Union Calendar No. 477

105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–836

REPORT ON THE ACTIVITIES

OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

DURING THE

105TH CONGRESS

DECEMBER 30, 1998.—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 Fifth Congress

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[1] Resigned March 6, 1997.
[2] Appointed March 6, 1997.
[3] Resigned May 7, 1998.
[4] Appointed May 13, 1998.

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[1] Resigned March 6, 1997.
[2] Appointed March 17, 1997.
[3] Resigned October 2, 1997.
[4] Appointed October 2, 1997.
[5] Resigned January 21, 1998.
[6] Appointed January 21, 1998.
[7] Resigned March 16, 1998.
[8] Appointed March 16, 1998.
[9] Resigned May 7, 1998.
[10] Appointed May 13, 1998.

Letter of Transmittal

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION
AND THE WORKFORCE,
Washington, DC, December 30, 1998.

Hon. ROBIN H. CARLE,
Clerk of the House of Representatives,
Washington, DC.

DEAR MS. CARLE: 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 105th 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 105th Congress provide for the referral of all matters under 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 of the Rules of the House of Representatives is as follows:

RULE X

ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES

THE COMMITTEES AND THEIR JURISDICTION

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

* * * * * * *

(f) Committee on Education and the Workforce.

(1) Child labor.

(2) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's 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) Measures relating to education or labor generally.

(7) Mediation and arbitration of labor disputes.

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

(9) United States Employees' Compensation Commission.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

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

Union Calendar No. 477

105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–836

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

DECEMBER 30, 1998.—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 525 bills and resolutions were referred to the Committee in the 105th Congress. A total of 30 public laws resulted on issues within the Committee's jurisdiction, as well as the veto of one Act. The Full Committee and its five subcommittees conducted 168 days of hearings on legislation under consideration and on oversight and administration of laws within the jurisdiction of the Committee. The Full Committee held 17 of these hearings. Finally, the Full Committee and its subcommittees held a total of 39 days of markup sessions in the consideration of legislation with 28 of these being Full Committee markup sessions. Members of the Committee participated in 14 conferences as Members of the Committee. The Full Committee and its subcommittees issued 58 subpoenas. The Full Committee issued 47 subpoenas.

FULL COMMITTEE

I. SUMMARY OF ACTIVITIES

In the 105th Congress, the Committee on Education and the Workforce moved more than two dozen major accomplishments 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. STATE AND LOCAL CONTROL OF SCHOOLS

National testing

In his 1997 State of the Union address, President Clinton proposed federally sponsored national tests in 4th grade reading and 8th grade mathematics. Currently, almost all States have their own State assessments that measure student academic achievement. In addition, there are already two federally funded tests: (1) the National Assessment of Educational Progress (NAEP), also known as the "Nation's Report Card," which consists of random sample testing of 4th, 8th, and 12th graders in several subject matter areas to determine how America's students are performing academically; and (2) the Third International Mathematics and Science Study (TIMSS), which is an international random sample mathematics and science assessment in 4th, 8th, and 12th grades.

Hearings on national testing

On April 29, 1997, the Subcommittee on Early Childhood, Youth and Families held a hearing on the President's proposal for federal voluntary tests in reading in the 4th grade and mathematics in the 8th grade.

On January 21, 1998, the Committee on Education and the Workforce held a field hearing at Frost Middle School in Granada Hills, California on the issue of national testing, with a particular focus upon the Administration's plan for national tests in 4th grade reading and 8th grade mathematics.

On February 23, 1998, the Committee on Education and the Workforce held a hearing that focused on an overview of testing and State standards and assessments. Specifically, the hearing addressed: (1) basic principles of testing and the various types and purposes of tests; and (2) State and local involvement in standards setting and the development of assessments.

FY 1998 Labor, Health and Human Services, and Education Appropriations Act (P.L. 105–78)

On September 16, 1997, Chairman Bill Goodling (R–PA) offered an amendment to H.R. 2264, the FY 1998 Labor, Health and Human Services, and Education Appropriations bill to prohibit national testing. Specifically, the amendment prohibited any development, planning, implementation or administration of new national tests in 4th grade reading and 8th grade math. The amendment provided exceptions for the random sample NAEP and TIMSS tests, both of which would be allowed to continue. The amendment passed the House by a vote of 295–125. As part of the conference agreement for H.R. 2264, the Administration and the Congress agreed to the following:

- No federal funds may be used to field test, pilot test, implement, administer or distribute in any way, any national tests in FY 1998.
- No required testing of individuals or mandated participation of private schools, home schools or parochial schools.
- The National Academy of Sciences would conduct three testing-related studies as follows:

1. The first study would determine the feasibility of whether an equivalency scale can be developed that would allow test scores from commercially available standardized tests, State assessments and the National Assessment of Educational Progress (NAEP), to be compared with one another.

2. The second study would evaluate the technical quality, validity, reliability, design, and racial, cultural, or gender bias of test items already developed by the Department of Education.

3. The third study would recommend appropriate safeguards to ensure that tests are not used in a discriminatory or inappropriate manner.

- The test development contract previously entered into by the Department of Education will be transferred to the National Assessment Governing Board (NAGB).

H.R. 2846, to prohibit spending federal education funds on national testing without explicit and specific statutory authority

Chairman Bill Goodling (R–PA) introduced H.R. 2846 on November 6, 1997. H.R. 2846 would amend the General Education Provisions Act to clarify that there can be no federal tests unless specifically and explicitly provided for in authorizing legislation enacted into law. The bill provided exceptions for: (1) limited test development activities pursuant to P.L. 105–78, the FY 1998 Labor, Health and Human Services, and Education Appropriations Act; and (2) the Third International Math and Science Study (TIMSS) or comparable international assessments administered to representative samples of students pursuant to section 404(a)(6) of the National Education Statistics Act of 1994. The National Assessment of Educational Progress (NAEP), which is currently specifically and explicitly authorized in sections 411–413 of the National Education Statistics Act of 1994, would be unaffected by this legislation. The Committee on Education and the Workforce ordered H.R. 2846 to be reported on January 28, 1998 by a vote of 23–16 and it passed the House on February 5, 1998 by a vote of 242–174.

FY 1999 Omnibus Appropriations Act

The House Committee on Appropriations included language in H.R. 4274, the FY 1999 Labor, Health and Human Services, and Education Appropriations Act, prohibiting national testing without specific and explicit authorizing legislation. The testing prohibition language included in H.R. 4274 was incorporated into H.R. 4238, the FY 1999 Omnibus Appropriations Act. This legislation passed the House on October 20, 1998 by a vote of 333–95. The Senate passed this bill on October 21, 1998 by a vote of 65–29 and the President signed it into law that same day. It is P.L. 105–277. Specifically, the FY 1999 omnibus agreement:

- Prohibits pilot testing, field testing, implementation, administration or distribution of national tests, unless specifically and explicitly authorized. It preserves the normal legislative process and the proper role of Congress in setting education policy.

• Requires the National Assessment Governing Board (NAGB) to determine and report to Congress on the purpose and intended use(s) of the proposed national tests, as well as the meaning of the word "voluntary" in the context of the tests. In addition, NAGB is to report to Congress on its response to the National Academy of Sciences' recent findings that the achievement levels for the National Assessment of Educational Progress (NAEP), on which the proposed national tests are to be based, are fundamentally flawed. These reports are due to Congress and the White House no later than September 30, 1999.

• Requires the National Academy of Sciences to conduct a study of the technical feasibility, validity, and reliability of imbedding test items from the National Assessment of Educational Progress (NAEP) or other tests into State and district assessments. The report is due to Congress and the White House no later than September 30, 1999.

The prohibition of national testing without specific and explicit authority was also included as an amendment in the Senate to H.R. 2646, the Education Savings Savings Act for Public and Private Schools. The amendment, offered by Sen. John Ashcroft (R–MO), passed the Senate by a vote of 52–47 on April 22, 1998.

Dollars to the Classroom

Hearings on Dollars to the Classroom

During the 105th Congress, several hearings were held across the country as a part of the "Education at a Crossroads: What works? What's wasted?" project of Oversight Subcommittee Chairman Rep. Peter Hoekstra (R–MI). During the course of the hearings, testimony was received from many parents, teachers, principals, and State and local administrators. One consistent recommendation from these witnesses was that a greater percentage of federal education funds should reach the classroom, and a lesser percentage be allocated to the administrative bureaucracy.

On May 8, 1997, the Committee on Education and the Workforce held a hearing in Washington, D.C. on "Dollars to the Classroom." The purpose of this hearing was to receive testimony on how much federal taxpayer money actually reaches the classroom.

On May 5, 1998, the Committee on Education and the Workforce held a hearing in Washington, D.C. on H.R. 3248, the "Dollars to the Classroom Act." The purpose of this hearing was to receive testimony on the legislation and the potential impact of increasing the percentage of federal education dollars that actually reach the classroom.

On August 26, 1998, the Subcommittee on Oversight and Investigations held a hearing in Manchester, Tennessee as part of the Committee's "Education at a Crossroads: What works? What's wasted?" project. As with previous Crossroads hearings, the overall focus of this hearing was to look at what's working and what's wasted in education. This hearing also focused on the issue of sending more dollars to the classroom, as well as which local education activities and programs are actually improving learning and academic achievement.

H. Res. 139, Expressing the sense of the House of Representatives that the Department of Education, States, and local educational agencies should spend a greater percentage of federal education tax dollars in our children's classrooms

Representative Joseph Pitts (R-PA) introduced H. Res. 139, the Dollars to the Classroom resolution on May 1, 1997. This resolution expresses the sense of the House of Representatives that Congress, the Department of Education, States and local educational agencies should:

- determine the extent to which federal elementary and secondary education dollars are currently reaching the classroom;
- work together to remove barriers that currently prevent a greater percentage of funds from reaching the classroom; and
- work toward the goal that at least 90 percent of U.S. Department of Education elementary and secondary education program funds will ultimately reach classrooms, when feasible and consistent with applicable law.

On June 12, 1997, the Subcommittee on Early Childhood, Youth and Families reported the resolution, as amended, by a voice vote to the full Committee. The Committee on Education and the Workforce ordered H. Res. 139 to be reported to the full House on June 25, 1997, as amended, by a 20–16 vote. On October 28, 1997, the report (H. Rept. 105–349) on the resolution was filed with the House. H. Res. 139 passed the House on October 29, 1997 under suspension of the rules by a 310–99 vote.

On September 8, 1997, the Senate passed, by unanimous consent, an amendment introduced by Senators Faircloth and Craig to H.R. 2264, the FY 1998 Labor, Health and Human Services, and Education Appropriations bill. The amendment stipulated that not less than 95 percent of the amount appropriated for a fiscal year for the activities of the Department of Education be used directly for teachers and students.

H.R. 3248, the Dollars to the Classroom Act

On February 24, 1998, Representative Joseph Pitts (R–PA) introduced H.R. 3248, the Dollars to the Classroom Act, a bill which would consolidate 31 elementary and secondary education programs into one grant program, and send more dollars to the classroom. Rather than tying teachers' hands with heavily regulated, tightly restricted grant programs under current law, the Dollars to the Classroom Act gives educators greater flexibility in using federal education dollars. Educators would be able to use grants under the Dollars to the Classroom Act for substantially all of the uses of funds as permitted under the 31 separate programs. State and local decision-makers are given the authority to decide how to allocate the funds within the State according to the particular needs of the State. Under H.R. 3248:

- School districts would receive increases in federal education funding.
- 95 percent of all dollars a school district receives would be required to be spent on classroom activities and services.

- State and local decision-makers, not Washington bureaucrats, would decide how to allocate funds within the State according to the unique needs of the State.
- The Ed-Flex demonstration project would be expanded from twelve States to all 50 States. Ed-Flex is a pilot program which permits twelve States to waive certain statutory and regulatory requirements for programs such as Title I, Even Start, Migrant Education, Eisenhower Professional Development, Safe and Drug Free Schools, Title VI education block grant, the Emergency Immigrant Education Act, and Vocational Education.

The Committee on Education and the Workforce ordered H.R. 3248 to be reported on June 24, 1998, as amended, by a 19–18 vote and on September 14, 1998, the committee filed its report (H. Rept. 105–710) with the House. H.R. 3248 passed the House on September 18, 1998, as amended, by a 212–198 vote with 1 voting present.

Class size reduction act initiative

On October 20, 1998, the House passed H.R. 4328, the Omnibus Consolidated and Emergency Supplemental Appropriations bill for Fiscal Year 1999, which included a new $1.2 billion Class Size Reduction Initiative. On October 21, 1998, the Senate passed this legislation and the President signed H.R. 4328 into law on that same day, P.L. 105–277. The Committee on Education and the Workforce did not consider this legislation. However, on February 24, 1998, the Subcommittee on Early Childhood, Youth and Families held a hearing to review research related to class size reduction initiatives.

The Class Size Reduction Initiative provides $1.2 billion to local school districts in fiscal year 1999 under the Elementary and Secondary Education Act to reduce class size and hire and train quality teachers. This program is authorized for one year only. Grants will not be available until July 1, 1999, meaning schools will receive these funds for the 1999/2000 school year.

One hundred percent of these funds are driven locally to school districts and no funds are used for federal or State administration. No more than three percent of the funds may be used for local administration. A State receives its allotment of funds under either the Title I formula (based on number of poor children in the State and the average per pupil expenditure in the State) or the Title II Eisenhower program formula (50 percent based on school-aged population and 50 percent based on Title I), whichever is greater. Both formulas have a small state minimum. A local educational agency receives its funds 80 percent based on the number of poor children and 20 percent based on student enrollment in the school district.

Funds must be used to reduce class size with quality teachers by recruiting, hiring, training and testing regular teachers, special education teachers and teachers of special needs children. Teachers can be hired through State and local alternative certification routes. Fifteen percent of these funds can be used for professional development of regular teachers, special education teachers and teachers of special needs children as well as testing new teachers for academic content knowledge and to meet State certification requirements. If a school district has already reduced its class size

in the early grades to 18 or less children, then the school district can use these funds to further reduce class size in the early grades or other grades or for activities to improve teacher quality. No funds can be used to increase teachers' salaries or benefits.

Each school benefiting from this program shall produce an annual report to parents, the general public, and the State Educational Agency on student achievement that is a result of hiring additional highly qualified teachers and reducing class size.

B. EDUCATION REFORM

H.R. 2646, education savings accounts

H. R. 2646, the Education Savings Act for Public and Private Schools (also known as "A+Savings Accounts") was introduced by Rep. Bill Archer (R–TX) on October 9, 1997 and referred to the Committee on Ways and Means. This measure passed the House on October 23, 1997 by a vote of 230–198. It was amended in the Senate, and passed the Senate on April 23, 1998. Included in the Senate-amended version were several substantive education amendments under the jurisdiction of the Committee on Education and the Workforce. The final conference agreement passed the House on June 8, 1998 by a vote of 225–197, and included some, but not all of the education amendments from the Senate. President Clinton vetoed the legislation on July 21, 1998.

The A+ Savings Accounts bill amends the tax code to authorize the establishment of savings accounts to pay for K–12 education expenses of a student at public, private, religious or home schools. Under the Taxpayer Relief Act of 1997, such accounts were authorized only for college or university education expenses. The A+ Savings Accounts bill allows up to $2000 in contributions to be made each year until the student is 18 years old. While the contributions would receive no special tax treatment, the build-up of the interest within the accounts would be tax-free if used for the student's education (up to age 30). Savings could be used specifically for tuition (K–12 or higher education), tutoring, transportation, equipment, services for children with special needs, home computers, uniforms, books and supplies, and under certain circumstances, homeschooling expenses.

The education amendments under the jurisdiction of the Committee on Education and the Workforce that were included in the final conference report were: (1) authorization of student improvement incentive awards which could be used by a State educational agency to make awards to public schools in the State that are determined to be outstanding schools pursuant to a statewide assessment; (2) authorization for incentives for States to implement teacher testing and merit pay programs; (3) authorization for the use of federal education dollars to fund education reform projects that provide same gender schools and classrooms, as long as comparable educational opportunities are offered for students of both sexes; (4) Sense of the Senate resolution that 95 percent of every federal education dollar should end up in the classroom; (5) authorization of a literacy program which focuses upon training teachers to teach reading using scientifically proven methods, such as phonics; (6) authorization of a foreign languages study by the Gen-

eral Accounting Office; and (7) a provision declaring that weapons brought to school are admissible as evidence in any internal school disciplinary proceeding.

Dropped from the final conference report was an amendment offered by Sen. John Ashcroft (R–MO) which would have prohibited national testing without specific and explicit authority. The amendment had earlier passed the Senate by a vote of 52–47 on April 22, 1998.

Education provisions not under the jurisdiction of the Education and Workforce Committee but which were included in the conference agreement were: (1) increase in the small issuer arbitrage exception to $15 million, provided that at least $10 million of the bonds are used to finance public schools; (2) exclusion from gross income of the contribution and earnings portion of distributions from qualified state tuition programs; (3) allowing private colleges to offer prepaid tuition programs in 2006; (4) extension through December 2002 of the current exclusion from income of employer-provided education assistance for undergraduate courses.

H.R. 2614, the Reading Excellence Act

The Committee was very concerned about the findings of the NAEP 1994 Reading Report Card that 40 percent of students in the fourth grade were below the basic level of reading achievement. In an effort to determine the best way to address the reading difficulties of young children, the Committee held three hearings to explore this issue. The July 10, 1997, hearing explored current research on how children learn to read. The July 31, 1997, hearing reviewed the role of current federal literacy programs in helping children learn to read and the September 3, 1997, hearing focused on the need for strong professional development for teachers of reading based on reliable, replicable research on reading. Witnesses at all three hearings indicated that the way to address this problem was by providing better pre-service and in-service training based on reliable, replicable research for teachers who teach reading.

Based on information provided at Committee hearings, Chairman Bill Goodling (R–PA) introduced H.R. 2614, the Reading Excellence Act, on October 7, 1997. The purpose of H.R. 2614 was to assist States, local school districts and parents in accessing the latest scientific research in reading instruction and to train teachers in research-based reading practices in areas of the country where illiteracy is the highest.

H.R. 2614 was ordered reported (as amended) by the Committee on October 22, 1997, by voice vote. The House passed the bill (as amended) under suspension of the rules on November 8, 1997. The Senate passed identical legislation as an amendment to H.R. 2646, the A+ Education Savings Account Act. Contingent upon enactment by July 1, 1998, the FY 1998 Labor-HHS-Education Appropriations bill provided $210 million for a new literacy initiative. However, after both Houses passed a conference report, which included the language of the Reading Excellence Act, President Clinton vetoed it on July 17, 1998. The Senate Labor and Human Resources Committee reported their version of the House reading proposal on May 13, 1998. The Senate passed H.R. 2614, as amended on October 6,

1998. The House did not take up the amended version of H.R. 2614 as a separate measure. It was, however, included as part of the Fiscal Year 1999 Omnibus spending measure enacted prior to the adjournment of the 105th Congress. It is P.L. 105–277.

As passed by Congress, the Reading Excellence Act will improve the reading skills of children through a variety of activities. The primary focus on this legislation is to improve the instructional methods of teachers who teach reading through the use of findings from scientifically based research on reading, including phonics. In addition, the bill provides for the expansion of high-quality family literacy programs which insure that parents have the literacy skills necessary to help their children learn to read and that their children come to school ready to learn to read. Other activities supported under the Reading Excellence Act include programs to help children transition to first grade, and tutoring for children before, after and during non-instructional school hours. It is also the purpose of this Act to increase parental involvement through tutorial assistance grants that allow parents to choose reading tutors for their children from a list of providers developed by the local educational agency. Finally, the Committee believes this Act will work to reduce the number of students inappropriately referred to special education based on reading difficulties.

H.R. 2614 also made improvements to the Even Start Family Literacy Program.

C. SUPPORTING DISABLED AMERICANS

S. 2432, the Assistive Technology Act of 1998, as amended by the House –

The Technology-Related Assistance for Individuals with Disabilities Act of 1988 (P.L. 100–407) or "Tech Act" established a program of federal grants to States to encourage the development and coordination of State systems to promote the provision of assistive technology services and devices to individuals with disabilities. These assistive technology services and devices are used by individuals with disabilities to increase, maintain, or improve their functional abilities. Examples of assistive technology include communications devices, housing modifications, vehicle modifications, adapted computers and specialized software.

All 50 States, the District of Columbia, and the territories currently receive grants under the Tech Act. The Tech Act was reauthorized in 1994 (P.L. 103–218) and the authorization expired on September 30, 1998; however, the General Education Provisions Act provides an automatic one-year extension. The program is funded at $36 million in FY 1998 and has been funded at this level for the last several years.

On September 15, 1998, the Senate Committee on Labor and Human Resources unanimously reported S. 2432, the Assistive Technology Act of 1998. The Senate passed S. 2432 on October 5, 1998. On October 9, 1998, the House passed S. 2432 as amended. On October 14, 1998, the Senate passed S. 2432 as amended by the House and sent it to the President to be enacted into law. The House Committee on Education and the Workforce held no hearings on this legislation in the 105th Congress.

S. 2432 repealed the current Tech Act, replacing it with a new law that removed federal support for developmental activities in establishing assistive technology programs. It allows States who have not received a full ten years of federal grant aid to continue to receive such assistance and it extends participation in this program under a new Challenge Grant program for an additional five years to States. Finally, it establishes a new competitive Supplementary Millennium State Grant program for capacity building. Title II repeals several currently unfunded programs, and establishes three new grant programs to assist small businesses, rural areas, and train rehabilitation engineers. Title III maintains the currently authorized but unfunded Alternative Financing Systems grants to States.

The House substitute amendment made two major changes from the Senate bill. It repealed the Challenge Grant Program and the Supplementary Millennium State Grant program and terminated the Tech Act after all States have completed their 10 year cycle under the Continuity Grant. The House substitute allows the Secretary to extend the continuity grant for three more years to States who have completed the tenth year of funding but no extensions can be made after FY 2004. The authorization is $36 million in FY 1999 and such sums through FY 2004 for the State Continuity Grant and for all other programs (National Activities, Demonstrations, and the Alternative Financing Mechanisms), the authorization is such sums in FY 1999 and FY 2000. These changes reflect the House position that this program should end after providing States two 5–year grant cycles because the original purpose of this program was to provide a small amount of federal assistance to start this system and that has been successful.

H. Res. 399, IDEA full funding resolution

On March 26, 1998, Representative Charles Bass (R–NH) introduced H. Res. 399, the IDEA Full-Funding Resolution, and it was referred to the Committee on Education and the Workforce. On May 8, 1998, the Committee referred the resolution to the Subcommittee on Early Childhood, Youth, and Families. The Subcommittee marked-up and forwarded the resolution, as amended, to the full Committee on May 21, 1998. The Committee favorably ordered reported the resolution, as amended, on June 4, 1998 to the House. The House agreed to the resolution by voice vote on June 16, 1998.

The Individuals with Disabilities Education Act Part B funding formula, which provides funds to State education agencies and local education agencies for services to students with disabilities, establishes a maximum grant of 40% per student served of the national average per pupil expenditure. The highest the federal contribution reached was 12.5% in FY 1979. In FY 1998, the federal government contribution reached 10.7%. Under the substantial increase in funding in FY 1999, the contribution is up to 11.6%. Since FY 1995, Republican controlled Congresses have raised the federal contribution, from $2.3 billion to $4.3 billion—and increase of $2 billion or 87%—far greater than under prior Democrat controlled Congresses.

House Resolution 399 urges Congress and the President to make funding for IDEA a higher priority among federal education programs, while still working within the balanced budget agreement. The resolution recognizes the unmet commitment to providing funding at 40% of the average per pupil expenditure. The resolution contains a number of findings which establish the justification for increasing the priority to funding IDEA.

D. REFORMING WELFARE AND CHILD CARE

Welfare reform

Reform continues to be a success

During the 104th Congress, the Committee played a major role in helping shape many key aspects of the historic welfare reform law. In addition to streamlining nutrition and childcare programs, this reform replaced the Aid to Families with Dependent Children (AFDC) program with Temporary Assistance for Needy Families (TANF). After two years since enactment, the new law is widely viewed as a major success.

In fact, since 1996 there has been a 27% drop in the national welfare caseload. This translates to the lowest percent of the US population receiving welfare since 1969. However, the success of welfare goes far beyond the major decrease in the welfare caseload.

This past year, the Department of Health and Human Services issued its first Annual Report to Congress on the Temporary Assistance for Needy Families program. The report noted the dramatic progress made on the critical goal of moving families from welfare to work. Some of the findings in the report include:

- Data from the Census Bureau's Current Population Survey show that the rate of employment of individuals on welfare in one year who were working in the following year increased by nearly 30 percent between 1996 and 1997.
- There is evidence of significant increases in employment among welfare recipients. A recent study in Oregon also showed dramatic increases in earnings of welfare recipients.
- In most States, state policy and spending choices have reflected a focus on work rather than a race to the bottom (as was often charged by opponents of welfare reform.)
- Last year, almost half of the States reported spending more on welfare programs than required under the new law. The report points out that these States are putting these extra dollars into child care, up-front diversion, rainy day funds, work-based assistance, and on state earned income tax credits.

The increase in employment among individuals on welfare is especially significant given the results of a recent study of 12 States by the Urban Institute. In Does Work Pay, the Urban Institute found that work does indeed pay, even in jobs that are low-wage, part-time, and which lack benefits. Specifically, the study found that working full-time at the minimum wage moved a parent and two children above the poverty line in all States studied. In addition, the study found that a single parent with two children moving from welfare to 20 hours of work each week at a minimum wage had their income increase an average of 51 percent.

Much of this success is clearly due to the profound change in the culture of welfare. No longer seen as a permanent entitlement to single parents, welfare has transformed into a program providing temporary assistance while helping people find work so families can get jobs, support themselves, and prepare for the future.

The General Accounting Office highlighted the extent of this transformation in a recent report. The GAO found that in the seven States studied, welfare agencies are generally being transformed into job placement centers, and in some instances applicants are expected to engage in job search activities as soon as they apply for assistance. As part of this transformation, the GAO found that States have expanded welfare workers' roles by shifting their priorities from determining eligibility and cash assistance levels to helping recipients obtain work and become more self-sufficient. The report also concluded that States are using some of the additional budgetary resources available under the welfare reform law to enhance support services such as transportation and childcare. In addition, they found that States are working to enhance their capacity to treat physical and mental health problems.

This past year, the GAO also completed a report on State's efforts to expand childcare. The report pointed to the positive direction being taken by States to expand childcare opportunities in order to enable parents to work toward self-sufficiency. Among the findings:

- States are expanding childcare subsidy programs for low-income families enabling more children to be served.
- Combined federal (including transfer authority from TANF) and State child care funding have allowed States to expand their child care programs. Funding for childcare in Los Angeles increased 62% from FY 1996 to FY 1997, in California by 26%, in Wisconsin by 38%. Several States are exceeding the State match that is required to draw federal funds. California spent $353.8 million more than was required to get the maximum amount of federal dollars.
- Due to the significant declines in TANF caseloads, Wisconsin was able to use $13 million directly from their TANF block grant for childcare. A pattern that is being repeated in other States such as Texas, Connecticut, and California.

The future of reform

The Committee views these trends as very positive outcomes of welfare reform and expects continued success as States and localities forge ahead with its implementation. During the next Congress, the Committee will continue to monitor this implementation.

Welfare-to-work funding

On June 12, 1997, the Committee adopted language including a welfare-to-work program and several amendments to the TANF work requirements. This language was pursuant to the Reconciliation instructions contained in the Conference Report to H. Con. Res. 84, the Budget Resolution for Fiscal Year 1998.

The $3 billion welfare-to-work program adopted by the Committee and the amendments to TANF were included as part of the Balanced Budget Act of 1997. The two-year welfare-to-work program

provides States and localities additional funds to assist in efforts to move welfare recipients into employment. Our Committee worked with the Committee on Ways and Means to ensure these funds will be directed to recipients with the greatest barriers to employment and certain non-custodial parents. In addition, the Committee worked to ensure that States and localities utilize existing Private Industry Councils in the delivery of these employment-related services in order to avoid duplication of effort.

Under this program, localities may use these funds for job creation, job placement, and job retention efforts, including wage subsidies to private employers and other critical post-employment support services. Of the total funding, $2.2 billion was made available to be allocated by formula over two years to States. An additional $711.5 million was made to the Secretary of Labor to award grants on a competitive basis to local communities for innovative welfare-to-work projects. [The 1999 Omnibus Budget includes language that has the effect of rescinding $137 million of formula grant funds where States have not claimed the funds by the end of the fiscal year.]

The Balanced Budget Act of 1997 also included several amendments to the work requirements under the TANF program. These amendments included a clarification that up to 30% of recipients counted toward meeting the work requirement may do so through participation in vocational education. After the year 2000, teenage heads of households who participate in high school will also be included under this cap. A second amendment established a penalty of not less than 1% and not more than 5% for States failing to implement "pay for performance" standards as required under TANF.

H. Res. 417, the fatherhood resolution

H. Res. 417, introduced by Rep. Joseph Pitts, highlights the importance of the active involvement of fathers in the rearing and development of their children. The resolution was referred to the Committee on Education and the Workforce on April 30, 1998 and to the Subcommittee on Early Childhood, Youth and Families on May 15th. On June 4th, the Committee ordered the resolution to be reported and on June 6th the measure passed the House by a vote of 415 to 0.

S. 2206, the Coats Human Services Reauthorization Act of 1998

During the 105th Congress, the Subcommittee on Early Childhood, Youth and Families worked to extend the authorization and make improvements in several important human service programs that are under its jurisdiction. Specifically, H.R. 4241, the Head Start Amendments Act of 1998, and H.R. 4271, the Community Services Authorization Act of 1998 were developed to extend the authorizations of the Head Start and CSBG programs. These bills make important changes in these programs that would result in improved services, increased quality, and accountability.

Ultimately, the provisions of H.R. 4241 and H.R. 4271 were merged into a combined human services authorization bill, S. 2206, the Coats Human Services Reauthorization Act of 1998. S. 2206 was passed by the House, as amended, on September 14, 1998. The Senate passed its version of the legislation earlier on July 27, 1998.

Senate and House Conferees met to resolve differences between the two bills on September 29, 1998. The Senate passed the conference agreement on S. 2206 on October 8, 1998, and the House passed the agreement on October 9, 1998. The measure was signed by the President on October 27, 1998, P.L. 105–285.

Head Start

Head Start has offered comprehensive health, education, and child development services for three to five-year olds of low-income families, since 1965. Today, the program has also been expanded to serve infants and toddlers. Head Start was last authorized in 1994. The authorization of the program expired in FY 1998.

As the Committee prepared to reauthorize Head Start, the Subcommittee on Early Childhood, Youth and Families held four hearings, including two field hearings, on Head Start during the second session of the 105th Congress.

On March 26, 1998, the Subcommittee on Early Childhood, Youth and Families held a joint hearing with the Subcommittee on Children and Families of the Committee on Labor and Human Resources of the U.S. Senate. On June 9, 1998, the Subcommittee on Early Childhood, Youth and Families held a hearing in Washington, D.C. On July 7, 1998 the Subcommittee on Early Childhood, Youth and Families held a field hearing in McAllen, TX. On July 10, 1998 the Subcommittee on Early Childhood, Youth and Families, held a field hearing in Napa, CA.

In response to concerns raised at those hearings about the quality of Head Start, in particular the quality of the educational component of Head Start, on July 16, 1998, Representative Frank Riggs (R–CA), Chairman of the Subcommittee on Early Childhood, Youth and Families, introduced H.R. 4241, the Head Start Amendments of 1998. The bill made significant changes to the Head Start program and authorized the program through the year 2003. H.R. 4241, as amended, was ordered favorably reported by the Committee on Education and the Workforce by a vote of 23 to 18.

Title I of P.L. 105–285 establishes quality and accountability as the focus of the authorization through a variety of measures that strengthen the education component of Head Start. The Act ensures that local Head Start agencies will be held accountable for successfully preparing children to enter school ready to read, by inserting new education performance standards and measures by which individual Head Start program's performance will be measured. In addition, the Act requires that at least one-half of all Head Start teachers possess a college degree in early childhood education or a related field by the end of the year 2003.

P.L. 105–285 strikes the appropriate balance between quality and expansion. It slows the rate of the growth of the program and increases funding for quality, in the initial years of the authorization, so that the Head Start program has the time and the means to develop greater capacity to provide higher quality services. Quality dollars will be used to recruit and retain more college-educated teachers and to provide training to teachers in successful techniques and practices in preparing children to enter school ready to read.

In keeping with the themes of quality and accountability, the Act also authorizes a major impact study of Head Start to measure Head Start's effectiveness.

The community services block grant

The Community Services Block Grant (CSBG) provides funds to States and local communities for activities designed to fight poverty and foster self-sufficiency. CSBG provides funds to 1,134 "eligible entities"—mostly local non-profit Community Action Agencies in 96 percent of all counties. The activities of local programs under CSBG vary widely depending on the needs and circumstances of each local community. Common uses of funds include the coordination of programs and services for the poor and the provision of emergency assistance in local communities.

Hearings on CSBG found that the existing community action network is doing an effective job at addressing the needs of high-poverty communities throughout the nation. However, it was also found that there is a need for increased accountability in the system; a broadening of the resource base, including partnerships with private providers; and a need for more innovative approaches in the fight against poverty.

As the Subcommittee on Early Childhood, Youth and Families prepared to extend the authorization of the CSBG program and to make improvements in the program, it held a hearing on the program on June 5, 1998 in Washington, D.C. At that hearing Members of the Subcommittee heard from representatives of State and local CSBG programs which included State and local directors of programs, program beneficiaries, and community leaders who serve on local CSBG boards. The Subcommittee also heard testimony from individuals involved in innovative community economic development programs.

On July 17, 1998, Representative Frank Riggs (R–CA) introduced H.R. 4271, the "Community Services Authorization Act of 1998". The legislation was developed with the intent of making changes to the Community Services Block Grant Act that will better enable States and local communities to eradicate poverty, revitalize high poverty neighborhoods, and empower low-income individuals and communities to become self-sufficient.

On July 29, 1998, the Committee on Education and the Workforce favorably reported H.R. 4271 with amendments, by a voice vote. One of the amendments accepted by the full Committee added a 2–year extension of the Low Income Home Energy Assistance Program Act (LIHEAP) to H.R. 4271.

Title II of P.L. 105–285 contains the provisions affecting CSBG. The Act enables States and local communities to assist in eradication of poverty, revitalization of high-poverty neighborhoods, and empowerment of low-income individuals and communities to become self-sufficient. P.L. 105–285 increases program accountability and encourages development of effective partnerships between government, local communities, and charitable organizations (including faith-based organizations) to meet the needs of impoverished individuals. The Act includes several new initiatives for which States and local areas may use CSBG funds including literacy, youth development, fatherhood, and community policing initiatives

in high poverty areas. It allows States to spend up to 10 percent of their State-held funds for State charitable tax credits that have the goal of poverty alleviation.

The Low Income Home Energy Assistance Program

The Low Income Home Energy Assistance Program (LIHEAP) provides heating and cooling assistance to almost five million low-income households each year. Individuals and families receiving this assistance include the working poor, individuals making the transition from welfare to work, individuals with disabilities, the elderly, and families with young children. In addition to the basic energy assistance program, the LIHEAP Act also authorizes emergency energy assistance and home weatherization services for eligible individuals in need.

The Subcommittee on Early Childhood, Youth and Families held one hearing on the Low-Income Home Energy Assistance Program (LIHEAP) on April 8, 1997. The Subcommittee received testimony from Members of Congress and from State and local program administrators and beneficiaries of the LIHEAP program.

On July 29, 1998, the full Committee on Education and the Workforce favorably reported H.R. 4271 with amendments, by a voice vote. One of the amendments accepted by the Committee added a two-year extension of the Low Income Home Energy Assistance Program Act (LIHEAP) to H.R. 4271.

Title III of P.L. 105–285 extends the authorization of the Low-Income Home Energy Assistance Program (LIHEAP) for five years at "such sums" in FY 2000 and FY 2001, and $2 billion in FY 2002 through FY 2004.

Individual development accounts

Title IV of P.L. 105–285 includes a new 5–year demonstration program for the establishment of individual development accounts (IDAs). IDAs are matched savings accounts for low-income individuals for postsecondary education, the purchase of a first home, and for business capitalization. The authorization is set at $25 million per year for the 5 year authorization of the program.

S. 459, Native Americans Program Act

Authorization for the Native American Programs Act expired, for the most part, in the 104th Congress. Changes to this legislation are usually considered at the same time as the Older Americans Act.

On July 9, 1997, Representative Frank Riggs (R–CA), Chairman of the Subcommittee on Early Childhood, Youth and Families held a hearing on the Native American Programs Act. No further action was taken.

The Senate Committee on Indian Affairs reported S. 459, the Native American Programs Act Amendments of 1997 on May 21, 1997. The Senate passed it on September 29, 1997. It was then referred to the Committee on Education and the Workforce in the House of Representatives. On October 9, 1998, it was discharged by the Committee on Education and the Workforce and passed by the House, as amended, by unanimous consent. The Senate passed the amended version of this legislation on October 14, 1998.

The Administration for Native Americans (ANA) promotes social and economic self-sufficiency among Indian Tribes through a variety of grant programs. The Committee felt the current programs were successful in accomplishing their goals and did not believe they were in need of major reform. Therefore, the main purpose of S. 459 was to extend these programs through 2003. The only major change to the Native Americans Programs Act affected the Native Hawaiian Revolving Loan Fund. Authorization for this program was only extended through 2002. It is the belief of the Committee that this Fund should operate without continued financial support from the federal government. However, funding is provided to the Fund through 2002 to allow for a smooth transition period.

E. COMMITTEE RESOLUTIONS

H.R. 3007, the Commission on the Advancement of Women and Minorities in Science, Engineering and Technology Development Act

The Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act, H.R. 3007, was introduced by Representative Connie Morella (R–MD) on November 9, 1997. H.R. 3007 establishes an 11 member Commission to both identify the number of women, minorities and individuals with disabilities in the fields of science, engineering, and technology development and to determine the barriers that exist for the aforementioned populations pursuing an education or career within each of these disciplines. The Commission is also directed to issue recommendations that government, academia, and private industry can follow to encourage the recruitment, retention, and advancement of women, minorities and individuals with disabilities in each of these disciplines.

H.R. 3007 was introduced in response to the need to integrate women, minorities and individuals with disabilities into the fields of science, engineering and technology development. The Bureau of Labor Statistics has predicted that the demand for highly skilled workers in computer and data processing services will more than double over the next ten years. The shift from an industrial age to an information age has resulted in the need for an increased pool of high-tech workers trained in all areas of science, engineering, and technology development. While progress has been made in integrating women, minorities and individuals with disabilities into such disciplines, they continue to be underrepresented in most scientific and engineering fields.

On June 24, 1998, the Committee on Education and the Workforce considered H.R. 3007 and favorably reported the bill, as amended, by voice vote. On September 14, 1998, the House of Representatives passed H.R. 3007 under Suspension of the Rules, by voice vote. The Senate passed H.R. 3007 without amendment on October 1, 1998 by Unanimous Consent. H.R. 3007 was signed into law by the President on October 14, 1998. It is now P.L. 105–255.

H. Con. Res. 27, African-American music concurrent resolution

H. Con. Res. 27, introduced by Rep. Chaka Fattah, recognizes the importance of African-American Music on both American and glob-

al culture. The resolution calls on the people of the United States to study, reflect on, and celebrate African-American music. The concurrent resolution was referred to the House Committee on Education and the Workforce on February 27, 1998 and to the Subcommittee on Early Childhood, Youth and Families on March 14, 1998. On October 13, 1998 the resolution passed the House under suspension of the rules by voice vote. The Senate received the resolution on October 14, 1998.

H. Con. Res. 214, country music resolution

H. Con. Res. 214, introduced by Rep. William Jenkins, recognizes Bristol, Tennessee and Bristol, Virginia as the birthplace of country music. The resolution commends the cities of Bristol, Tennessee and Virginia and the citizens thereof, for their contribution in the origination and development of country music. The concurrent resolution was referred to the House Committee on Education and the Workforce on February 11, 1998 and to the Subcommittee on Early Childhood, Youth and Families on March 16, 1998. On October 9, 1998 the Resolution passed the House under suspension of the rules by voice vote. On October 12, 1998 the Senate agreed to the resolution.

F. ERISA HEALTH INSURANCE REFORM AND EXPANDED COVERAGE

In the 105th Congress, the Committee initiated the legislative debate leading to the passage of ERISA health insurance reform and the expansion of health insurance coverage.

Building on the record from the 104th Congress in which the Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104–191) extended to employees and their families new ERISA protections in the areas of preexisting conditions, nondiscrimination and expanded enrollment, the House considered and passed the Patient Protection Act of 1998 (H.R. 4250) which includes new patient protections under ERISA.

The Patient Protection Act was developed under the auspices of the Republican House Working Group on Healthcare Quality. The working group included four members of the Committee: Chairman Goodling, Chairman Fawell of the Subcommittee on Employer-Employee Relations, Representative Talent, and Representative Norwood. H.R. 4250, the Patient Protection Act, was introduced on July 16, 1998, by Speaker Gingrich. The legislation passed the House on July 24, 1998, by a vote of 216 to 210.

Title I of H.R. 4250 amends the Employee Retirement Income Security Act of 1974 (ERISA). Under this legislation, ERISA is amended to require patient access to unrestricted medical advice, emergency medical care, obstetric and gynecological care and pediatric care. This legislation also greatly expands patient access to information regarding health plan coverage, managed care procedures, health care providers and quality of medical care. It establishes new claims procedures giving patients access to timely internal decisions by physicians and to external review by independent medical professionals. Further, for covered individuals, it establishes new procedures for and access to our courts for grievances arising under group health plans. Most importantly, this legislation gives millions of uninsured working Americans access to new op-

portunities for quality and affordable health care coverage through the creation of Association Health Plans (AHPs). The "Small Business Affordable Health Coverage Act" included in Subtitle D of Title I of H.R. 4250 incorporates into the Patient Protection Act provisions similar to H.R. 1515 which was also reported by the Committee.

H.R. 4250 establishes critical patient protections while at the same time providing millions of uninsured Americans the opportunity for affordable and quality health care coverage. The legislation also preserves the ERISA preemption cornerstone that has fueled the marketplace dynamics that have recently kept in check health insurance cost inflation, thus keeping health insurance more affordable for millions of Americans.

Other legislation under the committee's jurisdiction was passed to eliminate barriers to the effective establishment and enforcement of medical child support. Under prior law effective enforcement of medical child support was thwarted by a lack of standardized communication among State child support enforcement agencies, parents' employers, and the plan administrators of parents' health insurance plans. Streamlining the medical support process for ERISA plans is essential to ensure that all children receive the medical support for which they are eligible. Therefore, the provisions of H.R. 3130 (P.L. 105–200) require the Secretaries of the Departments of Health and Human Services and Labor to design and implement a National Standardized Medical Support Notice to be used by State child support agencies, employers and group health plans to ensure the enrollment of children under the health insurance coverage for which they are eligible. A Medical Child Support Working Group is also established to provide recommendations to the Congress for appropriate measures to address the impediments to effective enforcement of child medical support.

The House also passed legislation under the Committee's jurisdiction extending ERISA protections to certain cancer patients. The "Women's Health and Cancer Rights Act of 1998" is included under Title IX of H.R. 4328 (P.L. 105–277) in the Labor-HHS portion of the legislation.

In general, this Act amends ERISA to require group health plans and health insurance issuers that cover medical and surgical benefits for mastectomy to also include in their scope of coverage: (1) all stages of reconstruction of the breast on which the mastectomy has been performed, (2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and (3) prostheses and physical complications of mastectomy, including lymphedemas, in a manner determined under the terms of the plan or health insurance coverage in consultation with the attending physician and the patient. The provisions are generally effective with respect to plan years beginning on or after date of enactment.

II. Hearings Held by the Committee

105th Congress, First Session

January 28, 1997—*H.R. 6,* the Higher Education Amendments of 1998.

January 29, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

March 5, 1997—Hearing on President Clinton's Education Initiatives.

March 3, 1997—Hearing on President Clinton's Education Initiatives.

April 22, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

July 9, 1997—*H.R. 1625,* Worker Paycheck Fairness Act.

July 10, 1997—Hearing on Literacy: Why Children Can't Read.

July 31, 1997—Hearing on Literacy: A Review of Current Federal Programs.

September 3, 1997—Hearing on Teachers: The Key to Helping America Learn to Read.

October 21, 1997—Hearing to Review the Equal Employment Opportunity Commission.

105th Congress, Second Session

January 21, 1998—Field Hearing on National Testing.

February 23, 1998—Education Standards and Testing in the States.

April 22, 1998—Joint Hearing on "IDEA Regulations".

May 5, 1998—Hearing on H.R. 3248, "Dollars to the Classroom Act".

May 13, 1998—Hearing on "First Things First: Review of the Federal Government's Commitment to Funding Special Education".

July 16, 1998—Hearing on H.R. 2710, The Rewarding Performance in Compensation Act.

September 16, 1998—Joint Hearing on "Education and Technology Initiatives".

III. Markups Held by the Committee

105th Congress, First Session

January 21, 1997—Full Committee Organizational Meeting (adopt committee rules and announce subcommittee assignments).

February 13, 1997—Full Committee Meeting on Committee Budget and Oversight Plan for the 105th Congress.

March 5, 1997—*H.R. 1,* Working Families Flexibility Act of 1997.

H.R. 914, to make technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures.

April 30, 1997—*H.R. 1385,* Employment, Training, and Literacy Enhancement Act of 1997.

May 7, 1997—*H.R. 5,* IDEA Improvement Act of 1997.

H.R. 1511, Cost of Higher Education Review Act of 1997.

May 14, 1997—*H.R. 1377,* Savings Are Vital to Everyone's Retirement Act of 1997.

June 11, 1997—Full Committee Markup of Committee Reconciliation.

June 12, 1997—Instructions for FY 98.

H.R. 1515, –Expansion of Portability and Health Insurance Coverage Act of 1997 (EPHIC).

June 18, 1997—*H.R. 1818,* Juvenile Crime Control and Delinquency Prevention Act of 1997.

H. Res. 139, Expressing the sense of the House of Representatives that the Dept. of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.

June 25, 1997—*H.R. 1853,* Carl D. Perkins Vocational-Technical Education Act Amendments of 1997.

Continue Markup of H. Res. 139, Expressing the sense of the House of Representatives that the Dept. of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.

October 1, 1997—*H.R. 2535,* Emergency Student Loan Consolidation Act of 1997.

October 7, 1997—Full Committee—Motion to authorize the issuance of four subpoenas for testimony in hearings on the Invalidated 1996 Teamster Election.

October 8, 1997—*H.R. 1625,* Worker Paycheck Fairness Act.

October 9, 1997—*H.R. 2616,* Charter Schools Amendments Act of 1997.

October 22, 1997—*H.R. 2614,* Reading Excellence Act.

November 5, 1997—Full Committee—Motion to approve the Contract Agreement with diGenova & Toensing, to provide services to the Committee in relation to the oversight investigation of the Teamsters election.

November 6, 1997—Full Committee—Adoption of a Committee Print with Proposed Changes to the Committee Rules.

105th Congress, Second Session

January 28, 1998—*H.R. 2846,* To prohibit spending Federal education funds on national testing without explicit and specific legislation. –

February 12, 1998—Full Committee—Motion to approve the Contract Agreements with Frederick W. Smolen and with Philip A. Smith, to provide services to the Committee in relation to the oversight investigation of the International Brotherhood of Teamsters election.

March 11, 1998—*H.R. 3246,* Fairness for Small Business and Employees Act of 1998.

H.R. 2864, Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1997.

H.R. 2877, To amend the Occupational Safety and Health Act of 1970.

H.R. 3096, To correct a provision relating to termination of benefits for convicted persons.

H. Res. 267, Expressing the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth.

March 18, 1998—*H.R. 6,* Higher Education Amendments of 1998.

March 19, 1998—Continued Markup of H.R. 6—Higher Education Amendments of 1998.

April 1, 1998—*H.R. 2888,* Sales Incentive Compensation Act.

H.R. 2327, Drive for Teen Employment Act.

Motion to approve Contract Agreements with Dan L. Anderson and Daniel F. Sullivan, to provide services to the Committee in relation to the oversight investigation of the IBT.

Adoption of a Committee Print with proposed changes to the Committee Rules.

June 4, 1998—*H. Res. 417,* Regarding the importance of fathers in the raising and development of their children.

H. Res. 401, Expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high quality, proven programs and practices.

H. Res. 399, Urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act.

H.R. 3892, English Language Fluency Act.

Motion to Approve a Contract Agreement with Raymond Maria, to provide services to the Committee in relation to the oversight investigations of the International Brotherhood of Teamsters election.

H.R. 3254, IDEA Technical Amendments Act of 1998.

H.R. 3874, WIC Reauthorization Amendments of 1998.

June 10, 1998—*H.R. 2869,* To amend the Occupational Safety and Health Act of 1970 to exempt safety and health assessments, audits, and reviews conducted by or for an employer from enforcement action under such Act.

H.R. 2661, Sound Scientific Practices Act.

H.R. 2873, to amend the Occupational Safety and Health Act of 1970

H.R. 3725, Postal Service Health and Safety Promotion Act–

June 24, 1998—*H.R. 3007,* Commission on the Advancement of Women in Science, Engineering, and Technology Development Act.

H.R. 3248, Dollars to the Classroom Act.

July 16, 1998—House-Senate Conference Meeting—*H.R. 1385,* The Workforce Investment Act of 1998.

July 22, 1998—Adoption of a Committee Print with proposed changes to the Committee Rules with regard to deposition authority.

H.R. 4257, to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.

July 29, 1998—*H.R. 4037,* to require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets.

H.R. 4271, Community Services Authorization Act of 1998.

H.R. 4241, Head Start Amendments of 1998.

September 15, 1998—House-Senate Conference Meeting—*H.R. 6,* Higher Education Amendments of 1998.

September 29, 1998—House-Senate Conference Meeting—*S. 2206,* Coats Human Services Reauthorization Act of 1998.

October 6, 1998—House-Senate Conference Meeting—*H.R. 3874,* William F. Goodling Child Nutrition Reauthorization Act of 1998.

October 7, 1998—House-Senate Conference Meeting—*H.R. 1853,* Carl D. Perkins Vocational and Applied Technology Education Act of 1998.

IV. Legislative Activities

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

H.R. 1003 (P.L. 105–12), Assisted Suicide Funding Restriction Act of 1997.

H.R. 5 (P.L. 105–17), Individuals with Disabilities Education Act Amendments of 1997.

H.R. 1377 (P.L 105–92), Savings are Vital to Everyone's Retirement Act of 1997.

S. 1505 (P.L. 105–128), Museums and Library Services Technical and Conforming Amendments of 1997.

H.R. 3042 (P.L. 105–156), Environmental Policy and Conflict Resolution Act of 1998.

H.R. 2864 (P.L 105–197), Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998.

H.R. 2877 (P.L. 105–198), to amend the Occupational Safety and Health Act of 1970.

H.R. 1385 (P.L. 105–220), Workforce Investment Act of 1998.

H.R. 3152 (P.L. 105–221), Amy Somers Volunteers at Food Banks Act.

H.R. 6, (P.L. 105–244), Higher Education Amendments of 1998.

H.R. 3096 (P.L. 105–247), to correct a provision relating to termination of benefits for convicted persons.

H.R. 3007 (P.L. 105–255), Commission on the Advancement of Women in Science, Engineering and Technology Development Act.

H.R. 2616 (P.L. 105–278), Charter School Expansion Act of 1998.

S. 2235 (P.L. 105–302), to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

H.R. 1853 (P.L. 105–332), Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

H.R. 2327 (P.L. 105–334), Drive for Teen Employment Act.

H.R. 3874 (P.L. 105–336), William F. Goodling Child Nutrition Reauthorization Act of 1998.

H.R. 4259 (P.L. 105–337), Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998.

S. 459 (P.L. 105–361), Native American Programs Act Amendments of 1997.

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

H.R. 1119, National Defense Authorization Act for FY 98 (P.L. 105–85), (includes workforce restructuring, Volunteers, FECA, Marshall Plan/Korean conflict provisions under the committee's jurisdiction).

H.R. 2014, Taxpayer Relief Act of 1997 (P.L. 105–34), (includes ERISA provisions under committee's jurisdiction).

H.R. 2015, Balanced Budget Act of 1997 (P.L. 105–33).

- H.R. 1515—Expansion of Portability and Health Insurance Coverage Act of 1997;
- Higher Education Act is amended to return reserve funds held by guaranty agencies; and

- Welfare provisions—language includes a welfare-to-work program and several amendments to Temporary Assistance for Needy Families (TANF), work requirements (amends section 403(a), of the Social Security Act).

H.R. 2400—Transportation Equity Act for the 21st Century (P.L. 105–178), (Sec. 8301 includes provisions to change the interest rate on student loans for a 3 month period from July 1–September 30, 1998. These provisions were extended through H.R. 6, Higher Education Amendments of 1998, through July 1, 2003).

H.R. 3130, Child Support Performance and Incentive Act of 1998 (includes ERISA provisions; P.L. 105–200).

H.R. 3616, Strom Thurmond National Defense Authorization Act for FY 99 (P.L. 105–261) (includes impact aid and eligibility of DOD dependents at DOD schools provisions under the committee's jurisdiction).

H.R. 4328, Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 99. (P.L. 105–277).

- Class Size Reduction Program (Sec. 307);
- H.R. 2614—Reading Excellence Act;
- Provisions of H.R. 2846—To prohibit spending Federal education funds on national testing without explicit and specific legislation;
- S. 442—Internet Tax Freedom Act (Simon, Dole, Hatfield scholarship programs);
- S. 1723—American Competitiveness Act (H–1B visas); and
- Women's Health and Cancer Rights Act.

S. 1227*/H.R. 2226, to amend title I of ERISA to clarify treatment of investment managers under such title (P.L. 105–72) (includes ERISA provisions under the committee's jurisdiction).

S. 1417, Hispanic Cultural Center Act of 1997 (P.L. 105–127).

S. 2112*/H.R. 3725, Postal Employees Safety Enhancement Act (P.L. 105–241).

S. 2206, Coats Human Services Reauthorization Act of 1998 (P.L. 105–285).

S. 2432, Assistive Technology Act of 1998 (P.L. 105–394).

*Senate bill not referred to Committee/Language identical to House referred bill.

C. LEGISLATION PASSED THE HOUSE

H.R. 1, Working Families Flexibility Act of 1997.

H.R. 5, Individuals with Disabilities Education Act of 1997.

H.R. 6, Higher Education Amendments of 1998.

H.R. 103, to expedite State reviews of criminal records of applicants for private security officer employment.

H.R. 914, Cost of Higher Education Review Act of 1997.

H.R. 1003, Assisted Suicide Restriction Act of 1997.

H.R. 1377, Savings are Vital to Everyone's Retirement Act of 1997 (SAVER Act).

H.R. 1385, Employment, Training, and Literacy Enhancement Act of 1977.

H.R. 1818, –Juvenile Crime Control and Delinquency Prevention Act of 1997.

H.R. 1853, –Carl D. Perkins Vocational-Technical Education Act Amendments of 1997.

H.R. 2327, –Drive for Teen Employment Act.

H.R. 2535, –Emergency Student Loan Consolidation Act of 1997.
H.R. 2614, –Reading Excellence Act.
H.R. 2616, –Community-Designed Charter Schools Act.
H.R. 2846, –to prohibit spending Federal education funds on national testing without explicit and specific legislation.
H.R. 2864, –Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998.
H.R. 2877, to amend the Occupational Safety and Health Act of 1970.
H.R. 2888, –Sales Incentive Compensation Act.
H.R. 3007, –Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act.
H.R. 3042, –Environmental Policy and Conflict Resolution Act of 1998.
H.R. 3096, –to correct a provision relating to termination of benefits for convicted persons.
H.R. 3152, –Amy Somers Volunteers at Food Banks Act.
H.R. 3246, –Fairness for Small Business and Employees Act of 1998.
H.R. 3248, –Dollars to the Classroom Act.
H.R. 3874, –Child Nutrition and WIC Reauthorization Amendments of 1998.
H.R. 3892, –English Language Fluency Act.
H.R. 4037, –to require OSHA to recognize that electronic forms of providing Material Safety Data Sheets to provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such data sheets.
H.R. 4250, –Patient Protection Act of 1998.
H.R. 4257, to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.
H.R. 4259, –Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998.
H.R. 4550, –Drug Demand Reduction Act.
H. Con. Res. 27, 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.
H. Con. Res. 214, recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people to the origins and development of Country Music.
H. Con. Res. 202, expressing the sense of the Congress that the Federal Government should acknowledge the importance of at-home parents and should not discriminate against families who forego a second income in order for a mother or father to be at home with their children.
H. Res. 139, expressing the sense of the House of Representatives that the Department of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.
H. Res. 267, expressing the sense of the House of Representatives that citizens of the U.S. must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth.
H. Res. 399, urging the Congress and the President to work to fully fund Federal government's responsibility under IDEA.

H. Res. 401, expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high quality, proven programs and practices.

H. Res. 417, regarding the importance of fathers in the rearing and development of their children.

S. 459, Native American Programs Act Amendments of 1997.

S. 1505, Museum and Library Services Technical and Conforming Amendments of 1997.

S. 1723, American Competitiveness Act.

S. 2235, to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

D. LEGISLATION PASSED THE HOUSE IN ANOTHER MEASURE

H.R. 758, Truth in Employment Act of 1997. Passed the House in H.R. 3246—Fairness for Small Business and Employees Act of 1998.

H.R. 914, Cost of Higher Education Review Act of 1997. Passed the House in H.R. 1871—Emergency Supplemental Appropriations for FY 98 and enacted as part of P.L. 105–18.

H.R. 1312, to deem as timely submitted certain written applications of intent under impact aid for school year 1997–1998. Passed the House in H.R. 914—Cost of Higher Education Review Act of 1997 and enacted as part of P.L. 105–18.

H.R. 1511, Cost of Higher Education Review Act of 1997. Passed the House in H.R. 914—Cost of Higher Education Review Act of 1997 and enacted as part of P.L. 105–18.

H.R. 1515, Expansion of Portability and Health Insurance Coverage Act of 1997 (EPHIC). Passed the House in H.R. 2015—Balanced Budget Act of 1997. Passed the House in H.R. 4250—Patient Protection Act of 1998.

H.R. 1595, Fair Hearing Act. Passed the House in H.R. 3246—Fairness for Small Business and Employees Act of 1998.–

H.R. 1598, Justice on Time Act of 1997. Passed the House in H.R. 3246—Fairness for Small Business and Employees Act of 1998.

H.R. 1818, Juvenile Crime Control and Delinquency Prevention Act of 1997. Passed the House in S. 2073—Juvenile Crime Control and Delinquency Prevention Act of 1998.

H.R. 2226, to amend Title I of ERISA to clarify treatment of investment managers under such title. Passed the House in S. 1227 and enacted as part of P.L. 105–72.

H.R. 2449, Fair Access to Indemnity and Reimbursement Act. Passed the House in H.R. 3246—Fairness for Small Business and Employees Act of 1998.–

H.R. 2535, Emergency Student Loan Consolidation Act of 1997. Passed House in H.R. 2264—Labor/HHS/Ed Appropriations for FY 98 and enacted as part of P.L. 105–78.

H.R. 2536, 21st Century Student Financial Aid System Improvement Act of 1997. Passed the House in H.R. 6—Higher Education Amendments of 1998 and enacted as part of P.L. 105–244.

H.R. 2614, –Reading Excellence Act. Passed the House in H.R. 4328—Making Omnibus Consolidated and Emergency Supple-

mental Appropriations for FY 99 and enacted as part of P.L. 105–277.

H.R. 2846, to prohibit spending Federal education funds on national testing without explicit and specific legislation. Passed the House in H.R. 4328—Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 99 and enacted as part of P.L. 105–277.

H.R. 3473, to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under a contract or arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age. Passed the House in H.R. 6—Higher Education Amendments of 1998 and enacted as part of P.L. 105–244.

H.R. 3725, Postal Service Health and Safety Promotion Act. Passed the House in S. 2112—Postal Employees Safety Enhancement Act and enacted as part of P.L. 105–241.

H.R. 3871, to amend the National School Lunch Act to provide children with increased access to food and nutrition assistance during the summer months. Passed the House in H.R. 3874—William F. Goodling Child Nutrition Reauthorization Act of 1998 and enacted as part of P.L. 105–336.

H.R. 3872, to amend the National School Lunch Act to extend the authority of the commodity distribution program through fiscal year 2003. Passed the House in H.R. 3874—William F. Goodling Child Nutrition Reauthorization Act of 1998 and enacted as part of P.L. 105–336.

H.R. 3873, to amend the Child Nutrition Act of 1966 to simplify program operations and improve program management under that Act. Passed the House in H.R. 3874—William F. Goodling Child Nutrition Reauthorization Act of 1998 and enacted as part of P.L. 105–336.

H.R. 4241, Head Start Amendments of 1998. Passed the House in S. 2206—Coats Human Services Reauthorization Act of 1998 and enacted as part of P.L. 105–285.

H.R. 4271, Community Services Authorization Act of 1998. Passed the House in S. 2206—Coats Human Services Reauthorization Act of 1998 and enacted as part of P.L. 105–285.

S. 442, Internet Tax Freedom Act (scholarship programs—Simon, Dole, Hatfield). Passed the House in H.R. 4328—Making Omnibus Consolidated Emergency Supplemental Appropriations for FY 99 and enacted as part of P.L. 105–277.

S. 1723, American Competitiveness Act (H–1B visas). Passed the House in H.R. 4328—Making Omnibus Consolidated Emergency Supplemental Appropriations for FY 99 and enacted as part of P.L. 105–277.

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

H.R. 2646, Education Savings Act for Public and Private Schools (A+Savings Accounts Bill) (includes provisions under the committee's jurisdiction).

H.R. 3130, Child Support Performance and Incentive Act of 1998 (includes ERISA provisions; P.L. 105–200).

H.R. 3736, To amend the Immigration and Nationality Act to make changes relating to H–1B nonimmigrant (includes expansion of the number of H–1B visas for skilled and technical workers and additional funds for technical education and training for American students and workers). —

H. Res. 507, Providing Special Investigative Authority for the Committee on Education and the Workforce.

S. 2073, Juvenile Crime Control and Delinquency Prevention Act of 1998 (includes H.R. 1818, Juvenile Crime Control and Delinquency Prevention Act of 1997). –

F. LEGISLATION WITH FILED REPORTS

H.R. 1, Working Families Flexibility Act of 1997 (H. Rept. 105–21).

H.R. 5, Individuals with Disabilities Education Act Amendments of 1997 (H. Rept. 105–95).

H.R. 6, Higher Education Amendments of 1998 (H. Rept. 105–481).

H.R. 914, to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures (H. Rept. 105–14).

H.R. 1377, Savings are Vital to Everyone's Retirement Act of 1997 (SAVER ACT) (H. Rept. 105–104).

H.R. 1385, Employment, Training, and Literacy Enhancement Act of 1997 (H. Rept. 105–93).

H.R. 1625, Worker Paycheck Fairness Act (H. Rept. 105–397).

H.R. 1818, Juvenile Crime Control and Delinquency Prevention Act of 1997 H. Rept. 105–155).

H.R. 1853, Carl D. Perkins Vocational-Technical Education Act Amendments of 1998 (H. Rept. 105–177).

H.R. 2535, Emergency Student Loan Consolidation Act of 1997 (H. Rept. 105–322).

H.R. 2614, Reading Excellence Act (H. Rept. 105–348).–

H.R. 2616, Charter Schools Amendments Act of 1997 (H. Rept. 105–321).

H.R. 2661, Sound Scientific Practices Act (H. Rept. 105–730).

H.R. 2846, to prohibit spending Federal education funds on national testing without explicit and specific legislation (H. Rept. 105–409).

H.R. 2864, Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 (H. Rept. 105–444).

H.R. 2869, Self-Audit Promotion Act of 1998 (H. Rept. 105–731).

H.R. 2873, to amend the Occupational Safety and Health Act of 1970 (H. Rept. 105–732).

H.R. 2877, to amend the Occupational Safety and Health Act of 1970 (H. Rept. 105–445).

H.R. 2888, Sales Incentive Compensation Act (H. Rept. 105–558).

H.R. 3096, to correct a provision relating to termination of benefits for convicted persons (H. Rept. 105–446).

H.R. 3246, Fairness for Small Business and Employees Act of 1998 (H. Rept. 105–453).

H.R. 3248, Dollars to the Classroom Act (H. Rept. 105–710).

H.R. 3254, IDEA Technical Amendments Act of 1998 (H. Rept. 105–649).

H.R. 3874, Child Nutrition and WIC Reauthorization Amendments of 1998 (H. Rept. 105–633).

H.R. 3892, English Language Fluency Act (H. Rept. 105–587).

H.R. 4271, Community Services Authorization Act of 1998 (H. Rept. 105–686).

H. Res. 139, Expressing the sense of the House of Representatives that the Department of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms (H. Rept. 105–349).

G. LEGISLATION ORDERED REPORTED FROM FULL COMMITTEE

H.R. 1, Working Families Flexibility Act of 1997.

H.R. 914, to make technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures.

H.R. 1385, Employment, Training, and Literacy Enhancement Act of 1997.

H.R. 5, IDEA Improvement Act of 1997.

H.R. 1511, Cost of Higher Education Review Act of 1997.

H.R. 1377, Savings Are Vital to Everyone's Retirement Act of 1997 (SAVER Act).

H.R. 1515, Expansion of Portability and Health Insurance Coverage Act of 1997 (EPHIC).

H.R. 1818, Juvenile Crime Control and Delinquency Prevention Act of 1997.

H. Res. 139, Expressing the sense of the House of Representatives that the Dept. of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classroom.

H.R. 1853, Carl D. Perkins Vocational-Technical Education Act Amendments of 1997.

H.R. 2535, Emergency Student Loan Consolidation Act of 1997.

H.R. 1625, Worker Paycheck Fairness Act.

H.R. 2616, Charter Schools Amendments Act of 1997.

H.R. 2614, Reading Excellence Act.

H.R. 2846, to prohibit spending Federal education funds on national testing without explicit and specific legislation.

H.R. 3246, Fairness for Small Business and Employees Act of 1998.

H.R. 2864, Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1997. –

H.R. 2877, to amend the Occupational Safety and Health Act of 1970.

H.R. 3096, to correct a provision relating to termination of benefits for convicted persons.

H. Res. 267, expressing the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth.

H.R. 6, Higher Education Amendments of 1998.

H.R. 2888, Sales Incentive Compensation Act.

H.R. 2327, Drive for Teen Employment Act.

H. Res. 417, regarding the importance of fathers in the rearing and development of their children.

H. Res. 401, expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high-quality, proven programs and practices.

H. Res. 399, urging the Congress and the President to work to fully fund the Federal Government's responsibility under the Individuals with Disabilities Education Act.

H.R. 3892, English Language Fluency Act.

H.R. 3254, IDEA Technical Amendments Act of 1998.

H.R. 3874, Child Nutrition and WIC Reauthorization Amendments of 1998.

H.R. 2869, to amend the Occupational Safety and Health Act of 1970 to exempt safety and health assessments, audits, and reviews conducted by or for an employer from enforcement action under such Act.

H.R. 2661, Sound Scientific Practices Act.

H.R. 2873, to amend the Occupational Safety and Health Act of 1970.

H.R. 3725, Postal Service Health and Safety Promotion Act.

H.R. 3007, Commission on the Advancement of Women in Science, Engineering, and Technology Development Act.

H.R. 3248, Dollars to the Classroom Act.

H.R. 4257, to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.

H.R. 4037, to require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets.

H.R. 4271, Community Services Authorization of 1998.

H.R. 4241, Head Start Amendments of 1998.

H. LEGISLATION VETOED

H.R. 2646, Education Savings and School Excellence Act of 1998 (A+Savings Accounts Bill) This bill was not referred to Committee.

V. COMMITTEE ON EDUCATION AND THE WORKFORCE STATISTICS

Total Number of Bills and Resolutions Referred	525
Total Number of Hearings–	168
Field–	41
Joint with Other Committees–	6
Joint with Other Subcommittees of the Committee–	3
Total Number of Full Committee Markup Sessions–	28
Total Number of House-Senate Conferences Held–	0
Total Number of Bills Enacted into Law –	30
Total Number of Bills Passed the House –	43
Total Number of Bills Passed the House in Another Measure–	23
Total Number of Filed Reports on Bills –	27
Total Number of Bills Ordered Reported From Full Committee–	39
Total Number of Subpoenas Issued by the Full Committee–	47
Total Number of Bills Vetoed–	1

SUBCOMMITTEE ON EMPLOYER-EMPLOYEE RELATIONS

I. SUMMARY OF ACTIVITIES

A. ACCESSIBILITY, AFFORDABILITY AND ACCOUNTABILITY IN HEALTH CARE COVERAGE AND RETIREMENT

ERISA Health Insurance Reform and Expanded Coverage (EPHIC)

In the 105th Congress, the Committee initiated the legislative debate leading to the passage of ERISA health insurance reform and the expansion of health insurance coverage.

Building on the record from the 104th Congress, H.R. 1515, the Expansion of Portability and Health Insurance Coverage Act of 1997 (EPHIC), was introduced on May 1, 1997, by Representative Harris Fawell with an introduction in the Senate by Senator Tim Hutchinson on May 8, 1997 (S. 729). The bipartisan legislation has 158 cosponsors. On June 10, 1997, the Committee on Education and the Workforce discharged H.R. 1515 from the Subcommittee on Employer-Employee Relations, approved it, as amended, on a voice vote, and ordered the bill favorably reported and incorporated into subtitle D of Title V of the reconciliation package, H.R. 2015, the Balanced Budget Act, transmitted to the Budget Committee.

EPHIC amends ERISA in order to deliver further improvements in the availability, affordability, and accountability of health insurance coverage. EPHIC makes key health insurance reforms which will expand coverage and stop insurance fraud:

(1) It would give franchise networks, union collectively-bargained plans, bona-fide trade, business and professional associations (e.g., chambers of commerce, retailers, wholesalers, printers, agricultural workers, grocers, churches, etc.) the ability to form large ERISA group health plans, thereby gaining the economies-of-scale so as to fully-insure or self-insure the workers, spouses and children of America's small businesses, just as large and mid-sized businesses have been able to do for 23 years since the passage of ERISA.

(2) It will end the jurisdictional confusion that has led to the proliferation of insurance fraud perpetrated by "bogus unions" and other illegitimate operators by drawing bright lines regarding State and federal authority, by making legitimate association plans accountable and by adding new civil and criminal tools to end fraudulent schemes.

The Subcommittee on Employer-Employee Relations set the stage for health insurance reform on May 8, 1997, by holding a hearing on EPHIC. The hearing focused on the need for the key elements of EPHIC, available and affordable health insurance. It is well documented that the most important incremental reforms that can be delivered to the American people are improvements in group to group portability, limiting preexisting condition exclusions and facilitating, through ERISA, the voluntary pooling of small employers on either a self-insured or fully-insured basis. The HIPAA legislation (P.L. 104–191, the Health Insurance Portability and Accountability Act) added needed protections for American workers in the first two areas—but more needs to be done to increase availability and affordability of coverage through the latter. Expanded coverage will become a reality if the cost of coverage can be made

more affordable. Today, 80 percent of the 43 million uninsured are in families with at least one employed worker, the vast majority of whom are employed by small businesses. Small business experts testified that 20 million Americans who now lack coverage might gain it under the type of pooling allowed under EPHIC—all through responsible changes that will expand choice in the marketplace. This is the kind of reform that Americans have demanded and deserve. Similar provisions were included in the Patient Protection Act (H.R. 4250) as passed by the House on July 24, 1998.

The Subcommittee on Employer-Employee Relations set the stage for managed care reform by holding a hearing October 23, 1997, on H.R. 1415, the Patient Access to Responsible Care Act (PARCA). This hearing discussed the need to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers. Subsequently the House passed the Patient Protection Act that amended ERISA to require group health plans to conform to new patient protections in the areas of disclosure, internal and external claims appeals, doctor-patient communications, and access to pediatric, obstetrical, gynecological and emergency room care.

Retirement security legislation

Two Committee bills relating to retirement and pensions were passed by the 105th Congress. The Savings Are Vital to Everyone's Retirement (SAVER) Act, H.R. 1377, promotes retirement savings by American workers. The SAVER Act initiates a public-private partnership to educate American workers about retirement savings and directs the Department of Labor to maintain an ongoing program of public information and outreach. The bill also convenes a National Summit on Retirement Savings at the White House, cohosted by the executive and legislative branches, to facilitate the development of a broad-based, public education program and develop specific recommendations for actions by both the public and private sectors to promote retirement savings among American workers. The House passed the SAVER Act, introduced by Congressman Harris Fawell, on May 21, 1997, under suspension of the rules (the Committee favorably reported out the bill on May 14, 1997). The SAVER Act, sponsored by Aging Committee Chairman Charles Grassley (R–IA), passed in the Senate with minor modifications on November 7, 1997. The House passed the Senate version on November 9, 1997 and it was signed by the President on November 20, 1997 (P.L. 105–92).

Congress also passed H.R. 2226/S. 1227, legislation that will permit small investment advisers who are registered only with State security regulators to continue to serve as investment managers for pension plans. Without this bill, the practices of thousands of small investment advisers—and the pension plans of their clients—would be seriously disrupted as an unintended result of 1996 security reform legislation. The bill passed the Senate on September 26, 1997, the House passed the Senate bill, S. 1227 (identical to H.R. 2226 introduced by Congressman Harris Fawell), on October 28, 1997, and the President signed it into law on November 10, 1997 (P.L. 105–72).

In addition, a version of the Faculty Retirement Incentive Act (H.R. 3473, introduced by Congressman Fawell in March 1998) was incorporated as a section of the Higher Education Amendments of 1998 (Title IX, Part D of H.R. 6, P.L. 105–244). This legislation amends the Age Discrimination in Employment Act to permit age-based voluntary retirement incentives for tenured college faculty. The subcommittee held a hearing on this issue on May 22, 1997.

B. PROMOTING ECONOMIC GROWTH FOR SMALL BUSINESSES AND GREATER WORKPLACE FLEXIBILITY

The Fairness for Small Business and Employees Act

One of the Committee's major efforts on the labor side during the 105th Congress resulted in the successful passage of H.R. 3246, the Fairness for Small Business and Employees Act (FSBEA). The Act, which passed the House on March 26, 1998 by a 202–200 vote, contains four separate titles addressing four specific problems with the National Labor Relations Act. The bill passed with a unanimous Goodling amendment (398–0) clarifying that the "salting" provision of Title I does not impact employees" rights under the NLRA.

H.R. 3246 is intended to level the playing field for small businesses and labor organizations and greatly assist employees waiting for justice from the National Labor Relations Board. This targeted bill seeks to remedy problems with the Board's enforcement of the NLRA. Title I provides protection to employers under the NLRA if they do not hire someone who is not a "bona fide" applicant. While it does nothing to impinge upon the rights of those who are on the job to do a good job, Title I gives employers a certain level of comfort that an applicant is at least half motivated to be a loyal, hardworking employee.

Title II codifies the Board's longstanding practice of letting an employer present its side of a case in disputes concerning single location bargaining units. It ensures that the Board will not again try to push its ill-conceived, mechanistic proposed rule which would ignore many factors germane to whether a certain bargaining unit is appropriate.

Title III requires that the NLRB render final decisions on most unfair labor practice charges within 365 days of their filing. The Board would be required to report to Congress many charges not resolved within that time. Title III thus offers employees whose lives are hanging in the balance the assurance of timely action.

Finally, Title IV ensures that small businesses and small unions will have the incentive to fight meritless cases that the Board brings against them. If the Board is going to bring its vast resources and expertise to bear upon an entity with meager resources, then the Board would be required to pay the prevailing party's attorney's fees and expense if the agency loses the case.

Committee action

Chairman Goodling introduced the bill on February 24, 1998. Each title of H.R. 3246 consists of a bill previously introduced during the 1st Session of the 105th Congress-three by Employer-Employee Subcommittee Chairman Fawell. H.R. 3246 was marked up in full Committee on March 11, 1998, and ordered reported favor-

ably by roll call vote (yeas 23, nays 18, not voting 4). As noted above, H.R. 3246 was passed by the House on March 26, 1998. Sen. Hutchinson, R–AK, introduced the House's Title I, "salting" bill in the Senate as S. 1981, and on September 14, 1998, a cloture motion to proceed to consideration of the bill failed by a 52–42 vote.

The Employer-Employee Relations Subcommittee held extensive hearings during the 105th Congress on each of the four titles before the Subcommittee marked up the bill on February 26, 1998, and ordered the bill reported by a roll call vote of 7 to 3.

Title I of the FSBEA is a narrowed version of H.R. 758, the Truth in Employment Act, which was introduced by Representative Harris Fawell on February 13, 1997. The bill gathered 120 cosponsors. The Subcommittee on Employer-Employee Relations held a hearing on H.R. 758 on February 5, 1998, during which testimony was received on the legislation from five witnesses, while the Subcommittee held an earlier hearing on H.R. 758 on October 9, 1997, and received testimony from another five witnesses. Groundwork was laid in the 104th Congress on the "salting" issue by 19 witnesses testifying at three hearing.

Title II of the FSBEA is formerly H.R. 1595, the Fair Hearing Act, introduced by Representative Harris Fawell on May 14, 1997. The Act gathered 40 cosponsors. H.R. 1595 was addressed at the Employer-Employee Relations Subcommittee's February 5, 1998, hearing on Legislation to Provide Fairness for Small Businesses and Employees: H.R. 758, H.R. 1595, H.R. 1598, H.R. 2449. Testimony on H.R. 1595 and the issue of single location bargaining unit determinations was heard from four witnesses.

Title III of the FSBEA is formerly H.R. 1598, the Justice on Time Act, introduced by Representative Bill Goodling, on May 14, 1997. The Act was addressed at the Employer-Employee Relations Subcommittee's February 5, 1998, hearing by three witnesses.

Title IV of the FSBEA is formerly H.R. 2449, the Fair Access to Indemnity and Reimbursement (FAIR) Act, introduced by Representative Harris Fawell on September 10, 1997. The Act gathered 38 cosponsors. H.R. 2449 was addressed at the Employer-Employee Relations Subcommittee's February 5, 1998, hearing by three witnesses. H.R. 2449 was also brought into the discussions of labor issues by Employer-Employee Relations Subcommittee Chairman Harris Fawell at two earlier EER Subcommittee hearings: Hearing on H.R. 758, the Truth in Employment Act of 1996, on October 9, 1997, and Hearing on Review of the National Labor Relations Board, on September 23, 1997.

Summary

H.R. 3246 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. The Act also recognizes that the National Labor Relations Board, which is supposed to be a neutral arbiter of labor disputes, is applying the NLRA in a way that not only harms small employers—businesses and unions—but also does a great disservice to hardworking men and women who may have been wrongly discharged.

Title I addresses the practice of professional agents and union employees being sent into non-union workplaces under the guise of seeking employment—commonly known as "salting." This title amends the National Labor Relations Act to make clear that an employer is not required to hire someone who is not a "bona fide" employee applicant, in that the applicant's primary purpose in seeking the job is to further other employment or agency status. Simply put, if someone is not at least "half" motivated by a desire to be a genuine, hardworking employee, the employer should not have to hire them.

Title II requires the NLRB to conduct hearings to determine when it is appropriate to certify a single location bargaining unit where a labor organization attempts to organize employees at one or more facilities of a multi-facility employer. This title simply requires the Board to consider all of the relevant factors—as the agency has done for decades—in making a unit determination. While the Board recently withdrew its proposed rule to implement a "one-size-fits-all" rule for determining the appropriateness of a single location bargaining unit, Title II would statutorily protect an employer's right to have a fair hearing to present evidence in support of its side of the case.

Title III is intended to help remedy situations in which employees often wait more than a year for the Board to render a decision regarding their discharge. The legislation requires the NLRB to issue a final decision within one year on all unfair labor practice complaints where it is alleged that an employer has discharged an employee in an attempt to encourage or discourage union membership. Expeditious resolution of these complaints would benefit all parties not only by ensuring swift justice and timely reinstatement of a wronged employee, but also by reducing the costs of litigation and backpay awards. The title contains an exemption from the one-year time limit for "extremely complex" cases, and requires the Board to report annually to the House Education and the Workforce Committee and the Senate Labor and Human Resources Committee on cases not disposed of within one year, including reasons for the delay and the Board's recommendations for prompt resolution.

Title IV of the Act requires the NLRB to pay the attorney's fees and expenses to small employers of modest means—including businesses and labor organizations—who prevail in cases before the NLRB. Title IV applies to employers having not more than 100 employees and a net worth of not more than $1.4 million. These eligibility limits represent a mere fifth of the 500 employee/$7 million net worth limits of the Equal Access to Justice Act (EAJA), legislation passed in 1980 which was supposed to have leveled the playing field for small employers facing unwarranted actions brought by the federal government. However, the EAJA is underutilized at the Board and is simply not working for the nation's small employers.

Title IV would make sure that the Board considers carefully the merits of an action before bringing it against a small entity with few resources, and would ensure that these smaller employers have an incentive to fight a case of questionable merit.

TEAM Act

The Teamwork for Employees and Managers Act, H.R. 634, was introduced by Chairman Fawell on February 6, 1997. The Act seeks to promote greater employee involvement in the workplace and benefit both employers and workers, by amending the National Labor Relations Act to remove current roadblocks standing in the way of workplace cooperation. At the same time, the legislation protects the ability of workers to choose representation.

A companion bill, S. 295, was introduced in the Senate by Sen. Jim Jeffords, R–VT, and was reported by the Senate Labor Committee on April 2, 1997. While similar legislation made it to President Clinton's desk in the 104th Congress (H.R. 743)—unfortunately, to face a veto by the president—H.R. 634 remained in a holding pattern in the House waiting for Senate momentum. Sen. Bingaman, D–NM, proposed compromise language in the Senate that received a welcomed boost from the Democrat Leadership Council, but the effort did not attract the support of any additional Senators.

Chairman Fawell held a field hearing on the TEAM Act on June 16, 1997, in Oak Brook, Illinois, during which employee teams from several companies—including those from R.R. Donnelly Corporation and Tellabs, Inc.—testified about the benefits of the legislation. They demonstrated that the nation's labor laws must be relevant to the twenty-first century, and that employers can work with their employees to confront and solve the myriad problems and issues that arise in a workplace. To allow otherwise would stand in the way of cutting edge human resource management that offers business the opportunity to make an investment in the human potential of the American workforce that will yield untold dividends for the nation.

The TEAM Act would add a proviso to section 8(a)(2) of the National Labor Relations Act clarifying that it is not impermissible for an employer to establish or participate in any organization, in which employees participate, to address matters of mutual interest, including issues of quality, productivity, efficiency, and safety and health. It also specifies that such organizations have no authority to enter into or negotiate collective bargaining agreements.

The legislation would legalize a broad range of employee involvement programs—and thus lend a measure of certainty and stability to currently ambiguous law—while making clear that the protections under the NLRA allowing employees to choose independent representation through a union remain firmly in place. The bill clarifies that company unions are prohibited and applies only in nonunion workplaces, thereby ensuring that employee involvement cannot be used as a means to avoid collective bargaining obligations. As the next Century draws closer, workplace productivity is increasingly tied to investing employees with decision-making authority over their work lives. The TEAM Act provides workers with a sense of control—of "ownership"—that leads to more productive employees and a work environment in which everyone benefits.

C. STRENGTHENING AND PROMOTING EMPLOYEES' INDIVIDUAL RIGHTS

The Worker Paycheck Fairness Act

The Subcommittee devoted significant time during the 105th Congress towards legislation granting union members the dignity and respect of having more control over how their hard-earned dollars are spent by their labor organizations. The Worker Paycheck Fairness Act, H.R. 1625, was introduced by Chairman Harris Fawell on May 15, 1997, and gathered more than 100 cosponsors. The Act addresses the problems rank-and-file union members have had when seeking rebates of dues money used for political and other non-collective bargaining purposes. H.R. 1625 assures workers the right to determine whether unions may take money out of their paychecks for non-collective bargaining purposes, and the right to know how their money is spent.

The legislation creates a new federal right implementing the Supreme Court's 1988 decision in *Beck* v. *Communications Workers of America.* The Act also gives workers enforcement rights modeled on those granted by the Family and Medical Leave Act—including double damages and attorney's fees; requires unions to provide more detailed financial records; and requires employers to post a notice telling employees of these new rights. Rep. Fawell amended the legislation during the Committee's markup additionally to prohibit retaliation against workers exercising their rights under the bill.

The Subcommittee followed two hearings in the 104th Congress by holding four hearings during the 105th Congress on the issue of mandatory union dues. On October 8, 1997, the full Committee marked up the legislation and ordered the bill to be reported by voice vote. While the Act was not voted on by the full House during the 105th Congress, the Committee's successful markup of union dues legislation was historic. The primary reason that H.R. 1625 was not considered by the Full House was the House's broader consideration of campaign finance, which, while including "paycheck protection" reform, addressed the issue of mandatory union dues primarily within the context of federal election law.

Despite organized labor's claims that union members already have the right to dues rebates under the *Beck* decision and that current law adequately protects this right, the Subcommittee's hearings—held March 18, 1997, July 9, 1997, December 11, 1997 (at a field hearing in San Diego, California), and January 21, 1998–demonstrated that current law is inadequate. The Subcommittee heard from 27 witnesses in the 105th Congress, including 14 rank-and-file workers, that *Beck* rights have remained illusory. These witnesses described problems with lack of notice, the necessity under current law of resigning from the union, procedural hurdles, and, notably, the incredible indignities they often endure, including harassment, stonewalling, coercion, and intimidation, when they attempt to exercise their rights granted under the Court's *Beck* decision.

Unions should be required to get written permission from union members before accepting payment of dues unrelated to collective bargaining, and they should provide accurate accounting of how

they spend dues. The Subcommittee remains committed to legislation achieving these matters of basic fairness.

Impediments to union democracy

During the 105th Congress, the Employer-Employee Relations Subcommittee initiated a series of hearings examining problems union members have in retaining a full, equal, and democratic voice in their union affairs. The ultimate, continuing goal 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 Employer-Employee Relations Subcommittee was aware of reports of significant unrest among the rank-and-file and reports of an erosion of the principles of union democracy. Forty years have passed since the enactment of the LMRDA. LMRDA 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 operations of unions, reported 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 in the use of union funds.

Subcommittee hearings

The Subcommittee on Employer-Employee Relations held four hearings on union democracy during the 105th Congress (May 4, 1998; June 25, 1998; August 4, 1998; and September 24, 1998). The May 4, 1998, hearing received testimony from a variety of local union officials and rank-and-file—including the Carpenters, Laborers, and Boilermakers Unions—as well as from one of the country's foremost experts in union democracy, Professor Clyde Summers, who, at Sen. John F. Kennedy's request, fashioned a "bill of rights" for union members which became Title I of the LMRDA. The June 25, 1998, hearing brought in Herman Benson of the Association for Union Democracy, Carpenters' rank-and-file, and their general president, Douglas McCarron, who implemented a nationwide restructuring of the Carpenters, including the unilateral dissolving and merging of locals. The August 4 and September 24, 1998, hearings focused on election irregularities and lack of financial disclosure in the American Radio Association, an affiliate of the International Longshoreman's Association. The series will continue to

examine problems with union democracy at a wide variety of unions in order to identify possible legislative solutions.

Legislation

On October 10, 1998, Subcommittee Chairman Harris W. Fawell introduced H.R. 4770, a bill to amend LMRDA, entitled "The Democratic Rights for Union Members" or "DRUM." DRUM was the first bill to result from the information obtained from the Subcommittee's hearings in an effort to initiate necessary reforms to LMRDA.

The DRUM Act recognizes that rank-and-file union members are the strength of organized labor and that union policies and decisions should be responsive to the members. DRUM amends the LMRDA to enhance democratic rights in two specific areas: trusteeships and the election of officers of intermediate bodies. The Act's amendments are suggestions from two of the nation's foremost "union democracy" experts—Professor Clyde Summers, who fashioned at then—Sen. John F. Kennedy's request a "bill of rights" for rank and file members which become Title I of the LMRDA, and Herman Benson, founder of the Association for Union Democracy.

Trusteeships

Under current law, unions are able to place their locals under "trusteeship" in order to correct, among other problems, financial malfeasance, corruption, or other abuses. While legitimate trusteeships serve a valuable purpose, unfortunately, trusteeships can and are sometimes used to destroy local autonomy—especially if the local is at odds with national union policies—and hence, the democratic rights of local union rank-and-file members.

Once a trusteeship is imposed, the LMRDA provides for an 18–month presumption that it is legitimate. During this year-and-a-half, the trusteeship cannot be overturned unless it can be shown by "clear and convincing" evidence that the trusteeship was not set up for one of the legitimate reasons provided for in the LMRDA.

The DRUM Act simply removes the 18–month presumption, allowing locals and rank-and-file members to more easily test the validity of the trusteeship. Under this new legislative language, if challenged, the burden would be upon the international union to show by a preponderance of the evidence that the trusteeship is legitimate.

Direct elections of officers of intermediate bodies

Under current law, local union officers, since they represent the most "grassroots" seat of democratic power for the rank and file, must be elected not less than every three years by direct secret ballot. This law is being evaded by international unions consolidating locals in district councils, which take over the collective bargaining responsibilities and other functions of locals, including the running of hiring halls. Since the LMRDA allows officers of "intermediate bodies" to be elected by council delegates, an international with close ties to enough delegates is able to effectively control locals.

The DRUM Act would simply require that officers of intermediate bodies which have assumed the rights and functions of locals be elected by direct membership vote, just as is required with local

officers. This amendment would assure union members direct control of the officers who immediately effect their working lives as intended by the LMRDA.

D. PROMOTING EFFICIENCY AND ACCOUNTABILITY IN FEDERAL PROGRAMS

Improving the fairness and efficiency of the EEOC

Adequate funding

The subcommittee undertook an extensive review of the Equal Employment Opportunity Commission (EEOC) to ensure that the nation's leading civil rights enforcement agency is run in a fair, efficient, and professional manner. The EEOC continues to have a backlog of over 65,000 cases. A hearing was held at full committee on October 21, 1997 to assess the problems of the EEOC and a hearing was held by the subcommittee on March 3, 1998 to recommend potential reforms. Speaker Newt Gingrich and EEOC Chairman Paul Igasaki were among the witnesses in March. At the March hearing, Speaker Gingrich and Subcommittee Chairman Harris Fawell laid out a plan whereby the EEOC would receive the most significant funding increase in the agency's history ($37 million) in 1999, provided the EEOC agreed to implementing certain reforms.

The subcommittee, through negotiations with the EEOC and the appropriators, effected an agreement whereby (1) the EEOC will receive a 15% funding increase ($37 million) in FY 1999, (2) the new money will go to helping actual victims of discrimination by addressing the case backlog, through such avenues as increased use of mediation and improvements in the investigation and processing of charges of discrimination, and (3) the EEOC committed in writing not to utilize employment testers in the coming fiscal year.

Testers

In December 1997, the EEOC undertook a pilot project of using employment testers. The testers, assigned in pairs with theoretically "equal" credentials, would apply for entry-level positions to see if they found discrimination. EEOC has let contracts to 2 outside groups (at a cost of about $200,000) to develop tester programs and train the testers (both minority applicants and non-minority "controls"). The EEOC has not revealed to Congress the details of how the project operates, how targeted businesses were selected, or what minority groups are involved. Courts are divided as to the legality of using testers in employment.

On July 15, 1998, concurrent with the House Appropriations Committee markup of the Commerce Appropriations bill (H.R. 4276), EEOC Chairman Igasaki sent a letter to the Chairmen of the Education and Workforce Committee and the Appropriations Committee committing that the EEOC will not utilize employment testers in the upcoming fiscal year.

Review of the National Labor Relations Board

The Subcommittee provided a boost for the House's successful effort to pass substantial NLRA-reform legislation (H.R. 3246) during

the 105th Congress by reviewing the performance of the National Labor Relations Board at a September 23, 1997, hearing. The hearing demonstrated that the Board is not following its statutory mandate to act as a neutral arbiter of labor disputes.

The Subcommittee recognizes that many in the employer community view the National Labor Relations Board as an out-of-control, one-sided, biased arm of the Clinton administration which has zealously pursued policy favoring organized labor. It is the view of the Subcommittee that the Board, as a quasi-judicial body, one which serves as a prosecutor and judge of labor disputes, should strive to be above politics, rather than act in such a way as to give appearances of impartiality. The September 23, 1997, hearing, unfortunately, showed that that Board's bias against employers continues.

Labor law experts-including former NLRB general counsel, Jerry Hunter—discussed recent Board and federal court cases to show the degree to which the current NLRB has continued to depart from established precedents and statutory provisions. Witnesses demonstrated that the courts increasingly have had to overturn erroneous and unlawful decisions of the Board—in such areas as pre-election conduct of unions, employee choice, salting, *Gissel* bargaining orders, and a general skewing by the NLRB of election results.

In addition, employer witnesses shared the difficulties they have had with the Board in dealing with the substantial costs, disruptions, and heartaches of frivolous unfair labor practice charges and a National Labor Relations Board which appears to bend over backward to further the objectives of organized labor.

The hearing also provided an opportunity to highlight Chairman Fawell's Fair Access to Indemnity and Reimbursement (FAIR) Act, H.R. 2449, legislation which automatically awards attorney's fees and expenses to small entities—small businesses and small labor organizations alike—who prevail against the Board. The bill, which ultimately passed the House in March 1998 as Title IV of H.R. 3246, levels the playing field for small employers, who obviously are outmatched by the NLRB in resources and expertise.

Family and Medical Leave

Since the Commission on Leave's April 1996 report on the Family and Medical Leave Act of 1993, the Clinton administration and Congressional Democrats have asserted that the Act is working well with no problems. As the FMLA celebrated its fifth anniversary in August 1998, the Clinton administration touted the bill as a success and one of the easiest labor laws for employers to administer. The minority in the Senate and the House continued to introduce various bills in the 105th Congress to expand the Act, including lowering the threshold of applicability from 50 employees to 25, and allowing FMLA leave for school and community activities, literacy programs, and even for nursing mothers' breaks.

The Committee created a record in the 105th Congress demonstrating that, in fact, current law and regulations are often confusing, vague, contradictory and difficult for employers to administer. It is clear expansion efforts are unwise, not only because they conflict with Congressional intent in passing the Act, but because the current mandate has significant problems that need fixing.

On April 29, 1998, Chairman Fawell introduced with bipartisan support the Family and Medical Leave Clarification Act, H.R. 3751, which remedies numerous problems employers are having with the current law and regulations. The bill brings the FMLA's definition of "serious health condition" in line with Congressional intent when passing the Act in 1993. The bill also minimizes tracking and administrative burdens—while maintaining the original intent of the law—by allowing "intermittent" FMLA leave to be taking in half-day increments, requiring employees to request that leave be designated as FMLA leave, allowing employers to require employees seeking FMLA leave for their own serious health condition to choose between unpaid FMLA leave—which Congress pointed to as insuring against abuses of the Act—and paid leave under a collective bargaining agreement or other plan of the employer, and requiring additional information on FMLA certification forms to assist employers in determining the validity of a leave request.

A June 10, 1997, Oversight and Investigations Subcommittee hearing on the FMLA revealed many of the problems H.R. 3751 addresses. Testimony from recognized family-friendly corporations, such as Hallmark Cards and NYNEX, as well as from human resource professionals and attorneys, demonstrated that the FMLA currently causes more conflict than harmony in the workplace due to the ambiguity of the language of various FMLA provisions. Testimony also established that compliance with the FMLA too often presents unnecessary administrative and compliance difficulties that could be avoided with the passage of H.R. 3751.

Until this Committee's efforts in the 105th Congress, Democrats' assertions that the FMLA has been trouble-free and thus ripe for expansion had gone unchallenged. The Committee established that there is compelling evidence that the Act has caused compliance problems for many employers, and that legislation such as the Family and Medical Leave Clarification Act is necessary to protect America's families and enable the FMLA to work as Congress intended.

Project labor agreements

On June 5, 1997, President Clinton issued a Memorandum encouraging the use of project labor agreements by departments/agencies with regard to the award of contracts for the construction of a facility to be owned by a federal department or agency, on a project-by-project basis, on large and significant projects. "Large and significant" projects are defined in the Memorandum to include those with a total cost to the federal government of more than $5 million. The President's Memorandum did not preclude the use of project labor agreements in leasehold arrangements and other federally funded projects.

Essentially a project labor agreement binds all contractors and subcontractors on the project, whether they are union or nonunion members, to enter into specified agreements with appropriate labor organizations. The President's Memorandum was issued in lieu of an Executive Order after negotiations with Congressional Leaders.

The Subcommittee on Employer-Employee Relations and the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce requested the Government Ac-

counting Office to conduct a review of the use of project labor agreements on federal construction contracts and related matters. GAO found that the use of project labor agreements is largely unknown, because there is no complete or comprehensive database on the use of project labor agreements. Neither the Office of Management and Budget, nor the 13 federal agencies GAO reviewed maintained databases concerning the use of project labor agreements on construction contracts involving federal funds. Further, GAO found no source of complete information on the use of project labor agreements by State governments or the private sector.

On July 9, 1997, the Committee contacted all departments and agencies to request they notify the Committee should project labor agreements be contemplated. Most departments and agencies stated that they do not favor or do not use project labor agreements. Only a limited number of agencies reported the use of project labor agreements through the balance of the 105th Congress.

II. Hearings Held by the Subcommittee

105th Congress, First Session

February 12, 1997—Defusing the Retirement Timebomb: Encouraging Pension Savings.

March 18, 1997—Hearing on "Mandatory Union Dues".

May 8, 1997—H.R. 1515, The Expanded Portability and Health Insurance Coverage Act (EPHIC).

May 22, 1997—Hearing on Early Retirement in Higher Education.

June 16, 1997—*H.R. 634,* the Teamwork for Employees and Managers (TEAM) Act.

September 23, 1997—Hearing on "Review of the National Labor Relations Board".

October 9, 1997—*H.R. 758,* the Truth in Employment Act of 1997.

October 23, 1997—*H.R. 1415,* The Patient Access to Responsible Care Act (PARCA).

December 11, 1997—Mandatory Union Dues and the Abuse of Workers' Rights.

105th Congress, Second Session

January 21, 1998—Hearing on "Abuse of Worker Rights and H.R. 1625, the Worker Paycheck Fairness Act."

February 5, 1998—Hearing on Legislation to Provide Fairness for Small Business and Employees: H.R. 758, H.R. 1595, H.R. 1598, H.R. 2449.

March 3, 1998—The Future Direction of the EEOC.

May 4, 1998—Hearing on "Impediments to Union Democracy".

June 2, 1998—Joint Hearing on "Preparing Americans for Retirement: The Roadblocks to Increased Savings".

June 25, 1998—Hearing on "Impediments to Union Democracy, Part II: Right to Vote in the Carpenter's Union?"

July 15, 1998—Hearing on Pension Fairness for NBA Pioneers.

August 4, 1998—Hearing of Impediments to Union Democracy, Part III: Rank and File Rights in the American Radio Association.

September 24, 1998—Hearing on Impediments to Union Democracy, Part IV: Rank-And-File Rights in the American Radio Association.

III. Markups Held by the Subcommittee

105th Congress, Second Session

February 26, 1998—*H.R. 3246,* Fairness for Small Business and Employees Act of 1998.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	172
Total Number of Hearings	18
Field	2
Joint with Other Committees	1
Total Number of Subcommittee Markup Sessions	1
Total Number of Bills Reported From Subcommittee	1

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

I. Summary of Activities

A. ENHANCING WORKER SAFETY THROUGH COMMON SENSE REFORMS

OSHA

In May 1995, against the backdrop of consideration by the Committee of legislation to reform OSHA, President Clinton announced his Administration's program to "reinvent" the federal government's worker health and safety program. The President's announcement outlined three areas for change: emphasizing partnership along with traditional enforcement, streamlining and rationalizing regulations, and applying "common sense" to enforcement by reducing paperwork and giving employers more flexibility in complying with regulations. Subsequent to the President's announcement, the Department of Labor undertook a lengthy series of initiatives to implement the "reinvention" of OSHA.

In 1997 the Subcommittee on Workforce Protections held a series of three hearings on the implementation and effectiveness of OSHA's reinvention initiatives. The hearings were held on June 24, July 23, and September 11, and included witnesses from OSHA, employers and labor unions, and other experts familiar with OSHA's initiatives. Many of the witnesses described the reinvention initiatives as good-sounding but leaving OSHA's operations largely unchanged; others saw positive changes but worried that the changes would be short lived if left only to the status of informal agency directives.

The Subcommittee on Workforce Protections also held two hearings in 1997 on regulatory actions by OSHA. The first was held on April 16, 1997 under the Congressional Review Act, to examine objections to OSHA's standard on Methylene Chloride. The hearing focused on concerns about certain scientific and legal shortcomings in the rulemaking process, and on the burden to small employers with paint removal and foam fabrication operations in meeting the deadlines imposed by OSHA's standard. Although the Committee on Education and the Workforce took no further action regarding

the regulation, OSHA did subsequently delay the effective date of the standard for many small businesses.

The Subcommittee on Workforce Protections held a hearing on May 21, 1997, to review the status of scientific information on ergonomics. The hearing explored the divergence of views and the uncertainty of knowledge in the scientific and medical communities about the nature, cause, and prevention of so-called "ergonomics" injuries and illnesses. The hearing provided basis for legislation enacted as part of the 1998 Labor Department Appropriations which prohibited OSHA from promulgating an ergonomics standard during fiscal year 1998, and a provision in the 1999 Labor Department Appropriations funding an independent study of ergonomics by the National Academy of Sciences.

During the second session of the 105th Congress, the Subcommittee on Workforce Protections considered several legislative changes to the Occupational Safety and Health Act. Hearings on legislative proposals to reform OSHA were held on March 27, 1998, and April 29, 1998.

The Subcommittee on Workforce Protections approved seven bills amending various aspects of OSHA. On February 4, 1998, the Subcommittee approved H.R. 2864, authorizing grants to states to provide compliance assistance and consultation services to small businesses, and H.R. 2877, prohibiting imposition or use of enforcement quotas for OSHA compliance officers. Both bills were subsequently passed by the Full Committee on Education and the Workforce, on March 11, 1998, and by the House of Representatives, on March 17, 1988. Both bills were passed by the Senate on June 24, 1998, and signed into law on July 16, 1998. They are P.L. 105–197 and P.L. 105–198.

On May 14, 1998, the Subcommittee on Workforce Protections approved four bills amending the Occupational Safety and Health Act. The bills are H.R. 2869, the Self Audit Promotion Act of 1998; H.R. 2661, the "Sound Scientific Practices Act"; H.R. 2873, requiring fair notice of occupational safety and health standards; and H.R. 3725, the Postal Service Health and Safety Promotion Act. H.R. 2869 encourages the use of safety and health audits and assessments by insuring that these are not used unfairly against the employer. H.R. 2661 requires that OSHA insure that the scientific and economic data used in rulemakings is subject to peer review. H.R. 2873 requires OSHA to identify which industries will be covered by proposed standards. H.R. 3725 provides for coverage and enforcement of OSHA requirements in U.S. Postal Service workplaces. The four bills were subsequently passed by the Full Committee on Education and the Workforce on June 10, 1998.

On July 29, the Subcommittee on Workforce Protections was discharged from further consideration of H.R. 4037, and on the same day the bill was passed by the full Committee on Education and the Workforce. H.R. 4037 would improve information on chemicals used in the workplace by amending OSHA's Hazard Communication standard to encourage greater electronic access to material safety data sheets required by the standard, and to require that certain basic information be attached to the front page of the material safety data sheet. H.R. 4037 was approved by the House of Representatives on August 4, 1998.

On July 31, 1998, the Senate passed S. 2112, the Postal Employees Safety Enhancement Act, a companion bill to H.R. 3725. On September 14, 1998, the House passed S. 2112. The bill was signed into law on September 28, 1998 and became P.L. 105–241.

MSHA

The Mine Safety and Health Administration (MSHA) regulates the safety and health conditions in approximately 14,000 underground and surface mines, including coal mines, sand, gravel, stone, and mineral quarries, and processing facilities connected to those mines.

The Federal Mine Safety and Health Act of 1977 establishes many of the standards with which these mines must comply. It also provides authority for MSHA to promulgate additional standards and to enforce the standards through inspections and enforcement actions. Among other things, the Act requires that MSHA inspect each underground mine at least four times each year and each surface mine at least two times each year.

The Subcommittee reviewed the 1977 Act and MSHA's efforts to implement it during a hearing on July 30, 1998. Testimony at the hearing focused on two issues. One was the lack of targeting of enforcement by MSHA, which results in excessive time being spent on relatively safe mine facilities and contributes to excessive focus by MSHA inspectors on technical violations. Hearing participants also debated the continuation of Appropriations language which since 1980 has prohibited MSHA from enforcing its "Part 48" training regulations in sand, gravel, stone, phosphate, and limestone mines.

Subsequent negotiations between MSHA and the affected industries resulted in MSHA agreeing to issue revised training regulations for these industries not later than October 1, 1999.

B. REFORMING LABOR STANDARDS TO MEET THE CHALLENGES OF THE 21ST CENTURY WORKPLACE

During the 105th 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. The purpose of the hearings was to review the Act, along with its many underlying regulations, to determine which provisions need to be updated to reflect the realities of the modern workforce and to clarify areas where the law reflects uncertainty.

The Working Families Flexibility Act

On January 7, 1997, Representative Ballenger introduced H.R. 1, "The Working Families Flexibility Act." The purpose of the legislation is to provide private sector employers with the option of allowing employees to choose to take compensatory time off in lieu of overtime pay. The Subcommittee on Workforce Protections held one hearing on H.R. 1 on February 5, 1997. Witnesses testified about the need for an amendment to the FLSA to provide covered or "non-exempt" employees with more flexibility regarding compensation and scheduling issues. In addition, witnesses detailed changes in the work force and the workplace which have taken place since the 1930s, when the private sector provisions regarding overtime

pay were written. There is ample support for concluding that working men and women today want the option of being able to earn compensatory time off rather than cash wages for overtime hours worked.

The Fair Labor Standards Act requires that hours of work by "non-exempt" employees beyond 40 hours in a seven day period must generally be compensated at a rate of one and one-half time the employee's regular rate of pay. Exceptions to the so-called "40–hour work week" are permitted, under section 7 of the FLSA for employees in collective bargaining agreements and for a variety of specific types and places of employment whose circumstances have led Congress, over the years, to enact specific provisions regarding maximum hours of work for those types of employment. In addition, the overtime pay requirement does not apply to employees who are exempt as "executive, administrative, or professional" employees.

Payment to private sector employees for overtime hours worked must be in the form of cash wages. This is contrary to the overtime pay requirement under the FLSA for public sector employees. Public agencies may provide compensatory time in lieu of overtime compensation, so long as the employee or his or her collective bargaining representative has agreed to this arrangement and the compensatory time off is given at a rate of not less than one and one-half hours for each overtime hour worked by the employee.

The FLSA, as currently written, fails to accommodate such changes and stands in the way of employers and employees who may want to work out such mutually beneficial arrangements concerning compensation and scheduling. Employees who are classified as "professional, administrative, or executive" and who are exempt under the FLSA are permitted much more flexibility in their schedules than non-exempt employees. Only non-exempt employees are denied such flexibility under current law.

On March 5, 1997, the Committee on Education and the Workforce favorably reported H.R. 1, as amended, by a roll call vote of 23–17. The bill includes a number of provisions for employees in the private sector which are not provided in current law for public sector employees. The additional provisions for private sector employees have been added in response to concerns which have been raised about the possible misuses of allowing employers and employees in the private sector to decide on compensatory time in lieu of cash compensation.

Under H.R. 1, an employer and employee must reach an express mutual agreement or understanding that overtime compensation will be in the form of compensatory time. If either party does not so agree, then the overtime pay must be in the form of cash compensation. The agreement to use compensatory time must be affirmed in a written or otherwise verifiable statement prior to the performance of the work for which the compensatory time off would be given. Any agreement must be entered into "knowingly and voluntarily" by the employee. Employees could opt for compensatory time only when they have worked 1,000 consecutive hours for the same employer.

Private sector employers are prohibited under the bill from directly or indirectly intimidating, threatening, coercing or attempt-

ing to coerce any employee into taking or not taking compensatory time in lieu of cash wages. There are appropriate penalties in the bill for employers who violate the anti-coercion provision. An employee who has accrued compensatory time may generally use the time whenever he or she so desires. The employer may deny the employee's request only if the employee's use of the compensatory time would "unduly disrupt" the operations of the employer. This same standard, which is used under the Family and Medical Leave Act and under the public sector use of compensatory time, is to balance the employee's right to make use of compensatory time that has been earned and the employer's need for flexibility in operations. Finally, the bill provides that an employee may accrue no more than 160 hours of compensatory time. Any accrued compensatory time must be cashed out a minimum of once per year or within 30 days of an employee's written request for a cash out.

The Working Families Flexibility Act was passed by the House, as amended, on March 19, 1997 by a roll call vote of 222–210. The House bill was not acted on by the Senate prior to the adjournment of the 105th Congress.

Application of the FLSA to "inside sales" personnel

The Subcommittee on Workforce Protections held one hearing on the treatment of inside sales employees under the Fair Labor Standards Act on May 13, 1997. 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 the duties of their job.

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 business establishment, then the individual no longer qualifies for the exemption from minimum wage and overtime.

In today's highly-competitive global marketplace, many individuals earn a living by selling goods and services to customers across the continent or across 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 the FLSA 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 additional hours to generate additional sales and increase earnings. The Subcommittee on Workforce Protections heard testimony from several employees who wanted relief from the restrictions and inflexibility associated with the Fair Labor Standards Act.

On November 7, 1997, Representatives Harris W. Fawell and Robert E. Andrews introduced H.R. 2888, "The Sales Incentive Compensation Act." The purpose of the bill is 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 recordkeeping requirements. The exemption made by H.R. 2888 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. 2888 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. 2888 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 minimum amount of base compensation which is based on each sale attributable to the employee.

On March 5, 1998, the Subcommittee on Workforce Protections approved H.R. 2888, as amended, by voice vote and ordered the bill favorably reported to the Full Committee. On April 1, 1998, the Committee on Education and the Workforce approved H.R. 2888, as amended, by voice vote. On June 11, 1998, the bill was passed, as amended, by the full House by a vote of 261–165. It was referred to the Senate Committee on Labor and Human Resources, which did not act on the bill prior to the end of the Congress.

Addressing the employment needs of Amish youth

On April 21, 1998, the Subcommittee on Workforce Protections heard testimony on the effect of the Fair Labor Standards Act on the employment needs of Amish youth. 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 U.S. 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 which relate to the employment of persons under the age of 18 in agriculture, particularly for work on family farms, are less restrictive than those which would otherwise apply. 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, pay taxes and medical bills have forced more and more Amish families into other non-agricultural occupations such as woodworking and carpentry.

During the past two years, 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 under the FLSA 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 which would accommodate the needs of the Amish, hence the need for legislation.

On July 16, 1998, Representative Pitts along with 8 cosponsors, introduced H.R. 4257. The bill would amend the Fair Labor Standards Act to permit certain individuals who are between age 14 and 18 to be employed in a sawmill or woodworking shop 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.

An amendment accepted during the Committee on Education and the Workforce's markup of the bill on July 22, 1998, made several changes to the bill to address safety concerns raised by some Democrat Members of the Committee. On September 28, the House passed the bill, as amended, by voice vote under suspension of the rules.

H.R. 4257 would allow persons between age 14 and 18 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 young person must 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. The bill was forwarded to the Senate, which did not act on the legislation prior to the close of the 105th Congress.

Clarifying the FLSA as it applies to motor vehicle driving by teenage employees

On July 31, 1997, Representatives Larry Combest, Gene Green, and Matthew Martinez introduced H.R. 2327, "The Drive for Teen Employment Act." The purpose of the bill is to amend the Fair Labor Standards Act to provide for a change in the exemption from the child labor provisions for teenage employees under the age of 18 who operate automobiles and trucks. The Subcommittee on Workforce Protections held one hearing on a similar bill which was introduced by Representative Randy Tate during the 104th Congress.

The Fair Labor Standards Act restricts persons under the age of 18 from working in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children or detrimental to their health or well-being. Pursuant to this section of the Act, the U.S. Department of Labor has issued a series of "hazardous occupation orders."

Hazardous Occupation Order No. 2 (HO 2), issued in 1940, prohibits minors under the age of 18 from driving motor vehicles on public roads as part of their job duties. HO 2 contains a limited exception to this general prohibition. The exception applies only to 16 and 17 year olds who operate automobiles or trucks weighing less than 6,000 pounds and with the following additional conditions: such driving is restricted to daylight hours; the minor holds a State license valid for the type of driving involved in the job performed and has completed a State-approved driver education course; the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used; the driving does not involve the towing of other vehicles; and the motor vehicle operation is "only occasional and incidental to the minor's employment."

It is the last condition which was the reason for consideration and adoption of legislation. In recent years, the Department has interpreted this regulation as prohibiting those under 18 from any driving during employment, except perhaps in "rare and emergency" situations. This current interpretation, which is not required by the regulation itself, was announced in the context of enforcement actions against certain employers who had not received advance notice of the Department of Labor's narrow interpretation of the child labor laws.

Not only is the Department's current interpretation not consistent with the regulation itself, but it has had the effect of denying important job opportunities for teenagers, without any demonstrated increase in safety. And it has resulted in innocent small business owners being fined by the Department of Labor on the

basis of an interpretation of the regulation of which they did not even have notice.

On March 5, 1998, the Subcommittee on Workforce Protections reported the bill, as amended, by voice vote. The Committee on Education and the Workforce reported the bill, as amended, on April 1, 1998. As passed by the Committee, H.R. 2327 put into law a new test with regard to the amount of time that teenage employees could drive, to allow them to drive up to one-third of a workday, one-fifth of a workweek and 50 miles from the place of employment.

The bill also retained all of the other conditions on teenage drivers that are part of the current regulation: the vehicle weighs less than 6,000 pounds; the driving is restricted to daylight hours; the minor holds a State driver's license; the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that seat belts must be used; the driving does not involve the towing of other vehicles; and the driving is "occasional and incidental" to the minor's employment.

Subsequent to the Committee's markup of the bill, the sponsors of the bill had lengthy negotiations with the Department of Labor and other interested Members of the Committee. These talks resulted in the development of a bipartisan, substitute amendment to H.R. 2327, which the House approved by voice vote under suspension of the rules on September 28, 1998. The House passed bill retains all of the other conditions (listed above) that are a part of the current regulation and the Committee-passed bill. In addition, only 17 year olds would be permitted to drive during employment and the driving is restricted to within 30 miles of the employer's establishment. There is also a limitation on the number of trips per day that a 17 year old may drive for the purposes of delivering packages or transporting other persons. The bill would apply to all pending cases, actions, or citations in which a final judgment has not been entered, except those involving property damage or personal injury.

H.R. 2327 would not decrease safety on the roads or endanger young people. It provides a reasonable and practical solution to the Department of Labor's overly restrictive and unfairly enforced interpretation, which has denied job opportunities to young people without increasing safety. These new restrictions will make driving on the job by teens safer, and employers will still have every incentive to ensure that their teenage employees drive safely.

On October 12, 1998, H.R. 2327 was passed by the Senate with an amendment to clarify the effective date of the legislation. The House agreed to the Senate amendment by voice vote under suspension of the rules on October 13, 1998. H.R. 2327 was enacted into law on October 31, 1998, as P.L. 105–334.

Clarifying the application of the FLSA to certain volunteers at private non-profit food banks

On February 4, 1998, Representative Tom Campbell introduced H.R. 3152, a bill to amend the Fair Labor Standards Act to clarify the Act's treatment of certain volunteers at private, non-profit food banks. While the Department of Labor's current position is that in-

dividuals who volunteer at food banks and receive groceries and food items from the food banks are not employees for the purposes of the minimum wage and overtime requirements, there have been several conflicting and inconsistent statements and letters from the Department of Labor regarding this issue and therefore there is a need to clarify this point in the statute. Food banks which use volunteers and encourage volunteerism among those who receive food assistance should be able to do so without concern that they are triggering an employment relationship including wage and other employment liabilities.

On June 25, 1998, the House considered and passed H.R. 3152, as amended, by unanimous consent. The bill provides clarification that food banks may give groceries and food items to individuals who volunteer their services to the food bank solely for humanitarian purposes without deeming those individuals as employees. On July 29, 1998, the bill passed the Senate by unanimous consent and became P.L. 105–221 on August 7, 1998.

Rewarding Performance in Compensation Act

On October 23, 1997, Subcommittee Chairman Cass Ballenger introduced H.R. 2710, "The Rewarding Performance in Compensation Act." The bill would amend the Fair Labor Standards Act to remove barriers within the law which 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.

On July 16, 1998, the Subcommittee on Workforce Protections held a hearing on the bill. Witnesses testified that the Act's requirements often discourage 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. As the witnesses testified, rather than go through this process, many employers simply do not make their hourly employees eligible for performances bonuses. There was no further action taken on H.R. 2710 prior to the conclusion of the 105th Congress.

H–2A and H–1B visa changes

The strong economy and low overall unemployment, combined with targeted enforcement of immigration laws, has resulted in shortages of workers in a number of agricultural areas and crops. The major immigration program designed to address such shortages, the "H–2A" program has been criticized for its delays and "red tape" that make it difficult for growers with time sensitive labor needs to use.

On September 12, 1997, the Subcommittee on Workforce Protections held a hearing in Newland, North Carolina, on agricultural

workforce issues, including the H–2A program, focusing on one area of agriculture, Christmas tree farming. In 1996 North Carolina had the largest number of H–2A workers approved of any State, largely because growers in the State created an organization with full-time professional staff to anticipate the timeliness problems and navigate the red tape of the program; yet the delays and obstacles often frustrate its usefulness. Christmas tree growers also testified to their inconsistent treatment under federal labor laws: for purposes of the agricultural exemptions to overtime pay, they are not considered agriculture, but purposes of additional regulation under other labor laws Christmas tree farming is considered agriculture.

Legislation to address the problems with the current H–2A program was passed by the Senate as an amendment to S. 2260, the Commerce-State-Justice Appropriations. However, H–2A provisions were dropped from the bill during final negotiations on Department of Justice programs.

A second immigration bill which included provisions under the jurisdiction of the Committee on Education and the Workforce was included in H.R. 4328 (P.L. 105–277). The legislation increased the number of H–1B visas for skilled and technical workers for (2) years. It also included new conditions on H–1B dependent employers who hire large numbers of H–1B workers. In addition, the legislation creates a fee on each new H–1B visa, each renewal of an H–1B visa, and each change in employment by an H–1B visa holder. The funds so generated are dedicated to administration and enforcement of the H–1B program, training grants distributed under the Workforce Investment Act to retrain current employees, and scholarships and other programs to improve science education, administered by the National Science Foundation.

The Migrant and Seasonal Agricultural Workers Protection Act

On June 27, 1997, the Subcommittee on Workforce Protections held a hearing in Biglerville, Pennsylvania, on the Migrant and Seasonal Agricultural Worker Protection Act. The purpose of the hearing was to identify problems which result from the implementation, interpretation and enforcement of the Act. The hearing also reviewed regulations recently promulgated by the Department of Labor regarding the levels of insurance required for vehicles which transport agricultural workers, and regulations which modified the definition of "joint employment" under the Act.

On April 21, 1998, the Subcommittee on Workforce Protections held a hearing on H.R. 2038, the "MSPA Clarification Act of 1997," which was introduced by Representative Charles T. Canady. The bill would make a number of changes to the Migrant and Seasonal Agricultural Worker Protection Act in order to clarify various provisions in the Act which have an adverse effect on farm workers and agricultural employers. There was no further action taken on the bill prior to the end of the Congress.

C. EXECUTIVE BRANCH ACCOUNTABILITY IN FEDERAL PROGRAMS

The Davis-Bacon Act

The Davis-Bacon Act, passed in 1931, applies to contractors who work on federal construction projects. It requires contractors to pay certain "prevailing wages" to the various classes of laborers and mechanics working under federal contracts valued at $2,000 or more. Davis-Bacon requirements have been extended also to 60 other programs involving varying degrees of federal funding. These programs range from low-income housing to Head Start to veterans nursing home care. The Davis-Bacon Act has remained essentially unchanged since its passage 65 years ago.

The Subcommittee on Workforce Protection conducted a general oversight hearing on the Davis-Bacon Act on July 30, 1997. Witnesses testified that Davis-Bacon serves to reduce employment opportunities for minorities, particularly African-Americans. In addition, the Department of Labor's Inspector General discussed the inaccurate data used in wage determinations.

The Subcommittee has closely followed an investigation initiated by the Oklahoma Department of Labor into allegations of fraud and abuse in Davis-Bacon wage determinations. On July 16, 1997, a federal jury convicted retired Oklahoma City union business agent Andre Whitson on 14 counts of fraud for falsifying wage information sent to the U.S. Department of Labor under the Davis-Bacon prevailing wage law. Mr. Whitson received six months in jail and a $7,000 fine. Mr. Witson's conviction highlighted problems with the Davis-Bacon law's requirement for government-established wages.

In addition, the Subcommittee requested that the Government Accounting Office review Department of Labor's efforts to verify wage data submitted under the Davis-Bacon Act, as mandated in the House Appropriations Subcommittee on Labor, HHS, Education, and Related Agencies report for fiscal year 1998.

Workers compensation for Federal employees

The Federal Employees' Compensation Act or FECA (5 U.S.C. 8118) is a comprehensive workers' compensation law for federal employees that is designed to provide uniform coverage for work-related injuries or deaths. FECA covers an estimated 3 million federal employees and postal workers. The last overhaul of the Federal Employees' Compensation Act occurred in 1974. The Subcommittee on Workforce Protections held a hearing on FECA on September 30, 1997. The last hearing held prior to September 30th was April 30, 1991 and was held in response to problems that claimants were experiencing with the FECA program.

Witnesses at the September 30, 1997, hearing provided a general overview of how the FECA program works, its benefits and services, including a new program aimed at helping injured workers return to the workplace. Department of Labor's Inspector General discussed efforts to identify and eradicate fraud in the FECA program.

FECA is the workers' compensation law for civilian federal employees and postal workers. Several classes of non-federal employees, such as law enforcement officers injured in connection with

federal crimes and VISTA and Peace Corps volunteers are also covered by FECA. FECA authorizes the government to compensate employees when they are temporarily or permanently disabled due to an injury or disease sustained while performing their duties. Other benefits provided by FECA include payments for lost wages resulting from an injury, medical expenses, vocational rehabilitation services, bodily impairment or disfigurement, and survivor's compensation.

According to the Office of Workers' Compensation (OWCP), in FY 1995 there were 180,350 new cases filed and the Federal Employees Compensation Program provided $1.9 billion in benefits for work-related injuries or illnesses to more than 273,000 federal workers. Wage loss compensation accounted for $1.3 billion in benefit payments, medical/rehabilitation services were $467 million, and payments to surviving dependents for death benefits totaled $115 million.

FECA costs have risen from $946 million in 1981 to $1.9 billion in 1995. For instance, a February 1996 audit by the Inspector General's (IG) for 13 agency workers' compensation programs found that 12 out 13 employing agencies were not adequately verifying their FECA chargeback cost reports. As a result, 10 Inspector General's identified thousands of dollars in overpayments and millions of dollars in projected questionable payments. For instance, at the Department of Agriculture, the report showed that 153 of the 2,235 long-term claimants received about $1 million in overpayments which had not been detected. The IG report also showed that 9 agencies did not have effective return-to-work programs. For instance, the Department of Interior did not ensure that injured employees were returned to work when authorized by a physician and as a result, the Department of Interior paid $1.2 million in tax-free compensation costs to 39 of 78 injured employees who could have been working.

The Employment Standards Administration (ESA) oversees the Office of Workers' Compensation Programs (OWCP). The OWCP administers the 3 major workers' compensation programs (FECA, Longshore, and Black Lung). The OWCP has 10 regional offices.

The Employees' Compensation Fund pays out benefits under FECA and is administered by the OWCP. The fund is replenished through what is known as an agency "chargeback" system. Agencies funded through the annual appropriation process (DOD, HHS, etc.) include their workers' compensation costs in their annual budget request to Congress. Other quasi-government agencies such as the Postal Service or TVA pay the costs associated with the program out of operating revenues and also contribute to the administrative cost of the program on a pro-rata basis. Agencies make payments into the Employees' Compensation Fund on the first month of the subsequent fiscal year—generally 15 months after the period billed. This lag in payments means that agency remittances are insufficient to cover current outlays, due to cost-of-living increases in wage loss benefits and medical cost inflation. The annual Department of Labor appropriation makes up the difference. As of June 1997, FECA chargeback costs to the government were down .4 percent from the previous year. This is the first decrease since 1960.

The Department of Defense has the highest chargeback costs at $603 million, followed by the Postal Service at $537 million. According to OWCP's FY 1995 annual report, chargeback costs have remained stable when adjusted for wage and cost-of-living increases over the last three years. OWCP reports increases of total costs of 5.4 percent in chargeback year 1993, 3.2 percent in 1994, and 1.2 percent in 1995. OWCP also states that expenses for a small number of cases are not charged back to agencies but are covered by the Department of Labor appropriation process. For FY 1995, these non-chargeback expenses amounted to approximately $45 million. Most of these costs are for injuries that occurred prior to December 1, 1960 when the chargeback system went into effect.

Technical amendment to FECA

H.R. 3096 was introduced by Representative James C. Greenwood on January 27, 1998. The Subcommittee on Workforce Protections approved the bill by voice vote on February 4, 1998, and ordered it favorably reported to the Committee on Education and the Workforce. On March 11, 1998, the Committee on Education and the Workforce approved H.R. 3096 by voice vote, and ordered the bill favorably reported to the U.S. House of Representatives. H.R. 3096 was signed into law by the President on October 9, 1998. It became P.L. 105–247.

H.R. 3096 amends the Federal Employees' Compensation Act to provide a technical correction to Title 5, Section 8148(a), United States Code. In the 103rd Congress, two legislative changes were enacted to eliminate fraud and abuse in the federal workers' compensation program. First, Congress added a new section, 5 U.S.C. § 8148, forfeiture of benefits by convicted felons, to FECA to require the termination of an individual's workers' compensation benefits upon that individual's conviction under 18 U.S.C. §1920. Second, Congress amended 18 U.S.C. §1920 to make a violation of Section 1920 a felony for acts occurring on or after September 30, 1994. The amendment to FECA, 5 U.S.C. § 8148(a), reads in pertinent part as follows:

Any individual convicted of a violation of section 1920 of title 18, or any other federal or State criminal statute relating to fraud in the application for a receipt [emphasis added] of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

However, the corresponding wording in 18 U.S.C. §1920 reads as follows:

> Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for or receipt [emphasis added] of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty

> of perjury, and on conviction thereof shall be punished by a fine under this title, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed $1,000, such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or both.

As the bolded statements indicate above, there is a minor difference between the legislative language in 5 U.S.C. § 8148(a) and the corresponding language in the criminal code, 18 U.S.C. § 1920. It is possible to read the language in FECA as requiring the termination of benefits only where fraud was committed in the initial application for benefits, rather than in conjunction with subsequent receipt of compensation benefits. In effect, this could potentially allow an individual to receive compensation benefits even though the individual was convicted of committing FECA fraud.

A minor clarification(changing "a receipt" in 5 U.S.C. § 8148 to "or receipt"—clearly prohibits these individuals from receiving benefits. Changing this wording makes 5 U.S.C. § 8148 read the same as the corresponding part in 18 U.S.C. §1920.

II. Hearings Held by the Subcommittee

105th Congress, First Session

February 5, 1997 H.R. 1—the Working Families Flexibility Act.

April 16, 1997—Hearing under the Congressional Review Act on OSHA's Methylene Chloride rule.

May 13, 1997—Treatment of Inside Sales Personnel and Public Sector Volunteers Under the Fair Labor Standards Act.

May 21, 1997—Hearing to Review the Status of Scientific Information on Ergonomics.

June 24, 1997—Hearing to Examine the Occupational Safety and Health Administration's (OSHA) Reinvention Project.

June 27, 1997—Hearing on the Migrant and Seasonal Agricultural Worker Protection Act.

August 23, 1997—Hearing to Examine the Occupational Safety and Health Administration's (OSHA) Reinvention Project.

July 30, 1997—Joint Hearing to Review the Davis-Bacon Act.

September 11, 1997——Hearing to Examine the Occupational Safety and Health Administration's (OSHA) Reinvention Project.

September 12, 1997——Hearing on Issues Relating to Migrant and Seasonal Agricultural Workers and Their Employers.

September 30, 1997——Hearing to Review the Federal Employees' Compensation Act (FECA).

105th Congress, Second Session

March 24, 1998—Federal Employment Compensation Act.

March 27, 1998—Review of Pending OSHA Legislation.

April 21, 1998—Hearing on "Issues Under the Migrant and Seasonal Agricultural Worker Protection Act, and the Effect of the Fair Labor Standards Act on Amish Families."

April 29, 1998—Hearing on "Pending OSHA Legislation".

May 18, 1998—Field Hearing on "American Worker Project: Workplace Competitiveness—The State of the Garment Industry in California".

August 16, 1998—Hearing on H.R. 2710, the Rewarding Performance in Compensation Act.

August 30, 1998—Hearing on The Federal Mine Safety and Health Act of 1977.

III. Markups Held by the Subcommittee

105th Congress, Second Session

February 4, 1998—*H.R. 2864*, Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1997.

H.R. 2877, to amend the Occupational Safety and Health Act of 1970.

H.R. 3096, to correct a provision relating to termination of benefits for convicted persons.

March 5, 1998—*H.R. 2327*, Drive for Teen Employment Act.

H.R. 2888, Sales Incentive Compensation Act.

May 14, 1998—*H.R. 2869*, to amend the Occupational Safety and Health Act of 1970 to exempt safety and health assessments, audits, and reviews conducted by or for an employer from enforcement action under such Act.

H.R. 2661, Sound Scientific Practices Act.

H.R. 2873, to amend the Occupational Safety and Health Act of 1970.

H.R. 3725, Postal Service Health and Safety Promotion Act.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee–	78
Total Number of Hearings –	18
Field–	2
Joint with Other Committees–	1
Total Number of Subcommittee Markup Sessions –	3
Total Number of Bills Reported From Subcommittee –	9

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

I. Summary of Activities

A. Job Training Reform

H.R. 1385, the Workforce Investment Act

During the 105th Congress, the Subcommittee on Postsecondary Education, Training, and Life-Long Learning focused on reform of this nation's federal workforce investment and literacy programs. Reports from the U.S. General Accounting Office (GAO) highlighting the excessive number of federally funded employment and training programs, as well as conflicting reports on the quality of the U.S. workforce investment system, sparked both public and Congressional interest in reform of these programs.

The Subcommittee on Postsecondary Education, Training, and Life-Long Learning held hearings on February 11, 1997, February 25, 1997, February 27, 1997, and March 4, 1997, on reform of the major federal employment, job training, adult education, literacy, and vocational rehabilitation programs.

The February 11, 1997 hearing in Washington, D.C., examined how job training laws can be changed to encourage and support State and local innovation and reform. The Subcommittee received

testimony from Governor John Engler of Michigan, and State Senator David Steele of Utah. The Subcommittee also received testimony from other State and local officials and leaders with expertise in the provision of employment and training services and programs.

The February 25, 1997 hearing in Washington, D.C., focused on the Adult Education Act and family literacy programs. The Subcommittee received testimony from Rep. Lamar Smith (R–TX); Patricia McNeil, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education; and from other experts in the field of adult education and literacy programs.

The February 27, 1997 hearing in Washington, D.C., examined the Rehabilitation Act of 1973. The Subcommittee received testimony from Judy Heumann, Assistant Secretary, Office of Special Education and Rehabilitative Services, U.S. Department of Education; and from other individuals with expertise in the provision of vocational rehabilitation programs.

The March 4, 1997 hearing in Washington, D.C., continued examination of how job training laws can be changed to encourage and support State and local innovation and reform. The Subcommittee received testimony from Raymond J. Uhalde, Acting Assistant Secretary of the Employment and Training Administration at the U.S. Department of Labor. The Subcommittee also received testimony from State and local program administrators and beneficiaries.

On April 17, 1997, Representatives McKeon, Goodling, and Kildee introduced H.R. 1385, the Employment, Training, and Literacy Enhancement Act of 1997. The purpose of this legislation was to transform the current array of federal employment, training and adult education, literacy, and vocational rehabilitation programs from a collection of fragmented and duplicative categorical programs into high quality, coherent, and accountable State and local systems that are designed to provide high quality training for today and the 21st century. The legislation was designed to empower individuals to choose occupations and training programs, based on accurate and up-to-date information, that will develop more fully their academic, occupational, and literacy skills, leading to productive employment and economic self-sufficiency, and reduction in welfare dependency. The bill also transferred resources and authority to States and local communities with the intent of increasing ease of access to high quality employment, training, literacy, and vocational rehabilitation programs. The bill significantly increased accountability in employment, training, literacy, and vocational rehabilitation programs.

On April 24, 1997, the Subcommittee on Postsecondary Education, Training, and Life-Long Learning favorably reported H.R. 1385, with amendments, to the Full Committee on Education and the Workforce by a voice vote. On April 30, 1997, the Full Committee on Education and the Workforce favorably reported H.R. 1385 by a voice vote.

H.R. 1385 was passed by the House of Representatives on May 16, 1997 by a bipartisan vote of 343 to 60. The Senate passed comparable legislation on May 5, 1998, by a bipartisan vote of 91 to 7.

House and Senate Conferees began work to develop a conference agreement on H.R. 1385 immediately upon Senate passage of the legislation. The final agreement, the "Workforce Investment Act" was passed by both the Senate on July 30, 1998, and by the House on July 31, 1998. The Conference Agreement on H.R. 1385 was signed into law on August 7, 1998 (P.L. 105–220).

The Workforce Investment Act (P.L. 105–220) sends authority and responsibility into the hands of actual individuals, providing them with choices in the selection of occupations, services, and service providers. The act consolidates more than 60 federal training programs through the establishment of three block grants to the States for Adult Employment and Training, Disadvantaged Youth, and Adult Education and Literacy programs; and through amendments to the Vocational Rehabilitation Act.

For adults, the Act establishes a single delivery system for adult employment and training that maximizes individual choice in the selection of occupations and training providers, while protecting funding for dislocated workers. It encourages an "employment first" approach to job training, and promotes individual responsibility and personal decision-making through the use of vouchers (individual training accounts) for the purchase of training services. This market-driven system eliminates the decades old tradition of bureaucrats making training decisions for adults. Customer choice makes the job training and employment system more responsive to the skill needs of individuals and the local labor market.

P.L. 105–220 transfers funding and decision-making authority out of Washington to States and local communities for the design of local workforce investment programs. In addition to the transfer of authority, the agreement authorizes waivers to provide additional flexibility to governors and local communities, enabling them to implement innovative job training systems. The Act also cuts the size and authority of federal bureaucracy by consolidating programs, and eliminating numerous federal requirements including duplicative and costly planning, paperwork, and reporting requirements, resulting in a significant reduction in bureaucracy.

The Workforce Investment Act provides a strong and active role for business by utilizing business-led local boards for the design and implementation of the training system. This will ensure that training is provided for the high-skill, high-wage jobs of the future. Training will be designed for occupations that are in demand. Under the new system, individuals will choose training providers based on performance information accessed through the one-stop delivery system. This will result in a market-driven system where the best providers of training will prevail. The bill also requires States and local programs to establish performance measures for use in determining program effectiveness.

The new Act increases the focus of existing youth programs on longer-term academic and occupational training—on getting young people back to school, rather than stand alone, short-term employment fixes. While allowing the continuation of good summer youth employment programs, the act requires that all employment experiences under these programs be tied to basic academic and occupational learning opportunities. Under these programs, priority for services is given to hard to serve disadvantaged youth, including a

requirement that not less than 30 percent of local youth program funds are spent on out-of-school youth. The Act makes headway in reforming the Job Corps program by strengthening linkages among Job Corps centers and the communities in which they reside.

P.L. 105–220 consolidates existing adult education and literacy programs into one flexible block grant to the States. States will use 82.5 percent of funds to be used to make competitive grants to local providers for adult education and literacy services, including workplace literacy services; English literacy programs; and for the first time, family literacy services. Local providers choose the types of services they wish to provide. These changes provide flexibility for States and communities to meet the literacy needs of individuals within the State. The Act requires States to adopt performance measures in order to ensure the improvement of adult education and literacy activities. The Act further promotes quality instructional programs by encouraging programs that use phonemic awareness, systematic phonics, fluency, and comprehension.

Under the Workforce Investment Act, individuals with disabilities will finally have access to a comprehensive job training system that is capable of serving all who come to its doors. Unemployed individuals with disabilities will have broader job opportunities, allowing them to re-enter, or in some cases enter, the workforce for the first time. The Act provides a much-needed emphasis on self-employment, business ownership, and telecommuting opportunities, as well as improving linkages with employers and the State workforce investment system.

B. HIGHER EDUCATION REFORM

H.R. 6, the Higher Education Amendments of 1998

During the 105th Congress, much of the Subcommittee on Postsecondary Education, Training and Life-Long Learning's work focused on a review of the programs found in the Higher Education Act that were scheduled to expire on September 30, 1998. Prior to the end of the 104th Congress, organizations, associations, and governmental bodies were invited to submit to the Subcommittee on Postsecondary Education, Training and Life-Long Learning their legislative recommendations for the reauthorization of the Higher Education Act. The Subcommittee received recommendations from more than 70 respondents.

Hearings

Between January 1997, and March 1998, the Subcommittee held 22 hearings both in and outside of Washington to review and make determinations on revising programs found in the Higher Education Act. This review included, but was not limited to, grant programs, loan programs, institutional programs, integrity and accountability issues, and the overall costs of higher education. The Subcommittee gathered extensive information from those closest to the problems—local college presidents, students, and parents.

In addition to reviewing the existing programs and what was working versus what was not working, the Subcommittee spent a great deal of time on the following issues.

Saving student loans

The interest rate formula scheduled to take effect on July 1, 1998 would have resulted in the elimination of the private lending community from the student loan program. The private sector student loan program accounts for two-thirds of all federal student loans. After many meetings and much debate, a compromise was reached that afforded students an excellent interest rate while ensuring that all eligible students would continue to receive their loans.

Making college affordable

The Subcommittee also devoted a great deal of time studying the issue of college costs. In the hearings around the country, parents and students all expressed a growing concern over their ability to afford a college education. Because the Subcommittee's concern with this issue was so strong, it pushed for the creation of a commission to study college costs, which is described under the Cost of Higher Education Review Act. A number of the Commission's recommendations were included in H.R. 6.

Encouraging students to work and save for college

H.R. 6 strengthens the federal need analysis formula (which determines the amount of aid each student receives) to encourage students to work and save for their college education. Specifically, it allows the neediest dependent and independent students to earn and save more for college without having their financial aid award reduced. In addition, the amount students can earn and save without being penalized will be increased for inflation on a yearly basis.

Sound management of our financial aid programs

H.R. 6 includes the creation of a performance-based organization (PBO) within the Department of Education. The PBO will bring the best practices of the private financial sector to the Department of Education. The PBO and its chief operating officer will be charged with managing the student financial aid systems and reducing costs and improving efficiencies in the delivery system—ensuring students will receive their aid without the red tape. The PBO is described in greater detail under the 21st Century Student Financial Aid System Improvement Act.

Improving teacher quality

The Committee focused much attention on the need to encourage States to ensure that teachers are adequately prepared to enter the classroom. As a result of these efforts, H.R. 6 includes funds for States to improve teacher quality, increase the accountability of teacher preparation programs, and to recruit highly qualified students into the field of teaching.

Specifically, H.R. 6 provides a single authorization for separate grant programs focusing on improving teacher quality and the recruitment of highly qualified teachers. Specifically, 45% of the total amount will be for State Grants; 45% will be for Partnership Grants; and 10% will be for Recruitment Grants.

Under the State Grants, Governors (or appropriate educational entities), will have the ability to use funds to improve the accountability of teacher preparation programs; reform teacher certifi-

cation requirements; expand alternative routes to teacher certification; promote performance based-compensation for teachers; streamline the process for removing incompetent or unqualified teachers; recruit highly qualified teachers; and implement efforts to end the practice of social promotion.

In addition, grants will be provided to partnerships of institutions of higher education, schools of arts and sciences, high need local educational agencies, and others. Funds provided to these Partnerships are to be used for activities such as improving accountability of teacher preparation programs; providing clinical experience and professional development; and for the recruitment of highly qualified teachers.

A separate grant provides both States and Partnerships the ability to compete for funds specifically targeted toward teacher recruitment.

This Title also includes strong accountability for States and Partnerships receiving grants to ensure funds are being effectively used to improve student achievement and raise the level of teacher quality. In addition, each institution of higher education receiving federal assistance will be held accountable for disseminating information on the quality of their program based upon criteria such as the pass rates of their graduates on teacher assessments.

Under the new law, States will also be required to identify poor performing teacher preparation programs. Those programs loosing State support will be prohibited from accepting or enrolling any student, who receives aid under Title IV of the Higher Education Act, in the institution's teacher preparation program.

Making America's campuses safer

In an effort to improve the effectiveness of current law provisions requiring the reporting of crimes on campus, the Committee modified existing law. It is the hope of the Committee that these modifications will provide students and others with the information they need to reduce campus crime and assist students in making decisions regarding their safety. New provisions extend the number of crimes to be reported and expand the list of individuals responsible for reporting crimes on campus. The legislation also modifies the definition of a campus for purposes of reporting crime statistics. The new law also requires institutions to make, keep and maintain daily logs of crime reported to police or security departments and to make such logs public, except where prohibited by law. Finally, it requires schools to forward information on campus crimes to the Department of Education on an annual basis and for the Secretary to make such statistics available to the public.

Updating and improving the Education of the Deaf Act

In addition, one hearing of the Subcommittee not related to the Higher Education Act focused on ways of improving upon the provisions of the Education of the Deaf Act. As a result of that hearing, amendments to the Education of the Deaf Act were included in the final version of H.R. 6.

Given the enormous importance of education to the future success of all Americans, H.R. 6 reaffirms the long-standing commitment to programs targeted to people who are deaf or hearing im-

paired by extending the authorization for the Education of the Deaf Act of 1986. This legislation amends the Education of the Deaf Act by extending the authorization for Gallaudet University and the National Technical Institute for the Deaf. It also conforms the Act to be consistent with certain provisions of the Individuals with Disabilities Education Act Amendments of 1997, strengthens and clarifies audit provisions, increases flexibility and clarifies provisions with regard to the endowment programs, and authorizes a National Study on the Education of the Deaf.

Improving retirement options for faculty

The Subcommittee on Employer-Employee Relations held a hearing on May 22, 1997 on early retirement in higher education to examine the flexibility under federal law to allow institutions of higher education to develop early retirement incentives that save money and meet both institutional needs and the needs of tenured faculty members. Amendments to the Age Discrimination in Employment Act of 1967 were included in the final version of H.R. 6.

Legislative action

On January 7, 1997, Representatives McKeon (R–CA), Goodling (R–PA), Clay (D–MO), and Kildee (D–MI) introduced H.R. 6, the Higher Education Amendments of 1998 that simply extended the programs in the Higher Education Act. On the basis of the hearings, bills referred to the Subcommittee, the recommendations of the Administration and the recommendations of the higher education and lending communities, a draft legislative print was prepared. The Subcommittee on Postsecondary Education, Training and Life-Long Learning considered this print as an Amendment in the Nature of a Substitute to H.R. 6 in legislative session on March 4, 1998. H.R. 6 was ordered reported to the Full Committee on Education and the Workforce on March 4,1998 by voice vote without amendment.

H.R. 6 was considered by the Committee on Education and the Workforce in legislative session on March 18 and 19, 1998, at which time 34 amendments were considered. On March 19, 1998, the Committee on Education and the Workforce, with a majority of the Committee present, reported H.R. 6, to the House with amendments, by a recorded vote of 38–3.

On May 6, 1998, the House of Representatives, in a bipartisan vote of 414–4, overwhelmingly passed H.R. 6. The Senate passed the bill on July 9, 1998, by a vote of 96 to 1 and requested a conference with the House. A final conference agreement was reached and a Conference Report was filed on September 25, 1998. On September 28, 1998, the House of Representatives agreed to the Conference Report by voice vote. The Senate agreed to the Conference Report on September 29, 1998 by a vote of 96 to 0. On October 7, 1998, the President signed H.R. 6 into law. It is now P.L. 105–244.

H.R. 2400, the Transportation Equity Act For The 21st Century Emergency Student Loan Interest Rate Adjustment

One of the biggest challenges faced by the Members of the Committee on Education and the Workforce during the authorization process for the Higher Education Act was finding a solution to the

scheduled change in interest rates students would pay on new federal student loans.

Immediate action necessary

On July 1, 1998, the interest rates students pay on new federal student loans was scheduled to change from a variable rate equal to the 91-day Treasury Bill (T-Bill) plus 3.1 percent to a variable rate equal to the 10-year Treasury Bond plus 1.0 percent. This was due to a provision contained in the 1993 Budget Reconciliation Act that would have nationalized the entire student loan program. This change would have cut both lender yields and student interest rates by approximately 1 percent. However, lenders participating in the FFEL program expressed serious concerns over their ability to continue to make loans should this change take effect claiming student loans would no longer be profitable. If the lenders left the FFEL program, two-thirds of our nation's students would not be able to access the capital necessary to pursue a higher education.

Consensus solution

After working extensively with all parties involved the Committee was able to devise a bipartisan solution. Under this solution interest rates for students dropped to the equivalent of the 91-day T-bill, plus 2.3 percent during repayment and the equivalent of the 91-day T-bill, plus 1.7 percent while in-school. At the same time, the amount that the lenders are paid is a rate equal to the 91-day T-bill, plus 2.2 percent during the in-school and grace periods, and equal to the 91-day T-bill, plus 2.8 percent during repayment. The Subcommittee on Postsecondary Education, Training, and Life-Long Learning also held a hearing on the Issues in the Student Loan Programs Relating to the Scheduled July 1, 1998 Interest Rate Change, on March 5, 1998.

Legislative action

A long-term solution was included in H.R. 6, the Higher Education Amendments of 1998, which favorably passed the Committee on Education and the Workforce on March 19, 1998, by a recorded vote of 38–3. H.R. 6 passed the House of Representatives on May 6, 1998, by a bipartisan vote of 414–4. Unfortunately, the Senate failed to take action on its higher education bill before the May recess. The Department of Education was required to announce interest rates on June 1, 1998. Therefore, a temporary interest rate solution, which began on July 1, 1998 and ended on September 30, 1998, was placed in H.R. 2400, the Transportation Equity Act for the 21st Century. H.R. 2400 was signed into law by the President on June 9, 1998. It is now P.L. 105–178.

H.R. 2535, the Emergency Student Loan Consolidation Act of 1997

On August 27, 1997, the Department of Education stopped processing applications for Federal Direct Consolidation Loans due to computer system problems. More than 84,000 applications were backlogged, and new applications were not being accepted. Students with direct loans who wished to obtain a consolidation loan had no option but to wait until the Department corrected the problems since the Higher Education Act did not allow students to con-

solidate their direct loans into a Federal Family Education Loan (FFEL) Program consolidation loan.

Immediate action necessary

Committee Members were extremely disappointed that the Department suspended the Direct Loan Consolidation Program. Without consolidation, these students incurred not only additional interest costs but also had considerable difficulty in meeting their loan payments. Some students were unable to secure other credit such as a mortgage, and many may have defaulted on their student loans.

Committee Members were especially concerned by the comments of an individual student affected by the direct loan consolidation shutdown. At a hearing on September 18, 1997, before the Subcommittee on Postsecondary Education, Training and Life-Long Learning, a former student said: "The staff at the (direct loan) consolidation center has alternatively ignored us, given us incorrect information, or even lied to us. One of the worst things that happened was that we were almost unable to close on our home," due to the loan consolidation problem at the Department. A process that was supposed to have taken her eight to twelve weeks took her and her husband more than eight months.

The fact that students found themselves in this consolidation processing dilemma was in stark contrast to the Department's perception of itself as the "Microsoft" and "Citibank" of higher education as senior members of the Department of Education were quoted as saying. In a hearing on July 29, 1997, before the Subcommittee on Postsecondary Education, Training, and Life-Long Learning, David Longanecker, the Assistant Secretary for Postsecondary Education stated, "the Direct Loan Program provides a simpler, more automated, and more accountable system to borrowers . . . students have witnessed the development of a level of customer service not previously experienced in financial aid delivery."

Perhaps that was the view from Washington, D.C. The view from the frontlines seemed much different. At least one student, Ms. Angela Jamison, who testified on September 18, 1997, described the Department's customer service as "beset by chronic mistakes, which range from incompetence to malfeasance."

Necessary solution

The Emergency Student Loan Consolidation Act opened the loan market and allowed the private sector to consolidate loans for direct loan borrowers. This alleviated the backlog and brought much needed competition to the consolidation loan market.

H.R. 2535 allowed borrowers to consolidate direct student loans into FFEL consolidation loans. The interest rate for all new consolidation loans was set at the equivalent of the 91-day Treasury Bill rate plus 3.1 percent (the same as in the Direct Loan Program). In addition, borrowers who consolidated subsidized loans, whether in the Direct Loan Program or the FFEL Program, did not lose their deferment benefits. During periods of deferment, the Secretary was required to pay the interest on the loans which were eligible for an interest subsidy prior to the consolidation and the borrower was only responsible for the interest on the loans included in the con-

solidation loan which were not eligible for an interest subsidy under Section 428 or Section 455 of the Higher Education Act. These provisions ensured that borrowers did not lose benefits due to the Department's mismanagement of the consolidation process.

Legislative action

On September 18, 1997, the Subcommittee on Postsecondary Education, Training and Life-Long Learning held a hearing on the Shutdown of the Consolidation Loan Process in the William D. Ford Direct Student Loan Program. On September 24, 1997, Subcommittee Chairman Howard P. "Buck" McKeon (R–CA) introduced H.R. 2535, the Emergency Student Loan Consolidation Act of 1997. On October 1, 1997, the Committee on Education and the Workforce considered H.R. 2535 and favorably reported the bill by a recorded vote of 43–0. On October 21, 1997, the House of Representatives passed H.R. 2535 under Suspension of the Rules, by voice vote. Due to the urgency of getting this legislation enacted, H.R. 2535 became part of the Fiscal Year 1998 Labor, Health and Human Services, and Education Appropriations Bill (H.R. 2264), which was signed into law by the President on November 13, 1997. It is now P.L. 105–78.

H.R. 1511, the Cost of Higher Education Review Act

College affordability has been a central part of the discussions surrounding the Subcommittee's review of the grant and loan programs found in the Higher Education Act. As Members have talked to individuals across the country concerning the reauthorization of the Higher Education Act, the consistent question being asked by students and parents is "why is college so expensive and why are college prices rising so quickly?"

Members of the Subcommittee recognize that in today's technology and information based economy, getting a high quality postsecondary education is more important than ever. For many Americans, it is the key to the American dream. Historically, higher education prices have increased at roughly the rate of inflation. However, since the early 1980's, college tuition has spiraled at a rate of two-to-three times that of inflation every year. According to a report released by the General Accounting Office (GAO), between 1980–1981 and 1994–1995, tuition at 4-year public colleges and universities increased 234 percent, while median household income rose 82 percent, and the consumer price index rose only 74 percent.

That is not to say that there are not affordable schools. There are still some affordable schools and there are college presidents who are committed to keeping costs low. There are schools that are trying very innovative things to reduce tuition prices, and it is important that some of these practices serve as models for similar types of institutions.

Legislative action

On Wednesday, April 23, 1997, the Subcommittee on Postsecondary Education, Training and Life-Long learning held a hearing on the Rising Price of a College Education in order to better understand what is driving college cost increases and what can be done to reduce the price of a postsecondary education.

On Thursday, May 1, 1997, Representatives McKeon and Goodling introduced H.R. 1511, The Cost of Higher Education Review Act of 1997. On Wednesday, May 7, 1997, the Committee on Education and the Workforce assembled to consider H.R. 1511. The Committee adopted the bill without amendment by a voice vote. This legislation was enacted on June 12, 1997 (P.L. 105–18) and established the National Commission on the Cost of Higher Education.

Commission activities

The Commission was composed of 11 Members appointed in a bipartisan fashion. The Commission members were selected for their expertise in higher education finance, federal financial aid programs, education economics research, and public or private higher education administration. They were assigned the task of studying the reasons for the rapid tuition increases that have occurred over the last several years and making specific recommendations as to how these increases can be brought under control.

On January 21, 1998, the Commission issued its final report, and on February 10, 1998, the Commission went out of existence.

Commission recommendations implemented

On March 19, 1998, Representative McKeon (R–CA) and Representative Castle (R–DE) offered an amendment to H.R. 6 that was accepted by the Committee on a voice vote to include a number of the Commission's recommendations in the Higher Education Amendments of 1998.

Most important for students and parents will be the increased availability of information with respect to college costs and prices that the Secretary of Education will make available on a yearly basis. In addition, that legislation contains a clarification to the Age Discrimination in Employment Act authored by Representative Fawell that will allow colleges and universities to offer tenured faculty early retirement bonuses. This will give tenured faculty new retirement benefits while allowing institutions more flexibility to hire instructors with the most up to date knowledge and reducing a costly regulatory burden on schools. It is the intent of the Committee that any cost savings to institutions be passed directly on to students.

H.R. 2015, the Balanced Budget Act of 1997

Student loan provisions

On July 30, 1997, the House passed the conference report on the Balanced Budget Act of 1997. This landmark legislation provided the framework to produce the first balanced federal budget in a generation. Members of the Committee on Education and the Workforce believe there is nothing more important to the future of this country than all Americans having the opportunity for high quality education and training that will provide them with the skills needed to compete in the Information Age economy. The Committee also recognizes the importance of a balanced budget in achieving this goal. Balancing the budget and reducing our $5 trillion national debt will lower interest rates, create new jobs and

produce a more stable future for our children. Committee Members are proud to have contributed to this process by approving legislation which protected student loans, improved the efficiency of our student loan programs, and provided $1.763 billion in savings toward a balanced federal budget.

Increasing the efficiency of our student loan programs

The Budget Agreement included three areas of savings from the student loan programs. The first area is the return of reserve funds currently held by guaranty agencies. These funds have been accumulating over the years as loan volume has increased, defaults have decreased and guaranty agencies have become more efficient in their operations. Under the Higher Education Act, reserve funds are the property of the federal government and held by the guaranty agencies in a fiduciary capacity. These funds are used by guaranty agencies for payment of insurance claims to lenders, collection activities, default prevention activities and other operating expenses.

As of September 30, 1996, the funds held by guaranty agencies in reserve accounts totaled $2,004,857,000. The Budget Agreement returns $1 billion of these funds to the Treasury in fiscal year 2002. In order to ensure that these funds will be available for return to the Treasury in 2002, the Committee required each guaranty agency to make yearly transfers of funds to restricted accounts approved by the Secretary. Because the Committee was concerned with the continued viability of the Federal Family Education Loan Program, the Committee required guaranty agencies with substantial reserve funds to return a larger share of funds than would be required using a straight proportional share.

The Committee bill also saved $603 million over five years by reducing the mandatory administrative funds authorized in Section 458 of Part D of the Higher Education Act. These funds pay a majority of the expenses of the Federal Direct Student Loan Program and a portion of the administrative expenses of the Federal Family Education Loan Program.

The final provision of this bill provides for the elimination of a $10 application processing fee to institutions which participate in the Direct Student Loan Program. This provision saves $160 million over five years. Payment of this fee had previously been prohibited through the appropriations process.

Legislative action

On June 12, 1997, the Committee on Education and the Workforce favorably reported its recommendations to the House Budget Committee by a recorded vote of 24–20. On July 30, 1997, the House of Representatives passed H.R. 2015, the Balanced Budget Act of 1997 (which contained these savings provisions), by a recorded vote of 346–85. H.R. 2015 was signed into law by the President on August 5, 1997. It is now P.L. 105–33.

H.R. 4259, the Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998

Haskell Indian Nations University (HINU), and Southwestern Indian Polytechnic Institute (SIPI) are the only federally owned Indian colleges in the country. Both are under the jurisdiction of the Bureau of Indian Affairs (BIA). Both have been undergoing change in order to improve educational services for Native Americans. For example, HINU has recently converted from a junior college to a four-year institution. Due to their growth, the two schools have found it difficult to continue to improve within the confines of the civil service laws. For example, it has proven difficult to recruit qualified professors due to the rigidity of civil service classifications and lack of portability of federal retirement benefits.

Reducing burdensome regulations

H.R. 4259 will allow these two schools to participate in a five-year demonstration project. The demonstration project will exempt them from the majority of civil service laws and allow them to develop alternative personnel systems that more closely resemble those found at traditional colleges and universities. H.R. 4259 will allow current employees with at least one year of government service to choose to keep their federal retirement, health, and life insurance benefits. Both institutions are supportive of this legislation.

Legislative action

On July 16, 1998, Representative Snowbarger (R–KS) introduced H.R. 4259, which would waive civil service personnel requirements for two Indian colleges that are controlled by the Bureau of Indian Affairs (BIA). H.R. 4259 was considered by the Committee on Government Reform and Oversight in legislative session on July 23, 1998, and ordered reported to the House without amendment on a vote of 20–16. On September 22, 1998, Chairman Goodling (R–PA) notified the Speaker of the House that the Committee on Education and the Workforce had no objection to House consideration of H.R. 4259, but that the Committee had an interest in retaining its jurisdictional prerogatives over future legislation effecting these institutions.

On October 6, 1998, the House of Representatives passed H.R. 4259 on a voice vote. The Senate passed identical legislation by unanimous consent on October 14, 1998. On October 31, 1998, the President signed H.R. 4259 into law. It is now P.L. 105–337.

II. Hearings Held by The Subcommittee

105th Congress, First Session

January 30, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

February 11, 1997—Hearing on Reform of the Major Federal Job Training Programs.

February 25, 1997—Hearing on the Adult Education Act.

February 27, 1997—Hearing on The Rehabilitation Act of 1973.

March 4, 1997—Hearing on Reform of the Major Federal Job Training Programs.

March 25, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 1, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 3, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 21, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 21, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 22, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

April 23, 1997—Hearing on the Rising Price of a College Education.

May 2, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

May 5, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

May 19, 1997—*H.R. 6*, the Higher Education Amendments Act of 1998.

June 5, 1997—*H.R. 6*, the Higher Education Amendments Act of 1998; Student Financial Aid—the Foundation Programs; Pell Grants and Campus Based Aid.

June 17, 1997—*H.R. 6*, the Higher Education Amendments of 1998; TRIO, International Education, Graduate Education, Indian Education and HEP/CAMP.

June 19, 1997—*H.R. 6*, the Higher Education Amendments of 1998.

June 26, 1997—*H.R. 6*, the Higher Education Amendments of 1998, Title III and Urban and Community Service Programs.

July 15, 1997—Hearing on the Education and the Deaf Act and Title V of the Higher Education Act.

July 17, 1997—*H.R. 6*, the Higher Education Amendments of 1998: Campus Crime and Regulatory Reform.

July 22, 1997—*H.R. 6*, the Higher Education Amendments of 1998, Student Loan Programs.

July 29, 1997—*H.R. 6*, the Higher Education Amendments of 1998, System Modernization Efforts at the Department of Education and Accreditation.

September 18, 1997—Hearing on the Shutdown of the Consolidation Loan Program in the William D. Ford Direct Student Loan Program.

105th Congress, 2nd Session

March 5, 1998—Hearing on Issues in the Student Loan Programs Relating to the Scheduled July, 1 1998 Interest Rate Change.

III. Markups Held by the Subcommittee

105th Congress, First Session

April 24, 1997—*H.R. 1385*, Employment, Training, and Literacy Enhancement Act of 1997.

105th Congress, Second Session

March 4, 1998—*H.R. 6*, Higher Education Amendments of 1998.

IV. Subcommittee Statistics

Total Number of Bills and Resolutions Referred to Subcommittee	105
Total Number of Hearings	25
Field	10
Joint with Other Committees–	0
Total Number of Subcommittee Markup Sessions –	2
Total Number of Bills Reported From Subcommittee –	2

SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES

I. Summary of Activities

A. EMPOWERING PARENTS AND REFORMING AMERICA'S SCHOOLS

H.R. 2616, the Charter School Expansion Act of 1998

Charter schools are public schools established under State law, and given varying degrees of autonomy from State and local rules and regulations. In exchange for their autonomy, charter schools are held accountable for meeting the terms of their charters, including achievement of academic outcomes of the students they serve. Charter schools are free from much of the red tape that governs traditional public schools.

During the 105th Congress, the Committee on Education and the Workforce held five hearings on charter schools. The Subcommittee on Oversight and Investigations conducted field hearings in California and Arizona. The Subcommittee on Early Childhood, Youth and Families continued the discussion on charter schools by holding three hearings in Washington D.C. on the issue. The respective dates of the five hearings in 1997 were January 30, January 31, April 9, June 26, and September 16. Testimony provided by witnesses confirmed that charter schools are having a positive impact on student performance and parental satisfaction. Charter schools now represent an integral component of school reform.

In response to the increasing popularity of charter schools and a growing interest to increase the number of charter schools across the nation, Representative Frank Riggs (R–CA), Chairman of the Subcommittee on Early Childhood, Youth and Families, introduced H.R. 2616, the Charter Schools Amendments Act of 1997, on October 6, 1997. The Committee considered and ordered reported H.R. 2616, as amended, on October 9, 1997, by a vote of 24–8. The House passed H.R. 2616 on November 7, 1997, by a vote of 367–57. The bill was referred to the Senate Committee on Labor and Human Resources on November 13, 1997. The Senate Committee on Labor and Human Resources discharged the bill by Unanimous Consent on October 8, 1998, and the Senate passed H.R. 2616 with

an amendment, which included changing the title of the Act to "The Charter School Expansion Act of 1998", by Unanimous Consent, on October 8, 1998. The bill as amended by the Senate, was passed by the House of Representatives on October 10, 1998 by a vote of 369–50. It was signed into law by the President on October 22, 1998, and became P.L. 105–278.

The Charter School Expansion Act of 1998 authorizes $100 million for charter schools and ensures that at least 90% of federal charter school money goes directly down to States and local charter schools. The Act also directs the Secretary of Education to target charter school money to those States where there is an increase in the number of high quality charter schools. High quality charter schools are those charter schools that possess a high degree of autonomy; charter schools that meet or exceed academic performance requirements established by the State; and charter schools that show progress in improving student performance.

Parental Choice and H.R 2746, Helping Empower Low-Income Parents (HELP) Scholarships Amendments of 1997

The Committee on Education and the Workforce, through its Subcommittees on Early Childhood, Youth and Families and Oversight and Investigations, held several hearings on parental choice in education.

On September 9, 1997, the Subcommittee on Early Childhood, Youth and Families held a hearing on parental choice to review various House and Senate proposals promoting parental choice in education.

On September 12, 1997, the Subcommittee on Oversight and Investigations held a field hearing "Education at a Crossroads: What Works? What's Wasted?" on parental choice in Cleveland, Ohio. The hearing focused upon Cleveland's taxpayer-funded scholarship program to benefit low-income families. Under the pilot program, low-income families in Cleveland are provided government-funded scholarships to attend the public or private schools of their choice.

On September 30, 1997, the Subcommittee on Early Childhood, Youth and Families held a hearing on parental choice that considered: (1) ongoing academic research on parental choice experiments in Milwaukee and Cleveland; (2) the involvement of private foundations in supporting parental choice in education; and (3) the benefits of school choice for low-income students.

On March 12, 1998, the Subcommittee on Early Childhood, Youth and Families held a hearing on the topic of public and private school choice in the District of Columbia. The hearing focused upon parental support of school choice in the District and the utilization of charter schools as a means of providing more education choices to District of Columbia families.

On October 28, 1997, Representative Frank Riggs (R–CA) and Chairman of the Subcommittee on Early Childhood, Youth and Families introduced H.R. 2746, the HELP Scholarships bill. The legislation would empower low-income parents in poor areas of the country to send their children to the best public or private schools with taxpayer-funded scholarships. Specifically, H.R. 2746 would:

- Permit state educational agencies and local educational agencies to use their Title VI education block grant funds, if

they choose, for public and private school choice. The prerequisite for using any Title VI funds for a parental choice program would be the enactment of state parental choice legislation.

• Set broad guidelines for school choice programs. Any State educational agency or local educational agency that wishes to use such funds in a public and private parental choice program, shall ensure that such program, through their state enabling legislation, meets the following criteria:

1. The parental choice program must be in poor communities.

2. The parental choice program would be means-tested (up to 185% of poverty) so that only parents with the lowest incomes would be eligible to receive scholarships for their children.

3. Maximum amount of the scholarship could be no more than the per pupil expenditure in that locality. Minimum amount of the scholarship is no less than 60% of the per pupil expenditure or the cost of the private tuition, whichever is less.

• Allow State, local and/or private funds to supplement the federal funding provided for choice under Title VI.

• Include protections for private school programs of instruction and curricula.

• Provide for annual evaluations/studies of academic achievement and parental satisfaction with school choice.

On November 4, 1997, H.R. 2746 was considered by the House and was defeated on the House Floor by a vote of 191–228.

Additionally, on June 5, 1997, Majority Leader Dick Armey (R–TX) introduced H.R. 1797, the District of Columbia Student Opportunity Scholarship Act of 1997. This legislation provided scholarships to low income District of Columbia families to enable them to send their children to the public or private schools of their choice. A companion measure, S. 1502 was introduced in the Senate on November 9, 1997, by Sen. Dan Coats (R–IN). This legislation passed the Senate by voice vote on November 9, 1997, and passed the House on April 30, 1998 by a vote of 214–206. The bill was vetoed by the President on May 20, 1998.

H.R. 3892, the English Language Fluency Act

It was the view of the Committee that the current Bilingual Education Act was not effective in assisting children to learn the English language and to remain in school until graduation. H.R. 3892, introduced by Rep. Frank Riggs (R–CA), Chairman of the Subcommittee on Early Childhood, Youth and Families, on May 19, 1998, was designed to help K–12 students with limited English skills master English and develop high levels of academic attainment. It provided States with a flexible funding stream to use to support programs in local schools. Participating schools would be able to choose which type of instructional programs they would use, as long as it was consistent with State law. The bill also required parents to sign a consent form before their child is placed in a program for English language learners and gave parents the option of choosing the type of language instruction for their children if

schools offer more than one method of instruction. These two key measures-flexibility for States and local communities and parental choice-were intended to remake bilingual education programs so they work for children.

Prior to consideration of H.R. 3892, the English Language Fluency Act, the Subcommittee on Early Childhood, Youth and Families held two hearings on reforming Bilingual Education on February 18, 1998, and April 30, 1998. The first hearing was held in San Diego, California. The second hearing was held in Washington, D.C.

On May 21, 1998, the Subcommittee on Early Childhood, Youth and Families favorably reported the bill to the full Committee on Education and the Workforce by a vote of 10–5. On June 4, 1998, the Committee on Education and the Workforce favorably reported H.R. 3892, the English Language Fluency Act, by a vote of 22–17. The bill passed the House by a vote of 221 to 189 on September 10, 1998. No action was taken in the Senate.

The FY 1999 appropriations bill for the Departments of Labor and Health and Human Services and Education. H.R. 4274, as reported by the Committee on July 20, 1998, included several amendments to the current Bilingual Education Act. These modifications: (1) removed the limit on spending more than 25 percent of appropriated funds on alternative methods of teaching English to limited English proficient children; (2) limited participation of students in programs funded under this Act to 2 years, but allowed for two one-year waivers; and (3) placed a priority on funding approaches that show success in moving pupils with limited English language skills into regular English language instruction within 2 years of being served. None of these changes was included in the Omnibus spending measure enacted prior to the adjournment of the 105th Congress.

B. EDUCATION OF DISABLED CHILDREN

H.R. 5, Individuals with Disabilities Education Act Amendments of 1997

The Individuals with Disabilities Education Act Amendments of 1997, H.R. 5 was introduced on January 7, 1997 by Chairman Bill Goodling (R–PA). The Subcommittee on Early Childhood, Youth and Families held two hearings to consider the review and authorization of the Act on February 4 and 6, 1997. The Committee on Education and the Workforce reported the bill, with amendments on May 7, 1997. H.R. 5, as amended was ordered reported by a voice vote. On May 13, the House of Representatives considered and passed H.R. 5 (H. Rept. 105–95) by a vote of 420–3. The President signed the bill into law on June 4, 1997 (P.L. 105–17).

The Individuals with Disabilities Education Act Amendments of 1997, improves the Individuals with Disabilities Education Act (IDEA) through provisions that:

(1) place the emphasis on what is best educationally for children with disabilities rather than on paperwork for paperwork's sake;

(2) give professionals, especially teachers, more influence and flexibility in the delivery of education to children with disabil-

ities, and give school administrators and policymakers lower costs;

(3) enhance the input of parents of children with disabilities in the decision making that affects their child's education;

(4) make schools safer and describe how school officials may discipline children with disabilities; and

(5) consolidate and target discretionary programs to strengthen the capacity of America's schools to effectively serve children, including infants and toddlers, with disabilities.

The Act also makes it easier to understand and use IDEA by simplifying its structure and the organization of provisions. Other improvements in the legislation include alphabetized definitions; revised formula when appropriations reach a trigger level; consolidated State educational agency eligibility requirements; consolidated local educational agency (LEA) eligibility requirements; consolidated evaluation, reevaluation, individualized education program, and placement provisions; and consolidated procedural safeguards requirements. Part H, the early intervention program for infants and toddlers, becomes part C. Other discretionary programs are condensed and consolidated into part D, with two authorized subparts including a new State Improvement program.

The Act includes a provision to allow greater funding flexibility for the LEAs. When appropriations for Part B exceed $4.1 billion, LEAs may treat as local funds up to 20% of the difference between the federal IDEA funds received and those funds received the prior year. As appropriations for IDEA Part B are $4.3 billion for FY 1999, this trigger for a new formula will become effective and LEAs effectively can reduce their local spending by up to 20% for the coming year.

The Act addresses the Department's use of policy letters for guidance at the national level. The provision requires the Secretary to follow the requirements of 5 U.S.C. 553 when establishing a rule for compliance. When the Secretary issues a response to a request for policy clarification that raises issues of general interest and applicability or national significance, the Secretary shall widely disseminate the response to SEAs, LEAs, parent and advocacy organizations, and other interested parties. The response must include an explanation that it is provided as informal guidance and is not legally binding. Within a year after the response, the Secretary must issue written guidance on the issue through such means as policy memorandum, notice of interpretation, or notice of proposed rulemaking

H.R. 3254, IDEA Technical Amendments Act of 1998

On February 24, 1998, Representative Frank Riggs introduced H.R. 3254, the IDEA Technical Amendments Act of 1998, which was referred to the Committee on Education and the Workforce. On May 16, 1998, the Committee referred the bill to the Subcommittee on Early Childhood, Youth, and Families. On May 21, 1998, the Subcommittee reported the bill to the Full Committee by voice vote. The Full Committee ordered reported the bill, as amended, by a vote of 23–18 on June 4, 1998. On July 24, 1998, the Committee report was filed (H. Rept. 105–649). No further action was taken on the bill as a stand-alone bill. H.R. 3254 was attached to H.R.

4274, the Labor-HHS-Education Appropriations bill; however, no final action was taken on that bill, and H.R. 3254 was not included in the Omnibus Appropriations bill.

H.R. 3254 would modify the enforcement provisions in Section 616 of the individuals with Disabilities Education Act to clarify that if a State chooses to deny services to adult prisoners (ages 18–21), the only enforcement remedy that can be taken for this failure to provide IDEA services to these individuals is to withhold federal IDEA funds based on the number of such individuals in the State's eligible IDEA population. Once the Secretary withholds these funds, no further corrective action against the State can be taken in that fiscal year for not providing services to these individuals. The Department cannot withhold or delay the entire amount of IDEA funding for the State for all other children in special education.

C. CONTROL JUVENILE CRIME

H.R. 1818, the Juvenile Crime Control and Delinquency Prevention Act of 1997

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 address problems related to juvenile crime in today's society. Key provisions in H.R. 1818 provided States and local communities with greater flexibility in how they address juvenile crime under the existing formula grant program and combined current discretionary programs into a block grant to the States. In addition, H.R. 1818 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 streams for runaway and homeless youth programs has proven to be piecemeal, unnecessary and duplicative. H.R. 1818 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. 1818 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. Five 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.

On June 12, 1997, the Subcommittee on Early Childhood, Youth and Families reported H.R. 1818, as amended by voice vote. On June 18, 1997, the Full Committee on Education and the Workforce favorably reported H.R. 1818 by voice vote.

The House passed H.R. 1818 (as amended) on July 15, 1997, under suspension of the rules, by a vote of 413–14. The Senate passed H.R. 2073, amending the Missing Children's Assistance Act and the Runaway and Homeless Youth Act, on June 28, 1998. The House passed S. 2073 (as amended) on September 15, 1998, by a vote of 280–126. The amendment struck the provisions of S. 2073 and replaced them with the provisions of H.R. 1818 and H.R. 3, a Judiciary Committee bill to address juvenile crime. Prior to sending this legislation back to the Senate for further consideration, the House appointed conferees and requested a House/Senate conference. However, no agreement was reached by the end of the 105th Congress.

D. TECHNICAL TRAINING FOR AMERICA'S YOUTH

H.R. 1853, the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998

The Subcommittee on Early Childhood, Youth and Families held three hearings on the Carl D. Perkins Vocational and Applied Technology Education Act. The hearings were held on May 20, May 22, and June 5, 1997.

On June 10, 1997, Representative Frank Riggs (R–CA), Chairman of the Subcommittee on Early Childhood, Youth and Families introduced H.R. 1853, the Carl D. Perkins Vocational-Technical Education Act Amendments of 1997. On June 12, 1997, the Subcommittee on Early Childhood, Youth and Families favorably reported the bill with amendments to the Full Committee on Education and the Workforce by a voice vote. On June 25, 1997, the Committee on Education and the Workforce assembled to consider H.R. 1853, the Carl D. Perkins Vocational-Technical Education Act Amendments of 1997. H.R. 1853, as amended, was favorably reported by the Education and the Workforce Committee by a vote of 20–18.

The House passed the bill, as amended, on July 22, 1997 by a vote of 414–12.

On October 7, 1998, the Conference between the House of Representatives and the Senate occurred. On October 8, 1998, Conference Report 105–800, for the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, was filed in the House. On October 9, 1998, the House agreed to the Conference Report by voice vote. On October 20, 1998, the Conference Report was presented to the President. On October 31, 1998, the President signed this legislation into law. It is P.L. 105–332.

The Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 achieved four goals outlined by the Committee: strengthened the role of academics in vocational education programs; broadened opportunities for vocational education students; sent more of the federal funds to the local level; and increased State and local flexibility. Along with structural improvements and the elimination of several historically unfunded programs, the Conference Report made major changes in four areas:

(1) various formula provisions were changed to more directly reflect the population being served;

(2) accountability provisions were strengthened to challenge States and LEAs to help students raise both their academic and vocational skill abilities; and

(3) services for women and girls were integrated into the vocational education system by eliminating a separate funding set-aside and State Coordinator for this purpose.

(4) the focus on services for special populations was decreased and the emphasis on services for all students was increased, with the goal of creating quality programs for all students, rather than a "dumping ground" for some students.

E. CHILD NUTRITION

H.R. 3874, the William F. Goodling Child Nutrition Reauthorization Act of 1998

During the 105th Congress, four of the major child nutrition programs were scheduled to expire: the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Summer Food Service Program, State Administrative Expenses and the Commodities Distribution program. Prior to extending the authorization for these programs, the Committee held several hearings on all major child nutrition programs, including the School Lunch and Breakfast programs, in order to determine if any changes were required to insure they were working effectively and serving the nutritional needs of participants.

The Subcommittee on Early Childhood, Youth and Families held two hearings in Washington, D.C., on child nutrition: March 10, 1998, and March 17, 1998. The March 10 hearing focused on child nutrition programs in general, while the March 17 hearing focused on the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

On May 14, 1998, Congressman Mike Castle (R–DE) introduced H.R. 3874, the WIC Reauthorization Amendments of 1998. This measure was favorably reported to the Full Committee on Education and the Workforce by the Subcommittee on Early Childhood, Youth and Families on May 21, 1998. On June 4, 1998, the Committee on Education and the Workforce reported H.R. 3874 by a vote of 36–1. The report was filed on July 20, 1998.

On July 20, 1998, the House of Representatives passed H.R. 3874 by a vote of 383–1. The Senate passed their bill on September 17, 1998, by Unanimous Consent. Conference meetings were held, during which the bill was named the William F. Goodling Child Nutrition Amendments of 1998. The conference agreement passed the Senate on October 7, 1998 and the House on October 9, 1998. The President signed this legislation into law on October 31, 1998 and it is P.L. 105–336.

The final version of this bipartisan legislation made several key improvements to child nutrition programs. One of the most important modifications was the expansion of current law provisions to provide snacks to schoolchildren participating in school or community-based afterschool programs with an educational or enrichment purpose. The Committee felt it was important to encourage afterschool programs in order to address problems related to teenage pregnancy, drug use and juvenile crime. Another significant provi-

sion amended the Summer Food Service Program to encourage greater participation by private, nonprofit organizations. Since it is often difficult to find sponsors in rural areas, the Committee felt it was important to encourage additional providers in such areas by removing current restrictions on private, nonprofit program sponsors. Other key provisions address fraud and abuse in both the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and the Child and Adult Care Food Program. Both programs have come under close scrutiny over the past few years. The Committee believes that addressing fraud and abuse in these programs will help insure their integrity and insure they will be available to participants for years to come. Finally, the Committee included in H.R. 3874 provisions to provide additional flexibility to States and local providers of nutrition programs. Local providers best understand the needs of program participants and the Committee wanted to insure their hands were not tied by unnecessary program requirements. –

II. HEARINGS HELD BY THE FULL COMMITTEE

105th Congress, First Session

February 4, 1997—*H.R. 5*, the Individuals with Disabilities Education Improvement Act of 1997.

February 6, 1997—*H.R. 5*, the Individuals with Disabilities Education Improvement Act of 1997.

February 20, 1997—The Juvenile Justice and Delinquency Prevention Act.

February 26, 1997—Hearing on the Administration's Anti-Gang and Youth Violence Initiative.

April 7, 1997—Hearing on the Juvenile Justice and Delinquency Prevention Act.

April 8, 1997—Hearing on the Low Income Home Energy Assistance Act Program.

April 9, 1997—Hearing on Charter Schools.

April 17, 1997—Hearing on Food Safety in the School Lunch Program.

April 29, 1997—Hearing on the Administration's National Testing Proposal.

May 13, 1997—Hearing on the National Endowment for the Arts.

May 20, 1997—Vocational and Technical Education: Broadening Opportunities for Students.

May 21, 1997—Hearing on Proposed Legislation for the Juvenile Crime Control and Prevention Act.

May 22, 1997—Vocational and Technical Education for the 21st Century.

June 5, 1997—Hearing on Vocational and Technical Education.

June 26, 1997—Hearing on Charter Schools.

July 9, 1997—Hearing on the Reauthorization of the Older Americans Act.

July 16, 1997—Hearing on Reauthorization of the Older Americans Act.

July 24, 1997—Hearing to "Focus on Fatherhood".

August 22, 1997—Hearing on the Migrant Education Program.

September 9, 1997—Hearing on School Choice Legislative Proposals.

September 16, 1997—Hearing on Charter Schools.

September 30, 1997—Hearing on Private and Public School Choice.

105th Congress, 2nd Session

February 17, 1998—Field Hearing on "Education Technology: Meeting the Needs of Tomorrow".

February 18, 1998—Field Hearing on "Bilingual Education Reform".

February 24, 1998—Teacher Training.

March 10, 1998—Child Nutrition Programs.

March 12, 1998—Public and Private School Choice in the District of Columbia.

March 16, 1998—Technology and Education: Working Together for the Future.

March 17, 1998—Special Supplemental Nutritional Program for Women, Infants, and Children (WIC).

March 24, 1998—Educating Our Children with the Technology Skills to Compete in the Next Millennium.

March 26, 1998—Joint Hearing on "Head Start: Is It Making a Difference?".

April 28, 1998—Hearing on "Understanding Violent Children".

April 30, 1998—Hearing on "Reforming Bilingual Education".

May 7, 1998—Hearing on 3189, "Parental Freedom of Information Act".

June 5, 1998—Hearing on "Community Services Block Grant".

June 9, 1998—Hearing on "Head Start".

June 11, 1998—Hearing on "Reauthorization of the National Assessment of Educational Progress and the National Assessment Governing Board".

June 23, 1998—Hearing on "Comprehensive School Reform Program".

July 7, 1998—Field Hearing on "Authorization of Head Start".

July 10, 1998—Field Hearing on "Authorization of Head Start".

III. Markups Held by the Full Committee

105th Congress, First Session

June 12, 1997—*H.R. 1818,* Juvenile Crime Control and Delinquency Prevention Act of 1997.

H.R. 1853, Carl D. Perkins Vocational-Technical Education Act Amendments of 1997.

H. Res. 139, expressing the sense of the House of Representatives that the Department of Education, States, and local education agencies should spend a greater percentage of Federal education tax dollars in our children's classrooms.

105th Congress, Second Session

May 21, 1998—*H. Res. 401,* expressing the sense of the House of Representatives that social promotion in America's schools should be ended.

H. Res. 399, urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act.

H.R. 3254, IDEA Technical Amendments Act of 1998.

H.R. 3874, WIC Reauthorization Amendments of 1998.

H.R. 3871, amend School Lunch Act to provide children with increased access to food and nutrition assistance during the summer months.

H.R. 3892, English Language Fluency Act.

IV. SUBCOMMITTEE STATISTICS

Total Number of Bills and Resolutions Referred to Subcommittee–	175
Total Number of Hearings	40
Field–	7
Joint with Other Committees–	4
Total Number of Subcommittee Markup Sessions –	2
Total Number of Bills Reported From Subcommittee –	9

SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS

I. SUMMARY OF ACTIVITIES

A. EDUCATION AT A CROSSROADS

What works and what's wasted in Federal education programs

Since 1965, the federal government has spent hundreds of billions of dollars on educational improvement. Recent education statistics on student achievement, however, indicate there is little to show for this massive investment. During the 105th Congress the Subcommittee on Oversight conducted the first comprehensive congressional review of federal education programs 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.

To accomplish this, the Subcommittee conducted extensive research and field hearings around the country to examine the following:

1. Elements of successful schools;
2. The extent to which federal education programs contribute or detract from these elements of success;
3. What is working efficiently and effectively;
4. What is wasted.

The project began in the 104th Congress when the Subcommittee asked the U.S. General Accounting Office to examine the elements of successful schools. During the 105th Congress, the Subcommittee listened to people whose voices are not often heard in Washington by holding 17 hearings around the country to examine what works and does not in federal education programs. Six additional hearings were held in Washington on issues such as teacher training, school safety and drug-abuse prevention programs. Across the country witnesses testified that bureaucracy diverts resources from students and makes education less effective and efficient. Many de-

scribed the successes that they were able to achieve once they were freed from burdensome requirements and bureaucratic, "one-size-fits-all" programs. Motivated and involved parents, as well as a curriculum focused on mastering the basics first, were also described by witnesses as being important components of successful schools.

Based on this systematic review, the Subcommittee found that successful schools and school systems are not the product of federally designed programs, but instead are characterized by (a) parents involved in the education of their children; (b) local control; (c) emphasis on basic academics; and (d) dollars spent on the classroom, not bureaucracy and ineffective programs.

The Subcommittee found that the current federal role in education does not generally support these elements of successful schools. Instead, it is uncoordinated and duplicative, and has produced little evidence of effectiveness.

760 Education Programs.—One of the questions the Subcommittee sought to answer first was "how many education-related programs are funded by the federal government?" After assembling an exhaustive database and files of program information, the Subcommittee found that overall, there are more than 760 federal education programs (nearly 100 of which are not funded) which span 39 agencies, boards, and commissions. These programs cost the American taxpayer nearly $100 billion annually. Only a small number of these programs are related to improving academic achievement in the classroom. The following are examples of what the Subcommittee found to be true of federal education programs:

- Even after accounting for recent reductions, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—or the equivalent of 25,000 employees working full-time.
- Although the Department of Education is one of the smallest federal agencies with 4,637 employees, according to GAO, there are about 13,400 FTEs (full-time equivalents) funded with federal dollars to administer federal programs for State education agencies.
- A study by the Heritage Foundation found that for every tax dollar sent to Washington for elementary and secondary education, 85 cents is returned to local school districts. The remaining 15 cents is spent on bureaucracy and national and research programs of unknown effectiveness. However, this study did not take into account what schools must spend to apply for funds and comply with any requirements, nor did it track dollars all the way to the classroom. Therefore, schools could be receiving much less than 85 cents on the dollar.
- In 1993, Vice-President Gore's National Performance Review discovered that the Department of Education's discretionary grant process lasted 26 weeks and took 487 steps from start to finish. It was not until 1996 that the Department finally took steps to begin "streamlining" their long and protracted grant review process, a process that has yet to be completed and fully implemented. After the streamlining is complete it will still take an average of 20 weeks and 216 steps to complete a review.

Recommendations

Based on these findings, the Subcommittee recommended that the education policy in the United States make ensuring that all children receive a quality education its first priority, not preserving ineffective programs and bureaucracies. However, the federal government cannot consistently and effectively replicate success stories throughout the nation in the form of federal programs. Instead, federal education dollars should support effective State and local initiatives, ensuring that it neither impedes local innovation and control, nor diverts dollars from the classroom through burdensome regulations and overhead.

The federal government should play only a limited role in education. It should serve education at the State and local level as a research and statistics gathering agency, disseminating findings and enabling States to share best practices with each other. Local educators must be empowered to teach children with effective methods and adequate resources, without federal interference. Parents must once again be in charge of the education of their children. Schools should be havens for learning, safe from drugs and violence.

Specifically, to support what works in education, the Subcommittee made several policy proposals:

Empower Parents.—In order to empower parents, Congress should reduce the family federal tax burden; encourage parental choice in education at all levels of government; create opportunity scholarships for poor children in Washington, D.C. and other federal empowerment zones; and allow States to send Title I (Aid to Disadvantaged Students) funds to impoverished parents as grants in order to enable their children to receive additional academic assistance.

Local Control.—In order to return control to the local level Congress should return federal elementary and secondary education funds to States and local school districts through flexible grants; expand opportunities for waivers from burdensome regulations; give States and school districts greater freedom to consolidate program funds to more effectively address pressing needs; and provide no-strings-attached funds for charter school start-up costs.

Basic Academics.—Congress should also encourage effective classroom instruction by ensuring that federally funded education programs only use proven methods backed by scientifically based research; research and evaluation should concentrate on measuring outcomes and less on process—such as how many children are served by a particular program.

Dollars to the Classroom.—Congress should send more dollars to the classroom by streamlining and consolidating duplicative federal education programs; reforming or eliminating ineffective and inefficient programs; and by reducing the paperwork burden.

Subcommittee report

The Subcommittee assembled the highlights of the hearings and research into a report. This report also contains policy and legislative recommendations to improve the current federal role in education. On July 17, 1998, the Subcommittee on Oversight and Investigations adopted the report by a vote of 5–2. The report, "Edu-

cation at a Crossroads: What Works and What's Wasted in Education Today," was made available to the general public via the World-Wide-Web, and was also printed by the U.S. Government Printing Office.

B. AMERICORP

The Corporation for National Service (CNS) was created in 1993 under the direction of President Clinton. Its premier program is AmeriCorps, which enables 18–24-year-olds to provide a year of volunteer service in exchange for a living allowance and a higher education stipend. Significantly, when President Clinton proposed the legislation creating CNS, he said that it "would be run like a private venture capital outfit, not like a bureaucracy."

During the 104th Congress, the Subcommittee on Oversight and Investigations conducted two oversight hearings on CNS, discovering that the Corporation was unable to produce auditable books in its first attempt at doing so. It also discovered that it cost taxpayers about $26,000 for each AmeriCorps participant's one year of service.

The 105th Congress built on these prior findings. On July 24, 1997, the Subcommittee conducted a hearing to determine if CNS was any closer to transforming itself into an entity resembling a private-sector venture capital group. It was not. Indeed, auditors testifying at the hearing reported that 25% of the 99 weaknesses found in the original CNS audit still existed. The agency's books were still unauditable.

At this same hearing, the CNS Inspector General and several outside auditors described other financial problems. CNS spent excessively on training services for volunteers contracted out to a variety of organizations—including a subsidiary of the AFL-CIO. The Corporation was also spending about $1.3 million annually on its palatial Presidio Leadership Center, which not only provides AmeriCorps training services, it also boasts two golf courses.

In June 1998, the Committee wrote a letter to President Clinton, questioning his decision to give a partisan political speech before a group of AmeriCorps volunteers at a "Rally of Idealism" in Cleveland, Ohio. Given the President's assertions that the program no longer participates in partisan activities, his speech seemed particularly ill advised.

In September 1998, the Committee learned that, after five years; CNS still cannot produce auditable books. It also learned, from the CNS Inspector General, that CNS does not have accurate information concerning how many service hours its volunteers have put in, or how many of these individuals have accumulated enough hours to qualify for educational awards.

C. NATIONAL EDUCATION ASSOCIATION –

National Endowment for the Arts

The National Endowment for the Arts (NEA) has failed to receive reauthorization from the Committee on Education and the Workforce since the Republicans became the Majority Party in Congress in 1994. Instead, during that time, the NEA has been the subject of an ongoing investigation. This investigation, conducted by the

Subcommittee on Oversight and Investigations, is guided by three core questions: Does the NEA have an appropriate federal role? Does it operate effectively and efficiently? And, does it follow congressional intent?

These questions were addressed as part of a hearing jointly conducted on May 13, 1997 by the Oversight Subcommittee and the Subcommittee on Early Childhood, Youth and Families. At the hearing, several Members of Congress as well as arts policy experts testified about the mission of the NEA, its performance and its compliance with the role envisioned for it by Congress.

Subsequent to the hearing, the Oversight Subcommittee released a comprehensive report entitled, "Creative America" on issues surrounding the NEA. The report explores the three core questions cited above, making use of detailed data concerning the distribution of NEA grants, the extent of private arts funding in America and other pertinent statistics. For instance, the report finds that: the NEA accounts for less than 1% of total national spending on the arts; private giving to the arts is unaffected by reductions in NEA funding; the NEA spends 18% of its budget on administration; and one-third of Congressional Districts fail to get any direct funding from the agency.

The report arrives at the following conclusions: The NEA does not have an appropriate federal role; it does not operate effectively and efficiently; and it does not follow congressional intent. It recommends the elimination of the NEA. Alternatively—if elimination turns out to be politically unfeasible—the report recommends a set of restrictions be immediately imposed on the agency. These include: placing the NEA under the Chief Financial Officer's Act of 1990; placing a 10% limitation on administrative spending in the NEA budget; inserting a $500,000 line item budget appropriation for the NEA Inspector General; and increasing restrictions on the funding of objectionable art by the agency.

D. DIRECT LENDING

Direct lending oversight

Ever since the Federal Direct Student Loan Program (FDSLP) began in 1993, the Committee on Education and the Workforce has monitored its progress with care. Under this program, the Department of Education acts as one of the largest banks in the United States, making loans to millions of students across the nation. The Clinton Administration initiated the FDSLP in order to create a government competitor to the Federal Family Education Loan Program (FFELP), the other major federal student loan program, which is run by private lenders. The Administration hoped that, eventually, the FDSLP would assume responsibility for all federally backed student loans.

During the 104th Congress, Committee Members expressed concern about direct lending on several grounds: It was an inappropriate responsibility of the federal government; it would not be administered efficiently and expensively; and it would lead to a federal monopoly over student loans. Many schools and colleges also expressed skepticism by opting not to participate in the FDSLP; the program did not grow as fast as the Administration had expected.

Still, about one-third of federal student loans are now processed via direct lending.

During the 104th and 105th Congresses, the Committee on Education and the Workforce has closely monitored the performance of the FDSLP. Working in concert with the General Accounting Office, the Education Department's Inspector General and the Advisory Committee on Student Financial Assistance, the Committee uncovered many troubling facts about the FDSLP. Consistent with its history of contracting problems, the Department made a host of costly errors in writing contracts for the private companies hired to assist in the administration of the FDSLP. This and other factors resulted in higher than expected administrative expenses. And the Department did not appear to be getting much for its money. The millions of loan records that contractors maintained on their computers were found to be carrying a great deal of faulty data.

On August 25, 1997, the direct loan program's main contractor informed the Committee that it would have to stop accepting new consolidation loan applications due to a huge existing backlog of applications that would take many months to process. This scenario seemed to confirm the worst fears of the Committee—that the FDSLP would be so inefficient as to leave thousands of students in the lurch, waiting vainly for loans to be processed.

Several such students came to Washington, D.C. to testify at a hearing on the loan consolidation shutdown convened by the Subcommittee on Postsecondary Education and Life-Long Learning on September 18, 1997. These individuals had been left waiting for their loan consolidations to go through, their lives suspended, while the Department's FDSLP contractor struggled with a backlog of 80,000 applications.

Students with direct loans who wished to consolidate were left with nowhere to go. Therefore, Representative Buck McKeon (R–CA), Chairman of the Subcommittee on Postsecondary Education and Life-Long Learning, introduced on September 24, 1998 the Emergency Student Loan Consolidation Act of 1997 (H.R. 2535). The bill was designed to make it temporarily possible for a student with both FFELP and direct loans to consolidate in the FFELP program, which was not possible under existing law. H.R. 2535 was marked up by the Full Committee on October 1, 1997 and was passed by the House on October 21, 1997. Senator James Jeffords introduced a similar bill in the Senate. Eventually, the essential components of both the McKeon and Jeffords bills were written into the final version of H.R. 2264, the Labor, Health and Human Services Appropriations bill for fiscal year 1998, which became P.L. 105–78.

On July 1, 1998, the Department reduced the rate for FDSLP consolidation loans, without soliciting input from the Committee, which opposed the maneuver because it created an unequal playing field in the competition between the FDSLP and the FFELP over consolidation loans. Members were also concerned that the Department was again courting disaster by creating a potential scenario where its contractor would be overwhelmed by a sudden influx of loan consolidation applications. Several Committee Members sent a letter on July 22, 1998 to the Department asking if the contractor had fixed the problems that contributed to the 1997 shutdown and

was prepared to handle increased volume. At the same time, the Committee worked closely with the General Accounting Office to independently determine whether or not the contractor was prepared.

In drafting H.R. 6, the Higher Education Reauthorization Amendments of 1998, Committee Members recreated an equal playing field on which the FFELP and FDSLP will compete for consolidation loans. H.R. 6, which was signed into law on October 7, 1998, stipulates that interest rates on both types of consolidation loans will be the same, beginning in February 1999.

E. ENSURING FAIRNESS IN FEDERAL CONTRACTING: THE CLINTON ADMINISTRATION'S PROPOSED "BLACKLISTING" REGULATIONS

Since Vice President Gore announced in February 1997 that the administration would propose sweeping changes to rules governing federal contracts, the Committee has kept a close watch on the issue and has made certain the administration knows of the Committee's deep concerns. On July 14, 1998, the Oversight and Investigations Subcommittee held a hearing on yet-to-be-released "blacklisting" regulations, sending a clear message to the administration that the proposals appear to be vague, unfair, and unauthorized, and represent a political solution in search of a problem.

Vice President Gore had announced at an AFL–CIO Executive Council annual winter 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—effectively creating a "blacklist" to shut out various contractors from the yearly pool of approximately $200 billion in federal contracting dollars. He also promised regulations that would deny reimbursement to federal contractors for legal and consulting expenses incurred during labor disputes, even though the law is well settled that legal expenses incurred by a business in connection with the performance of a government contract represent legitimate business expenses for which the federal government permits reimbursement.

The Subcommittee's July 14 hearing was prompted by the administration ignoring repeated inquiries by the Committee—to President Clinton, to Vice President Gore, to the past administrator of the Office of Federal Procurement Policy and to his current acting successor, and to the Office of Management and Budget—to keep it apprised of its actions.

During the hearing, an outstanding panel of procurement attorneys—including former President Carter's administrator of the Office of Federal Procurement Policy—demonstrated that the proposals are unnecessary under current law and simply an attempt to legislate by executive fiat.

Since the administration ignored the Committee's requests for information, the O&I Subcommittee received testimony from Edward DeSeve, controller and acting deputy director for management, Office of Management and Budget, who testified that the proposals are still in their preliminary stages but did not offer a timetable for their release.

The Committee maintains its concern that such regulations would not only substantially revise federal labor law outside the

proper Congressional legislative process, but 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. In short, current law already contains extensive debarment procedures for "bad actors." The Committee will remain vigilant for further administration efforts to bypass Congress' role in fashioning this nation's labor legislation.

F. YEAR 2000 COMPLIANCE

Department of Education

Federal agencies use complex computer systems to do accounting, distribute grants and loans and perform myriad other essential functions. Many of these critical computer systems must be renovated or replaced before January 1, 2000, because they are unable to process post-1999 date information.

The Department of Education uses 11 large, complicated mainframe computer systems to process student aid information, track loans, and ensure that college students receive grants and loans in a timely manner. Due to the Department's reluctance to upgrade its information technology infrastructure, several of these systems date back to the 1970s. They contain millions of lines of computer coding that must be carefully examined by programmers for date problems.

If these systems experience disruptions when processing post-1999 dates, the entire student aid edifice that millions of students rely on will be jeopardized. Nevertheless, the Department did not make significant strides in addressing the Year 2000 problem until the fall of 1997, after a March report from the Department's Inspector General warned of the hazards of further stalling. One reason for the delays: Five different individuals had served in the post of Year 2000 project manager at the Department during a three-year period.

In September 1998, the Office of Management and Budget announced that the Department of Education was in the lowest tier of federal agencies in terms of progress in addressing the Year 2000 computer problem. About the same time, Representative Steve Horn (R–CA), Chairman of the Subcommittee on Information and Technology of the House Committee on Government Reform and Oversight, released a report card on federal agencies that awarded the Department of Education an "F" and predicted that it would not be compliant until 2030. On September 17, 1998, the Oversight and Investigations Subcommittee held a hearing on the status of the Department's Year 2000 efforts. At the hearing, the results of a study that the Subcommittee had requested from the GAO raised concern among Members about the pace of the Department's progress. Also at the hearing, the Acting Deputy Secretary of the Department of Education assured Members that the Department would fix 163 of its 168 non-mission critical systems by the end of the month.

Subcommittee Chairman Pete Hoekstra (R–MI) decided to make sure the Department was as good as its word. At his request, GAO officials conducted a "real-time" on-site audit at the Department on

October 1, 1998 to determine if it had fixed the systems. At a follow-up hearing on October 8, 1998 GAO disclosed that 23 of the systems were actually non-compliant when the auditors arrived at the Department. In other words, the Department had fallen substantially short of its target. This called into question the Department's ability to set realistic timelines for itself and not be caught short when January 1, 2000 actually arrives.

Still, the Subcommittee's efforts appeared to be making a difference. A GAO official testifying at the October 8, 1998 hearing mentioned that the Department had picked up its repair pace. He said, "When congressional oversight on Year 2000 becomes evident, agencies move. And that's what's happened in my opinion with this."

The Oversight and Investigations Subcommittee plans to stay apprised of the Department's Year 2000 work as the millennium approaches. Still, since the Department got off to a late start, at least minor disruptions caused by the arrival of the Year 2000 are a near-certainty, according to the GAO. Of greatest concern are the countless data exchanges that occur among the Department's computers and between these computers and those of private partners such as banks and colleges. GAO expressed pessimism at the hearings that the Department has allotted sufficient time during 1999 for all of the various data exchange pathways to be tested for Year 2000 compliance.

To address this concern, Members of the Committee on Education and the Workforce serving as conferees for a bill reauthorizing the Higher Education Act (H.R. 6), strengthened a provision in the bill (Sec. 493A) concerning the Department's Year 2000 compliance. Language was inserted into the bill that requires, for instance, the Department to submit a report describing in detail the testing it conducts with its data exchange partners to the Comptroller General not later than March 31, 1999. H.R. 6 became P.L. 105–244 on October 7, 1998.

The Oversight and Investigations Subcommittee is also monitoring the Year 2000 progress of smaller federal agencies under its jurisdiction, including the National Endowment for the Arts and the Corporation for National Service (CNS). The October 8, 1998 Subcommittee hearing cited above included a panel on CNS and the Year 2000. It was disclosed during the panel that CNS has yet to begin remediating its accounting system, perhaps the single computer system most critical to the Corporation's functioning.

Department of Labor

The challenges posed by the Year 2000 computer problem are significant for the Department of Labor (DOL). Representative Steve Horn, whose Subcommittee on Government Management, Information and Technology has graded all federal agencies on preparations for Year 2000 computer transitions, has given DOL a grade of "D", falling from an earlier score of "C" in June 1998. The Department of Labor estimated that it will need a total of $51.1 million (FY 1996–2000). This is due to updates in infrastructure assessments, embedded chip devices, hardware and software changes, re-hiring inspectors to be used on-site at mining operations and the increased cost for staffing.

DOL identified 61 mission-critical computer systems that must be Year 2000 compliant or which must have a contingency plan in place to ensure that important DOL responsibilities are carried out. Mission-critical systems carry out the major functions of the Department. DOL has identified 79 non-mission critical systems that must also reach compliance before January 1, 2000. Some of the many DOL systems that must be compliant include those providing workers' compensation benefits to federal employees, generating unemployment data, administering training and employment programs, and generating vital statistics on the U.S. economy, unemployment rates, and the consumer price index.

Mission-critical systems

As of August 1998, the Department has a total of 61 mission-critical systems and 24 (39%) of these are Year 2000 compliant. Representative Horn's September report on the Department of Labor found that only 52% of the mission-critical systems would be compliant by March 1999 and that DOL would not reach Year 2000 compliance until 2001. Of particular concern is the Bureau of Labor Statistics (BLS) because 23 (11 are compliant and 12 are not) of the 61 mission-critical systems are located in this agency. The BLS system, used to develop the Consumer Price Index (CPI), is behind schedule and is cause for concern.

Verification

The Department of Labor is required to independently verify that systems repaired and replaced are actually fixed and working. At this point, the Department of Labor is just beginning to initiate independent verification of their systems. Testing of 6 of the mission-critical systems will be completed by October 15, 1998. A plan to test the remaining 55 mission-critical systems will be implemented after the initial 6 systems are tested. The DOL Inspector General and the General Accounting Office (GAO) have expressed concerns that the Department's independent verification schedule is a problem given the compressed time schedule for having all testing implemented and completed by March 1999. GAO has also expressed concern that DOL data on the OMB quarterly reports does not always consistently report progress.

Unemployment insurance

DOL must ensure that States are making adequate progress in developing Year 2000 solutions for the unemployment system. This is a very real trouble spot for DOL because the federal agency must interact with 53 State employment agencies.

There are 6 States/territories that are in danger of not reaching Year 2000 compliance including: Arkansas, Delaware, District of Columbia, New Mexico, Puerto Rico, and the Virgin Islands. In addition, there are two States (Florida and Michigan) that are on the "watch list" due to poor performance related to system development efforts. Both the GAO and the DOL Inspector General have expressed concern about the potential failures. One particular concern is the Unemployment Insurance system in Puerto Rico, which is scheduled to fail on Monday, January 4, 1999. Similar systems may fail over the next 3 months in the District of Columbia and

Delaware. These systems would fail because unemployment insurance claims are established for one year in advance from the date the claim is filed. This means, for instance, that a claim filed on January 4, 1999, will calculate a benefit year ending date of January 4, 2000. Without a Year 2000 fix, benefits can not be calculated correctly.

Contingency plans

DOL is required to have Business Continuity Contingency Plans prepared for all mission-critical systems that are not expected to meet the March 1999 deadline. DOL has worked to develop and evaluate contingency plans for all 61 mission-critical systems. However, the GAO and the DOL Inspector General have expressed concern about the progress of the contingency planning by the Department and the need for more action in this area.

GAO report on OWCP

The General Accounting Office issued a report on Year 2000 compliance for the Office of Workers' Compensation (OWCP). The report found that OWCP processes about 207,000 claims for workers' compensation and provided about $3 billion in benefits to eligible workers. After GAO began to investigate, the administrators of the computers that run the Federal Employees' Compensation program, the Longshore and Harbor Workers' Compensation program, and the Black Lung program, took specific steps to correct problems. For example, GAO visited the Longshore district office in Philadelphia to view how claims were tracked. During the visit, GAO used the computer system to project benefit payments beyond the Year 2000 to verify that the system could handle the dates. After each test, GAO saw a blank screen appear on the monitor. The case management system is scheduled to be tested later this year with an implementation date of December 1998. OWCP has not completed independent testing of the computer systems, which is an area of concern.

On September 17, 1998, the Subcommittee on Oversight and Investigations heard testimony on DOL's efforts to achieve Year 2000 readiness. GAO highlighted problems it has uncovered within the Department of Labor concerning Year 2000 compliance, including the programs in the Office of Workers Compensation, trouble spots at the Bureau of Labor Statistics, significant problems with the Unemployment Insurance System and its interaction with State employment agencies, as well as verification problems at the Department of Labor. The Inspector General for the Department of Labor testified with respect to reporting inconsistencies, lack of scheduling of independent verification and validation that Year 2000 computer fixes will work, and a lack of contingency planning for systems that may not meet the Year 2000 deadlines. The Subcommittee will continue to monitor DOL's preparations as Year 2000 approaches.

II. Hearings Held by the Subcommittee

105th Congress, First Session

January 30, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

January 31, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

March 3, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

March 6, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

May 1, 1997—Hearing on Education at a Crossroads: What Works and What's Wasted in the D.C. School System.

May 5, 1997—Hearing on Education at a Crossroads: What Works? What's Wasted?

May 8, 1997—Hearing on "Dollars to the Classroom".

May 13, 1997—Hearing on the National Endowment for the Arts.

May 27, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

May 28, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

May 29, 1997—Hearing on Education at a Crossroads, What Works, What's Wasted.

June 10, 1997—Hearing on the Family and Medical Leave Act of 1993.

June 24, 1997—Hearing on Education at a Crossroads, What Works and What's Wasted in Federal Drug Violence Prevention Programs?

July 8, 1997—Hearing on "Education at a Crossroads: What Works and What's Wasted in Teacher Training Programs?"

July 16, 1997—Hearing on "Ergonomics: A Question of Feasibility".

July 24, 1997—Hearing on "The Accounting and Management Practices of the Corporation for National Service".

July 30, 1997—Joint Hearing to Review the Davis-Bacon Act.

September 12, 1997—"Education at a Crossroads: What Works? What's Wasted?"

October 2, 1997—"Education at a Crossroads: What Works? What's Wasted?"

October 14, 1997—Hearing on the 1996 Election of the International Brotherhood of Teamsters.

October 15, 1997—Hearing on the 1996 Election of the International Brotherhood of Teamsters.

October 29, 1997—Hearing on the Future of Work in America.

November 3, 1997—Field Hearing on "Education at a Crossroads: What Works? What's Wasted?"

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March 20, 1998—Education at a Crossroads: What Works and What's Wasted.

March 25, 1998—Department of Labor's Denial of Employment Service Funds to the States.

March 26, 1998—Financial Affairs of the International Brotherhood of Teamsters.

March 30, 1998—Education at a Crossroads: What Works and What's Wasted.

March 31, 1998—American Worker Project: Workplace Competitive Issues.

April 23, 1998—Hearing on "American Worker Project: Emerging Trends in the High-Tech Workplace".

April 28, 1998—Hearing on "American Worker Project: Impact of Federal Workplace Agencies, Programs and Laws on the American Worker".

April 29, 1998—Hearing on "Teamsters' Investigation".

April 30, 1998—Hearing on "Teamsters' Investigation".

May 8, 1998—Hearing on "American Worker Project: Determining the Appropriateness of Rulemaking at the U.S. Department of Labor—Regulatory Strategies Outside the Scope of the Administrative Procedure Act (APA)".

May 19, 1998—Hearing on "Who Pays for the Rerun Teamsters' Election?"

May 20, 1998—Hearing on "American Worker Project: Innovative Workplaces for the Future".

June 16, 1998—Hearing on "International Brotherhood of Teamsters Financial Reporting & –Pension Disclosures".

June 17, 1998—Continuation of Hearing on "International Brotherhood of Teamsters Financial Reporting & Pension Disclosures".

June 19, 1998—Hearing on "American Worker Project; Evaluating Regulatory Practices at the U.S. Department of Labor".

June 24, 1998—Hearing on "American Worker Project: Meeting the Needs of the 21st Century Workplace".

July 14, 1998—Hearing on the Administration's Proposed Contracting Regulations: "Good Government" or "Blacklisting"?

July 24, 1998—Hearing on "International Brotherhood of Teamsters Governance and Practice".

July 30, 1998—Hearing on The Internal Review Board.

August 5, 1998—Hearing on Prison Industry Programs: Effects on Inmates, Law-Abiding Workers, and Business.

August 6, 1998—Hearing on the American Worker at a Crossroads Project: the Rationale for and the Effect of the Garment Industry Proviso Under Section 8(e) of the National Labor Relations Act.

August 26, 1998—Field Hearing on Education at a Crossroads: What Works? What's Needed?

September 10, 1998—Hearing on Regulatory Activities at the U.S. Department of Labor-Garment Industry Trendsetters.

September 17, 1998—Hearing to Review the Management of the Year 2000 Computer Problem by the Department of Education and the Department of Labor.

September 25, 1998—Hearing on the Role of Business in the Competitive Garment Industry.

September 28, 1998—American Worker Project: Department of Labor—Financial Analysis and Management Accountability.

September 29, 1998—Hearing on The International Brotherhood of Teamsters.

October 6, 1998—Hearing on The International Brotherhood of Teamsters Efforts to Settle the Teamsters' Strike at Diamond Walnut Growers, Inc.

October 8, 1998—Hearing to Review the Status of the Year 2000 Computer Program at the Department of Education and Corporation for National Service.

III. Markups Held by the Subcommittee

105th Congress, Second Session

February 19, 1998—Adoption of the Protocol for the Subcommittee Investigation of the invalidated 1996 Teamster election.

Motion to authorize the issuance of five subpoenas duces tecum to compel the production of documents (Teamster election).

March 10, 1998—Motion to authorize the issuance of six subpoenas duces tecum to compel the production of documents (Teamster election).

July 17, 1998—Motion to adopt the Subcommittee's Crossroads Report.

IV. Subcommittee Statistics

Total Number of Hearings	52
Field	11
Joint with Other Committees–	3
Total Number of Subcommittee Markup Sessions	3
Total Number of Subpoenas Issued by the Subcommittee	11

V. SPECIAL INVESTIGATIONS OF THE SUBCOMMITTEE

A. Investigation of the Teamsters Union

On August 26, 1997, the Chairman of the Subcommittee on Oversight and Investigations, Representative Pete Hoekstra, announced that the Subcommittee would begin an investigation of the International Brotherhood of Teamsters' 1996 election of officers. Four days before this announcement, the IBT's Election Officer had invalidated the election results and ordered a rerun of the election because of several large and improper contributions to the campaign of Teamsters' General President Ron Carey. Chairman Hoekstra stated three goals for the Subcommittee's investigation: (1) to account for the approximately $20 million in taxpayer funds spent on supervising the election; (2) to explore the illegal contributions and other improprieties that corrupted the election; and (3) to ensure that the rerun election is conducted effectively and with integrity. The Subcommittee made substantial progress toward achieving each of these goals.

Under the terms of the 1989 Consent Decree, the federal government had the option to have the 1996 IBT election supervised. The government exercised this option and provided over $17.6 million during the period 1993 to 1997 to fund the Office of the Election Officer, the court-appointed official responsible for supervising the entire election process. The Subcommittee sought to ensure that these taxpayer funds were spent wisely and effectively. The Subcommittee sought to ensure that the types of problems that invalidated the 1996 election do not occur in the rerun election. Two years after the last election, with the Teamsters union still lacking a duly elected leadership and the federal government sharing the

costs of the rerun election, it is vitally important that these funds are not wasted again.

In the course of investigating these matters, the Subcommittee uncovered other wrongdoing involving the misappropriation of union funds and improper ties between the IBT and the White House. In fact, IBT officials engaged in a long pattern of misconduct that was not limited to funneling union funds to the Carey re-election campaign in the last week of October 1996. Simply put, the International Brotherhood of Teamsters has not been maintained solely for the benefit of its members. Instead, while the union was already in financial disarray, senior Teamster officials misused the union's treasury for their political benefit. Not only did these IBT officials and consultants misappropriate union funds for campaign efforts, but there also appears to have been an effort to manipulate and to misrepresent the union's pension funds and financial condition dating back to 1994. IBT officials threatened and interfered with others who questioned the union's expenditures. All of these matters remain under investigation by the Subcommittee as it attempts to evaluate the performance of federal agencies charged with union oversight, and the effectiveness of federal laws designed to protect union members from financial and other types abuse.

Federal supervision and the consent decree

Ironically, all of this misconduct occurred during a period when the IBT has been perhaps the most scrutinized union in American history. Due to the decades-long domination of the IBT by organized crime, the Justice Department filed suit under the Racketeer Influenced and Corrupt Organizations Act (RICO) in 1988. The government and the IBT settled the suit in 1989 by agreeing to a Consent Decree, the primary purpose of which was to ensure "that the IBT . . . be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence." The Consent Decree provided a wide-ranging framework for supervision of the IBT and its financial and disciplinary operations by the government and its agents. The Consent Decree also established direct elections for international union offices.

Federal supervision of the IBT was divided into two phases. The first phase entailed strong, proactive government involvement in the IBT's activities to rid the union of corrupt influence and pave the way for its first ever democratic election in 1991. To achieve these goals, the Consent Decree provided for the appointment of three officers: an Independent Administrator, an Election Officer, and an Investigations Officer. The Election Officer supervised the 1991 election and ensured that it was conducted in a free and fair manner. The Investigations Officer had the authority to investigate corruption within the IBT and recommend charges to the Independent Administrator. The Independent Administrator (1) ruled on these charges; (2) meted out appropriate punishment, including expulsion from the union; and (3) vetoed any IBT financial transaction that would constitute or further racketeering activity.

The second phase of the Consent Decree, which began in October 1992, relegated the Government to a more reactive position. A three-member Independent Review Board (IRB) took over the dis-

ciplinary roles of the Independent Administrator and the Investigations Officer. The Attorney General, the IBT, and Judge Edelstein each appointed one member of the IRB. The IRB does not have the authority to veto financial transactions.

Ron Carey won the 1991 election for the IBT's General Presidency, and candidates on Carey's slate captured every position on the IBT's General Executive Board (GEB). The Carey slate took office in 1992 as self-styled reformers who would help the Teamsters shed the bad reputation the union had acquired after suffering through a half-century of domination by organized crime.

Carey was a candidate for re-election in the supervised 1996 election. Carey won a narrow victory over James P. Hoffa, but the Election Officer, Barbara Zack Quindel, refused to certify the results after concluding that illegal funds may have allowed Carey to win the election. The Election Officer found that Carey's campaign consultants and officials of the IBT laundered money from the union's treasury through several organizations to Carey's reelection campaign. Among the most significant of these "contribution swaps" were the following:

- The IBT gave $150,000 to the AFL–CIO; the AFL–CIO, in turn, gave $150,000 to Citizen Action (a nonprofit advocacy organization); Citizen Action then gave $100,000 to the November Group, which used the funds to mail campaign literature to rank-and-file Teamsters on Carey's behalf.
- The IBT gave $475,000 to Citizen Action, $175,000 to Project Vote (a get-out-the-vote organization), and $85,000 to the National Council of Senior Citizens. In exchange, Carey campaign operatives persuaded prospective donors to those organizations to contribute to the Carey campaign.
- The Carey campaign conspired with the Democrat National Committee to attempt to raise funds from Democrat donors in exchange for larger than expected political contributions from the IBT to State Democrat parties.
- In addition, the Carey campaign received over $100,000 in contributions from labor lawyers, officers of other labor unions, campaign vendors, and their spouses, even though these contributions were prohibited under the Election Rules and federal law.

As a result of these transactions, the Election Officer ordered a rerun election. After Ms. Quindel resigned due to a possible conflict of interest, her replacement as Election Officer issued a ruling on November 17, 1997 disqualifying Carey from the rerun election because of his knowledge of these fundraising schemes. The following week, three momentous events altered the union's power structure. First, the Justice Department and the IBT agreed to create the position of Independent Financial Auditor for the IBT, a position with veto authority similar to that had been held by the Independent Administrator. Two days later, Carey took an unpaid leave of absence. Later the same day, the IRB charged Carey with bringing reproach upon the union.

Since the corruption of the Carey campaign came to light, a criminal investigation has been underway in the office of the United States Attorney for the Southern District of New York. Thus far, three of Carey's campaign aides have entered guilty pleas

in federal court and are cooperating with prosecutors. An attorney for Carey's campaign and a fundraiser involved in the money-laundering schemes also pled guilty to federal charges. The IBT's former political director, William Hamilton, has been indicted by a federal grand jury. The IRB has barred Carey and Hamilton from the union for life. The Secretary-Treasurer and the International Vice Presidents elected on the Carey slate in 1996 continue to hold office, run the union's operations, and most are candidates in the rerun election.

Investigative efforts

The Subcommittee looked into a number of allegations of misconduct involving the Teamsters union. A partial list includes the fundraising swaps of the 1996 election and the role that other organizations may have played in these schemes, Clinton Administration efforts to grant favors to the IBT in exchange for political contributions, misuse of IBT personnel for campaign purposes, manipulation of pension funds under IBT control, filing inaccurate forms with the Department of Labor, the manipulation of the union's net worth and a corresponding membership dues increase, misuse of the union's internal Ethical Practices Committee, the reasons why so many IBT local unions have been placed under trusteeship, the IBT's lack of internal auditing practices, and the use of federal grants by the IBT and other entities involved in the fundraising schemes. In addition, the Subcommittee monitored the activities of the Election Officer, the Independent Review Board, and the Independent Financial Auditor to ensure they are discharging their duties in an acceptable manner.

To explore these matters, the Subcommittee conducted interviews, depositions, and hearings, and requested and subpoenaed documents. Pursuant to its requests, the Subcommittee received documents from dozens of entities, including the U.S. Departments of Labor, Justice, and Agriculture; the National Labor Relations Board; the United States Trade Representative; the United States Secret Service; the White House; the Federal Election Commission; the National Council of Senior Citizens; the AFL–CIO; the American Federation of State, County, and Municipal Employees; Project Vote; Axis Enterprises; the Convention Management Group; the Share Group; DeLancey Printing; and Clinton-Gore '96. The Subcommittee also received voluminous and unsolicited material from Teamsters members throughout the country.

The Subcommittee and Chairman Goodling issued a total of seventeen subpoenas for documents to the following individuals and organizations: the Democrat National Committee; the IBT; Peter D. Hart Research Associates; the November Group; Cohen, Weiss, & Simon; Grant Thornton LLP; Covington & Burling; Palladino & Sutherland; the Segal Company; Citizen Action; Tom Sever, the IBT's acting General President; Howrey & Simon; the U.S. Attorney for the Southern District of New York; Lewis Schiliro, Deputy Director in Charge, New York office of the Federal Bureau of Investigation; Diamond Walnut Growers, Inc.; and Kelly Press. Seven financial institutions also received subpoenas for specific bank accounts.

Throughout the Subcommittee's investigation, the current IBT leadership followed a three-pronged strategy of obstruction:

1. The IBT refused to provide key documents. The Subcommittee first requested documents from the union on January 28, 1998. When full compliance from the Teamsters was not forthcoming, the Subcommittee issued a second subpoena to the union on March 10, 1998, and subpoenas for other documents to the union and the IBT's Acting President, Tom Sever, have followed. Although the IBT produced thousands of pages of documents to the Subcommittee pursuant to these subpoenas—while claiming the productions were "voluntary"—its document productions were neither on time nor complete. In addition, many of these documents were inexplicably redacted. The IBT, through its legal counsel, withheld hundreds of other documents for months claiming attorney-client and work product privileges. Citing First Amendment concerns, the IBT also refused to produce other documents related to strikes or political activities. Regarding one particular category of documents, the IBT agreed to allow Subcommittee staff to review them only when faced with the possibility of being held in contempt of Congress the following day.

2. The IBT ordered third parties to withhold documents. The Subcommittee and Chairman Goodling subpoenaed documents from Grant Thornton LLP, the Segal Company, Peter D. Hart Research Associates, Covington & Burling, Howrey & Simon, and Palladino & Sutherland. The IBT, which had hired these companies in various capacities, directed them not to comply with the Subcommittee's subpoenas, citing confidentiality concerns and the privileges discussed above.

3. The IBT prevented interviews of key individuals. The Subcommittee first requested informal interviews with three senior Teamsters officials—Carey's Executive Assistant, the IBT Director of Accounting, and the IBT Director of Organizing—on March 17, 1998. Over the next four months, the IBT repeatedly refused to allow interviews of these three individuals, or of any IBT financial personnel. In fact, the IBT even prevented interviews of employees of its accounting and actuarial firms.

In response to these tactics, the House of Representatives passed H. Res. 507 on July 30, 1998, which authorized Subcommittee staff to depose witnesses without requiring the presence of Members of the Committee. In the three months following that vote, staff members deposed fifteen individuals with knowledge of the various areas the Subcommittee is investigating. Since October 1997, the Subcommittee held a total of eleven hearings over twelve days. There might have been more, however; the Subcommittee refrained from conducting interviews, depositions, and public hearings into some aspects of the fundraising swaps at the request of the Department of Justice. Among those who testified in a deposition or hearing are the following:

- Tom Sever, IBT General Secretary-Treasurer and acting General President.
- Judith Scott, former IBT General Counsel and former Executive Assistant to the President.

- Ron Carver, IBT Director of Strategic Campaigns.
- Joseph Selsavage, IBT Director of Accounting.
- Jim Bosley, Executive Assistant to the IBT Secretary-Treasurer.
- Robert Hauptman, Special Assistant to the IBT General President.
- Aaron Belk, an IBT Vice President who also served as Carey's Executive Assistant and Administrator of the IBT Ethical Practices Committee.
- Gregory Mullenholz, Sr., former DRIVE Supervisor.
- Ambassador Mickey Kantor, former U.S. Trade Representative.
- Tom Glynn and Steve Rosenthal, two former Department of Labor political appointees.
- Jennifer O'Conner, former White House staff member.
- William Cuff, former CEO of Diamond Walnut Growers, Inc.
- Donald Morgan, a Vice President of the Segal Company.
- Sherman Sass, formerly with the Segal Company.
- Stephen Leser, a partner in Grant Thornton, LLP.
- Kevin Madden, Susan Vowell, Heather Leach, and Rebecca Lundgen, current or former Grant Thornton employees.

How it happened: oversight weaknesses

Evaluating the effectiveness of the federal investment in overseeing the 1996 Teamsters election was one of the Subcommittee's major goals. The Department of Justice exercised its option for a supervised election on February 7, 1995, which ultimately cost $18 million. The Subcommittee focused on how this money was spent.

First, the Subcommittee sought to account for the millions of tax dollars spent to oversee the election of officers at a private organization. The Subcommittee's concerns included unexplained costs, excessive salaries, and unacceptable delays in auditing these expenditures. For example, Ms. Quindel earned more than $1 million in fees for slightly more than two years of work as Election Officer. On several occasions, the Subcommittee requested and received further information from the Department of Justice regarding these costs and audits. The Department of Justice did not initiate audits of the costs incurred in the 1996 or 1997 fiscal years until May 1998, despite repeated inquiries and encouragement by the Subcommittee over the previous six months. The Department of Justice provided the results of these audits to the Subcommittee when they were completed in September 1998. According to audits of the Election Office's expenditures, supervision cost the taxpayer $17,985,998 through September 30, 1997.

Second, the Subcommittee sought to determine whether the Office of the Election Officer applied the rules fully and fairly throughout the election process. The Subcommittee first wrote to Ms. Quindel on June 24, 1997, to express its concern about news reports of possible conflicts of interest, the fundraising improprieties, and other complaints it had received regarding the conduct of the election. During the Subcommittee's October 14, 1997 hearing on these subjects, employees of the union's international headquarters testified that they campaigned for IBT General President

Ron Carey on union time and were pressured to make campaign contributions to Carey. Another employee at IBT headquarters testified that the IBT contributions to get-out-the-vote organizations in 1996 were unusual both in size and in the procedures used to approve them. When questioned during the October 15, 1997 hearing about these matters, Ms. Quindel testified that it was not possible for the Election Office to detect Carey's fundraising schemes prior to the election, as the events occurred at the last minute.

The Independent Review Board has also been a subject of the Subcommittee's scrutiny. The primary responsibility of the IRB has been to eliminate organized crime influence within the IBT and its local unions. In an oversight hearing on July 30, 1998, the administrator, chief investigator, and members of the Independent Review Board testified regarding the IRB's authority, investigative techniques, disciplinary procedures, and criticisms that it had not been impartial in some cases. The Subcommittee also heard testimony regarding the role and activities of the Independent Administrator and Investigations Officer. The Subcommittee reviewed the recommendations of the Independent Administrator for ways to improve the IBT's internal governance, including the institution of a formal budget, a financial procedures manual, and an office of Inspector General. The Subcommittee remains concerned that these recommendations have not been implemented.

The Subcommittee also monitored the performance of the Independent Financial Auditor (IFA), a position created by an "Interim Agreement" in the wake of the Election Officer's decision to disqualify Carey from the rerun election. The "Interim Agreement," entered into by the IBT and the U.S. Attorney for the Southern District of New York, states: "Independent Financial Auditor shall have the authority to review any expenditure or proposed expenditure of IBT funds or transfer of IBT property and to review any proposed contract entered into on behalf of the IBT (other than a collective bargaining agreement) and to veto any such expenditure, transfer or contract whenever the Independent Financial Auditor reasonably believes that such expenditures, transfer or contract would constitute or further an unlawful act or violation of the IBT Constitution or would otherwise constitute or further fraud or abuse of IBT funds or property." In the Subcommittee's oversight hearing on April 29, 1998, however, the IFA testified that his office does not conduct investigations, but merely reviews disbursements on the basis of documentation provided by the Teamsters. Furthermore, the IFA also does not review the Teamsters' legal expenses or pension funds, the business purpose behind IBT transactions, or the adequacy of the IBT's internal controls. It is clear that the services rendered by the IFA measure far short of those envisioned in the Interim Agreement.

Finally, the Subcommittee examined the activities of two offices within the Department of Labor: the Office of Labor-Management Standards (OLMS) and the Pension and Welfare Benefits Agency (PWBA). Both of these offices have oversight responsibilities related to the Teamsters union, but took few steps to monitor the union. During its oversight hearing on June 16, 1998, the Subcommittee heard testimony from five officials of the Department of Labor. The Subcommittee received substantial cooperation from the Depart-

ment prior to the hearing through interviews of key personnel and document reviews.

OLMS is responsible for receiving and auditing annual financial disclosure forms filed by labor organizations, for monitoring the use of trusteeships by national labor organization over their affiliates, and for reviewing complaints related to the election of union officers. Unfortunately, OLMS had not done a full audit of the IBT's financial report (the LM–2 Form) within the last 15 years under the International Compliance Audit Program (I–CAP) until it began one in October 1998 at the request of Chairman Hoekstra and Ranking Minority Member Mink. The Subcommittee questioned OLMS witnesses about auditing procedures and inaccuracies and deficiencies in the IBT's LM–2 Form, particularly with regard to accurate reporting of employee travel costs and other reimbursements.

PWBA's mission, generally speaking, is to protect the pension and health benefits of participants in employee benefit plans in the private sector. The PWBA receives annual financial reports from private pension plans and audits these reports to detect investment weaknesses or funding shortfalls. In the Subcommittee's oversight hearing, PWBA witnesses were questioned about technical advice they provided to the Independent Administrator regarding payments from the Teamsters to pension plans under IBT control in 1991, as well as the effects of changes made by the IBT to actuarial data for their pension funds and the possible consequences of those changes. Around the time of the hearing, the Pension and Welfare Benefits Agency began an IBT pension plan also under Subcommittee investigation.

Mismanagement and malfeasance by IBT officials

The Subcommittee began its investigation after revelations that senior Teamsters officials and IBT consultants organized, in the words of the Election Officer, "a complex network of schemes to funnel employer and IBT funds into the Carey Campaign." Mindful of the criminal investigation of these schemes, the Subcommittee has taken pains to tailor its investigation in a way that preserves the efficacy of the parallel criminal inquiry. Hence this investigation focused on such areas as abuse of IBT resources for campaign purposes, questionable political activities, efforts to use the Teamsters' political strength to charm favors from the Clinton administration, manipulation of an IBT pension fund, the possibly inappropriate use of an emergency assessment on IBT locals, the union's internal financial procedures and governance, and possible misuse of the union's Ethical Practices Committee. A summary of some of these matters follows.

Fundraising schemes and misuse of union resources

Several of the Subcommittee's hearings have focused on the illegal fundraising schemes. In a hearing on October 14, 1997, a former supervisor at the IBT's Political Action Committee detailed the IBT's internal financial procedures as they related to the fundraising schemes. In a hearing on April 30, 1998, John Sweeney, the President of the AFL–CIO, testified regarding the labor federation's role in the fundraising schemes. The AFL–CIO's Secretary-Treas-

urer, Richard Trumka, was allegedly responsible for the AFL–CIO's participation in the fundraising swap among the IBT, Citizen Action, and the Carey campaign. But Trumka declined to appear before the Subcommittee, citing his Fifth Amendment privilege against self-incrimination. Despite this, Sweeney testified that he does not believe Trumka has done anything improper and that he is not investigating the matter further. On May 19, 1998, the IBT's General Secretary-Treasurer and acting President, Tom Sever, testified about his knowledge of the contribution swaps and the IBT's check-handling procedures. The Subcommittee's depositions of IBT financial personnel have addressed their knowledge of these schemes, to the extent that they could do so without compromising the Justice Department's criminal inquiry.

In addition, information obtained by the Subcommittee indicates that dozens of employees of the union's international headquarters may have campaigned for the Carey slate on union time. This abuse of power may have cost the union's treasury thousands of dollars in salaries and expenses. The Subcommittee heard testimony from four IBT employees on this subject in its hearing on October 14, 1997. Two IBT organizers testified that they had campaigned on Carey's behalf on union time at the direction of their supervisor. These organizers and an IBT International Representative testified that they were pressured to donate to the Carey campaign and that they did so, out of fear of losing their jobs. Another rank-and-file member of the IBT testified that he had been beaten by Carey supporters for trying to speak in a meeting of his local union. Moreover, a memorandum written by Carey's campaign manager indicates that at least thirty IBT employees were involved in using union resources for the Carey campaign. The Subcommittee questioned the current Election Officer about his investigation of these allegations in hearings on April 29, 1998 and September 29, 1998. In a Subcommittee hearing on May 19, 1998, Sever testified that he is not investigating IBT employees who allegedly misused union resources. Further, the Subcommittee discussed this matter with the members of the IRB on July 30, 1998.

Questionable political expenditures

There are serious questions regarding the union's expenditures in national and State politics. First, of course, are the efforts to raise money for Carey's re-election campaign by promising larger than expected soft money contributions to the DNC and State Democrat parties. Second, evidence indicates that the IBT may have made soft-money political contributions that were earmarked for specific congressional races. Under federal law, unions may not make expenditures designed to influence national elections from their general treasuries, and must instead use PAC funds; hence, earmarking is illegal. Moreover, the unions' accountants appear to have either ignored or covered up these potential violations of the law. In the Subcommittee's hearing on June 15, 1998, Stephen Leser, a partner in the Teamsters' accounting firm, Grant Thornton, LLP, testified that he was not aware of a subordinate's memorandum discussing IBT general treasury expenditures for election activity or discussions of whether the IBT should remove such information from its files. Subcommittee depositions of current and

former Grant Thornton personnel have included questions regarding this memorandum.

Improper ties to the Clinton administration

Another subject under investigation is the Clinton administration's efforts—specifically, the White House, the United States Trade Representative, the Labor Department, and the Agriculture Department—to help to settle a Teamsters' strike against Diamond Walnut Growers, Inc. The administration's pressure on the company involved implicit threats to exclude walnuts from trade talks involving the European Union, to remove company products from the School Lunch Program, and to revoke payments to the firm under an initiative marketing U.S. agricultural products overseas. It also involved attempts to bar the firm from receiving any federal contracts.

Information obtained and developed by the Subcommittee indicates that the Clinton Administration's efforts to help the Teamsters with their strike of Diamond Walnut may have been motivated by the promise of generous IBT political contributions. A high-level Labor Department appointee, possibly acting at the instruction of a senior White House official, wrote a memo before the 1996 elections telling presidential advisors how much money the Teamsters had contributed to Democrat Party coffers in 1992. The memo tells White House aides that the President needed the Teamsters' support during his re-election campaign, and that the Teamsters needed White House help settling a strike of Diamond Walnut. Around the time this memo was written, the administration brought pressure to bear on Diamond Walnut. After the Clinton administration's exertions, the Teamsters contributed millions to the coffers of Democrat senatorial and congressional campaigns, as well as State Democrat parties. An analysis done by Subcommittee staff indicates that the Teamsters contributed some $1 million to the national and State Democrat parties, and another $2.5 million to Democrat candidates across the country during the 1996 election cycle.

Financial manipulation

The Subcommittee is probing a number of events and transactions related to the union's net worth, pension funds managed by IBT officials, and an emergency dues assessment that began in 1994. In an attempt to finance its spending priorities in the face of an annual budget deficit, the IBT conducted a mail referendum in 1994 to increase dues by 25%. When this measure was rejected overwhelmingly by the Teamsters membership, the IBT looked for other sources of revenue to finance its agenda. To begin with, the IBT Constitution requires all IBT locals to pay an additional $1 per member per month emergency tax to the International when the IBT's net worth falls below $20 million. The increase expires when the union's net worth climbs back to $25 million. The provision was triggered in May 1994 and, since then, has brought an additional $17 million per year into the union's treasury. Despite the ramped-up revenues, IBT officials have continued to spend more than they took in each year, even with the emergency assessment funds, thereby preventing the "emergency" increase from expiring. These

financial machinations occurred at the same time as questionable changes to an IBT pension plan, raising questions about the motivation for these steps.

The IBT made a number of changes to pension plans under its control as part of its efforts toward financial reorganization. The most drastic step was the curtailment of, or freeze of contributions to, the Teamsters Affiliates Pension Plan (TAPP), which provides benefits to the officers and employees of many local unions. When the IBT froze this pension plan, it retained its financial obligation to the plan, which has had a large impact on the net worth of the union, and, in turn, on the emergency assessment. By instituting a freeze instead of terminating the plan outright, the IBT retained a multi-million dollar liability on its balance sheet, a liability that will likely never be paid.

In addition, the IBT made changes to the pension plan's discount rate—evidently without performing calculations that would typically accompany this action—that, in effect, allowed the union to continue its emergency tax and at the same time avoid insolvency. Had the discount rate remained the same as in previous years (7¼%), the union would have been insolvent on its books. However, by changing the discount rate to 8%, the IBT's net worth remained between $0 and the $25 million threshold at which the emergency dues assessment would have expired. Then, in 1995, after the emergency assessment had been secured, the IBT returned the pension plan's discount rate to 7¼%, again without explanation. Most importantly, this change was not reported in the pension plan's annual financial statement, a problem that has generated a PWBA investigation.

Those financial maneuvers have been the subject of Subcommittee hearings on March 26, June 15, and June 16, 1998, and have been discussed in depth in many of the depositions taken by the Subcommittee. First, on March 26, 1998, the Secretary-Treasurer of an IBT local testified that he believed the IBT leadership's decision to freeze contributions to the Teamsters Affiliates Pension Plan was designed to continue the emergency dues assessment and to gather additional financial resources for IBT headquarters. On June 15, 1998, A. Donald Morgan, a partner in the Teamsters' actuarial firm, the Segal Company, testified about a conference call between the Segal Company, IBT officers, and TAPP trustees, during which it became clear that IBT officials were concerned about the discount rate's impact on the IBT's emergency assessment. On June 16, 1998, witnesses from the PWBA discussed the actuarial and financial effects of these changes and answered questions about the PWBA's oversight procedures and investigations.

Union governance

A related matter that has received the Subcommittee's attention is a series of reports issued by the Independent Administrator at the end of his term in 1992. The reports recommended several changes to improve the financial controls and governance of the Teamsters. Among the key suggestions were the creation of an Inspector General's office at the IBT, the formation of a policies and procedures manual, and the establishment of an organization-wide budget. Under Carey, the international did not adopt a formal

budget; instead, the IBT had a "spending plan" that was honored in the breach. Although Carey and IBT General Secretary-Treasurer Tom Sever commissioned studies and made reports on possible spending cuts, the union's spending spiraled upward while the union's net worth plummeted.

Another governance matter that received Subcommittee scrutiny was the relationship among the union's international officers, particularly regarding budget matters. Because of the failure to share financial information among officers, the union essentially lacked any internal oversight of the IBT's fiscal management. First, Carey and Sever refused to provide IBT Vice Presidents (who were members of the GEB) with access to information regarding legal bills and services, credit card reimbursements to other officers, payments regarding the Detroit newspapers strike, and other matters. Second, when the International Trustees, who are required to audit the union's books every six months, began to question the union's financial situation, the board excluded them from meetings and denied them access to financial records and personnel. At the Subcommittee's hearing on March 26, 1998, a former International Trustee testified that, after the trustees had discovered improper expenditures and accounting discrepancies, IBT officials refused to provide them with financial information necessary to perform their constitutionally-mandated biennial audit. They were also unable to interview IBT employees about the union's financial practices and were barred from GEB meetings.

Finally, the Subcommittee is looking into IBT's use of internal disciplinary procedures. The Teamsters created an Ethical Practices Committee (EPC) to punish union members and officials for violations of the IBT Constitution. Since 1992, the IBT has placed approximately seventy local unions into trusteeship. The Subcommittee received numerous complaints that EPC investigations and hearings and the union's trusteeship proceedings were aimed at political opponents. Subcommittee depositions and public hearings on March 26 and July 24, 1998 delved into these matters. On March 26, 1998, a former International Vice President testified that the Carey administration used the disciplinary process, the abolition and creation of subordinate union bodies, and the emergency dues assessment to centralize power at the international level. On July 24, 1998, Aaron Belk, a Teamsters Vice President, testified before the Subcommittee regarding his tenure as the Administrator of the Ethical Practices Committee and raised additional questions about Carey's use of the EPC.

Monitoring the rerun election

The Subcommittee's third goal was to provide oversight to ensure that the rerun election is conducted fairly and that the oversight failures of 1996 are not repeated. To this end, the Subcommittee consulted frequently with the Election Officer, made its views known to Judge Edelstein and the Department of Justice, and discussed the rerun procedures in several public hearings. On April 29, 1998, the Election Officer discussed his original plan for overseeing the rerun election. The plan will be more proactive than oversight of the 1996 election, and will include placing monitors in campaign offices during the final weeks of the campaign. The focus

of the Subcommittee's hearing on May 19, 1998 was to determine who was responsible for funding oversight of the rerun election. The Subcommittee heard testimony from Tom Sever, the Department of Justice, and the General Accounting Office. Ultimately, an agreement was reached to fund oversight of the rerun election without additional Congressional approrpriations. The Subcommittee held a public hearing and again heard testimony from Mr. Cherkasky on September 29, 1998, after Judge Edelstein approved the Election Officer's revised oversight plan, budget, and schedule. Ballots for the rerun are scheduled to be mailed on November 2, 1998 and are due back to the Election Office by December 3, 1998.

Hearings held: Teamsters investigation

105th Congress, First Session

October 14, 1997—Oversight hearing on the 1996 IBT Election.
October 15, 1997—Oversight hearing on the 1996 IBT Election.

105th Congress, Second Session

March 26, 1998—Oversight hearing on the financial affairs of the IBT.

April 29, 1998—Oversight hearing on the supervision of the IBT by the Election Officer and Independent Financial Auditor.

April 30, 1998—Oversight hearing on the role of AFL–CIO officers and employees in the failed IBT election.

May 19, 1998—Oversight hearing on who should pay for the IBT rerun election.

June 16–17, 1998—Oversight hearing on IBT financial practices and pension fund changes and the IBT's disclosure reports filed with the Department of Labor.

July 24,1998—Oversight hearing on IBT governance and management practices.

July 30, 1998—Oversight hearing on the role and performance of the Independent Review Board.

September 29, 1998—Oversight hearing on plans for conducting the IBT rerun election.

October 6, 1998—Oversight hearing on the Clinton Administration's efforts to settle the Teamsters' strike at Diamond Walnut Growers, Inc.

B. American Worker at a Crossroads Project

Introduction

During the 105th Congress, the Subcommittee on Oversight and Investigations (Subcommittee), chaired by Representative Pete Hoekstra, increased congressional oversight of federal programs by studying the impact of federal workplace agencies, programs, and laws on the American worker. On July 8, 1997, the Committee on House Oversight approved disbursement of money from the Reserve Fund for a project entitled the "American Worker at a Crossroads Project" (AWP). This project was directed to study workplace factors that enhance or impede development of an environment in which the American worker can be the most productive and enjoy the highest standard of living of any worker in the world. The AWP

was charged with making legislative recommendations intended to make labor laws relevant to tomorrow's workplaces.

More particularly, the AWP examined agency submissions under the newly implemented Government Performance and Results Act and focused on programs that have had minimal Congressional review in terms of impact on employees and employers. This investigation included a review of the U.S. Department of Labor, its programs, activities, and spending habits as well as other agencies that administer federal workforce laws. These inquiries were consistent with the AWP's mandate.

The central focus of the project was to:

Examine the current state of the American workplace:

1. Investigate innovative workplaces and initiatives that enhance the American workplace and serve as models for change;
2. Study federal workplace policies that negatively affect both the American worker and the workplace; and
3. Identify changes that would enhance the work environment, and make recommendations and suggestions for change to current American labor law 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.

The following sections of the report detail the activities of the AWP as it relates to the oversight activities of the Subcommittee in accordance with the four specific goals listed above. While several of the oversight activities of the AWP, the Subcommittee, and the Committee on Education and the Workforce could easily fall under more than one category, this report places each activity according to its primary objective.

Summary of activities

State of the American workplace

During the 105th Congress, the AWP conducted research to analyze the history of American labor law and its relationship to the American workplace today, as well as to analyze trends in nine major U.S. industries. This research was conducted to fulfill one of the major functions of the AWP, namely, to examine the current state of the American workplace. Accordingly, set forth below is a summary of the project's findings, along with projections where appropriate.

1. History of the American Worker and U.S. Labor Law

The American worker has always been the economic engine that has driven this nation. From the very earliest of times, men and women came to North American shores ready to roll up their sleeves and compete in an arena that afforded them freedom of endeavor. In these early years of the American workplace, competition was free and unrestricted but with time came civilization's restrictions that provided critical protections but, in many instances, also encumbered the American workers' promise of an ability to compete freely. It was not until the restrictions placed on the American worker by the British parliament that economic change

was sought. The laissez-faire doctrine and Adam Smith's Wealth of Nations were hallmarks of thought in these early times.

The newly independent and free American workers toiled primarily on farms but also on waterways, in shops and in fledgling factories that sprung up along the coasts. "Independence" and "freedom" were the words of the day and they echoed in the halls of government, churches, and places of work.

Federal government restraints on the free market, for the most part, came into being as the 19th and 20th century American economy dramatically shifted from agriculture to manufacturing. The economy and American society, alike, changed radically as a result of this economic change. This is the period of our most accelerated population growth. Immigrants entered the eastern seaboard port cities, especially New York City, and consequently fueled the labor intensive industrial age with a much needed labor pool. The landmark 1911 Triangle Shirtwaist Company fire and deplorable working conditions for these vulnerable new laborers gave birth to state workplace monitoring commissions across the nation. These monitoring entities sought to curb the unlimited power of the robber barons and thereby improve the conditions of American workers and the American workplace. Ultimately these conditions brought about the establishment of the U.S. Department of Labor in 1913. The early years of the industrialization of the American economy can be characterized as an era in which employees sought organization as a means to correct grave injustices in the workplace.

The latter nineteenth and early twentieth century witnessed a number of significant developments in labor-management legislation that initially rejected earlier notions of criminal conspiracy and later encouraged the growth of unions. Beginning at the midway mark in the twentieth century, legislation began to curtail union expansion of power over the workplace.

The Sherman Anti-Trust Act of 1890 (15 U.S.C. § 1 et seq.) and the Clayton Act of 1914 (15 U.S.C. § 12 et seq.), though intended to check the growth of big business such as Standard Oil Co., ultimately were used to restrict the growth of unions. The Railway Labor Act of 1926 (45 U.S.C. § 151 et seq.) restricted the railroad's ability to interfere with an individual's right to organize or collectively bargain. It provided for the National Mediation Board and the Investigative Board, and is still the basis for bargaining in the air and rail industries today.

Some of the greatest federally initiated changes in the American workplace and free market occurred in the 1930's as a result of the dramatic growth in size and scope of the federal government. Due in part to the measures taken by President Franklin Delano Roosevelt, ostensibly to combat the effects of the worldwide Great Depression, the courts and the Congress supported the administration's move to the pro-union camp.

The union-sympathetic Anti Injunction Act of 1932 (26 U.S.C. § 7421) and the National Labor Relations Act of 1935 (29 U.S.C. § 151 et seq.) were hallmark pieces of labor-management legislation enacted during the Depression that sought to redress various slights to the labor movement, such as prohibiting organizing under earlier anti-trust legislation like the Sherman Anti-Trust Act (15 U.S.C. § 1 et seq.).

Following the Depression and World War II, most of these would be temporary measures were left in place and the American economy steamed forward in a burst of post-war economic vigor. At the mid-point of the century, Congress began enacting legislation that limited the influence of unions in the workplace.

The Taft-Hartley Act of 1947 (29 U.S.C. § 141 et seq.), that came about in large part because of the public's distrust of organized labor at that time, was followed twelve years later by the Landrum-Griffin Act of 1959 (29 U.S.C. § 401, et seq.), that sought to rectify undemocratic activity and fiscal irresponsibility in many unions. It guaranteed union members a "Bill of Rights" and established reporting requirements and restricted secondary boycotts.

Although there have been no major changes in labor-management laws since Landrum-Griffin in 1959, there has been social legislation—the Civil Rights Act of 1964 (42 U.S.C. § 2000a et seq.), the Age Discrimination in Employment Act (29 U.S.C.A. § 621 et seq.), the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.)—that has had significant impact on the workplace in the last thirty years.

2. State of the American Worker

a. Nine key U.S. industries and how they have changed since the 1930's

The effect of the technological revolution and the global competition it has spawned is best measured by tracing the history of industries of which the economy is composed. Due to the U.S. government's classification of the U.S. economy by industry, one can measure the changes in the past fifty years or so.

Agriculture, Forestry, and Fishing

- In 1938, Agriculture, Forestry, and Fishing employed nearly 22% of the workforce.
- In 1997, just under 3% of the workforce were employed by the industry.
- In 1947, the industry accounted for 8.5% of the Gross Domestic Product (GDP).
- In 1996, it accounted for only 1.7% of the nation's productive output.
- In 1935, there were 6.8 million farms in America.
- In 1998, there were 1.9 million farms in America.
- In 1950, 12.2% of the population lived on farms.
- In 1998, only 1.9% lived on farms.
- Number of farms in 1998 that use:
  1. Computers—83.8%
  2. Cellular phones—73.2%
  3. Fax machines—41.9%
  4. The Internet—32.2%
- In 1950, corn yielded 50 bushels per acre. Farmers worked 10-14 hours to produce 100 bushels of corn with tractor, 3-bottom plow, disk, harrow, 4-row, planter, and 2-row picker.
- Currently, corn yields 100 bushels per acre. Farmers work 2 hours to produce 100 bushels using a tractor, 5-bottom plow, 25-

foot tandem disk, planter, 25-foot herbicide applicator, 15-foot self-propelled combine and trucks.

Automotive

• In 1939, the motor vehicles and equipment industry employed 1.2% of the workforce.
• In 1998, it employed 0.8% of the workforce.
• In 1938, employees in the motor vehicles and equipment industry averaged earnings of $33.89 per week.
• In 1997, they earned an average of $865 per week.
• In 1934, the average tax on gasoline was one cent.
• In 1996, the average tax on gasoline was 18.3 cents.
• In 1941, 85% of public rural roads were unpaved.
• In 1995, 48% of public rural roads were unpaved.
• In 1941, 52% of public urban roads were unpaved.
• In 1995, 4% of public urban roads were unpaved.
• In 1950, there were over 49 million vehicles registered in the U.S.
• In 1996, there were over 229 million vehicles registered.
• Innovations introduced in 1938 included electric turn signals, sliding sunroofs, and steering-column gearshifts.
• The latest innovations include the Global Positioning System Locator to navigate a vehicle's direction, automobiles that automatically maintain a safe distance from vehicles ahead, and seat cushions that sense the weight distribution of the driver or passenger and quickly adjust the shape of as many as eight internal cushions, with built-in seatbelt attachments and side airbags.

Banking

• In 1939, employees in the finance, insurance, and real estate industries accounted for 3.2% of the workforce.
• In 1998, they accounted for 5.8%.
• In 1947, the industry contributed 9.8% of the nation's GDP.
• In 1996, it contributed 19% of the GDP.
• In 1938, there were 72 bank mergers.
• In 1996, there were 473.
• In 1938, there were 74 bank failures.
• In 1996, there were five.
• In 1938, there were 150 FDIC-insured commercial banks.
• In 1997, there were 9,215.
• In 1997, 17% of purchases were made via the Internet and PC software.
• In 1998, 30% of purchases will be made electronically.
• In 2000, it is anticipated $7.3 billion will be spent online.

Construction

• In 1938, 2.4% of the workforce were employed in the construction industry.
• In 1998, 4.4% were construction employees.
• In 1947, the industry accounted for .37% of the GDP.
• In 1996, it accounted for 4%.
• In 1978, the cost of a median priced home was $55,700.
• In 1996, a median priced home cost $140,000.

• In 1976, half of all American families could afford a median-priced home.
• In 1996, slightly over ⅓ could.
• In 1975, 46% of single-family homes included air conditioners.
• In 1996, 81% of homes had air conditioners.
• New homes consume half as much energy as homes built prior to 1980.
• In 1970, there were 52 fire deaths per million housing units.
• Between 1981–86, there were only 9.
• Technology has led to the control or elimination of asbestos, lead, and radon gas in homes over the last 20 years.

Energy

• Prior to the 1950's coal and wood consisted of the majority of household energy consumption.
• Currently, most homes use natural gas and electricity.
• 20 new cars today are needed to produce the tailpipe pollution of one new car in the 1960's.
• Homes built between 1988–93 use ⅕ less energy than homes built before 1980.
• Fuels made from fast-growing trees, shrubs, and grasses may replace oil.
• Energy crops are being converted into liquid fuels to power vehicles on U.S. roads.
• U.S. production of ethanol, mainly from corn, is approaching 1.5 billion gallons per year.
• Ethanol-blended fuels represent 12% of fuel sales in the U.S.
• Hydrogen is anticipated to join electricity as the foundation for a globally sustainable energy system using renewable energy.
• Potential energy uses for hydrogen: powering non-polluting vehicles, heating homes and offices and fueling aircraft.

Manufacturing

• In 1939, 23.8% of the workforce was employed by the manufacturing industry.
• In 1998, 15.2% were in manufacturing.
• In 1947, manufacturing accounted for 27.1% of the GDP.
• In 1996, it accounted for 17.4%.
• Increase in overall productivity in manufacturing since 1960: 285%
• Increase in overall productivity for private non-farm economy since 1960: 188%
• Technology has aided manufacturing in numerous ways:
  1. Engineers can develop new products on computer screens and transmit plans directly to the factory floor for production.
  2. Statistical quality control reduces defect rates.
  3. Just-in-time inventory control leads to more efficient deliveries and minimizes inventory control.
• Data suggests that in comparison with non-exporters, plants that export grow jobs 18% faster, are 10% less likely to go out of business, pay on average 15% more, and provide benefits that are 40% higher—this is largely due to at least 20% greater productivity at exporting plants.

Mining

- In 1938, the mining industry employed 2% of the workforce.
- In 1998, the industry employed .46% of the workforce.
- In 1947, the industry contributed to 2.8% of the GDP.
- In 1996, the industry accounted for 1.5%.
- Percent of land touched in U.S. by mining: Less than ¼ of 1%.
- Decline in sulfur dioxide emissions since 1973: 28%.
- Amount of coal combustion by-products recycled and used in cement production, road construction and roofing each year as of 1996: 21 million tons.

Steel

- In 1947, the fabricated metal products and primary metal industries employed 4% of the workforce.
- In 1998, the industries employed 1.8% of the workforce.
- In 1947, the steel industry accounted for 4% of the GDP.
- In 1996, the steel industry accounted for 2%.
- In 1982, it took 10.1 man-hours per finished ton.
- In 1996, it took 3.9 man-hours per finished ton.
- If the Sears Tower were built today instead of 1974, it could be built with 35% less steel.
- There has been a 20% decrease in vehicle weight since 1978.
- Steel is 30% stronger compared to a decade ago.
- Steel is 30% cheaper than in 1984, when adjusted for inflation.
- The steel industry has reduced energy use by 30% annually in the past decade.
- Steel recycling saves enough energy to electrically power ⅕ of U.S. households for one year.

Textile

- In 1939, the textile mill products, and apparel and other textile products industries accounted for 4.7% of total employment.
- In 1998, the industries accounted for 1.1% of employment.
- In 1947, textile industries accounted for 3.3% of the GDP.
- In 1996, the industries accounted for .68% of the GDP.
- In 1900, cotton yielded 120 pounds per acre.
- In 1996, cotton yielded 600 pounds per acre.

b. Trends of the Future

In Workforce 2020, the Hudson Institute proposed public policy options for the future based on projections of anticipated changes in the workforce. It is always best to have an idea of what the future will look like before crafting public policy for the future. Recognizing this, the Census Bureau and Bureau of Labor Statistics often make population and labor force projections for the future. The Hudson Institute analyzed the projections and identified key trends of the 21st century workforce.

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) by the middle of the next century. Following are a few demographic trends to expect over the next fifty years:

• Until 2010, the elderly population is projected to grow more slowly than ever before in U.S. history. From 1990 to 2010, it will only increase 1.3% annually, a decrease from the average annual growth of 2.3% from 1950 to 1990.

• After 2010, the elderly population will increase dramatically from representing 13.2% in 2010 to 20% 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 innumerable 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. Policy makers must decide how to encourage the active participation and acceptance of the elderly in the workforce. There are several reasons for this:

Retired people usually depend on society more than the working elderly do.

• Employers need to view the elderly as valuable resources. 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.

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%. In 2006, it is expected to be 73%.

• In 1986, the Hispanic share of the workforce was 7%. In 2006, it is expected to be 12%.

• In 1986, Asians, Pacific Islanders, American Indians, and Alaska Natives accounted for 3% of the workforce. In 2006, they will account for nearly 5.5% 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.

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%. Between 1996–2006, the rate is expected to decline to 1.1% annually.

• The labor force rate will decline primarily due to a decrease in annual growth of population expected to hover around .8% 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.

Rapid technological change

The Technological Revolution continues to change almost every facet of American society. The microchip, the driving force behind a 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.

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:

• It has reduced time and operating costs for helping ships and aircraft navigate more efficiently.

• Precise information on the location of goods and materials obtained through telecommunications will reduce transport, storage, and handling costs.

• 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. Some of the implications of lower transportation costs for American workers include:

• 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. Hearing on the Future of Work in America

On October 29, 1997, the Subcommittee on Oversight and Investigations conducted a hearing on the future of work in America in order for Members to learn the mission of the American Worker at a Crossroads Project and Chairman Hoekstra's vision for the AWP. Testifying at the hearing were Senator William Brock, former Secretary of Labor; Edward Montgomery, Chief Economist for the U.S. Department of Labor; Carol D'Amico and Alan Reynolds, Senior

Fellows at the Hudson Institute; Thomas Malone, Founder and Director for the MIT Center for Coordination Science; Jared Bernstein, Economist for the Economist Policy Institute; and Dennis Lambka, Chairman of the Simplified Employment Services.

Chairman Hoekstra summarized the goals of the AWP, including a brief history of labor legislation in the U.S. and the impact those laws are having on industry today. The witnesses testifying supported the claim that the American workforce is undergoing dramatic transformations. The testimony also supported the claims that the federal government will not be ready to meet the workplace challenges of the 21st century, and that the American workforce will need to improve its educational skills.

4. Hearing on the Effects and the Enforcement of Industrial-Age Labor Laws on American Workers in the Information Age

On April 28, 1998, the Subcommittee on Oversight and Investigation conducted a hearing on the effects and the enforcement of industrial-age labor laws on American workers in the information age. Testifying at the hearing were Patrick O'Hara, Vice President of Human Resources and Facilities for Fluke Corporation; Dwayne Samples, CPA for Samples, Leduc, and Hulsey, LLC; Richard Ashmore, owner of Ashmore Brothers Inc.; Bernard Hays, Program Manager for Cannon Research Center America; and Eileen Appelbaum, Associate Research Director for the Economic Policy Institute.

The hearing investigated both the ways in which small and large businesses are adjusting to the shift from the industrial age to the information age. Testimony by witnesses stressed frustration with current labor law and its impeding effect on American workplaces, and the need for less regulation in the workplace.

Innovative workplaces

During the 105th Congress, the AWP conducted a series of roundtables, site visits, hearings, and interviews involving numerous workplaces around the country deemed to be "innovative." These programs and agencies were examined in an effort to fulfill one of the major functions of the AWP, namely, to investigate innovative workplaces and initiatives that enhance the American workplace and serve as models for change. Discussions included exploration of the future changes to affect the workforce and what needs to be done to prepare for these changes. Participants discussed informally the following topics: (1) current innovative workplace practices; (2) emerging trends and issues in each industry and the ramifications for the American workforce; (3) the effect of federal regulations, programs, and laws on the American workplace; and (4) an overview of the future American workplace. Corporate, academic, and union representatives participated in Roundtable discussions regarding the future of work in America, exploring both the future changes expected to affect the American workforce as well as what needs to be done to prepare for these changes.

Below is a brief analysis of the Roundtables and related activities, along with summarized findings where appropriate.

1. Seattle, Washington and Silicon Valley, California Roundtable Discussions

On December 10, 11, and 12, the Committee on Education and the Workforce's American Worker at a Crossroads Project held the first and second of a series of Roundtable discussions and site visits in Seattle, WA and Silicon Valley, CA. These events initiated the AWP's outreach across the nation, soliciting input from individual Americans on how they view their jobs, their companies, and the workplace in general.

The AWP participants included Chairman Pete Hoekstra, majority committee staff members, minority staff counsel, and representatives of the U.S. Secretary of Labor. They met with a broad spectrum of the workplace, including more than 80 corporate executives, union and non-union workers, and educators.

a. Sectors of the Maritime Industry, Seattle, WA

On December 10, 1997, eleven representatives of the various sectors of the maritime industry met with Chairman Hoekstra and staff. The focus of the discussion was twofold: to learn about the current status of this industry and to hear first-hand suggestions from the various sectors on how to improve the workplace in this declining industry. Issues discussed included the following:

- The decline in the Seattle area's maritime industry;
- How the Jones Act (46 U.S.C.A. § 688 et seq.) and foreign competition have been reducing the industry's size;
- The negative effect the Walsh-Healy Public Contracts Act (41 U.S.C. § 35) has had on the industry's competitiveness;
- The concern over foreign competition for low-paying, low skilled jobs; and
- The Maritime Alliance, an example of union and business working together towards a common goal for the industry.

b. Construction Industry Training Council (CITC), Bellevue, WA

On December 10, 1997, eleven representatives of the Construction Industry Training Council and its affiliated sponsors and support staff met with Chairman Hoekstra and staff. The focus of the discussion was to learn about CITC's innovative, open-shop construction apprenticeship program and the problems associated with maintaining such a program in the state of Washington. Issues discussed included the following:

- The success that students have had with CITC after having been unable to succeed in other programs;
- The difficulties CITC has had in surviving legal battles to remain one of the few open shop apprentice programs in the state; and
- The concern over the discriminatory system in place for approving the apprenticeship programs.

c. Microsoft Corporation, Redmond, WA

On December 11, 1997, fourteen representatives from various high-technology industries met with Chairman Hoekstra and staff at the Microsoft Corporation campus. The focus of the discussion was what education is needed to prepare workers, what federal

laws are hindering the workplace, and what needs to be done to create high paying, high quality jobs. Issues discussed included the following:

- The increased demand for high-technology employees;
- The necessity of high-technology education; and
- The effect of temporary employees on the workplace.

Chairman Hoekstra and the staff also heard from five Microsoft Corporation representatives on various recruiting and educational programs. Issues discussed included the following:

- Microsoft's innovative recruiting services for high-tech workers;
- The Skills 2000 program, the company's career track program for college students;
- The mid-career training which Microsoft offers to prepare new workers;
- The company's involvement with community colleges; and
- Microsoft's philanthropic interests and involvement.

d. King County Waste Water Management Plant, Seattle, WA

On December 11, 1997, six union employees and managers of the King County Waste Water Management Plant met with Chairman Hoekstra and staff. The focus of the discussion was the innovative labor-management working environment in this union plant. Issues discussed included the following:

- Employee involvement in all phases of improving the company's business;
- The inclusion of a peer review system; and
- The company's gain-sharing plan for employees.

e. American Electronics Association, Santa Clara, CA

On December 12, 1997, twenty-five representatives from various high technology industries met with Chairman Hoekstra and staff at a roundtable hosted by the American Electronics Association. The focus of the discussion was the changing American workplace and its requirements for remaining competitive, as well as the effect of various federal laws on that workplace. Issues discussed included the following:

- The transfer from manufacturing to service industry jobs in the American workplace;
- The effect of telecommuting on the workforce;
- The movement from full-time employment to temporary and contract work;
- The need for an increase in the cap for H1–B visas (subsequently enacted as P.L. 105–277; this program establishes rules for and a cap on the entrance of visitation workers who enter the country to cover the high-tech industry); and
- The need for flexibility in the workplace to ensure high paying, high quality American jobs.

Additionally, Michaela Platzer, senior writer and researcher for Cybernation, presented a lecture on the high-technology industry in Silicon Valley via video conferencing from Washington, DC.

f. Mission College, Santa Clara, CA

On December 12, 1997, the administration and faculty of Mission College met with Chairman Hoekstra and staff. The focus of the discussion was the successful development of education programs between the community college in Silicon Valley and the area's high-technology companies. Issues discussed included the following:

• The partnership between the business community and the school, which has resulted in meaningful education opportunities for students wishing to succeed in a high-tech career; and

• The college's ongoing effort to educate the public about the high-tech training available.

g. 3Com Corporation, Santa Clara, CA

On December 12, 1997, six executives and workers of the 3Com Corporation met with Chairman Hoekstra and staff. The focus of the discussion was the difficulties this innovative, high technology company in Silicon Valley has experienced with labor laws. Issues discussed included the following:

• The difficulty in classifying and defining exempt versus non-exempt employees and the need for revision of the Fair Labor Standards Act (29 U.S.C. § 201);

• The rapid pace of the high-tech industries and the emergence of the "web year"; and

• How local and global competition creates an insecure work environment requiring diversification.

2. Dallas and Houston, Texas and Atlanta, Georgia Roundtable Discussions

On January 12, 13, and 20, the Committee on Education and the Workforce's American Worker at a Crossroads Project held its third, fourth, and fifth in a series of roundtable discussions and site visits in Texas and Georgia.

The AWP participants included Chairman Hoekstra, majority committee staff members, minority staff counsel, and a representative from the Secretary of Labor's office. They met with a broad spectrum of the workplace, including more than 100 corporate executives, union and non-union workers, outside groups, constituents and educators. Additionally, Rep. Joe Barton (R–TX) attended the event hosted by Intel Corporation in Fort Worth, TX; Rep. Nathan Deal (R–GA) attended the event hosted by IBM in Atlanta, GA; and Rep. Robert Scott (D–VA) attended all sessions in Atlanta, GA.

a. GTE Service Corporation, Irving, TX

On January 12, 1998, nine representatives of GTE Service Corporation met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the federal laws hindering the workplace, the cost of compliance with the federal workplace laws, and the trends in the communications industry. Issues discussed included the following:

• The problem with drugs in the workplace;

• The need for elimination of restrictions on the use of flextime;

• How the intrusion of certain governmental regulations, such as the Employee Retirement Income Security Act [P.L. 92–261 (Mar.

24, 1972) 86 Stat. 103], effects the efficient use of independent contractors;

• Concerns with appropriate implementation of the Family Medical Leave Act (29 U.S.C. § 2601 et seq.); and

• The problems associated with interpreting the Americans with Disabilities Act (42 U.S.C. §12101 et seq.).

b. Workforce Development Board, Irving, TX

On January 12, 1998, four representatives of the Workforce Development Board met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the federal laws hindering the workplace and the needs of Dallas area businesses and prospective employees. Issues discussed included the following:

• The complexity and lack of flexibility of federal grant programs;

• The overall need to address basic education and illiteracy;

• The necessity of workplace child care, and the importance of consideration of the 10–14-year-old age group; and

• The success of the Texas Job Training Partnerships.

c. Intel Corporation, Fort Worth, TX

On January 12, 1998, eleven representatives of the semi-conductor and high-technology industries and the Fort Worth Chamber of Commerce met with Chairman Hoekstra and staff at the Intel Corporation facility. The focus of the discussion was to learn of innovative practices in the workplace and federal impediments existing in recruiting and maintaining the workforce. Issues discussed included the following:

• The need for an increased cap on H1–B visas (subsequently enacted as P.L. 105–277; this program establishes rules for and a cap on the entrance of visitation workers who enter the country to cover the high-tech industry) legislation due to the shortage of technical workers in the U.S.;

• How the Team Act [H.R. 634, 105th Cong. (1997); S. 295 RS, 105th Cong. (1997)] would result in improvements in productivity and job satisfaction;

• The need for improvement in basic education for American workers; and

• Different innovative approaches to business survival.

d. Greater Houston Partnership, Houston, TX

On January 13, 1998, eighteen representatives of the Greater Houston Partnership (an organization focusing on economic development and world trade) and Citizens for a Sound Economy met with Chairman Hoekstra and staff. The focus of the discussion was to learn of innovative practices in the workplace, federal impediments existing in recruiting and maintaining the workforce, cumbersome federal grant regulations, and employment of temporary workers. Issues discussed included the following:

• The increased use of a temporary workforce and the subsequent need for development of transportable benefits;

• The need for employees with basic skills; and

• The need for block grants and/or local control of job training monies.

• The lack of a clear and consistent U.S. Department of Labor regulation system;
• The fear that companies have of government agencies, even those that claim to be intervening to help;
• The increased use of contract employees in order to allow flexibility and higher wages;
• The growing problem with drugs and alcohol in the workplace; and
• The current tort system and its negative impact on businesses.

e. Roswell, GA small business representatives

On January 20, 1998, eight representatives of the small business and education communities met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the federal laws hindering the small business workplace and the cost of compliance with the federal workplace laws. Issues discussed included the following:
• How federal regulations keep small businesses from being productive;
• How laws governing non-exempt employees and compensation time inhibit flexibility and harm employees' best interest;
• The difficulty involved in determining the government's definition of small business and which laws apply;
• The fact that current education systems do not prepare students adequately; and
• The emergence and implications of an older workforce beginning in 2015.

Chairman Hoekstra and staff also heard from six representatives from the Roswell community on workplace disability issues. The focus of the discussion was to learn about the federal laws hindering the employment of persons with disabilities in the workplace. Issues discussed included the following:
• How Medicaid assistance creates a disincentive for persons with disabilities to find employment;
• The negative effect that income cliffs have on people who are working their way off Social Security Disability Income; and
• The need for technology to accommodate people with disabilities.

f. Lockheed-Martin Aeronautical Systems, Marietta, GA

On January 20, 1998, sixteen union and management representatives from Lockheed-Martin Aeronautical Systems met with Chairman Hoekstra and staff. Discussion focused on issues concerning the workplace, such as:
• The difficulty in determining the classifications for exempt and non-exempt employees due to regulations in the Family Medical Leave Act (29 U.S.C. § 2601 et seq.);
• The importance of teamwork for a competitive 21st century; and
• The need to reinvent company structure.

g. International Business Machines Corporation (IBM), Smyrna, GA

On January 20, 1998, ten IBM representatives met with Chairman Hoekstra and staff. A tour of IBM's mega-center was conducted and the following issues were discussed:

- The efficiency of IBM's inside sales mega-center;
- How government regulations of non-exempt employees are contrary to strategic development; and
- The positive effects that the Team Act [H.R. 634, 105th Cong. (1997); S. 295 RS, 105th Cong. (1997)] would have on ensuring competitiveness.

h. BellSouth Corporation, Atlanta, GA

On January 20, 1998, seven representatives of BellSouth Corporation met with Chairman Hoekstra and staff. Issues discussed included the following:

- Concern that America's current educational system is not preparing students for the workplace;
- Concern over the classification of "inside" salesmen as non-exempt employees, and the negative impact this has on their potential for advancement and productivity; and
- Concern that the Family Medical Leave Act (29 U.S.C. § 2601 et seq.) has a negative impact on the efficiency of the company.

3. Greenville, South Carolina Roundtable Discussions

On February 17, 1998, the Committee on Education and the Workforce's American Worker Project held its sixth of a series of Roundtables and site visits, taking place in Greenville, SC.

The AWP participants included Chairman Hoekstra, several majority staff members, the minority staff counsel, and a representative of the U.S. Secretary of Labor's office. They met with a broad spectrum of the workplace, including more than 250 corporate executives, union and non-union workers, small business groups, constituents, and educators. Representative Lindsey Graham also attended the discussion.

a. Fluor Daniel, Greenville, SC

On February 17, 1998, eight Fluor Daniel craft-workers and eight Fluor Daniel operations department members met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the construction industry, federal laws hindering Fluor Daniel's operation, and the cost of compliance with the federal workplace laws. Issues discussed included the following:

- The changing American workplace, specifically the changing construction industry;
- The company's increase in and improvements to safety measures;
- The need for a better relationship between the Occupational Safety and Health Administration and private industry;
- The concern over the political nature of the National Labor Relations Board and its ineffectiveness; and
- The company's training and education programs which attempt to compensate for the lack of skilled craftsmen.

b. Perception Kayaks, Inc., Greenville, SC

On February 17, 1998, thirteen workers from Perception Kayaks, Inc. met with Chairman Hoekstra and staff. The discussion centered around the uniqueness of this workplace, including:

- The fact that the company's success is based on internal community spirit;
- The company's Voluntary Honor Code and its contribution to company integrity;
- The on-the-job training program and its contribution to success; and
- How the company's productivity plan enhanced the worker/management relationship.

c. Delta Woodside Co., Fountain Inn, SC

On February 17, 1998, seventeen workers and managers of Delta Woodside Textile Company met with Chairman Hoekstra and staff. The focus of the discussion was to learn how to survive dramatic changes in the textile industry, including the following:

- The company's $60 million upgrade to stay successful;
- How the change in business structure improved respect and cooperation between management and workers;
- The fact that the Occupational Safety and Health Administration hinders effective company policy, and fails to coordinate with businesses;
- Affirmative action regulations that are cumbersome to the company and of no benefit to the U.S. Department of Labor; and
- The company's practice of training workers and managers together.

d. Greenville, SC small and large business owners

On February 17, 1998, seventeen small and large Greenville, SC area business owners met with Chairman Hoekstra and staff at the Greenville Chamber of Commerce. Issues discussed included the following:

- The need to evaluate the application of onerous federal regulations;
- The employee and employer frustration with the overtime regulations of the Fair Labor Standards Act (29 U.S.C. § 201) and its exclusion of a compensation-time option;
- Concern over frivolous claims filed with the Equal Employment Opportunity Commission and the need for better regulation of claims;
- Frustration with the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and its conflicts with the Family Medical Leave Act (29 U.S.C. § 2601 et seq.);
- Concern over frivolous Occupational Safety and Health Administration regulations; and
- The abuse of the Family Medical Leave Act (29 U.S.C. § 2601 et seq.) by employees and the subsequent negative effect on companies.

4. Troy, Michigan Roundtable Discussions–

On April 13 and 14, 1998, the Committee on Education and the Workforce's American Worker Project held its seventh of a series of Roundtables and site visits, taking place in Troy, MI.

The AWP participants included Chairman Hoekstra, several majority staff members, the minority staff counsel, and a representative of the U.S. Secretary of Labor's office. They met with a variety of business leaders.

a. United Solar Systems Corp., Troy, MI

On April 13, 1998, four members of the Energy Conversion Devices, Inc. family of firms (which includes United Solar Systems Corporation) met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the innovative technology and manufacturing fostered by these companies. Issues discussed included the following:

- The innovative overseas partnerships in which these companies currently participate; and
- The high efficiency of the innovative technology used in these companies.

b. Troy, MI business leaders

On April 13, 1998, representatives of Troy, Michigan's businesses met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the experiences of businessmen and women in the Troy region. Issues discussed included the following:

- The need for fewer labor laws, due to the expense of compliance;
- The frustration with contradictory laws;
- The need for crisper, clearer definition of the issues addressed by the Equal Employment Opportunity Commission;
- The frustration with minimum wage requirements, and the view that the market should determine the minimum wage; and
- The need for an increase in the H1–B visa cap (subsequently enacted in P.L. 105–277; this program establishes rules for and a cap on the entrance of visitation workers who enter the country to cover the high-tech industry).

c. Chrysler Corporation, Auburn, MI

On April 14, 1998, spokesmen of the Chrysler Corporation and representatives of automobile manufacturing human resources met with Chairman Hoekstra and staff. The focus of the discussion was to learn about the experiences of automobile manufacturing industry from the management's perspective. Issues discussed included the following:

- The importance of training for all employees (including those in management) within the automobile manufacturing workplace;
- The need for teamwork in the contemporary work environment; and
- The effect of an aging workforce on the automobile industry.

5. Hearing on the Emerging High-Tech Industry

On April 23, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on the emerging high-tech industry. The purpose of the hearing was to learn about the significance of the high-tech industry to the U.S. economy and its effects on the present and future workplace. Testifying at the hearing were William T. Archey, President and CEO of the American Electronics Association; James Mitchell, Vice President of Human Resources for Texas Instruments; Rick Martino, Vice President of National Human Resources Operations for IBM; Rebecca Guerra, Vice President of Human Resources for Adobe Systems, Inc.; and Robert Lerman, Director of the Human Resources Policy Center for the Urban Institute.

The witnesses testifying supported the claim that the present American workforce cannot meet the needs of the growing high-tech industry because of the lack of skilled workers. The witnesses also recommended the passage of the TEAM Act [H.R. 634, 105th Cong. (1997); S. 295 RS, 105th Cong. (1997)] and raising or eliminating the H1–B visa cap (subsequently enacted in P.L. 105–277; this program establishes rules for and a cap on the entrance of visitation workers who enter the country to cover the high-tech industry) in order to alleviate the shortage of qualified high-tech workers.

6. Hearing on Innovative Workplaces for the Future

On May 20, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on innovative workplaces for the future in order to learn about the innovative programs of some of America's most successful businesses. Testifying at the hearing were Mary Joyce, Senior Director of Compensation and Benefits for Enron; Beth Tilney, Senior Vice President for Advertising, Communicants, and Organization Development for Enron; Ben Houston, President and CEO for T.D. Industries; Mary Anne Walk, Vice President of Labor Relations and Human Resources for AT&T; Conchita Robinson, Vice President of the U.S. Sales Centers for International Business Machines Corporation; Paul Rausch, President of Local 9231, United Steel Workers of America for I/N Tek I/N Kote; John Nielsen, Manager of Human Resources for I/N Tek I/N Kote; and David Sloan, General Manager of the Cotton Division for Delta Woodside.

The witnesses testifying summarized their respective company's innovative approach to workplace problems and industrial labor law conflicts.

7. Hearing on Meeting the Needs of the 21st Century Workforce

On June 24, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on meeting the needs of the 21st century workforce in order to learn more about the changing needs of American workers. Testifying at the hearing were Honorable Stephen Goldsmith, Mayor of Indianapolis; Gerald W. McEntee, International President for the American Federation of State, County and Municipal Employees; C. William Pollard, Chairman of ServiceMaster Company; Max Sawicky, Economist for the Economic Policy Institute; Denny Harris, Executive Director of the

Small Office Home Office Association; Robert Rzonca, Senior Vice President and Chief Personnel Officer for IPSCO, Inc.; Scott Shortridge, Maintenance Operator for IPSCO, Inc.; David Libby, Human Resources Manager for Champion Paper; Thomas Dougherty, President for United Paperworkers International Union Local 274; James J. Dowdall, Vice President of Labor Relations for Bell Atlantic; Kenneth Canfield, Telecommunications Technical Associate for Bell Atlantic; Elizabeth Jarrett, Principal for Public School 154, New York, NY; and Leroy Barr, Teacher for Public School 154, New York, NY.

The testimony supported the theory that in the 21st century people and information technology will be two key resources for competitive advantage. Witnesses gave examples of innovative workplace policies that their respective company had implemented and stressed the changing needs in today's workplace.

Federal workplace policies that impede the american worker: things that don't work

During the 105th Congress, the AWP conducted a series of roundtables, site visits, hearings, interviews, and financial analyses involving the U.S. Department of Labor and its related programs and agencies. These programs and agencies were examined in an effort to fulfill one of the major functions of the project, namely, to study federal workplace policies that negatively effect both the American worker and the workplace. In other words, how has labor law impinged upon the American workplace and worker—how has it become outdated—and how does it not fulfill its mission of protecting the American worker? Accordingly, set forth below is a brief analysis of the AWP's activities, along with summarized related findings where appropriate.

1. U.S. Department of Labor

a. Process Accountability

(1) Hearing on Determining the Appropriateness of Rulemaking at the U.S. Department of Labor—Regulatory Strategies Outside the Scope of the Administrative Procedure Act.

On May 8, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on determining the appropriateness of rulemaking at the U.S. Department of Labor, focusing on regulatory strategies outside the scope of the Administrative Procedure Act (5 U.S.C. § 551 et seq.). Testifying at the hearing were Marshall J. Breger, former Solicitor of Labor and current Professor of Law for Columbus School of Law at Catholic University; Charles Jeffress, Assistant Secretary of the Occupational Safety and Health Administration for the U.S. Department of Labor; John Fraser, Acting Administrator of the Wage and Hour Division for the U.S. Department of Labor; Stanley W. Levy, Chairman of the Labor Committee for the California Fashion Association; and Baruch Fellner, Representative for the U.S. Chamber of Commerce.

The hearing investigated the Occupational Safety and Health Administration's process for choosing companies for participation in its compliance programs. It also focused on lists published by the U.S. Department of Labor to honor companies with exemplary

practices. The lists were investigated because of concern over whether or not they were composed fairly.

(2) Hearing on Evaluating Regulatory Practices at the U.S. Department of Labor.

On June 19, 1998, the Subcommittee on Oversight and Investigation conducted a hearing evaluating regulatory practices at the U.S. Department of Labor. Testifying at the hearing were Ernest Gellhorn, Professor for George Mason University Law School; Ida Castro, Acting Director of Women's Bureau for the U.S. Department of Labor; and Suzanne Seiden, Acting Deputy Administrator of the Wage and Hour Division for the U.S. Department of Labor.

The hearing focused on the procedures followed by the U.S. Department of Labor committee that selected companies for the Trendsetter List, as well as the procedures involved in selecting companies for the Working Women Count Honor Roll. Testimony by witnesses supported concern over the integrity of the Department of Labor process.

b. Financial Accountability: Hearing on the U.S. Department of Labor: Financial Analysis and Management

On September 28, 1998, the Subcommittee on Oversight and Investigations conducted a hearing analyzing the financial management at the U.S. Department of Labor. Testifying at the hearing were James McMullen, Deputy Assistant Secretary of the Office for Administration and Management for the U.S. Department of Labor; Kenneth M. Bresnahan, Deputy Chief Financial Officer for the U.S. Department of Labor; Bryan T. Kielty, Administrator in the Office of Financial and Administrative Management of Employment and Training Administration for the U.S. Department of Labor; David C. Zeigler, Director of Administrative Programs of the Occupational Safety and Health Administration for the U.S. Department of Labor; Patricia A. Dalton, Deputy Inspector General for the U.S. Department of Labor; and Carlotta C. Joyner, Director of Education and Employment Issues for the U.S. General Accounting Office.

The hearing was a step toward understanding the financial structure of the U.S. Department of Labor ("Department"). While realizing what roles and what inter-departmental relationships exist within the Department, the Subcommittee learned how to achieve and receive reliable and accurate information. An overview of management and accountability issues was highlighted. The specific issues included the methodologies used by the Department in its financial accounting systems and internal tracking procedures for grant and contract management. Also, auditing procedures, bad debts, and a financially historical perspective on auditing financial accounts were highlighted.

2. Garment Industry

The garment industry was chosen for investigation because it is a microcosm of the industrial workplace. The globalization of the marketplace, technological advances, and shifting demographics have had a major impact on the entire American workplace and on this industry in particular. By looking at this specific industry,

then, one is able to more fully understand the issues facing the overall American workplace.

a. Hearing on Workplace Competitiveness Issues

On March 31, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on workplace competitive issues. Testifying at the hearing were the Representative Goodling, Chairman of the Committee on Education and the Workforce; Peter Kwong, Director of Asian Studies for Hunter College; six confidential and protected workers from the garment industry in Chinatown, New York, NY; Robert Fitch, Free-lance writer for the Village Voice; and John R. Fraser, Acting Administrator of the Wage and Hour Division for the U.S. Department of Labor.

The hearing focused on the abuse of garment workers in Chinatown, New York. Testimony by witnesses detailed the intolerable conditions of garment workers, as well as the inability of current labor laws to protect those workers.

b. Hearing on the Failures and Promises of the California Garment Industry

On May 18, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on the failures and promises of the California Garment Industry. Testifying at the hearing were Julie Su, Attorney for Asian Pacific American Legal Center; Enriqueta Soto, garment worker; Linda Klibanow, Attorney for Parker, Milliken, et. al.; Tauni Simo, Union of Needletrades, Industrial, and Textile Employees (UNITE) Member and Sorrento Coats employee; Marie Ramirez, UNITE member and Sorrento Coats employee; Petra De Leon, UNITE member and Sorrento Coats employee; Sang Yun Lee, former president of Goodtime Fashions, Inc. and Song of California Apparel Company, Inc.; Lonnie Kane, President of California Fashion Association and Karen Kane, Inc.; Richard Reinis, General Counsel for the Compliance Alliance; and Paul Gill, Senior Project Manager for Northern California Manufacturing Extension Partnership (Manex).

The hearing was held in order to learn about California's anti-sweatshop efforts. This included successful techniques used in California to combat sweatshops such as voluntary monitoring programs. Testimony by witnesses detailed the condition of garment workers in California and the alleged abuses conducted by the garment union in that state.

c. Hearing on the Rationale for and the Effect of the Garment Industry Proviso under Section 8(e) of the National Labor Relations Act

On August 6, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on the rationale for and the effect of the Garment Industry Proviso under Section 8(e) of the National Labor Relations Act (29 U.S.C. §151 et seq.). Testifying at the hearing were John Dunlop of the Department of Economics for Harvard University; Ray Marshall, of the University of Texas LBJ School of Public Affairs; Jay Mazur, President of Union of Needletrades, Industrial and Textile Employees (UNITE); James Wimberly, Attorney for Wimberly & Lawson; Robert T. Thompson, Attorney for

Thompson and Hutson; and Joel E. Cohen, Attorney for McDermott, Will & Emery.

The purpose of the hearing was to assess the strengths, weaknesses, and success of the Garment Industry Proviso of the National Labor Relations Act (29 U.S.C. §151 et seq.) and to evaluate whether the proviso, which exempts the garment unions for a particular provision of the law, has satisfied the congressional purpose upon which the exemption was premised. Testimony by witnesses emphasized that the Garment Industry Proviso is not well understood and has not been investigated by Congress in the past. Testimony also detailed the Proviso's failure to protect workers. Several witnesses, however, supported the continuation of the Proviso given the unique nature of the industry.

d. Hearing on Regulatory Activities at the U.S. Department of Labor—Garment Industry Trendsetters

On September 10, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on regulatory activities at the U.S. Department of Labor, focusing on the Garment Industry Trendsetter List. Testifying at the hearing were Suzanne B. Seiden, Acting Deputy Administrator of the Wage and Hour Division for the U.S. Department of Labor, and Andrew James Samet, Acting Deputy Undersecretary of the International Labor Affairs Bureau for the U.S. Department of Labor.

The hearing revisited the issue of the Trendsetter list initiated by the U.S. Department of Labor and the integrity involved in the selection process of companies for the list. Testimony by witnesses supported the statement that the U.S. Department of Labor made decisions that had economic effects on companies without proper procedural protections required by the Administrative Procedure Act. As a result of this hearing, the U.S. Department of Labor discontinued the display of the Trendsetter List on its website.

e. Hearing on the Role of Business in the Competitive Garment Industry

On September 25, 1998, the Subcommittee on Oversight and Investigations conducted a hearing on the role of business in the competitive garment industry. Testifying at the hearing were Honorable Catherine Nolan, Member of the New York State Legislature, and Larry Martin, President of the American Apparel Manufacturers Association.

The focus of the hearing was to gather information on the global competitiveness of the U.S. garment industry. The hearing was held to enable jobs to remain in America by finding a way to help the garment industry compete through adopting policies that will improve the country's competitiveness. Testimony by witnesses supported the fact that the U.S. Department of Labor's methods for enforcing legislation relating to the garment industry has been ineffective in protecting workers from abuses. Witnesses differed in their opinions on the likelihood that a joint liability law would increase compliance with current labor law. Testimony also included a review of the American Apparel Manufacturers Association compliance program, which involves and goes beyond compliance to

labor legislation relating to working conditions and which will be ready for implementation in 1999.

Hearings and field oversight conducted by the American worker at a crossroads project

105th Congress, First Session

October 29, 1997—Oversight hearing on the future of work in America.

December 10, 1997—Field visit to and roundtable discussion with various sectors of the maritime industry, in Seattle, Washington; site visit to the Fraser Boiler Company in Seattle, Washington.

December 10, 1997—Field visit to and roundtable discussion with the Construction Industry Training Council (CITC), in Bellevue, Washington; site visit to the CITC facility in Bellevue, Washington.

December 11, 1997—Field visit to and roundtable discussion with the Microsoft Corporation, in Redmond, WA; site visit to the Microsoft Corporation facility in Redmond, Washington.

December 11, 1997—Field visit to and roundtable discussion with the King County Waste Water Management Plant, in Seattle, Washington.

December 12, 1997—Field visit to and roundtable discussion with the American Electronics Association, in Santa Clara, California.

December 12, 1997—Field visit to and roundtable discussion with the Mission College, in Santa Clara, California.

December 12, 1997—Field visit to and roundtable discussion with 3Com Corporation, in Santa Clara, California.

105th Congress, Second Session

January 12, 1998—Field visit to and roundtable discussion with the GTE Service Corporation, in Irving, Texas.

January 12, 1998—Field visit to and roundtable discussion with the Workforce Development Board, in Irving, Texas.

January 12, 1998—Field visit to the Intel Corporation and roundtable discussion with representatives of the semi-conductor and high-technology industries and members of the Fort Worth Chamber of Commerce, in Fort Worth, Texas.

January 13, 1998—Field visit to and roundtable discussion with the Greater Houston Partnership, in Houston, Texas.

January 20, 1998—Field visit to Roswell, Georgia and roundtable discussion with representatives of small business and education communities in Roswell, Georgia.

January 20, 1998—Field visit to and roundtable discussion with the Lockheed-Martin Aeronautical Systems, in Marietta, Georgia.

January 20, 1998—Field visit to and roundtable discussion with the International Business Machines Corporation, in Smyrna, GA.

January 20, 1998—Field visit to and roundtable discussion with the BellSouth Corporation, in Atlanta, Georgia.

February 16, 1998—Field visit to Chinatown in New York City, New York, and discussion with representatives of garment industry workers.

February 17, 1998—Field visit to and roundtable discussion with the Fluor Daniel Company, in Greenville, South Carolina.

February 17, 1998—Field visit to and roundtable discussion with the Perception Kayaks, Inc. company, in Easley, South Carolina.

February 17, 1998—Field visit to and roundtable discussion with the Delta Woodside Company, in Fountain Inn, South Carolina.

February 17, 1998—Field visit to Greenville, South Carolina, and roundtable discussion with various small and large business owners in Greenville, South Carolina.

March 18, 1998—Field visit to Chinatown in New York City, New York, and discussion with representatives of garment industry workers.

March 24, 1998—Field visit to Chinatown in New York City, New York, and discussion with representatives of garment industry workers.

March 30, 1998—Field visit to Chinatown in New York City, New York, and discussion with representatives of garment industry workers.

March 31, 1998—Oversight hearing on workplace competitiveness issues.–

April 13, 1998—Field visit to and roundtable discussion with United Solar Systems Corporation, in Troy, Michigan.

April 13, 1998—Field visit to Troy, Michigan and roundtable discussion with business leaders in Troy, Michigan.

April 13, 1998—Field visit to and roundtable discussion with Chrysler Corporation, in Auburn, Michigan.

April 15–16, 1998—Field visit to Los Angeles, California and discussion with representatives of garment industry workers.

April 23, 1998—Oversight hearing on the emerging high-tech industry.

April 28, 1998—Oversight hearing on the effects and the enforcement of industrial age labor laws on American workers in the information age.

May 8, 1998—Oversight hearing on determining the appropriateness of rulemaking at the U.S. Department of Labor, dealing with the regulatory strategies outside the scope of the Administrative Procedure Act.

May 18, 1998—Oversight field hearing on the failures and promises of the California garment industry held in Los Angeles, California.

May 20, 1998—Oversight hearing on innovative workplaces for the future.

June 19, 1998—Oversight hearing on evaluating regulatory practices at the U.S. Department of Labor.

June 24, 1998—Oversight hearing on meeting the needs of the 21st century workforce.

August 6, 1998—Oversight hearing on the rationale for and the effect of the garment industry proviso under Section 8(e) of the National Labor Relations Act.

September 9, 1998—Field visit to Detroit, Michigan, to give speech on "The American Worker At A Crossroads Project" to the Detroit Economic Club.

September 10, 1998—Oversight hearing on regulatory activities at the U.S. Department of Labor.

September 23–24, 1998—Field visit to Everett, Washington, and interviews with numerous union members.

September 25, 1998—Oversight hearing on the role of business in the competitive garment industry.

September 28, 1998—Oversight hearing on the financial analysis and management accountability of the U.S. Department of Labor.

October 5, 1998—Discussion with various community leaders on the Americans with Disabilities Act and its effect on the workplace.

October 21–23, 1998—Field visit to San Diego, California, to give presentation on "The American Worker At A Crossroads Project."

American worker at a crossroads project statistics

Total Number of Hearings	13
Field	1
Joint with Other Committees	0
Total Number of Roundtable Discussions	30

MINORITY VIEWS

COMMITTEE ACTIVITY REPORT, DECEMBER 30, 1998

An activity report is not a forum in which Committees make allegations and records conclusions reached by the Committee. An activity report is supposed to detail, in a bipartisan objective fashion, the work done by the Committee, including the hearings held, the witnesses called, the issues discussed, and the information received. The chapter concerning the Teamsters Investigation fails to detail the work of the Subcommittee. Instead, it asserts partisan and unsupported allegations that have largely been dispelled during the course of the Subcommittee's investigation. Perhaps the omission of a description of the hearings held and evidence received is due to the fact that, during the course of the Subcommittee's investigation, the Subcommittee received testimony and documents that were contrary to allegations raised by the Majority. Not only does the omission of testimony and evidence received by the Subcommittee result in a misleading portrayal of the investigation, it also results in a failure to identify the information that the activity report is supposed to disclose—the activities of the committee. Having spent millions of dollars on the Teamsters investigations, one would think that the Majority would account for their expenditures by detailing the work performed with this money.

The Minority will not respond here to the substantive allegations raised in this activity report, but will reserve comment for an appropriate forum, the report of the investigation. When and if a final report of the investigation is released, a full discussion of the evidence and the Minority views thereon will be detailed.

We also oppose the Majority's conclusion that we should not expand the Family and Medical Leave Act. Millions of Americans are currently unable to take unpaid leave to care for their sick parents or children. We also oppose the Majority's conclusion that we should reduce the Federal Government's commitment to public education. The public overwhelmingly supports greater Federal investment in education.

WILLIAM L. CLAY.

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