Mine Safety Protection Act (H.R. 1579), which includes 10 legislative recommendations made by the Governor's Panel and the Inspector General. To date, Committee Republicans have not acted on this bill, the calls from investigators for statutory reform, or MSHA's request for new enforcement tools to help protect miners from unsafe operators.

**Occupational Safety and Health Administration (OSHA).** Based on preliminary data, in 2010, 4,547 workers were killed from traumatic injuries and there were 3.9 million occupational injuries with between \$159 to \$318 billion in direct and indirect costs for disabling injuries. 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. To bring the Occupational Safety and Health Act of 1970 (OSHAct) into the 21<sup>st</sup> century, Democrats have introduced the Protecting America's Workers Act (H.R. 190). To implement a key recommendation from the National Commission on the Deepwater Horizon Oil Spill and Offshore Drilling, Democrats introduced the Offshore Oil and Gas Worker Whistleblower Protection Act (H.R. 503). To speed the adoption of regulations needed to prevent combustible dust explosions and fires, Democrats introduced the Worker Protections Against Combustible Dust Explosions and Fires Act of 2011 (H.R. 522). To better protect workers from recognized hazards, Committee Democrats have asked the Government Accountability Office (GAO) to identify the roadblocks to timely issuance of OSHA health and safety standards. 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.

**Job Training.** With 6 million Americans out of work for at least six months, millions of Americans need access to education and training to get a job. After an initial House Republican proposal at the start of the 112<sup>th</sup> Congress to effectively zero out federal funding for worker training, Committee Republicans called a number of general hearings on the topic in certain congressional districts and in Washington, D.C. Witness testimony, however, demonstrated the need for federal involvement in the nation's workforce investment programs. One witness

explained that federal “funding was absolutely critical to our region’s ability to expand and improve vital workforce services at the most critical moment in decades.” Another witness suggested that if funding for the Workforce Investment Act were drastically reduced or eliminated, “the desperation in our communities would heighten.” These warnings should be heeded. Committee Republicans, however, have supported proposals that would make major funding and program cuts to job training.

Committee Democrats believe in strengthening workforce investment so that workers have the skills needed for the jobs of today’s changing economy. The Committee needs to reauthorize the Workforce Investment Act, to modernize the workforce investment system and align it more effectively with the labor market, so that both employers’ needs for qualified workers and workers’ needs for good-paying jobs can be met.

**Health Care.** Despite Republican efforts to undo the Affordable Care Act (ACA), the Committee heard from many witnesses this Congress who testified in support of the law and its benefits for millions of Americans. Not only has the law started to improve the health care benefits of American families, the law has spurred desperately needed job growth within our economy. According to the Bureau of Labor Statistics, more than 500,000 jobs have been created in the health care and social assistance sector since the passage of the ACA in March 2010. Additionally, the Bureau of Labor Statistics projects that nearly 4 million jobs will be added to the health care and social assistance sector between 2008 and 2018.

The ACA protects American families against some of the worst abuses of the health insurance industry such as the retroactive rescission of coverage when an enrollee becomes sick and lifetime limits on coverage. The law also ensures that Americans are actually receiving value for their premium dollars and requires rebates of premiums if they exceed federal caps for padding health insurer profits instead of paying for needed medical care. Over 2.5 million additional young adults between the ages of 19 and 25 have already gained health insurance coverage as a result of the ACA’s expanded access to dependent coverage.

Despite these benefits, the Committee Republicans continued to focus on re-litigating past fights rather than working to ensure that all American have access to quality, affordable health care. Committee Democrats believe we must continue to oversee and promote the continued implementation of the ACA to ensure that American families have increased 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 retire 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. Workers who are sacrificing to save for retirement are faced with an array of investment products and may need education and advice on how best to protect their assets. Federal pension law has always made clear that retirement advice must be in the workers’ interest, but Department of Labor regulations included numerous exemptions from the statute. The Department is undertaking an effort to modernize its protections to prevent conflicts

of interest and assure that investment recommendations are in the worker's best interest. The Majority held a hearing to question changes to existing financial services industry practices. The Department agreed to re-consider its proposed changes to protect workers retirement savings from conflicts of interest. Committee Democrats support strong protections for workers' retirement savings and urge the Committee to take additional steps to expand workers' access to adequate retirement income.

On the oversight front, spurred by a multi-year effort by Committee Democrats to investigate the handling of United Airlines' 2004 and 2005 pension plan terminations, the largest terminations in history, the Inspector General of the Pension Benefit Guaranty Corporation (PBGC) issued a report in December finding widespread mismanagement of plan terminations at the agency stretching back many years, affecting not just United, but also other terminated pension plan valuations. The PBGC has committed to rectifying its errors, and Ranking Member Miller intends to closely monitor the PBGC's efforts to ensure that workers and retirees receive the accurate and maximum benefits owed to them under the law.

**Employment Standards – Wage and Hour Protection.** The Fair Labor Standards Act (FLSA) is the nation's key law governing wages and hours of work. It establishes the federal minimum wage, sets standards for when employers must pay overtime, and prohibits many forms of child labor. The FLSA is as relevant today as when it was originally enacted during the Great Depression in 1938. The law continues to encourage job creation and protects a worker's right to a fair day's pay for a fair day's work.

Effective enforcement of this law is critical to a fair economy. In the last Congress, Committee Democrats shone a light on fundamental failures at the Department of Labor to properly handle and pursue workers' complaints. In this recent quarter of the 112<sup>th</sup> Congress, however, Committee Republicans have questioned whether the law should be as enforced as it is. Despite the magnitude of problems like wage theft and misclassification confronting workers, Committee Republicans took issue with even minor initiatives for improving enforcement at the Department of Labor, such as the Bridge to Justice Program, the Wage and Hour Division's partnership with the American Bar Association to provide workers with access to an attorney referral service for wage claims the Division is unable to pursue.

Committee Democrats will continue to explore legislative solutions to the problems of wage theft and misclassification and urge the Committee 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. However, Committee Republicans have expressed concern over the Davis Bacon prevailing wage determination process. Committee Republicans held a hearing examining the Department of Labor's wage methodology, pointing to a Government Accountability Office (GAO) report that found issues with the wage methodology process. However, this report did not conclude that Davis Bacon prevailing wage rates drive up the cost of federal construction

projects or inhibit job growth. Committee Democrats are encouraged by the Department of Labor's recent efforts to improve wage survey methodology for Davis-Bacon and will continue to monitor those efforts. In the meantime, House Republicans have repeatedly attempted to roll back prevailing wage laws altogether in the 112<sup>th</sup> Congress. Those attempts to undercut workers' wages have been unsuccessful.

George Miller

GEORGE MILLER  
Senior Democratic Member

Dale E. Kildee

DALE E. KILDEE

Robert E. Andrews

ROBERT E. ANDREWS

Lynn Woolsey

LYNN C. WOOLSEY

Carolyn McCarthy

CAROLYN McCARTHY

Dennis J. Kucinich

DENNIS J. KUCINICH

Susan A. Davis

SUSAN A. DAVIS

Tim B.

TIMOTHY H. BISHOP

Mazie Hirono

MAZIE HIRONO

Donald M. Payne

DONALD M. PAYNE

Robert C. Scott

ROBERT C. SCOTT

Ruben Hinojosa

RUBÉN HINOJOSA

John F. Tierney

JOHN F. TIERNEY

Rush Holt

RUSH D. HOLT

Raúl M. Grijalva

RAÚL M. GRIJALVA

Dave Loebsack

DAVE LOEBSACK