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2d Session

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REPORT
106–1040

REPORT ON THE ACTIVITIES

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

DURING THE

106TH CONGRESS

JANUARY 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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One Hundred Sixth Congress

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[1] Appointed March 2, 1999.
[2] Resigned September 13, 2000.

Letter of Transmittal

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION
AND THE WORKFORCE,
Washington, DC, January 2, 2001.

The Hon. JEFF TRANDAHL,
Clerk of the House of Representatives,
Washington, DC.

DEAR MR. TRANDAHL: 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 106th Congress.

This report summarizes the activities of the Committee and its subcommittees with respect to its legislative and oversight responsibilities.

Sincerely,

BILL GOODLING, *Chairman.*

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INTRODUCTION

The Rules of the Committee on Education and the Workforce for the 106th Congress provide for the referral of all matters the Committee's jurisdiction to a subcommittee. Five standing subcommittees with specified jurisdiction are established by the Rules.

The jurisdiction of the Committee on Education and the Workforce as set forth in rule X the Rules of the House of Representatives is as follows:

RULE X

ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES

THE COMMITTEES AND THEIR JURISDICTION

There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by [clause 1] and clause 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

* * * * * * *

(g) Committee on Education and the Workforce.

(1) Child labor.

(2) Gallaudet University and Howard University and Hospital.

(3) Convict labor and the entry of goods made by convicts into interstate commerce.

(4) Food programs for children in schools.

(5) Labor standards and statistics.

(6) Education or labor generally.

(7) Mediation and arbitration of labor disputes.

(8) Regulation or prevention of importation of foreign laborers under contract.

(9) Workers' compensation.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

In addition of its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have special oversight function provided for in clause 3(d) with respect to domestic educational programs and institutions, and programs of student assistance within the jurisdiction of other committees.

Union Calendar No. 602

106TH CONGRESS, *2nd Session* | HOUSE OF REPRESENTATIVES | REPORT 106–1040

REPORT ON THE ACTIVITIES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE

JANUARY 2, 2001.—Committed to the Committee of the Whole on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

REPORT

SUMMARY

A total of 654 bills and resolutions were referred to the Committee in the 106th Congress. A total of 31 public laws resulted on issues within the Committee's jurisdiction. The Full Committee and its five subcommittees conducted 139 days of hearings on legislation under consideration and on oversight and administration of laws within the jurisdiction of the Committee. Twenty-eight of these hearings were field hearings. The Full Committee held 23 days of hearings. Finally, the Full Committee and its subcommittees held a total of 31 days of markup sessions in the consideration of legislation with 23 of these being Full Committee markup sessions. The Committee and subcommittees ordered reported 43 bills and resolutions.

FULL COMMITTEE

I. SUMMARY OF ACTIVITIES

In the 106th Congress, the Committee on Education and the Workforce moved major initiatives in education and job training. The Committee also moved health care initiatives and legislation aimed to bring common sense solutions to everyday problems in the workplace. The activities of the Full Committee were as follows.

A. PROMOTING ECONOMIC GROWTH AND STRENGTHENING EMPLOYEE RIGHTS

The FAIR Act—Attorney's fee legislation

The Committee recognizes that Congress should be doing everything in its power to create an environment where small employers can be successful in what they do best—creating jobs and being the engine that drives America's economic growth. Certain federal agencies are applying the law in ways that not only harm small employers—both businesses and labor organizations—but also do a great disservice to hardworking men and women who work for those employers.

Chairman Goodling introduced H.R. 1987, the "Fair Access to Indemnity and Reimbursement (FAIR) Act," on May 27, 1999. The bill amends the National Labor Relations Act (NLRA) and the Occupational Safety and Health Act (OSH Act) to provide that a small employer prevailing against either the National Labor Relations Board (NLRB) or the Occupational Safety and Health Administration (OSHA) will automatically be allowed to recoup the attorney's fees and expenses it spent defending against the unworthy action. The bill ensures that small businesses and small unions will have the incentive to fight meritless cases that the NLRB or OSHA brings against them. If either agency is going to bring its vast resources and expertise to bear upon an entity with meager resources, then the agency should pay the prevailing party's attorney's fees and expenses.

A full committee mark-up was held on Thursday, July 29, 1999. H.R. 1987 was ordered favorably reported, as amended, by a roll call vote of 24–19. This bill was reported to the full House on October 14, 1999. The Rules Committee reported a Rule on October 25, 1999, but the House did not debate the legislation during the 106th Congress. Sen. Tim Hutchinson, (R–AR), introduced nearly identical legislation, S. 1158, in the Senate on May 27, 1999.

The FAIR Act will help prevent spurious suits and ensure that small employers have the incentive to adequately represent themselves against the NLRB and OSHA. The Act applies to only the smallest 20 percent of businesses covered by the Equal Access to Justice Act—an Act passed in 1980 with unanimous support of both parties to "level the playing field" for small businesses, but which has been underutilized at the Board and OSHA. It is these very small entities that are most in need of the FAIR Act's protection.

The Committee wants to ensure that those with modest means will not be forced to capitulate in the face of a meritless action brought by the Board or OSHA, while making those agencies' bureaucrats think long and hard before they start an action against a small company.

Worker paycheck fairness—the Beck issue

The Committee continued during the 106th Congress to push aggressively for the rights of rank-and-file workers to exercise some control over the spending of their own union dues. The Worker Paycheck Fairness Act, H.R. 2434, creates a new, federal right implementing the spirit of the Supreme Court's 1988 Beck decision.

In *Beck,* the Court held that workers could not be required to pay for activities beyond those related to legitimate union functions. H.R. 2434 applies only in circumstances in which employees work under a "union security agreement," that is, when unions require workers to pay dues as a condition of keeping their jobs. In addition to requiring unions to get permission from workers in order to use union dues for activities unrelated to collective bargaining, the bill requires more detailed reporting of union financial records, requires employers to post a notice telling employees of these new rights, prohibits retaliation against workers exercising their rights, and gives workers strong enforcement rights.

Chairman Goodling introduced H.R. 2434 on July 1, 1999. A full committee mark-up was held on November 3, 1999, and the bill was ordered reported to the full House by a vote of 25–22. The Committee on Education and the Workforce has held six hearings during the past three Congresses on the issue of compulsory union dues.

All workers should have sufficient information about their rights regarding the payment of dues or fees to labor organizations and the uses of their dues and fees by unions. The Worker Paycheck Fairness Act protects to the greatest extent possible the right of all workers to make individual and informed choices about the political, social or charitable causes they support.

Unions should be required to get written permission from union members before accepting payment of dues unrelated to collective bargaining, contract administration and grievance adjustment. Unions should also provide an accurate accounting of how they spend dues—including the ratio of dues related to legitimate functions and dues related to other purposes—and give all workers who pay dues access to the union's financial records.

Working men and women face numerous obstacles in current law when attempting to acquire information from unions about how their dues are spent. Workers should be informed of their right to object to the payment of dues by posting in the workplace a notice of this right. The Worker Paycheck Fairness Act gives workers the right to give permission before unions take money out of their paychecks and the right to know how their money is spent. The Act addresses a matter of simple fairness by respecting workers' beliefs and personal convictions; protecting workers' paychecks; and expecting unions to provide workers with better financial information about where their hard-earned dollars go.

Clinton Administration's Proposed "Blacklisting" Regulations

As it had done during the 105th Congress, the Education and the Workforce Committee played a major role in the 106th Congress combating the administration's proposed "blacklisting" regulations. Vice President Gore announced at an AFL–CIO Executive Council meeting in 1997 that the administration would introduce regulations preventing federal contractors and subcontractors with "unsatisfactory" records of labor or employment practices from receiving federal contracts. These proposed regulations would effectively create a "blacklist" to shut out various contractors from the yearly pool of approximately $200 billion in federal contracting dollars.

Through efforts of this committee and others, the issuance of the proposed regulations was delayed until July 1999. Further pressure caused the administration ultimately to withdraw the rule. On June 30, 2000, however, revised proposed regulations were issued, and the comment period ended on August 29, 2000. In some aspects the revised rule is even worse than the original effort. The latest version potentially "blacklists" companies who have violated any federal labor and employment, tax, environmental, antitrust or consumer protection law. The proposed regulations would substantially revise, among other laws, federal labor law outside the proper congressional legislative process. The Committee has expressed its strong concern over the past three years that if the administration feels current contracting law is inadequate, it should submit its proposals to Congress.

On July 20, 2000, the House passed (228–190) an amendment to the Treasury/Postal appropriations bill to prohibit the administration from spending funds to implement the regulations, although this amendment was subsequently dropped from the final version of the bill. On October 12, 2000, Chairman Goodling and workforce subcommittee chairs joined Rep. Davis and others in a letter to the Speaker, urging the inclusion of such language in a final budget package, and pointing out that the administration's own General Services Administration and the EPA have objected to the regulations. Sen. Tim Hutchinson (R–AR) introduced legislation on July 27 to similarly prohibit funds from being spent on the initiative, although the Senate did not attach the language to any appropriations bill.

The administration's proposed regulations seek to upset the federal government's expressed procurement policy of remaining neutral in labor-management disputes, as set forth in the Federal Acquisition Regulations. They also put government bureaucrats in the absurd and troubling position of defining a "satisfactory" record of labor and employment practices, opening up federal contracting to potential abuse of discretionary authority.

B. EXAMINING THE COLLECTIVE BARGAINING PROCESS AND ITS ENFORCEMENT

Collective bargaining rights for doctors

During the 106th Congress, Rep. Tom Campbell of California introduced legislation granting collective bargaining rights to doctors and other health care professionals, effectively allowing them to band together and achieve leverage to negotiate higher fees with health plans and insurers. The bill, H.R. 1304, the "Quality Health-Care Coalition Act of 1999," was drafted on its face as an "antitrust" exemption, thus avoiding referral of the bill to the Education and the Workforce Committee. However, the "labor exemption" to the antitrust law that the bill expands is a labor concept and the committee has dealt with related issues in the past. Chairman Goodling and Employer-Employee Relations Subcommittee Chairman Boehner voiced strong objection not only to the bill, but also to the bill not being referred to the committee.

The legislation promotes the interests of those clearly not "employees" under the National Labor Relations Act (NLRA), giving

rights to those who are otherwise excluded from collective bargaining. Under current federal labor law, doctors are allowed to form unions and collectively bargain only if they are "employees" under the NLRA. H.R. 1304 treats doctors as if they were "employees" in collective bargaining units under the NLRA, even if they are otherwise considered independent contractors or supervisors.

Congress has established through the NLRA a framework for employers and employees to collectively bargain and resolve their labor disputes. The committee has jurisdiction over the NLRA, and, under House Rule X(g)(6), broad authority over labor matters generally. H.R. 1304 is a labor bill that properly should have been referred to the committee. The committee also has jurisdiction over the Employee Retirement Income Security Act (ERISA), which governs all private employer sponsored health plans. H.R. 1304, while drafted as an "antitrust" exemption, would have profound cost increase implications for ERISA health plans—a further reason that the bill should have been referred to the committee.

On June 15, 1999, Rep. Boehner wrote Speaker Hastert, pointing out that the bill, which was sent to the Judiciary Committee, should have been referred to the Education and the Workforce Committee. Mr. Boehner wrote that the legislation not only effectively amends the definition of "employee" under the NLRA and grants bargaining rights to those otherwise precluded under the Act, but also, if enacted, would have a multi-billion dollar impact on group health plans arising under ERISA.

The bill would have created "medical cartels"—groupings of doctors that could have undue and arguably illegal influence on the health insurance companies with which they individually and freely contract. According to Federal Trade Commission Chairman Robert Pitofsky, "medical cartels" created by H.R. 1304 would be "bad medicine for consumers" as they "* * * would not simply be on the health plans and employers that are forced to pay higher prices to health care practitioners, but can be expected to extend to various parties and in various ways, throughout the health care system: consumers and employers would face higher prices for coverage; consumers also would face higher out-of-pocket expenses as copayments and other unreimbursed expenses increased; consumers might face a reduction in benefits as costs increased * * * threaten[ing] to increase the already sizable portion of the population that is uninsured."

On July 21, 1999, Chairman Goodling wrote Speaker Hastert, formally requesting a referral of H.R. 1304 to the Education and the Workforce Committee and pointing out that in the alternative, there is a substantial, if not overwhelming, basis under House Rules and committee precedents for a concurrent referral.

Chairman Goodling attached to his letter a memorandum prepared at his request by the American Law Division of the Congressional Research Service. That memo, written on July 12, 1999 by Morton Rosenberg, concluded that the two essential concepts of H.R. 1304—granting bargaining rights and extending an implied labor antitrust exemption—are labor relations-related. The memo also concluded that House Rules, the committee's long history of legislative actions and oversight with respect to subject matter that is the same or closely analogous to that of H.R. 1304, and the es-

sentially labor-related nature and orientation of the bill's core operational provision, which imparts antitrust immunity to bargaining decisions over wages, hours, and conditions of employment, establish a substantial basis for sole or at least concurrent referral to the committee.

More specifically, the CRS memo discussed Supreme Court precedent relative to the scope of House committees' jurisdiction and to the fact that the nonstatutory labor exemption is a labor concept: "Perhaps because on the face of [H.R. 1304] it appears to be primarily concerned with traditional antitrust issues * * * it was referred to the Judiciary Committee. But in fact the principal thrust of the bill is to import a judicial construct—the implied labor antitrust exemption—that is well understood as applicable exclusively in the context of labor law. As indicated in the discussion of the Supreme Court decisions in this area, the implied exemption emanates from the national labor laws alone and when applicable displaces the antitrust laws."

Chairman Goodling also argued that the bill's silence with respect to any mechanism for resolving disputes that may occur during collective bargaining, and to the establishment and enforcement of a legal duty to bargain, further supported referral to the committee. For example, the bill does not provide for any agency or other administration body to be responsible to enforce protections similar to those contained in the NLRA—for example, the duty to fairly represent all members of the bargaining unit, or even to determine the scope of the unit.

C. REFORMING LABOR STANDARDS TO MEET THE CHALLENGES OF TODAY'S WORKPLACE

Rewarding Performance in Compensation Act

On April 13, 1999, Chairman Ballenger introduced H.R. 1381, "The Rewarding Performance in Compensation Act." On May 19, 1999, the subcommittee ordered H.R. 1381 favorably reported without amendment by voice vote. On June 23, 1999 during the full committee's consideration of H.R. 1381, Chairman Ballenger offered a substitute amendment that directly addressed concerns that were raised about the bill during the subcommittee's markup. The amendment would ensure that employees are made aware of the specifics of a bonus/gainsharing plan, including the amount of any payments to be made under the plan, and would ensure that such plans would not be abused by employers. The language in the amendment was derived from similar language in the Department of Labor's regulations on profit-sharing plans. The substitute amendment to H.R. 1381 was approved and reported by the committee. (See Workforce Protections Subcommittee activities for subcommittee action.)

The Family and Medical Leave Clarification Act

On June 2, 2000, Chairman Goodling introduced H.R. 4499, the Family and Medical Leave Clarification Act. H.R. 4499 would make reasonable and needed changes to the Family and Medical Leave Act (FMLA) of 1993. The Family and Medical Leave Clarification

Act would help implement and enforce the FMLA in a manner consistent with Congress' original intent.

There is compelling evidence of problems with the implementation and enforcement of the FMLA, problems affecting both employers and employees. The FMLA is still a relatively young law. In fact, the final rule implementing the FMLA was not published until 1995. As with any new law, there are some growing pains that need to be sorted out.

Testimony before the Oversight and Investigations Subcommittee on June 19, 1996 (during the 105th Congress) has established evidence of myriad problems in the workplace caused by the FMLA. These problems include: the administrative burden of allowing leave to be taken in increments of as little as six minutes; the additional burdens from overly broad and confusing regulations of the FMLA, not the least of which is the Department of Labor's ever-expanding definition of "serious health condition;" and inequities stemming from employers with generous leave policies in effect being penalized under the FMLA for having those policies.

The first area the FMLA Clarification Act addresses is the Department of Labor's overly broad interpretation of the term "serious health condition." In passing the FMLA, Congress stated that the term "serious health condition" was not intended to cover short-term conditions for which treatment and recovery were very brief, recognizing specifically in Committee report language that "it is expected that such conditions will fall within the most modest sick leave policies."

Despite Congressional intent, the Department of Labor's current regulations are extremely expansive, defining the term "serious health condition" as including, among other things, any absence of more than three days in which the employee sees any health care provider and receives any type of continuing treatment, including a second doctor's visit, or a prescription, or a referral to a physical therapist. Such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve.

The FMLA Clarification Act reflects Congress' original intent for the meaning of the term "serious health condition," by taking word-for-word from the Democrat Committee report, and adding to the statute, the explanation of what types of conditions the sponsors intended the FMLA to cover. H.R. 4499 also repeals the department's current regulations on the issue and directs the agency to go back to the drawing board and issue regulations consistent with the new definition.

In addition, the legislation also minimizes tracking and administrative burdens while maintaining the original intent of the law, by permitting employers to require employees to take "intermittent" leave, which is FMLA leave taken in separate blocks of time due to a single qualifying reason, in increments of up to one-half of a work day.

Congress drafted the FMLA to allow employees to take leave in less than full-day increments. Congress also intended to address situations where an employee needed to take leave for intermittent treatments, e.g., for chemotherapy or radiation treatments, or other

medical appointments. Granting leave for these conditions has not been a significant problem.

However, the regulations provide that an employer "may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave, provided it is one hour or less." Since some employers track in increments as small as six or eight minutes, the regulations have resulted in a host of problems related to tracking the leave and in maintaining attendance control policies. In many situations, it is difficult to know when the employee will be at work.

In many positions, employees with frequent, unpredictable absences can severely impact an employer's productivity and overburden their co-workers when employers do not know if certain employees will be at work. Allowing an employer to require an employee to take intermittent leave in increments of up to one-half of a work day would ease the burden significantly for employers, both in terms of necessary paperwork and with respect to being able to provide effective coverage for absent employees.

Where the employer does not exercise the right to require the employee to substitute other employer-provided leave under the FMLA, the FMLA Clarification Act shifts to the employee the requirement to request leave to be designated as FMLA leave.

In addition, H.R. 4499 requires the employee to provide written application of foreseeable leave within five working days, and within a time period extended as necessary for unforeseeable leave, if the employee is physically or mentally incapable of providing notice or submitting the application.

Requiring the employee to request that leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's private and family matters, as required under current law. This requirement helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding.

With respect to leave taken because of the employee's own serious health condition, the FMLA Clarification Act permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer.

This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering discontinuing such employee-friendly plans, including those negotiated by the employer and the employees' union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

Despite the common belief that leave under the FMLA is necessarily unpaid, employers having generous sick leave policies, or that have worked out employee-friendly sick leave programs with unions in collective bargaining agreements, are being penalized by the FMLA. In fact, for many companies, most FMLA leave has become paid leave because the regulations state that an employer

must observe any employment benefit program or plan that provides rights greater than the FMLA.

Because employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions, nor can they count FMLA leave under "no fault" attendance policies, the regulations prohibit employers from using disciplinary attendance policies to manage employees' absences.

The Family and Medical Leave Clarification Act would relieve many of the unnecessary and unreasonable burdens imposed on employers and employees by the Department of Labor's implementing regulations, without rolling back the rights of employees under the FMLA. Finally, the bill encourages employers to continue to provide generous paid leave policies to their employees.

Birth and adoption unemployment compensation

On December 3, 1999, the Department of Labor proposed changes to the regulations implementing the Federal Unemployment Insurance law. These changes would allow states to pay unemployment insurance benefits to employed parents on leave from work because of a birth or adoption.

Allowing workers on birth or adoption leave to collect unemployment insurance benefits will hurt the unemployed by jeopardizing the solvency of the Unemployment Trust Fund. According to the Department of Labor, nearly half the states (and the country as a whole) lack adequate reserves to meet future claims. Expanding UI to cover birth and adoption leave diverts funds needed to pay basic unemployment insurance claims.

The proposed rule violates the clear purpose of the Unemployment Insurance laws. Unemployment Insurance protects workers who lose their jobs. By definition, workers taking birth or adoption leave are not unemployed because they have jobs.

On December 16, 1999, Chairman Bill Goodling and Subcommittee Chairmen Cass Ballenger, John Boehner, and Pete Hoekstra wrote the Secretary of Labor to request an extension of the comment period on the proposed regulation. The Secretary eventually extended the comment period by two weeks. On February 2, 2000, Chairman Bill Goodling and Subcommittee Chairmen Cass Ballenger, John Boehner, and Pete Hoekstra submitted comments in opposition to the proposed parental leave regulations.

On June 13, 2000, the Department finalized the parental leave regulations. The regulations will have no effect until individual states enact implementing legislation. Despite some movement in the states in 2000, no state has passed legislation implementing the parental leave regulations.

Clarifying the Overtime Exemption for Firefighters

On May 5, 1999, Rep. Robert L. Ehrlich, Jr. introduced a bill, H.R. 1693, to amend the Fair Labor Standards Act to clarify the overtime exemption for fire fighters. H.R. 1693 was a simple and non-controversial bill to clarify section 7(k) of the Fair Labor Standards Act and restore the original intent of the overtime provisions for employees engaged in fire protection activities.

On November 3, 1999, the committee favorably reported H.R. 1693, without amendment, by voice vote. On November 4, 1999, the bill was considered by the House and passed, without amendment, by voice vote under suspension of the rules. The Senate considered the bill on November 19, 1999, under unanimous consent, and it passed by voice vote. On December 9, 1999, H.R. 1693 became Public Law 106–151. It amended the Fair Labor Standards Act by adding a new definition for an employee in fire protection activities. An employee in fire protection activities is defined as an employee, including a fire fighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who is (1) trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or state, and (2) is engaged in the prevention, control, and extinguishment of fires or responds to emergency situations where life, property, or the environment is at risk. (see Workforce Protections Subcommittee Activities for subcommittee action)

The Minimum Wage

The committee held two hearings on the minimum wage, on April 27, 1999 and on October 7, 1999. The hearings were the first extensive review by the committee of issues raised by the minimum wage in many years. The hearings did not focus on any particular proposed increase. Rather, the purpose of the hearings was to examine the policy aspects of the minimum wage and look beyond the political rhetoric that often dominates the issue.

The April hearing focused on recent research regarding the effectiveness of the minimum wage in reducing poverty. There were two reasons for focusing on this issue: one is that reducing poverty, by increasing income for the lowest-income working families, is the reason generally given for raising the minimum wage. Second, there are few issues more important than addressing the persistent presence and effects of poverty in the United States, even during this time of sustained economic growth. The committee heard from several academic researchers regarding the question of whether increasing the minimum wage is an effective way of combating poverty. The witnesses told the committee that increasing the minimum wage is not the most effective way, because it is not well-targeted at poor families and while it benefits some, it harms others whose employment opportunities are lessened.

According to recent research presented by the witnesses, only 15 percent of the beneficiaries of a minimum wage increase represent the sole earner in a household. Furthermore, some 85 percent of the beneficiaries of an increase in the minimum wage either live with their parents or another relative, live alone or have a working spouse. For many low-income families, a larger increase in the minimum wage would result in an actual loss of income. In addition, research has shown that the net benefit of a minimum wage increase to many families who are at or near the poverty level is very small due to high marginal tax rates.

The witnesses discussed research that has shown that minimum wage increases have had little net effect on poverty, and may even increase the number of families in poverty. While minimum wage

increases have resulted in increased income for some families in poverty, they have also resulted in less income for other families because of reduced employment (including fewer hours of work) and increases in the cost of basic goods, such as food.

The October hearing focused on the impact of increasing the minimum wage on programs and efforts to help individuals move from welfare and public support to work and self support. The hearing provided an informational, educational review of recent research in this area. Witnesses suggested that minimum wages are not an efficient means of improving the financial independence of low-skilled adults, since the wage gains experienced by those who keep their jobs are counteracted by an increase in the welfare rolls. So, a higher minimum wage would benefit some individuals at the expense of others. The testimony also highlighted the issues faced by companies that set up and operate programs for the hiring of welfare recipients. The committee was told that few companies can afford to justify such extensive efforts without the partial financial offsets provided by the Work Opportunity and Welfare to Work Tax Credits.

Testimony at the hearing focused in part on the State Flexibility proposal (H.R. 2928) introduced by Representative Jim DeMint (R–SC). The legislation would take into account the role of the states in moving welfare recipients into jobs and would grant states the flexibility to determine the appropriate wage for their state, dependent in part on local economic conditions.

On March 9, 2000, the House considered H.R. 3081 (Lazio), a broad bill that would increase the minimum wage by one dollar over a three-year period, make other reforms to the Fair Labor Standards Act, and provide tax relief. A floor amendment offered by Representative James A. Traficant, Jr. (D–OH) to increase the minimum wage by one dollar over two years was accepted by a roll call vote of 246–179. The bill was referred to the Senate, which took no action prior to adjournment. On October 26, 2000, the House approved, by a vote of 237–174, a conference report on H.R. 2614 (Talent) that provided tax relief and a minimum wage increase.

D. ENERGY EMPLOYEES OCCUPATIONAL INJURY COMPENSATION ACT

The committee participated in discussions regarding the establishment of the Energy Employees Occupational Injury Compensation Act. This legislation was included as part of the Department of Defense Authorizing bill. Chairman Goodling was an outside conferee to the DOD authorization bill, which included a number of education and labor items. The final agreement included Title 36, a compromise provision, which establishes a compensation program and fund for certain Department of Energy employees, employees of DOE contractors, or their survivors, who may have been injured through the course of their employment at certain Department of Energy facilities in building the nation's nuclear arsenal.

The program will cover employees who have beryllium disease, cancer due to radiation exposure at a DOE facility, and chronic silicosis. Another category of special cohorts, i.e., DOE employees who may have a specified cancer, is also included. Covered employees can receive $150,000 due to the disability or death of the employee

and medical benefits. Employees with chronic silicosis are treated slightly differently in the provision because chronic silicosis is not unique to having worked at a DOE facility. The provision requires further enacting legislation in order for the program to move forward. The president is to submit such legislation not later than March 15, 2001 and Congress has until July 31, 2001 to enact the full program. It is still to be determined which branch of the executive will administer the compensation program. The compromise provides for $250 million to establish the program which would automatically be funded as an entitlement in future years.

The proposal also establishes an Advisory board on Radiation and Worker Health to develop guidelines on the scientific validity and quality of radiation dose estimation. The Advisory Board is also required to advise the president as to whether additional employees should be added to the special cohorts in the future.

Title 36 also provides that individuals who have received a benefit under the Radiation Exposure Compensation Act will be treated comparably to the DOE covered employees. Covered employees in Title 36 are required to elect their remedy to file suit or accept the compensation as provided in this title. Finally, the provision also provides that the Secretary of Energy is to assist state workers' compensation programs, as necessary, in the procedures and filing of claims by DOE contractor employees.

E. REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)

During the 106th Congress, the Committee on Education and the Workforce began work on the reauthorization of the Elementary and Secondary Education Act (ESEA). In December 1998, organizations, associations and governmental bodies were invited to submit their legislative recommendations to the Committee. In addition, the Committee on Education and the Workforce, the Subcommittee on Early Childhood, Youth and Families, and the Subcommittee on Oversight and Investigations held numerous hearings in Washington, D.C. and around the country to receive recommendations on revising ESEA, specifically with regard to improving the education of low-achieving students.

The Committee divided the ESEA authorization into several separate bills, allowing for more focused attention on each of the component parts. The bills which comprise the major parts of ESEA are: H.R. 3222, the Literacy Involves Families Together Act (LIFT); H.R. 1995, the Teacher Empowerment Act; H.R. 2, the Student Results Act; H.R. 4141, the Education OPTIONS Act; and H.R. 3616, the Impact Aid Reauthorization Act of 2000.

1. Family literacy

The Even Start Family Literacy Program, authorized under Title I, Part B of the Elementary and Secondary Education Act, has been effective in helping break the cycle of illiteracy that exists in some families in this country. The program's effectiveness comes largely from working with the whole family—parents and their young children. Even Start provides parents with adult education services to assist them in becoming their child's first and most important

teacher. At the same time, it provides children with an age appropriate education to help them become successful in school.

Hearings on family literacy

On May 12, 1999, the Committee on Education and the Workforce held a hearing entitled, "Even Start and Family Literacy Programs Under the Elementary and Secondary Education Act." Witnesses included representatives from the family literacy community, a state director of adult education, and the National Institute for Literacy.

An additional hearing entitled "The Importance of Literacy," was held by the Committee on Education and the Workforce on September 26, 2000. Witnesses included the Chancellor of the University System of Maryland, teachers using instructional programs based on scientifically based reading research, a former adult education student and an Even Start teacher.

H. R. 3222, Literacy Involves Families Together Act (LIFT)

On November 4, 1999, Chairman Bill Goodling (R–PA) introduced H.R. 3222, the Literacy Involves Families Together Act (LIFT). On February 16, 2000, the Committee on Education and the Workforce ordered the bill, as amended, favorably reported to the House of Representatives. The House of Representatives passed the LIFT bill on September 12, 2000 by voice vote. A modified version of the House-passed LIFT bill was enacted into law as a part of H.R. 4577, the FY 2001 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act.

As passed by the House of Representatives, LIFT would: (1) require states to review the progress of local programs to make sure they are meeting the goals of helping parents to read, helping children to learn, and training parents on how to be good teachers for their children; (2) permit states to use a portion of federal money to provide training and technical assistance to Even Start instructors, as long as the level of service to program participants at least remains the same; (3) require Even Start programs to use instructional programs based on scientifically based research for children and adults; (4) conduct a research project to ascertain the most effective ways to improve literacy among adults with reading difficulties; (5) amend Title I, Part A, Education of the Disadvantaged program and the Migrant Education program state plans under the Elementary and Secondary Education Act (ESEA) to allow states to encourage organizations that serve large numbers of children, whose parents do not have a high school education or who have low levels of literacy, to operate family literacy programs; (6) establish qualifications for individuals providing academic instruction to program participants and for the individuals administering local Even Start programs; (7) permit Even Start to serve children older than eight years of age if schools use Title I, Part A funds to pay a portion of the costs of those services; (8) increase from five percent to six percent the set-aside to serve migrants and Native Americans once appropriations for Even Start reach $200 million; and (9) provide for the coordination of Even Start and Bureau of Indian Af-

fairs (BIA) family literacy programs in order to prevent duplication and ensure the sharing of information about quality programs.

2. H.R. 1995, Teacher Empowerment Act

For a discussion on this bill, see the section on "Subcommittee on Postsecondary Education."

3. H.R. 2, Student Results Act

Chairman Bill Goodling (R–PA) introduced H.R. 2, the Dollars to the Classroom Act, on February 11, 1999. As introduced, the bill contained three titles: Title I—the Dollars to the Classroom resolution; Title II—the Education Flexibility Partnership Act; and Title III—the Financial Freedom Act of 1999. The amendment in the nature of a substitute offered by Chairman Goodling (R–PA) changed the name of the bill to the Student Results Act and replaced the language of the original bill with major changes to the Elementary and Secondary Education Act (ESEA).

The amendment in the nature of a substitute authorized Title I of the Elementary and Secondary Education Act (ESEA) and other programs assisting low achieving students. ESEA programs authorized in the bill are: Title I, Part A Education of the Disadvantaged; Title I, Part C Migrant Education; Title I, Part D Neglected and Delinquent; Title VII Bilingual Education; Title V, Part A Magnet Schools Assistance; Title IX Native American and Alaskan programs; Title X, Part B Gifted and Talented; Title X, Part J Rural Education; and the Stewart B. McKinney Homeless Assistance program.

The amendment in the nature of a substitute to H.R. 2 was considered by the full Committee on October 5, 6, 7, and 13, 1999. On October 13, 1999, the Committee ordered the bill, as amended, favorably reported to the House of Representatives by a vote of 42–6. H.R. 2 passed the House on October 21, 1999 by a vote of 358–67. The Senate's companion legislation which authorizes these programs and all Elementary and Secondary Education Act programs is S. 2. The Senate began consideration of S. 2 in May 2000. After several days of debate, the bill was set aside. The Senate took no further action on the legislation.

Hearings on Title I, Part A Education of the Disadvantaged

On February 11, 1999, the Committee on Education and the Workforce held a hearing entitled "The Administration's Education Proposals and Priorities for FY 2000." U.S. Department of Education Secretary Richard Riley testified on the education proposals contained in President Clinton's fiscal year 2000 budget, including Title I, Part A provisions.

On April 14, 1999, the Committee on Education and the Workforce held a hearing entitled "Title I of the Elementary and Secondary Education Act: An Overview." The hearing was designed to present a broad overview of the Title I, Part A program emphasizing the history of Title I over the years and focusing upon the results of the National Assessment of Title I. The hearing also discussed a proposal to make the benefits under Title I, Part A portable.

On June 10, 1999, the Committee on Education and the Workforce held a hearing entitled "Key Issues in the Authorization of Title I of the Elementary and Secondary Education Act." The hearing focused upon the major issues involved in the authorization of Title I, Part A including standards and assessments completion, schoolwide and targeted assistance programs, qualifications of teachers' aides, parental compacts, private school participation, third party contracting, and school improvement and corrective action.

On June 21, 1999, the Subcommittee on Early Childhood, Youth and Families held a field hearing at Portage West Middle School in Portage, Michigan entitled "Title I—Local Efforts to Boost Student Achievement." The hearing focused upon successful local efforts to boost student achievement under Title I, Part A.

On July 27, 1999, the Committee on Education and the Workforce held a hearing entitled "Title I: What's Happening at the School District and School Building Level" to specifically focus on how Title I, Part A is utilized and administered at the local level. Witnesses included a Title I principal, a superintendent from a rural district, a superintendent from an urban district, a private contractor, and a reading researcher.

Hearings on Comprehensive School Reform

On July 13, 1999, the Committee on Education and the Workforce held a hearing entitled "Comprehensive School Reform: Current Status and Issues." The hearing focused on the many issues surrounding comprehensive school reform, specifically the implementation of the $150 million comprehensive school reform grants that first became law in the FY 1998 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act. The hearing also focused upon several comprehensive school reform models.

Hearings on programs assisting migrant and neglected and delinquent youth

On July 22, 1999 the Committee on Education and the Workforce held a hearing on migrant education programs and programs that assist neglected and delinquent youth. The hearing was entitled "Helping Migrant, Neglected, and Delinquent Children Succeed in School." Witnesses included the Director of the Office of Migrant Education at the U.S. Department of Education, a migrant student, a representative of the Interstate Migrant Education Council, and a student support specialist from a Pennsylvania migrant education program. A consultant for the Kentucky Department of Education testified about Kentucky's program for neglected and delinquent children.

Hearings on Native American education programs

On June 20, 1999, the Subcommittee on Early Childhood, Youth and families held a hearing entitled "Examining Education Programs Benefiting Native American Children." This hearing was designed to provide members of the subcommittee with needed information in preparation for the reauthorization of Indian education

programs under the Elementary and Secondary Education Act (ESEA).

Hearings on gifted and talented and homeless education programs

On July 15, 1999, the Subcommittee on Early Childhood, Youth and Families held a hearing on the "Elementary and Secondary Education Act—Educating Diverse Populations." The hearing focused on education initiatives incorporated in Title X of the Elementary and Secondary Education Act (ESEA) and other programs of national significance. Among other things, the hearing reviewed the Jacob K. Javits Gifted and Talented Students Education Program and the Stewart B. McKinney Homeless Assistance Act.

Hearings on bilingual education

The Subcommittee on Early Childhood, Youth and Families held two hearings on bilingual education. The first hearing was held on June 24, 1999 in Washington, D.C. The second hearing was held on July 7, 1999 in McAllen, Texas. Witnesses included school officials, students, researchers and others interested in the education of limited English proficient children.

Title I, Part A Education of the Disadvantaged

Title I, Part A, the largest federal Elementary and Secondary Education Act (ESEA) program, provides supplemental educational services to children who are achieving below grade level. From the time it was first enacted in 1965 until the present, taxpayers have provided more than $120 billion in funding. The initial investment in 1965 of $960 million has risen to $7.9 billion in FY 2000. Title I, Part A grants or services are provided to nearly all school districts in the country—approximately 90 percent—and to 58 percent of public schools. Approximately 11,000,000 students are served, including 167,000 in private schools.

Over its 35-year history, Title I, Part A has been confronted with questions about its effectiveness at raising the academic achievement of disadvantaged students and narrowing the achievement gap. The Prospects study, a national longitudinal study of Title I, Part A published in 1997, found that the Title I, Part A program did not appear to provide sufficient help for at-risk students in high-poverty schools to close their academic achievement gaps with students in low-poverty schools.

The National Assessment of Title I (NATI), released in 1999, provided data on how Title I, Part A funds have been spent since the 1994 reauthorization of the Elementary and Secondary Education Act (ESEA). This study, mandated by Congress in the 1994 reauthorization of the Elementary and Secondary Education Act, did not provide longitudinal data on students or an assessment of whether Title I was effective in closing achievement gaps. Early data available from the longitudinal evaluation of Title I since the 1994 reauthorization indicate that the program is not narrowing achievement gaps any more effectively than in earlier years. The interim report found that Title I students in the study performed "somewhat below national and urban norms" and were "showing somewhat less progress than would be expected over a full year."

The proportion of students meeting the highest proficiency levels merely held steady during the two years for which data have been made available.

Based on the findings from hearings, the Committee decided to maintain the existing standards-based approach to Title I, Part A that was adopted in the 1994 amendments (Improving America's Schools Act, P.L. 103–382) to Title I. The 1994 changes to the Title I statute required states to develop state content and performance standards by the 1997–98 school year, and state assessments aligned to those standards by the 2000–2001 school year. Though there has been progress in many states in implementing standards-based reforms since the 1994 amendments, additional information is needed to reach a final conclusion at this juncture about the success or limitations of this approach in Title I; it is too early to determine whether the approach that was started in 1994 is working or whether adjustments or other approaches are needed. The NATI study itself points out that "full implementation [of the 1994 reforms] in classrooms across the country has yet to be accomplished."

The Committee has made many improvements and policy changes in an effort to strengthen the program. Many of the most significant changes were made to increase accountability for student performance, increase flexibility where possible, and expand school choice and parental involvement.

The Committee accomplished these ends by: requiring final aligned assessments to be in place by the 2000–2001 school year; requiring all groups of students (economically disadvantaged, limited English proficient, and others) and not just the average of all students to show improvement; requiring report cards on the academic quality of Title I, Part A schools to be made available to parents and communities; providing public school choice to parents of students enrolled in low performing Title I, Part A schools; requiring written parental consent before placing a child in a bilingual education program; changing the schoolwide poverty threshold so that schools with more than 40 percent of children in poverty can take advantage of the flexibility to combine their federal program dollars (current law is 50 percent); strengthening teacher quality standards; and by improving protections for private schools.

In H.R. 2 the Committee modified existing accountability provisions to ensure that all students, including each subgroup of students (economically disadvantaged, limited English proficient, minority, students with disabilities, etc.), make academic achievement gains at the state, school district and school levels. The Committee made this change to current law to ensure that the lowest performing students in Title I schools would not be left behind. In addition, the intent is to have schools focus resources on all children, and not merely upon improving the average of the school's test scores. This policy is based on the success of Texas, which requires schools to demonstrate that certain groups of students are meeting the same high standards in order to receive recognition.

In order to provide financial incentives to increase academic performance, H.R. 2 allows up to 30 percent of any increase in Title I funding to be set aside by states to provide rewards to schools (and teachers in such schools) that substantially close the achieve-

ment gap between the lowest and highest performing students and that have made outstanding yearly progress for two consecutive years.

The Committee worked to expand school choice options in Title I in order to free disadvantaged children from failing schools. Under H.R. 2, if a Title I school is designated for "school improvement" (meaning that the school is low performing), then parents of children who attend the school would have the option of transferring to another public school or public charter school that is not in "school improvement." Title I funding could be used, if local officials so decide, for transportation to another public school or public charter school.

Based on findings that the public should have as much information as possible about the performance of their local schools, the Committee included language that strengthened requirements that states and school districts make academic achievement data available to parents and the public. The report will include information on each Title I school on student performance according to subgroups on state assessments; comparison of students at basic, proficient, and advanced levels of performance on state assessments; graduation rates; retention rates; completion of Advanced Placement courses; and qualifications of teachers and teachers' aides.

The Committee strengthened requirements for teachers and teachers' aides in H.R. 2. Under current law, teachers' aides funded under Title I must, at a minimum, obtain a high school diploma or GED within two years of employment as an aide. The bill would require, not later than three years after enactment, all teachers' aides to have: (1) completed at least two years of study at an institution of higher education; (2) obtained an associate's or higher degree; or (3) met a rigorous standard of quality established at the local level, which includes an assessment of math, reading and writing. Also, H.R. 2 would freeze the number of paraprofessionals at their current levels, with limited exceptions.

With respect to private school participation in Title I, Part A, the provisions requiring school districts to have timely and meaningful consultations with private school officials were significantly strengthened. In addition, the Committee made changes to make it easier for private schools to appeal to the secretary of education to receive Title I funds directly from the secretary instead of the school district in situations where services are not satisfactory.

The Committee continued the requirement that school districts rank and serve schools in school districts according to poverty (from highest to lowest). However, it expanded flexibility and gave school districts the option of giving priority to elementary schools. No changes were made in the formulas, but a hold harmless would be applied to the basic and concentration grants. The Committee repealed the education finance incentive grant, which has never been funded.

During floor consideration of H.R. 2 a number of amendments were offered and accepted by the House. First, Representative Tim Roemer (D-IN) offered an amendment to increase the authorization of Title I, Part A by an additional $1.5 billion. This increase would bring the total authorization for Title I to $9.9 billion annually. The amendment passed by a vote of 243–181.

Second, an amendment was offered by Representative Patsy Mink (D–HI) to require schoolwide programs to include strategies that incorporate gender equitable methods and practices. Under the amendment, professional development under Title I must include strategies for eliminating gender and racial bias in instructional materials, methods, and practices, and may include instruction in the ways that teachers, principals and guidance counselors can encourage and maintain the interest of females and minorities in math, science, engineering, and technology. In addition, $5 million is authorized to provide grants to educational agencies and institutions under the Women's Educational Equity Act. The amendment passed by a vote of 311–111.

Third, an amendment was offered by Representative Bob Schaffer (R–CO) to require school districts to offer public school choice to students who are victims of a violent criminal offense while at school or to permit students who attend schools designated as unsafe to transfer to another school. The amendment passed by voice vote.

Fourth, Representative Vernon Ehlers (R–MI) offered an amendment to require science standards and assessments under Title I. Under current law, Title I only requires standards and assessments of mathematics and reading or language arts. The amendment passed by a vote of 360–62.

Lastly, Representative Robert Andrews (D–NJ) offered an amendment to permit schools to use their schoolwide program funds to establish or enhance pre-kindergarten programs. Representative Bill Goodling (R–PA) offered a second-degree amendment to allow schools to use their Title I funds to establish or enhance pre-kindergarten programs for three, four and five-year-olds, such as Even Start. The second-degree amendment passed by voice vote.

Migrant Education

The Migrant Education program is authorized under Title I, Part C of the Elementary and Secondary Education Act. The Migrant Education program provides additional assistance to migrant children to help ensure they do not fall behind academically or drop out of school. In general, migrant students sometimes experience academic difficulties as a result of multiple moves during the school year to accompany their parents as they move from town to town.

H.R. 2 included several key changes to the current Title I, Part C Migrant Education program. The new provisions would: (1) require the secretary of education to work with states in developing effective methods for the transfer of student records and to determine the minimum data elements to be maintained and transferred; (2) simplify the formula for distributing funds to states; and (3) provide states with increased flexibility in the use of funds.

Neglected and delinquent youth

The Neglected and Delinquent Youth Education program is authorized under Title I, Part D of the Elementary and Secondary Education Act. The program provides academic assistance to ne-

glected and delinquent children who are served in state agency programs.

H.R. 2 included several modest changes to the Title I, Part D Program. The majority of the changes were directed at ensuring that the Subpart 2 program for local educational agencies is focused primarily on serving youth returning from local correctional agencies to local schools or programs of alternative education. The measure also changed the amount of funds set aside to use in the transitioning of youth in state correctional facilities back to their local schools. The amount increased from 10 to 15 percent.

Comprehensive school reform

Under current law, the authority for the comprehensive school reform grant program is found in manager's language included in the FY 1998 Labor, Health and Human Services, and Education and Related Agencies Appropriations Act (P.L. 105–78). H.R. 2 establishes the comprehensive school reform program in statute as a new Part G of the Elementary and Secondary Education Act. The comprehensive school reform grant program provides financial incentives for schools to develop comprehensive reforms to change an entire school. The reforms must be based upon reliable research and effective practices, and emphasize basic academics and parental involvement.

Magnet Schools Assistance Program

The Magnet Schools Assistance Program (MSAP) is authorized under Title V, Part A of the Elementary and Secondary Education Act. It provides competitive grants to local educational agencies for magnet schools to reduce, eliminate, or prevent minority group isolation in elementary and secondary schools and to provide strengthened academic or vocational programs for students. In order to be eligible for a grant, a local educational agency must be participating in a court ordered or voluntary desegregation plan. Magnet schools provide a special curriculum intended to attract students of different races.

H.R. 2 makes a number of revisions to the Magnet Schools Assistance Program, while keeping the basic structure intact. These revisions include an additional emphasis on student achievement and a renewed focus on serving magnet schools. Specifically, the bill reinstates the program's commitment to student achievement by not only stressing the need to reduce minority group isolation in elementary and secondary schools, but also by strengthening the findings, application, and requirements sections in relation to academic performance. In addition, the bill includes professional development as a use of funds.

Women's educational equity

The Women's Educational Equity Act (WEEA) is authorized under Title V, Part B of the Elementary and Secondary Education Act. It promotes gender equity in education and provides financial assistance to enable educational agencies and institutions to comply with Title IX of the Education Amendments of 1972, which prohibits sex discrimination in educational programs or activities that receive federal financial assistance. WEEA authorizes the secretary

of education to award grants: (1) to develop and implement gender equity programs; and (2) to provide "support and technical assistance" in areas such as teacher training and evaluation of exemplary programs, as well as for research and development. As reported from the Committee on Education and the Workforce, H.R. 2 did not include an authorization for the WEEA program. Thereafter, on October 20, 1999, an amendment authorizing WEEA passed the House. The amendment added language to H.R. 2 that: (1) requires schoolwide programs in Title I, Part A to include strategies for meeting the needs of girls and women; (2) requires professional development activities in Title I, Part A to include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices; (3) adds language to professional development activities in Title I, Part A to encourage females and minorities to maintain an interest in careers in mathematics, science, engineering, and technology; and (4) shifts the focus of the Neglected and Delinquent Youth program from youth returning from correctional facilities to youth at risk of dropping out of school.

Teacher liability

The "teacher liability protection" provision included in H.R. 2 is a new provision of the Elementary and Secondary Education Act. It provides limited civil litigation immunity for teachers, principals, local school board members, superintendents, and other education professionals who engage in reasonable actions to maintain order, discipline, and a positive education environment in America's schools and classrooms.

Indian, Native Hawaiian, and Alaska Native education

Title IV of H.R. 2 amends Title IX of the Elementary and Secondary Education Act, as well as Title XI of the Education Amendments of 1978, and the Tribally Controlled Schools Act of 1988. Taken together, these statutes provide most of the federal government's education aid that is specifically targeted to American Indian and Alaska Native students and the schools and organizations that serve them.

During hearings of the Subcommittee on Early Childhood, Youth and Families, members of the subcommittee heard testimony from six witnesses on programs operated by the U.S. Department of Education, and by the Bureau of Indian Affairs (BIA), how these programs serve Indian students, and how such services might be improved. Suggested changes were then evaluated by the Committee to determine the extent to which they improved administration of the programs to make them more responsive to schools, teachers, and students; respected the tribal concerns regarding the education the Indian children receive; and ensured the highest possible quality, producing real, accountable results.

The changes incorporated in H.R. 2 focused on improving student achievement, targeting resources to the programs that are providing the best results, increasing the flexibility of the programs at the local level so that Native Americans and Alaskan Natives can make the decisions which impact themselves, reducing the administrative burden placed on participating entities, increasing the

amount of aid that actually reaches the classroom, and increasing the emphasis placed on family literacy services for the affected populations. In addition, with respect to education programs funded by the Bureau of Indian Affairs, the Committee has shifted much authority and responsibility to the tribes, tribal organizations, and local school boards while maintaining accountability for the use of federal funds. The Committee recognizes that, if given the chance, these entities, working with the parents of Indian children can and will do a far better job of improving student achievement than any federal agency.

In addition, during Committee consideration of H.R. 2, the Committee accepted an amendment offered by Representative John Boehner (R–OH) to eliminate the Native Hawaiian programs formerly authorized under Title IX, Part B of the ESEA. This action was consistent with attempts to reduce duplication of effort and focus scarce federal resources to those in greatest need. The Clinton administration proposed similar action in its FY 1995 budget request.

Gifted and Talented Children

The Jacob K. Javits Gifted and Talented program was first authorized in 1988 to serve the educational needs of gifted and talented children. The program is authorized under Title X, Part B of the Elementary and Secondary Education Act. It supports a national research effort and awards competitive grants to state and local educational agencies, institutions of higher education, and other public and private agencies and organizations to help build a nationwide capability to meet the needs of gifted and talented students in elementary and secondary schools. Since 1989, the Javits Gifted and Talented program has funded almost 100 grants that have supported model programs and practices for educating gifted and talented students nationwide. The Committee amendment to H.R. 2 makes minor changes to current law and incorporates a version of H.R. 637, the Gifted and Talented Students Education Act, introduced by Representative Elton Gallegly (R–CA). The amendment provides formula grants to states to implement successful research findings and model projects.

Subpart 1 of the Committee amendment eliminates previously unfunded subsections and stipulates that all research conducted shall be "scientifically based." Subpart 2 provides formula grants, based on student population, to state educational agencies to support programs and services for gifted and talented students. Once the current program reaches funding sufficient to provide formula grants to the states, subpart 2 activities are triggered and conducted in lieu of subpart 1. The trigger for subpart 2 activities is $50,000,000. Subpart 2 authorizes state educational agencies to distribute grants to local educational agencies, including charter schools, on a competitive basis to provide gifted and talented students with programs and services. Authorized activities for subpart 2 include: (1) professional development, including in-service training for general education teachers, administrators, or other personnel at the elementary and secondary levels; (2) innovative programs and services, including curriculum for high-ability students; (3) emerging technologies, including distance learning; and (4) tech-

nical assistance to schools and local districts. Subpart 3 maintains activities conducted by the National Research Center on the Gifted and Talented at $1,950,000 for both subparts 1 and 2.

Rural Education Assistance

Special assistance to rural school districts is authorized under Part J of Title X of the Elementary and Secondary Education Act. The Committee amendment to H.R. 2 combines features of H.R. 2725, the Rural Education Initiative Act, introduced by Representative Bill Barrett (R–NE) and H.R. 2997, the Low-Income and Rural School Program, introduced by Representative Van Hilleary (R–TN), to address the unique problems associated with the education of students in rural school districts. Specifically, this amendment replaces Part J of Title X of the Elementary and Secondary Education Act and it addresses the different needs of (1) small, rural school districts and (2) low-income, rural school districts.

Subpart 1 of the Committee amendment addresses the needs of small, rural school districts. A local educational agency would be able to use applicable funding to support local or statewide education reform efforts intended to improve the academic achievement of elementary and secondary school students and the quality of instruction provided for these students. A local educational agency would be eligible to use funding under this subpart if: (1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and (2) all of the schools served by the local educational agency are located in a community with a Rural-Urban Continuum Code (Beale Code) of 6, 7, 8, or 9, as determined by the secretary of agriculture. An eligible local educational agency would be able to combine funds from Title II, Eisenhower Professional Development Programs; Title IV, Safe and Drug-Free Schools and Communities; Title VI, Innovative Education Program Strategies; Title VII, Part A, Bilingual Education; Title VII, Part C, Emergency Immigrant Education Program; and Title X, Part I, 21st Century Community Learning Centers formula grant programs and use the money to support local or statewide education reform efforts. Grants under this subpart would be awarded to eligible local educational agencies based on the number of students in average daily attendance less the amount they received from the aforementioned formula grant programs. Minimum grants for local educational agencies would not be less than $20,000. The maximum a local educational agency could receive would be $60,000. Local educational agencies participating in this initiative would have to meet high accountability standards by demonstrating the ability to meet academic achievement standards under Title I, such as the state's definition of adequate yearly progress. Schools failing to meet these requirements would not be eligible for continued funding.

Subpart 2 of the Committee amendment addresses the needs of low-income, rural school districts. A local educational agency is eligible to use the applicable funding under subpart 2 if it serves (1) a school-age population, 20 percent or more of whom are from families with incomes below the poverty line; and (2) all of the schools served by the local educational agency are located in a community with a Rural-Urban Continuum Code (Beale Code) of 6, 7, 8, or 9,

as determined by the secretary of agriculture. Funds for this subpart are allocated among states by formula based on enrollment in eligible districts within those states. States, in turn, allocate funds to eligible local educational agencies competitively or according to a state-determined formula based on the number of students each eligible local educational agency serves. Funds awarded to local educational agencies or made available to schools under this subpart can be used for: educational technology; professional development; technical assistance; teacher recruitment and retention; parental involvement activities; or academic enrichment programs. A local educational agency utilizing subpart 2 may not utilize subpart 1.

McKinney Homeless Education Improvements Act of 1999

Subtitle B of Title VII of the Stewart B. McKinney Homeless Assistance Act authorizes formula grants to states, based on state allocations for grants to local educational agencies under Title I, Part A of the Elementary and Secondary Education Act. Grants must be used for state and local programs to provide equal access to a free, public education for homeless children and youth, including a public preschool education, equivalent to that provided to other children and youth. Grants must also be used to establish an Office of Coordinator of Education of Homeless Children and Youth within each state educational agency; implement professional development activities for school personnel; and provide each child or youth the opportunity to meet the same state student performance standards that others are expected to meet. The Committee amendment to H.R. 2 incorporates a variation of H.R. 2888, "The Stewart B. McKinney Homeless Education Assistance Improvements Act of 1999," introduced by Representative Judy Biggert (R–IL) and provisions in the Clinton administration's "Educational Excellence for All Children Act of 1999," to help homeless children enroll, attend, and succeed in school.

The McKinney Act currently requires states to provide estimates of the number of homeless children and youth in their states and information about their access to education and related services. This provision has resulted in widely varying data in both quality and quantity. States do not have the resources or the expertise to conduct these kinds of assessments, and the lack of a uniform method of data collection has resulted in unreliable national data. The Committee amendment eliminates the requirement that the state homeless coordinator estimate the number of homeless children in the state and the number of homeless children served by the program. Under the Committee amendment, this responsibility is placed under the authority of the secretary of education who shall, either directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information on the number and location of homeless children and youth; the education and related services such children and youth receive; and the extent to which such needs are being met. The result of these changes to the McKinney Act will enable a more reliable and uniform data collection method that will help guide Congress in making accurate funding decisions.

Many homeless children and youth are forced to wait days and even weeks before they can enroll in school because they do not have the necessary paperwork required for enrollment such as proof of residency, previous academic records, birth certificates, and other documentation. According to the FY 1997 U.S. Department of Education Report to Congress (issued in 1999), states reported that lack of school records and birth certificates were among the most frequent reasons for homeless children and youth not attending school. In addition, the report noted that lack of documentation is among the reasons that 45 percent of homeless children and youth were not attending school on a regular basis during their homelessness. The Committee amendment directs schools to immediately enroll a homeless child even if they are unable to produce the documents normally required for enrollment. However, to help ensure a healthy environment for all students, the Committee amendment does not require schools to accept a homeless child until the enrolling school receives their immunization records. In cases where a homeless child is denied enrollment because of immunization records, the enrolling school shall promptly refer his or her parent or guardian to the homeless liaison to assist in resolving enrollment disputes. In addition, the Committee amendment directs the secretary to issue a report to be made available to states, local educational agencies, and other applicable agencies. This report will address successful ways in which states can help local educational agencies immediately enroll homeless children.

Nationwide, the lack of transportation is one of the most pervasive barriers to enrollment and success in school for homeless children and youth. According to the FY 1997 U.S. Department of Education Report to Congress (issued in 1999), lack of transportation to or from temporary residences was the most frequent reason given by states as to why homeless children and youth did not attend school. Forty states listed transportation as a major need to be addressed to ensure the individual academic success of a homeless child or youth. The Committee amendment directs the secretary of education to develop and issue a report to be made available to states, local educational agencies, and other applicable agencies. This report will encourage states to follow programs implemented in state law that have successfully addressed transportation barriers for homeless children and youth.

Bilingual Education

Title VII of the Elementary and Secondary Education Act authorizes the Bilingual Education Act and the Emergency Immigrant Education Program. The Bilingual Education Act provides funds, on a competitive basis to assist local educational agencies, institutions of higher education and community-based organizations to provide services to limited English proficient children. The goal of the program is to help such children to develop proficiency in the English language and perform well in school. The Emergency Immigrant Education Program provides funds to states to pay for enhanced instructional opportunities for immigrant children and youth. Funds are distributed to states through a formula that takes into consideration the number of immigrant children and youth enrolled in public elementary and secondary schools.

During floor consideration of H.R. 2, Chairman Bill Goodling (R–PA) offered a manager's amendment that amended the Bilingual Education Act and extended the authorization for the Emergency Immigrant Education program.

H.R. 2 makes the following key changes to the Bilingual Education Act: (1) turns the act into a formula grant program after reaching a specified funding threshold; (2) requires local educational agencies to receive informed parental consent prior to placing children in an instructional program for limited English proficient children; (3) permits local providers to choose the method of instruction they would use to teach limited English proficient children; and (4) includes a variety of accountability provisions that would ensure limited English proficient children were learning English. The legislation also included revised provisions dealing with professional development and research.

4. H.R. 4141, Education OPTIONS Act

Chairman Bill Goodling (R–PA) introduced H.R. 4141, the Education OPTIONS Act on March 30, 2000. H.R. 4141 authorized the remaining titles of the ESEA that were not authorized in the Student Results Act (H.R. 2), the Teacher Empowerment Act (TEA, H.R. 1995), the Literacy Involves Families Together Act (LIFT, H.R. 3222), the Impact Aid Reauthorization Act of 2000 (H.R. 3616), and the Straight A's Act (H.R. 2300). ESEA programs authorized in the Education OPTIONS Act are: Safe and Drug-Free Schools; Technology for Education; Innovative Education Program Strategies; Programs of National Significance (Fund for the Improvement of Education, Arts in Education, Public Charter Schools, Civic Education); and General Provisions.

On April 5, 6, 11, 12, and 13, 2000 the Committee on Education and the Workforce considered an amendment in the nature of a substitute to H.R. 4141. The full Committee favorably reported H.R. 4141, as amended, to the House of Representatives by a vote of 25–21 on April 13, 2000. The House did not take further action on the bill. The Senate's companion legislation which authorizes these programs and all Elementary and Secondary Education Act programs is S. 2. The Senate began consideration of S. 2 in May 2000. After several days of debate, the bill was set aside. The Senate has taken no further action.

State and local transferability

The Subcommittee on Oversight and Investigations held more than thirty hearings around the country during the 104th, 105th, and 106th Congresses. Testimony from those hearings consistently supported increased flexibility in the operation of federal programs, and improvement in the operations of programs at the local level. During the 106th Congress the Committee undertook a number of actions to provide state and local educational agencies with flexibility tools in order to enable them to tailor federal programs to meet the needs of their students. H.R. 800 (The Education Flexibility Partnership Act), and H.R. 2300 (The Academic Achievement for All Act (Straight A's)) made significant steps towards increasing flexibility and accountability to improve student performance.

The flexibility granted by Title I (known as the "State and Local Transferability Act") of H.R. 4141 is designed to be an option for states that do not choose to participate in Straight A's, and for school districts in states that choose not to participate, since it functions within the existing structure of categorical funding streams. It provides flexibility in using federal dollars without removing the requirements attached to those dollars. States and local school districts would have the flexibility to shift federal dollars to other federal education programs that more effectively address their needs and priorities. Transferability gives states and districts freedom to shift federal dollars from one program to another, while keeping the program requirements intact. In addition to Ed-Flex, it is a powerful tool for districts and states to use to tailor federal programs to meet their needs.

The Committee modeled this provision on the "unneeded funds" provision in current law (section 14206 of Title XIV of ESEA). Under that provision, if a state educational agency approves, school districts may shift a percentage of funding from one ESEA program to another in any fiscal year. In order to be granted permission to shift these funds, a school district must demonstrate that the funds are not needed for their original purposes. Up to five percent of these programs' funds may be shifted between any of the major formula grant programs: Title I, Part C (Education of Migratory Children); Title II (Eisenhower Professional Development Program); Title III, Subpart 2 of Part A (Technology Innovation Challenge Grants); Title IV, Subpart 1 of Part A (Safe and Drug-Free Schools, Grants to LEAs); and Title VI (Innovative Education Program Strategies). Five percent may also be transferred into, but not out of, Title I, Part A (Grants to LEAs).

Under the State and Local Transferability Act, states are permitted to transfer up to 100 percent of state activities funds between formula grant programs. State activity funds do not include funds that are to be allocated to local educational agencies, as required by each statute. These formula grant programs are: Title II (Teacher Empowerment Act); Title III (technology); Title IV, Part A (Safe and Drug-Free state grants); Title VI (Innovative Education Program Strategies); Title VII Part C (Emergency Immigrant Education); and Comprehensive School Reform.

Local educational agencies would be permitted to transfer up to 35 percent of funds without the approval of the state. Any amounts above that percentage would require the approval of the state. Applicable programs are: Title II (Teacher Empowerment Act—includes Eisenhower and Class Size); Title III (Technology); Title IV, Part A (Safe and Drug-Free state grants); Title VI (Innovative Education Program Strategies); and Emergency Immigrant Education grants. By allowing school districts to transfer a portion of funds without the permission of their state, the act provides them with flexibility to tailor their federal dollars to their needs while still meeting the specific program requirements of each federal program.

The Committee ensured that the Title I program was not only protected, but also potentially enhanced by this title. State and local school districts may transfer funds from the above programs

into any part of Title I, but no funds can be transferred out of Title I into another program.

The Committee passed the State and Local Transferability Act in large measure because it determined that the "unneeded funds" provision was too limited to provide useful flexibility to school districts or states. In September 1998, the General Accounting Office (GAO) reported that the "unneeded funds" option is "often unavailable and seldom used." In their survey of 50 state educational agencies, only half reported that they allowed local school districts to take advantage of this provision. Even when it was offered it was rarely used. Districts took advantage of this option in only one third of the states that allowed them to do so. One state (not named by GAO) did make use of this provision, with more than ten percent of its districts exercising the provision.

The Committee has heard from school districts around the country that they want meaningful flexibility in using their federal dollars. The "unneeded funds" provision is insufficient because it only allows a small percentage to be transferred, which for all but the largest school districts means that a very small amount of money is flexible. Limiting this option to a small amount of funds provides little in the way of an incentive to school districts to jump through the appropriate bureaucratic hoops to shift the funds from one account to another. Five percent is simply too little to make a difference. In addition, states are not given the option of shifting state activity dollars, even though they are free to consolidate administrative funds from different programs.

Many major education associations representing people involved in education at the local level supported this provision. Their support was extremely significant, as they represent the people on the front lines who administer these federal programs. For example, the National School Boards Association in a February 18, 2000 letter to Chairman Bill Goodling (R–PA) wrote, "This increased flexibility will greatly aid local school districts as they struggle to balance many important education priorities with inadequate federal funding." Clearly, it is those closest to the schools that see the need and the value of transferability.

The State and Local Transferability Act will be a useful tool at the state and local levels to direct federal program dollars to the federal program that best meets the needs of students. Federal programs simply cannot allocate funds to 15,000 school districts in a manner that precisely provides for their needs. Transferability can sharpen the ability of federal funds to target pressing needs, and as effectively as possible. It also grants local flexibility to address needs that often change from one year to the next, since these transfers are not permanent, and must be made on an annual basis. The enactment of this provision would be another important step towards making sure that the needs of children, not bureaucracy, are the driving force behind federal education programs.

Supporting drug and violence prevention and education for students and communities

Title II of H.R. 4141 would combine the Safe and Drug-Free Schools program and 21st Century Community Learning Centers Act, and reauthorize the Gun Free Schools Act. Currently, the Safe

and Drug-Free Schools program provides grants to states and to national programs to support substance abuse education and violence prevention activities. The 21st Century Community Learning Centers program provides funds to local educational agencies to increase students' and communities' access to school building services. The Gun Free Schools Act hinges a state's receipt of federal ESEA funds on whether the state has a law requiring local educational agencies to expel for a year a student who brings a gun to school. State law must allow the chief administering officer of local educational agencies to modify the one-year expulsion on a case-by-case basis.

The Safe and Drug-Free proposal would retain the current federal to state formula based 50 percent on school age population and 50 percent on Title I, and the state to local formula split of 70 percent based on school age population and 30 percent based on need, with the state sending a total of 96 percent of the funds it receives down to the local educational agencies. An amendment offered by Representative Mike Castle (R–DE) during committee mark up provides that of the 30 percent need-based funds, 30 percent shall be sent to local educational agencies to support alternative education programs. A separate amendment offered by Representative Marge Roukema (R–NJ) requires that in determining which local educational agencies will receive funds under the 30 percent need distribution, special consideration shall be given to those that incorporate school based mental health services programs.

The Safe and Drug-Free Schools proposal would provide a 10 percent floor and include a 20 percent cap on spending for Drug Abuse and Resistance Education program (DARE)-type activities, without naming DARE, as eligible for funding. With the remaining funds (90–80 percent, less up to five percent for administration), governors must fund competitive grants to local educational agencies, community-based organizations, and private childcare providers for drug and violence prevention and after school care.

The Education OPTIONS Act would combine the Safe and Drug-Free Schools and 21st Century programs uses of funds to include the following uses of funds:

K–12 comprehensive drug and violence prevention programs;

Training for school personnel and parents in drug and violence prevention;

Community involvement activities for drug and violence prevention;

Acquisition of metal detectors and security personnel;

School security assessments and training;

Creation and maintenance of safe zones of passage to and from school;

Counseling, mentoring, and referral services;

Services and activities to reduce suspensions and expulsions;

Before and after school programs (including entrepreneurial education, remedial education, extended learning programs, peer resistance education, educational children's day care, youth science education, and arts and music education);

Character education;

Drug testing and locker searches;

Establishment of school uniform policies;

Emergency intervention services;
School violence hotlines;
Systems for transferring suspension and expulsion records;
Personnel background checks;
School-based mental health services;
School choice for students in unsafe public schools;
Drug and violence prevention program coordinators;
Mentoring and tutoring services;
Program and activity evaluation;
Alternative education programs; and
Activities to increase student academic achievement.

The Education OPTIONS Act includes "principles of effectiveness," requiring that any program or activity funded under the drug and violence prevention parts of the bill meet the following requirements: (1) be based upon an assessment of objective data about the local drug and violence problem and current drug and violence prevention activities, including activities to increase student academic achievement; (2) be based upon performance measures established by the local education agencies; (3) be based upon "scientifically based research" that provides evidence that the program or activity will prevent or reduce drug abuse and violence (there is a waiver for innovative programs with a likelihood of success); and (4) be periodically evaluated with the results used to improve the program or activity.

The Safe and Drug-Free Schools proposal would eliminate all references to "hate crimes" and "violence associated with prejudice and intolerance." It would also include religious non-discrimination language.

The proposal contains charitable choice language substantially similar to language that is already a part of current law in the Community Services Block Grant (P.L. 105–285) and the welfare reform law (P.L.104–193).

The Education OPTIONS Act would retain the Gun Free Schools Act with minor changes. It would eliminate the section that requires the Secretary of Education to disseminate policy that guides the implementation of the act and its connection to IDEA. H.R. 4141 would incorporate the Gun Free Schools Act into the Safe and Drug-Free Schools Act. Additionally, it would codify the current practice of exempting home schools from the act, by stating that the term "school" does not include a home school.

The Committee accepted two amendments during mark up of H.R. 4141 that allow school personnel greater discretion in disciplining students with disabilities. The first amendment offered by Representative Charlie Norwood (R–GA) would allow school personnel to discipline, as they would a non-disabled student, a disabled student who brings a weapon to school. The second amendment offered by Representative Jim Talent (R–MO) would allow school personnel the same discretion to discipline students with disabilities who have illegal drugs at school or who commit an aggravated assault while at school. Both amendments allow school personnel to cease providing educational services if they choose to do so and if state law does not require that educational services continue.

The Committee accepted three gun amendments. The first amendment would allow local educational agencies that receive Safe and Drug-Free Schools funds and have a high rate of expulsions of students for possession of a firearm at school to use those funds to study the effectiveness of promoting the benefits of child safety locks for firearms. The second amendment would require the National Center on Education Statistics to collect data on drug use by youth and on firearm related injuries and fatalities, data on the relationship between the victims and perpetrators, the demographic characteristics of victims and perpetrators, and the type and characteristic of the firearm used in the incident. The third amendment would allow local educational agencies that receive Safe and Drug-Free Schools funds and have a high rate of expulsions of students for possession of a firearm, to develop a plan with local law enforcement agencies to protect students and school employees against gun violence, which may include the promotion of the benefits of child safety locks for firearms.

The state level programs under the combined Safe and Drug-Free Schools program and 21st Century Community Learning Centers program would be authorized at $1.033 billion and the national activities would be authorized at $20 million. This represents what Safe and Drug-Free Schools and 21st Century Learning Centers currently receive for FY 2000.

Tech for success

In 1995 federal spending in the area of education technology amounted to a total of $52.6 million for a handful of initiatives. By FY 2000, this amount had grown to over $3 billion (including discounts from the universal service fund under the E-rate program).

Unfortunately, despite the significant amount of funds that have been spent on education technology over the past half decade, little has been learned about what works, what doesn't and how, if at all, technology is actually going to result in improving education in this nation. More and more education professionals are beginning to question whether computers actually increase student achievement.

To help make sure that the next five years of federal investment in education technology will bear more fruit than that of the past half decade, the Committee has made several significant changes in H.R. 4141 to the current Title III technology programs under the ESEA. One of the most significant changes is the consolidation of eight existing programs under Title III, including the Challenge Fund, Challenge Grants, Star Schools, Software Development Program, Preparing Tomorrow's Teachers, Community Technology Centers, the Secretary Leadership Fund, and the Middle Schools Teachers Training program. At least 95 percent of these consolidated funds will go directly to states—a change from current law under which the secretary of education retains 42 percent for national activities and discretionary grants. With a single technology program, schools will no longer have to submit multiple grant applications to obtain education technology funding. In addition, the funds will no longer be segmented so that comprehensive education technology strategies will be easier to implement.

With the funds provided under this title, schools will also have the ability to focus on projects and initiatives which best meet their particular needs within a framework established by states. This recognizes the fact that every school district has different needs. While some schools have just begun to acquire computers, others will choose to focus these funds solely on ensuring teachers have the skills and support necessary to effectively use technology. This is why the Committee believes the flexibility provided under Tech-for-Success is so important because it recognizes these differing needs.

Ready-to-Learn Television Program and the Telecommunications Demonstration Project

The Ready-To-Learn Television program authorizes the secretary of education to award grants or enter into contracts or cooperative agreements with nonprofit entities (including public telecommunications entities) to develop, produce, and distribute educational and instructional television programming and support materials for preschool and elementary school children and their parents. Dragon Tales and Between the Lions are two examples of Ready-To-Learn Television programs.

The Committee has made several minor modifications to the Ready-To-Learn Television program. These modifications acknowledge and encourage a more aggressive approach to obtaining ancillary rights on the part of grantees in the hopes of further leveraging federal dollars and providing for the transition to digital programming. However, in making these changes, the Committee was careful to protect the program's original mission of developing high quality, educational television programming for preschool and elementary school children.

The Telecommunications Demonstration Project for Mathematics authorizes the secretary of education to make grants to a nonprofit telecommunications entity or partnership, for the purpose of carrying out a national telecommunications-based program (i.e. PBS' Mathline) to improve the teaching of mathematics.

Under H.R. 4141, the Telecommunications Demonstration Project for Mathematics is renamed the Telecommunications Program and the secretary is allowed, but not required, to award grants for the purpose of carrying out a national telecommunications-based program to improve the teaching of core academic subjects and/or for the purpose of developing, producing and distributing digital educational and instructional programming designed for use by elementary and secondary school students.

With the advent of digital technology comes the ability to produce multi-dimensional, educational and instructional programming that can increase student academic achievement. The Committee adopted an amendment offered by Representative Ernie Fletcher (R–KY) during the markup in the hopes of encouraging the development of such programming under the Telecommunications Program.

Specifically, the Fletcher amendment allows the secretary to issue three-year competitive grants to local public television stations that enter into multi-year collaborative arrangements for digital content development with state educational agencies, local edu-

cational agencies, institutions of higher education, businesses, or other agencies or organizations. Eligible local public television stations must also contribute a 100 percent non-federal funding match.

H.R. 4141 also includes a provision requiring that those schools choosing to receive federal funds under this title for Internet access have in place, on computers purchased with such funds and that are accessible by minors, technology to filter or block obscenity, child pornography, and material that is harmful to minors.

Innovative Education Programs

Title IV of H.R. 4141 amends Title VI of the Elementary and Secondary Education Act, which authorizes the Innovative Education Program Strategies program. Innovative Education Program Strategies is the only K–12 education block grant program contained within the Elementary and Secondary Education Act. It is the only formula program that allows recipients to use funds to benefit any and all student populations, in any and all schools. In an effort to increase local control and flexibility of funds under the Innovative Education Program Strategies, H.R. 4141 adds additional "uses of funds" to current law to broaden the scope of the program for local educational agencies.

The bill provides funding for many activities, including: (1) professional development activities and the hiring of teachers, including activities consistent with H.R. 1995, the Teacher Empowerment Act; (2) education reform projects that provide single gender schools and classrooms, as long as comparable educational opportunities are offered for students of both sexes; (3) community service programs that train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage; (4) curriculum-based youth entrepreneurship education programs with demonstrated records of empowering disadvantaged youth with applied math, entrepreneurial, and other analytical skills; (5) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills, including the basic principles involved with earning, spending, saving, and investing; and (6) activities to expand and improve school-based mental health services, including early identification, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel.

H.R. 4141 includes language to send 100 percent of any new funding over the FY 2000 appropriation to the local level. This change to current law will result in more funds being sent to the school district and classroom levels. In addition, H.R. 4141 limits state administrative costs to four percent.

Fund for the Improvement of Education

Title V, Part A of H.R. 4141 amends Part A of Title X of the Elementary and Secondary Education Act relating to the Fund for the Improvement of Education, school counseling programs, character

education, and smaller learning communities. The bill explicitly prohibits the development and implementation of a national test without specific authorization; explicitly prohibits federal endorsement, approval, or sanction of any curriculum designed for use in elementary or secondary schools; and deletes all references to the National Education Goals and the Goals 2000: Educate America Act. Part A of Title V of H.R. 4141 consolidates and streamlines the applications process for all applicants under the Fund for the Improvement of Education; authorizes performance rewards for states that make significant progress in eliminating achievement gaps; streamlines the counseling program requirements to allow local educational agencies greater flexibility in creating and implementing programs and improves the ability of local educational agencies to implement demonstration projects; streamlines the Character Education Program to allow local educational agencies greater flexibility in creating and implementing programs; streamlines the Smaller Learning Communities Program to encourage the development and implementation of activities in high schools where students receive more individualized attention and support; authorizes an independent study for effective professional development activities for mathematics and science teachers; and repeals the Scholar Athlete Competitions; National Student and Parent Mock Election; and the Model Projects programs from the Fund for the Improvement of Education.

Specifically, H.R. 4141 gives the secretary of education authority to set aside funds from the Fund for the Improvement of Education to provide reward funds to states that improve student academic achievement and narrow achievement gaps under H.R. 2300, the Academic Achievement for All Act (Straight A's).

With respect to character education, the Committee has streamlined the Title X Character Education program to allow local educational agencies greater flexibility in creating and implementing programs. H.R. 4141 removes the limit of ten character education grants per year and the maximum award of $1 million to states, and instead authorizes the secretary of education to make up to five-year grants to states, local educational agencies, or a consortia of educational agencies for the design and implementation of character education programs.

Charter Schools

Title V, Part C of H.R. 4141 amends Part C of Title X of the Elementary and Secondary Act that authorizes assistance to public charter schools. The bill clarifies that the definition of a charter school is, among other things, a public school that admits students on the basis of a lottery or another non-discriminatory approach consistent with state law, if more students apply for admission than can be accommodated. It also authorizes $145 million for the program in FY 2000 and such sums as may be necessary for FY 2001 through FY 2005.

Civic Education

Title V, Part D of H.R. 4141 amends Part F of Title X of the Elementary and Secondary Education Act, which authorizes civic education activities. The Committee amendment incorporates parts of

H.R. 3195, the Education for Democracy Act introduced by Representative Dale Kildee (D–MI) and Representative Michael Castle (R–DE). The purpose of H.R. 3195 is to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, and to foster civic competence and responsibility. H.R. 4141 supports the Center for Civic Education and its education program that encourages: (1) instruction on the principles of our Constitutional democracy; (2) the history of the Constitution and the Bill of Rights; (3) congressional hearings simulations; and (4) annual competitions of simulated Congressional hearings for secondary school students. In addition, the bill provides for advanced training of teachers about the Constitution of the United States and our political system.

Ellender Fellowship Program (Close Up Foundation)

Title V, Part E of H.R. 4141 amends Part G of Title X of the Elementary and Secondary Education Act. An amendment was adopted during Committee mark-up to restore the Allen J. Ellender Fellowship Program. This program, administered by the private, nonprofit Close Up Foundation, provides financial aid to enable low-income students, their teachers, older Americans, recent immigrants, and children of migrant parents to come to Washington, D.C. to study the operations of the three branches of government. Activities include attending seminars on government and current events, and meeting with government leaders.

General Provisions

Title VI of H.R. 4141 amends the general provisions found in Title XIV of the Elementary and Secondary Education Act (ESEA) and which affect all ESEA programs. The bill adds definitions for "family literacy services" and "scientifically based research;" provides flexibility to combine administrative funds of all ESEA programs; permits up to 20 percent of a school district's administrative funds to be used for legal expenses in defending certain lawsuits; allows states and school districts to submit single consolidated plans for all ESEA programs; continues authority of the secretary of education to waive burdensome regulations; continues authority of private school students and staff to receive services under ESEA programs; continues the prohibition upon the federal government from controlling, mandating or directing curriculum; prohibits funds from being used to operate a program of contraceptive distribution at schools; prohibits funding of sex education in schools unless such programs are age appropriate and emphasize abstinence; ensures that voluntary prayer is protected; protects against federal control over home schools; includes findings regarding religious memorials and memorial services on campus; includes a sense of Congress on reducing the reading deficit; includes a sense of Congress on science assessments; and repeals the National Education Goals Panel, the National Education Goals, the International Education program, and the Coordinated Services program.

5. H.R. 3616, the Impact Aid Reauthorization Act of 2000

Impact Aid is authorized under Title VIII of the Elementary and Secondary Education Act. It is the only elementary and secondary education program that is not forward funded. The Impact Aid program is unlike any other elementary and secondary education program. Impact Aid is truly a "federal responsibility." It provides funds to schools that have lost taxable property due to federal ownership, such as the presence of military installations, tribal lands, low-rent housing, or national parks.

Hearings on Impact Aid

On March 17, 1999, the Subcommittee on Early Childhood, Youth, and Families held a hearing entitled, "Impact Aid: Keeping the Federal Promise." Witnesses at the hearing included Members of Congress representing congressional districts heavily impacted by a federal presence and officials from school districts receiving Impact Aid.

H.R. 3616, the Impact Aid Reauthorization Act of 2000

On February 10, 2000, Rep. Robin Hayes (R–NC) introduced H.R. 3616, the Impact Aid Reauthorization Act of 2000. On February 16, 2000, the Committee on Education and the Workforce considered H.R. 3616 and favorably reported the bill by voice vote. On May 15, 2000, H.R. 3616 passed the House of Representatives under suspension of the rules by voice vote. A modified version of H.R. 3616 was included in the conference agreement to H.R. 4205, the Floyd D. Spence National Defense Authorization Act for fiscal year 2001. The conference agreement passed the House of Representatives on October 11, 2000 by a vote of 382–31 and the U. S. Senate on October 12 by a vote of 90–3. It was signed into law (Public Law 106–398) on October 30, 2000.

As enacted into law, H.R. 3616 updates and improves the Impact Aid program to address issues brought to the committee's attention by school leaders and educators around the country. The bill makes several changes to the Impact Aid program to help ensure assistance is provided to local educational agencies in a fair and equitable manner. It adjusts the funding formula for payments for federal property removed from the tax rolls, and incorporates payments for heavily impacted local educational agencies into the basic payment structure. H.R. 3616 also addresses issues related to the privatization of military housing and housing on Indian lands, modifies the construction program, and provides for local educational agencies to be notified if they miss the deadline for filing applications for payments. In addition, the bill provides for the needs of small, poor school districts by establishing a funding floor for qualifying local educational agencies.

F. EDUCATION REFORM

1. H.R. 800, Education Flexibility Partnership Act of 1999 (Ed-Flex)

Since 1994, authority has been provided in federal law for a limited number of state educational agencies to waive a wide range of federal education program requirements for any or all local educational agencies or schools within their states. This is commonly

known as "Ed-Flex." Ed-Flex essentially provides greater state and local flexibility in using federal education funds to support locally designed, comprehensive school improvement efforts. Several types of requirements may not be waived under Ed-Flex, including most requirements related to civil rights, allocation of funds, fiscal accountability, or such other priorities as parental involvement or participation by pupils attending private schools. The local educational agency or school applications for waivers must include the goals and expected outcomes of the relevant programs, as well as information on how success in meeting such goals and outcomes will be measured.

Hearings on Education Flexibility

On February 25, 1999, the Subcommittee on Early Childhood, Youth and Families held a hearing entitled "Putting Performance First: Hearing on "Ed-Flex" and it's Role in Improving Student Performance and Reducing Bureaucracy." The hearing focused upon the issues surrounding the Education Flexibility Partnership Demonstration Act. Witnesses were invited to share their views on how Ed-Flex has worked in their participating states, including the numbers and types of waivers granted to their local school districts, and especially how Ed-Flex has worked at the local level. The hearing also focused upon the General Accounting Office's (GAO) report "Ed-Flex States Vary in Implementation of Waiver Process," released in November 1998.

In addition, the Subcommittee on Oversight and Investigations held more than thirty hearings around the country during the 104th, 105th, and 106th Congresses. Testimony from those hearings consistently called for Congress to increase flexibility in federal programs, and to make federal programs work better at the local level. During the 106th Congress the Committee undertook a number of actions to provide state and local educational agencies with flexibility tools in order to enable them to tailor federal programs to meet the needs of their students. The first of those steps was the Education Flexibility Partnership Act of 1999.

H.R. 800, The Education Flexibility Partnership Act of 1999

On February 23, 1999, Subcommittee Chairman Mike Castle (R-DE) and Representative Tim Roemer (D-IN) introduced H.R. 800, "The Education Flexibility Partnership Act of 1999," with 28 cosponsors. H.R. 800 removed the 12 state limitation as well as removed the demonstration nature of the Ed-Flex program. Under the bill, all 50 states would be eligible to apply for this authority. There was widespread support for such a change. The National Governors Association, Republican Governors Association, Democratic Governors Association, National School Boards Association, American Association of School Administrators, Chamber of Commerce, Association of American Educators, National Association of State Boards of Education, and the National Education Association all endorsed H.R. 800 and extending Ed-Flex authority to all 50 states.

On March 3, 1999, the Committee on Education and the Workforce considered H.R. 800. The bill was favorably reported, as amended, by a vote of 33–9. H.R. 800 passed the House on March

11, 1999, by a vote of 330–90. The Senate passed S. 280 the same day by a vote of 98–1. On April 15, 1999, the House and Senate reported H.R. 800, as amended, from a joint House/Senate conference committee. The president signed the conference report to H.R. 800 on April 29, 1999. It is Public Law 106–25.

2. H.R. 2300, The Academic Achievement for All Act (Straight A's)

Hearings on flexibility, accountability, and results

During the 106th Congress, several hearings were held on the issue of whether to significantly increase education flexibility and accountability in federal education programs. The Committee heard a consistent message from the state and local levels that if the federal government would free them from the constraints of the current categorical funding structure of federal programs, they would be willing to be held accountable for producing improvements in academic achievement.

On April 19, 1999 in Chicago, Illinois, the Subcommittee on Oversight and Investigations held a field hearing entitled "Chicago Education Reforms and the Importance of Flexibility in Federal Education Programs." The hearing focused on the Chicago Public School system and its successful reforms, which have produced rising scores, better attendance rates, and higher graduation numbers. Additionally, the hearing addressed how Congress can increase the amount of flexibility available to school districts such as Chicago.

On May 20, 1999, the Committee on Education and the Workforce held a hearing. The hearing focused on issues raised by the Academic Achievement for All proposal (the Straight A's Act) and the perspectives of people involved in education at the state and local levels.

On June 9, 1999, the Subcommittee on Early Childhood, Youth and Families held a hearing entitled "Academic Accountability." The hearing focused on various accountability policies implemented by states and school districts over the past decade, how these systems have helped to improve student achievement, and how these systems are being implemented in different ways around the country.

As earlier mentioned, during the 106th Congress the Committee undertook a number of actions to provide state and local educational agencies with flexibility tools in order to enable them to tailor federal programs to meet the needs of their students. The first of those steps was the Education Flexibility Partnership Act of 1999. Ed-Flex, however, is an important flexibility tool, but not sufficient to meet the needs of those states and districts on the cutting edge of flexibility and accountability. Consequently, the Committee took the next step, which was to pass H.R. 2300, the Academic Achievement for All Act.

On June 22, 1999, Representative Bill Goodling (R-PA) introduced H.R. 2300, the Academic Achievement for All Act (Straight A's Act). The Academic Achievement for All Act (Straight A's) is similar to the concept of charter schools: grant freedom from regulations and process-oriented requirements in exchange for accountability for producing results. Under Straight A's, Washington as-

sumes the role of shareholder, not CEO of the nation's education enterprise. Rather than micromanaging the day-to-day uses of federal money, it lets states manage their schools and dollars as they see fit in return for an agreed upon return on the federal investment. This has been demonstrated to be effective in charter schools, in states like Texas, and in cities like Chicago, where flexibility to innovate combined with high standards of achievement has produced significant gains in achievement.

H.R. 2300, the Academic Achievement for All Act (Straight A's)

The purpose of Straight A's is to untie the hands of those states that have their accountability systems in place, in exchange for required results. It goes beyond Ed-Flex to more effectively address the flexibility needs of the states. States have the option of participating in Straight A's or staying with the current arrangement of separate categorical funding sources. Unlike many recent attempts by Congress to place accountability requirements into federal programs such as Title I, accountability in Straight A's is being coupled with fiscal and legal autonomy and flexibility, which allows reforms to be implemented quickly and efficiently at the state and local levels.

Straight A's gives states and local school districts the option of establishing a five-year performance agreement with the secretary of education. If states do not choose this option, they would continue to receive funds under the current categorical program requirements. Up to ten states may participate. Local school districts also have the option of establishing a performance agreement if their state does not participate. Under approved agreements, states would be able to combine funds from a few or all of the federal K–12 education programs they administer at the state level. In exchange for this flexibility, participating states would be held to strict accountability requirements for improving student achievement. States that do not substantially meet those goals would be required to revert to the categorical, regulated program structure and could potentially lose administrative funds.

The accountability provided for in Straight A's has worked well in cities and states around the nation. Unlike many recent attempts to put more accountability requirements into federal programs, such as Title I, accountability in H.R. 2300 has been coupled with fiscal and legal autonomy and flexibility, which allows reforms to be implemented quickly and efficiently at the state and local levels.

The Committee on Education and the Workforce considered H.R. 2300 with an amendment in the nature of a substitute on October 13, 1999. The Committee on Education and the Workforce, favorably reported H.R. 2300 to the House by a vote of 26 to 19 on October 13, 1999. H.R. 2300 passed the House by a vote of 213–208 on October 21, 1999. Similar provisions were included in S. 2 in the Senate. S. 2 was introduced on January 19, 1999. The Senate began consideration of S. 2 in May 2000. After several days of debate, the bill was set aside. The Senate has taken no further action.

G. TRAINING

1. H.R. 3073, the Fathers Count Act of 1999

H.R. 3073, introduced by Representative Nancy Johnson (R–CT), provides grants for projects designed to promote responsible fatherhood. In addition, it includes amendments of interest to this Committee related to the Welfare-to-Work program established as part of the Balanced Budget Act of 1997.

Specifically, the legislation establishes a fatherhood grant program to promote marriage, parenting, and employment building skills. In addition, it instructs the Secretary of Health and Human Services to award a grant to a nationally recognized, nonprofit fatherhood promotion organization to develop and promote marriage and responsible fatherhood, including a national clearinghouse to disseminate information regarding media campaigns and fatherhood programs.

With respect to amendments to the Welfare-to-Work program, the legislation includes amendments to provide more flexibility to local authorities about who may be served under this program; ensures that non-custodial fathers receiving these services will better meet their responsibilities with respect to their non-custodial children; provides more flexibility to local authorities in the types of services that may be provided to individuals under this program; simplifies the current reporting requirements under welfare-to-work; and promotes better coordination between welfare agencies and the job training/employment system.

The amendments related to the Welfare-to-Work program are also included as part of H.R. 3172, the Welfare-to-Work Amendments of 1999, introduced by Chairman Bill Goodling (R–PA), which passed by voice vote in the Committee on Education and the Workforce on November 3, 1999.

On September 14, 1999, H.R. 3073, the Fathers Count Act was referred to the Committee on Ways and Means and in addition to the Committee on Education and the Workforce. On September 28, the Ways and Means Committee reported the legislation, as amended. On November 5, 1999 the Committee on Education and the Workforce discharged the legislation. On November 10, 1999, the bill was passed in the House by a vote of 328 to 93.

An amended version of the Welfare-to-Work amendments was later included as part of the FY 2000 Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act (P.L. 106–113).

2. H.R. 3172, the Welfare-to-Work Amendments of 1999

H.R. 3172, the Welfare-to-Work Amendments of 1999 was introduced by Chairman Bill Goodling (R–PA) and referred to the Committee on Education and the Workforce. On November 3, 1999 the bill was considered by the full Committee and passed by voice vote.

An amended version of the Welfare-to-Work Amendments was later included as part of the FY 2000 Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act (Public Law 106–113).

H.R. 3172 amends the Welfare-to-Work program established as part of the Balanced Budget Act of 1997 to give greater flexibility

in the use of Welfare-to-Work funds to enable states and localities to take full advantage of the funds already provided for this program. Specifically, the bill provides more flexibility to local authorities who may be served under this program; ensures that non-custodial fathers receiving these services will better meet their responsibilities with respect to their non-custodial children; provides more flexibility to local authorities in the types of services that may be provided to individuals under this program, and simplifies the current reporting requirements under welfare-to-work; and promotes better coordination between welfare agencies and the job training/employment system.

3. H.R. 4216, the Portable Skills Training Act

On April 6, 2000, Representative George Radanovich (R–CA) introduced H.R. 4216, the Portable Skills Training Act. This bill creates a new category of training known as "portable skills training" which provides an incentive for employers to train individuals in skills that may be carried from one job to another.

On October 3, 2000 the legislation, as amended, was considered in the House of Representatives under the suspension of the rules and agreed to by voice vote.

The final version did not establish a new category of training, but instead amended the current definition of "customized training" under the Workforce Investment Act of 1998 to allow employers to be reimbursed for more than 50 percent of the costs associated with the training of participants in this program. The final version also changed the name of the bill to the "Customized Training Flexibility Act."

In addition, two other amendments to the Workforce Investment Act were added. The first provides that an eligible youth under the act may be one who has been determined to be eligible for free meals under the national school lunch program (or one who is a low-income individual, as under current law). The second provides that an eligible adult or dislocated worker participating in training (except for on-the-job training) under the act shall be deemed to be in training with the approval of the state agency for unemployment compensation purposes.

4. H.R. 4402, the Training and Education for American Workers Act of 2000

On May 9, 2000, Representative Bill Goodling (R–PA) introduced H.R. 4402, the Training and Education for American Workers Act of 2000, to amend the American Competitiveness and Workforce Investment Act (ACWIA) of 1998. This act directs the use of certain funds deposited into the H–1B Nonimmigrant Petitioner Account.

On May 10, 2000, the Committee on Education and the Workforce assembled to consider H.R. 4402. An amendment in the nature of a substitute offered by Chairman Bill Goodling (R–PA) was adopted by voice vote, and the bill, as amended, by voice vote.

This legislation reinforces the view that any job training funds provided under the Immigration and Nationality Act be distributed through the U.S. Department of Labor and the local workforce system established under the Workforce Investment Act. In doing so, the legislation also strengthens the current job training provisions

to ensure these funds are used effectively to increase the number of workers in the United States with the skills necessary to be employed in the high skilled, high wage jobs which are being filled through H–1B workers—or more often, simply not being filled.

H.R. 4402 also directs the Secretary of Labor to transfer 25 percent of the 56.3 percent of funds to the Secretary of Education to carry out a loan forgiveness program for mathematics, science and kindergarten through third grade reading teachers. Under current law, no funds under this part are reserved for the purpose of student loan forgiveness.

The Secretary of Education, using funds described above, is to carry out a program of assuming the obligation to repay a loan made, insured, or guaranteed under part B of Title IV of the Higher Education Act of 1965 or part D of such title (excluding loans made under section 428B and 428C of such act or comparable loans made under part D of such title) for any new borrower after October 1, 1998, who meets specific criteria.

An amended version of the provisions included as part of H.R. 4402, not including the provision of funds for student loan forgiveness for teachers, was included as part of S. 2045, the American Competitiveness in the Twenty-first Century Act of 2000, introduced by Senator Orrin Hatch (R–UT). This legislation passed the Senate by a vote of 96 to 1 on October 3, 2000 and passed the House by voice vote, on the same day. On November 17, 2000 the President signed S. 2045, and it became Public Law 106–313.

5. H.R. 4678, the Child Support Distribution Act of 2000

H.R. 4678, the Child Support Distribution Act of 2000, was introduced by Representative Nancy Johnson (R–CT). On June 15, 2000, the legislation was referred to the Committee on Ways and Means, and in addition to the Committee on the Judiciary and the Committee on the Education and the Workforce.

The items of jurisdictional interest to the Committee on Education and the Workforce relate to inclusion of grants to promote fatherhood, including the promotion of fatherhood through the provision of employment and training programs. In addition, the bill amends the Welfare-to-Work Grants Program established under the Balanced Budget Act of 1997.

Specifically, the legislation establishes a fatherhood grant program to promote marriage, parenting, and employment building skills. In addition, it instructs the Secretary of Health and Human Services to award a grant to a nationally recognized, nonprofit fatherhood promotion organization to develop and promote marriage and responsible fatherhood, including a national clearinghouse to disseminate information regarding media campaigns and fatherhood programs.

In addition, it amends the Welfare-to-Work Grants Program to: (1) correct errors in conforming amendments in the Welfare-to-Work and Child Support Amendments of 1999; (2) repeal the set-aside of welfare-to-work funds for successful performance bonus; and (3) reduce FY 1999 appropriations for the Welfare-to-Work Grants Program.

On July 19, 2000, the Ways and Means Committee passed H.R. 4678, as amended, by voice vote. On July 26, 2000 the Committee

on Education and the Workforce and the Committee on the Judiciary, discharged the legislation and it was placed on the Union Calendar. On September 7, 2000, the legislation passed the House by a vote of 405 to 18. On September 8, 2000, the bill was referred to the Senate Committee on Finance.

H. SPECIAL EDUCATION

H.R. 4055, the IDEA Full Funding Act

Chairman Bill Goodling (R–PA) introduced the IDEA Full Funding Act, H.R. 4055, on March 22, 2000. The IDEA Full Funding Act of 2000 authorizes an appropriation for IDEA Part B (State Grants) for FY2001 through FY2010. The authorization for FY2001 is $7 billion, an increase of $2 billion over FY 2000, which is consistent with the House Budget Resolution for FY2001. H.R. 4055 authorizes an increase of $2 billion for each fiscal year so that by FY2010 the Part B appropriation is authorized at $25 billion. According to Department of Education estimates of student counts and national average per pupil expenditures, $25 billion would ensure that the federal government's commitment in IDEA Part B to fund 40 percent of the national average per pupil expenditure to assist states and local educational agencies with the excess costs of educating children with disabilities would be met.

The Committee on Education and the Workforce favorably reported the bill by voice vote on April 12, 2000. H.R. 4055 passed the House by a vote of 421–3 on May 3, 2000. An identical bill has been introduced in the Senate (S. 2341). It was favorably reported without amendment by the Senate Committee on Health, Education, Labor, and Pensions on September 20, 2000.

I. APPROPRIATIONS LEGISLATION

H.R. 3424, FY 2000 Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act (P.L. 106–113)

Higher education

H.R. 3424 is a bill that makes appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies for fiscal year 2000. H.R. 3424 was incorporated by reference in the conference report for H.R. 3194 that was signed into law on November 29, 1999. It is Public Law 106–113. H.R. 3424 included three higher education provisions under the jurisdiction of the Committee.

First, the bill extended the term of the Web-Based Education Commission from six months to twelve months and increased the membership of the commission from 14 to 16 members. After the first meeting of the commission, the members of the commission realized that they would need more than six months to complete their work and submit a report to Congress. In addition, the members of the commission concluded that the addition of two Members of Congress to the commission would be beneficial to the work of the commission. As a result, an amendment was included in H.R. 3424 to extend the term of the commission to twelve months and to increase the commission membership by adding two Members of

Congress, one appointed by the Chairman of the Education and the Workforce Committee in the House and one appointed by the Chairman of the Health, Education, Labor, and Pensions Committee in the Senate.

The second provision amended Section 5 of the Y2K Act (15 U.S.C. 6604) and protected institutions of higher education from punitive damages in a Y2K action. The original language of the Y2K Act protected only public institutions of higher education from punitive damages in a Y2K action. When this fact was brought to the Committee's attention, it was decided that all institutions of higher education should be treated similarly for purposes of Y2K actions. The amendment to the Y2K Act accomplished this purpose.

The third provision clarified that institutions of higher education are required to distribute voter registration materials to students only in the event of general and special elections for federal office and for elections for governor or other chief executives within a state. During consideration of the Higher Education Amendments of 1998, a provision was adopted to encourage institutions of higher education to provide voter registration materials to their students. The provision required institutions of higher education to distribute voter registration materials for general elections for federal office, off-year gubernatorial elections, every Congressional and presidential primary and all party caucuses or selection processes for national conventions. This overly broad requirement was not consistent with the intent of the Committee and contrary to the Committee's goal of reducing excessive and costly burdens on institutions of higher education. The provision included in H.R. 3424 clarified the Committee's intent to require institutions of higher education to distribute voter registration materials only before general elections for federal office and any off-year gubernatorial elections.

Class size reduction

H.R. 3424 makes appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2000. H.R. 3424 was incorporated by reference in the conference report for H.R. 3194 that was signed into law on November 29, 1999. It is Public Law 106–113. H.R. 3424 included $1.3 billion to extend the class size reduction act initiative established as part of the Omnibus Consolidated and Emergency Supplemental Appropriations bill for Fiscal Year 1999. In addition to extending funds, H.R. 3424 makes several changes to the original program:

Funds may no longer be used to hire unqualified teachers. Teachers hired under this act must be certified (including alternative certification) by the state in which they are employed. They must have at least a baccalaureate degree, and demonstrate the teaching skills and knowledge required to teach in their subject areas.

All teachers hired last year under this program must also be fully qualified within one year after this bill is signed into law. Emergency certified teachers may no longer be hired.

The percentage of funds that schools can use for upgrading the skills of all their current teachers increases from 15 percent to 25

percent, for training teachers and other professional development activities, instead of hiring new teachers.

Schools with a major teacher quality problem—with 10 percent or more of their teachers uncertified by the state—can request a waiver through the "Ed-Flex" program to use all of their funding for improving the quality of uncertified teachers.

Rural schools not receiving enough money to hire a new teacher will now be able to use their funds for professional development, or co-mingle federal dollars with local dollars to hire a new teacher.

States that have already set a goal of 20 or fewer students in a class will have more flexibility to fund professional development of existing teachers. This is a significant change from the 18-to-1 student-teacher ratio required in current law.

Under the legislation, parents have the right to know the professional qualifications of their children's teachers. In addition, states and school districts receiving these funds must report to parents on the percentage of classes in core academic subjects that are taught by fully qualified teachers, as well as on progress in reducing class size.

Special education teachers can now be hired with these funds to teach in mainstream classrooms with regular teachers. This corrects a major problem with the administration's interpretation of the current program.

Public school choice

During the 106th Congress the Committee on Education and the Workforce took many steps to provide parents with more options in ensuring that their children obtain a high quality education.

First, H.R. 2, the Student Results Act of 1999 included a provision to provide a right of public school choice for students attending low-performing (schools identified for school improvement) Title I schools. A school is considered in school improvement if it fails to make adequate yearly progress under Title I guidelines over two consecutive years. Specifically, school districts must develop and implement a public school choice plan to provide all enrolled students who attend a low-performing Title I school with the option to transfer to another public school, or public charter school, within the local school district. Chairman Bill Goodling (R–PA) introduced H.R. 2 on February 11, 1999. H.R. 2, as amended, was reported to the House of Representatives by the Committee on Education and the Workforce by a vote of 42–6, on October 13, 1999. On October 21, 1999, the House passed H.R. 2, as amended, on October 21, 1999, by a vote of 358–67. The Senate began consideration of its companion bill, S. 2, in May 2000. After several days of debate, the bill was laid aside. The Senate has taken no further action.

Second, a similar provision was included in H.R. 3424, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2000. Specifically, the bill included a provision to provide $134 million for local educational agencies that have Title I schools in school improvement to provide public school choice to students in such schools. H.R. 3424 was incorporated into the conference report for H.R. 3194 that was signed into law on November 29, 1999. It is Public Law 106–113.

2. H.R. 4577, FY2001 Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act

H.R. 4577, the FY2001 Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act became Public Law 106–554 on December 21, 2000.

Higher education

The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2001 includes seven provisions related to the Higher Education Act of 1965. The first four provisions are taken directly from the Higher Education Technical Amendments of 2000, which passed the House on June 12, 2000.

The first provision makes necessary changes to Section 415 of the Higher Education Act of 1965, the Special Leveraging Educational Partnership Program. This provision clarifies that funds provided under the Special Leveraging Educational Partnership Program may not be used for administrative purposes. In addition, the provision clarifies that matching funds must come from new sources in order to leverage more state funding.

The second provision amends Part A of Title IV of the Higher Education Act of 1965. It allows grantees receiving funding under the Student Support Services program within TRIO to use part of these funds for direct grant aid to needy students. A grant provided under this provision may not exceed the maximum appropriated Pell Grant, or be less than the minimum appropriated Pell Grant, for the current academic year. Grantees using funds for this purpose are required to match at least 33 percent of the funds used for grant aid in cash from non-federal sources. In addition, grantees may not use more than 20 percent of their grant amount for direct grant aid purposes.

The third provision amends Section 435 of the Higher Education Act of 1965 with respect to cohort default rates. It extends the date for eliminating Historically Black Colleges and Universities (HBCU) from the loan programs due to high default rates from July 1, 2002 to July 1, 2004. HBCUs with cohort default rates in excess of 25 percent for three consecutive years are currently eligible for the student aid programs due to a statutory exemption that will expire on July 1, 2002. In the 1998 Amendments, these institutions were required to provide default management plans to the secretary and hire third parties to assist in reducing their default rates by the July 1, 2002 date. For the academic year that begins July 1, 2002, the secretary will be looking at the cohort default rates for FY 97, FY 98 and FY 99. However, the management plans were not required until July 1, 1999, so they have no impact on FY 97 rates and only minimal impact on FY 98 rates. The real effect of the management plans will not be evident until FY 99 and after. In order to give the plans time to work, the exemption should be set to expire on July 1, 2004. For that academic year, the secretary will look at cohort default rates for FY 99, FY 00 and FY 01 in determining eligibility.

A fourth provision makes clarifying changes to language in the Higher Education Act related to certain legal issues that have arisen in student loan financing matters, particularly as a result of the

use of a master promissory note in the student loan programs. The provision clarifies the method for perfecting security interests in student loans, as well as the method for establishing priority.

A fifth provision modifies the process for appealing cohort default rate calculations by institutions of higher education. For fiscal years 1997 and 1998 cohort default rate calculations, an institution may retain eligibility for the Title IV student aid programs if they fail to timely appeal their cohort default rate so long as their failure is (i) substantially justified; (ii) based on a failure of the guaranty agency to correct erroneous data after a proper request; and (iii) the institution would have been eligible had the erroneous data been corrected.

A sixth provision which was requested by the Department of the Treasury amends Section 439(r)(2) of the Higher Education Act of 1965 with respect to the rate of pay allowed for auditors hired by Treasury for the Office of Sallie Mae Oversight. This provision provides Treasury with the authority to offer an annual comparability rate in addition to base salary when hiring these auditors. The comparability rate would be based on the differential rates paid by the other banking regulatory agencies.

The last provision addresses a problem posed by the pending elimination of 52–week Treasury bills. The department of the treasury has announced its intention to eliminate 52–week Treasury bills. That creates a problem in the student loan program because interest rates for Parent Loans to Students and Supplemental Loans for Students are reset every July 1 based on the last auction of 52–week bills prior to June 1st. To solve this problem, Treasury and the banking community recommended that the 1–year Constant Maturity Treasury rate be substituted for the 52–week Treasury bill.

Family literacy

A modified version of H.R. 3222, the Literacy Involves Families Together Act (LIFT), has been included in H.R. 4577, the FY2001 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act. LIFT extends and enhances the Even Start Family Literacy Program and other federal education programs providing family literacy services. LIFT would greatly improve the quality of Even Start Family Literacy programs. LIFT requires Even Start projects to use instructional programs based on scientifically based research on reading, establishes qualifications for program instructors, ties local program objectives to state indicators of program quality, strengthens evaluations of local programs and their use in program improvement, and authorizes research to find the most effective way of improving literacy among adults with reading difficulties. The bill also changes the name of the Even Start Family Literacy Program to the William F. Goodling Even Start Family Literacy Program in honor of Bill Goodling (R-PA), the author of the Even Start program.

Public school choice

Public school choice under the Title I program has been included in H. R. 4577, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for

FY2001. The language includes a requirement that all school districts receiving funds under Title I Part A shall provide students in low performing Title I schools with the option to transfer to another public school or public charter school in the school district, unless prohibited by state or local law. Local educational agencies located within states that qualify for the small state minimum under Title I Part A are not required to comply with this requirement, but may comply if they choose.

Rural education

Representative Bill Barrett (R-NE) introduced H.R. 2725, the Rural Education Initiative Act on August 5, 1999 as a means to address the special needs of small, rural schools. A similar version of H.R. 2725 was included as part of H.R. 2, the Student Results Act, which passed the House on October 21, 1999. In addition, a similar version of H.R. 2725 was included as part of S. 2, the Educational Opportunities Act, which was ordered reported, as amended, by the Senate Committee on Health, Education, Labor, and Pensions on March 9, 2000. The Rural Education Initiative is included as part of H.R. 4577, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations bill for FY 2001.

The Rural Education Initiative contained in the conference report for H.R. 4577 is based on H.R. 2725, the Rural Education Initiative Act, and amends Part J of Title X of the Elementary and Secondary Education Act (ESEA) to better address the different needs of small, rural school districts. Under this provision, a local educational agency (LEA) would be able to combine funding under various ESEA programs to support local or statewide education reform efforts intended to improve the academic achievement of elementary and secondary school students and the quality of instruction provided for these students. An LEA would be eligible to use funding under this provision if: (1) the total number of students in average daily attendance at all of the schools served by the LEA is less than 600; and (2) all of the schools served by the LEA are designated with a School Locale Code of 7 or 8, as determined by the secretary of education. An eligible LEA would be able to combine funds from Title II (Eisenhower Professional Development Program), Title IV (Safe and Drug-Free Schools and Communities), and Title VI (Innovative Education Program Strategies) formula grant programs and use the money to carry out local activities authorized in Part A of Title I (Helping Disadvantaged Children Meet High Standards); Section 2210(b) (Eisenhower Professional Development Program); Section 3134 (Technology for Education); or Section 4116 (Safe and Drug-Free Schools and Communities) of the Elementary and Secondary Education Act. Grants under this provision would be awarded to eligible LEAs based on the number of students in average daily attendance less the amount they received from the aforementioned formula grant programs. Minimum grants for LEAs would not be less than $20,000. The maximum an LEA could receive would be $60,000. LEAs participating in this initiative would have to meet high accountability standards by demonstrating the ability to meet academic achievement standards under Title I, such as the state's definition of adequate yearly

progress. Schools failing to meet these requirements would not be eligible for continued funding.

School renovation and repair

Authority for using federal funds for school renovation and repair was included in H.R. 4577, the FY 2001 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act. Under the provisions, $1.1 billion would be distributed to states under the Title I formula, with a set-aside for small states.

School districts would receive 75 percent of the funds for one-time competitive grants for classroom renovation and repair. A portion of these funds will be targeted to high-poverty schools and rural schools. Funds for renovation and repair could be used for emergency repairs for health and safety, compliance with the Americans with Disabilities Act, access and accommodation provisions of the Rehabilitation Act, and asbestos abatement. No new construction would be allowed, except in connection with Native American schools. Funds may not be used for stadiums or maintenance costs.

School districts would receive 25 percent of the funds through competitive grants for use under the Individuals with Disabilities Education Act (IDEA), or school technology, at the discretion of the local educational agency. The 25 percent set-aside would be distributed to school districts through competitive grants.

This proposal clarifies that public charter schools and private schools would be eligible for funds, as they are currently under Title VI of the Elementary and Secondary Education Act.

Under the proposal, $25 million would be used to fund a charter school demonstration project, to determine the most effective means of leveraging private capital for charter schools.

The agreement includes $75 million for schools with at least 50 percent of their students living on Native American lands, as well as rural Alaska. These schools, for which the federal government has a clear responsibility, have a dire need for additional federal funds for school renovation.

Class size reduction

The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations for FY 2001, H.R. 4577, includes $1.6 billion to continue the Class Size Reduction program. These funds may be used both for hiring teachers to reduce class size and for initiatives to promote teacher quality through such means as professional development, mentoring and other activities authorized under the Eisenhower Professional Development Program (part B of Title II of the Elementary and Secondary Education Act). Under the final agreement, up to 25 percent of a schools, grant may be used solely for teacher quality. In addition, the approximately 7,600 school districts, which receive grants less than the starting salary of a teacher, may use all of their funds for teacher quality initiatives. This translates into over half of all school districts nationwide.

In addition, any school district in which more than 10 percent of their teachers are not certified or have had their certification

waived, may use all of their funds received under this program for improving teacher quality. The final agreement also maintains provisions included as part of the FY 2000 appropriations language for this program which will continue to allow school districts in states that set a goal of 20 students per classroom (and have met such goal) prior to enactment of this program, to use the funds for teacher quality initiatives.

Teacher quality

The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2001, H.R. 4577, includes $552.3 for teacher quality initiatives. Of this amount, $67.3 million will be available for the secretary to carry out other teacher quality initiatives at the national level. Of this amount, $3 million will be available to continue the "Troops-to-Teachers" program. $485 million will go toward state and local grants under the Eisenhower Professional Development Program (part B of title II of the Elementary and Secondary Education Act of 1965). These new funds will be available to carry out activities currently authorized under the Eisenhower program with an emphasis on using funds toward reducing the number of uncertified teachers, teachers teaching out of field, and teachers who lack sufficient content knowledge to teach effectively in the areas they teach. In addition, state and local school districts will have the flexibility to use these funds to provide opportunities for teachers to participate in summer institutes providing intensive professional development and to implement incentives to retain quality teachers who have a record of success in helping low-achieving students improve their academic success.

Early learning opportunities program

H.R. 4577, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act FY 2001, includes a new Early Learning Opportunities program. This program is designed to help states increase the availability of voluntary programs, services, and activities that support early childhood education. Specifically, it provides grants to states to promote school readiness of young children (ages birth to 6) by helping parents, caretakers, child care providers, and educators who desire to incorporate appropriate developmental activities into the daily lives of pre-school age children. It also facilitates broader involvement of the community to develop a cohesive network of early learning opportunities. Finally, it includes a provision that prohibits the duplication of federal child care programs or early learning activities unless expansion of such activity is identified as a need through a local assessment.

Internet filtering

During the 106th Congress, the Committee on Education and the Workforce took appropriate and reasonable steps to ensure that federal funds will not be used to access, on the Internet, obscenity, child pornography, or material that is harmful to minors. Included in H.R. 4577, the Departments of Labor, Health and Human Serv-

ices, and Education and Related Agencies Appropriations Act for FY 2001, is the Children's Internet Protection Act.

The act would require recipients of Universal Service Discounts (E-rate) to have in place, for the protection of minors, technology to filter or block obscenity, child pornography, and material that is harmful to minors, and in the case of adults, block or filter child pornography and obscenity. For schools or libraries that do not receive Universal Service Discounts (E-rate), if such schools or libraries purchase computers, Internet access or related services with either ESEA Title III (technology) or Museum and Library Services Act funds, they must have in place, for the protection of minors, technology to filter or block obscenity, child pornography, and material that is harmful to minors, and in the case of adults, block or filter child pornography and obscenity. Local officials would have the latitude to disable filtering or blocking technology for bona fide research and other lawful purposes. Funds made available under Title III and Title VI of the Elementary and Secondary Education Act and under the Museum and Library Services Act may be used to purchase filtering or blocking software.

Technical amendments to the Assets for Independence Act

H.R. 4577, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2001, includes S. 3214, the Assets for Independence Act Amendments of 2000. This measure makes technical changes to the Assets for Independence Act (Title IV of P.L. 105–285) to enhance the program's overall effectiveness. Title IV authorizes $25 million annually for a five-year demonstration program that establishes individual savings accounts (IDAs). IDAs are matched savings accounts for low-income individuals to use for postsecondary education, the purchase of a first home, and for business capitalization. Title IV is authorized through fiscal year 2003.

Physical education for progress

H.R. 4577, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act for FY 2001 includes authorization for a new program, Physical Education for Progress (PEP), as a new Part L of Title X of the Elementary and Secondary Education Act. The purpose of the Physical Education for Progress program is to enable local educational agencies to initiate, expand, and improve physical education programs for all K–12 students. Funding under this provision will be used to provide equipment and support to enable students to actively participate in physical education activities; develop or enhance physical education curricula; and provide funds for staff and teacher training and education. In addition, this provision ensures that funds are equitably distributed between urban and rural areas and allows for the participation of private and home-schooled children.

J. OTHER INITIATIVES

1. H.R. 905, the Missing, Exploited, and Runaway Children Protection Act

The Missing, Exploited, and Runaway Children Protection Act, H.R. 905, was introduced by Representative Mike Castle (R–DE) on March 2, 1999. The act provides services for the 500,000 to 1.5 million youth estimated to run away each year. It provides an annual authorization of appropriations for the National Center for Missing and Exploited Children and extends funding for runaway and homeless youth programs that protect children by keeping them off the streets, away from criminal activities, and out of potentially dangerous situations. Additionally, the legislation authorizes funding to study incidents of school violence in urban, suburban, and rural schools.

The Subcommittee on Early Childhood, Youth, and Families favorably reported H.R. 905 (as amended) by voice vote on April 22, 1999. The full committee favorably reported H.R. 905 (as amended) by voice vote on April 28, 1999.

S. 249, a bill similar to H.R. 905, was favorably reported by the Senate Judiciary Committee on March 4, 1999. The Senate passed S. 249 by unanimous consent on April 19, 1999.

The House passed S. 249, as amended, with the H.R. 905 provisions, on May 25, 1999, by a vote of 414–1. The House later passed H.R. 1501 (Juvenile Justice bill), which also included the H.R. 905 provisions, on June 17, 1999, by a vote of 287–139. The Senate again passed S. 249, as amended by the House, on September 28, 1999, by unanimous consent. On October 12, 1999, the president signed S. 249 into law as Public Law 106–71.

2. H.R. 1150, the Juvenile Crime Control and Delinquency Prevention Act

Authorization for the Juvenile Justice and Delinquency Prevention Act expired in 1996 during the 104th Congress. The Committee felt that the current program was in need of major reforms to assist states and local communities in addressing problems related to juvenile crime in today's society. Key provisions in H.R. 1150 provided states and local communities with greater flexibility in how they address juvenile crime under the existing formula grant program and such provisions combine current discretionary programs into a block grant to the states. In addition, H.R. 1150 authorized funding for the Runaway and Homeless Youth Act and the National Center for Missing and Exploited Children. The current law configuration of three separate funding sources for runaway and homeless youth programs had proven to be piecemeal, unnecessary and duplicative. H.R. 1150 significantly improved the operation and effectiveness of the Runaway and Homeless Youth Act by streamlining the act, removing duplicative provisions and improving the organization of the act. As a result, H.R. 1150 granted greater flexibility to community programs to develop and implement programs that best meet the needs of the youth they serve.

In the 104th Congress, the Subcommittee on Early Childhood, Youth and Families held four hearings to review the Juvenile Justice and Delinquency Prevention Act. Four additional hearings

were held during the 105th Congress. During the 106th Congress, two hearings were held. Seven of the hearings were held in Washington, D.C. and three in California in the cities of San Diego, Windsor, and El Monte. Witnesses represented individuals involved in all areas of the juvenile justice system, including judges, probation officers, law enforcement officers, district attorneys and those involved in prevention activities. Testimony was also received regarding the Runaway and Homeless Youth Program.

The House passed H.R. 1501, the Consequences for Juvenile Offenders Act on June 17, 1999 by a vote of 287–139, which included the provisions of H.R. 1150, the Juvenile Crime Control and Delinquency Prevention Act. H.R. 1150 passed by a vote of 424–2 as a Goodling amendment to H.R. 1501, the Juvenile Justice Reform Act of 1999.

H.R. 1150 contained provisions to authorize the Runaway and Homeless Youth Act and the Missing Children's Assistance Act. Those provisions were also contained in H.R. 905, the Missing, Exploited, and Runaway Children Protection Act, a stand-alone bill to authorize those acts. The stand-alone bill has been signed into law as P.L. 106–71, as earlier mentioned.

Several education-related amendments were added to the H.R. 1150/Goodling amendment during floor consideration of H.R. 1501. An amendment to the Individuals with Disabilities Education Act giving school personnel the ability to apply a uniform discipline policy to students who bring weapons to school was added, as was an amendment to provide teacher liability protection for teachers who discipline students. The House also added amendments allowing the use of juvenile justice funds for metal detectors in schools and for character education in schools.

Several culture-related amendments were added to the H.R. 1150/Goodling amendment. The House added an amendment that would prohibit state or local governments, when awarding juvenile justice grants or contracts, from discriminating against religious organizations. The House also added amendments relating to First Amendment lawsuits, the Ten Commandments, school memorials, and Internet filtering.

The Senate passed their juvenile crime control and delinquency prevention package, S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, on May 20, 1999. The House and Senate appointed conferees. However, no agreement was reached by the end of the 106th Congress.

3. H.R. 1248, the Violence Against Women Act of 2000

On March 24, 1999, Representative Constance Morella (R–MD) introduced H.R. 1248, the Violence Against Women Act of 2000. The bill was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, and the Committee on Commerce. The legislation amends several existing laws including two within the sole jurisdiction of the Committee on Education and the Workforce. These include the Family Violence Prevention and Services Act (FVPSA) and the Runaway and Homeless Youth program.

The Family Violence Prevention and Services Act (FVPSA) covers several activities and programs which address domestic violence.

FVPSA was originally enacted as part of the Child Abuse Amendments of 1984. In 1995, the program was extended through FY 2000 as part of the "Violent Crime Control and Law Enforcement Act of 1994" commonly known as the "Crime Bill." The Child Abuse Prevention Treatment Act (CAPTA) amendments of 1996 made minor amendments to the program but did not extend the authorization past FY 2000. H.R. 1248 proposed extending the authorization of the programs under FVPSA and making several modifications to these programs. However, in the final version of this legislation, many of these provisions were dropped, while providing for a five-year reauthorization, with the intent that these programs will be reviewed as part of the CAPTA reauthorization, expected in the 107th Congress.

The Runaway and Homeless Youth Act provides funding for street-based outreach and education to prevent sexual abuse and exploitation. H.R. 1248 would reauthorize this program. However, given that the Committee on Education and the Workforce had already extended the authorization for this program in 1999, these provisions were removed in the final version of the legislation.

The House passed H.R. 1248, the Violence Against Women Act (VAWA) on September 26, 2000 by a vote of 415–3. The provisions, as amended, were added to the conference report (H. Rept. 106–939) of H.R. 3244, the Trafficking Victims Protection Act of 1999, introduced by Representative Christopher Smith (R–NJ). On October 6, 2000, the conference report passed in the House by a vote of 371–1. On October 11, 2000 the Senate agreed to the conference report by a vote of 95 to 0. On October 28, 2000, H.R. 3244 became Public Law 106–386.

The final VAWA provisions included as part of Public Law 106–386 and within the jurisdiction of the Committee on Education and the Workforce would do the following: amend the FVSPA to include temporary housing assistance; provide the secretary of health and human services $25 million for a one year authorization to fund programs which provide temporary housing assistance as a result of fleeing a situation of domestic violence; include a $2 million authorization for each of the next five years to carry out the National Domestic Violence Hotline; and include a $6 million authorization for community initiatives to address family violence. The new law also includes provisions that were originally part of the Senate bill related to campus crime, specifically: requires institutions of higher education to include in their annual campus security reports, a statement advising the campus community of the location where information concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency or a computer network address; and amends the Family Educational Rights and Privacy Act of 1974 (FERPA) to clarify that institutions of higher education are not prohibited from disclosing information provided to the institution under the Violent Crime Control and Law Enforcement Act. These provisions are based on H.R. 4407, the Campus Protection Act, introduced by Representative Matt Salmon (R–AZ).

H.R. 3244 was signed into law on October 28, 2000. It is now Public Law 106–386.

4. H.R. 2909, the Intercountry Adoption Act of 1999

H.R. 2909, introduced by Representative Benjamin Gilman (R–NY), provides for the implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. On September 22, 1999 the legislation was referred to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Education and the Workforce. On June 22, 2000 the legislation was reported, as amended, by the Committee on International Relations and sequentially referred to the House Committee on Ways and Means. On that date, the legislation was discharged by the Committee on Ways and Means, the Judiciary Committee and the Committee on Education and the Workforce. On July 18, 2000 the bill was considered under suspension of the rules and was agreed to by voice vote. On July 27, the bill was passed in the Senate with an amendment by unanimous consent. On September 18, the House agreed with an amendment to the Senate amendment without objection. On September 20, the Senate agreed to the House amendment by unanimous consent. On October 6, 2000 the legislation was signed by the president and became Public Law 106–279.

The Hague Convention on the Protection of Children and Cooperation in Respect of Intercounty Adoption establishes uniform standards and procedures for the international adoption of children. The Convention has three primary features: reinforces the protection of children's rights concerning international adoption; establishes a mechanism for the cooperation of signatory countries in the area of international adoption; and ensures the recognition of adoptions undertaken and certified through the Convention provisions.

5. H.R. 3614, Emergency Commodity Distribution Act of 2000

Since the 103rd Congress, 12 percent of the costs of school lunches was to be in the form of agricultural products purchased for schools. During the 105th Congress, at the suggestion of the administration, this law was modified to allow the 12 percent commodity requirement to be met through a combination of entitlement and bonus commodities for the period of October 1, 2000 through September 30, 2009. The savings achieved as a result of this revision was used to help fund the "Ticket to Work and Work Incentives Improvement Act of 1999." As a consequence, the amount of commodities available to schools was reduced because bonus commodities would be counted as part of the 12 percent commodity requirement rather than in addition to the commodities schools would normally receive under the 12 percent requirement. Not only did this change affect the amount of commodities available for meals for children, it effectively reduced purchases of agriculture commodities, resulting in a negative impact on the agriculture community.

Chairman Bill Goodling (R–PA) introduced H.R. 3614, the Emergency Commodity Distribution Act of 2000, on February 10, 2000 in order to restore the original 12 percent commodity requirement. A hearing was held on the legislation on February 15, 2000. Witnesses included the American School Food Services Association, the American Commodity Distribution Association, and the Apricot

Producers of California. The Committee took no further action on this legislation. However, during a House/Senate conference on H.R. 2559, the Agriculture Risk Protection Act, the conferees agreed to restore commodity support for two fiscal years. The conference report to H.R. 2559 passed the House of Representatives on May 25 by voice vote and the U. S. Senate on May 25 by a vote of 91–4. It was signed into law on June 22, 2000 and is Public Law 106–224.

6. H.R. 4520, Child Care and Adult Care Food Program Integrity Act

In recent years, there have been two reports that have focused on the serious problems with fraud and abuse in the Child and Adult Care Food Program (CACFP), which provides meals and snacks to children in child care facilities and family day care homes.

The first report was issued in August 1999 from the Office of the Inspector General (IG) at the U.S. Department of Agriculture (USDA). This report, "Presidential Initiative: Operation Kiddie Care," found that the program was highly vulnerable to abuse because the primary controls for combating fraud and abuse were vested in CACFP sponsors, with federal and state oversight lacking. Sponsors are the intermediaries between states and local providers. They collect funds from states and disburse them to local providers. The Inspector General (IG) found some sponsors were using program funds for their personal enrichment, thus reducing funds available to provide an effective food service program to children in day care.

The second report was issued three months later (November, 1999) by the General Accounting Office (GAO) and was entitled, "Food Assistance: Efforts to Control Fraud and Abuse in the Child and Adult Care Food Program Should Be Strengthened." The GAO report found that the Food and Nutrition Service (FNS) had not effectively directed the states' efforts to protect against fraud and abuse. According to GAO, state agencies claimed that a lack of resources, a lack of training in the identification of fraud and abuse and unclear regulations on the removal of noncompliant sponsors were among the reasons that they could not strengthen controls.

After a series of meetings with the department of agriculture and members of the nutrition community, Chairman Bill Goodling (R–PA) introduced H.R. 4520 the Child and Adult Care Food Program Integrity Act on May 23, 2000. The purpose of this bill was to address the problems outlined in these reports, to eliminate fraud and abuse and to address deficient management practices in the Child and Adult Care Food Program.

Major provisions of this legislation would: (1) require USDA to develop a plan for ongoing periodic training of state and sponsor staff on the identification of fraud and abuse in order to ensure that current and new employees can assist in efforts to prevent fraud and abuse; (2) require a minimum number of unannounced and scheduled site visits; (3) permit the secretary of agriculture to withhold, in whole or in part, state administrative funds in instances where states have not met their responsibilities for oversight and training for sponsors and providers; (4) provide notifica-

tion to parents that their children are enrolled in a child care center or group or family day care home participating in the CACFP; (5) bar the recovery of funds lost due to fraud and abuse from food dollars that benefit participating children; (6) make it clear that sponsors applying for participation in CACFP must meet specific qualifications and will not automatically be approved; (7) require the development of detailed criteria for approving new sponsors and for renewing sponsors which would include factors such as whether or not they are capable of performing the job, have appropriate business experience and adequate management plans, and whether or not there is a need for an additional sponsor in a specific area; (8) limit administrative costs for sponsors of day care centers to 15 percent of the funds they disburse to decrease the potential for abuse; (9) require USDA, working with states and sponsors, to develop a list of allowable administrative costs for sponsors of family day care homes and child care centers; (10) require the department of agriculture to establish minimum standards regarding the number of monitors sponsors should employ to ensure there are sufficient monitors to visit providers and detect fraud and abuse; (11) require state agencies that administer CACFP to deny approval of institutions determined to have been terminated with cause or that lost their license to operate any federally funded program; (12) limit the ability of day care homes to switch sponsoring organizations to once a year unless they can demonstrate they are transferring for good cause; (13) require sponsors to have in effect a policy that restricts other employment by employees that interferes with their responsibilities and duties with respect to CACFP; (14) require the secretary to develop procedures for terminating sponsors for unlawful conduct and failure to meet their agreements with the state; and (15) provide for the immediate suspension of sponsors and providers in cases where there is a health or safety threat to participating children.

The majority of the provisions of H.R. 4520 were added to the House/Senate conference on H.R. 2559, the Agriculture Risk Protection Act, which became Public Law 106–224.

7. H.R. 4178, the Kids 2000 Act

H.R. 4178, introduced by Representative Sheila Jackson-Lee (D–TX), establishes a new crime prevention and computer education initiative. The bill was referred to the Committee on the Judiciary, and the Committee on Education and the Workforce on April 6, 2000. An identical version, S. 2061, was introduced in the Senate by Senator Joseph Biden (D–DE). The provisions of H.R. 4178 were attached to S. 2045, the American Competitiveness in the Twenty-first Century Act of 2000, introduced by Sen. Orrin Hatch (R–UT). This legislation passed the Senate by a vote of 96 to 1 on October 3, 2000 and passed the House by voice vote, on the same day. On November 17, 2000 the President signed S. 2045, and it became Public Law 106–313.

8. H.R. 4542, to designate the Washington Opera in Washington D.C. as the National Opera

On May 25, 2000, Representative Bill Goodling (R–PA) introduced H.R. 4542, to designate the Washington Opera in Wash-

ington D.C. as the National Opera. H.R. 4542 passed the House under suspension of the rules on June 6, 2000, by voice vote. On June 7, 2000, the Senate passed H.R. 4542 by unanimous consent. On June 21, 2000, H.R. 4542 was signed into law by the president and became Public Law 106–219.

9. H.R. 4725, to amend the Zuni Land Conservation Act

On June 22, 2000, Representative Joe Skeen (R–NM) introduced H.R. 4725, which makes minor amendments to the Zuni Land Conservation Act. The House Committee on Resources considered H.R. 4725 in legislative session on July 26, 2000. During that session, an unrelated amendment was accepted which would provide funding for the Morris K. Udall Foundation to promote leadership and management training and policy analysis for Native Americans, Alaska Natives, and others involved in tribal leadership and management. This amendment was based on the text of H.R. 4631, and is primarily under the jurisdiction of the Committee on Education and the Workforce.

On October 19, 2000, H.R. 4725, as amended, was favorably reported by the Committee on Resources. On October 19, 2000, H.R. 4725 was referred to the House Committee on Education and the Workforce. On October 26, 2000 the provisions relating to the Morris K. Udall Foundation were included in H.R. 5528, the Omnibus Indian Advancement Act and passed the House under suspension of the rules.

10. H.R. 5123, the School Safety Hotline Act

Representative Tom Tancredo (R–CO) introduced the School Safety Hotline Act, H.R. 5123, on September 7, 2000. The School Safety Hotline Act would require the secretary of education to provide written notification to states and state educational agencies of their ability to use state administrative funds under the Safe and Drug-Free Schools and Communities Act and Title VI of the Elementary and Secondary Education Act to establish toll-free telephone hotlines for students, parents, and school personnel to report suspicious, violent, or threatening behavior to law enforcement authorities.

The bill passed under suspension of the rules by voice vote on September 12, 2000.

11. S. 380, the Congressional Award Act Amendments of 1999

S. 380, a bill to reauthorize the Congressional Award Act, was introduced on February 4, 1999 by Senator Larry Craig (R–ID). The Congressional Award is presented on a non-competitive, individual basis to young people in the United States between the ages of 14 and 23 in recognition of initiative, achievement, and service. To earn a Congressional Award, participants establish and achieve individual goals in four program areas (voluntary public service, personal development, physical fitness, and expedition/exploration) and are awarded bronze, silver, or gold medals by Members of Congress based on activities completed by the participants. On April 13, 1999, S. 380 passed the Senate by unanimous consent and on April 14, 1999, it was received in the House and referred to the Committee on Education and the Workforce. S. 380 passed the

House under suspension of the rules on September 13, 1999 by voice vote. On October 1, 1999, S. 380 was signed into law by the president and became Public Law 106–63.

12. S. 2789, Congressional Recognition for Excellence in Arts Education Act

S. 2789 is a bill to amend the Congressional Award Act to provide awards to schools and students for excellence in the arts and in arts education. S. 2789 was introduced by Senator Thad Cochran (R–MS) on June 26, 2000. The Excellence in Arts Education Act, which would consist of 9 members, would be responsible for establishing, funding, and administering the awards. S. 2789 also establishes an advisory board to assist and advise the board with respect to its duties. The advisory board would consist of 15 members and be selected by the board from among recommendations received from organizations and entities involved in the arts such as businesses and civic and cultural organizations as well as the Arts Education Partnership steering committee. S. 2789 passed the Senate on October 27, 2000 by unanimous consent. S. 2789 passed the House under suspension of the rules on October 31, 2000 by a voice vote. On November 22, 2000, S. 2789 was signed into law by the president and became Public Law 106–533.

K. COMMITTEE RESOLUTIONS

H. Con. Res. 76, child abuse and neglect concurrent resolution

H. Con. Res. 76, introduced by Representative Matt Salmon (R–AZ), recognizes the social problem of child abuse and neglect, and supports efforts to enhance public awareness of this problem. On March 24, 1999, the resolution was referred to the House Committee on Education and the Workforce. On April 9, 1999, the resolution was referred to the Subcommittee on Early Childhood, Youth and Families. On February 14, 2000, the House of Representatives passed H. Con. Res. 76 under suspension of the rules, by a vote of 378 to 0.

H. Con. Res. 84, concurrent resolution on full funding of the Individuals with Disabilities Education Act (IDEA).

Chairman Bill Goodling (R–PA) introduced the Individuals with Disabilities Education Act (IDEA) Funding Resolution, H. Con. Res. 84, on April 13, 1999. The resolution urges Congress and the president, working within the constraints of the balanced budget agreement, to give programs under the Individuals with Disabilities Education Act the highest priority for federal elementary and secondary education funding by meeting the commitment to fund the maximum state grant allocation under IDEA prior to authorizing or appropriating funds for any new education initiative. The federal government should meet the IDEA funding commitment while retaining the commitment to fund existing federal programs that increase student achievement.

The Committee on Education and the Workforce favorably reported the resolution, as amended, by a vote of 38–4 on April 28, 1999. H. Con. Res. 84 passed the House by a vote of 413–2 on May

4, 1999. A related bill, S. Con. Res. 25 was introduced in the Senate on April 13, 1999, but no further action was taken.

H. Con. Res. 88, higher education funding concurrent resolution

Chairman Howard "Buck" McKeon (R–CA) introduced H. Con. Res. 88 on April 20, 1999. The resolution urges Congress and the president, working within the constraints of the balanced budget agreement, to make student scholarship aid the highest priority for higher education funding by increasing the maximum Pell Grant award to low income students by $400 and increasing other existing campus-based aid programs that serve low income students prior to authorizing or appropriating funds for any new education initiative. The Committee on Education and the Workforce reported H. Con. Res. 88 on April 28, 1999, by a vote of 36–10. On May 4, 1999, H. Con. Res. 88 passed the House by a vote of 397–13, with 4 members voting present. On July 14, 2000, H. Con. Res. 88 was referred to the Committee on Health, Education, Labor, and Pensions in the Senate. The Senate took no further action.

H. Con. Res. 92, concurrent resolution on Columbine High School in Littleton, Colorado.

Rep. Tom Tancredo (R–CO) introduced the Columbine High School Resolution, H. Con. Res. 92, on April 27, 1999. The resolution condemned the shooting at Columbine High School in Littleton, Colorado and expressed condolences to the friends and families of those killed in the shooting.

The resolution passed the House of Representatives under suspension of the rules by voice vote on April 27, 1999. On the same day, the Senate agreed to it by a vote of 99–0.

H. Con. Res. 93, child abuse and neglect concurrent resolution

On April 27, 1999, Representative Deborah Pryce (R–OH) introduced H. Con. Res. 93, which expresses the sense of Congress regarding the social problem of child abuse and neglect; it also supports efforts to enhance public awareness of this problem. H. Con. Res. 93 was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary on April 27, 1999. On April 29, 1999 the Committee on Education and the Workforce and the Committee on the Judiciary discharged the resolution. On the same day, the House of Representatives considered H. Con. Res. 93 by unanimous consent and passed the resolution by voice vote. On May 4, 1999 H. Con. Res. 93 was referred to the Senate Committee on the Judiciary. The Senate took no further action.

H. Con. Res. 107, concurrent resolution on a report of the American Psychological Association

H. Con. Res. 107, introduced by Representative Matt Salmon (R–AZ), expresses Congress' rejection of the conclusions of a recent article published by the American Psychological Association that suggests that sexual relationships between adults and children might be positive for children. The resolution was referred to the Committee on Education and the Workforce on May 12, 1999 and to the Subcommittee on Early Childhood, Youth and Families on June 4,

1999. On July 12, 1999 the resolution was considered by the House of Representatives under the suspension of the rules and agreed to by a vote of 355 to 0, with 13 members voting present. On July 30, 1999, the Senate agreed to the resolution by unanimous consent.

H. Con. Res. 191, the Brooklyn Museum of Art concurrent resolution

On October 10, 1999, Representative John E. Sweeney (R–NY) introduced H. Con. Res. 191, which expressed the sense of Congress that the Brooklyn Museum of Art should not receive federal funds unless it canceled an exhibit featuring works of a sacrilegious nature. H. Con. Res. 191 was introduced in response to an exhibit at the Brooklyn Museum of Art entitled "Sensation: Young British Artists from the Saatchi Collection." The exhibition included, among several offensive works, a portrait of the Virgin Mary stained with elephant dung and covered with pictures cut out from pornographic magazines. The exhibit included a warning label that warned about the content of the exhibition and children under the age of 17 were required to be accompanied by an adult. The Brooklyn Museum of Art receives taxpayer money through the National Endowment for the Arts and the National Endowment for the Humanities.

H. Con. Res. 191 was referred to the Committee on Education and the Workforce on October 1, 1999. On October 4, 1999 the concurrent resolution, as amended, passed the House under suspension of the rules by voice vote. It was referred to the Senate Committee on Health, Education, Labor and Pensions on October 5, 1999. The Senate took no further action.

H. Con. Res. 194, concurrent resolution on the contributions of 4–H clubs and their members to voluntary community service

On October 7, 1999, Representative Nathan Deal (R–GA) introduced H. Con. Res. 194, which recognizes 4–H Clubs for their voluntary community service. The concurrent resolution commends the 4–H program for giving young people in the United States the opportunity to actively participate in volunteer services in their communities that can bridge differences that separate people and help solve social problems. H. Con. Res. 194 was referred to the Committee on Education and the Workforce on October 7, 1999. On October 25, 1999, the concurrent resolution was considered under suspension of the rules and passed the House of Representatives by a vote of 391–0. H. Con. Res. 194 was referred to the Senate on October 26, 1999.

H. Con. Res. 213, concurrent resolution on financial literacy training

On October 28, 1999, Representatives David Dreier (R–CA) and Earl Pomeroy (D–ND) introduced H. Con. Res. 213, which encouraged the secretary of education to promote financial literacy training. A recent study by the National Endowment for Financial Education has shown that personal finance education improves students' saving and spending habits and money management skills. Specifically, this resolution encourages the secretary of education to use funds available from Part A of Title X (Fund for the Improvement of Education) of the Elementary and Secondary Education

Act to promote personal financial literacy programs. In addition, the concurrent resolution encourages states and local educational agencies to incorporate personal financial management curriculums into their education programs. On October 28, 1999, H. Con. Res. 213 was referred to the Committee on Education and the Workforce. On November 2, 1999, the concurrent resolution was considered under suspension of the rules and passed the House by a vote of 411 to 3. The Senate received H. Con. Res. 213 on November 3, 1999 and it was referred to the Senate Committee on Health, Education, Labor, and Pensions on November 19, 1999. The Senate took no further action.

H. Con. Res. 229, concurrent resolution on the United States Congressional Philharmonic Society

H. Con. Res. 229, introduced by Representative Tom Davis (R–VA) on November 16, 1999, expresses the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational system. Specifically, H. Con. Res. 229 states that the United States Congressional Philharmonic Society should be applauded: (1) for organizing two musical groups, the United States Congressional Choral Society and the United States Congressional Philharmonic Orchestra; (2) for having as its mission the promotion of patriotism, freedom, democracy, and understanding of American culture through sponsorship, management, and support of these groups; and (3) for promoting musical excellence throughout the educational system. On November 16, 1999, the concurrent resolution was referred to the Committee on Education and the Workforce. On June 6, 2000, the concurrent resolution was considered under suspension of the rules and passed the House of Representatives by voice vote. H. Con. Res. 229 was referred to the Senate Committee on the Judiciary on June 7, 2000. The Senate took no further action.

H. Con. Res. 266, concurrent resolution on the benefits of music education

On March 6, 2000, Representative David McIntosh (R–IN) introduced H. Con. Res. 266, expressing the sense of Congress regarding the benefits of music education. H. Con. Res. 266 expresses the sense of the Congress that: (1) music education enhances intellectual development and enriches the academic environment for children of all ages; and (2) music educators greatly contribute to the artistic, intellectual, and social development of children, and play a key role in helping children to succeed in school. H. Con. Res. 266 was introduced in response to recent studies that appear to show a link between music education and improved academic achievement; the concurrent resolution is also intended to commend our nation's music teachers for the roles they play in the lives of our children.

On March 6, 2000, the concurrent resolution was referred to the Committee on Education and the Workforce. On June 13, 2000, H. Con. Res. 266 passed the House under suspension of the rules by voice vote. On June 14, 2000, H. Con. Res. 266 was received in the

Senate and referred to the Committee on Health, Education, Labor, and Pensions. The Senate took no further action.

H. Con. Res. 288, concurrent resolution on families and children

On March 16, 2000, Representative Patrick Toomey (R–PA) introduced H. Con. Res. 288, which recognizes the importance of families and children and expresses support for the goals of National Family Day. H. Con. Res. 288 encourages the people of the United States to participate in local and national activities honoring National Family Day, which was established by KidsPeace. KidsPeace is a not-for-profit organization dedicated to helping children attain the confidence and courage needed to face and overcome crises. On March 16, 2000, the concurrent resolution was referred to the Committee on Education and the Workforce. H. Con. Res. 288 passed the House under suspension of the rules on March 21, 2000 by a vote of 392 to 0. On March 22, 2000, the concurrent resolution was received in the Senate and referred to the Committee on the Judiciary.

H. Con. Res. 309, concurrent resolution on in-school personal safety education programs

On April 13, 2000, Representative Mike Castle (R–DE) introduced H. Con. Res. 309, which expresses the sense of the Congress with regard to in-school personal safety education programs for children. H. Con. Res. 309 expresses the sense of Congress that states should encourage their primary and secondary schools to implement quality child safety curricula so that each child receives instruction that is positive, comprehensive, and effective; the resolution recognizes the "Guidelines for Programs to Reduce Child Victimization" of the National Center for Missing and Exploited Children as one of the tools to guide the selection of quality child safety programs when local schools develop such programs. On April 13, 2000, the concurrent resolution was referred to the Committee on Education and the Workforce. On May 15, 2000, H. Con. Res. 309 passed the House under suspension of the rules by a vote of 383 to 0. On May 16, 2000, the concurrent resolution was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 310, national charter schools week concurrent resolution

H. Con. Res. 310, introduced by Representative Tim Roemer (D–IN), supports a National Charter Schools Week and congratulates parents and educators across the country for their hard work on behalf of the charter schools movement. H. Con. Res. 310 was introduced and referred to the Committee on Education and the Workforce on April 13, 2000. The concurrent resolution passed the House under suspension of the rules by a vote of 397 to 20 on May 3, 2000. It was received in the Senate and referred to the Committee on the Judiciary on May 4, 2000. On May 4, 2000, the Senate agreed to S. Con. Res. 108, a similar concurrent resolution designating the week beginning on April 30, 2000, and ending on May 6, 2000 as "National Charter Schools Week."

H. Con. Res. 343, concurrent resolution on families eating together resolution

H. Con. Res. 343, introduced by Representative Charles Rangel (D–NY), recognizes the importance and benefits of eating meals together as a family. It also establishes a National Eat-Dinner-With-Your-Children Day to encourage families to eat together as often as possible. H. Con. Res. 343 was introduced and referred to the Committee on Education and the Workforce on May 25, 2000 and referred to the Subcommittee on Early Childhood, Youth and Families on July 13, 2000. The concurrent resolution was considered and passed unanimously by the House of Representatives on July 25, 2000. It was received in the Senate and referred to the Committee on the Judiciary on July 26, 2000.

H. Con. Res. 366, concurrent resolution on the importance and value of education in United States history

On June 29, 2000, Representative Thomas Petri (R–WI) introduced H. Con. Res. 366, which expresses the sense of Congress regarding the importance and value of United States history in the education of students in this country. H. Con. Res. 366 expresses the sense of the Congress that: (1) the historical illiteracy of U.S. college and university graduates is a serious problem that should be addressed by the higher education community; (2) boards of trustees and administrators at institutions of higher education in the United States should review their curricula and add requirements in U.S. history; (3) state officials responsible for higher education should review public college and university curricula and promote requirements in U.S. history; (4) parents should encourage their children to select institutions of higher education with substantial history requirements and students should take courses in U.S. history, whether required or not; and (5) history teachers and educators at all levels should redouble their efforts to bolster the knowledge of U.S. history among students of all ages. H. Con. Res. 366 was introduced in response to an alarming report issued by the American Council of Trustees and Alumni (ACTA), which showed that graduates of top colleges and universities are graduating with little or no knowledge of basic American history, and that none of the nation's top colleges or universities require students to take any courses in American history prior to graduation.

On June 30, 2000, Senator Joseph Lieberman (D–CT) introduced identical legislation. S. Con. Res. 129 passed the Senate on June 30, 2000, by unanimous consent. On July 10, 2000, the House of Representatives passed S. Con. Res. 129 under suspension of the rules by voice vote.

H. Con. Res. 375, concurrent resolution on American youth day

H. Con. Res. 375, introduced by Representative Bill McCollum (R–FL), recognizes the importance of young people to the future of the United States. The concurrent resolution supports the goals of American Youth Day. The concurrent resolution also encourages the people of the United States to participate in local and national activities that seek to fulfill five promises to America's youth, as established by America's Promise—The Alliance for Youth. These promises are: (1) ongoing relationships with caring adults; (2) safe

places with structured activities during non-school hours; (3) a healthy start and future; (4) marketable skills through effective education; and (5) opportunities to give back through community service. H. Con. Res. 375 was introduced and referred to the Committee on Education and the Workforce on July 18, 2000. The concurrent resolution passed the House under suspension of the rules by voice vote on July 25, 2000. It was received in the Senate and referred to the Committee on the Judiciary on July 26, 2000.

H. Con. Res. 399, concurrent resolution on the 25th anniversary of the Individuals with Disabilities Education Act (IDEA).

Chairman Bill Goodling (R–PA) introduced the IDEA 25th Anniversary Resolution, H. Con. Res. 399, on September 13, 2000. The IDEA 25th Anniversary Resolution recognizes the 25th anniversary of the enactment of the Education for All Handicapped Children Act of 1975, the predecessor to the Individuals with Disabilities Education Act (IDEA). The resolution acknowledges the contributions of children with disabilities, their parents, and the school personnel who serve them. It also reaffirms Congressional support for IDEA so that all children with disabilities have access to a free appropriate education.

The resolution was agreed to by the House of Representatives under suspension of the rules by a vote of 359–2 on September 25, 2000. The Senate passed the resolution by unanimous consent on October 4, 2000.

H. Res. 157, resolution on teachers

H. Res. 157, introduced by Representative Kay Granger (R–TX), expresses the support of the House of Representatives for America's teachers. The resolution was referred to the Committee on Education and the Workforce on May 4, 1999. On May 4, 1999, the House of Representatives considered the resolution under suspension of the rules and passed the measure 408–1.

H. Res. 207, resolution on community renewal through community and faith-based organizations

On June 14, 1999, Representative Joseph Pitts (R–PA) introduced H. Res. 207, which expresses the sense of the House of Representatives with regard to community renewal through community and faith-based organizations. H. Res. 207: (1) extends gratitude to the private nonprofit organizations and volunteers whose commitment to meet human needs in areas of poverty is key to long-term renewal of urban centers and distressed rural communities; (2) seeks to empower the strengths of America's communities, local leaders, and mediating institutions such as its families, schools, spiritual leaders, businesses and nonprofit organizations; (3) urges the House of Representatives to empower community and faith-based organizations to promote effective solutions to the social, financial, and emotional needs of urban centers and rural communities, and the long-term solutions to the problems faced by our culture; and (4) urges the House of Representatives to work with the Senate and the president to support a compassionate grassroots approach to addressing the family, economic, and cultural break-

down that plagues many of our nation's urban and rural communities.

H. Res. 207 was referred to the Committee on Education and the Workforce on June 15, 1999. On June 22, 1999, H. Res. 207 passed the House under suspension of the rules by voice vote.

H. Res. 280, resolution on strong marriages

On August 5, 1999, Representative Vernon Ehlers (R–MI) introduced H. Res. 280, which recognizes the importance of strong marriages and the contributions that community marriage policies have made to the strength of marriages throughout the United States. Specifically, this resolution: (1) recognizes the importance of strong marriages for a strong society; (2) commends communities that have established community marriage policies for their efforts in supporting marriage and preventing divorces; and (3) encourages other communities in the United States to develop voluntary community marriage policies to enable community members such as clergy, business leaders, public officials, and health professionals, to work together to strengthen marriages and provide stable environments for children. On August 5, 1999, the resolution was referred to the Committee on Education and the Workforce. On June 12, 2000, H. Res. 280 passed the House of Representatives under suspension of the rules by a voice vote.

H. Res. 303, resolution on dollars to the classroom

Representative Joseph Pitts (R–PA) introduced a "Dollars to the Classroom" resolution on September 23, 1999. H. Res. 303 calls upon the U.S. Department of Education, states, and local educational agencies to work together to ensure that not less than 95 percent of federal elementary and secondary education program funds are spent on classroom activities. H. Res. 303 was referred to the Committee on Education and the Workforce on September 23, 1999. On October 12, 1999 the House of Representatives passed H. Res. 303 under suspension of the rules by a vote of 421–5.

H. Res. 409, resolution on Catholic schools

On January 31, 2000, Representative Bob Schaffer (R–CO) introduced H. Res. 409, which honors the contributions of Catholic schools. Specifically, H. Res. 409 supports the goals of Catholic Schools Week, an event sponsored by the National Catholic Educational Association and the United States Catholic Conference. Catholic Schools Week was established to recognize the contributions of Catholic elementary and secondary schools to education. The resolution congratulates Catholic schools, students, parents, and teachers for their ongoing contributions to education, and for the key role they play in promoting and ensuring a brighter, stronger future for this nation. H. Res. 409 was referred to the Committee on Education and the Workforce on January 31, 2000. On February 1, 2000, H. Res. 409 passed the House of Representatives under suspension of the rules by a voice vote.

H. Res. 456, resolution on the Arapahoe rescue patrol of Littleton, Colorado

H. Res. 456, introduced by Representative Thomas Tancredo (R–CO), acknowledges and highlights the efforts of the Arapahoe Rescue Patrol of Littleton, Colorado in promoting community services activities for youth. It was founded in 1957 to gather high school age volunteers for community service. The Arapahoe Rescue Patrol is a non-profit organization that assists law enforcement agencies, fire departments and search and rescue missions. H. Res. 456 was introduced and referred to the Committee on Education and the Workforce on April 3, 2000. On May 15, 2000 the resolution passed the House of Representatives under suspension of the rules by voice vote.

H. Res. 465, resolution on abandoned babies

H. Res. 465, introduced by Representative Nancy Johnson (R–CT), expresses the sense of the House of Representatives that local, state, and federal governments should collect and disseminate statistics on the number of newborn babies abandoned in public places. The resolution was introduced and referred to the House Committee on Education and the Workforce on April 6, 2000. On April 11, 2000, the House of Representatives considered the resolution under suspension of the rules and passed the resolution by voice vote.

H. Res. 492, resolution on teachers

H. Res. 492, introduced by Representative Kay Granger (R–TX), expresses support of the House of Representatives for America's teachers. The resolution was referred to the Committee on Education and the Workforce on May 4, 2000. On May 9, 2000, the resolution was considered under the suspension of the rules and agreed to by a vote of 422 to 0.

H. Res. 509, African-American music resolution

H. Res. 509, introduced by Representative Chaka Fattah (D–PA), recognizes the contributions of African-American music to global culture and the positive impact the music has had upon global commerce; the resolution calls upon the people of the United States to take the opportunity to study, reflect upon, and celebrate the majesty, vitality, and importance of African-American music. H. Res. 509 was introduced and referred to the Committee on Education and the Workforce on May 23, 2000. On June 6, 2000 the resolution passed the House, as amended, under suspension of the rules by a vote of 382–0.

H. Res. 522, fatherhood resolution

H. Res. 522, introduced by Representative Joseph Pitts (R–PA), recognizes that the creation of a better America depends in large part upon the active involvement of fathers in the rearing and development of their children. It also expresses support for the National Fatherhood Initiative and its work to inspire and equip fathers to be positively involved in the lives of their children. H. Res. 522 was introduced and referred to the Committee on Education and the Workforce on June 9, 2000. On June 19, 2000 the resolu-

tion passed the House of Representatives under suspension of the rules by voice vote.

H. Res. 552, resolution on mentoring

H. Res. 552, introduced by Representative David Wu (D–OR), recognizes the importance of mentoring and enrichment programs that encourage young people to enter mathematics, science, engineering, and technology related fields. H. Res. 552 was introduced and referred to the Committee on Education and the Workforce on July 13, 2000. The resolution was referred to the Subcommittee on Early Childhood, Youth and Families on August 22, 2000. On December 15, 2000, the resolution was considered and passed by the House of Representatives by unanimous consent.

H. Res. 578, resolution on home schooling

H. Res. 578, introduced by Representative Bob Schaffer (R–CO), recognizes and congratulates home educators and home schooled students across the nation for their ongoing contributions to education and for the roles they play in promoting and ensuring a brighter, stronger future for this nation. H. Res. 578 was introduced and referred to the Committee on Education and the Workforce on September 14, 2000. The resolution passed the House of Representatives under suspension of the rules by voice vote on September 26, 2000.

II. Hearings Held by the Committee

106th Congress, First Session

January 27, 1999—Straight Talk: Leadership in State and Community Education Reforms (106–1).

January 28, 1999—Hearing on Implementing School Reform in the States and Communities (106–2).

February 11, 1999—The Administration's Education Proposals and Priorities for Fiscal Year 2000 (106–3).

April 11, 1999—Hearing on Title I of the Elementary and Secondary Education Act: An (106–20).

April 27, 1999—Hearing on Minimum Wage: Reviewing Recent Evidence of its Impact on (106–29).

May 12, 1999—Hearing on Even Start and Family Literacy Programs Under The Elementary and Secondary Education Act (106–35).

May 20, 1999—Hearing on Academic Achievement for All: Increasing Flexibility and Improving Student Performance and Accountability (106–41).

June 10, 1999—Hearing on Key Issues in the Authorization of Title I of the Elementary and Secondary Education Act (106–46).

June 17, 1999—Joint Hearing on Overview of Federal Education Research and Evaluation Efforts (106–48).

July 1, 1999—Hearing on Business Community Views on Reform and Elementary and Secondary Education Act (106–55).

July 13, 1999—Hearing on Comprehensive School Reform: Current Status and Issues (106–58).

July 22, 1999—Hearing on Helping Migrant, Neglected and Delinquent Children Succeed in School (106–61).

July 27, 1999—Hearing on Title I: What's Happening at the School District and School Building Level (106–64).

October 7, 1999—Hearing on Examining the Impact of the Minimum Wage on Welfare to Work (106–29).

106th Congress, Second Session

April 20, 2000—Field Hearing on Academic Achievement For All, Lexington, KY (106–102).

June 1, 2000—Field Hearing on Excellence In Teaching, Indianapolis, IN (106–110).

August 24, 2000—Field Hearing on IDEA and School Discipline, Corryton, TN (106–117).

September 21, 2000—Hearing on The National and Economic Importance of Improved Math-Science Education and H.R. 4272, The National Science Education Enhancement Act (106–125).

September 22, 2000—Hearing on Using Technology to Learn and Learning to Use Technology (106–124).

September 26, 2000—Hearing on the Importance of Literacy (106–127).

September 27, 2000—Hearing on Urban Renewal in Minority Communities (106–126).

September 28, 2000—The Success of Charter Schools (106–129).

October 25, 2000—Waste, Fraud, and Program Implementation at the U.S. Department of Education (106–134).

III. Markups Held by the Committee

106th Congress, First Session

January 7, 1999—Organizational Markup. Committee Rules for the 106th Congress adopted by voice vote. Announcement of Subcommittee Assignments.

February 10, 1999—H.R. 221, To amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products ordered favorably reported by voice vote. Committee Funding Resolution and also the Committee Oversight Plan for the 106th Congress were adopted by voice vote.

March 3, 1999—H.R. 800, Education Flexibility Partnership Act of 1999 ordered favorably reported, as amended by a vote of 33–9.

April 28, 1999—H.R. 905, Missing, Exploited and Runaway Children Protection Act ordered favorably reported, as amended by voice vote.

H. Con. Res. 84, Urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act ordered favorably reported, as amended by a vote of 38–4.

H. Con. Res. 88, Urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs ordered favorably reported by a vote of 36–10.

June 23, 1999—H.R. 987, Workplace Preservation Act ordered favorably reported by a vote of 23–18. H.R. 1381, Rewarding Performance in Compensation Act ordered favorably reported, as amended by a vote of 26–22.

June 30, 1999—H.R. 1995, Teacher Empowerment Act ordered favorably reported, as amended by a vote 27–19.

July 14, 1999—H.R. 1102, Comprehensive Retirement Security and Pension Reform Act of 1999 ordered favorably reported, as amended by voice vote.

July 29, 1999—H.R. 1441, Truth in Employment Act of 1999 ordered favorably reported by a vote of 21–18.

H.R. 1987, Fair Access to Indemnity and Reimbursement Act ordered favorably reported, as amended by a vote of 24–19.

September 15, 1999—H.R. 782—Older Americans Act Amendments of 1999 ordered favorably reported with amendments by voice vote.

October 5, 6, 7 & 13, 1999—H.R. 2—Student Results Act of 1999 ordered favorably reported, as amended (42–6). H.R. 2300—Academic Achievement for All Act ordered favorably reported, as amended (26–19).

November 3, 1999—H.R. 1693—To amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities ordered favorably reported by voice vote.

H.R. 2434—Worker Paycheck Fairness Act of 1999 ordered favorably reported (25–22). H.R. 3172—To amend the welfare-to-work program and modify the welfare-to-work performance bonus ordered favorably reported, as amended by voice vote.

106th Congress, Second Session

February 16, 2000—H.R. 3222—Literacy Involves Families Together Act (LIFT) ordered favorably reported, as amended by voice vote.

H.R. 3616—Impact Aid Reauthorization Act of 2000 ordered favorably reported, as amended by voice vote.

April 5, 6, 11, 12, & 13, 2000—H.R. 4141—Education Opportunities To Protect and Invest In Our Nation's Students (Education OPTIONS) Act ordered favorably reported, as amended (25–21).

April 12, 2000—H.R. 3629—To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III ordered favorably reported by voice vote.

H.R. 4055—IDEA Full Funding Act of 2000 ordered favorably reported by voice vote.

H.R. 4141—Education OPTIONS (continued from April 11, 2000)

May 10, 2000—H.R. 4402—Training and Education for American Workers Act of 2000 ordered favorably reported, as amended by voice vote.

May 25, 2000—H.R. 4504—Higher Education Technical Amendments of 2000 ordered favorably reported, as amended by voice vote.

H.R. 4079—To require the Comptroller General of the United States to conduct a comprehensive fraud audit of the Department of Education ordered favorably reported, as amended by voice vote.

June 21, 2000—H.R. 3462—Wealth Through the Workplace Act of 2000 ordered favorably reported, as amended by voice vote.

IV. Legislative Activities

A. LEGISLATION ENACTED INTO LAW (BILLS REFERRED TO COMMITTEE)

1. H.R. 782: To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2000 through 2003. "Older Americans Act Amendments". Sponsor: Rep. Bill Barrett—P.L. 106–501.

2. H.R. 800: To provide for education flexibility partnerships. "Dollars to the Classroom Act". Sponsor: Rep. Castle—P.L. 106–25.

3. H.R. 1693: To amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities. Sponsor: Rep. Ehrlich—P.L. 106–151.

4. H.R. 1832: To reform unfair and anticompetitive practices in the professional boxing industry. "Muhammad Ali Boxing Reform Act". Sponsor: Rep. Oxley—P.L. 106–210.

5. H.R. 2909: To provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and for other purposes. "Intercountry Adoption Act of 2000". Sponsor: Rep. Gilman—P.L. 106–279.

6. H.R. 3629: To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III. Sponsor: Rep Mark Green—P.L. 106–211.

7. H.R. 4542: To designate the Washington Opera in Washington, D.C., as the National Opera. Sponsor: Rep. Goodling—P.L. 106–219.

8. H.R. 5178: To require changes in the bloodborne pathogens standard in effect under the Occupational Safety and Health Act of 1970. "Needlestick Safety and Prevention Act". Sponsor: Rep Ballenger—P.L. 106–430.

9. S. 249: A bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes. "Missing, Exploited, and Runaway Children Protection Act". Sponsor: Sen. Hatch—P.L. 106–71.

10. S. 380: A bill to reauthorize the Congressional Award Act. Sponsor: Sen. Craig—P.L. 106–63. Committees.

11. S. 1455: A bill to enhance protections against fraud in the offering of financial assistance for college education, and for other purposes. "College Scholarship Fraud Prevention Act". Sponsor: Sen. Abraham—P.L. 106–420.

12. S. 1809: A bill to improve service systems for individuals with developmental disabilities, and for other purposes. "Development Disabilities Assistance and Bill of Rights Act". Sponsor: Sen. Jeffords.—P.L. 106–402.

B. LEGISLATION ENACTED INTO LAW (BILLS NOT REFERRED TO COMMITTEE)

1. H.R. 1180 (P.L. 106–170) Ticket to Work and Work Incentives Improvement Act of 1999 (Section 409, student loan special allowance adjustment).

2. H.R. 1654, (P.L. 106–391) National Aeronautics and Space Administration Authorization Act of 2000 (Section 317, 100th Anniversary of Flight educational initiative).

3. H.R. 2559 (P.L. 106–224) Agricultural Risk Protection Act of 2000 (Title II, subtitle E, includes Child and Adult Care Food Integrity Act and Emergency Commodity Distribution Act).

4. H.R. 3194 (P.L. 106–113) An Act making consolidated appropriations for the fiscal year ending September 30, 2000 and for other purposes (contains provisions in Section 311 relating to limitation of punitive damages awarded against institutions of higher learning; higher education provisions including Web-Based Education Commission; and Section 314 relating to voter registration of college students).

5. H.R. 3244 (P.L. 106–386) Victims of Trafficking and Violence Protection Act of 2000 (Title I, Section 1108, school and campus security; Title II, Sections 1202, 1203, 1204, strengthening services to victims of violence; Section 1601, campus crime provisions).

6. H.R. 4205 (P.L. 106–398) Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Title XVIII impact aid provisions); includes text of H.R. 5408.

7. H.R. 4425 (P.L. 106–246), Military Construction Appropriations Act for FY 2001 (contains provisions in Section 2405 relating to Section 508 of the Rehabilitation Act extending the effective date for six months).

8. H.R. 4577 (P.L. 106–554) Consolidated Appropriations Act, 2001 (contains provisions of H.R. 2725, Rural Education Initiative Act; provisions of H.R. 3222, Literacy Involves Families Together Act (LIFT); and provisions of H.R. 4766, Classroom Modernization Act of 2000.

9. H.R. 4788 (P.L. 106–472) United States Grain Standards Reauthorization Act of 2000 (provisions in Title III, include changes to child and adult care food and commodity distribution).

10. H.R. 5528 (P.L. 106–568) Omnibus Indian Advancement Act (contains H.R. 4725, To amend the Zuni Land Conservation Act of 1990 to provide for the expenditure of Zuni funds by that tribe; H.R. 3080, American Indian Education Foundation Act of 1999; and provisions of H.R. 4631, Native Nations Institute for Leadership, Management, and Policy Act of 2000).

11. S. 447 (P.L. 106–3) To deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999.

12. S. 1059 (P.L. 106–65) National Defense Authorization Act for Fiscal Year 2000 (includes impact aid provisions in Sections 351 and 354; education and training provisions in Section 549; matters relating to military recruiting in Section 571; Section 674, Overseas Special Supplemental Food Program; and Title XVII, improvement and transfer of Troops to Teachers Program.

13. S. 1309 (P.L. 106–244) Church Plan Parity and Entanglement Prevention Act of 1999 (includes ERISA provisions).

14. S. 2045 (P.L. 106–313) American Competitiveness in the Twenty-first Century Act of 2000 (contains provisions of H.R. 4402, Training and Education for American Workers Act of 2000 and in Section 112, the bill H.R. 4178, Kids Act 2000).

15. S. 2323 (P.L. 106–202) Worker Economic Opportunity Act (H.R. 4109 and H.R. 4182 are identical bills).

16. S. 2789 (P.L. 106–533) Congressional Recognition for Excellence in Arts Education Act (H.R. 5554 is an identical bill).

C. LEGISLATION PASSED THE HOUSE (BILLS REFERRED TO COMMITTEE)

1. H.R. 2: To send more dollars to the classroom and for certain other purposes. "Dollars to the Classroom Act". Sponsor: Rep. Goodling.

2. H.R. 221: To amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products. Sponsor: Rep. Pitts.

3. H.R. 417: To amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes. "Bipartisan Campaign Finance Reform Act of 1999". Sponsor: Rep. Shays.

4. H.R. 782: To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2000 through 2003. "Older Americans Act Amendments". Sponsor: Rep. Barrett.

5. H.R. 800: To provide for education flexibility partnerships. "Ed-Flex Partnerships Act". Sponsor: Rep. Castle.

6. H.R. 987: To require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard or guideline on ergonomics. "Workplace Preservation Act". Sponsor: Rep. Blunt.

7. H.R. 1102: To provide for pension reform, and for other purposes. "Comprehensive Retirement Security and Pension Reform Act". Sponsor: Rep. Portman.

8. H.R. 1248: To prevent violence against women. "Violence Against Women Act". Sponsor: Rep. Morella.

9. H.R. 1693: To amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities. Sponsor: Rep. Ehrlich.

10. H.R. 1832: To reform unfair and anticompetitive practices in the professional boxing industry. "Muhammad Ali Boxing Reform Act". Sponsor: Rep. Oxley.

11. H.R. 1995: To amend the Elementary and Secondary Education Act of 1965 to empower teachers, improve student achievement through high-quality professional development for teachers, reauthorize the Reading Excellence Act, and for other purposes. "Teacher Empowerment Act". Sponsor: Rep. McKeon.

12. H.R. 2300: To allow a State to combine certain funds to improve the academic achievement of all its students. "Academic Achievement for All (Straight A's) Act". Sponsor: Rep. Goodling.

13. H.R. 2723: To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage. "Bipartisan Consensus Managed Care Improvement Act of 1999". Sponsor: Rep. Norwood.

14. H.R. 2909: To provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and for other purposes. "Intercountry Adoption Act of 2000". Sponsor: Rep. Gilman.

15. H.R. 2990: To amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes. "Patients" Bill of Rights Plus Act". Sponsor: Rep. Talent.

16. H.R. 3073: To amend part A of title IV of the Social Security Act to provide for grants for projects designed to promote responsible fatherhood, and for other purposes. "Fathers Count Act of 1999". Sponsor: Rep. Nancy Johnson.

17. H.R. 3081: To amend the Internal Revenue Code of 1986 to provide tax benefits for small businesses, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. "Small Business Tax Fairness Act of 2000". Sponsor: Rep. Lazio.

18. H.R. 3222: To amend the Elementary and Secondary Education Act of 1965 to improve literacy through family literacy projects. "Literacy Involves Families Together (LIFT) Act". Sponsor: Rep. Goodling.

19. H.R. 3234: To exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports and Elimination and Sunset Act of 1995. Sponsor: Rep. Goodling.

20. H.R. 3616: To reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965, and for other purposes. "Impact Aid Reauthorization Act". Sponsor: Rep. Hayes.

21. H.R. 3629: To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III. Sponsor: Rep. Mark Green.

22. H.R. 3846: To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. Sponsor: Rep. Shimkus.

23. H.R. 4055: To authorize appropriations for part B of the Individuals with Disabilities Education Act to achieve full funding for part B of that Act by 2010. "IDEA Full Funding Act of 2000". Sponsor: Rep. Goodling.

24. H.R. 4079: To require the Comptroller General of the United States to conduct a comprehensive fraud audit of the Department of Education. Sponsor: Rep. Hoekstra.

25. H.R. 4216: To amend the Workforce Investment Act of 1998 to authorize reimbursement to employers for portable skills training. "Customized Training Flexibility Act". Sponsor: Rep. Radanovich.

26. H.R. 4504: To make technical amendments to the Higher Education Act of 1965. "Higher Education Technical Amendments of 2000". Sponsor: Rep. McKeon.

27. H.R. 4542: To designate the Washington Opera in Washington, D.C., as the National Opera. Sponsor: Rep. Goodling.

28. H.R. 4678: To provide more child support money to families leaving welfare, to simplify the rules governing the assignment and distribution of child support collected by States on behalf of chil-

dren, to improve the collection of child support, to promote marriage, and for other purposes. "Child Support Distribution Act of 2000". Sponsor: Rep. Nancy Johnson.

29. H.R. 4920: To improve service systems for individuals with developmental disabilities, and for other purposes. "Developmental Disabilities Assistance and Bill of Rights Act of 2000". Sponsor: Rep. Lazio.

30. H.R. 5034: To expand loan forgiveness for teachers, and for other purposes. "Quality Teacher Recruitment and Retention Act of 2000". Sponsor: Rep. Graham.

31. H.R. 5123: To require the Secretary of Education to provide notification to States and State educational agencies regarding the availability of certain administrative funds to establish school safety hotlines. Sponsor: Rep. Tancredo.

32. H.R. 5178: To require changes in the bloodborne pathogens standard in effect under the Occupational Safety and Health Act of 1970. "Needlestick Safety and Prevention Act". Sponsor: Rep. Ballenger.

33. H. Con. Res. 76: Recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it. Sponsor: Rep. Salmon.

34. H. Con. Res. 84: Urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act. Sponsor: Rep. Goodling.

35. H. Con. Res. 88: Urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs. Sponsor: Rep. McKeon.

36. H. Con. Res. 92: Expressing the sense of Congress with respect to the tragic shooting at Columbine High School in Littleton, Colorado. Sponsor: Rep. Tancredo.

37. H. Con. Res. 93: Expressing the sense of the Congress regarding the social problem of child abuse and neglect and supporting efforts to enhance public awareness of this problem. Sponsor: Rep. Pryce.

38. H. Con. Res. 107: Expressing the sense of Congress rejecting the conclusions of a recent article published by the American Psychological Association that suggests that sexual relationships between adults and children might be positive for children. Sponsor: Rep. Salmon.

39. H. Con. Res. 191: Expressing the sense of Congress that the Brooklyn Museum of Art should not receive Federal funds unless it cancels its upcoming exhibit featuring works of a sacrilegious nature. Sponsor: Rep. Sweeney.

40. H. Con. Res. 194: Recognizing the contributions of 4–H Clubs and their members to voluntary community service. Sponsor: Rep. Deal.

41. H. Con. Res. 213: Encouraging the Secretary of Education to promote, and State and local educational agencies to incorporate in their education programs, financial literacy training. Sponsor: Rep. Dreier.

42. H. Con. Res. 229: Expressing the sense of Congress regarding the United States Congressional Philharmonic Society and its mission of promoting musical excellence throughout the educational

system and encouraging people of all ages to commit to the love and expression of musical performance. Sponsor: Rep. Tom Davis.

43. H. Con. Res. 266: Expressing the sense of the Congress regarding the benefits of music education. Sponsor: Rep. McIntosh.

44. H. Con. Res. 288: Recognizing the importance of families and children in the United States and expressing support for the goals and ideas of National Family Day. Sponsor: Rep. Toomey.

45. H. Con. Res. 309: Expressing the sense of the Congress with regard to in-school personal safety education programs for children. Sponsor: Rep. Castle.

46. H. Con. Res. 310: Supporting a National Charter Schools Week. Sponsor: Rep. Roemer.

47. H. Con. Res. 343: Expressing the sense of the Congress regarding the importance of families eating together. Sponsor: Rep. Rangel.

48. H. Con. Res. 375: Recognizing the importance of children in the United States and supporting the goals and ideas of National Youth Day. Sponsor: Rep. McCollum.

49. H. Con. Res. 399: Recognizing the 25th anniversary of the enactment of the Education for All Handicapped Children Act of 1975. Sponsor: Rep. Goodling.

50. H. Res. 157: Expressing the sense of the House of Representatives in support of America's teachers. Sponsor: Rep. Granger.

51. H. Res. 207: Expressing the sense of the House of Representatives with regard to community renewal through community- and faith-based organizations. Sponsor: Rep. Pitts.

52. H. Res. 280: Recognizing the importance of strong marriages and the contributions that community marriage policies have made to the strength of marriages throughout the United States. Sponsor: Rep. Ehlers.

53. H. Res. 303: Expressing the sense of the House of Representatives urging that 95 percent of Federal education dollars be spent in the classroom. Sponsor: Rep. Pitts.

54. H. Res. 409: Honoring the contributions of Catholic schools. Sponsor: Rep. Schaffer.

55. H. Res. 456: Expressing the sense of the House of Representatives to acknowledge and highlight the efforts of the Arapahoe Rescue Patrol of Littleton, Colorado. Sponsor: Rep. Tancredo.

56. H. Res. 465: Expressing the sense of the House of Representatives that local, State, and Federal governments should collect and disseminate statistics on the number of newborn babies abandoned in public places. Sponsor: Rep. Nancy Johnson.

57. H. Res. 492: Expressing the sense of the House of Representatives in support of America's teachers. Sponsor: Rep. Granger.

58. H. Res. 509: Recognizing the importance of African-American music to global culture and calling on the people of the United States to study, reflect on, and celebrate African-American music. Sponsor: Rep. Fattah.

59. H. Res. 522: Expressing the sense of the House of Representatives regarding the importance of responsible fatherhood. Sponsor: Rep. Pitts.

60. H. Res. 552: Urging the House to support mentoring programs such as Saturday Academy at the Oregon Graduate Institute of Science and Technology. Sponsor: Wu.

61. H. Res. 578: Congratulating home educators and home schooled students across the Nation for their ongoing contributions to education and for the role they play in promoting and ensuring a brighter, stronger future for this Nation, and for other purposes. Sponsor: Rep. Schaffer.

62. S. 249: A bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes. "Missing, Exploited, and Runaway Children Protection Act". Sponsor: Sen. Hatch.

63. S. 380: A bill to reauthorize the Congressional Award Act. Sponsor: Sen. Craig.

64. S. 1455: A bill to enhance protections against fraud in the offering of financial assistance for college education, and for other purposes. "College Scholarship Fraud Prevention Act". Sponsor: Sen. Abraham.

65. S. 1809: A bill to improve service systems for individuals with developmental disabilities, and for other purposes. "Developmental Disabilities Assistance and Bill of Rights Act of 1999". Sponsor: Sen. Jeffords.

D. LEGISLATION PASSED THE HOUSE IN ANOTHER MEASURE

1. H.R. 905, Missing, Exploited, and Runaway Children Protection Act, passed in S. 249, Missing, Exploited, Runaway Children Protection Act.

2. H.R. 1102, Comprehensive Retirement Security and Pension Reform Act passed the House in H.R. 3081, Small Business Tax Fairness Act of 2000; H.R. 2488, Financial Freedom Act of 1999 and H.R. 2614, Certified Development Company Program Improvements Act of 2000.

3. H.R. 1150, Juvenile Crime Control and Delinquency Prevention Act of 1999, provisions incorporated into H.R. 1501, Consequences for Juvenile Offenders Act and S. 249, Missing, Exploited, Runaway Children Protection Act.

4. H.R. 1248, Violence Against Women Act, provisions passed in H.R. 3244, Victims of Trafficking and Violence Protection Act of 2000.

5. H.R. 1302, Sales Incentive Compensation Act, passed House as part of H.R. 3081, Small Business Tax Fairness Act of 2000.

6. H.R. 1779, Overseas Special Supplemental Food Program Amendments of 1999, passed in S. 1059, National Defense Authorization Act for Fiscal Year 2000.

7. H.R. 2723, Bipartisan Consensus Managed Care Improvement Act of 1999, passed in H.R. 2990, Quality Care for the Uninsured Act of 1999.

8. H.R. 2725, Rural Education Initiative Act, provisions incorporated into H.R. 4577, Consolidated Appropriations Act, 2001.

9. H.R. 3073, Fathers Count Act of 1999, provisions incorporated into H.R. 4678, Child Support Distribution Act of 2000.

10. H.R. 3080, American Indian Education Foundation Act of 1999, passed in H.R. 5528, Omnibus Indian Advancement Act.

11. H.R. 3172, Welfare-To-Work Amendments of 1999, provisions incorporated into H.R. 3073, Fathers Count Act and H.R. 4678, Child Support Distribution Act of 2000.

12. H.R. 3222, Literacy Involves Families Together Act (LIFT), provisions incorporated into H.R. 4577, Consolidated Appropriations Act, 2001.

13. H.R. 3614, Emergency Commodity Distribution Act of 2000, provisions incorporated into H.R. 2559, Agricultural Risk Protection Act of 2000.

14. H.R. 3616, Impact Aid Reauthorization Act of 2000, provisions passed in H.R. 4205, National Defense Authorization Act for Fiscal Year 2000.

15. H.R. 3846, To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, passed in H.R. 3081, Small Business Tax Fairness Act of 2000.

16. H.R. 4178, Kids 2000 Act, passed the House in S. 2045, American Competitiveness in the Twenty-first Century Act of 2000.

17. H.R. 4182 and H.R. 4109, Worker Economic Opportunity Act, identical to the language in S. 2323.

18. H.R. 4402, Training and Education for American Workers Act of 2000, provisions passed in S. 2045, American Competitiveness in the Twenty-first Century Act of 2000.

19. H.R. 4407, Campus Protection Act, provisions passed in H.R. 3244, Victims of Trafficking and Violence Protection Act of 2000.

20. H.R. 4520, Child and Adult Care Food Program Integrity Act of 2000, provisions incorporated into H.R. 2559, Agricultural Risk Protection Act of 2000.

21. H.R. 4631, Native Nations Institute for Leadership, Management, and Policy Act of 2000, provisions passed in H.R. 5528, Omnibus Indian Advancement Act.

22. H.R. 4725, To amend the Zuni Land Conservation Act of 1990 to provide for the expenditure of Zuni funds by that tribe, passed in H.R. 5528, Omnibus Indian Advancement Act.

23. H.R. 4766, Classroom Modernization Act of 2000, provisions incorporated into H.R. 4577, Consolidated Appropriations Act, 2001.

24. H.R. 4920, Developmental Disabilities Assistance and Bills of Rights Act of 2000, passed in S. 1809, Developmental Disabilities Assistance and Bill of Rights Act of 2000.

25. H.R. 5408, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, passed in the conference report to H.R. 4205.

26. H.R. 5538, Minimum Wage Act of 2000, passed in the conference report to H.R. 2614, Certified Development Company Program Improvements Act of 2000.

27. H.R. 5542, To amend the Internal Revenue Code of 1986 to provide tax relief, includes ERISA provisions of H.R. 1102, Comprehensive Retirement Security and Pension Reform Act, and was incorporated into H.R. 2614, Certified Development Company Program Improvements Act of 2000.

28. H.R. 5554, To amend the Congressional Award Act to establish a Congressional Recognition for Excellence in Arts Education Board, is identical to the language in S. 2789.

29. H. Con. Res. 366, Expressing the sense of the Congress regarding the importance and value of education in United States history, is identical to the language in S. Con. Res.129.

E. BILLS NOT REFERRED TO COMMITTEE THAT PASSED THE HOUSE CONTAINING PROVISIONS UNDER THE COMMITTEE'S JURISDICTION

1. H.R. 1180, Ticket to Work and Work Incentives Improvement Act of 1999, includes higher education provisions.

2. H.R. 1304, Quality Health-Care Coalition Bill.

3. H.R. 1401, National Defense Authorization Act for Fiscal Year 2000, includes provisions passed the House in S. 1059 under the committee's jurisdiction.

4. H.R. 1501, Consequences for Juvenile Offenders Act, includes text of H.R. 1150, Juvenile Crime Control and Delinquency Prevention Act of 1999 and provisions of H.R. 905, Missing, Exploited, and Runaway Children Protection Act.

5. H.R. 1654, National Aeronautics and Space Administration Authorization Act of 1999, includes a provision on 100th Anniversary of Flight education.

6. H.R. 2488, Financial Freedom Act of 1999, includes text of H.R. 1102, Comprehensive Retirement Security and Pension Reform Act.

7. H.R. 2559, Agriculture Risk Protection Act of 1999, contains provisions from H.R. 3614, Emergency Commodity Distribution Act of 2000; and H.R. 4520, Child and Adult Care Food Program Integrity Act of 2000.

8. H.R. 2614, Certified Development Company Program Improvements Act of 2000, conference report passed the House containing H.R. 5538, Minimum Wage Act of 2000 and ERISA provisions of H.R. 1102, Comprehensive Retirement and Security Pension Reform Act as incorporated in H.R. 5542, To amend the Internal Revenue Code of 1986 to provide tax relief.

9. H.R. 3194, Consolidated Appropriations Act for FY 2000 contains provisions relating to limitation of punitive damages awarded against institutions of higher learning; web based commission; voter registration materials to students.

10. H.R. 3244, Trafficking Victims Protection Act of 2000, contains provisions of H.R. 1248, Violence Against Women Act of 2000 and H.R. 4407, Campus Protection Act.

11. H.R. 4205, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000, contains provisions under the committee jurisdiction in sections 341, 342, 504,1106; H.R. 3616 impact aid provisions were included as Title XVIII; conference report incorporates H.R. 5408.

12. H.R. 4425, Military Construction Appropriations Act, 2001, contains provisions relating to Section 508 of the Rehabilitation Act extending the effective date for six months.

13. H.R. 5528, Omnibus Indian Advancement Act, contains H.R. 4725, To amend the Zuni Land Conservation Act of 1990 to provide for the expenditure of Zuni funds by that tribe; H.R. 3080, American Indian Education Foundation Act of 1999; and provisions of H.R. 4631, Native Nations Institute for Leadership, Management, and Policy Act of 2000.

14. H. Con. Res. 68, Congressional Budget Resolution for Fiscal Year 2000, contains provisions relating to IDEA, dollars to the classroom, and welfare-to-work.

15. S. 447, A bill to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999.

16. S. 1059, National Defense Authorization Act for Fiscal Year 2000, contains provisions under the committee's jurisdiction in Sections 341 and 343, relating to impact aid; Section 549, relating to education and training; Section 567, relating to military recruitment; and Section 673, overseas supplemental food program.

17. S. 1309, Church Plan Parity and Entanglement Prevention Act of 1999, contains ERISA provisions within the committee's jurisdiction.

18. S. 2045, American Competitiveness in the Twenty-first Century Act of 2000, contains provisions of H.R. 4402, Training and Education for American Workers Act of 2000 and H.R. 4178, Kids Act 2000.

19. S. 2323, "Worker Economic Opportunity Act, is identical to the language in H.R. 4109 and H.R. 4182.

20. S. 2789, Congressional Recognition for Excellence in Arts Education, is identical to the language in H.R. 5554.

21. S. Con. Res.129, Expressing the sense of the Congress regarding the importance and value of education in the United States history, is identical to the language in H. Con. Res. 366.

F. LEGISLATION WITH FILED REPORTS

1. H.R. 2—Student Results Act of 1999 ordered favorably reported, as amended by a vote of 42–6.—H. Rpt. 106–394, Part 1.

2. H.R. 2—Student Results Act of 1999 ordered favorably reported, as amended by a vote of 42–6.—H. Rpt. 106–394, Part 2.

3. H.R. 221—To amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products ordered favorably reported by voice vote.—H. Rpt. 106–31.

4. H.R. 782—Older Americans Act Amendments of 1999 ordered favorably reported with amendments by voice vote.—H. Rpt. 106–343.

5. H.R. 800—Education Flexibility Partnership Act of 1999 ordered favorably reported, as amended by a vote of 33–9.—H. Rpt. 106–43.

6. H.R. 905—Missing, Exploited and Runaway Children Protection Act ordered favorably reported, as amended by voice vote.—H. Rpt. 106–152.

7. H.R. 987—Workplace Preservation Act ordered favorably reported by a vote of 23–18.—H. Rpt. 106–272.

8. H.R. 1102—Comprehensive Retirement Security and Pension Reform Act of 1999 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–331, Part 1.

9. H.R. 1441—Truth in Employment Act of 1999 ordered favorably reported by a vote of 21–18.—H. Rpt. 106–967.

10. H.R. 1381—Rewarding Performance in Compensation Act ordered favorably reported, as amended by a vote of 26–22.—H. Rpt. 106–358.

11. H.R. 1987—Fair Access to Indemnity and Reimbursement Act ordered favorably reported, as amended by a vote of 24–19.—H. Rpt. 106–385.

12. H.R. 1995—Teacher Empowerment Act ordered favorably reported, as amended by a vote 27–19.—H. Rpt. 106–232, Part 1.

13. H.R. 2300—Academic Achievement for All Act ordered favorably reported, as amended by a vote of 26–19.—H. Rpt. 106–386.

14. H.R. 2434—Worker Paycheck Fairness Act of 1999 ordered favorably reported by a vote of 25–22.—H. Rpt. 106–968.

15. H.R. 3172—To amend the welfare-to-work program and modify the welfare-to-work performance bonus ordered favorably reported, as amended by voice vote.—H. Rpt. 106–456, Part 1.

16. H.R. 3222—Literacy Involves Families Together Act (LIFT) ordered favorably reported, as amended by voice vote.—H. Rpt. 106–503.

17. H.R. 3616—Impact Aid Reauthorization Act of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–504.

18. H.R. 4079—To require the Comptroller General of the United States to conduct a comprehensive fraud audit of the Department of Education ordered favorably reported, as amended by voice vote.—H. Rpt. 106–666.

19. H.R. 4141—Education Opportunities To Protect and Invest In Our Nation's Students (Education OPTIONS) Act ordered favorably reported, as amended (25–21).—H. Rpt. 106–608.

20. H.R. 4402—Training and Education for American Workers Act of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–642.

21. H.R. 4504—Higher Education Technical Amendments of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–665.

G. LEGISLATION ORDERED REPORTED FROM FULL COMMITTEE

1. H.R. 2—Student Results Act of 1999 ordered favorably reported, as amended by a vote of 42–6.—H. Rpt. 106–394, Part 1.

2. H.R. 221—To amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products ordered favorably reported by voice vote.—H. Rpt. 106–31.

3. H.R. 782—Older Americans Act Amendments of 1999 ordered favorably reported with amendments by voice vote.—H. Rpt. 106–343.

4. H.R. 800—Education Flexibility Partnership Act of 1999 ordered favorably reported, as amended by a vote of 33–9.—H. Rpt. 106–43.

5. H.R. 905—Missing, Exploited and Runaway Children Protection Act ordered favorably reported, as amended by voice vote.—H. Rpt. 106–152.

6. H.R. 987—Workplace Preservation Act ordered favorably reported by a vote of 23–18.—H. Rpt. 106–272.

7. H.R. 1102—Comprehensive Retirement Security and Pension Reform Act of 1999 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–331, Part 1.

8. H.R. 1441—Truth in Employment Act of 1999 ordered favorably reported by a vote of 21–18.—H. Rpt. 106–967.

9. H.R. 1381—Rewarding Performance in Compensation Act ordered favorably reported, as amended by a vote of 26–22.—H. Rpt. 106–358.

10. H.R. 1693—To amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities ordered favorably reported by voice vote.

11. H.R. 1987—Fair Access to Indemnity and Reimbursement Act ordered favorably reported, as amended by a vote of 24–19.—H. Rpt. 106–385.

12. H.R. 1995—Teacher Empowerment Act ordered favorably reported, as amended by a vote 27–19.—H. Rpt. 106–232, Part 1.

13. H.R. 2300—Academic Achievement for All Act ordered favorably reported, as amended by a vote of 26–19.—H. Rpt. 106–386.

14. H.R. 2434—Worker Paycheck Fairness Act of 1999 ordered favorably reported by a vote of 25–22.—H. Rpt. 106–968.

15. H.R. 3172—To amend the welfare-to-work program and modify the welfare-to-work performance bonus ordered favorably reported, as amended by voice vote.—H. Rpt. 106–456, Part 1.

16. H.R. 3222—Literacy Involves Families Together Act (LIFT) ordered favorably reported, as amended by voice vote.—H. Rpt. 106–503.

17. H.R. 3462—Wealth Through the Workplace Act of 2000 ordered favorably reported, as amended by voice vote.

18. H.R. 3616—Impact Aid Reauthorization Act of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–504.

19. H.R. 3629—To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III ordered favorably reported by voice vote.

20. H.R. 4055—IDEA Full Funding Act of 2000 ordered favorably reported by voice vote.

21. H.R. 4079—To require the Comptroller General of the United States to conduct a comprehensive fraud audit of the Department of Education ordered favorably reported, as amended by voice vote.—H. Rpt. 106–666.

22. H.R. 4141—Education Opportunities To Protect and Invest In Our Nation's Students (Education OPTIONS) Act ordered favorably reported, as amended (25–21).—H. Rpt. 106–608.

23. H.R. 4402—Training and Education for American Workers Act of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–642.

24. H.R. 4504—Higher Education Technical Amendments of 2000 ordered favorably reported, as amended by voice vote.—H. Rpt. 106–665.

25. H. Con. Res. 84—Urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act ordered favorably reported, as amended by a vote of 38–4.

26. H. Con. Res. 88—Urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs ordered favorably reported by a vote of 36–10.

V. Committee on Education and the Workforce Statistics

Total Number of Bills and Resolutions Referred	654
Total Number of Hearings	23
Field	3
Joint with Other Committees	1

Total Number of Full Committee Markup Sessions	23
Total Number of Bills Enacted into Law (referred to Committee)	12
Total Number of Bills Enacted into Law (not referred to Committee)	16
Total Number of Bills Passed the House (referred to Committee)	65
Total Number of Bills Passed the House in Another Measure	29
Total Number of Filed Reports on Bills	21
Total Number of Bills Ordered Reported From Full Committee	26

SUBCOMMITTEE ON EMPLOYER-EMPLOYEE RELATIONS

I. SUMMARY OF ACTIVITIES

In the 106th Congress, the Employer-Employee Relations Subcommittee conducted many activities focused on the well-being and betterment of American workers. The subcommittee held numerous hearings and approved legislation that protects patients in managed health care plans and holds those plans accountable. The subcommittee sought to ensure that American workers have adequate retirement security by passing bills to provide investment advice for workers with self directed retirement accounts and a bill to create a new type of stock option retirement plan. The subcommittee held hearings and approved legislation that helps workers by leveling the playing field for employers and organized labor. The subcommittee also oversaw the activities of the Equal Employment Opportunity Commission to ensure that the agency properly carried out its duties to protect workers from discrimination in the workplace.

A. HEALTH CARE COVERAGE AND RETIREMENT

ERISA health insurance reform

In the health care area, the Employer-Employee Relations Subcommittee conducted a series of bipartisan hearings on health care reform during the first half of 1999. These hearings covered topics ranging from expanding affordable health care, to the impact of external review, to health care costs.

On February 24, 1999, the subcommittee held a hearing on "ERISA: A Quarter Century of Providing Workers Health Insurance." Through a panel of experts in the area, including former staffers who worked on ERISA during its inception, this hearing was designed to help educate the members of the subcommittee on the origins and meaning of the Employee Retirement Security Act (ERISA) as the subcommittee began its task of deciding where and how to amend ERISA to improve and expand the health care coverage Americans receive through their employers.

The next hearing, on March 25, 1999, focused on "Expanding Affordable Health Care Coverage: Benefits and Consequences of Association Health Plans." Witnesses from the business community, provider sector and a government regulator discussed the advantages and disadvantages of such a delivery system. Approximately 80 percent of the uninsured either works for or has a family member who works for a small employer. Association Health Plans (AHPs) address the uninsured group by allowing small employers to join a health plan sponsored by a bona fide association.

Continuing this series on April 20, 1999, the subcommittee examined "Employer Health Plan Accountability: Do Plan Participants Have Adequate Protections?" Witnesses, drawn from the ranks of

plan administrators and doctors, explored the various levels of accountability in ERISA health plans and some suggested improvements and possible legislative changes.

On May 6, 1999, the subcommittee deliberated during a hearing entitled "Impact of External Review on Health Care Quality" through the testimony of professionals performing external review functions, academics, and an attorney for multi-employer plans that have review procedures. The hearing examined how external review should guarantee a fair and expeditious process, not a specific outcome. At the hearing it was stated that "Congress cannot guarantee an optimal patient outcome. Participants should have a right to a fair process for reviewing decisions and to a well-informed decision. It may be reasonable to punish parties that deny a participant a fair process. It is not reasonable to punish parties that provide a fair process because that process does not yield a particular result." This statement captures the essence of the issue: patients must have due process in the case of legitimate disputes, but not a guaranteed result.

On June 11, 1999, the subcommittee held its final hearing in the series: "The Relationship Between Health Care Costs and America's Uninsured." The witnesses, including Congressional Budget Office Director Dan Crippen, GAO Officials, representatives of insurance companies, research centers, and small business, were asked to examine the trade offs that occur when additional government regulation is placed on employer sponsored health plans. More regulation means higher costs, and higher costs means reduced coverage. One of the goals of the hearing was for the witnesses to describe the present economic and regulatory atmosphere in which the Congress will be making these decisions without having to solve all of the policy challenges.

On June 16, 1999, the Employer-Employee Relations Subcommittee favorably reported several bills covering certain patient protections such as: access to emergency room care, pediatricians, and ob-gyn services. The committee also approved legislation establishing an external review system for denied health claims and Association Health Plans to allow small businesses to pool their resources and purchase quality health plans for employees comparable to those currently offered by large employers. The legislative record for this mark-up was as follows:

H.R. 2041, "Patient Right to Obstetric and Gynecological Care Act of 1999" was ordered favorably reported amended by a roll call vote of 10–7.

H.R. 2042, "Health Care Access, Affordability, and Quality Advisory Commission Act of 1999" was ordered favorably reported by a roll call vote of 10–9.

H.R. 2043, "Patient Right to Unrestricted Medical Advice Act of 1999" was ordered favorably reported amended by a roll call vote of 10–7.

H.R. 2044, "Patient Right to Pediatric Care Act of 1999" was ordered favorably reported by voice vote.

H.R. 2045, "Patient Right to Emergency Medical Care Act of 1999" was ordered favorably reported by a roll call vote of 9–6.

H.R. 2046, "Patient Access to Information Act of 1999" was ordered favorably reported amended by a roll call vote of 9–5.

H.R. 2047, "Small Business Access and Choice for Entrepreneurs Act of 1999" was ordered favorably reported by voice vote.

H.R. 2089, "Group Health Plan Review Standards Act of 1999" was ordered favorably reported amended by a roll call vote of 11–7.

These bills became the basis for the "Comprehensive Access and Responsibility in Health Care Act of 1999 (CARE)," sponsored by Employer-Employee Relations Subcommittee Chairman John Boehner. Commerce Committee Chairman Bliley, Majority Leader Armey and Education and Workforce Committee Chairman Goodling cosponsored the CARE Act. On October 7, 1999, Subcommittee Chairman Boehner managed the CARE Act on the House floor as an amendment to HR 2723, the "Bipartisan Consensus Managed Care Improvement Act of 1999," which was passed and incorporated into HR 2990, the House version of managed care reform and health insurance expansion.

The Senate also passed a managed care reform bill, thereby requiring a House-Senate Conference Committee tasked with resolving the vast differences between the two proposals. House conferees included Employer-Employee Relations Subcommittee Chairman Boehner, Rep. Jim Talent (R–MO) and Rep. Ernie Fletcher (R–KY).

By the end of the Congressional session, the House-Senate Conference was unable to resolve many significant differences between the bills that passed the respective chambers. The major issues which could not be resolved were: (1) expanded liability for makers of certain health benefit decisions that are alleged to cause harm and (2) the scope of applicability of the new federal mandates.

Reform of the ERISA-based pension system

Continuing the pattern it established during the first session of the 106th Congress, the Employer-Employee Relations Subcommittee held a series of bi-partisan hearings on proposals for the reform of the ERISA-based pension system. On February 15, 2000, the subcommittee held its first hearing of the second session: "The Evolving Pension and Investment World After 25 Years of ERISA." A panel of academics and practicing attorneys testified that ERISA was intended to provide a safe, honest, and efficient structure for protecting the pension benefits of America's private sector employees. By and large, it has done that and ERISA has been a success story. The witnesses maintained that the challenge is keeping it a success story—making it as reflective and responsive as possible to the challenges and opportunities of today's world. Economically, that world is a far cry from that of 1974. Instead of recession, unemployment, and high inflation, we have robust long-term growth, low inflation, and unimagined economic and personal opportunities. At this hearing, the witnesses were asked to impart to the subcommittee their views on how American workers and retirees can take full advantage of those opportunities and what changes should be made to the ERISA structure and framework to invest pension assets which will make American workers' pensions more secure and productive.

After the introductory hearing, two days of hearings were held on March 9–10, 2000, entitled: "A More Secure Retirement for Workers: Proposals for ERISA Reform." The witnesses drawn from

the investment sector and public interest groups gave a number of ideas about updating ERISA for the new economy. New perspectives on how to provide employees better access to sophisticated investment advice and ideas for structural reforms that will make the system more efficient and save retirees money while preserving the safety that has been ERISA's hallmark were presented. Much attention was given to the unmistakable trend that indicates workers are more likely to be covered by a defined contribution pension plan rather than a defined benefit plan. Accordingly, workers need to have access to sound investment advice for their self-directed investment accounts, although opinions varied as to the best sources for this information.

In order to hear the view of the two federal agencies that regulate pensions, the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC), a hearing entitled "Modernizing ERISA to Promote Retirement Security" was held on May 9, 2000. The focus of the hearing was attaining the goal of having ERISA's regulatory structure for pension fund management ready for the changing pension world today as well as those regulatory circumstances that were in existence in 1974 and continue today.

Closing out this series on September 14, 2000, the subcommittee held a hearing on "How to Improve Pension Coverage for American Workers." This hearing concluded the session's examination of pension plans under ERISA by acknowledging certain factual situations. Most new job growth is coming from small employers. Employees are changing jobs—and careers—faster than ever before. Finally, people are living longer. Together, these trends have put significant pressures on our retirement security system—both the private pension system and Social Security—and, more importantly, on the millions of Americans who will be retiring over the next several years. According to a recent GAO study, 53% of American workers are not covered by pensions. A vibrant Social Security program is vital, but private pension coverage is for many Americans the difference between a secure and an uncertain retirement. The witnesses from small business, research, and the practicing bar presented their views as to how Washington can lend a hand to expanding coverage without getting in the way, and how Congress can strengthen America's retirement security system without interfering in the economy and unintentionally discouraging pension plan growth.

Retirement security legislation

The Subcommittee on Employer-Employee Relations undertook two major initiatives relating to retirement and pensions in the 106th Congress. On June 29, 1999, the subcommittee held a legislative hearing on H.R. 1102, the "Comprehensive Retirement Security and Pension Reform Act of 1999." The bill makes retirement security more available to millions of workers by (1) expanding small business retirement plans, (2) allowing workers to save more, (3) addressing the needs of an increasingly mobile workforce through greater portability and other changes, (4) making pensions more secure, and (5) cutting the red tape that has hamstrung employers who want to establish pension plans for their employees.

On July 14, 1999, the committee reported out H.R. 1102 by a bipartisan voice vote.

Fifteen provisions of Title VI of the bill, containing amendments to the Employee Retirement Income Security Act (ERISA), were added to the tax bill, H.R. 2488, the "Taxpayer Refund and Relief Act of 1999," which passed the House and Senate on August 5, 1999, but was vetoed by the president. The House passed H.R. 1102 on July 19, 2000 by a vote of 401–25 (although the ERISA provisions were deleted for procedural reasons). Twenty-two ERISA provisions from H.R. 1102 were included in the "Retirement Savings and Pension Coverage Act of 2000," part of H.R. 2614, the "Taxpayer Relief Act of 2000" passed on October 26, 2000.

These ERISA reforms will significantly contribute to expanding pension coverage and improving retirement security for workers. The key components include:

• Accelerating the vesting of workers' accounts for all employer matching contributions—generally from 5 down to 3 years;

• Granting relief from excessive Pension Benefit Guaranty Corporation (PBGC) premiums for new small business defined benefit plans;

• Providing more frequent benefits statements to participants in both defined contribution and defined benefit plans;

• Repeal and modification of a wide range of unnecessary and outdated rules and regulations;

• Permitting small pension plans, those with 25 or fewer workers, to file a simplified reporting Form 5500;

• Repeal of the so-called "full funding limit" that arbitrarily limits defined benefit plan funding to a less than actuarially sound level;

• Requiring enhanced disclosure and other protections when future pension benefits are reduced (as in the case of conversion to a cash balance plan);

• Permitting plans to eliminate complex and redundant distribution options that have little or no value to the participants;

• Repeal of the rule that discriminates against the self-employed in the availability of plan loans;

• Allowing defined contribution plans the option of using the PBGC's Missing Participant Program (to help workers find pension benefits to which they may be entitled);

• Providing the Department of Labor with the discretion to waive certain penalties for fiduciary breaches in the context of a settlement; and

• Simplifying pension-funding calculations by allowing use of prior-year valuations.

In the second session of the 106th Congress, the subcommittee focused on modernizing ERISA. On February 4, March 9, March 10, and April 4, the subcommittee held a series of bipartisan hearings examining the changes in the financial world since the 1974 passage of ERISA and looking for ways for American workers and retirees to take advantage of the economic opportunities created since then.

On June 26, 2000, Subcommittee Chairman John Boehner introduced the "Retirement Security Advice Act of 2000," H.R. 4747, to help address the dilemma many workers face in deciding how to in-

vest their vital retirement savings, by allowing employers to provide their workers with access to professional investment advice. The subcommittee favorably reported the bill, by voice vote, on July 19, 2000. On July 27, 2000, Senator Slade Gorton (R–WA) introduced a companion bill, S. 2969.

Under H.R. 4747, employers may provide their workers with access to professional investment advice, so long as the advisers make a full disclosure concerning their fees and any potential conflicts. Advice could only be offered by "fiduciary advisers," specific qualified and regulated entities such as registered investment advisers, who would be personally liable for any failure to act solely in the interest of the worker. Advisers would still be subject to fiduciary liability under ERISA, including civil and criminal enforcement. No employer would be required to contract with an investment adviser and no employee would have to accept or follow any advice. The entire process would be completely voluntary.

Church employee benefit plans

Church Plans, employee benefit plans for the employees of churches, come under the jurisdiction of the Subcommittee on Employer-Employee Relations due to their nexus with ERISA. H.R. 2183, introduced by Rep. Robert Andrews (R–NJ), the ranking member of the subcommittee, and co-sponsored by Subcommittee Chairman Boehner, dealt with some operational problems that have arisen with these plans due to their unique status under ERISA.

Similar to the treatment of health plans for the employees of state and local governments, health plans for the employees of churches (Church Plans) are defined in ERISA but are then excluded from its provisions. Accordingly, they are subject to regulation by the individual states, which due to the uniqueness and variety of Church Plan financing, creates numerous problems for the different denominations. The impetus for H.R. 2183 was twofold: (1) the State Insurance Commissioner of South Dakota decided to require a number of Church Plans to obtain a license as an insurance company, and (2) due to their exclusion from ERISA, many insurance companies and health care providers are ambivalent about their capacity to contract with Church Plans for coverage or services.

The companion bill in the Senate, S. 1309, was completely amended and then passed on November 19, 1999. This amended version solved both of these problems by clarifying the status of church welfare plans under certain specified state insurance law requirements, particularly the need to be "licensed" as an insurance company. Additionally, the bill allowed a Church Plan to be treated as a single employer plan. With this clarification under state insurance law and the deeming of church plans to be "single employer plans," Church Plans have a federal statute defining them as not being insurance companies which need to be licensed by individual states. Also, the statutory designation as "single employer plans" allows Church Plans to have greater bargaining power with health insurance companies and health network providers when purchasing coverage for their employees. However, this "single employer" phrase does not make them an ERISA wel-

fare plan. Therefore, the bill also keeps intact certain regulatory responsibility that state insurance departments presently have over church plans, i.e., those rules not dealing with licensing or solvency such as consumer complaints.

On June 26, 2000, Mr. Boehner successfully moved that the Senate-passed bill be taken from the Speakers Desk where it was being held and considered under the Suspension of the Rules Calendar. After debate, the House passed the bill, without amendment, by voice vote. It was signed by President Clinton and became Public Law 106–244 on July 10, 2000.

Employment benefits claims regulations

In September 1998, the Department of Labor issued a proposed rule revising the minimum requirements for benefit claims procedures of employee benefit plans covered by Title I of ERISA. The proposed regulation would establish new standards for the processing of group health disability, pension, and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, the new standards are intended to ensure greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Under ERISA, group welfare benefit plans are required to provide a full and fair review for disputed benefit claims. In 1997, the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry reported that the process for internal appeals in ERISA plans needed improvement. The Department of Labor undertook an effort to effectuate the Commission's recommendations. As a result, the DOL published proposed regulations in 1998. The public comment period produced unprecedented responses—more than 700 comment letters from interested parties (plan sponsors, health care providers, health insurance companies, third party administrators, etc.) and three full days of hearings. The overwhelming viewpoint was that the Department overstepped its authority and was misguided in its view of how to improve the internal appeals process.

The committee has jurisdiction over Title I of ERISA. Therefore, the committee has oversight responsibility for related regulations. In this capacity, in two letters to the Department, the committee expressed its concerns about the direction and timing of activities related to the development and issuance of the rules. To date, the rules remain pending within the administration.

In November 1999 the committee wrote: "We are writing to seek your assurance that the Department does not intend to finalize your proposed regulations concerning ERISA claims and appeals procedures pending completion of congressional consideration of managed care reform legislation."

"* * * It is clear to us that it would be inappropriate for administrative regulations on ERISA to be issued by the Department while these (congressional) deliberations are underway."

In October 2000, Chairmen Goodling and Boehner wrote: "In November 1999, all members of our committee wrote to you seeking your assurances that the Department would not issue rules while the House-Senate Conference on H.R. 2990 was considering major revisions to ERISA. In light of the fact that the committee never

received a formal reply to its letter, we are troubled by the apparent breadth of specific information about the expected rules provided to the media by the Labor Department. We believe it is in the best interest of all parties that we, as chairmen with jurisdiction over these issues, receive timely responses to committee inquiries. We are even more troubled by * * * [the] suggestion that politics and timing are driving the issuance of the regulations. We hope that this is not the case."

"Congress has authority to modify Title I of ERISA and the Department's regulatory authority only extends to those areas left to it by the Congress. We therefore strongly urge the Department to respect the limitations of its authority, particularly when Congress is considering legislative action on the identical issues. The Department received hundreds of public comments on the proposed regulations, indicating the proposed rules would need dramatic improvements before being issued in final form. We would therefore be interested in knowing whether the Department intends to reissue the proposed rule. In light of the importance, the complexity, and the controversial nature of the rules, we strongly urge that if * * * the rules are to be published prior to election day, they be reissued in proposed form rather than in final form."

B. PROMOTING GREATER WORKPLACE FLEXIBILITY

The Wealth Through the Workplace Act

The Committee held a hearing on March 16, 2000 entitled "H.R. 3462, The Wealth Through the Workplace Act: Worker Ownership in Today's Economy." The hearing centered around the bill introduced by Subcommittee Chairman John A. Boehner. The goal of the bill is to increase the availability of stock options to a larger number of American workers.

Teambuilding is replacing bureaucracy in businesses throughout our country and is helping to create the "New Economy." New Economy companies are not just high-tech firms. They are companies that understand the value of their workforce as a team and organize themselves around team dynamics. A critical part of teambuilding is getting everyone motivated by common interests. Stock options are part of most compensation packages in the high-tech sector and increasing numbers of more established companies also understand the power of stock options and make them widely available to their employees.

H.R. 3462, the "Wealth Through the Workplace Act of 1999", is intended to promote this vision of broad-based employee ownership by creating a new kind of stock option. This would not replace existing legal treatment of stock option plans, but would offer a new vehicle. This new vehicle would provide the following: (1) deductibility to the employer, as with today's non-qualified plans; (2) no taxation to the employee until the employee actually sells the shares. (Under current law, employees have to pay tax when they exercise the options, which force many to sell the shares immediately upon exercise. This means many employees have to give up long-term appreciation in the stock. It also means that for many, the effectiveness of the option as a team-building incentive expires as soon as the option is exercised.); (3) a limited number of em-

ployee protections designed to make sure that the stock for which the options are granted can be easily traded, that employees have information they need to make the decision to buy or not, and that employees' existing cash compensation isn't affected by these new options; and finally, (4) a safe harbor. If the conditions are met, ERISA is satisfied and the stock option plan qualifies for favorable tax treatment. If not, it does not qualify for the favorable tax treatment that this bill specifically grants. There are no punitive provisions.

On May 23, 2000, H.R. 3462, the "Wealth Through the Workplace Act of 1999" was ordered favorably reported, by voice vote, from the Subcommittee.

In recognition of Subcommittee Chairman Boehner's strong support to increasing the availability of stock options for American workers, Ways and Means Subcommittee Chairman Amo Houghton invited Mr. Boehner to participate in a subcommittee hearing on the subject of expanding the availability of stock options.

C. PROMOTING ECONOMIC GROWTH AND STRENGTHENING EMPLOYEE RIGHTS

The FAIR Act—attorney's fee legislation

On May 10, 1999, the Employer-Employee Relations Subcommittee built upon three hearings held during the 105th Congress by holding a field hearing in Indianapolis, Indiana, jointly with the Senate Labor Committee's Subcommittee on Employment, Safety and Training. The hearing addressed, among other issues, the fact that small employers are at a great disadvantage against heavy-handed federal agencies with vast resources. If the NLRB or OSHA brings a losing case against a "little guy," then the agency should pay the attorney's fees and expenses the company had to spend to defend itself. (See Full Committee Activities for additional action.)

Clinton administration's proposed "blacklisting" regulations

The Oversight and Investigations Subcommittee held a hearing (July 14, 1998) on the "blacklisting" regulations, sending a clear message to the administration that the proposals are not only unnecessary, but represent a political solution in search of a problem. The O&I Subcommittee's hearing provided a strong basis during the 106th Congress for arguing against the proposals—they are unnecessary because current law already provides for government review of a potential contractor's past performance record, record of integrity and business ethics, and capability to perform the contract. Current law also already contains extensive debarment procedures for "bad actors." (See Full Committee Activities for additional action.)

The Truth in Employment Act—the "salting" issue

The Education and the Workforce Committee strongly believes that employers should be entitled to some measure of confidence that job applicants are motivated by a desire to work for that employer—not to promote the interests of another organization bent on putting that company out of business. During the 106th Con-

gress, the committee passed legislation that would help protect companies from unions' "salting" activities.

"Salting" is the use of union agents or members to harass non-union employers. An employer can refuse to hire a "salt," but runs the risk of having an unfair labor practice charge filed by a union, seeking reinstatement and back pay. If hired, a "salt" often remains on the union's payroll, filing charges against the company with government agencies, such as the NLRB and OSHA. "Salting" disrupts the workplace and causes productivity and quality to decline. It is often used as an outright tactic of economic destruction.

"Salts" enter a non-union facility to harass or disrupt company operations, apply economic pressure, increase operating and legal costs, and ultimately put the company out of business. The object of the union agents is accomplished through filing, among other charges, unfair labor practice charges with the National Labor Relations Board. As the six hearings the Committee has held on this issue in the past three Congresses have shown, "salting" is not merely an organizing tool, but has become an instrument of economic destruction aimed at non-union companies that often has nothing to do with organizing.

Rep. Boehner introduced H.R. 1441, the "Truth in Employment Act," on April 15, 1999. This legislation is the same as Title I of H.R. 3246, which passed the House in the 105th Congress. The Act simply says to employers that they will not violate the National Labor Relations Act if they do not hire someone who is not a "bona fide" applicant. The legislation protects the employer by making it clear that they are not required to hire an applicant whose primary purpose is not to work for the employer, and therefore is not a "bona fide" employee applicant. At the same time, the Act recognizes the legitimate role for organized labor, and would not interfere with legitimate union activities. Employees would continue to enjoy their right to organize or engage in other concerted activities protected under the National Labor Relations Act.

A full committee markup of H.R. 1441 was held on July 29, 1999. The bill was ordered favorably reported by a vote of 21–18. A joint House/Senate field hearing was held on May 10, 1999 in Indianapolis, Indiana. This was the committee's sixth hearing on the "salting" issue in the past three Congresses.

Union democracy—strengthening rights of rank-and-file union members

During the 106th Congress, the Employer-Employee Relations Subcommittee continued a series of hearings, initiated in the 105th Congress, examining problems union members have in retaining a full, equal, and democratic voice in their union affairs. The goal of this series is to identify possible areas in which the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA, or the "Landrum-Griffin" Act) might be improved to better safeguard members' democratic rights. Increasingly, the subcommittee is aware of significant unrest among the rank-and-file and an erosion of the principles of union democracy.

More than forty years have passed since the enactment of the LMRDA. The Act is the only law that governs the relationship between labor leaders and their rank-and-file membership, although

numerous laws govern the interaction of employers and employees. In 1959, the Senate Committee on Labor, chaired by Senator McClellan, after three years of hearings on the internal operations of unions, reported the LMRDA, stating: "Given the maintenance of minimum democratic safeguards and detailed essential information about the union, the individual members are fully competent to regulate union affairs."

The LMRDA is intended to protect and promote democratic processes and rights of union members, including the freedom to vote at meetings, to express any arguments or opinions, and to voice views upon union candidates and union business. The law also protects members' rights to financial information of the union; to participate in decision-making; and to impose fiduciary obligations upon union officers, particularly concerning the use of union funds.

The Subcommittee on Employer-Employee Relations held three hearings on union democracy during the 106th Congress (March 17, April 15, and July 21, 1999). The March 17, 1999 hearing featured a panel of three witnesses who discussed the basis for union democracy and recommended changes to the LMRDA. In addition, the panel discussed the need for the Act to cover public unions. The specific example discussed, underscoring the need to include public unions under LMRDA, was the New York City scandal, involving District Council 37 of the American Federation of State, County, and Municipal Employees.

The April 15, 1999 hearing focused on the Department of Labor and its enforcement of an 18-year-old federal court decision, ordering elections in a transient division of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers. (See *Donovan* v. *National Transient Division, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, et al.* (10th Cir. CA, Civil Action No. 79–2074). As a result of the subcommittee's oversight, the Department of Labor referred the matter to the Department of Justice and the United States Attorney for further proceedings. The rank-and-file boilermakers hailed the subcommittee's efforts in seeking to achieve union democracy and enforce the court-ordered autonomy that was absent for 18 years, even after the original federal court order.

The July 21, 1999 hearing examined the results of a 1995 Consent Decree involving the Hotel Employees and Restaurant Employees International Union. The Consent Decree was imposed on the union in an effort to rid the union of the influence of organized crime and to restore union democracy. The subcommittee heard testimony from the Departments of Justice and Labor, as well as the court-appointed monitor, the international president, and four rank-and-file members of the union.

The subcommittee has also monitored the increasing prevalence of litigation on issues of union democracy. Frustrated with what they consider to be inadequate and/or inefficient enforcement of Landrum-Griffin by the Department of Labor's Office of Labor Management Standards (OLMS)—the office primarily responsible for monitoring union democracy issues—rank-and-file union members have increasingly turned to the courts for relief. These efforts have yielded mixed results.

One significant case addressed the issue of notification of union member rights. Current law requires unions to "inform its members concerning the provisions of" the Act (*29 U.S.C. §415*). Some unions, however, have argued that a one-time notification of rights under the LMRDA given decades ago satisfies the current law requirement. This issue was the subject of a recent Fourth Circuit case. (See *Thomas* v. *Grand Lodge of Int'l Ass'n of Machinists,* 201 F.3d 517, Fourth Circuit, 2000)). In *Thomas,* union members sued the International Association of Machinists to require the union to distribute to each member a summary of their rights under Landrum-Griffin. The union claimed that they had fulfilled the notification requirements in 1959 when they distributed the text of the recently-passed law. The district court agreed with the union leadership, but the Fourth Circuit overturned that decision on appeal.

The Subcommittee on Employer-Employee Relations also held four hearings on union democracy during the 105th Congress (May 4, June 25, August 4, and September 24, 1998).

The DRUM Act

On July 26, 2000, Employer-Employee Relations Subcommittee Chairman John Boehner introduced H.R. 4963, the Democratic Rights for Union Members (DRUM) Act of 2000. The DRUM Act addresses problems highlighted during subcommittee hearings and in recent court decisions. The Act amends the LMRDA to improve the law in three major areas: information for union members, trusteeships, and elections. Specifically, the DRUM Act provides enhanced notification to union members of their rights under the LMRDA; increased authority for the Department of Labor to enforce the notification rights of union members; a requirement that governing bodies hold a hearing before imposing a trusteeship on a subordinate body; authorization for bona fide candidates for elected union office to receive a list of eligible voters; a requirement for direct election of certain authority-wielding officers of intermediate union bodies; a clarification of the term "reasonable qualifications" to allow more union members to participate in the election process; and an improved standard governing circumstances in which elections must be re-run following fraud or abuse.

D. EXAMINING THE COLLECTIVE BARGAINING PROCESS AND ITS ENFORCEMENT

Review of the National Labor Relations Board

The Employer-Employee Relations Subcommittee held a hearing on September 19, 2000, looking at the implications of the National Labor Relations Board's (NLRB) recent rash of decisions overturning established law, including, among others, those involving temporary workers, the right to witnesses in private meetings between non-unionized employers and their employees, and the status of student interns and residents under the National Labor Relations Act (NLRA). The subcommittee heard from labor law experts, including former Board Member Charles Cohen, and the Board's general counsel, Leonard Page, who was questioned regarding his initiative to impose new remedies against employers, there-

by transforming the NLRA from a remedial statute to a punitive one.

The hearing established that, in overturning many years of established labor law, the Clinton administration bent over backwards to expand the reach of the NLRA at a time when it should have been using its taxpayer funds to speed up case adjudication. Congress gave the Board a significant budget increase in FY 2000—a $22 million boost to $206.5 million from $184.5 million.

The Board also entered questionable territory in reversing 25 years of precedent concerning NLRB jurisdiction over Indian Tribes and Tribal-owned economic enterprises located on reservations Last fall, the Board general counsel announced the Board would change its longstanding position, and is currently asserting jurisdiction in litigation involving a Native American gaming casino in California. Also, numerous NLRB stakeholders expressed concern over lengthy delays in the agency's processing of cases for appellate review.

The Oversight & Investigations Subcommittee probed the agency's rationale behind changing its jurisdictional standards regarding Indian Tribes and their economic enterprises located on reservations. Correspondence from the Board general counsel indicated a pro-union bias. On the issue of delay in processing appeals, the O&I Subcommittee opened an investigation and met with the Board's Inspector General's office. This prompted the Board to reexamine its procedures as part of its management plan submissions under the Government Performance and Results Act. In addition, the Inspector General opened a review of the backlogged cases and the timeliness of action within the NLRB's division of enforcement litigation.

The committee has maintained during the past six years that Congress intended the NLRB to be a neutral arbiter of labor-management disputes. The Board's current disregard for well-established labor law shows an agency over-reaching to expand its jurisdiction at a time when it should be using budget increases to address a backlog of cases.

The Board's disregard for established labor law erodes the measure of stability, certainty and predictability necessary for effective labor-management relations. The agency's decisions are increasingly at odds with the intent and structure of the National Labor Relations Act. Furthermore, changes to the remedial scheme of the NLRA are properly within the legislative realm of Congress, and should not be attempted through the Board's office of general counsel.

By holding oversight hearings during the 106th Congress, the committee sought to send the Board a message that it needs to live up to its commitment to reduce case backlog, rather than use its larger budget to expand its jurisdiction beyond the scope of the NLRA. On the issue of Indian tribes, the NLRB general counsel's overreaching in asserting jurisdiction over tribes and their economic enterprises on reservations disregards longstanding Indian sovereignty and threatens to open the floodgates to union activity on sovereign Indian land.

Collective bargaining for public safety officers

The Subcommittee on Employer-Employee Relations held a hearing on May 9, 2000, to discuss the issue of collective bargaining rights for public safety employees. Specifically, the hearing focused on H.R. 1093, the "Public Safety Employer-Employee Cooperation Act," introduced on March 11, 1999, by Representative Dale Kildee (D–MI), a minority member of the subcommittee.

H.R. 1093 would upset the longstanding tradition of the federal government leaving to the individual states the decision of whether, and in what manner, to regulate labor-management relations among state and local entities and their employees. If certain interest groups want their members to have the right to collectively bargain with state and local entities, then they should engage in trying to change state laws, rather than attempt to have Congress preempt states' rights, and the many varied state laws already on the books governing this issue.

At the subcommittee's May 9 hearing, representatives of the International Association of Fire Fighters and the Fraternal Order of Police testified in support of the legislation. The mayor of Grand Junction, Colorado, and a practicing attorney and expert in state labor relations testified in opposition. An analyst from the Congressional Research Service (CRS) also testified. Among other issues, the hearing focused on the constitutionality of the legislation, federal usurpation of local and state authority, public safety ramifications, union democracy protections, and impacts on volunteer fire departments.

The subcommittee heard testimony expressing concern about the constitutionality of the proposed legislation. A series of Supreme Court decisions shows Congress' lack of authority to abrogate Eleventh Amendment immunity of states under the Commerce Clause. Given this precedent, it is probable the Supreme Court would find that enactment of H.R. 1093 would overstep Congress' constitutional authority. If in fact the Commerce Clause does not provide sufficient authority for enactment of H.R. 1093, some have suggested that Congress' authority under Section 5 of the Fourteenth Amendment is sufficient justification. That assertion also appears to be suspect in light of Supreme Court precedent. Specifically, in 1997, in *City of Boerne* v. *Flores* (521 U.S. 507), the Supreme Court held that Congress did not have the authority under the Fourteenth Amendment to enact the Religious Freedom Restoration Act because action pursuant to the Fourteenth Amendment is limited by "congruence" and "proportionality" between the proposal and the injury being addressed. Clearly, H.R. 1093 does not seek to address a constitutional violation and therefore would fail the *Boerne* test.

Furthermore, the legislation represents an inappropriate exercise of power on the part of the federal government. The legislation would significantly impact an area which has traditionally been under the purview of state and local lawmakers clearly because state and local governments are in the best position to determine the best method for working with their employees. Additionally, the authority of the Federal Labor Relations Authority (FLRA), as embodied by the proposed legislation, is troubling because of a noticeable lack of redress for employers who disagree with FLRA determinations.

R. Theodore Clark, Jr., a partner at the Seyfarth, Shaw law firm in Chicago, raised an interesting parallel, pointing out that the standard by which the FLRA will judge state collective bargaining legislation is similar to a provision of the National Labor Relations Act (NLRA) that gives the National Labor Relations Board (NLRB) the authority to cede jurisdiction to state agencies as long as the state's legislation is not "inconsistent" with the Act. Given the understandable tendency of federal agencies to refuse to reduce their own power, providing the FLRA with new authority without proper checks and balances is inappropriate.

Another major area of concern is the issue of democratic rights for union members in public sector unions. During the past three years, under two different chairmen, the Subcommittee on Employer-Employee Relations has performed an extensive review of the Landrum-Griffin Act. While the law has generally strengthened the labor movement, some shortcomings have come to the subcommittee's attention. Employees of state and local governments are not generally covered by Landrum-Griffin. As a result, their unions sometimes lack true democratic processes. This in turn can lead to corruption and abuse of power within the organization. Given that H.R. 1093 steps into the relationship between non-federal, public sector employers and their employees to require recognition, and while it is inappropriate for Congress to dictate to the states how they should deal with their own workers, it clearly would be imprudent to mandate bargaining rights without also mandating the basic rights guaranteed by the federal law protecting internal union democracy.

Finally, H.R. 1093 could have a devastating impact on the 28,000 volunteer fire departments across the country, because the International Association of Fire Fighters (IAFF) prohibits their members from becoming volunteer firefighters. The National Volunteer Fire Council, which represents the volunteer fire fighters, wrote to Subcommittee Chairman Boehner on December 16, 1999 encouraging him to oppose enactment of H.R. 1093 because they fear it would exacerbate the current decline in volunteerism, thus further reducing the ability of volunteer departments to meet increasing demands.

Significantly, Mr. Clark's testimony against the legislation, given on behalf of the National Public Employer Labor Relations Association, was endorsed and supported by the International Personnel Management Association, the United States Conference of Mayors, the National Association of Counties, and the National League of Cities.

II. Hearings Held by the Subcommittee

106th Congress, First Session

February 24, 1999—Hearing on ERISA: A Quarter Century of Providing Workers Health Insurance (106–5).

March 17, 1999—Hearing on Impediments to Union Democracy: Public and Private Sector Workers Under the Labor Management Reporting and Disclosure Act (106–11).

March 25, 1999—Hearing on Expanding Affordable Health Care Coverage: Benefits and Consequences of Association Health Plans (106–14).

April 15, 1999—Hearing on Impediments to Democracy: Department of Labor Enforcement of Rank-and-File Rights and the Boilermakers Union (106–22).

April 20, 1999—Hearing on Employer Health Plan Accountability: Do Plan Participants Have Adequate Protections? (106–24).

May 6, 1999—Hearing on Impact of External Review on Health Care Quality (106–33).

May 10, 1999—Joint Field Hearing on The Practice of 'Salting' and it's Impact on Small Business, Indianapolis, IN (106–76).

June 11, 1999—Hearing on the Relationship Between Health Care Costs and America's Uninsured (106–47).

June 6, 1999—Hearing on H.R. 1102, The Comprehensive Retirement Security and Pension Reform Act of 1999 (106–51).

July 21, 1999—Hearing on Union Democracy, Part VII: Government Supervision of the Hotel Employees and Restaurant Employees International Union (106–63).

106th Congress, Second Session

February 15, 2000—Hearing on "The Evolving Pension and Investment World After 25 Years of ERISA" (106–87).

March 9, 2000—Hearing on A More Secure Retirement for Workers: Proposals for ERISA Reform (106–95).

March 10, 2000—Hearing on A More Secure Retirement for Workers: Proposal for ERISA Reform (106–95).

March 16, 2000—Hearing on "The Wealth Through The Workplace Act: Worker Ownership In Today's Economy" (106–96).

April 4, 2000—Hearing on "Modernizing ERISA To Promote Retirement Security" (106–98).

May 9, 2000—Hearing on H.R. 1093, The Public Safety Employer-Employee Cooperation Act of 1999 (106–106).

September 14, 2000 How To Improve Pension Coverage for American Workers (106–119).

September 19, 2000—Hearing on The National Labor Relations Board: Recent Trends and Their Implications (106–123).

III. MARKUPS HELD BY THE SUBCOMMITTEE

106th Congress, First Session

June 16, 1999—H.R. 2041, "Patient Right to Obstetric and Gynecological Care Act of 1999" was ordered favorably reported amended by a roll call vote of 10–7.

H.R. 2042, "Health Care Access, Affordability, and Quality Advisory Commission Act of 1999" was ordered favorably reported by a roll call vote of 10–9.

H.R. 2043, "Patient Right to Unrestricted Medical Advice Act of 1999" was ordered favorably reported amended by a roll call vote of 10–7.

H.R. 2044, "Patient Right to Pediatric Care Act of 1999" was ordered favorably reported by voice vote.

H.R. 2045, "Patient Right to Emergency Medical Care Act of 1999" was ordered favorably reported by a roll call vote of 9–6.

H.R. 2046, "Patient Access to Information Act of 1999" was ordered favorably reported amended by a roll call vote of 9–5.

H.R. 2047, "Small Business Access and Choice for Entrepreneurs Act of 1999" was ordered favorably reported by voice vote.

H.R. 2089, "Group Health Plan Review Standards Act of 1999" was ordered favorably reported amended by a roll call vote of 11–7.

106th Congress, Second Session

May 23, 2000—H.R. 3462, "Wealth Through the Workplace Act of 1999" was ordered favorably reported by voice vote.

July 19, 2000—H.R. 4747, "Retirement Security Advice Act of 2000" was ordered favorably reported amended by voice vote.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	138
Total Number of Hearings	18
Field	1
Joint with Other Committees	1
Total Number of Subcommittee Markup Sessions	3
Total Number of Bills Reported From Subcommittee	10

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

I. Summary of Activities

A. Reforming Labor Standards to Meet the Challenges of Today's Workplace

During the 106th Congress, the Subcommittee on Workforce Protections continued a series of oversight hearings, commenced during the 104th Congress, on the Fair Labor Standards Act of 1938 (FLSA). The purpose of the hearings was to review the Act, along with its many underlying regulations, to determine which provisions should be updated to reflect the realities of the modern workforce and to clarify areas where the law reflects uncertainty.

Stock options—overtime

On March 2, 2000, the subcommittee convened to hear testimony on the treatment of stock option programs and other so-called "broad-based stock option plans" under the Fair Labor Standards Act. The impetus behind the hearing was a Department of Labor Wage and Hour opinion letter, dated February 12, 1999, which had only recently become widely publicized. The letter addressed a request by an employer to clarify the application of the overtime provisions under the Fair Labor Standards Act to the profits from the exercise of stock options to employees who are non-exempt from overtime. In the letter, the Department of Labor concluded that profits from the exercise of stock options must be included in the base pay rates of hourly employees for the purposes of calculating overtime pay rates.

In the department's opinion, the profits from stock options were essentially a form of compensation that must be added to an employee's base pay rate in order to determine the employee's time-and-a-half wage for overtime purposes. The department also said that the profits must be added to the employee's base pay for the

time in which it was earned, ending with the workweek that the employee exercised the options and going back to the date of the employee's right to purchase the shares.

In testimony before the subcommittee, witnesses discussed how stock ownership programs are now available to more and more employees. Once a symbol of executive status, there has been a dramatic increase in the past several years in the number of companies offering broad-based employee ownership plans to rank-and-file employees. Stock option programs can be configured in a variety of ways and are referred to by different names, but all of the programs share similar objectives: to reward employees, provide ownership in the company, and to attract and retain a motivated workforce.

The witnesses also testified about how the Department of Labor's policy would undermine the expansion of stock option programs and other broad-based stock option plans for non-exempt employees. In addition, the witnesses expressed concern that the impact of the letter would be to force employers to limit or abandon existing programs and prevent non-exempt employees from participating in these types of programs. While the opinion letter constituted the department's interpretation of the law based on the facts and circumstances of one specific case, it became clear that the practical effect of the letter was to "red flag" all other similar programs and cause widespread confusion about overtime liability among employers who provide stock options for their hourly or "non-exempt" employees.

Witnesses urged Congress to act quickly and amend the Fair Labor Standards Act to clarify that the profits from the exercise of stock options are not part of the employee's regular rate of pay and therefore, need not be included in the calculation of overtime pay. Likewise, the Department of Labor testified in favor of a legislative solution.

Following the subcommittee hearing, Chairman Ballenger (R–NC) and other members of the committee worked with interested parties in the Senate and with the Department of Labor to craft bipartisan legislation that would exempt stock option profits from the calculation of overtime. Chairman Ballenger and Senator Mitch McConnell (R–KY) subsequently introduced "The Worker Economic Opportunity Act," H.R. 4109 and S. 2323 respectively, in both Houses of Congress. The legislation amends the Fair Labor Standards Act to ensure that federal law does not discourage the use of stock option programs or deny employees the opportunity to participate in the success of their company. The legislation specifies that any value or income derived from a stock option, stock appreciation right or employee stock purchase plan will not have to be factored into the calculation of employees' overtime pay.

S. 2323 was considered and passed by the Senate without amendment by a roll call vote of 95–0 on April 12, 2000. The House then considered and passed the Senate bill without amendment, under suspension of the rules on May 3, 2000 by a roll call vote of 421–0. The bill, which became Public Law 106–202 on May 18, 2000, eliminates any confusion about the law's treatment of stock option plans by exempting the overwhelming majority of such plans from the overtime requirements of the Fair Labor Standards Act.

In order to fall outside of the scope of the Act, the plans must meet certain requirements for exclusion: a minimum 6-month vesting period between the grant of the option and its exercise by the employee; any discounts on stock option or stock appreciation rights may not exceed 15 percent of fair market value at the time of the grant; the voluntary exercise of any grant or right by the employee; and disclosure of the terms of the plan to the employees. Finally, Public Law 106–202 also provides a "safe harbor" for those plans that were currently in place, thereby eliminating employers' concern about overtime liability for past or current plans.

Addressing the employment needs of Amish youth

At the beginning of the 106th Congress, Representative Joseph R. Pitts (R–PA), along with 13 cosponsors, introduced H.R. 221, to amend the Fair Labor Standards Act to permit certain individuals who are between the ages of 14 and 18 to be employed in sawmills or woodworking shops under certain conditions. The bill would allow the Amish to continue in their traditional way of training their children in a craft or occupation, while ensuring the safety of those who work in woodworking occupations.

Young people between the ages of 14 and 18 would be permitted to work in sawmills and woodworking shops, so long as they do so under the supervision of an adult relative or member of the same faith. The young person would not be permitted, under any circumstances, to operate or assist in the operation of any power-driven woodworking machines. The bill requires that the young person be protected from wood particles or other flying debris within the workplace by a barrier or by maintaining an appropriate physical distance from operating machinery. In addition, the individual must be protected from excessive levels of noise and saw dust by personal protective equipment.

H.R. 221 was introduced in response to issues that were raised during a subcommittee hearing in the previous Congress. Witnesses testified about the conflict between the child labor restrictions under the Fair Labor Standards Act and the needs of the Amish to carry out their religious beliefs and lifestyle. Beginning in 1996, the Department of Labor initiated a series of enforcement actions against some members of the Amish community for employing persons under the age of 18 in sawmills and small woodworking shops. As a result of these enforcement actions, several Amish shop owners and sawmill operators were assessed fines of several thousands of dollars. The enforcement actions also ended many of the employment opportunities for Amish youth under age 18.

In the Amish community, youth conclude their formal education with the eighth grade and then progress to informal, hands-on education, working with their families to acquire vocational experience and practical skills in areas such as carpentry and farming. School age children are taught a vocation by working alongside a relative or other member of the community, learning the skills directly relevant to their role as an adult in the Amish community.

In the past, conflict between the Amish belief and practice of ending formal education at age 14 and thereafter "learning by doing" and the child labor laws, which prohibit or restrict many

types of employment by persons under age 18, was minimized by the Amish community's reliance on farming and agriculture as the primary vocation. Restrictions in the law that relate to the employment of persons under the age of 18 in agriculture are less restrictive than those which would otherwise apply, particularly for work on family farms. However, economic pressures over the years, including the rising cost of land, have forced many Amish families out of agricultural occupations. The need to generate income to purchase land and pay taxes and medical bills have forced more and more Amish families into other non-agricultural occupations such as woodworking and carpentry.

Several Members of Congress and representatives of the Amish community attempted to work with the Department of Labor to find a solution to the conflict between the child labor restrictions and the needs of the Amish to carry out their religious beliefs and lifestyle. Unfortunately, those efforts were not successful in reaching a reasonable and practical solution to accommodate the needs of the Amish, hence the need for legislation. While the House considered and passed a bipartisan bill during the last Congress (H.R. 4257—sponsored by Representative Joseph R. Pitts), the Senate failed to act on the bill prior to the end of the Congress.

H.R. 221 was considered by the full committee on February 10, 1999, and was favorably reported without amendment. The bill was considered and passed by the House with a substitute amendment, by voice vote, under suspension of the rules on March 2, 1999. The substitute amendment made one technical change to the bill for the purpose of renumbering a paragraph. The bill was forwarded to the Senate, which did not act on the legislation prior to the close of the 106th Congress.

Application of the Fair Labor Standards Act to "Inside Sales" personnel

On March 25, 1999, Representatives John A. Boehner (R–OH) and Robert E. Andrews (D–NJ) introduced a bipartisan bill, H.R. 1302, "The Sales Incentive Compensation Act." The bill was referred to the subcommittee. H.R. 1302 was identical to legislation (H.R. 2888) considered by the subcommittee, and passed by the full committee and the House during the last Congress. The purpose of the bill was to amend section 13(a) of the Fair Labor Standards Act to provide that certain specialized "inside sales" employees may be exempt from the minimum wage, overtime compensation and record-keeping requirements.

This is an issue that received considerable attention during the previous Congress. At a hearing to review the treatment of inside sales employees under the Fair Labor Standards Act, witnesses testified that an exemption written specifically for inside sales employees is necessary and appropriate because of changes in the manner in which the commercial world works in 1998 as compared to 1938, when the statute was written. The Fair Labor Standards Act and its accompanying regulations regarding sales employees have not been updated to reflect various technological changes—such as the increased use of computers, modems, facsimile machines, and the Internet—which have dramatically altered the way in which sales employees perform their jobs.

Outside sales employees, many of whom perform the same duties as their inside sales counterparts, are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act because they sell from outside of their employer's place of business, traveling to the customer's business establishment. While this may have been a typical way of conducting business in years past, technological advances in communication have enabled many outside sales employees to become more productive by working from within their employer's business establishment. However, once the employee performs the duties of the job from within the employer's establishment, then the individual no longer qualifies for the exemption from minimum wage and overtime.

The subcommittee heard testimony from several employees who wanted relief from the restrictions and inflexibility associated with the Fair Labor Standards Act. In today's highly competitive global marketplace, many employees earn a living by selling goods and services to customers across the continent or the globe. The pay structure of many of these sales employees is determined, in part, by how much they sell and many are compensated through bonuses, commissions, or incentive pay. Thus for some individuals, current law has the ironic effect of preventing them from reaching their full income potential. For example, a sales employee may be restricted from working more than 40 hours per week because of the additional overtime cost to the employer. Yet, this has the unintended effect of placing a ceiling on the employee's income because he or she is prevented from working more hours to generate additional sales and increase earnings.

The exemption made by H.R. 1302 consists of a two-prong test: first, the employee must meet the requirements in the bill which outline specific functions and duties of the job; second, the employee's pay structure must meet the minimum requirements in the bill for a specified amount of base compensation in addition to compensation which is based on sales made by the employee. Specifically, H.R. 1302 would apply to any employee in a sales position if the employee has specialized or technical knowledge related to the products or services being sold; if the sales are made predominately to persons or entities to whom the employee has made previous sales, or if the employee's position does not involve initiating sales contacts; if the employee has a detailed understanding of the needs of those to whom he or she is selling; and if the employee exercises discretion in offering a variety of products and services.

In addition, H.R. 1302 requires that the employee receive base compensation—determined without regard to the number of hours worked by the employee—of not less than one-and-one-half times the minimum wage in effect under section 6(a) of the Fair Labor Standards Act, multiplied by 2,080; and an additional amount of compensation equal to at least 40 percent of the employee's base compensation which is based on each sale attributable to the employee.

On March 9, 2000, the House passed H.R. 3846, introduced by Rep. John Shimkus (R–IL), which contained a provision identical to H.R. 1302. Upon passage, the measure was combined with H.R. 3081, introduced by Rep. Rick Lazio (R–NY) and forwarded to the

Senate, which did not act on the bill prior to the end of the Congress.

Rewarding Performance in Compensation Act

On April 13, 1999, Chairman Ballenger introduced H.R. 1381, "The Rewarding Performance in Compensation Act." The bill would have amended the Fair Labor Standards Act to remove barriers within the law that have the effect of discouraging employers from providing bonuses to hourly paid employees. Under current law, certain payments to employees—such as commissions, incentive or performance bonuses—must be calculated as part of the employee's regular rate of pay for the purposes of determining the overtime pay rate. Executive, administrative, or professional employees who are exempt from minimum wage and overtime can receive bonuses without impacting their pay rates. The requirements under the Fair Labor Standards Act virtually ensure that employers will exclude hourly workers from bonus and gainsharing programs. These types of workers should have the same opportunity as salaried workers to participate in financial incentive programs. H.R. 1381 sought to address that very issue, by encouraging wider use of gainsharing programs.

On the same day that Chairman Ballenger introduced H.R. 1381, the subcommittee held a hearing on the bill. Witnesses testified that the Fair Labor Standards Act often discourages employers from monetarily rewarding employees for good performance. Many employers have found that rewarding employees for high quality work can improve performance and the ability of the company to compete. While employers can easily provide additional compensation based on performance to executive, administrative, or professional employees who are not covered by the Act, an employer who chooses to provide similar compensation to hourly paid employees can be burdened with unpredictable and complex overtime liabilities. Rather than go through this process, according to the witnesses, many employers simply do not make their hourly employees eligible for performance bonuses.

On May 19, 1999, the subcommittee ordered H.R. 1381 favorably reported, without amendment, by voice vote. The bill was considered at full committee on May 19, 1999 and was ordered reported, with amendment, by a vote of 26–22.

The Senate approved the language of S. 1878, introduced by Sen. Hutchinson, the companion bill to H.R. 1381, as an amendment to S. 625, introduced by Sen. Grassley, the Bankruptcy Reform Act of 1999. The Senate incorporated this measure into H.R. 833, introduced by Rep. George Gekas (R–PA) as an amendment on February 2, 2000. There was no further action taken on the issue by the House prior to adjournment.

Clarifying the overtime exemption for fire fighters

On May 5, 1999, Rep. Robert L. Ehrlich, Jr. introduced a bill, H.R. 1693, to amend the Fair Labor Standards Act to clarify the overtime exemption for fire fighters. The bill had bipartisan support in the House and was supported by both labor and management. The subcommittee first became aware of the issue at a hearing during the 104th Congress.

H.R. 1693 was a simple and non-controversial bill to clarify section 7(k) of the Fair Labor Standards Act and restore the original intent of the overtime provisions for employees engaged in fire protection activities. Section 7(k) outlines a limited overtime exemption for employees of public agencies who are engaged in fire protection activities. In interpreting the law, the Department of Labor's regulations specified that rescue and ambulance service personnel, otherwise known as emergency medical services (EMS) personnel may, depending on their duties, be considered to be engaged in fire protection and qualify for the 7(k) exemption if they formed "an integral part of the public agency's fire protection activities."

In many state and local governments, it is customary for EMS personnel to work from within the fire department and receive similar training to fire fighters. Traditionally, these types of workers have fit within the fire fighters exemption. In recent years, however, some courts have narrowly interpreted the 7(k) exemption and held that EMS personnel do not fall under the exemption because the bulk of their time is spent engaged in non-fire protection activities. Thus, H.R. 1693 sought to clarify current law by defining "employees in fire protection activities." This would ensure that fire fighters who are "cross-trained" to provide emergency medical services would be covered by the 7(k) exemption. The bill would also eliminate the confusion that employers face in trying to interpret the law. Without H.R. 1693, local governments could be needlessly exposed to significant financial liability that in turn, could dramatically increase the cost of providing adequate fire protection services. H.R. 1693 was a narrow bill, but one that was important in helping state and local governments provide fire protection and emergency medical services in the most effective and efficient way. (See Full Committee Activities for further action.)

The Fair Labor Standards Act and volunteer fire fighters

On February 23, 1999, the subcommittee convened to hear testimony on the impact of the Fair Labor Standards Act on volunteer fire fighters. The witnesses testified about the need for some clarification of the application of the law to fire fighters who want to volunteer their services. The witnesses discussed recent interpretations of the Act by the Department of Labor that have adversely impacted the fire rescue systems in many communities. In 1985, Congress enacted amendments to the Fair Labor Standards Act that included an exemption from the definition of "employee" for individuals who render services as "volunteers" for state and local government employers. An individual may volunteer for a public agency if the services are not the same type of services that the individual is employed to perform for that agency.

The law is clear that paid fire fighters may volunteer for a separate and independent employer, such as a nearby county. However, conflict between the law and volunteer fire fighters often arises from the Department of Labor's determination of whether two agencies of the same state or local government constitute the same or a separate public agency. The witnesses testified that this frequently happens when a particular jurisdiction, such as a county, uses a mix of volunteers and paid fire fighters. Some communities have experienced drastic reductions in their volunteer ranks as

many career, paid fire and rescue workers are told that they cannot volunteer their time with any other volunteer fire or rescue squad within that jurisdiction. There was no further action taken on this matter before the 106th Congress adjourned.

White-collar exemptions in the modern work place

On May 3, 2000, the subcommittee held a hearing on the General Accounting Office's (GAO) report on "The Fair Labor Standards Act: White-Collar Exemptions in the Modern Work Place." The report was prepared at the request of Chairmen Goodling and Ballenger and was completed by GAO in the fall of 1999. The subcommittee reviewed GAO's findings and heard testimony from the Department of Labor, which has the responsibility for revising and updating the white-collar regulations. In addition, testimony was heard from employer and employee representatives, who are directly impacted by the Department of Labor's regulations.

The subcommittee has reviewed this issue several times over the course of the last three Congresses. This is undoubtedly the most difficult, but also the most important issue involving the Fair Labor Standards Act. The distinctions between employees who are exempt from overtime requirements because they are managerial or administrative employees, and those who are not exempt and must be paid at least minimum wage for each hour worked and overtime for hours worked over 40, are essentially those that were established in 1938 when the Act was passed, overlaid with layers of regulations, interpretations and court decisions. It has been widely acknowledged that the current tests (the "duties" and "salary basis" tests) are outdated, unpredictable and complex.

GAO recommended that the Secretary of Labor comprehensively review and revise the white-collar exemptions to better meet the needs of both employers and employees. The key areas for review, according to GAO, are (1) the salary levels used to trigger the regulatory tests, and (2) the categories of employees covered by the exemptions. GAO also found that because the Department of Labor has not updated the regulatory tests in decades, many of the tests are virtually meaningless and there are mounting complaints by employers about ambiguity in the requirements. While the Department attempted during the 1980's to revise the tests, it has not acted because of the difficulty in getting consensus on the changes. Furthermore, recent narrow changes to correct the regulatory tests for specific groups of workers have done little to alleviate the general problems.

GAO's report focused on the following issues: (1) the number of employees covered by the exemptions and how the demographics and characteristics of the employees have changed in recent years; (2) how the statutory and regulatory requirements have changed since the enactment of the Fair Labor Standards Act; (3) the major concerns of employers and employees regarding the white-collar exemptions; and (4) problems associated with resolving the concerns of employers and employees.

Boxing reform

In 1996, the Workforce Protections Subcommittee held a hearing on the Professional Boxing Safety Act. The hearing focused on

issues of fraud, health, and safety in the sport of boxing. The Professional Boxing Safety Act created minimum national standards for the health and safety of professional boxers. The Act also improved the ability of state boxing commissions to properly oversee professional boxing matches.

On June 5, 1999, H.R. 1832, the Muhammad Ali Boxing Reform Act was referred to the Workforce Protections Subcommittee. The Act requires the establishment of objective and consistent criteria for the ratings of professional boxers. It also requires disclosures of compensation received in connection with a boxing match by promoters, managers, sanctioning bodies, and judges and referees. Finally, it provides for tough new penalties for criminals who continue to try to manipulate and undermine the sport through coercion and bribes.

Nineteen bipartisan State attorneys general and numerous State boxing commissioners from across the United States asked Congress for help in cleaning up the sport of boxing. These State agencies strongly endorsed the Muhammad Ali Act, saying it was necessary legislation to prevent exploitation of professional boxers and to curb the anticompetitive and fraudulent business practices in the sport. Congress is now giving the States and State boxing commissioners their requested assistance

First, bribes are prohibited for sanctioning bodies. Second, conflicts of interest are prohibited for boxing managers and promoters. Third, boxers are protected from coercive contracts. Fourth, new strong disclosure requirements are created for promoters, sanctioning bodies, judges, and referees to reduce corruption. Fifth, boxing judges and referees are required to be approved by the State commissions. Sixth, unsportsmanlike conduct would be added as a new category of suspendable offenses. And, seventh, the State boxing commissions are encouraged to adopt uniform rules, regulations, rating criteria, and guidelines for contracts.

The House passed the Muhammad Ali Boxing Reform Act on November 8, 1999 under suspension of the rules. The Senate passed the Act on April 7, 2000 with amendments. On May 22, 2000 the House agreed to the Senate amendments; and the Act was signed by the President and became Public Law 106–210 on May 26, 2000.

B. OSHA'S REGULATORY AGENDA AND LEGISLATIVE INITIATIVES

Over the past few years, the Subcommittee on Workforce Protections has focused on ways to push the Occupational Safety and Health Administration (OSHA) towards more cooperation and consultative approaches with the workplaces it regulates, while at the same time ensuring safety and health in the workplace. As a result of this effort, OSHA has begun to take some steps to move the agency in this direction, mainly because of the impetus of the subcommittee. However, more work needs to be done. The subcommittee concentrated its work in the 106th Congress on reviewing a number of significant OSHA initiatives, exploring ways to achieve a more cooperative approach with industry and encouraging commitments to improved safety and health.

OSHA overview

The subcommittee began the 106th Congress by reviewing the OSHA regulatory agenda. A hearing held on March 23, 1999 focused on three regulations which OSHA indicated it would soon propose. Each of these three proposed regulations would substantially impact nearly every company and workplace in the United States: an ergonomics standard, a regulation on safety and health programs, and extensive revisions of OSHA's injury and illness record-keeping requirements (recordkeeping). Witnesses at the hearing included representatives from OSHA, the business community, and labor unions. The witnesses raised questions about OSHA's regulations and concerns with the potential cost of the regulations, the need for a sound scientific basis before OSHA proposes a standard, and the impact of the regulations on small businesses. The ergonomics standard and the recordkeeping revisions were the subjects of further attention and review by the subcommittee and the House later in the Congress.

A second hearing held on April 21, 1999 reviewed pending OSHA legislation. The subcommittee heard testimony on four bills: H.R. 987, the "Workplace Preservation Act," introduced by Representative Roy Blunt; H.R. 1438, the "Safety and Health Audit Promotion Act," and H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act" both introduced by Representative Cass Ballenger; and H.R. 1459, the "Models of Safety and Health Excellence Act" introduced by Representative Tom Petri (R–WI). Witnesses at the hearing included Members of Congress, doctors, employers, and a labor union. The hearing focused on the need for these important changes to the Occupational Safety and Health Act.

On May 13, 1999 the Subcommittee on Workforce Protections held a hearing on H.R. 1434, the "Safety Meetings Protection Act" introduced by Representative Cass Ballenger. Under the legislation, safety committees and similar employee involvement programs in safety and health programs in non-union workplaces would be allowed to evaluate and give recommendations to the employer. The issue is of particular importance because while there is general consensus that employee safety committees are very useful in promoting employee safety and health, it is difficult for employers to conform to the requirements of the National Labor Relations Act. Witnesses included business owners, attorneys, and the solicitor for the Department of Labor. The hearing highlighted the importance of clarifying the law to ensure better working conditions for American employees.

Ergonomics

One area of particular concern to the Workforce Protections Subcommittee was the plan by the Occupational Safety and Health Administration to propose and finalize a workplace "ergonomics" standard before a comprehensive study of the issue by the National Academy of Sciences (NAS) was complete. The study was requested and funded by Congress in October 1998 in P.L. 105–277. The purpose of the study is to inform Congress, the Department of Labor, and employers and employees about the state of scientific information, so that a better decision can be made about whether a broad

regulation is an appropriate and effective response to so-called ergonomics-related injuries. The NAS is expected to complete its study early in 2001, but OSHA has made issuing a final ergonomics standard by the end of 2000 its top priority.

The Workforce Protections Subcommittee held a hearing on March 23, 1999, and focused on oversight of the Occupational Safety and Health Administration, specifically on OSHA's regulatory agenda, including a proposed ergonomics standard. Testifying at the hearing were: Mr. Charles N. Jeffress, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C.; Mr. Stuart McMichael, President, Custom Print, Inc., Arlington, Virginia, representing the Printing Industries of America, the National Federation of Independent Business, and the Alliance for Workplace Safety; Mr. David G. Sarvadi, Attorney-at-Law, Keller and Heckman LLP, Washington, D.C., representing the National Coalition on Ergonomics; Mr. James Elmer, James W. Elmer Construction Company, Spokane, Washington; and Mr. Bill Borwegen, Occupational Health and Safety Director, Service Employees International Union, Washington, D.C.

Despite congressional interest in seeing the results of the NAS study prior to OSHA issuing a regulation, OSHA pushed ahead with its plan. Consequently, Congressman Roy Blunt of Missouri introduced H.R. 987, the "Workplace Preservation Act," on March 3, 1999, and the bill was subsequently referred to the Workforce Protections Subcommittee. H.R. 987 prohibits OSHA from promulgating an ergonomics standard until the NAS completes its study and reports the results to Congress. The bill prohibits OSHA from promulgating either a proposed ergonomic standard under section 6(b)(2) of the OSH Act or a final standard under section 6(b)(4) of the Act.

On April 21, 1999, the Subcommittee on Workforce Protections held a hearing on legislation to amend the Occupational Safety and Health Act. Among the bills considered was H.R. 987, the "Workplace Preservation Act." The witnesses testifying on H.R. 987 included the Honorable Roy Blunt, Member of Congress, 7th District of Missouri; the Honorable Nancy Pelosi, Member of Congress, 8th District of California; Dr. Stanley J. Bigos, Professor of Orthopedics with the Bone and Joint Center at the University of Washington Medical Center, Seattle, Washington; and Dr. Michael Vender, Hand Surgeon, Hand Surgery Associates, Arlington Heights, Illinois.

On May 19, 1999, the Subcommittee on Workforce Protections approved H.R. 987 and ordered it favorably reported to the Full Committee by voice vote. On June 23, 1999, the Committee on Education and the Workforce approved the bill by a roll call vote of 23–18 and ordered the bill favorably reported to the House of Representatives. On August 3, 1999, the House passed H.R. 987 by a vote 217 to 209.

On November 23, 1999, OSHA proposed the ergonomic standard, and allowed a ninety-day comment period. Most of this comment period would have occurred while Congress was not in session. On December 16, 1999 Chairman Bill Goodling and Subcommittee Chairmen Cass Ballenger, John Boehner and Pete Hoekstra wrote the Secretary of Labor requesting an extension of the comment pe-

riod. The Secretary extended the comment for an additional thirty days.

Many aspects of the proposed Ergonomics Program were of concern to the subcommittee. OSHA has estimated that the annual cost of the regulation will be four billion dollars. The Small Business Administration estimated annual costs to be eighteen billion dollars. Private organizations had estimates of far higher annual costs. By any estimate, the Ergonomics Program will be the most expensive regulation ever promulgated by OSHA. Also, the proposed Ergonomics Program would require employers to be responsible for minor injuries and injuries not caused by work. These requirements will force employers to engage in expensive and fruitless quests to eradicate phantom hazards from the workplace.

On March 1, 2000, Chairman Bill Goodling and Subcommittee Chairmen Cass Ballenger, John Boehner and Pete Hoekstra submitted comments on the proposed ergonomic standard. The Chairmen expressed their strong opposition to the proposal. The Chairmen cited the lack of understanding of the causes and treatments of musculo-skeletal disorders, the declining numbers of ergonomic injuries, and the excessive estimated cost of the proposal as reasons for their opposition.

Both the House of Representatives and the Senate successfully attached a provision to the Labor/HHS/Education appropriations bill, H.R. 4577, that would prohibit OSHA funds from being spent to promulgate any final standard on ergonomics. The House of Representatives passed the provision on June 8, 2000, and the Senate passed the provision on June 22, 2000.

In negotiations with the administration regarding the final version of the FY01 Labor/HHS appropriations bill, an alternative provision has been discussed. The proposal under consideration would allow the ergonomics regulation to be finalized but would provide the next President with an opportunity to expeditiously rescind the regulation early in 2001, rather than undertake an entirely new rulemaking process to overturn the existing regulation.

Proposed revisions to OSHA's recordkeeping regulations

On July 20, 2000 the Workforce Protections Subcommittee held a hearing to review OSHA's 1996 proposed Recordkeeping Standard and to consider its impact on the proposed Ergonomics Program. OSHA proposed the revised Recordkeeping Standard on February 2, 1996. The proposal followed ten years of discussion on the need to revise the Recordkeeping Standard.

The witnesses included Frank White, the Vice-President of Organization Resources Counselors, Eamonn McGeady, President of Martin G. Imbach, William R. Steinmetz, Risk and Safety Consultant, Eric Frumin, Director of Occupation Safety and Health, Union of Needletrades, Industrial and Textile Employees, and Eugene Scalia, Partner, Gibson, Dunn and Crutcher.

The OSHA Recordkeeping Standard establishes: (1) which injuries and illnesses are recordable, (2) which employers must keep records of occupational injuries, (3) what those records must include, and (4) how they must be kept. The proposed revision affects each of these areas. Witnesses expressed their concerns that the finalized text of the proposed standard would require recordable in-

juries to be "reasonably and demonstrably" related to work and would require employers to record minor injuries. In response to a question about how low the proposal's threshold was for recording minor injuries Eugene Scalia responded:

> It is extraordinarily low, so low that employers and OSHA are going to end up spending a lot of time tracking down problems that they cannot do anything about, as opposed to having a recordkeeping system that focuses everybody on the problems that are really severe and are really likely to be fixable by OSHA and employers and unions and employees.

In an important exchange, Oversight and Investigations Chairman Pete Hoekstra questioned Eugene Scalia about the linkage between the recordkeeping Standard and the proposed Ergonomics Program. Eugene Scalia answered:

> Under the proposed ergonomics rule, the employer would have all the same obligations toward the condition as if the employer actually had caused it. The employer would have to make enormous changes in the job, possibly in an elusive attempt to eliminate a supposed ergonomic risk factor, even though, again, the employee came in and said, "I have developed carpal-tunnel syndrome, and my doctors told me it is a genetic condition in my case. That is what happened to me, and it hurts me to work." The employer would have to say, "Well, I had better change your job, and I had better go around and look at probably changing all the other jobs that are similar to it if there is a chance that those jobs also might aggravate such a condition.

Witness testimony established that the proposed Recordkeeping Revisions would require employers to record minor injuries and to record injuries incurred outside of work as work-related. In addition to imposing paperwork burdens on employers, these requirements would force employers to take drastic actions under the Ergonomics Program because of employees' minor aches and pains injuries caused by factors outside of work.

Safety and Health Audits and Whistleblower Improvement Act

The Subcommittee on Workforce Protections also approved H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act" on May 19, 1999. The bill was ordered favorably reported to the full committee by voice vote. This legislation combined two areas of concern for employers and employees alike. The first is the need for employers to be able to conduct self-audits to improve safety and health conditions in their workplaces without fear of the results of their audits being used against them by OSHA. The second is the concern for employees to be able to report violations of safety and health regulations without fear of retaliation and with the assurance that some action will be taken by the Department of Labor to investigate their claims. The full committee did not take any further action on the bill, however, because of a commitment by OSHA that it would revise its policy on self-audits and because of differing views about the appropriate proce-

dural remedy for whistleblowers. The final OSHA policy on self-audits was released in early fall 2000.

Needlestick Safety and Prevention Act and OSHA's Bloodborne Pathogens Standard

On June 22, 2000, the subcommittee convened to hear testimony on OSHA's Compliance Directive on Enforcement Procedures for Bloodborne Pathogens (Compliance Directive) and the prevention of needlestick injuries. OSHA's Bloodborne Pathogens Standard, 29 C.F.R. 1910.1030, was first issued in 1991. OSHA issued the revised Compliance Directive on enforcement procedures for the Bloodborne Pathogens Standard in November 1999.

While the focus of the hearing was the OSHA Compliance Directive, the larger issue under examination was needlestick safety and prevention in health care settings. This focus was due to the convergence of two critical circumstances. The first circumstance was the increased concern over accidental needlestick injuries in health care settings. "Needlesticks" is a term used broadly, as health care workers can suffer injuries from a broad array of "sharps" used in health care settings, from needles to IV catheters to lancets. The second circumstance was the technological advancements made over the past decade in the many types of engineering controls, namely "safer medical devices" that can be used in the workplace to help protect health care workers against sharps injuries. The recent evidence and attention over the spread of hepatitis C added to the importance of the subcommittee examining this occupational safety and public health issue.

The subcommittee heard testimony from the assistant secretary of OSHA, two experts in public health and infectious disease control, a doctor with experience in evaluating and implementing safer medical devices and in treating health care workers who are injured by needlesticks, and two nurses, one of whom was injured by a needlestick and contracted both HIV and hepatitis C. The OSHA's assistant secretary testified that the Bloodborne Pathogens Standard has been one of OSHA's most successful health and safety standards in the nine years since it was first put into place. He also emphasized that part of its success is the flexibility it provides to employers due to its performance-oriented nature. The principal purpose of the revised Compliance Directive was to highlight the need for employers to make use of "safer-medical devices"—also known as "safety devices" or "safe-needle devices" to prevent against the risk of needlestick injuries. Although there are many types of safer medical devices, the distinguishing feature of these devices is that there is a safety mechanism built-in to the device which protects the health care worker from exposure to the sharp.

In addition to the Compliance Directive, however, witnesses urged Congress to pass legislation that would make it clear to employers the direction provided by OSHA as to the use of safer medical devices. Compliance Directives are merely statements of OSHA policy. While at the time of the hearing there was one House bill which addressed the needlestick issue, that bill had been introduced prior to the OSHA revised Compliance Directive and did not take into account the direction provided by OSHA.

Following the subcommittee hearing, Chairman Ballenger worked with interested parties, the Department of Labor, and the Senate to craft bipartisan legislation that built upon the work of the Compliance Directive. Chairman Ballenger introduced H.R. 5178, the "Needlestick Safety and Prevention Act," on September 18, 2000. The legislation was co-sponsored by the ranking member of the subcommittee, Representative Owens (D–NY). Ninety members of the House soon joined as cosponsors and the bill enjoyed wide-spread support from employer and employee groups alike, including the American Hospital Association and the American Nurses Association. The following day Senators Jeffords and Enzi subsequently introduced the companion bill in the Senate with the co-sponsorship of Senators Kennedy and Reid.

The legislation directly amends OSHA's Bloodborne Pathogens Standard, 29 C.F.R. 1910.1030 not the OSH Act itself. It directs employers to consider and, where appropriate, use medical devices that reduce the risk of needlesticks and other injuries from sharp medical devices. Employers with employees who may be exposed to bloodborne pathogens are required to use safer medical devices only where such devices are appropriate, effective and commercially available. The bill directs the Secretary of Labor to make the changes to the standard exactly as prescribed by Congress within six months of enactment of this bill and to publish the changes in the Federal Register. The changes themselves go into effect 90 days after publication in the Federal Register.

The legislation also requires employers to record sharps injuries in a sharps injury log. The log would record, at a minimum, the type of device used, an explanation of the incident, and where the injury occurred. The information contained in the log would help employers refine their Exposure Control Plan and help further reduce the number of sharps injuries. Employers who are exempt from maintaining OSHA 200 logs, such as employers with 10 or fewer employees would be likewise exempt from maintaining a sharps injury log. The legislation also requires employers to solicit and document the input of non-managerial health care workers in the selection and use of effective engineering and work practice controls.

The subcommittee held a markup of the bill on September 19, 2000. At markup, a substitute amendment was offered (correcting two typographical errors) and the bill was passed by a unanimous voice vote without amendment. The next week, Chairman Goodling discharged the bill from full committee and allowed it to go to the floor for a vote. A substitute, which made a technical change, was offered by Representative Ballenger on the floor, and the bill was passed by the House under suspension of the rules on October 3, 2000. The Senate took up the House bill and passed it by unanimous consent on October 26, 2000. The President is expected to sign the bill into law.

General Accounting Office report reviewing the coordination of Federal Agency Safety and Health Programs

On September 14, 1999, Chairman Cass Ballenger requested that the General Accounting Office (GAO) identify the key federal agencies responsible for promoting workplace safety and health and ex-

amine the interrelation among key federal agencies regarding enforcement policy, including the potential for overlaps or gaps in enforcement. The GAO identified six executive agencies and fourteen component agencies or offices that are responsible for enforcing at least thirty seven different federal laws governing workplace safety and health for workers in private industry. In examining the interrelationships among key agencies, the GAO focused on federal agencies engaged in protecting health and safety at hazardous material work places. The GAO examined the efforts of four agencies: the Occupational Health and Safety Administration (OSHA), the Environmental Protection Agency (EPA), the Bureau of Alcohol, Tobacco and Firearms, and the Chemical Safety and Hazard Investigation Board.

In an October 2000 report, the GAO found that these agencies' functions overlap and cause duplicative requirements to be placed on employers. The GAO concluded that the overlapping requirements lead to confusion and additional compliance burdens. For example, facility managers believe that they have to develop multiple emergency plans to address overlapping OSHA and EPA emergency requirements. The managers believe that the overlapping plans could cause confusion as to which plan to use in an emergency and whom to notify in emergencies.

The GAO also found that all four agencies use Memorandums of Understanding (MOU) as their primary vehicle for interagency coordination. However, the GAO found little evidence that agency staff followed these MOUs. Finally, the GAO found that the agencies lacked procedures for developing long-term strategies and mechanisms for obtaining the views of employees and labor unions that are important to coordination issues.

General Accounting office report on DOL enforcement actions at companies experiencing labor unrest

On May 7, 1997 Chairman Cass Ballenger and Chairman Pete Hoekstra of Oversight and Investigations Subcommittee, asked the GAO to study OSHA inspections at establishments experiencing labor unrest. Specifically, the Congressmen requested that the GAO determine: (1) the extent to which employers experiencing labor unrest are more likely to be inspected than employers not experiencing labor unrest, and (2) whether OSHA has policies for performing inspections during periods of labor unrest and whether these policies are followed. The details of this request and the subsequent report are fully covered under the activities of the Subcommittee on Oversight and Investigations.

C. MINE SAFETY AND HEALTH ADMINISTRATION

Mine safety and health is another significant issue within the subcommittee's jurisdiction. The Subcommittee on Workforce Protections met on September 14, 2000 to review mine safety and health and the state of the industry today, as part of the subcommittee's jurisdiction over the Department of Labor's Mine Safety and Health Administration (MSHA). This was the second hearing by the subcommittee held specifically to review the Federal Mine Safety and Health Act (MSH Act). The first hearing was held in 1998 and provided a broad-based review of the Act and its ad-

ministration by MSHA. The hearing in the 106th Congress focused on the current state of safety and health in the modern day mining industry and posited whether the Act is in need of some reform given its 30-year age and the state of the modern mining industry and its current record on safety.

Witnesses included the Assistant Secretary for Mine Safety and Health from the Department of Labor; the Vice President for Safety and Health from the National Mining Association; the President of Eastern Industries in Pennsylvania representing the National Stone Association—National Aggregates Association, the administrator for Occupational Health and Safety with the United Mine Workers of America, and an attorney from Jackson & Kelly, a firm which represents industry in mine safety and health matters. All of the witnesses had extensive experience with the history of the Mine Act and with its administration by MSHA. This was the first appearance by Assistant Secretary McAteer before the Subcommittee.

The Federal Mine Safety and Health Act establishes safety and health regulations for surface and underground mines and authorizes the Department of Labor to enforce the regulations. In addition to coal mines, the MSH Act also regulates other types of mines and quarries, including sand, gravel, stone and mineral quarries. Unlike the OSH Act, the MSH Act does not preempt more stringent state requirements. Several major mining states maintain their own safety and health laws, including separate inspections and enforcement. In addition, title IV of the MSH Act establishes the federal Black Lung Benefits program for coal miners found to have pneumoconiosis. Since 1990, the MSH Act has been amended only once—in 1990 by the Budget Reconciliation Act, which increased the maximum penalty for citations issued against mine operators from $10,000 to $50,000.

The MSH Act is sometimes cited as an example of a regulatory program that has succeeded as "shown by the numbers." Indeed, mining fatalities have dropped dramatically since the early 1900's. While there is no dispute that mining is one of the most dangerous occupations for workers, the last five years have been the safest on record for the U.S. mining industry. The work by the industry in making safety a top priority has paid off.

Statistically, mining is no longer the most hazardous industry. In 1995, there were 43 fatalities in the coal mining industry. In 1997 there were 30 fatalities in the coal industry—an all-time low. Today, the most advanced and productive mines operate with very few workers in the mining area. On the other hand, fatalities in metal/non-metal (non-coal) mining have increased recently. In 1992 there were 36 deaths, and in 1997 there were 61 deaths in this part of the mining industry.

Because the structure of the MSH Act is simply one of enforcement and penalty, the testimony and discussion at the hearing focused on whether the Act should be modified to give those operators who have outstanding safety records some relief from the stringent control of the Mine Safety and Health Administration. While no specific legislative proposals were reviewed at the hearing, the chief topic of discussion was whether it is time for the Act to be modified to create and allow for a more cooperative approach

with those aspects of the industry who have demonstrated commitments to safety and health. The Assistant Secretary for MSHA testified that he is responsible for administering the Act as it is currently written. However, all witnesses agreed that opening a dialogue about possible improvements in the Act would be a constructive next step.

D. FEDERAL EMPLOYEES COMPENSATION ACT (FECA) AND THE OFFICE OF WORKER'S COMPENSATION PROGRAMS (OWCP)

On October 3, 2000, the subcommittee convened to hear testimony concerning the results of a General Accounting Office (GAO) report regarding customer communications problems with the federal Office of Worker's Compensation Programs (OWCP) at the Department of Labor. OWCP administers the Federal Employees Compensation Act (FECA), which is the exclusive workers compensation program for federal agencies, including the Postal Service.

The hearing focused on the GAO's recent review of how the OWCP communicates with injured federal workers, employing agencies, and medical and other service providers who are involved in the treatment of such workers. GAO conducted the review at the request of Chairman Ballenger, who has over the years heard numerous complaints from claimants and other Congressional offices about the difficulty in communicating with the OWCP.

The following individuals testified at the hearing: Mr. Michael Brostek, Director of the Tax Administration and Justice Division at GAO; Ms. Patricia Dalton, Office of the Inspector General, U.S. Department of Labor; and Mr. Shelby Hallmark, Acting Director of the Office of Workers' Compensation Programs at the U.S. Department of Labor.

The Federal Employees' Compensation program (FEC) covers nearly three million civilian federal employees, providing compensation and benefits to individuals who sustain a work-related injury or illness in the performance of duty. Coverage under the FEC program is also extended to employees of entities wholly owned by the United States, such as the U.S. Postal Service and the Tennessee Valley Authority, and to law enforcement officers injured in connection with federal crimes, VISTA and Peace Corps volunteers. The benefits provided under the FEC program include payments for medical expenses, vocational rehabilitation services, bodily impairment or disfigurement, and survivor's compensation.

Claims under the FEC program are administered and adjudicated by the OWCP, a branch of the Department of Labor's Employment Standards Administration. The OWCP has 12 district offices nationwide with about 900 employees who administer FECA. The district offices operate under the authority and guidance of OWCP headquarters and provide services to claimants living within several states. The offices are responsible for adjudicating claims, approving wage loss claims, paying medical bills, and responding to inquiries from customers.

During fiscal year 1998 (the most recent data available), 165,135 new cases were created and the FEC program provided more than $1.9 billion in benefits for work-related injury or illness to nearly 262,000 federal workers. OWCP estimates that they receive 2.6

million phone calls and 5.5 million pieces of mail each year from customers (claimants, medical providers, agencies and others).

GAO's review focused on OWCP's performance in responding to claimants' and other customers' inquiries, both over the telephone and in written correspondence. The key points of GAO's review were that: (1) OWCP provides widely-varying service levels across its district offices for those attempting to reach OWCP representatives by phone; (2) OWCP does not set any goals for some important areas of telephone and written communications. What few goals it has in place are not challenging; (3) OWCP often does not collect timely or credible performance data to gauge progress in attaining its goals; and (4) OWCP does not adequately survey injured workers, medical providers, and others to determine levels of satisfaction or follow many other practices that the National Partnership for Reinventing Government's (NPRG) model organizations use to improve customer service.

In concluding, GAO recommended that the Secretary of Labor require the Director of OWCP to establish goals for telephone and written communications; collect credible performance data on progress toward meeting the goals, including the use of timely, periodic surveys; and use the performance data and survey results to identify areas needing improvement and set goals to achieve those results. Mr. Shelby Hallmark, Acting Director, Office of Workers Compensation Programs, Employment Standards Administration, testified that the OWCP was moving to implement a national call center that would begin to develop systems and performance measurements. Mr. Hallmark stated that they were very aware of the areas that needed improvement, and the GAO study had been beneficial in reinforcing the need for constant telephone monitoring of the telephone systems. In addition, the Acting Inspector General testified about recommendations OIG had made to strengthen the program. Some were administrative and could be resolved by OWCP, but there were other solutions that were legislative or budgetary in nature. Ms. Dalton stated that their findings and recommendations focused on making the FECA Program operate more effectively and efficiently, while ensuring the integrity of the program. Overall, the GAO study offered an important opportunity for the Subcommittee to review OWCP and consider opportunities for legislative reform in the future.

II. Hearings Held by the Subcommittee

106th Congress, First Session

February 23, 1999—Hearing to Examine the Impact of the Fair Labor Standards Act on Volunteer Firefighters (106–4).

March 23, 1999—Hearing on Oversight of the Occupational Safety and Health Administration (106–13).

April 13, 1999—Hearing on the Fair Labor Standards Act: Rewarding Performance in Compensation Act (106–17).

April 21, 1999—Hearing on H.R. 987, the "Workplace Preservation Act;" H.R. 1438, the "Safety and Health Audit Promotion Act;" H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act," and H.R. 1459, the "Models of Safety and Health Excellence Act" (106–26).

May 13, 1999—Hearing on H.R. 1434, a bill to amend the Occupational Safety and Health Act of 1970 (106–38).

October 21, 1999—Hearing on H.R. 1886, "MSPA Clarification Act;" H.R. 2757, "Housing Opportunities for Migrant Employees;" H.R. 3121, Amending the Migrant and Seasonal Agricultural Worker Protection Act (106–78).

106th Congress, Second Session

March 2, 2000—Hearing on the Treatment of Stock Options and Employee Investment Opportunities under the Fair Labor Standards Act (106–90).

May 3, 2000—Hearing on the Fair Labor Standards Act: White-Collar Exemptions in the Modern Work Place(106–104).

June 22, 2000—Hearing on OSHA's Compliance Directive on Bloodborne Pathogens and the Prevention of Needlestick Injuries (106–112).

July 20, 2000—Hearing on OSHA's Recordkeeping Standard: Stakeholder Views of the 1996 Proposal (106–116).

September 14, 2000—Hearing on Review of Mine Safety & Health: The State of the Industry Today (106–120).

October 3, 2000—Hearing on Injured Federal Workers on Hold: Customer Communications at DOL's Office of Workers' Compensation Programs (106–131).

III. Markups Held by the Subcommittee

106th Congress, First Session

May 19, 1999—H.R. 1439, "Safety and Health Audit Promotion and Whistleblower Act of 1999" was ordered favorably reported to the Full Committee by voice vote.

H.R. 1381, "Rewarding Performance in Compensation Act" was ordered favorably reported to the Full Committee by voice vote.

H.R. 987, "Workplace Preservation Act was ordered favorably reported to the Full Committee by voice vote.

106th Congress, Second Session

September 19, 2000 H.R. 5178, "Needlestick Safety and Prevention Act" was ordered favorably reported as amended to the Full Committee by voice vote.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	93
Total Number of Hearings	12
Field	0
Joint with Other Committees	0
Total Number of Subcommittee Markup Sessions	2
Total Number of Bills Reported From Subcommittee	4

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

I. SUMMARY OF ACTIVITIES

A. HIGHER EDUCATION ACT

1. H.R. 4504, Higher Education Technical Amendments of 2000

During the 105th Congress, the Committee completed its work on the reauthorization of the Higher Education Act of 1965. Enactment of the Higher Education Amendments of 1998 made significant changes to the student aid programs and the U.S. Department of Education was required to convene negotiated rule making sessions with the higher education community for the purpose of preparing implementing regulations. As regulations were promulgated, the subcommittee became aware of specific instances where the law was not being implemented as intended. By the second session of the 106th Congress, and after consulting with the higher education community and the U.S. Department of Education, the subcommittee compiled a list of specific issues that needed to be addressed in a technical corrections bill.

On May 19, 2000, Representative Howard P. "Buck" McKeon (R–CA) introduced H.R. 4504, the Higher Education Technical Amendments of 2000. H.R. 4504 makes necessary technical corrections and includes clarifying language to the Higher Education Amendments of 1998 (P.L. 105–244). In addition, the bill also includes specific policy changes that are necessary in order to ensure that the 1998 amendments are implemented as intended. On the basis of further recommendations from Committee members and the higher education community, an amendment in the nature of a substitute was prepared.

H.R. 4504 contains a number of provisions that further the goal of improving our student financial assistance programs for students, families, and schools. Specifically, H.R. 4504 reduces the grant repayment burden on students who must withdraw from school prior to the completion of a term, clarifies congressional intent with respect to aid eligibility for students with drug convictions, provides students and their families with important campus safety information, gives borrowers more options for rehabilitating defaulted Perkins Loans and helps certain minority-serving institutions by giving them more time to implement and evaluate student loan default rate reduction measures.

Among the amendments accepted by the Committee was a provision offered by Representative Matt Salmon (R–AZ) to the campus security provisions requiring institutions of higher education to disclose their policy regarding the availability of information about registered sexually violent offenders received from a state pursuant to "Meagan's Law," including a statement that they will disclose such information if the state provides it. This amendment was similar to a provision under the Committee's jurisdiction contained in H.R. 4407, the "Campus Protection Act," introduced by Representative Salmon on May 9, 2000. This provision was later enacted as part of the conference report to accompany H.R. 3244, the "Trafficking Victims Protection Act of 2000", which passed the House on October 6, 2000 by a recorded vote of 371–1 and passed

the Senate on October 11, 2000 by a vote of 95–0 and which became Public Law 106–386 on October 28, 2000.

The Committee on Education and the Workforce considered the substitute to H.R. 4504 in legislative session on May 25, 2000. The Committee on Education and the Workforce favorably reported H.R. 4504 to the House of Representatives by voice vote on May 25, 2000. On June 12, 2000, the House of Representatives passed H.R. 4504 under suspension of the rules, by voice vote. The Senate failed to take any action on H.R. 4504 and the Senate did not introduce a technical corrections bill of its own.

Although H.R. 4504 was not acted upon by the Senate, several provisions from the House-passed bill were included in H.R. 4577, making appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies for fiscal year 2001 as discussed elsewhere in this report.

2. H. R. 3629, Tribal College Amendment to the Higher Education Act

On February 10, 2000, Representative Mark Green (R–WI) introduced H.R. 3629 that made technical corrections to Sections 316 and 317 of Title III of the Higher Education Act (HEA) with respect to Tribal Colleges and Alaska Native and Native Hawaiian-serving institutions. The Committee reported H.R. 3629 by voice vote on April 12, 2000. The House of Representatives passed H.R. 3629 under suspension of the rules, by voice vote on May 2, 2000. On May 18, 2000, the United States Senate passed H.R. 3629 without amendment by unanimous consent. On May 26, 2000, H.R. 3629 was signed by the president and became Public Law 106–211.

The changes included in H.R. 3629 are all designed to simplify the Title III grant application process for Tribal Colleges and Alaska Native and Native Hawaiian-serving institutions of higher education. The first technical change requires the secretary of education to develop a simplified grant application process for the limited number of institutions eligible for funds under Section 316 and Section 317 of the Higher Education Act. The Committee heard from many of these institutions who indicated that the costs associated with the lengthy application process was prohibitive for institutions with limited resources.

The second change allows institutions to apply for a new grant without waiting until two years have elapsed after the expiration of a prior grant. Existing law allowed an institution to receive a grant for a five-year period and then required an institution to wait for two years after the expiration of the grant before applying for another grant. After consulting with these institutions and the U.S. Department of Education, the Committee determined that there was no need for a wait-out period in this program due to the funding available and the limited number of institutions eligible for grant assistance. By removing this restriction, funds for institutional development will go to the maximum number of institutions that submit a qualified application.

3. H.R. 3210, College Scholarship Fraud Prevention Act of 1999

On November 3, 1999, Representative Fred Upton (R–MI) introduced H.R. 3210, the "College Scholarship Fraud Prevention Act of

1999." This bill was identical to S. 1455, introduced in the Senate by Senator Spencer Abraham (R–MI) on July 28, 1999. S. 1455 passed the Senate on November 4, 1999, by unanimous consent. Both bills were referred to the House Committee on the Judiciary with the Committee on Education and the Workforce entitled to sequential referral. The House Committee on the Judiciary and this Committee both discharged S. 1455 allowing it to go to the House floor without either committee holding a mark-up of the bill. The House passed S. 1455 by voice vote on September 25, 2000 and the bill was signed by the president and became Public Law 106–420 on November 1, 2000.

The College Scholarship Fraud Prevention Act directs the United States Sentencing Commission to amend the federal sentencing guidelines to provide for enhanced penalties for any offense involving fraud or misrepresentation in connection with providing, or furnishing information to a consumer, on any scholarship, grant, loan, tuition, discount, award or other financial assistance for financing an education at an institution of higher education. In addition, the bill directs the secretary of education and the attorney general, in conjunction with the Federal Trade Commission (FTC), to jointly submit to Congress each year a report on fraud in the offering of financial assistance for financing an education at an institution of higher education and requires the secretary of education in conjunction with the FTC to maintain a scholarship fraud awareness site on the Internet web site of the U.S. Department of Education.

This legislation was a direct result of families being victimized by scholarship scams. Phony scholarship offerings, scams and other fraudulent offerings do great harm to our nation's students who are searching for ways to help pay the ever-increasing costs of a college education. This bill targets persons who would engage in these unlawful activities and allows for enhanced criminal penalties for offenses involving scholarship scams. In addition, the web site required under this bill will provide valuable information with respect to scholarship fraud so students will have a source of information for verifying whether they are being offered legitimate scholarship aid.

4. H.R. 1180, Ticket to Work and Work Incentives Improvement Act of 1999

Section 409 of H.R. 1180, the "Ticket to Work and Work Incentives Improvement Act of 1999," contains a provision that would update the index on which lender returns are based in the Federal Family Education Loan Program (FFELP). In 1998, when the Committee reauthorized the Higher Education Act of 1965, we recognized that the 91–day Treasury bill, which is the index used for the last 25 years to determine the interest rate on guaranteed student loans, is an out of date tool for determining lender yields. T-bill based payments made sense when the loan program was conceived. However, financial markets have evolved, and most lenders now fund their portfolios using more commonly traded instruments such as commercial paper (CP) or London interbank offered rate (LIBOR) rates.

The Committee had anticipated making such a change during the reauthorization process. However, the complexity of the issue

required the formation of a study group, made up of a broad range of stakeholders in the program, to determine the financial instrument that would be most efficient and cost effective. The provision in H.R. 1180 is based on the most promising recommendation considered by the study group. Section 409 was added to H.R. 1180 during consideration by the conference committee, both as a way to increase efficiency in the student loan program, and to offset some of the costs associated with the Ticket to Work Act. H.R. 1180 was signed into law by the president on December 17, 1999. It is now Public Law 106–170.

B. TEACHER QUALITY

1. H.R. 1995, Teacher Empowerment Act

H.R. 1995 amends the Elementary and Secondary Education Act of 1965 to improve student achievement through high-quality professional development for teachers. The bill consolidates and streamlines the Eisenhower Professional Development Program, Goals 2000, and the "100,000 New Teachers" program to provide states and local schools additional flexibility in the use of these funds, in exchange for increased accountability to parents and taxpayers. Additionally, it affords teachers more choice in selecting high-quality professional development programs.

Hearings

The Committee on Education and the Workforce held five hearings relating to this bill.

On April 29, 1999, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing on "Improving Student Achievement: Examining the Impact of Teacher Quality and Class Size." The subcommittee received testimony from teachers, researchers, and other experts in the area of teacher quality.

On May 5, 1999, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing on "Flexibility for Quality Programs and Innovative Ideas for High Quality Teachers." The hearing examined existing programs and witnesses included individuals involved in implementing successful programs designed to improve teacher quality.

On May 10, 1999, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing in Granada Hills, California. The hearing focused on "Teacher Quality: The California Experience." The subcommittee received testimony from numerous education officials involved in projects to improve teacher quality in California.

On May 13, 1999, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing on "Developing and Maintaining a High-Quality Teacher Force." The subcommittee received testimony from experts at the national level familiar with state and local programs designed to improve teacher quality.

On June 10, 1999 the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a joint hearing with the Committee on Science in Washington, D.C. The hearing, entitled

"K–12 Math and Science Education—Finding, Training and Keeping Good Teachers," included numerous witnesses involved in programs designed to improve the quality of math and science education teachers.

On June 1, 2000, the Committee on Education and the Workforce held a field hearing in Indianapolis, Indiana on "Excellence in Teaching." The witnesses, who included several teachers and a principal, discussed initiatives within their schools to help teachers improve student academic achievement.

On September 13, 2000, the Subcommittee on Postsecondary Education, Training, and Life-Long Learning held a hearing on "Recruitment and Retention of Quality Teachers." Witnesses included teachers who entered teaching through alternative routes as well as other educators and a business representative involved in reforms to improve teacher quality.

H.R. 1995, Teacher Empowerment Act

On May 27, 1999, Representative Howard P. "Buck" McKeon (R–CA) introduced H.R. 1995, the "Teacher Empowerment Act." On June 30, 1999, the Committee on Education and the Workforce assembled to consider H.R. 1995, the "Teacher Empowerment Act." An amendment in the nature of a substitute, offered by Chairman Bill Goodling (R–PA), was adopted by voice vote, and the bill, as amended, was favorably reported by the Committee on Education and the Workforce by a vote of 27 to 19. On July 14, 1999, the bill was reported as amended, and referred to the House Committee on Armed Services. On that day, the House Committee on Armed Services discharged the bill and it was placed on the Union Calendar. On July 20, the House passed the Teacher Empowerment Act, as amended, by a vote of 239 to 185.

The "Teacher Empowerment Act" (TEA) is based upon three principles: teacher excellence, smaller classes, and local choices. It was designed to provide a major boost to schools in their efforts to establish and support a high quality teaching force. TEA combines the funding of several current federal education programs, including Goals 2000, the "100,000 New Teachers" Class Size Reduction program and the Eisenhower Professional Development program, into a single $2 billion grant to states and localities. Using these funds, they will have the support and flexibility necessary to improve academic achievement through such initiatives as providing high quality training for teachers and reducing class size.

The Committee notes that efforts to improve academic achievement take many forms. There is no single solution. Indeed, for every school there are different approaches that are appropriate to their particular circumstances. The TEA legislation reflects this reality and provides the flexibility to local school districts in how these funds may be directed. However, TEA steers schools toward focusing upon efforts, such as improving teacher quality, that have proven results of academic success, while not imposing any one-size-fits-all approach dictated from Washington.

2. H.R. 5034, The Quality Teacher Recruitment and Retention Act of 2000

The "Quality Teacher Recruitment and Retention Act of 2000" directs the secretary of education to carry out a program of student loan forgiveness in exchange for the borrower's commitment to three consecutive years of full-time teaching in low-income schools or special education teaching.

Hearings

On September 13, 2000, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing entitled "Recruitment and Retention of Quality Teachers." At that hearing, it was made clear that loan forgiveness can be a highly successful incentive for encouraging some of our best and brightest graduates to enter the teaching profession. Testifying before the subcommittee, a National Teacher of the Year noted how a loan forgiveness program provided an incentive to him and more than a dozen other college classmates to shift from chemistry, physics and other math and science fields, into teaching. In addition, business groups have also been outspoken on the need for teacher loan forgiveness. For example, the California Business for Education Excellence has as one of its top priorities the expansion of teacher loan forgiveness programs. Specifically, they believe the amount and rate of loan forgiveness should be accelerated in order to recruit and retain teachers for hard-to-fill jobs. While there may be many individuals who would like to enter teaching, the relatively low starting salaries make it difficult for those struggling with paying off student loans. This program opens new doors for these prospective teachers and provides opportunities for schools to have a deeper pool from which to hire the best and brightest teachers.

On July 27, 2000, Representative Lindsey Graham (R–SC) introduced H.R. 5034, the "Quality Teacher Recruitment and Retention Act of 2000." The Committee discharged H.R. 5034 without taking any action on the bill. H.R. 5034 passed the House by voice vote on September 26, 2000. The Senate has not taken any action on the bill.

H.R. 5034, The Quality Teacher Recruitment and Retention Act of 2000

H.R. 5034 is designed to help high-need school districts recruit and retain high quality teachers. To accomplish this goal, the bill authorizes forgiveness of student loans for certain eligible teachers who are new teachers on or after August 1, 2001. To be eligible, a teacher must serve in a Title I school that has 30 percent or more of its students at or below the poverty level. In addition, secondary teachers must be teaching in a subject area relevant to their academic major. Primary teachers must be held to quality standards developed by the chief administrative officer of the school district. A teacher who meets these requirements is eligible for loan forgiveness of $5,000 after the third year of service and $7,500 after the fourth year and the fifth year of service. The maximum amount of loan forgiveness for an individual teacher is limited to $20,000.

H.R. 5034 makes a special exception for special education teachers. All special education teachers who meet the teaching criteria

will be eligible for loan forgiveness, regardless of where they teach. The legislation included this special exception in light of the difficulty of recruiting and retaining teachers in this specialty.

C. OLDER AMERICANS ACT

Hearings

On March 2, 1999, in Washington, DC, the Subcommittee on Postsecondary Education, Training, and Life-Long Learning held the first in a series of six hearings on the authorization of the Older Americans Act. The hearing focused on issues ranging from ensuring local flexibility, to streamlining and simplifying aging services programs, to providing quality services to those seniors who are most in need. Witnesses included key representatives from the national aging network. The second hearing was held on the morning of April 6, 1999, in Alhambra, California at the Alhambra City Hall. Witnesses included key representatives from the local aging network. The third hearing was held on the afternoon of April 6, 1999, in Santa Clarita, California at the Santa Clarita Valley Senior Center. Witnesses included key representatives from the local aging network. The fourth hearing was held on April 8, 1999, in North Platte, Nebraska at the West Central Research and Extension Center for the University of Nebraska. Witnesses included key representatives from the Nebraska aging network and senior citizens who participated in OAA programs. The fifth hearing was held on April 15, 1999, in Washington, D.C. The hearing focused on the Senior Community Service Employment Program (Title V of the Older Americans Act). Witnesses included representatives from the U.S. General Accounting Office, three of the ten national organizations that receive funds through the program, and one of the many state agencies that receives funds through the program. The sixth and final hearing was held on May 19, 1999, in Washington, D.C. Witnesses included Ms. Jeanette Takamura, Assistant Secretary of Aging, U.S. Department of Health and Human Services and Mr. Raymond Uhalde, Deputy Assistant Secretary for Employment and Training Administration, U.S. Department of Labor.

H.R. 782, the Older Americans Act Amendments

The Older Americans Act (OAA) represents the single major federal law for the organization and delivery of both supportive and nutritional services for the elderly. Supportive services can include anything from transportation, information and referral to home care and recreation. Nutritional services are the largest single component of the OAA and fund the popular "Meals on Wheels" program, as well as the congregate nutrition program. The OAA also funds research activities, elder rights protection activities, and the Senior Community Service Employment Program (Title V). The act authorizes this wide array of programs through a network of 57 state units on aging, 660 area agencies on aging, 229 tribal organizations (representing 300 tribes), and 27,000 service providers. Although the OAA authorization expired in 1995, OAA programs have continued to receive funding.

On February 23, 1999, Representative Bill Barrett (R–NE) introduced H.R. 782, a bill to reauthorize the Older Americans Act for four years.

On September 15, 1999, the House Committee on Education and the Workforce favorably reported, as amended, H.R. 782, the "Older Americans Act Amendments of 1999," by voice vote. On July 21, 2000, the Senate Committee on Health, Education, Labor, and Pensions favorably reported, as amended, S. 1536, the "Older Americans Act Amendments of 2000," by voice vote. In early October 2000, the House and Senate reached a bipartisan agreement on reauthorization of the Older Americans Act.

On October 25, 2000, the House included the agreement in H.R. 782 and passed the "Older Americans Act Amendments of 2000" by a vote of 405 to 2. On October 26, 2000, the Senate passed H.R. 782 by a vote of 94 to 0. It was signed into law by the president on November 13, 2000, and became P.L. 106–501.

II. Hearings Held by the Subcommittee

106th Congress, First Session

March 2, 1999—Hearing on the Older Americans Act: Meeting The Needs Of Our Nation's Seniors (106–7).

April 6, 1999—Field Hearing on the Older Americans Act: Meeting the Needs of Our Nation's Seniors Santa Clarita, CA (106–18).

April 6, 1999—Field Hearing on the Older Americans Act: Meeting the Needs of Our Nation's Seniors Alhambra, CA (106–18).

April 8, 1999—Field Hearing on "H.R. 782, Older Americans Act: Meeting the Needs of Our Nation's Seniors," North Platte, Nebraska (106–18).

April 15, 1999—Hearing on Reauthorization of the Older Americans Act (106–23).

April 29, 1999—Hearing on Improving Student Achievement: Examining the Impact of Teacher Quality and Class Size (106–30).

May 5, 1999—Hearing on Flexibility for Quality Programs and Innovative Ideas for High Quality Teachers (106–31).

May 10, 1999—Field Hearing on Teacher Quality: The California Experience, Granada Hills, CA (106–39).

May 13, 1999—Hearing on Developing and Maintaining a High-Quality Teacher Force (106–37).

May 19, 1999—Hearing on H.R. 782, the Older Americans Act: Title V—Community Service Employment (106–40).

June 10, 1999—Joint Hearing on K–12 Math and Science Education: Finding, Training, and Keeping Good Teachers (106–103).

September 9, 1999—Hearing on Welfare Reform: Assessing the Progress of Work-Related Provisions (106–68).

106th Congress, Second Session

February 2, 2000—Joint Hearing on The Federal Role in K–12 Mathematics Reform (106–83)

June 29, 2000—Joint Hearing on One-Stop Job Centers (106–115).

September 13, 2000—Hearing on Recruitment and Retention of Quality Teachers (106–121).

III. Markups Held by the Subcommittee

The Subcommittee held no markups.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	82
Total Number of Hearings	15
Field	4
Joint with Other Committees	3
Total Number of Subcommittee Markup Sessions	0
Total Number of Bills Reported From Subcommittee	0

SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES

I. Summary of Activities

A. H.R. 4875, THE SCIENTIFICALLY BASED EDUCATION RESEARCH, STATISTICS, EVALUATION, AND INFORMATION ACT OF 2000

Chairman Mike Castle introduced H.R. 4875, the "Scientifically Based Education, Research, Statistics, Evaluation, and Information Act of 2000," on July 18, 2000. On July 26, 2000, the Subcommittee on Early Childhood, Youth and Families reported H.R. 4875 by voice vote. No further action was taken on this legislation.

This legislation provides a comprehensive and vastly different approach to education research, evaluations, statistics and dissemination. For the first time, all education research must be based upon scientifically valid standards. Under the legislation, the current structure, located primarily under the Office of Educational Research and Improvement within the Department of Education, is replaced with a new academy within the Department of Education. This academy would have significant autonomy from the Department and oversee a new National Center for Education Research, a National Center for Program Evaluation, and the current National Center for Education Statistics. In addition, the academy would carry out the functions related to the National Education Library as well as regional technical assistance.

Hearings

The Committee on Education and the Workforce and its subcommittees, held a total of four hearings regarding the reauthorization of the activities of the Office of Educational Research and Improvement.

On May 27, 1999 a hearing was held by the Subcommittee on Oversight and Investigations regarding the 1998 Reading Results of the National Assessment of Educational Progress (NAEP)—the Nation's Report Card. Witnesses included representatives from the National Center for Education Statistics and the National Assessment Governing Board.

On June 17, 1999 the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor, and Pensions held a joint hearing on the "Overview of Federal Education Research and Evaluation Efforts" regarding research and evaluation. Those who testified included experts with knowledge

and background in examining research and evaluation efforts at the national level.

On May 4, 2000 the Committee on Education and the Workforce held a hearing examining the "Options for the Future of the Office of Educational Research and Improvement." The witnesses included individuals within the administration involved with education research and representatives from the education research community.

On May 11, 2000 the Subcommittee on Early Childhood, Youth and Families held a hearing on the "Authorization of the National Center for Education Statistics, National Assessment of Educational Progress, and National Assessment Governing Board." The witnesses included representatives from the National Assessment Governing Board and the National Center for Education Statistics as well as other experts.

H.R. 4875, the Scientifically Based Education Research, Statistics, Evaluation, and Information Act of 2000

The Committee believes that educators and policymakers must have unbiased, reliable and responsive information to prepare our nation's children for the challenges of this new century. Unfortunately, the federal government does not have an effective system in place to ensure that education research and other information is available to those that need it most—our teachers. At the same time, states and school districts across the nation are adopting new accountability measures designed to hold teachers and students to new, higher standards of academic achievement. For these reasons, the need to know what works and what does not work has never been greater.

Unfortunately, educators and policymakers have grown wary of education programs and practices that claim to be the "silver bullet" to improve student academic achievement until they fall out of favor with the education community and a new fad comes along. As a result, schools find themselves blindly following a path they hope will lead to increased academic achievement without knowing if these programs are based on actual scientific research or just a hunch. Regrettably, these fads not only fail to improve student academic achievement—they can actually be harmful to student learning.

Not surprisingly, the dissemination of unproven or ineffective programs is not a new problem. From 1967 to 1976, the federal government managed the largest education experiment ever conducted in the United States—comparing more than twenty different teacher approaches on more than 70,000 students in more than 180 schools. At the end of the study, all of the programs, those that were successful and those that failed, were recommended for distribution to school districts. In fact, some of these programs, even those that were considered a failure in the study, were rated as "exemplary and effective."

While the wide dissemination of programs that have not been validated through scientific research is one problem—the lack of quality in research is also a major concern.

Recently, Congress established a National Reading Panel to evaluate existing research on the most effective approaches for

teaching children to read. The panel examined more than 100,000 federally funded studies on reading—some written as far back as 1966. After an exhaustive review, the panel concluded that, of the 100,000 studies, only 10,000 met their standards for academic and scientific rigor.

For this reason, the committee has taken a closer look at these activities within the federal government. As part of this effort, the committee held several hearings and convened numerous meetings with the administration, education groups, outside researchers, and other experts in these fields. Based upon information gathered, the committee worked in a bipartisan fashion to develop this legislation.

B. ENVIRONMENTAL EDUCATION

The National Environmental Education Act of 1990 (P.L. 101–619) established a program within the Environmental Protection Agency (EPA) to increase public understanding of the environment. The program awards grants for developing environmental curricula and training teachers, supports fellowships to encourage the pursuit of environmental professions, selects individuals for environmental awards, and sponsors workshops and conferences. Authorization of funding for the program expired at the end of FY 1996. However, Congress has continued to provide annual appropriations.

Since enactment of the National Environmental Education Act of 1990, questions have been raised about the implementation and administration of the programs under it. One such concern is whether the programs administered under the act are objective and based on accurate scientific data or simply based on popular environmental themes. Another concern is that education programs intended for elementary and secondary children should be under the jurisdiction of the Elementary and Secondary Education Act and administered by the U.S. Department of Education, not other governmental entities and agencies. In addition, some critics believe that environmental education should simply be a part of the normal science curriculum in local schools.

On June 27, 2000, the Subcommittee on Early Childhood, Youth and Families held a hearing entitled "Examining the National Environmental Education Act." The hearing was designed to provide a comprehensive review of the implementation and administration of the programs under the National Environmental Education Act. The subcommittee heard from environmental education experts, including the acting deputy associate administrator of the Office of Communication, Education, and Media Relations at the Environmental Protection Agency, and the Chairman of the Board for the National Environmental Education and Training Foundation.

II. HEARINGS HELD BY THE SUBCOMMITTEE

106th Congress, First Session

February 25, 1999—Hearing on Putting Performance First: Ed-Flex and Its Role in Improving Student Performance and Reducing Bureaucracy (106–6).

March 9, 1999—Hearing on School Discipline: What's Happening in the Classroom? (106–8).

March 11, 1999—Hearing on School Violence: Protecting Our Children (106–9).

March 17, 1999—Hearing on Impact Aid: Keeping The Federal Promise (106–10).

March 18, 1999—Hearing on Juvenile Justice and Delinquency Prevention Act: Preventing Juvenile Crime at School and in the Community (106–12).

March 25, 1999—Hearing on Juvenile Crime Control and Delinquency Prevention Act (106–15).

April 8, 1999—Field Hearing on What Congress Can Learn from Successful State Education Reform Efforts, Scottsdale AZ (106–21).

April 12, 1999—Field Hearing on Education Technology and the Elementary and Secondary Education Act Newark, DE (106–19).

May 11, 1999—Hearing on Education Technology Programs Authorized Under The Elementary and Secondary Education Act (ESEA) (106–34).

May 18, 1999—Hearing on School Violence: Views of Students and the Community (106–42).

May 25, 1999—Hearing on Education Reform—Putting the Needs of Our Children First (106–43).

June 9, 1999—Hearing on Academic Accountability (106–45).

June 21, 1999—Field Hearing on Title I: Local Efforts to Boost Student Achievement (ESEA) Waterford, MI (106–53).

June 21, 1999—Field Hearing on Preventing Youth Violence and Crime: The Role of Families, School, and Government (ESEA), Portage, Michigan (106–54).

June 24, 1999—Hearing on Examining the Bilingual Education Act (106–50).

July 6, 1999—Field Hearing on A Brighter Tomorrow For Our Schools: Parents, Businesses and Communities Working Together, Anaheim, CA (106–57).

July 7, 1999—Field Hearing on Reauthorization of the Bilingual Education Act McAllen, TX (106–56).

July 15, 1999—Hearing on Elementary and Secondary Education Act—Educating Diverse Populations (106–59).

July 20, 1999—Hearing on Examining Education Programs Benefiting Native American Children (106–60).

August 3, 1999—Hearing on Drug Abuse Prevention: Protecting Our Children (106–65).

August 12, 1999—Field Hearing on Excellence in Education Through Innovative Alternatives Greenville, South Carolina (106–66).

August 13, 1999—Field Hearing on School Safety, Discipline and IDEA, Waynesboro, Georgia (106–67).

August 30, 1999—Field Hearing on Technology in Schools: Preparing for the 21st Century, Petaluma, CA (106–69).

September 1, 1999—Field Hearing on Effective School Safety and Drug Prevention Efforts in Our Schools and Communities, New Haven, Indiana (106–70).

September 2, 1999—Field Hearing on Programs Focused on Improving Academic Achievement, Producing Quality Teachers, and Promoting School Safety, Roswell, GA (106–71).

September 8, 1999—Field Hearing on Challenges and Innovations in Elementary and Secondary Education, Raleigh, NC (106–71).

106th Congress, Second Session

February 2, 2000—Joint Hearing on The Federal Role in K–12 Mathematics Reform (106–83).

February 9, 2000—Hearing on Title VI—Providing Flexibility for Innovative Education (106–84).

February 10, 2000—Hearing on Examining the 21st Century Community Learning Centers Program (106–85).

February 15, 2000—Hearing on H.R. 3614, The Emergency Commodity Distribution Act of 2000 (106–88).

March 1, 2000—Hearing on The Role of Character Education In America's Schools (106–92).

March 8, 2000—Hearing on The Role of Technology in America's Schools (106–94).

May 4, 2000—Hearing on Options for the Future of The Office of Education Research and Improvement (106–107).

May 11, 2000—Hearing on Authorization of The National Center for Education Statistics, National Assessment of Educational Progress, and National Assessment Governing Board (106–108).

May 16, 2000—Hearing on Ritalin Use Among Youth: Examining the Issues and Concerns (106–109).

June 27, 2000—Examining The National Environmental Education Act (106–113).

September 5, 2000—Field Hearing on Educating Homeless Children, Phoenix, AZ (106–118).

III. Markups Held by the Subcommittee

106th Congress, First Session

April 22, 1999—H.R. 905, "Missing, Exploited and Runaway Children Protection Act" was ordered favorably reported to the Full Committee as amended by voice vote.

H.R. 1150, "Juvenile Crime Control and Delinquency Prevention Act of 1999" was ordered favorably reported to the Full Committee as amended by voice vote.

106th Congress, Second Session

July 26, 2000—H.R. 4875, "Scientifically Based Education Research, Statistics, Evaluation, and Information Act of 2000" was ordered favorably reported to the Full Committee as amended by voice vote.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	150
Total Number of Hearings	37
Field	13
Joint with Other Committees	1
Total Number of Subcommittee Markup Sessions	2
Total Number of Bills Reported From Subcommittee	3

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

I. SUMMARY OF ACTIVITIES

A. COMMITTEE ON EDUCATION AND THE WORKFORCE OVERSIGHT PLANS FOR THE 106TH CONGRESS

Under House Rule X 2(d)(1), each standing committee of the U.S. House of Representatives is required to formally adopt an oversight plan at the beginning of each session of Congress. Specifically, Rule X, 2(d)(1) states in part:

"Not later than February 15 of the first session of a Congress, each standing committee of the House shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration."

Under Rule X of the Rules of the House, the Committee on Education and the Workforce (Committee) is vested with jurisdiction over issues dealing with students, education, workers, and workplace policy, including, but not limited to:

1. Child Labor.
2. Gallaudet University and Howard University and Hospital.
3. Convict labor and the entry of goods made by convicts into interstate commerce.
4. Food programs for children in schools.
5. Labor standards and statistics.
6. Education or labor generally.
7. Mediation and arbitration of labor disputes.
8. Regulation or prevention of importation of foreign laborers under contract.
9. Workers' compensation.
10. Vocational rehabilitation.
11. Wages and hours of labor.
12. Welfare of miners.
13. Work incentive program.

The Committee is, accordingly, responsible for overseeing approximately 24,000 federal employees and more than $125 billion in annual spending. More importantly, it is charged with evaluating whether federal education and workforce programs are contributing favorably to our children's education, whether we are creating a process of life-long learning, and whether we are developing workplace policies that encourage the most productive and competitive workplaces in the world.

Pursuant to House Rule X 2(a), the various standing committees have general oversight responsibilities as provided in paragraph (b) in order to assist the House in its:

(1) Analysis, appraisal, and evaluation of the application, administration, execution, and effectiveness of federal laws, and conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) Formulation, consideration, and enactment of changes in federal laws, and of such additional legislation as may be necessary or appropriate.

In order to determine whether laws and programs addressing subjects within a committee's jurisdiction are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; and the organization and operation of federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction.

B. EDUCATION AT A CROSSROADS REPORT: BRINGING EXCELLENCE TO EDUCATION

1. Background

Since 1965, the federal government has spent hundreds of billions of dollars on educational improvements. Recent education statistics on student achievement, however, indicate there is little to show for this massive investment. Beginning with the 104th Congress and continuing through the 106th Congress, the Subcommittee on Oversight and Investigations (Subcommittee) of the Committee on Education and the Workforce has conducted a comprehensive Congressional review of the federal role in education to determine "what is working and what is wasted." This review was known as the "Education at a Crossroads" project. The purpose of the project was to identify the steps that lead in the direction of either educational excellence or failure in order to develop a positive vision for making the federal role in education more effective in helping children learn.

The Subcommittee issued the report *Education at a Crossroads: What Works and What's Wasted in Education Today,* by a vote of 5 to 2 on July 17, 1998. The report documented key findings from 22 Congressional hearings featuring 237 witnesses who testified about what works in education. Four themes emerged: parental empowerment and involvement, local control, dollars to the classroom, and a focus on basic academics.

During the 106th Congress, the Subcommittee continued to look beyond the crossroads toward states, districts, and schools that have emerged as shining examples of excellence over the last two decades. It found that the key to success in all levels of education is putting student performance first. The Subcommittee also worked to ensure that the U.S. Department of Education (ED) does not waste tax dollars through financial mismanagement, wasteful spending or fraudulent practices.

2. What works and what's wasted in federal education programs

The Subcommittee's recent efforts have found more evidence of the burden federal requirements place on school districts. These requirements continue to divert local resources into federal programs of unknown effectiveness and require compliance with numerous rules that have little to do with improving educational outcomes.

Since 1965, when Washington, D.C. embarked on its first major elementary-secondary education initiative, federal policy has

strongly influenced America's schools. Although education is generally considered a state and local responsibility, over the years Congress has created hundreds of programs intended to address problems in education. Creating a "program for every problem," as the first Crossroads report found, begins to add up, so much so that there are now more than 760 "education" and "education-related" programs spread across 39 federal agencies at a cost of $120 billion a year. The shape of new education programs is often determined by political polls and focus groups, rather than the actual needs of students and teachers.

These program dollars come with significant strings attached. While federal dollars make up only about seven percent of America's total budget for K–12 education, the Subcommittee has documented that Washington's role is significant when it comes to setting state and local priorities, and in determining the tenor and content of the national conversation about education. Without asking whether or not programs produce results, or knowing their impact on local needs, Washington each year funds an increasing number of education programs instead of focusing additional funds on proven programs. According to the Congressional Research Service, the number of Congressionally funded programs at ED has steadily increased over the last four fiscal years.

The cumulative effect of hundreds of federally designed programs and requirements, many of which are not completely grounded in credible research, continues to take its toll at the state and local levels. Since the first Crossroads report, the Subcommittee has heard witnesses state that many well-intentioned federal programs provide funding with burdensome requirements that have nothing to do with producing results. Other witnesses have testified about the burden of the special education mandate and the significant resources it requires of districts. One superintendent of schools said her district currently spends a minimum of three man-days per month creating the documentation for just one of many federal fiscal requirements. The Subcommittee also found that ED still requires more than 38 million hours of paperwork a year—the equivalent of 18,000 employees filling out forms for one year.

Not only are many federal program requirements burdensome, but also the manner in which programs are carried out at ED wastes taxpayer dollars. The Subcommittee held several hearings that focused on poor financial management practices. The Subcommittee also documented several other instances of waste, fraud, and abuse. For example, a theft ring that involved "collaboration" between outside contractors and ED employees operated for at least three years, and stole more than $300,000 worth of Department of Education electronic equipment, including computers, cell phones, VCRs and even a 61″ television set. The "theft ring" also netted from ED more than $600,000 in false overtime pay.

The Subcommittee found that the most innovative and effective education reforms are centered on putting student performance first. The following are the Subcommittee's strongest examples of putting performance first:

Charter Schools—State charter school laws free schools to put the needs of children first by giving them flexibility and freedom in managing their schools and staff.

State "De-mandated" Districts—On April 19, 1999, the Subcommittee held a hearing in Chicago, Illinois, the site of the first "Education at a Crossroads" hearing in 1995 and a city that ten years ago was generally considered one of the worst school districts in the country. In 1996, the state of Illinois "de-mandated" the city to free it from complex mandates and allowed it to implement an aggressive reform plan. Since then the city has a record of continuous improvement in academic achievement and graduation rates have improved.

Charter Districts—Florida is experimenting with the concept of "charter districts," whereby certain districts are granted charter status on an application setting forth certain performance goals. In exchange, the districts are freed from 800 pages of state requirements. The Subcommittee held a hearing in Temple Terrace, Florida on March 27, 2000.

"*The Academic Achievement for All Act*" (H.R. 2300)—The Academic Achievement for All Act ("Straight A's") is similar to the concept of charter schools: granting freedom from regulations and process requirements in exchange for accountability for producing results. Under Straight A's, Washington assumes the role of shareholder, rather than the Chief Executive Officer (CEO), of the nation's education enterprise. Instead of micromanaging the day-to-day uses of federal money, Straight A's allows states to manage their schools and dollars as they see fit in return for specified gains in academic achievement.

3. Recommendations

Based on the above findings, and building on the findings of the first Education at a Crossroads report, the Subcommittee recommends that federal education policies empower schools to put student performance first. Stagnant achievement and widening gaps are often the consequences of failing to put student performance first and failing to reward results. Education policymakers too often put the primary need of the education "system" (compliance with its rules and requirements) above performance.

Specifically, to accomplish this goal, e.g., empowering our schools by eliminating burdensome federal requirements, and waste, fraud, and abuse, the Subcommittee made several policy proposals:

Flexibility and Accountability—To expand flexibility and accountability for results, Congress should work to ensure that all children can attend a high quality school. Congress should also empower school districts to improve teacher quality or reduce class size according to their needs; accent performance and accountability by enacting the Straight A's Act (H.R. 2300); empower schools to pay teachers according to their performance; and focus the federal role in education on important goals, such as consolidation and elimination of duplicative and ineffective education programs.

Parental Empowerment—Congress should implement policies that ensure that parents can make the best decision about their children's education by expanding and protecting charter schools, enacting education tax deductions, and encouraging school choice.

High Quality Education—Congress should place a priority on raising the achievement level of all students, even the lowest per-

forming students, by freeing students from failing schools, and fighting illiteracy among disadvantaged students.

Department and Program Performance—Congress should ensure that federal dollars are spent with integrity at ED; continue its oversight to ensure that ED meets its goal of receiving a clean, independent audit; put into place institutional checks and balances to ensure that education research, statistics and evaluations are conducted and presented in a rigorous and unbiased manner; and work to improve the overall quality of ED's financial and internal management in order to reduce waste, fraud, and abuse.

Efficiency and Effectiveness—In order to make the federal role in education less burdensome, Congress should eliminate or consolidate duplicative programs; increase funding for special education; improve evaluation and oversight of federal programs to ensure that federal dollars produce results; reform the ED's Office of Educational Research and Improvement (OERI) so that it serves the needs of teachers and students and produces scientifically rigorous findings; and ensure that federal research and program evaluation activities employ rigorous research methods that produce credible, useful results.

4. Subcommittee report

The Subcommittee compiled its findings gathered from hearings and oversight activities held in 1999 and 2000 and issued *Education at a Crossroads 2000: The Road to Excellence* ("Crossroads 2000"). The report examines the underlying policies behind success in education at all levels of government and contains policy and legislative recommendations to improve the federal role in education. "Crossroads 2000" was publicly released at a press conference on October 11, 2000.

C. GENERAL EDUCATION OVERSIGHT ACTIVITIES

1. Release of 1998 NAEP reading scores

On February 10, 1999, it was Vice President Al Gore, not the Commissioner of Education Statistics, who released the 1998 National Assessment of Educational Progress (NAEP) reading result scores to the public at a press conference. This was the first time that any official higher than an ED Secretary had taken part in a NAEP release and constituted a violation of the longstanding National Assessment Governing Board (NAGB) policy designed to insulate the release of education results from political "spin." Test scores from 1992 were left out of the Vice President's presentation, giving the appearance that scores had increased since 1994, although those scores were only returning to 1992 levels. According to NAGB's Chairman, "the format, tone, and substance of that event was not consistent with the principle of an independent, nonpartisan release of * * * data." Because of concerns about the manner in which the 1998 NAEP reading test results were released, and the apparent violation of NAGB policy, the Subcommittee investigated the matter and held a hearing on May 27, 1999.

Prior to the hearing, the Subcommittee released e-mail communications between ED and the Office of the Vice President that

strongly suggested that an effort had been made by that Office to present the statistics in a manner most favorable to the Administration's policies.

At the Subcommittee hearing, the NAGB Chairman and the Commissioner of Education Statistics described how NAGB's policy of independence had been violated and described how NAGB could be given more independence to prevent the Administration from being able to make such announcements in the future. This independence, the NAGB Chairman asserted, would ensure that the organization release information in an impartial manner.

Representative Michael Castle (R–DE), Chairman of the Early Childhood, Youth and Families Subcommittee, included legislative language in H.R. 4875, the "Scientifically Based Education Research, Statistics, Evaluation, and Information Act of 2000," that increased NAGB's independence to prevent such political subterfuge from happening again.

2. Study of Texas achievement

On March 28, 2000, *The Baltimore Sun* reported that it had received a copy of a study that questioned the validity of student achievement gains in Texas. The newspaper reported that the study had been "drafted by a senior researcher at the federal Education Department," but had been "written under a pseudonym and ha[d] not been made public." The alleged existence of this study raised serious concerns about the use of ED resources for political purposes. Consequently, the Subcommittee requested that ED determine who had written the study and whether ED resources had been used in the endeavor. In addition, the Subcommittee asked ED to produce all internal communications within ED concerning the study.

Based on the information ED provided to the Subcommittee, the Subcommittee determined that an employee of that agency had, in fact, authored the study under a pseudonym. That ED employee, however, contended that he had prepared the study on his own time, not at taxpayer expense. The e-mail submissions obtained by the Subcommittee were not sufficient for it to determine whether or not any ED resources had been used to write the report. Based upon the information obtained from ED, the Subcommittee was also unable to determine whether the author had been inappropriately directed to write the report in the first instance.

3. Redesigned discretionary grants process

The *Education at a Crossroads* report contained a passage that described how, in 1993, the Vice President's National Performance Review found that ED's discretionary grant approval process lasted 26 weeks and took 487 steps from start to finish. In 1996, the Department implemented a plan to begin "streamlining" the grant review process to 20 weeks and 216 steps.

Reacting to this announcement, the Subcommittee submitted a letter to ED in July 1998, to find out whether the redesigned discretionary grant approval process had been successfully implemented and whether it could verify that applications were being processed more quickly and efficiently. While ED reported that many of its streamlining goals had been met, it did not provide any

substantive documentation to prove that the implementation was successful in making the process more efficient.

Since enhanced efficiency was the only legitimate goal of the streamlining effort, in August 1999, Subcommittee Chairman Peter Hoekstra (R–MI) requested the General Accounting Office (GAO) to look into ED's management of discretionary grants to determine whether the approval process had, in fact, become more efficient. Mr. Hoekstra also requested that the GAO study how grants were awarded, how the peer review process was used, the characteristics of grant recipients, and the costs of applying for a grant.

The GAO reported to the Subcommittee findings that ED had streamlined many aspects of its grant application process. The GAO also made several recommendations on how ED could improve internal controls to ensure fairness in the grant issuance process. For example, among those cases the GAO reviewed, the agency found wide scoring variations and few controls in place to ensure that these variations did not impede awarding grants to the most qualified recipients. Although ED had initially indicated that it would not be able to verify the number of steps it would take to approve a grant application, immediately before the GAO's report went to print ED provided that information. The Department calculated that the approval process for grant applications had been reduced to a total of 192 steps. Due to the last minute nature of this finding, however, the GAO was not able to verify that number.

In April 2000, ED issued proposed discretionary grant regulations that would allow grants to be awarded using "quality band" ratings that are qualitative in nature instead of numerical scores. On May 18, 2000, Chairman Goodling and Subcommittee Chairman Hoekstra sent a letter to ED Secretary Richard Riley expressing their concern over the proposed changes. Without numerical scores to justify funding certain grants over others, the Committee opined, the fairness of the process could be called into question. As of the date of this writing, ED has not taken further action on finalizing the proposed changes in regulations.

4. Evaluation of Part A of Title I of the Elementary and Secondary Education Act

In 1994, anticipating the need for student performance data to inform the next reauthorization process, Congress authorized $9 million for an evaluation of the impact of its 1994 Title I amendments. The Committee was not satisfied with the progress of an ongoing Longitudinal Evaluation of School Change and Performance (LESCP) because it would have failed to produce a report in time for the reauthorization of Title I, and did not appear to address the effectiveness of Title I in reducing the achievement gap. Consequently, on April 27, 2000, the Committee requested the GAO to examine the LESCP to determine the extent that the evaluation had produced relevant, qualitative, and timely data for Congress to use in its reauthorization process. The Committee also asked the GAO to evaluate how the LESCP process compared to the "Prospects" evaluation of Chapter 1 and the information it provided for the 1993–1994 reauthorization of Elementary and Secondary Education Act.

The GAO study found that because the LESCP was using a smaller, non-representative sample, that it suffered design limitations that would "restrict its ability to fully satisfy any of the three potential purposes * * * envisioned by [the Department of] Education, contractors and panel members." The GAO also found that the evaluation suffered from a lack of clarity in purpose and in the questions that were used to obtain information. The Committee believes that these limitations will restrict the researchers' ability to draw strong conclusions, especially about Title I or standards based-reform. Consequently, the Committee considered it unlikely that this study, after more than four years and millions of dollars, would provide any conclusive data as to whether or not Title I is helping to reduce the achievement gap between disadvantaged students and non-disadvantaged students.

5. Government Performance and Results Act

During the 106th Congress, Subcommittee staff met regularly with ED representatives to oversee their implementation of the Government Performance and Results Act (Results Act). The Subcommittee specifically monitored ED's Performance Report to ensure that indicators were accurately measured, and that federal education programs were producing valid and reliable data demonstrating the effectiveness of these programs.

6. Waste, Fraud and Abuse at ED

During the 106th Congress, Subcommittee Chairman Peter Hoekstra conducted three hearings on financial mismanagement at ED. Near the end of the session, Chairman Bill Goodling conducted a full committee hearing also addressing this topic.

These hearings linked financial mismanagement at ED to a series of related abuses occurring at the agency—several thefts of its funds and equipment, hundreds of millions of dollars of improper payments made, tens of millions of dollars worth of improper loan forgiveness granted to individuals falsely claiming to be dead or disabled, erroneous award notification letters sent to 39 students, the misprinting of three million financial aid forms, and the issuance of more than $150 million in duplicate payments to agency grantees and contractors.

The Oversight Subcommittee probed into each of these abuses individually. Chairman Hoekstra met with Justice Department officials and representatives of the Office of the Inspector General to discuss the thefts and to determine how they related to the internal financial control weaknesses at ED. Rep. Hoekstra submitted a bill in the House, H.R. 4661, on June 14, 2000, that would effectively terminate about $200 million dollars each year in Pell Grant fraud by permitting the Internal Revenue Service to verify income information reported on federal student financial aid forms. Chairman Goodling and Rep. Hoekstra sent a letter to ED that helped persuade the agency to award Jacob Javits fellowships to the 39 students to which it had erroneously mailed award notification letters. In response to a letter from Rep. Hoekstra, ED was forced to reveal that the misprinting of financial aid forms cost the agency $700,000. Letters from the Oversight Subcommittee also pressured

ED to better monitor duplicate payments and to stick to a timeline in implementing a much-needed new accounting system.

While investigating these abuses as they arose, the Oversight Subcommittee delved deeply into the core problem—lax financial management at ED. Proof of this was the agency's inability to get a clean audit.

The department was the last federal agency to complete an annual audit for FY 1998. The report was released in November 1999, eight months after the March deadline. Even with the extra time, auditors issued a disclaimer on the agency's books, the lowest grade possible on an audit. On December 1, 1999, the Oversight Subcommittee held a hearing on the audit report, which disclosed aberrations that included a $6 billion discrepancy in the financial statements, a recorded balance of $800 million on a single student loan, and a "grantback" account containing approximately $700 million dollars, only a few percent of which was actual grantback funds. The account was actually used as a "suspense" account where ED stored monies the appropriate destination of which was not yet known. Chairman Hoekstra sent a letter to the General Accounting Office (GAO) requesting that it separately audit the grantback account, to determine if funds were spent appropriately and in accordance with all applicable laws.

Due to pressure from the Subcommittee, the FY 1999 audit report for ED was issued on the March 1, 2000 deadline. That same day, the Subcommittee held a hearing to discuss the results. An Ernst & Young official testified that the auditing firm had issued one disclaimer and four qualified opinions on ED's five sets of financial statements. This was still not a clean opinion, but it marked a small improvement from the FY 1998 report. At the hearing, however, a GAO official reported that ED had not yet been able to prove that transactions involving the grantback account were appropriate and lawful.

Due to the inability of ED to receive a clean audit opinion, and due to a Justice Department investigation of a computer theft ring involving several ED employees and outside contractors, Chairman Hoekstra introduced, on March 23, 2000, H.R. 4079, calling for a fraud audit of selected ED financial accounts, to be performed by GAO. The fraud audit would differ from the annual agency-wide audit in that the fraud audit would actually attempt to find instances of fraudulent or improper payments, instead of highlighting areas of vulnerability, as the annual audit does.

At a May 25, 2000 markup, the full Education and the Workforce Committee approved H.R. 4079 by voice vote. On June 13, the bill passed the House by a vote of 380–19, with one member voting present. On June 29, Senator Tim Hutchinson (R–AR) introduced a parallel bill, S. 2829, in the Senate. S. 2829 was reported by the Senate Health, Education, Labor and Pensions Committee on October 2, 2000. The full Senate, however, did not vote on either H.R. 4079 or S. 2829 during the 106th Congress.

Regardless of the eventual fate of H.R. 4079, GAO has begun work on a fraud audit of ED, pursuant to a separate letter request filed by Rep. Hoekstra. Thus, even if the bill never becomes law, GAO will still proceed with the fraud audit. The only difference is that it will continue to treat the investigation as a request from an

individual member, as opposed to a legislative mandate from the entire Congress.

In August 2000, GAO issued an official report concerning the grantback account. It found that ED lacked the records to verify the appropriateness of about 40% of sampled transactions involving the grantback account. Due to this lack of audit trails, GAO concluded, there was no way it could fully audit the activity in the account. In other words, GAO could not certify that ED appropriately handled the $700 million.

On September 19, 2000, the Oversight Subcommittee held another hearing on financial management abuses, focusing this time on a $1.9 million theft of Impact Aid funds being investigated by the Justice Department. Court papers filed by Justice had alleged that grant monies intended for two South Dakota school districts had been wired to thieves' bank accounts on March 31 and April 1, 2000. The thieves had submitted false direct deposit forms to ED, substituting their own bank account numbers for those of the South Dakota school districts. At the hearing, members discussed a litany of abuses that had occurred at ED during the past few years. Rep. Charlie Norwood (R–GA) asked ED Inspector General Lorraine Lewis if she knew how much money ED lost to waste, fraud and abuse each year. She said she did not know.

Oversight Subcommittee members were not satisfied with that response, or with other answers they had heard from ED officials at previous hearings on financial management. They wanted Education Secretary Richard Riley himself to address these issues.

Therefore, Chairman Goodling invited Secretary Riley to testify on October 25, 2000 before the full Committee at a hearing on, "Waste, Fraud and Program Implementation at the U.S. Department of Education." Aside from reviewing ED's financial problems, the hearing was held to allow Secretary Riley to address recent questions raised concerning his official travel, as well as questions concerning the expenditure of Individuals with Disabilities Education Act (IDEA) funds by the states. The Washington Post first raised the travel issue when it ran a story reporting that Riley made thirteen trips to the home districts of House Democrats to make joint appearances with members between February and August 2000, and that 10 of these 13 appearances were made with vulnerable incumbents preparing for close re-election bids in November. A letter subsequently sent to ED by Chairman Goodling and Rep. Hoekstra enabled the Committee to confirm the Post story and gather additional information on the Secretary's travel.

At the October 25 hearing, Secretary Riley was the only official witness, but he was accompanied on the witness stand by three other high-ranking agency officials: Deputy Secretary Frank Holleman, Assistant Secretary for Legislative and Congressional Affairs Scott Fleming, and Assistant Secretary for the Office of Special Education and Rehabilitative Services Judith Heumann. Riley reported that ED did not yet know exactly how the IDEA funds were being spent, and he asserted that the Impact Aid theft was one of only a few isolated instances of theft at the agency. When pressed on the subject of his official travel to the districts of House Democrats, Riley assured members that partisan politics were not a consideration in his travel plans.

7. AmeriCorps

During the 106th Congress, the Oversight and Investigations Subcommittee held three hearings on financial mismanagement of the Corporation for National Service (CNS). CNS is the umbrella organization that encompasses the AmeriCorps program.

CNS has never received a clean audit since it was created by President Clinton in 1993. It did not even undergo an audit until FY 1997, when it received a partial audit. The FY 1998 audit of CNS—the agency's first full audit—was the subject of a May 5, 1999 Subcommittee hearing held by Chairman Hoekstra. At the hearing, a KPMG Peat Marwick official and the CNS Inspector General reported that auditors issued a disclaimer (the worst possible rating) on three out of four sets of financial statements prepared by CNS. Auditors also identified eight material weaknesses in the Corporation's internal financial controls.

A few months later, on September 14, 1999, the Oversight Subcommittee held another hearing on, "The Failed Promise of the Corporation for National Service." The hearing featured testimony from two individuals, a high school teacher and a student, who had participated in a Terre Haute, Indiana AmeriCorps program in which students earned service hour credit for attending church missions, playing varsity sports and doing paid work such as lifeguarding and babysitting. The AmeriCorps program directors were responsible for misinforming the teachers and students about the service requirements of the program. Indiana state auditors questioned $300,000 of program expenditures as inappropriate, and the students' education awards were suspended while further investigation took place. The Inspector General of CNS, Luise Jordan, testified at the hearing that the state of Indiana's AmeriCorps commission, which ran the programs, was culpable, but national CNS/AmeriCorps officials were also responsible, because they did not exercise proper oversight of the state commission.

Shortly before the hearing took place, on March 29, 2000, a proposal by Rep. Hoekstra to reallocate $1 million to finance audits of the AmeriCorps state commissions was approved by voice vote as a floor amendment to the FY 2000 Emergency Supplemental Appropriations bill. When the bill became law, the $1 million was transferred from the CNS National Service Trust Fund to the Office of the Inspector General, which is currently conducting the state commission audits as part of a multi-year project.

On April 4, 2000, the Oversight Subcommittee held a hearing to discuss the results of the FY 1999 audit of CNS. The audit report issued a disclaimer on two out of three sets of financial statements, and reported five material weaknesses. Auditors identified a $10.5 million unexpended appropriations balance that could not be explained by the Corporation. The FY 1999 audit was significant in that it was the last annual audit of CNS to be completed during the Clinton Administration. When he introduced the legislation creating CNS/AmeriCorps, President Clinton vowed that the Corporation would operate like a private venture capital outfit, not like a typical government bureaucracy. And yet, as Chairman Hoekstra remarked upon in his opening statement, during Clinton's entire two-term presidency, CNS never once received a clean audit.

During the 106th Congress, the Subcommittee also sought to update statistics on the cost-per member of the AmeriCorps program. Back in 1995, GAO had determined that AmeriCorps cost more than $30,000 when programs were run by federal agencies, and $25,797 when run by non-federal entities, such as local nonprofit organizations. Congress subsequently barred federal agencies from receiving AmeriCorps grants. And several years later, CNS officials began to claim that the cost-per-member had been greatly reduced. Therefore, on February 25, 1999, Chairman Hoekstra wrote a letter to GAO requesting that it update the 1995 study, using the most recent available data.

The results reported by GAO were that, for the 1998–99 program year, AmeriCorps cost $23,574 per member. But GAO also noted that the apparent $2,223 per member reduction in cost was almost entirely due to the fact that CNS had "re-estimated" the value of the education award, reducing it by $2,179 per member. CNS claims it made the re-estimate after learning that many AmeriCorps members do not either do not complete a full term, or complete their term but never use their education award.

The bottom line of the GAO study was that it showed not only that AmeriCorps had not significantly reduced the cost per member of the program, but it also had a significant drop out rate and a significant number of graduates never use the education award. These findings helped to bolster the claim of many members of the Committee that AmeriCorps is a less effective tool of expanding access to higher education than previously existing programs, such as federal college work-study. While the work-study program was reauthorized by the Committee as part of the Higher Education Amendments of 1998, the Committee has not considered legislation that would reauthorize CNS/AmeriCorps.

8. National Endowment for the Arts

During the 106th Congress, the Oversight Subcommittee continued to closely monitor the grant making activities of the National Endowment for the Arts (NEA).

Soon after the end of each fiscal year, Rep. Hoekstra wrote a letter to the NEA requesting a breakdown of the distribution of direct grants. Under statute, NEA is required to send 40% of its grant monies directly to state arts commissions, but the other 60% is allocated according to the agency's discretion.

The Oversight Subcommittee learned that, during both FY 1998 and FY 1999, six major cities received approximately one-third of all NEA direct grant funding. These cities are New York, the District of Columbia, Boston, San Francisco, Minneapolis-St. Paul and Baltimore. In FY 1998, 167 congressional districts received no grants from the NEA, and in FY 1999 there were 141 congressional districts that received none. This information was posted on the Committee web site and distributed to members via Dear Colleague letters.

The Oversight Subcommittee also probed into several instances where the NEA appeared to be funding pornographic art. Chairman Hoekstra sent a letter to NEA Chairman Bill Ivey when the Subcommittee learned that the NEA had decided to fund Terrence McNally's play, "Corpus Christi", in which Jesus Christ is por-

trayed as a homeless, drug-addicted derelict. On September 29, 1999, Chairman Hoekstra sent a letter to Chairman Ivey when the Subcommittee learned that the NEA had awarded two grants during FY 1999 to the Brooklyn Museum of Art, which was in the process of staging an exhibit called, "Sensation" featuring disturbing "art" such as a portrait of the Virgin Mary stained with elephant dung and covered with pictures cut out from pornographic magazines. In advertising the exhibition, the Museum itself acknowledged the nature of the artwork being put on display when it issued a requirement that adults accompany children under the age of seventeen.

On October 1, 1999, Rep. John Sweeney (R–NY) introduced H. Con. Res. 191, expressing the sense of Congress that the Brooklyn Museum of Art should not receive Federal funds unless it cancelled its exhibit featuring works of a sacrilegious nature. On October 4, 1999, the resolution was taken up on the House floor under suspension of the rules. It was passed by voice vote.

9. OCR testing guidance

In May 1999, a controversial document draft being prepared by the Office for Civil Rights (OCR) in the U.S. Department of Education (ED) became widely available. This document, a "Resource Guide" with the working title "Nondiscrimination in High-Stakes Testing," was developed over several years within OCR. The Resource Guide has been criticized as a thinly veiled attack on the use of standardized tests by schools and colleges.

While purporting to merely "Describe existing legal and test measurement principles," the Resource Guide actually presented a highly controversial interpretation of the relevant case law and psychometric principles. It highlighted the suspect controversial theory of "disparate impact" under which a test is considered unfair if certain group members do not score as well as others, and face consequences as a result. There are group discrepancies on virtually every test, and the Resource Guide did not specify what size discrepancy would be considered unacceptable. Finally, it put the burden on schools to emphasize that a test was both "educationally necessary" and "valid" and that there existed no "practicable alternative form of assessment" that would have less of a disparate impact that could be used instead. Schools, effectively, would be required to prove a negative.

The issuance of the Resource Guide appeared to directly contradict the Clinton Administration's avowed commitment to support more state-level testing of elementary and secondary school students. Indeed, Abigail Thernstrom, a member of the Massachusetts state board of education, testified to the U.S. Commission on Civil Rights that the Resource Guide could have a chilling effect on state officials engaged in the process of developing new high-stakes exams.

This point was emphasized by Oversight Subcommittee Chairman Pete Hoekstra at a hearing he convened to discuss the Resource Guide on June 22, 1999. In his opening statement, Rep. Hoekstra noted that several states, including Texas, Virginia and Massachusetts, "are in the midst of instituting new high-stakes exams that will identify gaps in educational achievement. When

tests identify performance gaps between minority students and others, these gaps can be addressed." At the hearing, Linda Chavez, a former Reagan Administration official and head of the Center for Equal Opportunity, testified at the hearing and raised many questions about the Resource Guide. In response, OCR's Assistant Secretary, Norma Cantu, told members that the Resource Guide would undergo further revision and that their concerns would be taken into account in future versions of the document.

A second version of the Resource Guide was published in the Federal Register on July 6, 1999 under the title, "The Use of Tests When Making High-Stakes Decisions for Students."

On August 7, 2000, Chairman Goodling and Rep. Hoekstra sent a letter to OCR contending that the Resource Guide, even in its revised form, contradicted the Clinton Administration's stated priority of increasing accountability in the schools. The letter stated that—if the Resource Guide was to be disseminated by OCR—the document should contain a disclaimer on the first page stating that the guide, "does not constitute a rule or regulation, does not impose any new legal requirements upon school districts or schools, and represents only one interpretation of the relevant case law—that of ED."

An August 25, 2000 reply letter from Norma Cantu promised, "to add appropriate language at the front of the guide regarding its scope and purpose." As the 107th Congressional Session drew to a close, OCR had not yet issued a final version of the Resource Guide.

D. OCCUPATIONAL SAFETY AND HEALTH RELATED OVERSIGHT

1. Investigation of the Occupational Safety and Health Administration's Use of Letters of Interpretation to Implement Enforcement Policy Changes: Enforcement Actions in the Personal Residences of Employees Who Work at Home

a. Background

In late November 1999, the Occupational Safety and Health Administration (OSHA) issued a letter of interpretation responding to a Texas employer's question about whether employers who allowed their employees to work at home would be held responsible for all safety and health violations that occurred at the employee's personal residence. Letters of interpretation are documents with legal significance that OSHA issues, to clarify ambiguities in existing policy. Letters of interpretation are placed on the agency's website to notify all employers of these policy clarifications.

In providing an answer to this Texas employer, OSHA specifically held that "the (Occupational Safety and Health) Act applies to work performed by an employee in any workplace within the United States, including a workplace located in the employee's home." The letter also stated that employers must "ensure that employees are not exposed to reasonably foreseeable hazards created by their at-home employment." The agency further stated, "Ensuring safe and healthful working conditions for the employee should be a pre-condition for any home-based work."

Following this OSHA release of interpretation of law, the regulated community of employers questioned whether OSHA's action

represented a significant expansion of the law rather than a clarification of existing law. Before the release of the November 1999 letter of interpretation, the guidance available from OSHA to employers on the "work-at-home" issue was found in an October 1993 letter of interpretation. In that October 1993 letter, OSHA specifically "reserved judgment at (that) time as to the extent of OSHA coverage for other conditions found in the home workplace." While OSHA's 1993 policy guidance seemed to indicate that an employer would be responsible to assure safe working conditions in regards to "materials, equipment and methods provided or required by the employer," the perceived expansion existed in the category of "other conditions" which OSHA suggested would be clarified at a later date.

At issue was whether the November 1999 letter of interpretation expanded an employer's potential liability by no longer limiting the possibility of receiving a citation to those items and circumstances over which the employer exercised control. Employers questioned whether OSHA intended to extend the scope of that liability to all potentially hazardous conditions (including those that were not under the direct control of an employer), to arguably entail a very significant and meaningful expansion of OSHA's enforcement authority.

The debate between OSHA and the regulated community over the scope of this area of enforcement policy came to a head on January 4, 2000, when the Washington Post quoted OSHA Assistant Secretary Charles Jeffress with regard to this policy controversy; "[I]f an employer is allowing it to happen, it is covered (under the Act)." The same article quoted the AFL–CIO's health and safety director; "(the policy interpretation in question) makes sense, employers have to provide employees a workplace free from hazards." Following these statements, OSHA demonstrated an unwillingness to provide further clarity (e.g., OSHA allowed the existing policy interpretation to stand without change).

This condition of uncertainty in the regulated community led several Members of Congress to demand an immediate clarification of OSHA's policy. Representatives Frank Wolf, Chairman, Committee on Appropriations, Subcommittee on Transportation, and Subcommittee chairman Hoekstra joined, other Members of Congress to argue that there was need for immediate clarification because the statement of policy put forward in OSHA's November 1999 letter of interpretation had caused employers to question whether their decisions to utilize new forms of work, such as "telework" (also known as "telecommuting"), should stand in light of the potential, uncontrollable liabilities that these situations could create. Mr. Wolf noted that what had been termed a clarification of policy was, in fact, at odds with many of the efforts underway by states and local communities to reduce traffic congestion through the use of alternative forms of work. Mr. Hoekstra also stated his belief that intelligent government policy must complement rather than conflict with the changes produced by technological advance. To ignore those inconsistencies, Hoekstra noted, would have a significant impact on economic growth as well as an immediate impact on current attempts to produce a better balance between work and family time. The Members who had commented were uniform in

their belief that without clarification this OSHA policy would create a disincentive for employers to permit employees to work at home.

The controversy intensified in the following days, with a significant number of business leaders and employees concerned that their employers would revoke their work-at-home privileges adding their voices to the call for an immediate policy clarification. In response, on January 5, 2000, the U.S. Department of Labor (DOL) Secretary, Alexis M. Herman (DOL Secretary) formally announced that OSHA had "caused widespread confusion and unintended consequences" in issuing the policy interpretation on work at home "and therefore, OSHA is withdrawing the letter."

The DOL's official withdrawal of the letter was not accompanied by further clarification concerning whether or not the DOL had denounced the policy interpretation at issue. Accordingly, the Subcommittee immediately initiated communication with the agency in a letter dated January 6, 2000, to inform the agency that standing alone, the withdrawal of the letter was totally inadequate to clarify the uncertainty that had been generated by the DOL's action. The Subcommittee also informed the DOL that the withdrawal of the letter would do little to provide assurance to employers that their potential liability did not include working conditions in an employee's home over which they could exercise no control. The letter brought to DOL's attention the fact that a significant number of employers shared the Subcommittee's opinion, and informed the DOL that the consequence of that opinion would be a reluctance to use new forms of work, such as telework.

The Subcommittee further instructed the DOL that the Subcommittee's Members uniformly believed this act of clarification could not be delayed pending a "national dialog" between the Administration and its chosen representatives from the business community, as the DOL Secretary had suggested. In order to promote an immediate dialog with the full participation of Congress, the Subcommittee announced that it would conduct a hearing on the matter at its first available opportunity. The stated goal of the hearing, the Subcommittee publicly announced, was to gather information to permit Congress to prepare a legislative solution for OSHA's lack of definitive policy guidance, should the DOL continue its refrain from issuing appropriate guidance.

To further its goal of obtaining immediate understanding of the facts necessary for Congress to fill this policy void, in a letter dated January 7, 2000, the Subcommittee requested specific documents concerning OSHA's policy. Because of the need for urgency in this matter, the DOL was requested to produce these documents no later than January 21, 2000. On that day, the DOL's Office of the Solicitor of Labor formally responded to the Subcommittee's request for production of documents with what proved to be a very limited and incomplete production. Writing for the DOL, Deputy Solicitor Sally Paxton wrote, "[I]n view of the compressed time schedule for production of documents to your Subcommittee, we are searching the Department's national office for documents * * * and intend to supplement this response shortly." A second production of the requested documents, still incomplete, was delivered to the Subcommittee on January 25, 2000.

The Subcommittee found the DOL's reluctance to provide documents on a timely basis confusing in light of its communication of the urgency of the matter and the fact that the Subcommittee had since scheduled a hearing to occur on January 26, 2000. The Subcommittee also found the DOL's refusal to produce a summoned witness, Richard Fairfax, Director of OSHA's Directorate of Compliance Programs, as counter-productive to its efforts to understand the DOL's rationale for the proposed letter of interpretation. This refusal to permit Mr. Fairfax to testify was particularly confusing in light of the DOL's response to the Subcommittee's questions concerning why it had released the November 1999 letter of interpretation, when it should have been clear that the letter would create controversy. The DOL's senior leadership had publicly stated that the November 1999 "letter of interpretation" was issued without the knowledge of senior-most managers. Both OSHA's Assistant Secretary and the DOL Secretary contended that because of a "mix-up" the letter of interpretation had been issued without formal review by these managers and without formal approval. Mr. Fairfax, as the Directorate of this OSHA program division, could have easily confirmed this mix-up and identified the procedural problems that had been omitted in the clearance process.

b. OSHA's document production

The Subcommittee's goal in securing documents from OSHA (regarding the November 1999 letter of interpretation) was twofold: (1) to develop an understanding of the facts that predicated the DOL's decision to issue this policy; and (2) to develop an understanding of how this particular policy decision fit into the agency's overall statutory mandate for ensuring workplace safety and health.

To secure this necessary information, the Subcommittee asked the DOL for "any and all records regarding any communication between any employees or officials of the Department (of Labor) and any other person, organization, or entity, including but not limited to correspondence, facsimiles, or electronic mail generated over the period 1992 to present, relating to the application of the Occupational Safety and Health Act to work at an employee's home." The Subcommittee selected the time period "1992 to present" to include the period immediately preceding the former "letter of interpretation," dated in 1992, through the issuance of the DOL's November 1999 letter of interpretation. In sum, the Subcommittee believed that these documents would provide a comprehensive policy background that would detail the back-and-forth deliberations inherent in the policymaking process and, accordingly, adequately explain why certain decisions were made.

The DOL produced some documents on January 24, 2000, a Monday. That production of documents was faced with a letter dated January 21, 2000, a Friday; however, the documents had not been delivered by 7:15 p.m. on that date. Despite the delay, the Subcommittee's review of the documents quickly revealed that the DOL had failed to fully produce the requested documents. Addressing this failure, the DOL stated that a "compressed timeframe" for production had rendered it unable to comply and that the Subcommittee's staff had agreed to a partial production, a fact with which

Subcommittee staff disagreed. In addition, the DOL contended that some documents could not be provided because they were subject to an unidentified "privilege."

The Subcommittee went forward with its hearing on January 28, 2000 (the hearing was postponed for one day due to weather). On February 2, 2000, the Subcommittee responded to the DOL's letter of January 21, 2000, informing the DOL that it would "not recognize privileges unidentified in writing and unsupported by legal authority." Moreover, the Subcommittee expected the terms in its communications to be interpreted under the "clear meaning" of those terms. Accordingly, the DOL was to fully produce the requested documents no later than February 11, 2000 (this, in effect, extended the Department's deadline by three weeks).

On February 9, 2000, Deputy DOL Secretary Edward Montgomery phoned Subcommittee Chairman Hoekstra to request an extension of time for the referenced production of documents. In addition, Dr. Montgomery requested that the Subcommittee exempt certain classifications of documents from the scope of its request. In addition, Dr. Montgomery, again, argued that the DOL should not be forced to produce documents that, in his opinion, were subject to an unidentified claim of privilege.

The next day, on February 10, 2000, the Subcommittee received a letter from the DOL that memorialized the same requests that had been made by phone the day before. The letter noted that Chairman Hoekstra had stated that he would consider Dr. Montgomery's requests if they were made in writing. The next day, the Subcommittee responded to Dr. Montgomery's requests, stating (1) in light of the time that had passed, that the Subcommittee would not extend the deadline for the DOL's production; (2) that the Subcommittee would neither recognize nor rule on any assertion of privilege that was not identified and fully specified in an accompanying document log; and (3) that the Subcommittee granted a request for limitation in scope by narrowing the scope of documents that the Subcommittee requested to exclude all relevant communications below the level of "regional office."

c. January 28, 2000 hearing

At the January 28, 2000 Subcommittee hearing, Assistant Secretary Jeffress acknowledged that OSHA's November 1999 letter of interpretation had led to confusion. To correct that, and to provide certainty to employers about OSHA's policy, Mr. Jeffress stated that he and the Secretary of Labor had agreed that the Occupational Safety and Health Act "does not apply to an employee's house or furnishings." Mr. Jeffress also stated that OSHA would "not hold employees liable for work activities in an employee's home offices" and that the agency "will not inspect home offices (nor) expects employers to inspect home offices." He noted, however, that employers would still be expected to keep records of work-related injuries and illnesses including those occurring in the employee's home, and that "where work other than office work is performed at home, such as manufacturing operations, (that) employers are responsible for hazardous materials, equipment, or work processes which they provide or require to be used in a employee's home." Mr. Jeffress added that if OSHA were to ever con-

duct inspections of hazardous workplaces found in an employee's home, such as home manufacturing, that it would do so only "when OSHA receives a complaint or referral" and not in cases of a "programmed, administrative inspection." Mr. Jeffress then provided examples of what OSHA would consider hazardous home manufacturing operations.

Mr. Fairfax appeared on the same panel with Mr. Jeffress. While the Subcommittee had agreed that Mr. Fairfax would not be required to make a formal statement, Mr. Fairfax was present for the purpose of addressing any of the Subcommittee's questions. During such questioning, Mr. Jeffress reiterated his previous statement that the November 1999 letter of interpretation had been issued without his, or one of his assistants, having seen it and/or approved it. Mr. Jeffress agreed that a situation wherein policy determinations could be issued without formal approval was unacceptable. Mr. Jeffress also testified that he would institute changes within OSHA's structure to institute accountability in this area and ensure that a similar issuance without official approval would not occur again.

During questioning, Mr. Fairfax was asked about an e-mail sent from him to the Directorate of Compliance Program staff on January 5, 2000, that stated:

"I am sure that most of you by now have seen or heard about the firestorm created over our interpretation of employer responsibilities over employees working at home. I want to point out that while this has created quite a sensation * * * that the interpretation was and is correct from a worker safety and health perspective and according to the OSH Act. Those of you that have worked on the interp (SIC) were doing your jobs correctly and professionally, no one has found fault in what was said in our letter. The issues being raised are political and not safety and health related. Both Charles Jeffress and Davis Layne asked me to stress their support and faith in us and our work."

This statement by Mr. Fairfax, in combination with an additional e-mail transmission by one of OSHA's Regional Directors called into question whether some action in addition to OSHA's withdrawal of the letter of interpretation would be necessary to clarify OSHA policy. The e-mail by this Regional Director, dated January 5, 2000, to employees throughout the Denver regional office of OSHA, stated:

"The letter of interpretation has been removed from the OSHA website, (but) for your information, the letter accurately articulates the position of the Department and the Agency, however for now, don't engage in the discussion."

Based on an apparent misunderstanding of OSHA employees over the agency's enforcement policy for work-at-home, the Subcommittee questioned Mr. Jeffress on whether the agency would be willing to disseminate some form of "instruction" or "policy directive" to OSHA field personnel that would communicate his position at the hearing. Mr. Jeffress stated that OSHA would be willing to do this.

d. OSHA "Instruction" or "Policy Directive" on Home-Based Worksites

In following through on the assurance that OSHA would issue an "instruction" or "policy directive" on home based worksites, the Subcommittee secured from OSHA an assurance that the agency would provide a draft of this policy statement for the Subcommittee's review and comment before formal issuance. On February 22, 2000, OSHA officials met with Subcommittee staff and shared a draft copy of the "Instruction." On February 23, 2000, a revised draft was circulated to Subcommittee Members.

On February 25, 2000, the Subcommittee informed the DOL Secretary in writing that, "Considering the importance of the issue, the members of this Subcommittee believe it was an important first step" to issue a policy directive to clarify any confusion that may have resulted from OSHA's issuance of the November 1999 letter of interpretation. The Subcommittee noted, however, "[T]his OSHA Instruction is subject to change without public notice or input." The Subcommittee also noted that many of the terms contained in that Instruction, such as definitions of "home office" or "home based work," were legally untested and, in the future, courts may be called upon to interpret these terms. To supplement the Instruction, the Subcommittee recommended that OSHA and the DOL formally request public comment from all interested parties. In addition, the Subcommittee requested that OSHA and the DOL provide any future proposed change to the OSHA Instruction in advance of issuance to the Subcommittee for its review and comment.

e. Implementation of Management Change within OSHA to Institute Accountability in the Policy Review and Approval Process

During his appearance before the Subcommittee on January 28, 2000, Mr. Jeffress stated that changes would be made within OSHA's management structure to assure accountability in the issuance of important policy interpretations, such as the November 1999 letter concerning home-based worksites. Mr. Jeffress also stated that he would have to review the management structure and consult with other DOL officials before implementing such changes. Accordingly, Mr. Jeffress stated that he and other senior managers at the DOL would report back to the Subcommittee at a later date concerning these steps toward accountability.

On April 5, 2000, the Subcommittee conducted a follow-up hearing on OSHA's work-at-home enforcement policy to examine the DOL's changes within the agency at large and within OSHA in particular. In testifying, Deputy DOL Secretary Montgomery informed the Subcommittee that change had begun but had not been completed within OSHA or throughout the DOL. Dr. Montgomery also assured the Subcommittee that the process of implementing management accountability change would continue and asked for more time to effect those changes. The Subcommittee agreed to provide this additional time, and informed Dr. Montgomery that it would expect a full report in the future.

2. GAO Report on Occupational Safety and Health Administration Inspections and Labor Unrest

a. Background

On May 7, 1997, Subcommittee Chairman Hoekstra and Cass Ballenger, Chairman of the Subcommittee on Workforce Protections (Workforce Subcommittee), asked the GAO to study OSHA inspections at establishments experiencing labor unrest. Specifically, the Congressmen requested that the GAO determine: (1) the extent to which employers experiencing labor unrest are more likely to be inspected than employers not experiencing labor unrest, and (2) whether OSHA has policies for performing inspections during periods of labor unrest and whether these policies are followed.

The GAO conducted the study between June 1999 and June 2000, and released its report entitled, "OSHA Inspections at Establishments Experiencing Labor Unrest," on August 31, 2000. The GAO's methodology identified approximately 22,000 establishments each year from Fiscal Years (FY) 1994 to 1998 that experienced labor unrest using data compiled by the National Labor Relations Board and the Federal Mediation and Conciliation Service, which both track work stoppages.

b. GAO findings

The GAO report concluded that OSHA inspections occur about 6.5 times more frequently in companies experiencing labor unrest based on the following "key" findings:

(1) About 68 percent of OSHA inspections at companies experiencing labor unrest were generated by complaints, fatalities or catastrophes as compared with 27 percent of all OSHA inspections;

(2) Seventy-six percent of establishments experiencing unrest were unionized, as compared with 24 percent of all establishments inspected by OSHA; and

(3) Sixty-one percent of the inspections involving labor unrest were in manufacturing facilities, compared with 26 percent of all OSHA inspections.

c. Subcommittee recommendations

This report's findings may serve as the basis for additional inquiry for the GAO to determine the ratio and severity of penalties issued for complaints filed in union and non-union shops during labor unrest.

3. Investigation of Alleged Improper Judicial Conduct at the Occupational Safety and Health Review Commission

In the summer of 2000, a "whistleblower" at the Occupational Safety and Health Review Commission (OSHRC) informed the Subcommittee of alleged improprieties at that agency. Specifically, the "whistleblower" discussed how OSHRC officials were allegedly assigning cases to at least one judge outside of the normal judicial rotation, thereby affecting the results of the case. On July 25, 2000, the Subcommittee wrote OSHRC Chairperson Thomasina V. Rogers to request information and documents relating to this allegation, and to request that the agency begin its own internal investigation. Although the Subcommittee's investigation and OSHRC's internal

review did not reveal any evidence of such alleged improper case assignments, the agency has renewed its vigilance in overseeing its procedures in this regard.

E. OVERSIGHT OF THE MINE SAFETY AND HEALTH ADMINISTRATION: ALLEGED MANAGEMENT IRREGULARITIES

1. Nepotism in personnel policy

Like all federal agencies, the Mine Safety and Health Administration (MSHA) must comply with all applicable regulations prohibiting nepotism in its personnel policies particularly regarding hiring, firing, and promotions. In late 1999, a "whistleblower" presumably employed by MSHA contacted the Committee regarding allegations of nepotism by high-ranking MSHA officials specifically regarding a husband working in a position to improperly supervise his wife.

On January 6, 2000, Subcommittee Chairman Hoekstra and Workforce Subcommittee Chairman Ballenger wrote the DOL's Office of the Inspector General (DOL IG) requesting that it investigate these allegations. This letter prompted an ongoing "joint" investigation between the Subcommittee and the DOL IG resulting in the DOL IG's renewed vigilance in overseeing the propriety of MSHA's personnel practices. Accordant "firsts" included information sharing of DOL IG investigative reports with the Subcommittee.

2. Inappropriate contract awards

a. Background

MSHA must also comply with proper contracting procedures including its award of "sole source" contracts (*i.e.,* those for less than $25,000) that must be competitive bid and awarded based on merit rather than on any improper motive. Whistleblower communications about inappropriate conduct in the award of these contracts by certain high-ranking MSHA officials prompted the Subcommittee to open an investigation that led to the DOL IG's involvement based on the severity and extent of the allegations.

b. Investigation raises ethical questions

The Subcommittee's series of correspondence to the DOL Secretary began on May 5, 2000, when the Subcommittee requested specific information relating to the bidding policies and practices applicable to MSHA's awards of source contracts, and copies of MSHA sole source contracts for personal services (*i.e.,* photography, lectures, etc.). After a delay of questionable necessity, the DOL responded to the Subcommittee's request and produced hundreds of pages of documents that Subcommittee staff reviewed. This initial review suggested certain patterns in the award of MSHA contracts to recipients with alleged ties to officials working for MSHA as well as the Mining Academy in West Virginia.

Meanwhile, additional whistleblowers currently and previously employed by MSHA contacted Subcommittee staff to corroborate the allegations at issue and raise additional allegations such as document shredding at the agency in an effort to hide records from the Subcommittee. Committee staff joined the Subcommittee's in-

vestigation of the shredding allegation in particular, which resulted in DOL officials providing contradictory explanations of this occurrence.

In furtherance of its investigation, on June 22, 2000, the Subcommittee sent additional correspondence to the DOL Secretary that enumerated the questionable contracts and named the officials under investigation. In responding to this letter, the DOL Solicitor answered certain questions primarily concerning contracting procedures but declined to answer questions concerning specific contractors, instead, advising the Subcommittee that these questions had been referred to the DOL IG.

c. Joint Investigation with the DOL IG

On June 28, 2000, the Subcommittee wrote the DOL IG regarding its concerns pertaining to the DOL Solicitor's letter of response dated June 7, 2000, that "a number of sole source service contracts may have been misfiled." The Solicitor did not identify the misfiled documents. Given the appearance of impropriety raised by such misfiling, the Subcommittee requested an investigation of the prevalence of document misfiling at MSHA as well as an evaluation of the DOL's ability to collect and produce documents on a timely basis.

Although the Subcommittee continued it's own parallel investigation, its joint investigation with the DOL IG yielded positive results including sharing document and witness information. On September 13, 2000, the Acting Inspector General shared with Subcommittee Chairman Hoekstra details of her Office's investigation including the results of certain witness interviews and what contracts her Office dismissed from further inquiry.

d. Subcommittee recommendations

Although this investigation is ongoing, results thus far include the DOL IG's commitment to examine the propriety of every contract award at issue and, more generally, to renew efforts to ensure that MSHA officials follow proper contracting procedures. In addition, the DOL IG has referred one suspicious contract to its New York regional office for further inquiry. The Subcommittee should continue its investigation and its oversight of the DOL IG's investigation to ensure the fair and expeditious resolution of all charges by dismissal or referral for ethical and/or criminal prosecution.

F. INVESTIGATION INTO USE OF TAXPAYER FUNDS FOR QUESTIONABLE OFFICIAL TRAVEL BY DOL OFFICIALS

1. Background

In discharging its congressional responsibilities, the Subcommittee has a duty to investigate allegations of mismanagement, waste, fraud, and abuse by those agencies and agency officials within its jurisdiction. The sequence of events which constituted probable cause for an investigation by the Committee into travel for "political purposes" by the DOL Secretary and certain DOL political employees (*i.e.,* PAS, non-career SES appointees, and schedule C employees) began with the publication of an article in the August 27, 2000 edition of the Washington Post. This publication

questioned ED Secretary Riley's "travel to make public appearances with 10 House Democrats locked in competitive races."

An obvious, analogous question was whether the DOL Secretary was engaging in improper, political travel at taxpayer's expense. Compounding this question was the existence of previous "whistleblower" contacts with the Committee alleging improper, politically motivated travel at taxpayer expense by the DOL Secretary and other DOL officials. In addition, the Committee learned that the DOL Inspector General's Office (DOL IG) was investigating the propriety of certain trips taken by the DOL Secretary and other political appointees employed at the DOL to determine whether such travel was for the veiled, improper purpose of political campaigning. The "straw that broke the camel's back" came with the receipt of an anonymous letter from a current DOL employee providing specific details of what was alleged to have been improper, politically motivated travel. The accusations in this letter presented specific information necessitating immediate oversight.

2. Unreasonable DOL document production

By letter dated September 11, 2000, Committee Chairman Goodling and Subcommittee Chairman Hoekstra wrote the DOL Secretary to request documents relating to her travel and related expenses, and other such documents for political appointees working at the DOL. These requested documents were generated and maintained by the DOL and were unavailable to the Committee by any other source. Despite the Committee's efforts to narrow the scope of its request and extend the production deadlines for the sole benefit of the DOL, the DOL did not make a timely or complete production.

3. Subcommittee findings

After reviewing hundreds of pages of DOL documents, the Subcommittee found no specific evidence of impropriety. Nevertheless, in furtherance of the Committee's investigation, Subcommittee staff conducted separate meetings with DOL and DOL IG representatives. These meetings raised questions about whether the DOL had failed to make a complete document production of the Committee's request for "any and all" responsive documents.

On October 19, 2000, the Subcommittee met with representatives from the DOL IG including the Assistant IG for Audit to discuss its investigative procedure and findings. At that juncture, the IG's investigation had found no improprieties. During this interview, the Subcommittee discovered that the IG's methodology for this investigation had depended on self-reporting by the DOL politically appointed officials. The Committee also found that the DOL Secretary and at least two high-ranking DOL employees did not turn in the appropriate paperwork during one reporting period.

On October 23, 2000, the Subcommittee interviewed the DOL's Assistant Secretary for Administration and Management (OASAM) Patricia Lattimore, and DOL Deputy Solicitor Paxton regarding OASAM's travel policies and, in particular, Ms. Lattimore's responsibility to oversee the DOL Secretary's travel. As a result of Ms. Lattimore's explanation of the process for DOL travel approval the Committee learned that some of the travel vouchers produced by

the DOL lacked OASAM approval and were, in effect, not final documents.

4. Recommendation

The Subcommittee finds that the DOL's production response did not include all paperwork from OASAM to agency officials or employees pertaining to the correction of deficiencies in travel vouchers. Ms. Lattimore agreed to produce these documents and, at the date of this writing, the Subcommittee awaits such production.

G. REVIEW OF U.S. DEPARTMENT OF LABOR, OFFICE OF LABOR MANAGEMENT STANDARDS, INTERNATIONAL UNION COMPLIANCE PROGRAM REVIEW PROCEDURES

1. Background

Under the Labor Management Reporting Disclosure Act of 1959, as amended (LMRDA), the DOL's Office of Labor Management Standards (OLMS) is responsible for conducting audits to] determine if unions are complying with legal reporting requirements. One such audit is the International Compliance Audit Program (I–CAP), conducted for an international union.

According to the I–CAP Handbook, an internal agency document that guides the conduct of these audits, the I–CAP has four principal objectives:

(1) Determine compliance by the international union with the criminal and civil provisions of the LMRDA, or provisions of the Civil Service Reform Act of 1978 (CSRA);

(2) Review, to the extent possible, compliance by affiliated unions with the criminal and civil provisions of the LMRDA (or CSRA);

(3) Provide assistance to international unions and their affiliates to help them comply with the LMRDA (or CSRA); and

(4) Increase communication and cooperation between OLMS and international unions.

The I–CAP includes financial audit procedures and LMRDA compliance procedures. The financial audit procedures discussed in the I–CAP Report are not equivalent to those stipulated under Generally Accepted Auditing Standards (GAAS) or Generally Accepted Government Auditing Standards (GAGAS). Additionally, although OLMS uses similar and sometimes identical terminology as GAAS and GAGAS, the definitions are not comparable. There are different assertions and objectives embodied in each type of audit. The I–CAP procedures encompass 25 mandatory steps, 35 optional steps, and allow for additional steps as deemed necessary.

OLMS personnel performing I–CAPs are not subjected to the same standards as Government Auditors or Certified Public Accountants performing compliance work in the public and private sectors. Individuals performing I–CAPs are considered investigators and, therefore, are not required to follow Government Auditing Standards (Yellow Book) or Generally Accepted Auditing Standards (GAAS). However, the Subcommittee believes that the government's standards follow the "Quality Standards for Investigations" set forth by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

As outlined in the I–CAP Handbook, upon completion of the on-site I–CAP procedures, the OLMS national office forwards investigative leads and case referrals, designated as mandatory or discretionary, to the appropriate OLMS District Offices for further action.

2. Limitations of the I–CAP

Based on the Subcommittee's review of one sample I–CAP report and the supporting documentation generated internally by OLMS and provided by the subject international union, the Subcommittee finds that the primary objective of the I–CAP is compliance by the international union and its affiliates with the criminal and civil provisions of the LMRDA, or the provisions of the Civil Service Reform Act of 1978 (CSRA). The I–CAP is not intended, however, to be a substitute for the work performed by Independent Auditors and their assertions related to the financial position of the union.

According to the DOL, each I–CAP Team should have access to all union internal documentation, including electronic media, either through voluntary cooperation or subpoena. The Team has great flexibility in determining the focus of targeted areas and has the authority to initiate verification of transactions with outside third parties. These third-party verifications are sent to the appropriate OLMS district office by the I–CAP Team to make contact with the designated party. The I–CAP Team provides specific instructions concerning the information to be obtained from or about the third party by the district office. Upon completion by the district office, findings are sent back to the initiating office for further evaluation. The I–CAP Team Leader has the discretionary authority to terminate further actions on third-party verifications.

As referenced in the "I–CAP Opening Interview Guide," another internal DOL document, if the union fails to fully cooperate in providing the information requested by the team or in producing records for their examination, an OLMS District Director, after receiving approval from the OLMS National Director, Division of Enforcement (DOE), may serve a subpoena duces tecum on union officials.

3. The Importance of the I–CAP

It is important to recognize the use of certain terminology within the scope of an I–CAP and how those terms differ from the identical or similar language as defined in GAAS and GAGAS (Yellow Book). Terms such as "compliance audit," "financial audit," "internal controls," and "sampling techniques" that appear in the "I–CAP Opening Interview Guide" are good examples. "Compliance audit" and "financial audit" seem to be used interchangeably by the OLMS when the agency refers to the I–CAP. The OLMS, however, does not provide a clear definition of these terms. Individuals familiar with GAGAS (Yellow Book) and the auditing standards (GAAS), as adopted by the membership of the American Institute of Certified Public Accountants (AICPA), may interpret these as terms as representing structure and authority. In reality, the OLMS is not required to follow the same high standards as other professions as the persons performing the I–CAPS are "investigators."

4. Subcommittee Findings

Based on the Subcommittee's review of the I–CAP and corresponding working papers, the term "internal controls" as used by the OLMS describes the very basics of controls over receipts and disbursements. Upon completion of the I–CAP, however, the OLMS often reports that the international union's "internal controls" are strong. This is another source of possible confusion because according to GAAS and GAGAS, the term internal control can be defined as follows:

"Internal control is a process—effected by an entity's board of directors, management, and other personnel—designed to provide reasonable assurance regarding the achievement of objectives in the following categories: (a) reliability of financial reporting, (b) effectiveness and efficiency of operations, and (c) compliance with applicable laws and regulations. It consists of five interrelated components, which are: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring."

Accordingly, there is a marked difference in the scope and meaning of this term.

In another area, the very nature of an I–CAP is extremely subjective in terms of what specific areas will be examined and in what detail will be examined. As mentioned previously, at the outset, OLMS develops a strategy for selecting and performing optional audit steps over and above the 23 mandatory steps.

"Sampling techniques" as performed by the OLMS are limited to non-statistical methods. Part of the audit process is to identify transactions for further testing. References to sampling in the "Summary/Referral Memorandum" simply state, "On a sampling basis * * * [.]" Ultimately, the items sampled are based on the judgment of the I–CAP Team. According to GAAS, "Sample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have the opportunity to be selected." (AICPA Professional Standards AU Section 350.24)

Scanning is another means of selecting transactions for further testing. This method does require the establishment of certain criteria. For example, I–CAP Step 20 indicates that all international union disbursement journals for the audit period should be scanned for large or unusual disbursements and all check issued to cash transactions. Large and unusual disbursements were deemed those that met at least one of the following criteria:

(1) Amount was greater than $10,000;

(2) Amounts were even dollars;

(3) Purpose of disbursement was not readily apparent from entries recorded in the disbursement ledger;

(4) Disbursements appeared to be duplicative of other transactions; or

(5) Legitimacy was in question because the descriptions in the disbursement ledger lacked clarity.

When considering the broad scope of "scanning" and the wide range of criteria that can be met, many transactions that could be selected are often overlooked. Again, there is great flexibility for

OLMS in determining which transactions will be subject to further scrutiny by the I–CAP Team.

5. Summary

The Subcommittee's review of a sample I–CAP Report provided valuable insight into the methodology behind the process. Since the Subcommittee has not had access to other union I–CAPs, comparisons to other I–CAPs cannot be made at this time.

According to the DOL, OLMS has conducted compliance audits of more than 100 international unions since the I–CAP was initiated in 1982 (I–CAP Opening Interview Guide). As of February 1, 2000, there were 12 international unions, including the AFL–CIO, remaining that had not been subjected to an I–CAP.

Although the Subcommittee realizes much of the terminology used by the OLMS in the I–CAP Report is mainly for internal purposes, based on review of various guides and questionnaires it appears this terminology is used when communicating with union officials. Because international unions are also subjected to financial statement audits performed by independent Certified Public Accountants, there is the element of risk that union officials may misinterpret the results of such reports.

The sample I–CAP report and corresponding working papers provided a vast amount of detail, which has not been analyzed or documented in its entirety for the purposes of this internal memorandum due to time constraints. Future inquires by Committee Members may warrant a closer look at this information.

H. OFFICE OF FEDERAL PROCUREMENT POLICY'S PROPOSED "BLACKLISTING" REGULATIONS

The Subcommittee worked closely with the Employer-Employee Relations Subcommittee (EER Subcommittee) regarding the Office of Federal Procurement Policy's proposed "blacklisting" regulations, an issue discussed in detail in the EER Subcommittee's activities report.

I. OVERSIGHT OF THE NATIONAL LABOR RELATIONS BOARD

1. Indian Gaming: Abrogation of Sovereignty to Increase Organizing?

a. Background

On November 2, 1999, the National Labor Relations Board (NLRB) reported its then-General Counsel's decision to argue that the NLRB should change current jurisdictional standards and assert jurisdiction over a Native American gaming casino (Casino) owned and operated by the San Manuel Band of Serrano Mission Indians ("San Manuel" or "Tribe"), and located on tribal land near San Bernardino, California. Both the National Labor Relations Act (NLRA) and its legislative history are silent on whether the NLRA applies to Indian tribes. For approximately 25 years, the NRLB has declined to assert jurisdiction over Indian tribes and their economic enterprises located on reservations. It is undisputed that the NLRA applies to tribal-owned businesses located off-reservation or co-owned with a non-tribal entity.

b. Necessity of oversight

The legal issue in this case concerns whether the NLRB should interpret the NLRA's silence as to Indians to exclude them from its application, thereby respecting principals of tribal sovereignty, or to include them based on the Act's general applicability. Should the Board accept Counsel's recommendation to exert jurisdiction over the Tribe, it will alter labor law precedent by abrogating tribal sovereignty over Indian owned and operated business enterprises located on tribal lands. The Board's decision to exert jurisdiction will also open the floodgates of union organization of Indian gaming employees. In exercising its oversight responsibilities, the Subcommittee questioned whether the NLRB General Counsel's decision to consider this matter at this date reflects an improper pro-union shift in the General Counsel's or the NLRB's philosophical bent. Accordingly, on May 15, 2000, the Subcommittee wrote the NLRB's successor General Counsel a letter to request details about this decision to help ensure that any decision to exert, or refrain from exerting, jurisdiction over the Tribe is based on neutral principals rather than any pro-union or otherwise improper sentiment. The letter did not address the substance of the General Counsel's decision-making process, but instead focused on: (1) matters pending before the NLRB on issues concerning tribal sovereignty; (2) whether any person or organization was exerting undue influence over the General Counsel or his Office; and (3) an explanation of the General Counsel's decision to overturn 25 years of legal precedent. In addition to Subcommittee Chairman Hoekstra, signatories to the letter included Majority Leader Richard K. Armey, Majority Whip Tom DeLay, and Congressional Native American Caucus Co-Chairman J.D. Hayworth.

c. General Counsel's response

By letter dated June 12, 2000, the General Counsel responded to the Subcommittee's inquiry (Response Letter). Per the Response Letter, the General Counsel's decision appeared primarily based on promoting a pro-organization agenda for the following reasons.

As an initial matter, the General Counsel argued that the NLRA is a statute of general applicability that presumptively applies to Indian employers since: (1) regulation of the Casino is not limited to "purely intramural matters" concerning tribal membership, inheritance rules, and domestic relations; and (2) matters concerning non-members are at issue (the union supporting the Board's exertion of jurisdiction approximates that 95 percent of the Casino's employees and approximately 98 percent of the Casino's customers are non-Indian). The General Counsel also argued, although this appears to be a value judgment disputed by the Tribe among other entities, that the NLRA does not conflict with the Indian Gaming and Regulatory Act (IGRA [25 U.S.C. 2701(5)]), since the latter statute does not regulate labor or employment relations in the Indian gaming industry, nor is there any mention of the NLRA in IGRA's provisions. Specifically, IGRA provides tribes with the "exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming activity."

d. Subcommittee analysis

Although the General Counsel's legal arguments appeared factually sound, as reflected in the case law cited in the Response Letter and briefs previously submitted to the NLRB, the Subcommittee expressed concern over three primary propositions set forth in the Response Letter.

First, the Response Letter was written as if the NLRB's decision to assert jurisdiction in this regard was a fait accompli. Specifically, the General Counsel's opening paragraph stated that he had submitted the requested information "regarding the decision to assert jurisdiction over the San Manuel Indian Bingo and Casino." The NLRB has not yet ruled on the General Counsel's motion on this issue and has not set a hearing date for oral argument on the Tribe's motion to dismiss the General Counsel's complaint for lack of jurisdiction.

Moreover, the General Counsel appeared to evade the Subcommittee's question as to whether the NLRB would find useful any clarification of congressional intent with regard to the sovereignty of Native American business enterprises operating on tribal land. The Subcommittee shared the view expressed by many legislators and Native American gaming casino owners and operators that such clarification would be useful given that: (1) the legislative history is silent; (2) there has been no impetus for administrative change such as new facts or other legal circumstances surrounding this issue for a quarter-century; and (3) neither Congress nor the courts have legislated/determined whether IGRA conflicts with the NLRA, and the Tribes and other interested parties have argued that IGRA should control given its "exclusivity" clause.

e. Subcommittee recommendations

Given that the San Manuel case is still pending before the NLRB, Subcommittee oversight of this litigation is necessary to monitor whether the agency will continue its recent trend to overturn precedent in favor of unions or, at least, pro-organizing principles.

2. Delay in the appellate process

a. Background

The NLRB, as an agency, essentially provides two avenues for parties to pursue appeals of decisions that they consider unfair or legally or procedurally improper. After a Regional Office has decided an unfair labor practice charge or a petition for representation, a charging party that disagrees with the decision may file an appeal to the NLRB's General Counsel. The Office of Appeals handles those appeals.

Should the NLRB agree to hear a case, it will issue a decision that a party may appeal to its regional federal Court of Appeal or to the District of Columbia (federal) Court of Appeal. Enforcement and review of final NLRB decisions are handled by the Appellate Court Branch, which may also decide to appeal that decision to the appropriate federal Court of Appeal.

b. Necessity of oversight

During the summer of 2000, the Subcommittee heard NLRB stakeholders express their concern over lengthy delays experienced in both NLRB appellate venues. Accordingly, on August 15, 2000, Subcommittee Chairman Hoekstra wrote a letter to the NLRB General Counsel to inquire as to the agency's processing of enforcement proceedings to achieve appellate review of NLRB decisions in the U.S. Courts of Appeals. Chairman Hoekstra's questions generally inquired about the information the agency dispenses to parties regarding case processing time and specifically asked about the average, mean, and longest times for case handling.

c. NLRB response

The General Counsel's response letter quoted case processing times for the Appellate Court Branch during FY98 and FY99. Perhaps the most egregious example of delay concerned an enforcement case filed during FY99, where no petition for review was filed, that took 549 days from the Appellate Court Branch's receipt of the case to the filing of an application for enforcement in the appropriate federal Appellate Court. Although the General Counsel shared the Subcommittee's concern about the negative impact of case backlog on the NLRB's customer satisfaction and the agency's overall performance, the General Counsel did not offer any solutions to combat this problem.

d. Subcommittee recommendation

In addition to its letter, the Subcommittee and the EER Subcommittee met with the NLRB Inspector General to discuss the NLRB's case backlog. This meeting generated positive results including the Inspector General's decision to include as part of her audit of that agency a review of backlogged cases and of timeliness of action within the Office of Appeals. The Subcommittee should continue to monitor the Inspector General's efforts in this regard as well as the NLRB's efforts to reduce its case backlog to, thereby, improve its overall performance.

J. CONSULTATIONS WITH AGENCIES OF JURISDICTION ON SUBMISSIONS TO CONGRESS UNDER GOVERNMENT PERFORMANCE AND RESULTS ACT

1. Background

A reading of the legislative history of the Government Performance and Results Act (Results Act) reveals that Congress enacted this law in 1993 to cause a fundamental shift in the focus of government decision-making and accountability from a preoccupation with the activities performed by an agency (process) to a focus on the results or outcomes of those activities. For example, Congress was interested in shifting the focus from how many enforcement actions may have occurred within a particular agency (process) to how those enforcement actions may have improved the overall compliance with the law in the regulated community (outcome).

Producing this information on "outcomes" necessitated the institution of a management process. Accordingly, the Results Act requires most federal agencies to develop multi-year Strategic Plans, annual Performance Plans, and annual Performance Reports. Con-

gress contemplated that this process would include frequent consultation between Members of Congress and the agencies under their jurisdiction. This process of consultation was envisioned as an essential part of an overall system of managing for results. Accordingly, the Subcommittee initiated and conducted a number of consultative meetings with agencies over the 106th Congress. The findings made by the Subcommittee during these consultative meetings are reported below.

2. Results Act requirements

Congress passed the Results Act based on the Congress' findings and belief that "regular and systematic reporting of performance, compared to pre-established goals, would be a major addition" to management in government. The reforms provided in the Results Act would provide tools for federal "managers, policymakers and the American people to think about what services the government should provide, and how well it does at providing" these services.

Congress designed Strategic Plans to serve as the starting points, and basic underpinnings, of an effective program of goal-setting and performance measurement. Under the Results Act, Strategic Plans were designed as multi-year plans (much like a business plan or a work plan) in which the fundamental mission(s) of an organization is (are) articulated and a "leadership vision" in terms of long term, strategic goals for implementing that mission is communicated.

To be of maximum usefulness, Congress found that that these plans should have a direct link to the agency's daily operations. As such, the fundamental mission of an agency has little to do with political philosophy and serves, rather, as a statement of the agency's reason to exist, in terms of its congressional mandate(s). Agency leadership, in contrast, has numerous options available in terms planning for results.

Performance Plans are the vehicle for this direct linkage between the agency's daily operations and its long term plans for improvement as expressed in its Strategic Plan. As such, these performance plans break long-term objectives into tangible, short-term operational plans that directly relate to the way the agency conducts its day-to-day business.

Performance results are reports that serve as feedback to agency managers, policymakers, and the general public concerning what the agency has actually accomplished for the resources expended. Like any performance-based management system, this requires a process of choosing appropriate measurements for performance and then periodically (annually for reporting purposes under the Results Act, but in theory more frequently inside the agency) assessing outcomes or results based on these measures. Obviously, performance appraisal requires analysis: are the measures chosen appropriate for indicating progress; were there unforeseen events which influenced the outcome measures and "skewed" the measurement system; or, "is the entire underlying premise of the program" flawed?

In this planning process, Congress believed that consultations with policymakers and the general public was an essential component of the overall success of the use of this management technique

in government. Congress contemplated that the annual process of submitting performance goals and objectives and performance result reports would become an integral component of the appropriations and budgeting process. The authorizing committees were empowered to use this information to conduct oversight in terms of monitoring the agency's success in meeting its statutory mandate(s). In sum, if agencies properly implemented the management system envisioned under the Results Act, policymakers would be able to assess which programs were working well, which needed revisions (possibly statutory), identify where waste existed, and evaluate whether further improvements were called for even in programs that seemed to work well.

In terms of consultations with the public, armed with information about the agency's management system, citizens (stakeholders) could communicate with their government using the same language as regulators. Moreover, armed with accurate information, the public would renew its confidence in the government to satisfy an underlying purpose of the Results Act.

3. The timetable for implementation of the act

A timetable was established to phase-in each of these requirements: Strategic Plans were to be completed no later than October 1997; annual Performance Plans were to be completed each year thereafter; and no later than March 31, 2000, all agencies were to complete their first Performance Report (for FY99) followed by similar annual reports. Accordingly, agencies have recently completed the first full-cycle of submissions required under the Results Act.

4. Subcommittee findings during consultation process

a. Employment Standards Administration

Background—The Employment Standards Administration (ESA) enforces and administers laws governing legally-mandated wages and working conditions, including child labor, minimum wages, overtime and family and medical leave; equal employment opportunity in businesses with federal contracts and subcontracts; workers' compensation for certain employees injured on their jobs; internal union democracy and financial integrity, and union elections, which protect the rights of union members; and other laws and regulations governing employment standards and practices.

ESA has four component programs: the Office of Federal Contract Compliance Programs (OFCCP); the Office of Labor-Management Standards (OLMS); the Office of Workers' Compensation Programs (OWCP); and the Wage and Hour Division (WH). While each program has an established identity of its own, ESA is charged with overall direction in terms of strategic planning, establishment of performance plans, and performance measurement for each of these units.

As the overall agency responsible for coordination of diverse programs, the ESA is responsible for administration of statutory mandates including: the Fair Labor Standards Act; the Migrant and Seasonal Agricultural Worker Protection Act; the Employee Polygraph Protection Act; various "whistleblower" protection laws;

those portions of the nation's immigration laws which provide certain employment standards and worker protections, the Family and Medical Leave Act of 1993; the Davis-Bacon and related Acts; the McNamara-O'Hara Service Contract Act; the Walsh-Healey Public Contracts Act; Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973; the affirmative action provisions of the Vietnam Era Veteran's Readjustment Assistance Act of 1974; the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA); various other labor-management related acts such as the Postal Reorganization Act, Civil Service Reform Act and Foreign Service Act; the Transit Employee Protection Program and other employee protection programs; the Federal Employees' Compensation Act; and the Black Lung Benefits Reform Act of 1977.

ESA Consultation With Congress—On June 27, 2000, ESA representatives met with Subcommittee Members to discuss the agency's Strategic Plans and performance outcomes under the Results Act. Initiating this discussion, ESA informed the Subcommittee that its program goals support two of the DOL Secretary's strategic goals for the Department: a secure workforce and quality workplaces. The ESA reported that it had structured eight performance goals to support the Department's strategic goals, each of which appeared in the Department's Strategic and Performance Plans and in the DOL's FY99 Annual Report on Performance and Accountability. ESA asserted that these performance goals set a standard for measuring the performance and effectiveness of its programs.

The ESA also discussed the process it used to stay abreast of its progress in meeting its Results Act goals including quarterly reviews of the status of each of its programs' performance. During this review, the ESA reported that it discusses the effectiveness of its strategies for goal achievement and evaluates necessary corrections or interventions. To emphasize the importance of achieving its strategic and performance goals, the ESA reported that it conducts performance appraisals of all senior managers to include elements for rating that manager's contribution to the achievement of the strategic and performance goals. ESA also reported that its Program Directors, in turn, specify performance expectations related to goal accomplishment for the Regional Directors who manage the agency's program operations in the field.

ESA further reported that it and the DOL-at-large work closely with the Office of Management and Budget (OMB) and the DOL OIG to develop and revise goals and measures. The ESA stated that it had made considerable refinements in its plans and strategies based on recommendations from the GAO. In sum, ESA informed the Subcommittee that the GPRA process had helped it to focus its efforts on the accomplishment of long-term outcomes and to express them more clearly to its program managers, to congressional stakeholders, and to the American public.

The ESA reported that in FY99, it achieved six of its eight goals and had substantially achieved the other two goals in its departmental plan. These performance results caused ESA to reexamine how it defined its goals and helped it identify where it needed to refine its performance measures and implementation strategies. As a result, ESA's FY99 experience was a catalyst for a number of re-

vised goals and performance measures that are now included in its FY00 and FY01 Performance Plans.

Regarding the specific measures of ESA's Performance Plans, ESA informed the Subcommittee that WH had two broad and complementary objectives for FY99: (1) to achieve compliance with the worker protection laws for which it is responsible; and (2) to improve satisfaction with the services it provides its many and varied customers. These broad goals are broken down into three specific goals that appeared in the DOL's FY99 Annual Performance Plan and Report to implement these objectives: (1) to increase compliance with labor standards laws and regulations by five percent in the San Francisco and New York City garment industries; (2) to establish compliance baselines for the agricultural commodities of onions, lettuce, and cucumbers; and (3) to establish a baseline for the assisted living facilities segment of the residential health care industry. ESA reported that WH had established a goal to implement a new Davis-Bacon wage survey data collection form and an automated printing and mailing process, and to test whether automation can increase the accuracy and timeliness of the survey process and wage determinations.

The OFCCP's goals for FY99 included targets to increase by five percent over the FY98 baseline the number of federal contractors brought into compliance with the Equal Employment Opportunity (EEO) provisions of federal contracts via ESA's compliance evaluation procedures. The ESA reported that OFCCP had achieved 93 percent of this goal in FY99 with 2,648 federal contractors brought into compliance with EEO provisions. By the end of FY00, however, ESA told the Subcommittee that it would refashion OFCCP's Results Act goals and measures to better capture the mission-related impact and outcomes of this strategy and other initiatives. The OWCP included two performance goals that were also included in the DOL's Annual Performance Plan and Report for FY99: (1) to return federal employees to work following an injury as early as appropriate, as indicated by a six percent reduction from the baseline in production days lost due to disability for cases in the Quality Case Management program; and (2) to resolve 75 percent of serious injury cases within one year of the beginning of the disability. The OLMS had three primary objectives for the LMRDA program for FY99: (1) to resolve member complaints concerning union officer elections, union trusteeships, and other matters pertaining to safeguards for union democracy; (2) to protect union financial integrity by enforcing safeguards established under the law; and (3) to ensure that LMRDA reports required of unions and others are available for public disclosure. For FY 1999, the ESA reported, OLMS had a specific goal to have 85 percent of unions with annual receipts greater than $200,000 timely file union annual financial reports for public disclosure access.

Subcommittee Findings—On the basis of its discussions with the ESA, the Subcommittee found that the agency had failed to report whether it had satisfactorily met performance objectives for several of its stated performance goals. Moreover, the Subcommittee found that ESA had neglected to even establish performance goals for certain, "core" operational programs.

Congress is totally incapable of evaluating the outcomes of certain programs in an agency if those programs are not subject to measurement and/or reporting requirement. Accordingly, without an agency's compliance with the Results Act, Congress has no way of determining whether the monies appropriated to the agency are used effectively, nor can it evaluate whether an agency has properly discharged its statutory mandates. In other words, the actions of ESA described above are tantamount to an agency's self-imposed exemption from clearly defined statutory mandates under the Results Act—a situation that Congress should not tolerate.

b. Oversight of National Labor Relations Board

Background—The Subcommittee reviewed the National Labor Relations Board's (NLRB) Results Act submissions to determine whether those submissions: (1) complied with the Results Act; and (2) were aligned with the agency's statutory mission. The NLRB's statutory mission is "[T]o determine the appropriate unit for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot * * * and certify the results[.]"

Subcommittee Findings—Given the NLRB's flexibility according to its statutory mandates, the Subcommittee found that that the agency's Strategic Plan, Performance Plan, and Performance Report, generally, proved faithful to its congressional purpose. What remains at issue, however, is the agency's "ideological even-handedness" with which it decides questions concerning representation and unfair labor practice charges. This issue is *not* addressed in the NLRB's plans or reports, and it would serve the agency well to examine this issue as a quality-control measure.

Moreover, the NLRB primarily attributes its failure to meet several goals to budgetary constraints without providing further detail in an accounting or otherwise. Such lack of detail presents a catch-22 contrary to a primary purpose of the Results Act—to tie funding to performance. Without details to explain why the NLRB's then-current funding levels impeded or prevented it from achieving its goals, one may question the agency's fiscal integrity as well as whether it should receive increased funding.

Necessity of Oversight—The Subcommittee incorporated these findings in a detailed letter that it wrote to the NLRB Chairman, General Counsel, and Budget Officer on July 14, 2000. In response, the NLRB Chairman and General Counsel agreed with many of the Subcommittee's findings and expressed their willingness to continue working with the Subcommittee to improve the agency's performance. The NLRB officials also expressed their belief that matters regarding equanimity in case processing "are best left to the political judgments of the oversight and appointment processes."

c. Oversight of Equal Employment Opportunity Commission

Similar to its review of the NLRB Results Act submissions (above), on July 26, 2000, the Subcommittee sent a detailed letter to the Equal Employment Opportunity Commission's (EEOC) Chairwoman to gather information concerning that agency's Re-

sults Act submissions. The Subcommittee's focus areas included the following:

Goal Prioritization—Given that the EEOC's stakeholders measured the agency's success in terms of its accomplishment in helping to end discrimination, as opposed to the number of enforcement actions filed or the amount of money collected in such suits, the Subcommittee questioned why the agency's first "General Goal" concerned enforcement rather than greater educational and outreach programming.

Questionable Focus—In October 1997, the Committee heard and received testimony from individual victims of discrimination, civil rights attorneys, representatives of grass roots civil rights organizations, and small businessmen that the EEOC often gives the investigation of individual charges of discrimination insufficient priority in terms of staffing and resources, while litigation, especially high profile cases, has more ample staffing and funding. Despite this concern expresssed in a congressional hearing by many of the EEOC's primary stakeholders, the Subcommittee questioned why the agency's FY99 Performance Plan prioritized goals designed to increase the proportion of charge resolutions and cases filed in court that involved multiple parties or discriminatory policies.

Lack of Detail—The EEOC's Strategic Plan for FYs 1997–2002 discussed "considerations that could affect achievement of [its] goals" such as changes in the EEOC's statutory authority and in the economy. However, the agency failed to establish a strategy to deal with such considerations. Similarly, the agency's FY99 Performance Report attributes its failure to meet certain goals to budgetary constraints without providing further detail in an accounting or otherwise. The Subcommittee sought the agency's rationale for setting goals in its Strategic Plan that could not be achieved with existing resources, and an explanation of what steps it has taken to prevent this situation from reoccurring.

Necessity of Oversight—The Subcommittee appreciated the EEOC's response letter that affirmed the agency's support for managing by results and emphasized the importance of quantitative, rather than qualitative, goals given its primary focus on enforcement functions. The EEOC Chairwoman also expressed her willingness to work with the Subcommittee to improve the agency's performance, a sentiment demonstrated by EEOC's discussion with Subcommittee and EER Subcommittee Staff in September 2000. At that meeting, the EEOC agreed to adopt the Subcommittee's recommendations including greater emphasis on: (1) its mediation program, including adding some measure of its success and its greater implementation as a goal; (2) integration of investigative and legal staff; and (3) the importance of managers and executives being held to performance standards, which filter down to all levels of employees.

d. Oversight of the Occupational Safety and Health Review Commission

The Subcommittee chose to send an inquiry to the Occupational Safety and Health Review Commission (OSHRC) regarding its Results Act submissions because many administrative law agencies have reported difficulties in complying with the Results Act. In its

July 18, 2000 letter, the Subcommittee accordingly queried OSHRC on matters including: (1) whether the agency systemically practiced "management by results" (*i.e.,* are all operations managed by results or does the agency choose some but not all operations to manage as such); (2) whether the agency could assure the Subcommittee that its efforts to reach "outcome" goals would not negatively affect its "due process" procedures and practices; and (3) how the agency would gear training toward the individual needs of employees to avoid duplicative or inappropriate training programs. The Subcommittee's letter also expressed concerns over quality and "due process" in terms of the use of "outcome" goals in OSHRC's Results Act submissions that were particularly acute for the performance objectives relating to the use of its "E–Z Trials" program. The Subcommittee had heard that many OSHRC stakeholders expressed concern over the mandatory nature of "E–Z Trials", and indicated in its correspondence that the program might contrast with the agency's former rules for expedited trials that required agreement from both parties to enter the expedited system and also permitted either party to "opt out" as the expedited trial moved forward.

OSHRC responded with a letter that addressed in detail the Subcommittee's concerns and expressed a willingness to continue this dialogue, which subsequently occurred in a meeting between OSHRC and Subcommittee staff where they discussed ideas to improve that agency's future performance through its Results Act submissions.

K. OVERSIGHT INTO EFFECT ON COMMERCE OF FEDERAL PRISON INDUSTRIES PROGRAM

1. General information

a. Background: Jurisdictional basis for oversight

The Subcommittee conducted four oversight hearings dedicated to collecting information on the effect that convict labor and the entry of goods made by convicts have had on the nation's interstate commerce. This topic represents one of the 13 major workplace policy issues with jurisdiction specifically vested in the Committee. Below, the Subcommittee outlines its findings as a result of these four hearings during the 106th Congress.

b. Background: Inmate work programs

Prison systems at all levels use work opportunities to combat idleness and to impart basic work skills that contribute to an inmate's successful return to work upon release. Since 1983, the Federal Bureau of Prisons (BOP) has studied the effects of vocational training and inmate work experiences on post-release success. In 1997, BOP issued its recent analysis of the "Post Release Employment Project" (data covering 1984 through 1987), which showed that work experiences have a positive effect on post-release employment success and that vocational education programs had an even greater positive effect.

In most prison systems, the vast majority of inmates work at jobs directly related to the operation and maintenance of the correctional facility. A much smaller percentage of inmates work in pris-

on industry programs that produce products or furnish services that are generally sold exclusively to governmental agencies. For example, within the federal prison system only about 17 to 20 percent of the inmates work within federal work programs administered by an entity created by Congress for that purpose, Federal Prison Industries (FPI). The remaining able-bodied inmates are engaged in various tasks relating to the operation and maintenance of their correctional institutions. Percentages of inmates employed by prison industry programs at the state and local levels tend to be lower than the percentage employed by FPI.

Inmate work programs also help to reduce the costs of incarceration. To varying degrees, inmate labor meets the day-to-day operational needs of correctional institutions. Most prison industry programs are required to cover their costs, including staff and inmate wages, from sales. FPI asserts that it is totally self-supporting, covering all its operating costs from its sales' revenues. As will be subsequently describe, FPI's critics challenge this assertion based on FPI's preferential status in the federal contracting process to include its mandatory source status and its practical control over the pricing in the subsequent "sole source" contract negotiation.

2. Competition from prison industry programs in interstate commerce

While prison industry programs at the federal, state, and local levels presently employ only small percentages of able-bodied inmates, together these programs are estimated to have generated total sales of almost $1.42 billion during 1997. For example, during 1997, FPI had $512.8 million in sales to federal agencies, making it the 37th largest federal contractor just behind Texas Instruments. Operating almost 100 factories in 27 states, FPI had 18,414 inmate workers at the end of 1997.

Mirroring the growth of the federal inmate population, FPI's sales have also grown. FPI's sales amounted to $29 million in 1960 and to $117 million in 1980. These sales grew to $240 million by 1985 and to $339 million by 1990 although total federal procurement expenditures began to drop.

Growth in FPI sales diminishes business opportunities for private sector firms selling in the federal government market. Such diminished sales reduce work opportunities for law-abiding workers. FPI's unfair competition is job threatening in the context of a specific product targeted for an FPI expansion.

3. FPI—Mandatory source status

FPI's sales growth would be praiseworthy if these contract opportunities were competitively won. Instead, FPI has been granted extraordinary preferential treatment in dealing with its federal agency "customers". Many state prison industry programs have similar preferences.

Under FPI's 1934 authorizing statute, federal agencies are required to buy products offered by FPI. This is referred to as FPI's "mandatory source" status. A federal agency must obtain FPI's permission, referred to as a "waiver," to be able to solicit offers to purchase competitively from the private sector even if a commercially

available item better meets the agency's mission needs, can be delivered more quickly, and costs less.

4. FPI—Preferential status regarding contract performance

In addition to being able to take contract opportunities on a noncompetitive or "sole source" basis, FPI's authorizing statute also empowers FPI, rather than its federal agency "customers", to determine the adequacy of FPI's own contract performance. Under FPI's statute, any dispute of the "price, quality, character, or suitability" of FPI products must be referred to a high-level arbitration panel comprised of the President (delegated to the Director of the Office of Management and Budget), the Attorney General, and the Administrator of General Services. According to the GAO, this Arbitration Board has not met since the 1930s. In practical terms, FPI has the power to decide to its own satisfaction any contract performance dispute with an agency "customer" under the threat of this unworkable dispute resolution procedure.

As previously noted, a September 1993 Department of Justice, Office of Legal Counsel opinion ("Application of the Federal Acquisition Regulations to Procurement from Federal Prison Industries"), unequivocally holds that FPI is not subject to the government-wide Federal Acquisition Regulation (FAR) except the provisions relating to FPI (FAR Subpart 8.6). Unlike a private contractor, a federal agency cannot compel FPI to meet the agency's contractual terms and conditions regarding product quality, price reasonableness, or timeliness of products deliveries.

FPI is also exempted from enhanced requirements for assessing contractors' past performance, a key procurement reform of the Federal Acquisition Streamlining Act of 1994.

5. FPI—Unique pricing standard

FPI's authorizing statute requires that the price FPI charges its federal agency customers cannot exceed a "current market price," a term which that statute does not define. The term is also not defined by the FAR or its implementing provisions. Instead, FPI operates on the basis of a 1931 Arbitration Board decision that says that its price meets the statutory "current market price" standard if the price it intends to charge its federal agency customer does not exceed the highest price at which a comparable product was offered to the government (not actually purchased). FPI makes the determinations as to comparability of products as well as the time period for which any price survey it may conduct remains valid.

6. FPI—Incidents of overpricing

FPI's critics assert that this unique standard permits FPI to charge prices that exceed prices what an agency customer could obtain for comparable or higher quality products furnished by private sector vendors with better performance records in terms of timeliness of delivery and full compliance with the buying agency's specifications. In its defense, FPI asserts that it is wholly self-sufficient based on its sales and that it receives no appropriated funds. Nevertheless, FPI's critics maintain that FPI's "self-sufficiency" is more founded on its ability to overcharge its agency "customers" for products of lesser quality.

Corroboration of FPI's overpricing is provided by 1991 Department of Defense (DOD) Inspector General (IG) reports and by 1993 and 1998 GAO reports. With regard to the DOD IG, on October 11, 1991, the DOD IG issued Audit Report No. 92–005, "DOD Procurements from Federal Prison Industries," in response to a DOD IG "hotline" allegation. The "hotline" is a phone line in the DOD IG's office maintained to receive complaints of waste, fraud, and abuse from employees and the public. The DOD IG reviewed a sample of FPI contracts to supply the DOD with electronic and electrical cables over a seven-year period (FY84 to FY90). The audit report found overpricing in 89 percent of the contracts that averaged 15 percent.

In addition, on October 5, 1998, the DOD IG issued Audit Report No. 99–001, "Defense Logistics Agency Procurements from Federal Prison Industries, Inc." For this report the DOD IG reviewed 1,786 contracts awarded during FY96 and FY97 for items (87 percent of the textiles) that the Defense Logistics Agency purchased from FPI and commercial sources. Even for textiles, items for which FPI is especially competitive due to its lower labor costs, FPI's prices were higher than commercial vendors in 42 percent of the contracts reviewed.

With regard to the GAO, on July 7, 1993, it issued Report No. GGD 93–51R, "FPI Systems Furniture." In accessing FPI pricing for systems furniture, the GAO compared FPI's pricing with the prices available from commercial vendors through the GSA's "Multiple Award Schedule" (MAS) Program. FPI's prices were higher than the offered prices of 9 of the 11 commercial systems furniture vendors under the MAS Program. Specifically, FPI's prices averaged 15 percent higher than the prices of the three commercial vendors whose sales in 1992 aggregated to 60 percent of the systems furniture sales under the GSA MAS Program. Further, the three most successful commercial suppliers were not simply "low-end product" vendors. Similar findings regarding furniture and other products are reported in "Federal Prison Industries: Information on Product Pricing" (GAO/GGD–98–151; August 24, 1998).

7. FPI—Incidents of late deliveries

Problems have also been found with respect to the timeliness of FPI's deliveries to its federal agency customers. On July 31, 1998, the GAO issued "Federal Prison Industries: Delivery Performance Improving But Problems Remain" (GAO/GGD–98–118; June 30, 1998) that provides current support for such criticism.

8. FPI—Quality problems

While FPI asserts that it only provides quality products to its federal agency customers, on time, and at fair prices, FPI critics routinely challenge these assertions. A GAO report entitled, "Federal Prison Industries: Limited Data Available on Customer Satisfaction" (GAO/GGD–98–50; March 16, 1998), questions FPI's ability to substantiate its assertions of being a quality contractor. The GAO found that, "FPI lacks sufficient data to support any overall conclusions about whether federal customers who buy and use its products and services are satisfied with their timeliness, price, and quality. FPI's management systems are not designed to systemati-

cally collect and analyze federal customers' views about its products and services."

A 1992 DOD IG report entitled, "Quality Assurance Actions Resulting from Electronic Component Screening" (Report No. 92–099) corroborates assertions by FPI critics that FPI furnishes non-conforming products to its federal customers. During a review of the DOD quality assurance programs for accessing the quality of electronic components and cables furnished to the DOD during FYs 88 to 90, the DOD IG found that among the top–20 suppliers of electronic components, FPI ranked 8th in terms of sales but first in terms of the number of Product Quality Deficiency Reports (PQDRs) identified (106 out of 170). Among all the contractors furnishing electronic components and cables to the DOD during the review period, the DOD IG identified the contractors with the most PQDRs: three FPI factories were among the top–15 poorest performers with 100 PQDRs out of 245, or 40.1 percent of the total. The seriousness of these quality deficiencies is amplified by considering that many contracting officers do not even bother to cite FPI for quality deficiencies since, in practical terms, FPI determines the validity of any quality delinquency report made against any of its products.

L. INVESTIGATION INTO GROWING LABOR SHORTAGES IN U.S. WORKFORCE

1. Background

As America's economy continues to boom, many employers find themselves near economic ruin because they cannot hire enough workers to maintain production levels. Contrary to the DOL Secretary who recognizes a "skills" shortage, economists in the private and public sector have affirmed that this country is experiencing a labor shortage. In fact, Federal Reserve Board officials, including Chairman Alan Greenspan, have expressed concern that the shrinking pool of available workers cannot satisfy the global appetite for American goods and services. Since January 1993, employment has grown rapidly and 20 million net new jobs have been created. Even the Department of Labor (DOL) has conceded that many more jobs are presently being created than are being lost, and that these new jobs "have overwhelmingly been good jobs" with strong employment gains for all major subgroups of the population. Even the AFL–CIO has conceded a workforce shortage in some fields.

The Subcommittee has followed this workforce trend beginning with its research of 21st Century workforce challenges that served as the foundation of the "American Worker Project." One aspect of this trend involves the disenfranchisement of senior citizens who are able but not willing to enter the workforce due to monetary restrictions imposed by tax laws. To encourage more Americans to enter the workforce, the Republican Leadership announced its commitment to bring legislation to eliminate the Social Security earnings limit to the House floor as quickly as possible. The timeliness of this hearing was underscored by President Clinton's then-recent endorsement to sign such legislation into law.

2. Hearing on the state of the law

On February 17, 2000, the Subcommittee held a hearing to continue the discussion of 21st Century workforce challenges begun by U.S. House Republicans over two years prior described in the *American Worker Project* report. This hearing produced for Congress information that analyzed the causes and consequences of worker shortages on our economy, and linked this problem to congressional proposals to repeal the social security limitation on income (to induce elderly citizens back into the labor force).

A primary reason for enacting the social security earnings limit was to discourage retirees from taking jobs from younger laborers during the Great Depression, an era when America experienced high unemployment and a low number of available jobs. In the year 2000, America is no longer faced with this dilemma but its exact opposite: a national labor shortage. For this reason, the hearing sought testimony aimed at dismantling Depression-era laws that hinder workforce participation.

Witnesses included labor economists and strategists whose testimonies related how private sector labor markets have ways of reducing or eliminating shortages, certainly in the long run and even in the short run. These witnesses included Dr. Richard W. Judy, a leading demographic analyst of economic and workforce development issues who, explained the demographic causes of the national labor shortage and offered workforce development strategies to deal with a protracted period of tight labor markets. Edward D. Barlow, Jr., a strategic planning consultant, testified on how the shrinking pool of available workers affect businesses nationwide, and how such worker dearth may threaten economic stability. Harry J. Holzer, a former Chief Economist at the DOL, testified about how public policy (*i.e.*, providing services including job training and placement, transportation, and childcare) may help the private sector adjust to continued labor shortages.

Witnesses also included business leaders who described how their industries have risen to the challenge of labor shortages through innovative human resource strategies. Stephen L. Guillard related how the increasing shortage of skilled workers uniquely affects the long-term care industry, which is already challenged by a growing elderly population, based on his 27 years' experience in this industry. Elizabeth C. Dickson explained how market forces and the unavailability of U.S. workers have created a problem of identifying and retaining workers across the spectrum of skill levels based on her experience working with over 120 human resources professionals and recruiters. Valerie C. Ferguson described the hospitality industry's efforts to recruit and retain workers through community outreach programs based on her 23 years in the hospitality industry. Finally, Donald L. Huizenga described the lack of competent, qualified (*i.e.*, drug-free) individuals entering the workforce based on his experience as an officer in an industrial manufacturing corporation.

3. Subcommittee findings

As America continues its transition from an industrial to an information economy, demographic shifts and technological advances have created a near crisis situation for many businesses that have

more jobs to fill than eligible candidates. Testimony presented at the February 17, 2000, hearing explained how these factors contributed to the national labor shortage, as follows:

Aging Population—Americans are getting older, living longer, and having fewer children. By 2020, almost 20 percent of the U.S. population will be 65 years or older; hence, there will be as many Americans of retirement age as there are 20 to 35 year olds.

Low Growth Rate—Another significant trend affecting labor markets concerns the annual population and labor force growth rate. As America enters the 21st Century, its population is expected to grow at its slowest rate since the 1930s. The continued entry of women, immigrants, and minorities into the workforce is expected to keep the labor force rate above the population growth rate. Eliminating the Social Security earnings limit would allow an increasing number of Americans, based on this country's aging population, to enter the workforce.

Technological Advances—Innovations in biotechnology, computing, telecommunications and their confluences have brought and continue to bring new services and products to the marketplace. The development, marketing, and servicing of ever more sophisticated products have created and will likely continue to create more jobs than the underlying technology will destroy.

Globalization—Technological advances have also caused communications and transportation costs to plummet, "declining to almost zero in the case of information exchanged on the internet," to further open global markets to American goods and services. Increased demand for U.S. products has caused many businesses to seek to expand their workforce.

Strategies for "labor shortage relief" practiced by innovative businesses across the country focus on increased workforce participation and human resource innovation, as follows:

Increased Workforce Participation—A first step toward remedying worker shortages arising from this country's aging population is repealing the Social Security earnings limit. Additionally, employers have risen to the challenge of recruiting and retaining older workers by offering flexible work arrangements such as "telework". Employers' recruitment of younger workers is increasingly focused on creating and participating in community outreach programs, such as high school apprenticeships and welfare-to-work programs.

Human Resource Innovation—Flexible work arrangements including "split shifts" and "telework" enable more citizens, particularly those often overlooked due to age, disability, or family dependency (*i.e.*, "stay-at-home" parents or family care providers), to enter the workforce. Employers have also attempted to expand the labor pool by recruiting younger workers through the creation of community outreach programs such as high school apprenticeships and welfare-to-work programs.

4. Conclusion

Given the importance of an unfettered free market to America's continued economic expansion, workforce legislation should aim to dismantle government policies that hinder free market adjustments to labor shortages. Repealing the Social Security earnings limit is

necessary not only eliminate one of the most unfair tax burdens placed on older Americans, but also to provide economic opportunity to a generation of workers who wish to continue the participation in or re-enter the workforce.

M. THE ROLE OF "OPEN SHOPS" IN THE 21ST CENTURY WORKFORCE

1. Background

It is estimated that private sector unions collect $6.3 billion from their 8.2 million members annually, for an average collection of $610 per employee per year. Many of these employees object to union membership and their financial support of unions, but must join a union or maintain union membership as a condition of their employment. Situations where union membership is mandatory (*e.g.*, an establishment in which an employer by agreement hires only union members in good standing) has come to be known as a "closed shop." Situations where an employer, by agreement with a union, consents to provide financial support to that union on behalf of each of its employees has come to be known as a "union security agreement." Currently, federal law and 29 states laws allow for union security agreements whereby the employer provides money to the union through payroll deductions.

Many opponents of union security agreements seek a legislative solution to so-called "forced unionism." On March 21, 1995, H.R. 1279, "National Right to Work Act" was introduced and the Senate bill, S. 581, repealed sections of the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA) that permitted union security agreements. This proposed legislation was reintroduced in the 106th Congress by Representative Bob Goodlatte (R–VA) (H.R. 792) and by Senator Paul Coverdell (R–GA) (S.424) to "preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities." As of this date, both bills have been referred to the respective workforce subcommittees.

2. Hearing on the state of the law

On May 3, 2000, the Subcommittee conducted a hearing to discuss the necessity of right-to-work legislation in the 21st Century. This discussion provided an opportunity for supporters and critics of right-to-work legislation to present their views of its societal and economic consequences.

Specifically, Congressman Goodlatte testified how the "National Right-to-Work Act" would amend the NLRA and the RLA to repeal those provisions that permit employers, pursuant to a union security agreement, to require employees to join a union as a condition of employment (including provisions permitting railroad carriers to require, pursuant to such an agreement, payroll deduction of union dues or fees as a condition of employment). Colorado State Representative Mark Paschall similarly testified about right-to-work legislation that passed Colorado's State House but failed in its Senate.

Reed Larson, President of the National Right to Work Committee testified about his responsibilities to an organization dedicated to raising awareness of and garnering support for federal and state

right-to-work laws. He testified that laws requiring "forced unionism" tarnish the American tradition of individual liberty by stripping workers of their right to join or not join a union.

Presenting the views of the AFL–CIO, attorney Jeremiah Collins testified, in part, on the "great responsibility" incumbent upon any union that is designated as the employees' exclusive bargaining representatives to fairly and equitably represent all employees, union and nonunion, within the relevant bargaining unit.

3. Subcommittee findings and conclusion

Based on the testimony presented at the hearing, the Subcommittee found that union security agreements commonly: (1) inhibit the operation of a free market economy; (2) harm employees by denying them economic and ideological choice; and (3) inhibit democracy in the workforce. According to Representative Goodlatte, even Samuel Gompers, founder of the American Federation of Labor and grandfather of the American trade union movement, stated that "workers in America adhere to voluntary institutions in preference to compulsory systems which are not only impractical, but a menace to their welfare and their liberty." The testimony presented at and the findings generated from the hearing may serve as the foundation for future legislation promoting employee choice in the workplace on issues ranging from bargaining rights and responsibilities to payroll deductions.

II. Special Investigations of the Subcommittee

A. INVESTIGATION OF THE FINANCIAL, OPERATING AND POLITICAL AFFAIRS OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

1. Background

The International Brotherhood of Teamsters ("Teamsters" or "IBT"), historically considered among the most powerful labor unions in the United States, has operated under a "Consent Order" for 12 years. A Consent Order is a voluntarily agreement, supervised by the judicial system, generally entered into to avoid further, more serious legal action. In this case, the Consent Order required the Teamsters to conduct a secret ballot election (the first in Teamster's history), establish a system for federal supervision of that and possible future elections, and create a federal investigation office to identify and act upon criminal influence in the union. In addition, the Consent Order laid the foundation for the creation of an Independent Review Board (IRB), a panel that would take over the investigative and monitoring function following the 1991 election. Ron Carey, a self-professed "reform candidate," was the victor in the 1991 election.

The next Teamster election, however, in 1996, was marred with charges of illegal fundraising activities. These charges were filed with the federal election officer and triggered an investigation by that office. Following the investigation of the charges, the 1996 election results were overturned and later, the incumbent President, Ron Carey, was removed from office and banned from the union for life. A re-run election that followed saw James P. Hoffa certified as the new President of the union. Because the federal supervision had been funded in large part by public funds, Congress

began an investigation of these and other related charges pertaining to the possible misuse of pension fund monies and general financial mismanagement of the union. Republican concern focused on the adequacy of federal labor laws to prevent the looting of rank and file monies.

2. Final report issued

On February 24, 1999, the Subcommittee released its *Report on the Financial, Operating and Political Affairs of the International Brotherhood of Teamsters.* The report, approved by a voice vote of the Subcommittee, was the culmination of an investigation conducted during the 105th Congress that was triggered by widespread fraud in the Teamsters' 1996 officer election. That election, which cost approximately $18 million to conduct and supervise, was funded by taxpayer dollars as mandated by a consent agreement between the union and the government entered into in 1989 in settlement of a racketeering lawsuit.

The Subcommittee's report highlights a profound lack of accountability by the administration of former Teamster president Ron Carey. The report details financial mismanagement, abuses of power, and illegal and improper activities during the 1996 election. The report also points out deficiencies in the financial reporting system in place at the Department of Labor. The forms unions are required to submit annually to DOL do not present a true and accurate picture of a union's financial affairs and are misleading to rank-and-file union members.

The report explains how the Subcommittee's investigation was limited by the uncooperative stance taken by the union and also in deference to the criminal investigation being conducted by the U.S. Attorney for the Southern District of New York. The Subcommittee refrained from questioning certain witnesses and pursuing various lines of inquiry based on the Department of Justice's concerns that such action would jeopardize their criminal investigation. The Subcommittee's report expressed concern over the apparent lack of progress in DOJ's investigation despite assurances that it was ongoing and very active. In reality, it appears that high-ranking union officials, third party political organizations, and officials at the DNC, all implicated in the illegal activities surrounding the 1996 Teamsters election, have escaped serious scrutiny by the Department of Justice.

The report concludes by providing several recommendations that would help improve the Teamsters' internal financial controls and other governing structures; changes that would move the Teamsters closer to true self-governance and ensure that the union is accountable to rank-and-file members.

3. Oversight of rerun election

The Subcommittee closely monitored the progress of the IBT rerun election to ensure that it was conducted fairly. Throughout the process, Chairman Hoekstra frequently consulted with Michael Cherkasky, the Election Officer, and visited the ballot count site as the votes were being tallied. Mr. Cherkasky, who appeared before the Subcommittee twice during the 105th Congress, testified again on April 29, 1999 about the completion of the rerun election. Mr.

Cherkasky believed that supervision was essential. He stated, "having the election supervised by an independent authority enhanced the credibility and legitimacy of the results. Where there is independent supervision, conducted with integrity, the members and the candidates know that the results are trustworthy and were not foreordained by the entrenched powers of the union or, as used to be the case at the IBT, by organized crime. In the supervised environment, members and candidates learned exactly what it means to campaign, compete, and vote freely."

4. Local 560 case study

Teamsters Local 560 in Union City, New Jersey was at one time a symbol of the power and arrogance that organized crime had achieved in this country. For more than thirty years, the notorious Provenzano family, led by Anthony Provenzano or "Tony Pro", dominated Local 560. The Provenzanos, who were linked to the Genovese crime family, used Local 560 to carry out a full range of criminal activities, including murder, extortion, loan sharking, kickbacks, hijacking, and gambling. Anthony Provenzano, who died in prison in 1988, is allegedly linked to the 1975 disappearance of James R. Hoffa.

In 1982, the U.S. Department of Justice, in a novel attempt to clean up Local 560, filed a civil RICO lawsuit against twelve individuals, including the Provenzanos and the members of the Union's Executive Board. This lawsuit was the first of its kind against a union. The government alleged that these individuals had violated the RICO statute by engaging in a pattern of racketeering activity, which included murder, numerous acts of extortion, and labor racketeering. After a lengthy court trial and exhaustion of all appeals, Local 560 was placed into a trusteeship on June 23, 1986.

On February 25, 1999, after nearly thirteen years of close government oversight, a federal judge in New Jersey ended the trusteeship at Local 560 and returned the Union to its members. When the Court first imposed this trusteeship back in 1986, no one envisioned that it would take more than a decade to eliminate racketeering and restore the democratic process to the local. The job proved to be a major challenge and required an evolution of change in the entire culture of the union.

The Subcommittee held a hearing on June 30, 1999 in an effort to learn more about the Local 560 clean up effort, specifically, what worked, what didn't work, and what criteria was used to determine that the trusteeship should be lifted. The Subcommittee heard from a distinguished panel of witnesses: (1) Edwin Stier—court-appointed trustee of Local 560; (2) Pete Brown—newly elected Local 560 president; and (3) Dr. Linda Kaboolian—Associate Professor of Public Policy at Harvard University's JFK School of Government. The information gained at the hearing should prove helpful as the Subcommittee continues to monitor the Teamsters International Union and the 1989 Consent Decree.

5. Continued oversight of International Brotherhood of Teamsters

With the completion of a second democratic election at the IBT, the Subcommittee attempted to learn from the Department of Justice what the future holds for further government supervision

under the Consent Decree, including the next IBT election in 2001. In a May 5, 1999 letter, Chairman Hoekstra invited Mary Jo White, U.S. Attorney for the Southern District of New York, to testify at a Subcommittee hearing. Unfortunately, she declined the invitation citing the ongoing nature of the case.

On March 28, 2000, President James P. Hoffa appeared before the Subcommittee and personally thanked Republican Members of the Committee on behalf of the union's rank and file for its oversight efforts. He also informed the Subcommittee that the union had largely followed its recommendations for change and that such implementation would continue.

The Subcommittee continues to monitor the progress of the Teamsters Union and the status of government supervision under the 1989 Consent Decree. The Subcommittee is closely following the reforms being put in place by James P. Hoffa and the other newly elected Teamster leaders.

B. AMERICAN WORKER PROJECT

1. Summary

On August 3, 1999, 24 months after the Committee on House Oversight first commissioned the Subcommittee's "American Worker Project," the Subcommittee issued its Report of the American Worker Project: Securing the Future of America's Working Families."

The purpose of the project was to examine the current state of the American workplace and investigate innovative workplaces and initiatives that enhance the American workplace and serve as models for change. The investigators studied federal workplace policies that negatively affect both the American worker and the workplace; and identified changes that would enhance the work environment. Recommendations and suggestions for change to current American labor law were made in order to promote a workplace which provides Americans with security and flexibility during their working years and in retirement and offers a fair return on American taxpayer money.

2. Summary of report

a. Trends of the future

It is always best to have an idea of what the future will look like before crafting public policy for the future. After reviewing available sources of information on the future of America's workforce, the American Worker Project identified key trends of the 21st Century workforce, including:

i. Growing elderly population

The first major trend to have profound implications on American society will be the explosion of the elderly population (age 65 and over). Until 2010, the elderly population is projected to grow more slowly than ever before in U.S. history—it will only increase 1.3 percent annually, a decrease from the average annual growth of 2.3 percent from 1950 to 1990. After 2010, however, the elderly population will increase dramatically from representing 13.2 percent in 2010 to 20 percent in 2030, an increase of 30 million elderly people.

Most of this expected increase is attributable to the survivors of the "Baby Boom" generation reaching 65 and over. In 1995, there were 4.1 times as many people between ages 25 and 64 as there were over 65. By 2030, there will only be 2.3 times as many.

Increases are expected in the elderly population after 2030, with all of the increase due to longer life expectancy. In 1995, 3.6 million people were projected to be 85 years and over. By 2050, 18.2 million people are expected to be over 85. In 1995, nearly 21 out of every 100 people were over 64. By 2050, 36 out of 100 are people expected to be 65 and over.

A growing number of elderly people as a percentage of the population will have immeasurable social and economic consequences for the future. Public policy decisions on matters of Social Security and Medicare must take into account the anticipated explosion of the elderly population. Policymakers must decide how to encourage the active participation and acceptance of the elderly in the workforce. There are several reasons for this: (1) retired people usually depend on society more than the working elderly do; (2) employers need to view the elderly as valuable resources; and (3) elderly people should be judged on merit, not on age, which can be an artificial factor in judging ability.

Although people will be living longer, there will be a decline in the birth rate. A growing elderly population could help diminish the loss of productivity from a declining population growth rate. An increase in national productivity means higher living standards for everyone.

ii. Diversity in the workplace

The American workforce is also likely to become more racially and ethnically diverse in the future. In 1986, the white non-Hispanic share of the workforce was 80 percent. In 2006, it is expected to be 73 percent. In 1986, the Hispanic share of the workforce was 7 percent. In 2006, it is expected to be 12 percent. In 1986, Asians, Pacific Islanders, American Indians, and Alaska Natives accounted for 3 percent of the workforce. In 2006, they will account for nearly 5.5 percent of the workforce.

More diversity in the workplace will bring many benefits as well as challenges. To comply with equal opportunity laws, many employers will have to be innovative in their recruiting efforts. Linguistic and other cultural barriers will also present difficulties and opportunities.

iii. Population growth

Another significant trend likely to impact American society in the next century is the annual population and labor force growth rate. Between 1986–96, the labor force grew at an annual rate of 2.1 percent. Between 1996–2006, the rate is expected to decline to 1.1 percent annually. The labor force rate will decline primarily due to a decrease in annual growth of population expected to hover around .8 percent between 1996–2006.

More women, immigrants and minorities are expected to enter the workforce, keeping the labor force rate above the population growth rate. The population is expected to enter the next century growing at its slowest rate since the 1930's.

The anticipated decline in labor force growth over previous years will have profound implications on the productive output of the United States. As mentioned earlier, a constant influx of immigrants and greater labor force participation by the growing elderly population can minimize the effects of a slow population growth rate. A more efficient workforce, one that can operate in a climate of innovation and flexibility without excessive government interference, will also increase productivity.

iv. Rapid technological change

The Technological Revolution continues to change almost every facet of American society. The microchip, the driving force behind the computer, is expected to hold 125 million transistors before the beginning of the next century, up from 65 thousand in the late 1970s. Moore's Law, the concept that chip density will double every eighteen months, is as good as it gets in predicting the future of the Technological Revolution. It is a future that is unpredictable and almost unknown with the single exception that change will occur more rapidly than most Americans could possibly anticipate.

Currently the Massachusetts Institute of Technology Media Laboratory is working on 195 different projects, which include the following:

Personalized ID tokens: Tired of having to remember twenty passwords in order to access everything from your computer to your bank account? MIT has designed a plastic token the size of a poker chip bearing an individual's name and image.

Wearable computers: Fabric sensors, threads that conduct a charge, make it possible to wear a keypad, microprocessor, and two speakers capable of playing 32 different synthesized instruments or voices. Weighing only four pounds total, these computer components can be cleverly disguised in one's clothing.

LEGO robots: Children 11 and up this Christmas will be able to design and program real robots to move, act and think on their own. The typical robot will be smaller than a shoe box, capable of moving across a room to pick up a soda can, and returning to its original starting point. Children will use their home computers to write a code of instructions for the robot, which can then be downloaded onto a RCX microcomputer, encased in a LEGO brick about the size of a pack of cigarettes. The microcomputer is the brain that runs the robot, a robot that can be built from 700 LEGO pieces.

Personal health monitoring: Currently in the early stages, this invention consists of a four-pound pack to be worn while participating in marathons and mountain climbing. The pack transmits information via the Internet to a lab that logs the information. Just as a black box records the activities of an airplane, MIT is working on turning the four-pound pack into a wristwatch capable of measuring pulse, respiration, temperature, heartbeat, and other vital health data of an individual participating in physical activity.

v. Technology and the global marketplace

Technological advances have left no segment of the American economy untouched. In particular, telecommunications and transportation costs have declined dramatically due to the ability of

these two industries to provide faster, cheaper service. The rise of the Internet and other telecommunications technologies has reduced the costs of communicating. As a result, telecommunications has reduced transportation costs in three important ways:

First, it has reduced time and operating costs for helping ships and aircraft navigate more efficiently. Secondly, precise information on the location of goods and materials obtained through telecommunications will reduce transport, storage, and handling costs. Thirdly, many service industries and functions (data entry, financial management, software programming, etc.) requiring little direct interaction between workers and customers will be able to supply customers all over the world.

The reduction in transportation costs has and will continue to create more global competition for American workers in a variety of industries. Unskilled American workers are likely to face increasing competition from goods produced in other countries due to cheaper labor costs and reductions in transportation costs. (American unskilled textile workers earn nearly five times as much, on average, as their counterparts in other countries.) However, technological changes and cheaper telecommunications costs will enable America's high-tech, high-wage workers to supply goods and services to consumers all around the world, increasing the amount of such jobs available in this country. Low-skill workers in developing countries are expected to increase their purchasing power as the goods they produce are sold to an expanding market of consumers. This will create a greater consumer market for American business.

3. Recommendations of the American worker project

Making America the most effective work environment in the world—seven priorities

America's labor laws should be updated to reflect new realities in today's workplace so that American workers remain the most competitive, best skilled, and highest paid workers in the world. America's labor law must be efficient and effective, so that our workers can compete in the global marketplace. Toward that end, the AWP report's recommendations include the following:

(1) Changing Depression-era workplace laws to improve workplace flexibility for high-tech and other American industries;

(2) Streamlining federal and state laws to eliminate contradictory provisions and reduce regulatory costs;

(3) Allowing employees to carry a range of vested benefits from job to job for the duration of their careers;

(4) Updating the Labor-Management Reporting and Disclosure Act to ensure that union members have access to timely and accurate union financial information;

(5) Considering new approaches to government enforcement to battle the resurgence of sweatshops in the apparel industry;

(6) Improving the nation's education systems to better prepare students for the workplace; and

(7) Revising tax and workplace laws to encourage opportunities for life-long learning.

4. Hearings and public forums

The American Worker Project held 13 hearings and 30 roundtable discussions during the study. Participants ranged from union rank and file members to corporate executives.

III. Hearings Held by the Subcommittee

106th Congress, First Session

March 25, 1999—Hearing on Latex Allergies and the Health Care Industry: Do OSHA's Actions Confuse or Clarify? (106–16).

April 19, 1999—Field Hearing on Chicago Education Reforms and the Importance of Flexibility in Federal Education Programs, Chicago, IL (106–28).

April 21, 1999—Hearing on Federal Prison Industries: Impact on Law-Abiding Workers of Claimed Authority to Sell Services in the Commercial Market and Proposed Regulatory Expansion (106–25).

April 29, 1999—Hearing on the International Brotherhood of Teamsters Rerun Election (106–27).

May 5, 1999—Hearing on the Fiscal Year 1998 Audit of the Corporation for National Service (106–32).

May 12, 1999—Hearing to Review the Management of the Year 2000 Computer Problem (106–36).

May 27, 1999—Hearing on the Review and Oversight of the 1998 Reading Results of the National Assessment of Educational Progress (NAEP)—The Nation's Report Card (106–44).

June 22, 1999—Hearing on the Review and Oversight of the Department of Education's Office for Civil Rights (106–49).

June 30, 1999—Hearing on Lessons Learned from the Teamsters Local 560 Trusteeship (106–52).

July 21, 1999—Hearing on the Effect of Davis-Bacon Helper Rules on Job Opportunities in Construction (106–62).

September 8, 1999—Field Hearing on Improving Student Achievement and Reforming the Federal Role in Education, Battle Creek, MI (106–72).

September 14, 1999—Hearing on the Failed Promise of the Corporation for National Service (106–74).

September 24, 1999—Recommendations for Changes in the Federal Prison Industries Program (106–75).

October 14, 1999—Hearing on How the Quality of Grant Performance is Assessed at the U.S. Department of Labor (106–77).

October 28, 1999—Hearing on Telework: Impact on Workplace Policy in the U.S. (106–79).

December 6, 1999—Financial Management Practices of the Department of Education (106–80).

106th Congress, Second Session

January 24, 2000—Field Hearing on Dropout Prevention, Albuquerque, New Mexico (106–86).

January 25, 2000—Field Hearing on the Impact of Federal Policies on State and Local Efforts to Reform Education, Lakewood, CO (106–82).

January 28, 2000—Hearing on OSHA Policy Concerning Employees Working At Home (106–81).

February 17, 2000—Hearing on 21st Century Worker Shortages (106–89).

March 1, 2000—Hearing on Financial Management at the Department of Education (106–93).

March 3, 2000—Hearing on Charter Schools: Successes and Challenges (106–91).

March 27, 2000—Field Hearing on Putting Performance First: Academic Accountability and School Choice in Florida, Temple Terrace, Florida (106–100).

March 28, 2000—The International Brotherhood of Teamsters One Year After the Election Of James P. Hoffa (106–97).

April 4, 2000—Hearing on the Fiscal Year 1999 Audit of the Corporation for National Service (106–99).

April 5, 2000—Under the Radar Screen Rulemaking at the U.S. Department of Labor: OSHA's Employee Work-At-Home Policy and Beyond (106–101).

May 3, 2000—Hearing on Open Shops in the 21st Century Workplace (106–105).

June 6, 2000—Field Hearing on School Choice and Parental Involvement, Bloomington, MN (106–111).

June 27, 2000—Consultation with the Employment Standards Administration, United States Department of Labor, on Submissions Under the Government Performance and Results Act (Results Act) (106–114).

September 19, 2000—Hearing on Financial Management Issues at the Department of Education (106–122).

September 26, 2000—Federal Prison Industries (FPI): Diverting Federal Property from Computers for Learning and Other Programs to Expand FPI'S Commercial Sales (106–128).

September 29, 2000—Behavioral Drugs in Schools: Questions and Concerns (106–130).

October 4, 2000—Safety in Study Abroad Programs (106–132).

October 5, 2000—Hearing on Federal Prison Industries: Proposed Military Clothing Production Expansion-Assessing Existing Protection for Workers, Business, and FPI'S Federal Agency Customers (106–133).

IV. Markups Held by the Subcommittee

106th Congress, First Session

February 24, 1999—Subcommittee adopted the "Report on the Financial, Operating and Political Affairs of the International Brotherhood of Teamsters" by voice vote.

V. Subcommittee Statistics

Total Number of Hearings	34
Field	7
Joint with Other Committees	0
Total Number of Subcommittee Markup Sessions	1

MINORITY VIEWS

COMMITTEE ON EDUCATION AND THE WORKFORCE ACTIVITY REPORT, DECEMBER 28, 2000

It is evident that the Education and the Workforce engaged in lots of activity during the 106th Congress, but unfortunately produced few results. The Republican-led Congress failed to pass a modest increase in the minimum wage. It failed to take action on a bipartisan Patients' Bill of Rights to insure doctors, not insurance companies, make life and death health care decisions for patients. It failed, for the first time in 35 years, to pass the reauthorization of the Elementary Secondary Education Act, the nation's flagship education support program for public schools. And of course, it failed to pass the Juvenile crime and prevention reauthorization, despite substantial bipartisan support and overwhelming community support.

I am pleased, however, that the Appropriations Committee—despite vigorous opposition by almost every Republican member of the Education and Workforce Committee—included funding for a new, emergency repair and renovation program to fix leaky roofs, faulty wiring, remove lead paint, and other urgent repairs for our elementary and secondary schools. I am also pleased that the Appropriations Committee funded the third year of the Clinton/Clay class size reduction program—insuring almost 50,000 new, highly qualified teachers will be supported next year. Every child is entitled to go to a safe school with small class sizes, that has well-prepared teachers, teaching in well-maintained classrooms.

WILLIAM L. CLAY,
Ranking Democratic Member.

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