

**THE IMPACT OF THE EMPLOYER MANDATE'S
DEFINITION OF FULL-TIME EMPLOYEE ON
JOBS AND OPPORTUNITIES**

HEARING
BEFORE THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
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CONTENTS

Advisory of January 28, 2014 announcing the hearing	Page 2
WITNESSES	
Peter Anastos, Owner and Co-Founder, Maine Course Hospitality Group	19
Lanhee J. Chen, Ph.D., Research Fellow, Hoover Institution, Lecturer in Public Policy, and Lecturer in Law, Stanford University	7
Helen Levy, Ph.D., Research Associate Professor, University of Michigan In- stitute for Social Research, School of Public Health, and Gerald R. Ford School of Public Policy	40
Thomas J. Snyder, President, Ivy Tech Community College	36
E. Neil Trautwein, Vice President and Employee Benefits Policy Counsel, National Retail Federation	28
SUBMISSIONS FOR THE RECORD	
The Honorable Sander Levin	82
The Honorable Lynne Jenkins	86
The Honorable Charles Boustany	88

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JOBS AND OPPORTUNITIES**

TUESDAY, JANUARY 28, 2014

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Camp [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
Tuesday, January 21, 2014
No. FC-14

CONTACT: (202) 225-3625

Chairman Camp Announces Hearing on the Impact of the Employer Mandate's Definition of Full-time Employee on Jobs and Opportunities

House Committee on Ways and Means Chairman Dave Camp (R-MI) today announced that the Committee will hold a hearing on the impact of the Affordable Care Act's (ACA) employer mandate, which defines full-time employment as 30 hours per week for the purposes of applying the employer mandate. The Committee will hear testimony from a broad cross section of industries affected by the rule. **The hearing will take place on Tuesday, January 28, 2014, in 1100 Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear from the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record.

BACKGROUND:

The ACA imposes a requirement that employers with more than 50 full-time employees (FTEs) offer health coverage to their workers or be subject to one of two new penalty taxes. First, employers that do not offer qualified health insurance and have at least one employee receiving a tax credit for insurance through the Exchange are subject to a \$2,000 penalty tax for each FTE in excess of the first 30. Second, employers who offer insurance that fails to meet the Federal Government's standard for affordability are required to pay a penalty tax for every employee who receives a tax credit to purchase coverage through the Exchange. This penalty tax will equal the lesser of (1) \$3,000 per employee who receives subsidized coverage in the Exchange or (2) the penalty tax the employer would have to pay if it did not offer health insurance (described above).

Prior to the enactment of the ACA, it was common practice for employers to use 40 hours as the definition of a full-time employee. However, under Internal Revenue Code section 4980H, enacted by the ACA, an FTE is defined as an employee who works at least 30 hours per week. Some commentators have expressed concern that this rule has created an incentive for employers to limit the number of employees whose hours exceed 30 hours per week because the penalty taxes applied are calculated based, in part, on the number of employees who exceed 30 hours. Industries that employ lower skill workers, and often provide entry-level opportunities for younger workers, are disproportionately affected by the 30-hour rule. For example, employers in the restaurant, franchise, home health, movie theater, retail and grocery industries have been reported to have reduced or are planning to reduce hours for their part-time workers as a result of the 30-hour rule. Additionally, school districts, community colleges and universities have reduced work hours for students, adjunct professors and support staff.

Today, more than 159 million Americans receive health coverage from their employers, making employer-sponsored insurance (ESI) the largest single source of private health coverage. Yet, not all businesses have the resources to provide coverage to their employees, and not all employees seek jobs for the sole purpose of receiving ESI.

While the Treasury Department has suspended enforcement of the employer mandate for 2014, the mandate and associated penalty taxes come into effect on January 1, 2015.

In announcing the hearing, Chairman Camp stated, **“Washington should be removing obstacles to individuals finding full-time work, not creating them. Instead, ObamaCare imposes large and disproportionate costs on employers and has created a new class of employees, the ‘ObamaCare 29ers.’ Many of these people have either lost or risk losing their full-time status and are being held back through no fault of their own but instead by a misguided law. As a result, they will see fewer hours and lower wages, and that is the opposite of the direction we need to be going to make our economy stronger for families and job creators.”**

FOCUS OF THE HEARING:

The hearing will focus on the employer mandate and the so-called 30-hour rule of the Affordable Care Act.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <https://waysandmeans.house.gov>, select “Hearings.” Select the hearing for which you would like to submit, and click on the link entitled, “Click here to provide a submission for the record.” Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Tuesday, February 11, 2014**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721 or (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TDD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://www.waysandmeans.house.gov/>.

Chairman CAMP. Good morning. This hearing will come to order.

Less than 7 months ago, the Administration announced that they would delay the employer mandate for a year. They acknowledged what many had been saying since the law passed, the employer mandate is bad for business and, in turn, bad for American workers.

While the Administration offered a brief reprieve from the employer mandate, the pain ObamaCare is inflicting both on job creators and hardworking Americans is only getting worse.

As the President prepares to deliver his State of the Union speech tonight, he will likely and appropriately discuss pressing issues facing millions of Americans such as unemployment, education, and economic opportunity. However, what we will be missing is the admission that the President's signature policy achievement is forcing Americans to lose their jobs, have their wages cut, and taking educators out of the classroom.

The law is increasing costs for families and individuals already struggling in this economy. Specifically, the 30-hour rule in the healthcare law, which is the topic of the hearing today, is forcing employers to make the tough decision of cutting hours and workers and preventing them from growing their businesses.

The people hit the hardest by the law are not bankers, lawyers, and doctors. They are the single mothers working a restaurant job, the college students paying for their own education by working at the local grocery store, or the firefighters living down the street.

In fact, a report by the University of California at Berkeley Center for Labor Research and Education concluded, and I quote, "Those at highest risk are workers in predominately low-wage industries that are right on the cusp of what is considered full-time work under the law." These are Americans living paycheck to paycheck, who are already paying more for food and more for their health care, and are now being hurt again by the burdens of the President's healthcare law.

According to a new Hoover Institution study, the 30-hour rule will affect over 2.6 million workers making, on average, under \$30,000 per year, and almost 90 percent of those impacted do not have college degrees. I am sure every Member that sits here today has heard stories from families who have had their hours cut and are now forced to make tough financial decisions.

A faculty member at a community college in my district wrote to me recently and said, and I am quoting here, "I hold two part-time positions. Today I was informed I cannot continue to do both jobs because of ObamaCare laws. Beginning in August, I will no longer be advising and will lose approximately a third of my income. Last year I bought a house, a house I now fear I will no longer be able to afford."

Another one of the people I represent in Michigan told a story of struggling to find a job as a result of the law, writing, and I am quoting here, "I am currently unemployed and seeking work in our greater mid-Michigan area. After looking for employment for some time now, I have discovered I have a common theme among many hiring companies in the area—part-time work positions only available. From what I understand, many employers are now reducing

hours, changing full-time positions into multiple part-time staffing, as to avoid the ACA.”

I hope today we can move past the denials that this law does not have an effect on jobs. When I read story after story of how the 30-hour rule is cutting hours for adjunct professors, cutting hours for part-time firefighters, for hourly workers, and for low-income Americans struggling to make ends meet, it is hard to deny the reality that this law is hurting average Americans. The White House does not want to believe it, but we need to understand that the problem is real.

Republicans are working toward solutions so hardworking Americans do not have to worry about their hours and wages being cut as a result of ObamaCare. Todd Young’s legislation, the Save American Workers Act, would repeal the 30-hour definition of full-time employment and restore the traditional 40-hour definition so we can have more Americans working full-time jobs.

Getting Americans working again, or at least restoring the number of hours they used to be able to work, should not be a partisan issue. Both parties should be able to come together to ensure that we remove barriers to job growth and wage increases. The best thing we could do is repeal the entire law, but that cannot and should not deter us from looking at specific pieces of the law, which is what we will do today.

Before I recognize Ranking Member Levin for the purposes of an opening statement, I ask unanimous consent that all Members’ written statements be included in the record. And without objection, so ordered.

I now recognize Ranking Member Levin for his opening statement.

Mr. LEVIN. Thank you very much, and welcome. If I might, a special welcome to Dr. Levy from the University of Michigan. Mr. Camp and I have a special hello to you.

Chairman CAMP. Yes.

Mr. LEVIN. Today this Committee is holding a hearing on an issue that has been rehashed many times. Yet it has failed to have a single hearing on an issue also in our jurisdiction that already has directly affected the lives of 1.6 million people, their total loss of unemployment insurance.

A small percentage of employers, less than 1 percent, will be affected by the employer responsibility provision in the ACA. But more than 1.6 million long-term unemployed are facing right now the loss of their benefits, their cars, their homes.

I met last week at home with 25 long-term unemployed workers to hear their stories. One of them, Josie Masano of Saint Clair Shores, Michigan, is here today and will be my guest at the State of the Union tonight.

This hearing should be for us listening to her story and the stories of so many others, including that just mentioned by our Chairman. Instead, we are here today so that the majority can continue its endless pursuit of undermining a law that is already helping millions and is here to stay.

Today the majority brings us together to discuss the impact of ACA on jobs, employers, and the economy. Here is what they are unlikely to say.

First, a very small percentage of employers, less than 1 percent, will be affected by the so-called employer mandate provision within the law. Not only does it apply to businesses with 50 or more employees, making 95 percent of businesses exempt, all but 5 percent of businesses with more than 50 employees already offer their employees health insurance.

Providing employee coverage is both economic and a standard of business practice for businesses with more than 50 employees. In fact, this is why we use 50 employees as the cutoff for an exempt small business. It has been that way for years, and few expect that to change as a result of ACA.

Indeed, a recent survey found that 99 percent of employers will continue to offer coverage. In a real-world experience, that shows that employer-sponsored insurance in Massachusetts has increased since the State reforms.

Second, since the Affordable Care Act was signed into law 4 years ago, private employers have added more than 8 million jobs. More than 90 percent of the rise in employment nationwide has been due to workers in full-time jobs.

In fact, workers in the restaurant industry have seen their average weekly hours increase since the law was signed, contrary to the notion that there has been a widespread shift to reduce hours in that sector. Those who have threatened to cut hours in response to the law have been making such threats more than a year before the law was in effect.

Third, the Affordable Care Act is good for individuals who have dreamed of starting their own business or taking the risk to change jobs and help grow a small business. These entrepreneurs, like the 3 million people who have enrolled now, can get private health insurance through the Federal- and State-based marketplaces.

But, unfortunately, for 1.6 million job-seeking Americans, the last time this full Committee met for a hearing on a topic other than the Affordable Care Act was on July 18, 6 months and 10 days ago. Hope springs eternal that this Committee can restore its focus to the broad range of issues under our jurisdiction, which have the power to create economic growth and opportunity for our Nation and all our citizens. Thank you.

Chairman CAMP. Thank you, Mr. Levin.

I now want to welcome our panel of witnesses. First, I would like to welcome Lanhee J. Chen, a Research Fellow for the Hoover Institution at Stanford University. Second, we will hear from Peter Anastos, the owner and co-founder of the Maine Course Hospitality Group.

Third, we will hear from Neil Trautwein, Vice President and Employee Benefits Policy Counsel at the National Retail Federation. Fourth, we will hear from Thomas J. Snyder, the President of Ivy Tech Community College. And, finally, we will hear from Helen Levy, a Research Associate Professor at the University of Michigan.

Thank you all for being with us today. The Committee has received each of your statements. They will be made part of the formal hearing record. Each of you will be recognized for 5 minutes for your oral testimony and, Mr. Chen, we will begin with you.

You are recognized for 5 minutes.

**STATEMENT OF LANHEE J. CHEN, PH.D., RESEARCH FELLOW,
HOOVER INSTITUTION, LECTURER IN PUBLIC POLICY, AND
LECTURER IN LAW, STANFORD UNIVERSITY**

Mr. CHEN. Thank you, Mr. Chairman. Good morning.

Mr. Chairman, Ranking Member Levin, and Members of the Committee, thank you for the invitation to appear before you today to discuss the Affordable Care Act and the impact of its employer mandate's definition of full-time employee on jobs and opportunities. My name is Lanhee Chen. I am a Research Fellow at the Hoover Institution, a Lecturer in Public Policy, and a Lecturer in Law at Stanford University.

The Affordable Care Act, as a whole, creates significant disincentives for businesses to grow and hire workers, and no element of the law is more onerous in this regard than its employer mandate. And within the mandate, no provision is more controversial or more harmful to workers who can least afford it than the law's definition of a full-time employee as someone who works an average of 30 hours per week.

This seemingly small provision creates large incentives for employers to reduce the hours of employment for some workers. I argue that the 30-hour rule is harmful for three reasons, and I will briefly discuss each of these arguments.

First, the 30-hour rule hurts precisely those workers who can least afford to be hurt. Second, it creates additional costs and administrative complexities for employers which will prevent them from growing their businesses. And, finally, it uniquely hurts educational opportunities by adversely affecting both workers and students in school districts, colleges, and universities.

First, the ACA's 30-hour rule adversely affects those who can least afford to be hurt. Currently, 7.8 million Americans are working part-time but want full-time work. Indeed, the 30-hour rule makes it more unlikely that these Americans can get the jobs they want and need.

Chairman Camp mentioned earlier a study from the University of California at Berkeley which found that about 2 million Americans are part of a vulnerable population to have their hours reduced as a result of the ACA's 30-hour rule. My colleagues and I at the Hoover Institution recently updated and refined this study to conclude that 2.6 million Americans are in danger because of the 30-hour rule.

Our research also found that the 30-hour rule disproportionately harms women, those without a college degree, young Americans, and the poor. The industries most likely to be harmed are workers working in the retail trade, restaurants, accommodation, building services, and nursing homes.

This matches up, indeed, with the anecdotal information we are receiving from employers. One media outlet reported in December of 2013 that 388 employers have already restricted work hours to below 30 hours per week because of the ACA's 30-hour rule.

Notable examples include Sea World Entertainment, David's Bridal, several Subway Restaurants franchisees, and Lands' End. Regal Entertainment Group, which operates more than 500 movie theaters across 38 States, cut hours for non-salaried workers to stay below the 30-hour threshold.

And, indeed, this phenomenon is not limited to the private sector. In the public sector, municipalities and States, from my home State of California, in Long Beach, to your home State, Mr. Chairman and Ranking Member Levin, of Michigan, the City of Auburn Hills, have reduced the number of hours for part-time employees in order to deal with the ACA's 30-hour rule.

Second, the ACA's creation of a separate rule governing the definition of a full-time employee creates added administrative complexities and costs for employers. These added costs and complexities may create disincentives for hiring and growth.

The 30-hour rule creates additional health benefit costs for employers. Indeed, those employers who currently offer health insurance to all of their full-time employees and intend to continue doing so will face added costs. And given the individual mandate and what we expect to be higher premiums on the exchanges, employers may see many of their employees opting for health insurance, further raising their costs.

Employers also face significant new recordkeeping and reporting requirements in complying with the 30-hour rule. Regulatory guidance issued recently by the Internal Revenue Service mandates complicated calculations and recordkeeping regarding an employee's hours of service.

The rules differ by whether employees are new or ongoing, and in the case of new employees, whether they are expected to work full-time or are variable or seasonal employees. Even those employers that provide health coverage to all of their full-time employees are now required to track and record those hours of service in a way that is potentially onerous and complicated.

Finally, the 30-hour rule must be addressed because of the negative impact it has on school districts, colleges, and universities. Indeed, about 225,000 workers in the educational industry face having their hours cut because of the ACA's 30-hour rule, and a recent analysis revealed that 100 school districts alone, including dozens in Indiana, have either cut worker hours or outsourced jobs to deal with the ACA's employer mandate.

In sum, Mr. Chairman, the 30-hour rule in the Affordable Care Act has impacts that reach far beyond our healthcare system. Its negative effect on jobs and economic opportunities are of greatest concern to me.

Mr. Chairman, Ranking Member Levin, and Members of the Committee, I look forward to your questions.

[The prepared statement of Mr. Chen follows:]

Testimony Before the Committee on Ways and Means
United States House of Representatives

**Hearing on the Impact of the Affordable Care Act (ACA) Employer
Mandate's Definition of Full-Time Employee on Jobs and
Opportunities**

Lanhee J. Chen, Ph.D.¹
Research Fellow, Hoover Institution, Stanford University
Lecturer in Public Policy, Stanford University
Lecturer in Law, Stanford University
January 28, 2014

¹ The views presented in this testimony are my own, and do not represent the positions of the Hoover Institution or Stanford University. I am grateful to Daniel Heil and Thomas Church, my colleagues at the Hoover Institution, for their assistance in the preparation of this testimony.

Chairman Camp, Ranking Member Levin, and Members of the Committee:

Thank you for the invitation to appear before you today to discuss the Affordable Care Act (ACA) and the impact of its employer mandate's definition of "full-time employee" on jobs and opportunities.

My name is Lanhee Chen, and I am a Research Fellow at the Hoover Institution, as well as a Lecturer in Public Policy and a Lecturer in Law at Stanford University. In those capacities, I conduct research, teach, and write about a number of contemporary health policy issues.

I believe that the ACA as a whole creates significant disincentives for businesses to grow and hire new workers. But no element of the law is more directly impactful to American employers than its requirement that some of them furnish health insurance to their employees.² And within the employer mandate, no provision is more controversial—or more harmful to those workers who can least afford it—than the law's definition of who qualifies as a "full-time employee" for purposes of determining compliance with the law.

Background: The ACA's Employer Mandate and Its 30-Hour Rule

Nearly 160 million Americans receive health insurance coverage through their employers. Prior to passage of the Affordable Care Act, federal policy generally encouraged employers to offer health coverage by making it voluntary—with only occasional legislative or regulatory intervention.³ Employers have therefore been free to innovate and tailor benefit designs to meet the needs of a changing workforce. Today, these employer-sponsored plans are leading the way toward better quality and greater efficiencies in our health care system.

The Affordable Care Act, however, takes forty years of federal policy and turns it on its head; it is a highly prescriptive and complex law that imposes a myriad of new rules and regulations on employers.

Most importantly, employer-sponsored health insurance is no longer voluntary for some businesses because of the ACA. The law requires that employers with at least 50 full-

² The employer mandate was added by Section 1513 of the Patient Protection and Affordable Care Act and is codified in 26 U.S.C. § 4980H.

³ The precedent for this was set by passage of the Employee Retirement Income Security Act of 1974 (ERISA), which does not require that an employer furnish health insurance benefits to its employees. See 29 U.S.C. § 18 et seq. ERISA also set uniform federal standards for self-insured health benefits plans, and broadly preempted the regulation of these plans at the state level. In fact, ERISA was subsequently used to bar the imposition of employer mandates at the state level. Major modifications to ERISA since its passage included the enactment of a continuing coverage requirement; protections against discrimination or the denial of coverage due to a preexisting health condition; a mental health parity requirement; and benefit mandates relating to coverage for mothers and their newborn children as well as certain cancer patients.

time employees (FTEs) offer health benefits to their employees. Those employers that do not are subject to one of two new tax penalties.

First, employers that do not offer health coverage *and* have at least one FTE receiving a tax credit or cost-sharing reduction for insurance through the ACA's health insurance exchanges are subject to a tax penalty.⁴ Second, employers that offer health insurance, *but* have at least one FTE receiving a tax credit or cost-sharing reduction to purchase health insurance through the ACA's exchanges, are also subject to a penalty.⁵

As if the employer mandate weren't onerous enough, the ACA defines a "full-time employee" as someone who is employed an average of at least 30 hours per week.⁶ This provision, in particular, creates significant administrative complexities for employers and provides them with strong economic incentives to shift workers from full-time work, defined by the ACA as at least 30 hours per week, to part-time work.

Thus, the 30-hour rule creates a "double whammy" for employers that are trying to determine whether they are subject to the mandate. First, and most obviously, any employee who is employed an average of 30 hours per week or more is a "full-time employee" and must be included in the calculation. Second, an employer must consider not only the number of full-time employees it has but also the number of "full-time equivalents" it employs. And the formula the law uses to calculate these full-time equivalents assumes that full-time employment equals an average of 30 hours per week. If the total number of full-time employees plus full-time equivalents exceeds fifty, the employer is subject to the ACA's employer mandates and its accompanying penalties.

The Damage Created By the 30-Hour Rule

The 30-hour rule is particularly damaging because it impacts the economic incentives that employers have to hire and/or retain labor. Since full-time work is defined in the ACA as work for an average at least 30 hours per week, employers might have an incentive to reduce the hours of some workers who are close to the 30-hour threshold.

More specifically, I believe the 30-hour rule must be replaced for three reasons: First, it disproportionately affects low-wage workers—those who can least afford it. Second, it creates administrative complexities and additional costs for businesses, making it less likely that they will expand and create new jobs. Finally, it adversely impacts school districts, institutions of higher learning, and educational opportunities. I address each of these arguments in turn.

⁴ The penalty is \$2,000 for each full-time employee in excess of the first 30. See 26 U.S.C. § 4980H(c)(1).

⁵ The penalty is the lesser of \$3,000 per full-time employee who receives subsidized coverage or the penalty the employer would have to pay if it did not offer health insurance, as calculated in 26 U.S.C. § 4980H(c)(1). See 26 U.S.C. § 4980H(b)(1).

⁶ The employer mandate provision defines a "full-time employee" as someone who is "employed on average at least 30 hours of service per week." 26 U.S.C. § 4980H(c)(4)(A). It also requires employers to add to the number of employees the number of full-time equivalents, which are calculated by "dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120." 26 U.S.C. § 4980H(c)(2)(E).

The 30-Hour Rule Hurts The Workers Who Can Least Afford It

Americans who are currently in relatively low-wage, low-skilled jobs will be most acutely impacted by the ACA's 30-hour rule. Most broadly, there are currently 7.8 million Americans who working part-time but want full-time work.⁷ The 30-hour rule only makes it more unlikely that these Americans can find the jobs they want and need.

A more precise estimate of the number of Americans who are vulnerable to having their work hours reduced as a consequence of the ACA's 30-hour rule was performed by the Labor Center at the University of California, Berkeley in February 2013.⁸ The Berkeley study defined the "vulnerable population" as those Americans working at firms with more than 100 employees; who were employed between 30 and 36 hours per week; who had family incomes below 400% of the Federal Poverty Level (FPL); and who did not receive health insurance through their employers. Those researchers concluded that 2.3 million workers, or approximately 2% of the United States workforce, were at greatest risk for a reduction of hours because of the 30-hour rule.

My colleagues and I at the Hoover Institution recently updated and refined the analysis done by the UC Berkeley researchers.⁹ We utilize the same definition of the "vulnerable population" and conclude that a total of 2.6 million workers, or 3.1% of the United States workforce, are a part of this group. Table 1 in the Appendix provides a breakdown, by industry, of the number of employees, as well as the percentage of overall workers in the United States workforce, who fall into the "vulnerable population."

I provide here a few descriptive statistics regarding the Americans who are most at risk because of the 30-hour rule. First, the 30-hour rule disproportionately affects women; in fact, 63% of those most at risk of lost hours are female. Furthermore, the vast majority (89%) of those potentially affected do not have a college degree, with over half of the group having a high school diploma or less. Almost 60% of the group is between the ages of 19 and 34, making the 30-hour rule particularly damaging for younger American workers. Finally, the median income of workers in the "vulnerable population" is

⁷ This figure comes from the monthly household employment survey conducted by the Bureau of Labor Statistics and is reported in Table A-8 as the number of Americans employed part-time for economic reasons ("those who want and are available for work but have had to settle for a part-time schedule.") The most recent data are from the December 2013 survey, available at: <http://www.bls.gov/news.release/empst.t08.htm>.

⁸ Graham-Squire, David and Jacobs, Ken, "Data Brief: Which Workers are most at risk of reduced work hours under the Affordable Care Act?," *UC Berkeley Labor Center*, Feb. 2013. Available at: http://laborcenter.berkeley.edu/healthcare/reduced_work_hours13.pdf

⁹ Our analysis relies on the 2011, 2012, and 2013 Current Population Survey (CPS) March Supplement data. It uses the detailed Census industry codes to provide breakdowns by specific industries. Perhaps most importantly, our analysis relies on a recent improvement in the CPS data (specifically the firm size variable), which allows researchers to separately identify firms with 50 or more employees. There are three differences of note from the Berkeley analysis: (1) we use more current (2011-13) data; (2) our analysis is able to specifically identify workers in firms with greater than 50 employees, where the Berkeley analysis was limited to workers in firms with greater than 100 employees; and (3) the industry-specific data is broken down on the basis of Census industry codes, whereas the Berkeley analysis relied on proprietary industry categories that were not perfectly replicable using publicly available CPS variables.

\$14,333 per year for individuals and \$29,126 for families. Tables 2 through 4 in the Appendix provide additional descriptive statistics of interest.

Americans that work in the retail trade or at restaurants are most at risk of having their hours cut, according to our analysis. Over 600,000 workers in the retail trade, or 6.3% of workers in that industry, and 589,000 workers in restaurants, or about 15.4% of workers in that industry, are at risk because of the 30-hour rule. A notable percentage of employees in the accommodation, building services, and nursing home industries are also at risk.

These data are consistent with actual reports regarding employer behavior that have been made publicly available over the last year. It is certainly the case that not every firm or every type of worker will be impacted by the 30-hour rule. It is unlikely, for example, that law firms will cut associate hours or investment banks will cut the hours of bond traders in order to avoid the impact of the ACA's employer mandate. But, as the analysis above reveals, those most affected by the rule are American workers who can least afford it.

Although some have argued that the ACA is not the definitive reason for this behavior, the law creates strong incentives to engage in precisely the behavior that has been observed. Andrew Puzder, the CEO of CKE Restaurants, Inc., the parent company of Carl's Jr. and Hardees Restaurants, put it best: "The evidence that ObamaCare is having a negative impact on hiring is unequivocal, abundant, and consistent with common sense."¹⁰

The actual reports of reductions in hours coming from employers around the country are impossible to ignore. One media outlet compiled in December 2013 a list of 388 employers that had restricted work hours to below thirty hours per week.¹¹ Notable examples of employers on the list included SeaWorld Entertainment, David's Bridal, several Subway Restaurants franchisees, and Land's End. Another media account noted that clothing retailer Forever 21 planned to cut hours and reclassify some full-time employees as part-time workers.¹² Regal Entertainment Group, which operates more than 500 movie theatres across 38 states, cut hours for non-salaried workers to stay below the 30-hour per week threshold, citing the Affordable Care Act as the reason why.¹³ Finally, a 2012 survey of employers by Mercer consulting found that almost 70% of employers in retail and wholesale firms that do not offer health coverage today "are

¹⁰ Andrew Puzder, "Obamacare and the Part-Time Economy," *The Wall Street Journal*, Oct. 10, 2013.

¹¹ Jed Graham, "ObamaCare Employer Mandate: A List of Cuts to Work Hours, Jobs," *Investors Business Daily*, Dec. 19, 2013. Available at: <http://news.investors.com/politics-obamacare/121913-669013-obamacare-employer-mandate-a-list-of-cuts-to-work-hours-jobs.htm>.

¹² Karen McVeigh, "US employers slashing worker hours to avoid Obamacare insurance mandate," *The Guardian*, Sep. 30, 2013. Available at: <http://www.theguardian.com/world/2013/sep/30/us-employers-slash-hours-avoid-obamacare>. Forever 21 denied in the article that the changes in employment practices had anything to do with the ACA.

¹³ Jessica Chasmar, "Regal Cinemas cuts workweek for thousands, blames 'Obamacare'," *Washington Times*, Apr. 16, 2013. Available at: <http://www.washingtontimes.com/news/2013/apr/16/regal-cinemas-cuts-workweek-thousands-blames-obama/>.

more inclined to change their workforce strategy so that fewer employees meet that [30 hour a week] threshold.”¹⁴

Workers in the public sector are also seeing their hours cut because of the ACA's 30-hour rule. Reports from municipalities and states across the country—from Long Beach, CA to Auburn Hills, MI—are that workers' hours are being cut to fewer than 30 hours per week. And, as will be discussed more substantially below, the 30-hour rule is particularly harmful to part-time workers in school districts, community colleges, and other educational institutions across the country.

Finally, workers who have seen their hours cut must also deal with the fact that the ACA is leading some employers to cut health benefits for part-time workers. Recent media reports have indicated that major employers like Target, Inc., Home Depot, and Trader Joe's have stopped offering health benefits to part-time employees—at least in part due to the ACA.¹⁵

The 30-Hour Rule Creates Added Administrative Complexities and Costs for Employers

The ACA's creation of a separate rule governing the definition of a “full-time” employee creates added administrative complexities and costs for employers. These added costs and complexities may act as disincentives for additional hiring and growth.

First, it is a widely held understanding that an employee who works a 40-hour workweek is employed full-time. This understanding is also codified in the Fair Labor Standards Act, which does not define “full-time” employment but does mandate the payment of overtime for nonexempt employees who work more than 40 hours per week.¹⁶

Moreover, the 30-hour rule creates additional health benefits costs for employers. Those employers who currently offer health insurance to all of their full-time employees and will continue doing so—even with the 30-hour rule—are now required to extend coverage to additional employees. Given the individual mandate and the anticipated expense of plans in federal and state-level health insurance exchanges, employers may see many of their employees who are working between 30 and 40 hours per week electing coverage. For employers, these costs are added to expected increases in health costs caused by other components of the ACA, and health inflation more generally. A recently released letter from Delta Airlines to the Obama Administration disclosed the magnitude of these cost increases for one large employer. Delta

¹⁴ “Obamacare and the ‘29ers,’” *The Wall Street Journal*, Feb. 26, 2013.

¹⁵ Clare O'Connor, “Target Joins Home Depot, Walmart, Others In Cutting Health Care For Part-Timers, Citing Obamacare,” *Forbes.Com*, Jan. 22, 2014. Available at: <http://www.forbes.com/sites/clareoconnor/2014/01/22/target-joins-home-depot-walmart-others-in-dropping-health-care-for-part-timers-citing-obamacare/>.

¹⁶ See generally 29 U.S.C. § 207 (setting forty as the maximum hours that many employees may work before earning overtime benefits).

estimated that the ACA would be responsible, at least in part, for an increase of nearly \$100 million in the company's health care costs in 2014.¹⁷

Employers also face significant new recordkeeping and reporting requirements in complying with the 30-hour rule. Regulatory guidance issued by the Internal Revenue Service requires employers to determine whether each employee averaged at least 30 hours of service per week "by looking back at a defined period of not less than three but not more than 12 consecutive calendar months, as chosen by the employer."¹⁸ If an employee is a full-time employee during this so-called "measurement period," he/she is treated as a full-time employee during a subsequent "stability period," regardless of his/her hours worked during the stability period. Furthermore, recordkeeping requirements vary based on whether employees are "new" or "ongoing" employees and, in the case of new employees, whether they are expected to work full-time or are "variable" or "seasonal" employees. Thus, many employers—particularly larger ones—will be faced with the administrative difficulties associated with tracking many different initial measurement and stability periods.

Even those employers that provide health coverage to all of their full-time employees will now be required to track and record hours of service under these proposed guidelines to comply with the reporting and payment obligations imposed by the employer mandate. This is because potential penalties under the mandate are based on the number of full-time employees and whether any full-time employees receive subsidized coverage through the ACA's health insurance exchanges.

The 30-Hour Rule Negatively Impacts Educational Opportunities

The final reason that I argue the 30-hour rule must be addressed is because of the negative impact it has on school districts, colleges, and universities.

The analysis of vulnerable workers referenced earlier found that about 225,000 workers in the education industry—about 2% of workers in that field—were at risk of seeing their hours cut because of the ACA's 30-hour rule. A recent analysis revealed that over 100 school districts across the country, including dozens in Indiana alone, have either cut worker hours or outsourced jobs to avoid the ACA's employer mandate.¹⁹ School districts have either cut the hours or outsourced the responsibilities of support staff like teachers' aides, bus drivers, and cafeteria workers to limit their financial liability under the 30-hour rule.

But the impact of the 30-hour rule is not limited to school districts; it also impacts institutions of higher learning. The 30-hour rule may actually limit a college or

¹⁷ Avik Roy, "Delta Air Lines: Next Year, Our Health Care Costs Will Increase By 'Nearly \$100 Million,'" *Forbes.Com*, Aug. 22, 2013. Available at: <http://www.forbes.com/sites/theapothecary/2013/08/22/delta-air-lines-next-year-our-health-care-costs-will-increase-by-nearly-100-million/>.

¹⁸ "Determining Full-Time Employees for Purposes of Shared Responsibility for Employers Regarding Health Coverage (§ 4980H)," Internal Revenue Service, U.S. Department of the Treasury, Notice 2012-58. Available at: <http://www.irs.gov/pub/irs-drop/n-12-58.pdf>.

¹⁹ Jed Graham, "100 School Districts Cut Work Hours, Blame ObamaCare," *Investor's Business Daily*, Oct. 18, 2013. Available at: <http://news.investors.com/politics-obamacare/101813-675710-100-school-districts-blame-obamacare-for-cuts-to-work-hours.htm>.

university's ability to offer certain courses or to ensure that students timely complete their degree requirements. Recent testimony from an employee benefits attorney to the House Education and the Workforce Committee revealed the particular difficulty that educational institutions (and particularly community colleges) face when hiring adjunct faculty members, who are generally hired to teach a specific course and are neither fully part-time nor full-time employees, making it difficult to track the number of hours they work per week.²⁰ Adjuncts are generally not offered health benefits—thus, to preserve this arrangement, colleges and universities are forced to take a conservative approach to the hiring of adjunct faculty, or to the number of courses which adjunct instructors are able to teach. This will, in turn, limit the courses that some colleges and universities are able to offer to their students.²¹

Conclusion

The 30-hour rule in the Affordable Care Act's employer mandate has impacts that reach far beyond the boundaries of our healthcare system. In fact, its negative effect on jobs and economic opportunities are of greatest concern.

I have argued here that the 30-hour rule most adversely affects the American workers who can least afford it; that it creates additional costs and administrative complexities for employers that will serve as disincentives to hire, grow, and invest; and that it negatively impacts educational opportunities. For all of these reasons, I believe the 30-hour rule is fundamentally flawed and must be replaced.

Mr. Chairman, thank you for the opportunity to appear before the Committee today. I look forward to taking your questions, and those of your colleagues on the Committee.

²⁰ Gregory L. Needles, Testimony before the House Committee on Education and the Workforce, "Impact of the Patient Protection and ACA on Educational Institutions," Nov. 14, 2013. Available at: http://edworkforce.house.gov/uploadedfiles/needles_testimony.pdf.

²¹ See, e.g., Tina Haynes, Chief Human Resource Officer, Rowan-Cabarrus Community College, Salisbury, NC, Testimony to the House Education and the Workforce Committee, Hearing on "Healthcare Challenges Facing North Carolina's Workers and Job Creators," Apr. 30, 2013 (arguing that community college students could face difficulties graduating because of the impact of ACA on hiring adjunct faculty).

Appendix

Table 1. Hours Worked by Industry in Firms with 50 or More Employees

	Number of Workers (thousands)					Percent of Workers				
	Hours Vary	Below 30 hrs	30 to 36 hrs	37+ hrs	Vulnerable Population	Hours Vary	Below 30 hrs	30 to 36 hrs	37+ hrs	Vulnerable Population
Agriculture, Forestry, Mining	88	22	26	912	17	8.4%	2.1%	2.5%	87.0%	1.6%
Construction	167	56	94	2,394	38	6.2%	2.1%	3.5%	88.3%	1.4%
Manufacturing	460	180	332	9,592	118	4.4%	1.7%	3.1%	90.8%	1.1%
Utilities, Transportation, Communication	382	326	252	4,889	77	6.5%	5.6%	4.3%	83.6%	1.3%
Wholesale	92	72	69	1,940	30	4.2%	3.3%	3.2%	89.3%	1.4%
Retail Trade	624	1,655	1,292	5,935	602	6.6%	17.4%	13.6%	62.4%	6.3%
Financial	203	240	248	5,502	58	3.3%	3.9%	4.0%	88.8%	0.9%
Education	482	1,569	1,043	7,701	225	4.5%	14.5%	9.7%	71.3%	2.1%
Accommodation	59	83	127	640	70	6.5%	9.1%	14.0%	70.4%	7.7%
Restaurants	340	946	873	1,676	589	8.9%	24.7%	22.8%	43.7%	15.4%
Bldg. Services	26	72	46	303	27	5.9%	16.1%	10.3%	67.6%	6.1%
Health Care	422	997	1,424	6,869	238	4.3%	10.3%	14.7%	70.7%	2.5%
Nursing Home	64	153	239	898	103	4.7%	11.3%	17.6%	66.3%	7.6%
Other Services	905	1,325	1,122	15,706	403	4.7%	7.0%	5.9%	82.4%	2.1%
Total	4,314	7,697	7,188	64,956	2,596	5.1%	9.1%	8.5%	77.2%	3.1%

Notes: Analysis based on Graham-Square and Jacobs (2013). Numbers may not add up due to rounding. Data from 2011, 2012, and 2013 Current Population Survey March Supplements was used and is limited to workers aged 19-64. Vulnerable population limited to those working between 30 to 36 hours, with family incomes below 400% of the federal poverty line, and who do not receive health insurance from their employers. Industry classifications based on Census detailed industry codes.

Table 2. Vulnerable Population by Gender

	Total	Percent of Vulnerable Population
Female	1,638,774	63.1%
Male	957,127	36.9%

Table 3. Vulnerable Population by Level of Educational Attainment

Level of Attainment	Total	Percent of Vulnerable Population
Less than High School Diploma	407,403	15.7%
High School Diploma	964,380	37.2%
Some College or Associates	925,169	35.6%
Bachelors or Higher	298,949	11.5%

Table 4. Vulnerable Population by Age

Age Group	Total	Percent of Vulnerable Population
19 to 25	822,178	31.7%
25 to 34	709,507	27.3%
35 to 44	497,586	19.2%
45 to 54	379,134	14.6%
55 to 64	187,496	7.2%

Chairman CAMP. Thank you very much, Mr. Chen.
Mr. Anastos, you are recognized for 5 minutes.

**STATEMENT OF PETER ANASTOS, OWNER AND CO-FOUNDER,
MAINE COURSE HOSPITALITY GROUP**

Mr. ANASTOS. Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to testify before you today on the impact of the employer mandate's definition of full-time employee on jobs and opportunities. My name is Peter Anastos, and I am an owner and co-founder of Maine Course Hospitality Group, which owns, operates, and manages a dozen hotels in northern New England.

We currently have three new hotels under construction, two of which are owned by others, in Bangor and Portland, Maine, and Burlington, Vermont. Our portfolio includes Marriott and Hilton-branded hotels, which we operate under franchise agreements, as well as two independent hotels. Approximately 300 people are currently employed by MCHG, which will expand to over 500 people in the next 18 months. I appear here today on behalf of Maine Course Hospitality Group and the International Franchise Association.

As a large employer under the Affordable Care Act, my business is already at a disadvantage compared to smaller hotels, which are not required to offer health coverage to employees. Before the Affordable Care Act passed, we had a health benefits plan in place that offered coverage to any employee working 30 hours or more per week, and I plan to continue to offer that same plan with the same eligibility requirements.

You might wonder why I am here today to speak in opposition to a mandate that I followed before it was codified into law. The answer is that, combined with other harmful aspects of the employer mandate, this definition of full-time employee is what is going to more than double, in fact maybe even triple, my costs in the next year alone. Businesses such as mine will have far less funds available to expand their businesses, which would have created opportunities for employers and employees alike.

Beginning this year, individuals who do not obtain coverage will be subject to a tax penalty under the individual mandate. As the tax penalty increases in the coming years, more of my eligible employees will enroll in the company plan.

We are taking on more costs per insured employee than ever before, and we are insuring more employees than ever before. My employees are now forced to choose between enrolling in an expensive employer health plan or enrolling in a plan in the health insurance marketplace without the assistance of a premium tax credit.

Many of my competitors have already made significant workforce changes in order to manage costs under the law. Those that are large employers are reducing hours of variable-hour employees to less than 30 hours per week so as to avoid employer mandate requirements. As a result, my competitors will be able to offer lower prices to customers and guests.

I realize that if the threshold were raised to 40 hours, some employers may simply lower their employees to 39 hours or fewer. But I would submit that losing 1 hour of work and going into an ex-

change is not nearly as bad as losing 11 hours of work, 27½ percent of your work, and going into an exchange.

We refuse to do that to our business or our workers, so our only option is to work within the law while advocating for common-sense changes that make the law more workable for small business owners.

Keeping these priorities in mind, one option I have is to keep my workers who currently work 30 hours per week or more at or above that mark, while keeping my workers currently below 30 hours per week below that mark. This will create a division in my workforce that any smart manager would like to avoid. We want to reward our best workers with extra hours, and this is a perverse incentive not to do that.

As we build new hotel locations in Maine and Vermont this year, we will most likely bring on employees that will work below 30 hours per week initially. While this situation is not ideal for hiring the best workers, it is all I can do to keep myself in business while maintaining my commitment to my current employees.

Although the White House maintains that the Affordable Care Act does not increase part-time work, a recent study of franchise owners by the International Franchise Association revealed that 31 percent of franchise owners have already reduced work hours and 27 percent have already replaced full-time workers with part-time ones, a full year before the employer mandate is set to take effect.

With fewer hours and less take-home pay, workers who have had their hours cut are not only ineligible for employer-sponsored coverage, they are also less able to afford their own coverage.

For decades employers have used the 40-hour workweek as a standard for workforce management. The ACA's provision requiring employers to provide coverage to full-time employees and defining a full-time workweek as 30 hours will cause many employers to simply manage their employees to fewer hours.

Not only has the employer mandate discouraged job creation and business expansion, it has also damaged existing jobs by including a misguided statutory requirement that discarded more than half a century of established labor policy. Even though the employer mandate has been delayed for 1 year, key changes are still necessary to help franchises and other small businesses implement the law.

Several pieces of legislation have been introduced to redefine the full-time employee as one who works at least 40 hours per week. The Forty Hours Is Full Time Act and Save American Workers Act will accomplish this goal.

I believe that if some key changes are made, employers will shift their attention from trying to find ways around the employer mandate to trying to find ways to maintain financial stability while offering coverage to deserving workers.

Thank you for the opportunity to testify before you today, and I look forward to any questions you may have.

[The prepared statement of Mr. Anastos follows:]

**TESTIMONY OF PETER ANASTOS
OWNER AND CO-FOUNDER
MAINE COURSE HOSPITALITY GROUP**

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS

"Impact of the Employer Mandate's Definition of Full-time Employee on Jobs and Opportunities"

JANUARY 28, 2014

Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to testify before you today on the impact of the employer mandate's definition of full-time employee on jobs and opportunities. My name is Peter Anastos, and I am an owner and co-founder of Maine Course Hospitality Group, which owns, operates and manages a dozen hotels in northern New England. We currently have three new hotels under construction in Bangor and Portland, Maine and in Burlington, Vermont. The Maine Course Hospitality Group portfolio includes Marriott and Hilton branded hotels, which we operate under franchise agreements, as well as two independent hotels. Approximately 350 people are currently employed by MCHG, which will expand to over 500 people in the next 18 months. Two of these hotels will be managed for other owners. I appear here today on behalf of Maine Course Hospitality Group and the International Franchise Association.

I started in business by saving money painting houses for seven years before venturing into real estate. Like thousands of small businesses across America, I slowly built a profitable company. The changes and upheaval caused by the ACA are nothing short of monumental. It is the 30-

hour rule, however, that may be the most detrimental to both our company and our employees.

The Employer Mandate

As a large employer under the law, my business is already at a disadvantage compared to smaller hotels, including other franchisees, which are not required to offer health coverage to employees. Before the Affordable Care Act passed, we had a health benefits plan in place that offered coverage to any employee working 30 hours or more per week, and I plan to continue to offer that same plan with the same eligibility requirements. Out of 152 employees that are currently eligible for this benefit, only 67 are enrolled in the plan. You might wonder why I'm here today to speak in opposition to a mandate that I followed even before it was codified in law. The answer is that, combined with the other harmful aspects of the employer mandate, this definition of full-time employee is what is going to more than double my costs in the next year alone. And it will only get worse. Businesses such as mine will have far less funds available to expand their businesses, which would have created opportunities for employers and employees alike.

Allow me to explain: Right now, the level of enrollment in the health plan offered by Maine Course is fairly low. Half of our workforce already works fewer than 30 hours, and our young people enroll in low numbers, which allows us to offer coverage at 30 hours per week.

Beginning this year, individuals who do not maintain minimum essential coverage will be subject to a tax penalty under the individual mandate. As the tax penalty increases in the

coming years, more of my eligible employees will enroll in the company plan. Although my company has worked hard to comply with the Affordable Care Act's affordability standards by lowering the employee's share of the monthly premium, this has become very difficult as premiums have increased. We are taking on more cost per insured employee than ever before, and we are insuring more employees than ever before. Obviously, as a small business owner, we try to be the best employer possible while still trying to keep our costs low so that I can continue to re-invest in our business. So a drastic cost increase like this one, coming so soon after the recession, is crippling. My employees are now forced to choose between enrolling in a relatively expensive employer health plan and enrolling in a plan in the Health Insurance Marketplace without the assistance of a premium tax credit, which they are ineligible for since they have been offered an employer-sponsored plan. It's truly a lose-lose situation for both employers and workers.

40 Hours Is Full Time

Many of my competitors have already made significant workforce changes in order to manage costs under the law. Some area hotels have stopped hiring new workers so as to not cross the threshold of 50 full-time equivalent employees that would make an employer "large" under the employer mandate. Those that are already large employers are cutting the hours of variable-hour employees to less than 30 per week so as to avoid providing health coverage to large groups of workers. As a result, my competitors will have larger profit margins, and will be able to offer lower prices to customers. If I provide health insurance to 20 full-time employees, while my competitor offers none at his similar hotel with 30 part-time employees, he gains a

large and immediate advantage of tens of thousands of dollars. I realize that, if the threshold were raised to 40 hours, some employers may simply lower their employees to 39 hours or fewer. But I would submit that losing one hour of work and still not having health insurance is not nearly as bad as losing 11 hours (27.5%) of work while still being uninsured.

Changing the definition of full-time employee in the Affordable Care Act will help both employers and workers in ways that many people do not understand. Employers across the country have been criticized and boycotted over plans to reduce the hours their employees work, or for cutting health benefits altogether. We refuse to do that to our business or our workers, so our only option is to work within the law while advocating for commonsense changes that make the Affordable Care Act more workable for small business owners. I am committed to maintaining the coverage that my current employees currently have access to. As a result of increased enrollment due to the individual mandate, this will mean absorbing a large cost increase. While I am willing to take on that cost, the business owner in me wants to limit that cost increase as much as I am able. Keeping these priorities in mind, one option I have is to keep my workers who currently work 30 hours per week or more at or above that mark, while keeping my workers currently below 30 hours per week below that mark. This will create a bifurcation in my workforce that any smart manager would like to avoid, but maintaining the status quo for my workers must come first. This will not necessarily reduce the cost of providing health coverage, but it will stabilize the cost and help me create my future business plans. Unfortunately for my part-time workers, they will no longer be able to pick up additional shifts when their schedules change, or work more hours during busier times to bring

home more pay. Ordinarily, we would reward our best employees with more hours. Decisions like this one are evidence that the employer mandate and the definition of full-time at 30 hours have created an increase in part-time work throughout the American economy.

Increase in Part-Time Work

As we build new hotel locations in Maine and Vermont this year, we will most likely bring on employees that will work below 30 hours per week initially. These employees will need to seek health coverage in the Marketplaces, and I am hoping that by increasing the definition of full-time employee to 40 hours per week, these employees will be able to gain more take-home pay to better afford the coverage they purchase in the Marketplaces. While this situation is not ideal either for expanding my business or for hiring the best workers possible, it is all I can do to keep myself in business while maintaining my commitment to my current employees. Although the White House maintains that the Affordable Care Act has not increased part-time work, a recent study of franchise owners by the International Franchise Association revealed that 31 percent of franchise owners have already reduced worker hours and 27 percent have already replaced full-time workers with part-time ones, a full year before the employer mandate is set to take effect. With fewer hours and less take-home pay, workers who have had their hours cut are not only ineligible for employer-sponsored coverage, they are also less able to afford their own coverage. These statistics are discouraging, and they show that the employer mandate provides perverse incentives for many employers who are now forced to choose between covering their employees and making workforce changes to stay competitive in business.

Conclusion

For decades, employers have used the 40-hour work week as a standard for workforce management. The ACA's provision requiring employers to provide coverage to full-time employees, and defining full-time as 30 hours per week, will cause many employers to simply manage their employees to fewer hours. Not only has the employer mandate discouraged job creation and business expansion, it has also damaged existing jobs by including a misguided statutory requirement that discarded more than a half-century of established labor policy. Even though the employer mandate has been delayed for one year, key changes are still necessary to help franchises and other small businesses better implement the law without undermining competition and negatively impacting local economies.

Several pieces of legislation have been introduced to re-define "full-time employee" as one who works at least 40 hours per week. The Forty Hours Is Full Time Act and the Save American Workers Act will both accomplish this goal, and relieve an enormous strain on both employers and workers. Many employers want to provide health coverage to their workers, but the increased cost associated with the employer mandate makes this impossible for some businesses. We also do not want to limit deserving employees to 29 hours, which would drastically limit their incomes. Businesses of less than 500 employees make up a large portion of the country's workforce, but do not have the resources to absorb losses incurred by the ACA bill. Compounding the problem is that most small businesses are required to sign personally on all loans and mortgages, putting even our homes at risk. These huge changes, both financial and procedural, are an imposing threat to the health of a large swath of American businesses.

Congress should do everything it can to lessen the enormous financial burden of the Affordable Care Act. I believe that if some key changes are made, employers will shift their attention from trying to find ways around the employer mandate to trying to find ways to maintain financial stability while offering coverage to deserving workers. The proposed legislation will greatly benefit employees and employers, as well as our economy. Thank you for the opportunity to testify before you today, and I look forward to any questions you may have.



Chairman CAMP. Thank you, Mr. Anastos.
Mr. Trautwein, you are recognized for 5 minutes.

**STATEMENT OF E. NEIL TRAUTWEIN, VICE PRESIDENT AND
EMPLOYEE BENEFITS POLICY COUNSEL, NATIONAL RETAIL
FEDERATION**

Mr. TRAUTWEIN. Thank you, Chairman Camp, Ranking Member Levin, and honored Members of the Committee. Good morning. I appreciate the opportunity to appear before you this morning to discuss our continuing concerns regarding ACA implementation, and more specifically, the 30-hour rule for determining full-time employment.

NRF is the world's largest retail trade association, representing retailers large, small, and in between, chain restaurants, grocers, and internet retailers. Retail is the Nation's largest private sector employer, supporting one in four U.S. jobs, 42 million working Americans.

We believe that it is long past time to address specific problems with the ACA like the 30-hour definition. NRF will work with anyone willing to make changes to this law beneficial to the industries we represent and the employees of those companies.

We do credit the regulatory agencies for working hard and fairly cooperatively to implement the provisions. The Administration early on focused on our industries because of the frequently variable nature of retail employment.

Many employees do not fit neatly into full- and part-time categories. Compliance will be particularly challenging. This segment of our workforce tends to be more mobile and changes jobs frequently. Sometimes they work for multiple establishments. So compliance is particularly challenging.

Many of the regulatory approaches developed in response to the challenges of our workforce, such as the look-back and stability period approach developed by the Department of Treasury, have in turn bred additional complexity. One truly significant challenge is the ACA's definition of full-time for coverage eligibility at 30 hours per week on average.

NRF strongly supports the bipartisan interest in this issue and legislation like H.R. 2575, the Save American Workers Act. We respectfully urge that this bill, and others to address specific shortcomings in the ACA, be enacted sooner than later. Later may be too late.

Changing the 30-hour definition is common sense. If asked, most Americans would assume full-time to be 40 hours per week. A 30-hour definition forces retailers to manage to an unfamiliar standard, whether somebody is working to 40 hours or whether somebody is above or below 30 hours per week.

Retail and chain restaurants will be forced to fine-tune the balance between full- and part-time, focusing on employee status on a realtime basis. For variable-hour employees who do not meet the new full-time standard, this will mean less income in their pockets, and consequently, less likelihood of obtaining coverage on their own.

Retailers are considering their options in advance of 2015. But, technically, the counting for look-back purposes should have al-

ready started on January 1st if they had a 1-year look-back. Ultimately, it will be the existing part-time workforce, of great importance to the industries I represent, that will feel the greatest effect of the 30-hour definition.

Again, NRF greatly appreciates the opportunity to appear before you today. We strongly urge this Committee and the Congress to consider specific changes to the ACA, including the definition of full-time employment.

It is in our best interest to keep our employees healthy and at work, but not at any cost. The ACA will, at a minimum, pressure our ability to continue to provide coverage and help drive positive change in the workforce.

We hope to work with you to help make the ACA more workable so long as it remains the law of this land. Thank you.

[The prepared statement of Mr. Trautwein follows:]



National Retail Federation Testimony

Hearing on the

Impact of the Employer Mandate's Definition of Full-time Employee on Jobs and Opportunities

Committee on Ways and Means

United States House of Representatives

January 28, 2014

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Chairman Camp, Ranking Member Levin and honored members of the Committee, good morning. I appreciate the opportunity to appear before you today to discuss our continuing concerns regarding implementation of the Patient Protection and Affordable Care Act (also known as the ACA) and more specifically, the potential job effect of the ACA provision that defines full-time employment for health benefit eligibility at 30 hours. My name is Neil Trautwein and I am a vice president and the Employee Benefits Policy Counsel with the National Retail Federation (NRF). NRF strongly supports legislation that would address this issue, such as H.R. 2575, the Save American Workers Act of 2013.

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs – 42 million working Americans. Contributing \$2.5 trillion to annual GDP, retail is a daily barometer for the nation's economy. NRF's This is Retail campaign highlights the industry's opportunities for life-long careers, how retailers strengthen communities, and the critical role that retail plays in driving innovation. www.nrf.com

NRF believes that it is critically important – whether or not a given member of Congress supports or does not support the health care law in its entirety – to address specific shortcomings in the law and its implementation. We have little patience for those who argue that either full implementation of the ACA or full repeal of the law are the only alternative options. NRF will work with anyone seeking changes to the ACA that will benefit the retail and chain restaurant industries and their employees.

NRF and ACA Implementation

NRF has been closely engaged in the regulatory process ever since the ACA was signed into law. We have met numerous times with regulators and have submitted written comments on key concerns. We have assisted in submitting joint coalition comments as well. As I have previously noted, we have not participated in the litigation surrounding the ACA and its provisions.

We credit the regulatory agencies¹ for working hard and cooperatively to implement the complex ACA, a difficult task by any measure. The Administration early on focused on our industries because of the frequently variable nature of retail and chain restaurant employment. Many retail and restaurant employees do not fit neatly into full and part-time categories and compliance with the unprecedented levels of change under the ACA will be particularly challenging.

Part-time and variable hour employees are a particular challenge. This segment of the retail and chain restaurant workforce tends to be more mobile and these workers may work for multiple establishments. Some may become full-time and move on to long-term careers in retail; others value the greater flexibility of part-time work. Some of our most productive employees are part-time and would not have it any other way.

¹ Departments of Health and Human Services, Labor and Treasury.

Retail and restaurant jobs are not just found behind cash registers; our industries present a wide array of career opportunities. Rewarding professional careers can be found in retail in such areas as design, loss prevention, finance, information technology, real estate and human resources, among many others. Retail and chain restaurant human resources officials are quite understandably busy with ACA implementation these days, but they are far from alone in their focus. I have also spoken to different member groups of chief financial officers and corporate general counsel. The myriad challenges of ACA implementation are foremost in their minds.

Many of the regulatory approaches developed in response to the challenges of the retail and chain restaurant workforce – such as the “look-back/stability period²” – have in turn bred additional complexity. One truly significant challenge is ACA’s definition of “full-time” for coverage eligibility at 30 hours per week on average.

NRF strongly supports the bipartisan efforts seen in NRF-endorsed bills like H.R. 2575 to redefine full-time coverage eligibility at 40 hours per week, hopefully with some additional flexibility for employers to define a lower standard, if they so desire. We respectfully urge that this and other steps to help soften the impact on employers be taken before the ACA is fully implemented. Later may be too late.

Changes to the ACA Full-Time Definition

NRF greatly appreciates the bipartisan attention to the ACA’s full-time definition and support for changes to this provision. It is, after all, a common sense approach: if asked, most Americans would identify full-time work to be 40 hours per week.

Most employers have also long assumed the full-time mark to be 40 hours, consistent with federal overtime rules. A 30-hour definition forces retail employers to manage to a new standard: whether or not an employee is above or below the 30-hour level on average during the look-back period. The look-back/stability period discussed above is helpful, but not without ongoing cost.

Retail and chain restaurants will be forced to fine tune the balance between full and part-time, focusing on employee status on a real-time basis. This is time, effort and money spent focusing on compliance rather than concentrating on the business goal of increasing retail or chain restaurant sales. For variable hour employees who do not meet the new full-time standard, this will mean less income in their pockets and consequently less likelihood of obtaining coverage on their own.

There is a growing industry developing to help employers manage these new constraints, but their assistance does not come without cost. I sought out vendors in this space at NRF’s annual convention in New York earlier this month. I was easily able to locate three companies with sophisticated approaches to managing workforce hours.

It is one thing for a large retailer or chain restaurant to adopt these sophisticated and expensive strategies. Would a smaller retailer or franchisee with more than 50 full-time equivalent

² Developed by the Department of the Treasury

employees³ be able to take on this same cost? The law that reforms health care coverage should not advantage larger employers to the detriment of smaller ones.

Jobs, Income and the 30-Hour Definition

NRF argued long and hard against the employer mandate provisions of the ACA. We saw this issue in simple economic terms: increase the cost of employment (wages and benefits are the biggest components) and retailers and chain restaurants (largely unable to increase prices due to fierce competition) would be able to employ fewer employees. If there is one thing our economy does not need, it is fewer jobs.

The Administration's one-year delay in the employer mandate penalties has slowed this effect to the temporary benefit of the economy. However, the news media is full of recent stories about companies that have taken steps – or even contemplated steps – to come into compliance with the ACA mandate penalty structure in 2015. More stories and attendant controversy are sure to come.

Ultimately it will be the existing part-time workforce – of great importance to the retail and chain restaurant industries – that will feel the greatest effect of the 30-hour definition. It becomes that much harder for part-time employees to cobble together their income under these circumstances.

The Commonwealth Fund Blog Argument

A recent blog⁴ from the Commonwealth Fund argues that changing the definition of full-time work will both “put more workers at risk” and “increase federal spending.” With respect, we believe the authors of this blog are wrong on both counts.

Much of the author's argument is based on the potential loss of full-time employment, coverage and hence, increased subsidy cost in the exchange marketplaces. This argument ignores the ACA's prohibition against changes in job status on the basis of health coverage. An applicable-sized employer might be able to reduce its future ACA exposure by redefining some full time jobs as part-time jobs for future hires. The added expense of offering the ACA's broader coverage to newly full-time employees provides incentive to do so. Applicable-sized employers are not mandated to provide part-time employees coverage. But, there are employee and public relations concerns to consider. This is not an easy question for retailers who are considering their options under the ACA.

Arguably more full-time employees (particularly younger employees) will take up coverage they are offered through the workplace as the individual mandate becomes effective. This could help mitigate the expected cost increases for the more generous ACA health coverage. But, it may take the steeper individual mandate penalties in later years to help drive this behavior. Many of us will watch the March 31 deadline for exchange enrollment to see how younger, healthier

³ The ACA's definition of a “large” or applicable employer. NRF also supports efforts to change this definition.

⁴ Why Changing the Definition of Full-Time Work Under the ACA Will Put More Workers at Risk and Increase Federal Spending, Sherry Glied, Ph.D. and Claudia Solis-Roman, January 24, 2014.

enrollees react. This factor – the mix of ages and health status participating in coverage offered to full-time employees – also could have a bearing on future workforce plans for the retail and chain restaurant industries.

Part-time coverage is less frequently offered in the industries we represent and tends to be undersubscribed. This potentially riskier population adds to employer concerns and likely will help encourage part-time hours below 30.

For part-time employees – who will work 30 or fewer hours per week under the new ACA regime – it will be a question of income lost from working more than 30 hours per week. That additional income would help make exchange coverage more affordable for that part-time employee. Arguably too, this additional income should have reduced federal subsidy costs to support coverage for part-time employees.

NRF, Allied Coalitions and the Affordable Care Act

NRF has actively encouraged the fair and effective implementation of the ACA (as it is current law) despite our continued opposition to the law itself. We see no inconsistency between the two positions; we owe it to our members to help make the law as workable as possible. We stand ready to assist any effort to improve upon implementation of the ACA.

We are engaged in a number of allied coalition efforts on ACA implementation. For example, NRF chairs the Affordable Health Benefits Coalition⁵ (AHBC) and participates in the leadership of Employers for Flexibility in Health Care (EFHC). The number of coalitions addressing aspects of ACA implementation has grown so much as to require a degree of coordination between them. NRF established and chairs a coalition of health care coalitions of sorts, the Employers' Health Care Clearinghouse, which meets on a monthly basis to do just that.

These coalitions are deeply substantive and deal with specific ACA implementation concerns. They also have served a useful role in developing and coordinating views and comments among allied employer interests.

Conclusion

Again, NRF greatly appreciates the opportunity to appear before you today. Given the complexity of requirements under the ACA, we strongly urge this Committee and Congress to consider specific changes to the ACA, including the definition of full-time employment.

Retailers and other employers can and should be powerful advocates for positive change. But, in most cases, health care and health benefits are not our stock in trade or business. It is in our best interest to keep our employees healthy and at work, but not at any cost. The ACA will – at a minimum – pressure our ability to continue to provide coverage and help drive positive change.

⁵ www.ahbcoalition.org

We hope to work with you to help mitigate these effects. NRF stands ready to help the Administration and Congress make the ACA more workable, so long as it remains the law of this land.

Chairman CAMP. Thank you, Mr. Trautwein.

I would now recognize the gentleman from Indiana, Mr. Young, for the purposes of introducing our next witness.

Mr. YOUNG. Thank you, Mr. Chairman. It is my honor and pleasure today to welcome to this Committee a fellow Hoosier. Tom Snyder is President of Ivy Tech Community College, our statewide community college system, which is the largest of its kind in the country. President Snyder has been in his role since 2007, leading Ivy Tech. They have more than 200,000 students in our State, 30 campuses, and 100 learning centers.

Tom, I thank you for coming here today to testify, and look forward to hearing how this new definition of full-time is affecting our adjunct professors and the students you serve. I yield back.

Chairman CAMP. Thank you. Mr. Snyder, you are recognized for 5 minutes.

**STATEMENT OF THOMAS J. SNYDER, PRESIDENT,
IVY TECH COMMUNITY COLLEGE**

Mr. SNYDER. Thank you, Mr. Chairman, for the opportunity to speak with you on behalf of Ivy Tech and our 200,000 students and nearly 8,000 faculty and staff. We also want to thank you, Chairman Camp and Ranking Member Levin, for scheduling the hearings on this important matter.

And, separately, we would like to thank Representative Young, along with Representative Kind and Representative Paulsen, for sponsoring the bill to repeal the medical device tax, with the goal of protecting thousands of very high-paying jobs, not only in Indiana but across America.

As you have stated, Mr. Chairman, we must be working together to remove obstacles for individuals seeking full-time work. Our focus at Ivy Tech, as it is for community colleges all across the country, is to prepare students for future careers.

The community college structure, unique to the United States, is our country's most affordable and accessible option to higher education. If we are to close the global attainment gap, we must do all we can to keep it both affordable and accessible.

Indiana, as was said, has one statewide community college, the largest system in the country, with campuses across the State. We are open admission, with a wide variation in college preparedness. We have some students entering right after high school. Others are doing a career change and entering at age 30 or 40 or 50 or even older.

Of Indiana's public colleges, among them, Ivy Tech has more than one-half of all Pell Grant recipients, and Ivy Tech has more than one-half of all African Americans in public colleges. For many of these students, Ivy Tech is their best chance in life to get an education needed for today's workforce. And I would argue that the community college system is more critical than most any other institution in rebuilding America's middle class.

One of our keys to this success is our adjunct faculty team of more than 4,500. Most are practitioners in their field, working full-time in another job, bringing their real-life, realtime experiences to the classroom. Moreover, these adjuncts are very often the individuals that we would consider for full-time positions. In fact, over the

last 4 years, we have placed more than 500 adjuncts into full-time faculty or staff positions.

I also want to be very clear that we are firm supporters of ensuring Americans have broader access to health care. However, I want to highlight a couple serious issues related to the 30-hour rule. We are very pleased that this bill authored by Congressman Young will bring some clarity and a possible solution to the 30-hour problem.

The Affordable Care Act has caused us to reevaluate teaching hours for our adjunct faculty. We have done this with very limited guidance. Like most community colleges, our funding does not provide for any large unfunded mandate such as the ACA 30-hour rule.

The annual impact on us would be \$10- to \$12 million, with a total statewide healthcare bill today of \$25 million, so a 50 percent increase. The penalty provisions we could face for exceeding 30 hours, knowing we have thousands of adjuncts all over the State, is not an option we could even consider.

Moreover, a very little-known effect is the IRS has said preparation time must be considered. We are just not sure how to factor in preparation time for 4,500 adjuncts or what other aspects must be included in this determination. So, to be cautious, we have limited the hours that adjunct faculty can teach.

All of this results in having to find more adjunct faculty to meet student demand, which really results in another challenge, the lack of additional credentialed faculty, causing classes to be canceled and students turned away.

The uncertainty of implementing the 30-hour rule has impacted colleges across the country, but none more dramatically than the community college system. The end result may be less student access and the inability of faculty to stay with one college. Some of our adjuncts have taken positions at other institutions to fill the financial gap, inadvertently reducing the exposure to full-time faculty opportunities in the future.

If, as proposed, 40 hours would be the measurement for full-time, it would allow institutions much more flexibility. We would still need further guidance and clarity on how to treat hours such as preparation time, a very difficult issue. But we would be able to manage the process much easier than today.

This is a critical discussion. This is about ensuring that we are able to provide the best educational product at Ivy Tech while protecting the jobs of our adjunct faculty. At Ivy Tech, we strive to have the right resources in the right place to educate hundreds of thousands of Hoosiers for the jobs of the future. Thank you for the opportunity to speak with you.

[The prepared statement of Mr. Snyder follows:]

January 28, 2014
Committee on Ways and Means
Affordable Care Act's (ACA) hearing
Thomas J. Snyder
President, Ivy Tech Community College

Thank you, Mr. Chairman for the opportunity to speak with you on behalf of Ivy Tech Community College of Indiana's 200,000 students and nearly 8,000 faculty and staff. We also want to thank you Chairman Camp and Ranking Member Levin for scheduling a hearing on these important matters. And thank you Representative Young for your leadership in Indiana.

As you, Chairman Camp, have stated when announcing this hearing we must be working together to remove obstacles to individuals finding full-time work. Our focus at Ivy Tech, as it is for community colleges across the country, is to employ thousands of faculty and to educate thousands of students for future careers. The community college structure, unique to the United States, is also our country's most affordable and accessible option to higher education. If we are to close the global attainment gap, we must do all we can to keep it both affordable and accessible.

In Indiana we have one statewide community college. We are the largest such system in the United States serving those 200,000 students at 31-degree granting locations and 75 additional educational sites. We are an open admissions institution thus serving a complex student body, some looking to enter the workforce soon after completing high school and others looking for a career change and entering college for the first time, maybe 10 or 20 years after high school. Many students start at the community college and then transfer to a four-year school. Among Indiana's public institution, Ivy Tech has more than half of all Pell Grant recipients and more than half of African American students enrolled in higher education in the state. For many of our students, Ivy Tech may be their one chance in life to get the education needed by today's workforce. Our mission is unique to higher education and I would argue that community colleges are more critical than any other institutions in order to rebuild the middle class.

One of the keys to our success is our adjunct faculty team of more than 4,500. Many are practitioners in their field who bring real-life, real-time experience into the classroom. It helps our students be more career-ready when they leave us. Adjunct faculty bring in much needed diversity into our classrooms in a variety of ways and they expose local business and industry to the community college. Moreover, these adjuncts are often the very individuals we consider when we have full-time positions to fill, a critical resource for the college. In fact in the last four years, we have placed more than 500 adjuncts into full-time positions.

Now before I speak to some elements of the Affordable Care Act I want to be very clear that Ivy Tech Community College is a firm supporter of ensuring Americans have access to health care. However I would like to highlight some serious issues we face with respect to certain provisions specifically related to the 30-hour rule, which are having a significant impact on institutions such as ours, as well as for many of the individuals we employ. We are pleased that this bill authored by Congressman Young will bring clarity to the 30-hour rule.

The Affordable Care Act has caused us to assess the hours of teaching we can offer to our adjunct faculty. We have done this with limited guidance and honestly it has not been easy. Like many community colleges our funding does not allow us to absorb large unfunded mandates such as any employee who exceeds 30 hours being offered health insurance. The impact to us would be between \$10-\$12 million. The potential penalties we could face for exceeding these 30 hours, knowing we have thousands of adjuncts, of course is not an option we could even consider. Adjustments were necessary so we have limited the hours adjunct faculty can teach. In addition while the IRS has said prep time must be a factor we are just not sure how to factor it into these 30 hours or what other aspects must be included in a determination. We do not know when the 30 hour threshold has been crossed by an employee and it would be nearly unmanageable to track such a thing in higher education without clear definitions. If we don't receive more clarity on how to implement these requirements, community colleges and other institutions of higher education are being put at risk for litigation and complaints.

All of this results in having to find more adjunct faculty to meet the student demand, which results in yet another challenge, the lack of additional credentialed faculty in certain disciplines causing classes to be cancelled and students to be turned away.

The uncertainty of implementing the 30-hour rule has impacted colleges across the country, but none more dramatically than the community college. Because of the unique role of the adjunct in the community college, the end result may be less access for the students and the inability of faculty to stay with one college. Some of our adjuncts have taken positions at other institutions to fill the financial gap. This takes away faculty's exposure to potential full-time opportunities in the future.

If 40 hours were the measurement for full-time, it would allow institutions more flexibility. We would still need further guidance and more clarity on how to treat the hours, but we would be able to manage the process much easier than today. We had planned to expand the advising role for adjuncts as we move to a more intrusive advising model, critical for retention. However the uncertainty around the 30-hour rule has made this difficulty to implement. This creates a real challenge in retaining our students and moving them to completion. Adjuncts could be a vital resource to help us in this area.

This discussion is necessary. This is about ensuring we are able to provide the best educational product we can at Ivy Tech while protecting the jobs of our adjunct faculty and their working conditions. At Ivy Tech Community College we work to ensure we have the right resources in the right place to train hundreds of thousands of Hoosiers for the jobs of the future.

Thank you for the opportunity to visit with you today.



Chairman CAMP. Thank you, Mr. Snyder.
Ms. Levy, you are recognized for 5 minutes.

**STATEMENT OF HELEN LEVY, PH.D., RESEARCH ASSOCIATE
PROFESSOR, UNIVERSITY OF MICHIGAN INSTITUTE FOR
SOCIAL RESEARCH, SCHOOL OF PUBLIC HEALTH, AND
GERALD R. FORD SCHOOL OF PUBLIC POLICY**

Ms. LEVY. Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to speak with you today. My name is Helen Levy. I am an economist at the University of Michigan with appointments at the university's Institute for Social Research, School of Public Health, and Gerald R. Ford School of Public Policy. I am addressing you today not on behalf of the university but as a researcher with expertise in health insurance and labor markets.

As we've heard, there is considerable concern that the 30 hours requirement in the Affordable Care Act could create an incentive for employers to keep their workers' hours below 30. Research suggests that this concern has been overstated and that one proposed change, increasing the full-time threshold to 40 hours, would actually make the problem much worse. The best evidence we have on the labor market impact of an insurance mandate with an hours threshold comes from Hawaii where all employers have been required since the mid-1970s to provide coverage to employees who work 20 hours or more per week. A recent study shows that if you compare Hawaiian workers to the rest of the U.S., you see that the result of this mandate has been an increase in employer-sponsored health insurance, no significant effect on overall employment, and a small increase in the probability of part-time work in Hawaii compared to the rest of the U.S.

The effect on part-time work represents an increase of 1.4 percentage points in the fraction of employment that is part-time. To put that number in perspective, currently about 19 percent of the U.S. workforce is part-time. This is a small fact relative to the size of the labor market. But concern about potential cutbacks in hours because of the ACA's 30-hour rule have led some to propose shifting the cutoff to 40 hours instead. This approach would actually make the potential problem much worse. Here's why.

There are many more uninsured workers near the 40-hour threshold than near the 30-hour threshold. Three recent independent studies have all looked at this issue and reached the same basic conclusion. If you think about the number of workers who are potentially at risk of having their hours cut and you look just about 30 hours, as Mr. Chen described in his testimony, there are, according to his calculations, about 2½ million of these vulnerable workers right around the 30-hour threshold. Other studies have put the number a little bit lower, around 850,000.

But the point is that, if you look at how many of these vulnerable workers are near the 40-hour threshold, if you move the threshold, there are about three times as many workers who would be vulnerable at the higher level because there are just so many more workers who work 40 hours than 30 hours. So the bottom line effect of changing the full-time threshold to 40 hours would be to place many more uninsured workers potentially at risk of having their

hours cut. This change would also increase Federal spending on Medicaid and on premium tax credits.

Thinking beyond the 30-hour rule, we might also ask how the coverage provisions of the ACA as a whole are likely to affect the labor market. The best research on this question comes from Massachusetts, where comprehensive reform similar to the Affordable Care Act was implemented in 2007. The evidence from Massachusetts is clear. There has been no decline in employment or hours relative to neighboring States, even in industries that are generally low-wage, such as accommodation, food services, and retail.

It is also important not to overlook the fact that healthcare reform is likely to have important benefits for labor markets, largely by alleviating the problem of job lack. If you can get affordable insurance without working full-time for a large firm, this makes it easier for entrepreneurs to start their own businesses, as Mr. Levin mentioned. It also makes it easier for parents of young children or workers nearing retirement to choose part-time work without worrying about not being able to get health insurance.

The Congressional Budget Office has projected that the Affordable Care Act would reduce employment in 2021 by about one-half of 1 percent. If this were an estimate of the increase in the number of individuals unemployed as a result of the ACA, that would be alarming indeed, but this is not the correct interpretation of CBO's projection. CBO is very clear that most of this effect is due to changes in labor supply, things like the older workers cutting back on the hours, and not labor demand, which is things like firms limiting their workers' hours. From an economic perspective or from the perspective of common sense, it is inaccurate to characterize these voluntary reductions in labor supply as job-killing.

In conclusion, the best research we have suggests that the ACA is likely to have very little effect on labor demand relative to the size of the labor market, and it is likely to have significant positive effects, as well. I thank you for your attention, and I look forward to answering any questions you may have.

[The prepared statement of Ms. Levy follows:]

Testimony of Helen Levy, Research Associate Professor, University of Michigan Institute for Social Research, School of Public Health, and Gerald R. Ford School of Public Policy

Chairman Camp, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to speak with you today.

The focus of today's hearing is the Affordable Care Act's employer responsibility provisions: in particular, the definition of full-time work as 30 hours or more per week. Determining who is a full-time worker under the ACA is important because the ACA requires large firms – defined as those with 50 or more full-time or full-time equivalent (FTE) workers – to offer affordable health insurance only to full-time workers. Part-time workers can be excluded from a large firm's health insurance plan without any risk of triggering employer penalties under Section 4980H of the ACA.

The concern that Chairman Camp and others have raised is that this definition of full-time could create an incentive for firms to keep workers' hours below 30, and that a large number of workers could be stuck just below this threshold. There is considerable evidence, however, that this concern has been overstated, and that one proposed change – increasing the full-time threshold to 40 hours – would in fact exacerbate the potential problem considerably.

The best evidence we have on the labor market impact of an insurance mandate with an hours threshold comes from Hawaii. Since the mid-1970s, Hawaii has required employers of all sizes to provide coverage to employees who work 20 hours or more per week. A recent study finds that over time, this requirement has resulted in significantly higher rates of employer-sponsored coverage for Hawaiian workers compared with other US workers, has had no significant effect on overall employment, and has caused a small increase in the probability of part-time work.¹ The effect on part-time work represents an increase of 1.4 percentage points in the fraction of employment that is part-time. To put that number in perspective: currently about 19% of workers nationally are part-time.²

Hawaii is an unusual state in many ways, and it is important to keep in mind that the mandate in Hawaii may have been more distortionary for labor demand than the ACA mandate. An important reason is that it requires employers to provide insurance to part-time workers, which they generally would not otherwise do. In contrast, the majority of workers who meet the ACA's definition of full-time already receive health benefits. Nonetheless, many observers are now looking to Hawaii for evidence on the impact of the hours threshold, and the evidence suggests that their mandate had no effect on overall employment and caused only a small shift toward part-time work.

At the national level, given a civilian workforce of not quite 150 million people, even a small shift is a lot of people. Part of the difficulty in our national conversation about whether the effects of policy are big or small seems to be confusion about whether we should focus on the *fraction* of workers affected or

¹ Buchmueller, Thomas C., John DiNardo, and Robert G. Valletta. "The effect of an employer health insurance mandate on health insurance coverage and the demand for labor: Evidence from Hawaii." *American Economic Journal: Economic Policy* 3, no. 4 (2011): 25-51.

² US Department of Labor, Bureau of Labor Statistics, "The Employment Situation – December 2013," USDL-14-002, released January 10, 2014.

the *number* affected. In this case, the fraction is small; but the number is big, and so it will always be possible to find individuals who are affected by these changes. I do not mean to dismiss the economic or emotional resonance of the stories about workers whose employers say that they are cutting hours to hold down costs - just as I would not dismiss the resonance of stories about individuals helped by gaining secure coverage as a result of the Affordable Care Act, if those were the stories that the Committee had chosen to hear today.

Because of concern over the potential distortion in labor demand (i.e. cutbacks in hours) associated with the 30 hour rule, there have been proposals to shift the cutoff to 40 hours instead. After all, workers at this higher threshold are more likely than those working 30 hours to have health insurance coverage from their employers already, meaning they are not at risk of having their hours cut so the firm can avoid giving them insurance. But this approach does not actually solve the problem; it just moves it. And in moving it, the problem becomes much bigger.

Here's why: there are many more uninsured workers who work 40 hours than 30. Three recent independent analyses that have looked at this issue have all reached this same basic conclusion.^{3,4,5} If you consider full-year workers in large firms who currently do not have insurance, about 850,000 of them currently work between 30 and 34 hours; but 2.6 million of them work 40 to 44 hours.⁶ So the bottom-line effect of changing the full-time threshold to 40 hours would be to place many more workers at risk of having their hours cut. This change would also increase Federal spending on Medicaid and premium tax credits.⁷

Thinking beyond the 30 hour rule, we might also ask how the coverage provisions of the ACA as a whole are likely to affect the labor market. The 30 hour rule and the employer responsibility provisions are part of a larger policy that creates a viable health insurance market for those who do not have access to affordable employer-sponsored coverage. The exchanges, the insurance market regulations, the premium tax credits, the employer mandate, and the individual mandate are all in service of this larger goal.

Health care reform is likely to have important benefits for labor markets, by alleviating various forms of "job-lock." The ability to obtain affordable insurance without working full-time for a large firm will make it easier for entrepreneurs to start their own businesses. One recent study of older men shows that there is a jump of several percentage points in the rate of business ownership among men at age 65 when they become eligible for Medicare, which suggests that before this point they had been holding

³ Ken Jacobs and Dave Graham-Squire, "Under the 'Forty Hours is Full Time Act' more Americans would lose job-based health coverage and work hours, while federal costs would increase," UC Berkeley Center for Labor Research and Education, December 2013.

⁴ Paul N. Van de Water, "Health Reform Not Causing Significant Shift to Part-Time Work But Raising Threshold to 40 Hours a Week Would Make a Sizeable Shift Likely," Center on Budget and Policy Priorities, October 12, 2013

⁵ Sherry Glied and Claudia Solis-Roman, "Why Changing the Definition of Full-Time Work Under the ACA Will Put More Workers at Risk and Increase Federal Spending," Commonwealth Fund blog post, January 24, 2014

⁶ *Ibid*, Glied and Solis-Roman

⁷ *Ibid*, Jacobs and Graham-Squire

back because of the lack of health insurance alternatives.⁸ The Affordable Care Act removes these frictions for workers of all ages. Today, many parents with young children or older workers nearing retirement would like to work part-time, but are unable to because they need to work full-time to qualify for health insurance. Because of the ACA, such workers will be able to choose the schedules they prefer.

Our best evidence on the overall labor market impact of such a bundle of reforms comes from Massachusetts, where comprehensive reform similar to the Affordable Care Act was implemented in 2007. The evidence from Massachusetts is clear: there was no decline in employment or hours relative to neighboring states, even in industries that are generally low-wage such as accommodation, food services, and retail.⁹ Of course, Massachusetts is not a typical state and their reform was not exactly like the ACA. In some ways it was more stringent; the employer mandate in Massachusetts applied to firms with as few as 11 workers compared with 50 in the ACA. In other ways it was less stringent; the penalties for not offering insurance were smaller than those in the ACA. Nonetheless, the Massachusetts experience strongly supports the view that comprehensive health reform with an employer mandate does not kill jobs.

Why does the evidence show no decline in hours or employment, given the strong theoretical prediction of distortions in labor demand? One reason is that employers can reduce wages to offset at least some of the increased health insurance costs that they face as a result of the employer responsibility provisions. Indeed, research shows that this is exactly what happened in Massachusetts.¹⁰ This is an important mechanism through which employers can respond to the distortion created by the regulation, and it minimizes the impact on labor demand. The mandate affects only one component of employment cost. Nationally, health insurance currently accounts for about 8% of the cost of compensation in private industry, compared with 70% for wages and salaries.¹¹ Thus, except in cases where the minimum wage is a binding constraint, an increase in the cost of health insurance can be at least partially absorbed by reductions in wage growth.

Moreover, at the national level, the size threshold for the employer mandate - 50 workers - has been set at a level where the great majority of employers are already offering coverage. Among firms with 50 to 199 workers, 91 percent already offer insurance; among firms with 200 or more workers the figure is 99 percent.¹² If nearly all large employers are already providing insurance voluntarily, the distortion in labor demand as a result of the mandate is, by definition, limited to a very small minority of firms.

⁸ Fairlie, Robert W., Kanika Kapur, and Susan Gates. "Is employer-based health insurance a barrier to entrepreneurship?" *Journal of Health Economics* 30, no. 1 (2011): 146-162.

⁹ Lisa Dubay, Sharon K. Long, and Emily Lawton, "Will Health Reform Lead to Job Loss? Evidence from Massachusetts Says No," Urban Institute, June 2012.

¹⁰ Jonathan T. Kolstad and Amanda E. Kowalski, "Mandate-Based Health Reform and the Labor Market: Evidence from the Massachusetts Reform," National Bureau of Economic Research Working Paper 17933, March 2012.

¹¹ US Department of Labor, Bureau of Labor Statistics, *Employer Costs for Employee Compensation* - September 2013. Released December 11, 2013.

¹² Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2013.

The Congressional Budget Office has projected that the ACA would reduce employment in 2021 by about one half of one percent.¹³ If this were an estimate of the increase in the number of individuals *involuntarily unemployed* as a result of the ACA, it would be alarming, but *this is not the correct interpretation of CBO's projection*. CBO is very clear that most of this effect is due to changes in labor *supply*, or the amount that workers choose to work, not labor *demand*, which is the amount of labor firms want to hire. CBO did not elaborate on the exact nature of the labor supply changes that ACA might cause. But one example of a change in labor supply would be older workers switching to voluntary part-time work, as discussed above. From an economic perspective, and from the perspective of common sense, it is inaccurate to characterize such voluntary reductions in labor supply as “job killing.”

To summarize: the best evidence that we have suggests that the ACA – including the 30 hour rule - is likely to have very little effect on labor demand, relative to the size of the labor market. Moreover, the evidence suggests that there may be significant positive effects on the labor market, primarily through the alleviation of job lock. Any costs to the labor market must be weighed against the benefits that the ACA offers not only for the millions of uninsured who will gain coverage, but also for labor markets.

I thank you for your attention, and I look forward to answering any questions you may have.

¹³ Statement of Douglas W. Elmendorf, Director, Congressional Budget Office, “CBO’s Analysis of the Major Health Care Legislation Enacted in March 2010,” before the Subcommittee on Health Committee on Energy and Commerce, U.S. House of Representatives, March 30, 2011.

Chairman CAMP. Thank you, Ms. Levy, and thank you all for your testimony this morning.

Mr. Chen, I'd like to try to quantify the impact this rule can have on an individual worker. For example, if a restaurant worker normally works 36 hours and the ACA reduces him to 29, they've lost 7 hours per week. And, according to the Bureau of Labor Statistics, this worker has an average wage of \$13.66 per hour. So, my calculations are that, because of ObamaCare, this worker just took the equivalent of a 20 percent pay cut. My question is how does the 30-hour rule impact a part-time firefighter? There are reports that many local communities are cutting back or planning to cut back the hours of part-time firefighters as a result of the ACA.

Mr. CHEN. Mr. Chairman, the 30-hour rule has a significant impact on someone like a part-time firefighter. A firefighter earns an average of about \$22 an hour. If the part-time firefighter works 39 hours a week, he or she will earn \$848. If the firefighter's hours are cut back to 29, he or she would lose about \$217, which is roughly a 30 percent pay cut. If the hours are cut from 35 to 29, the firefighter's looking at roughly a 17 percent pay cut. So, obviously, the incentive to reduce those hours would be particularly damaging for the part-time firefighter.

Chairman CAMP. I think it's really an example of how complicated the 30-hour rule really is and how misguided it is in application. The Administration has said that they're going to fix this for volunteer firefighters, which is certainly welcome. But we still have not seen any actual regulations or any details on how they plan to do that. But many local communities employ part-time firefighters, and in many cases they're second jobs. So they're not doing it for the health care. They are individuals who are taking on this very dangerous work. And many communities use part-time firefighters for different reasons. Sometimes they're needed for 15 hours; sometimes they're needed for 35 hours, and it often can't be predicted.

So the rule—this rule is forcing local communities who can't afford to offer health insurance to them to pose a very rigid schedule, which may not be in line with the needs of the community. And I just want to mention what the fire chief for the Grand Traverse Metro Emergency Services Authority said in northern Michigan just last month, and I'm quoting. "We're going to have to find the money somewhere or do more with less on the fire scene. And I don't think any of us have that luxury. The last thing I want to say to an employee is, 'You've met your hours for the week. You can't come on an emergency.' Not only would that hurt them, but it would hurt us as we need those people to respond on calls."

So, Mr. Chen, in your testimony you referenced new research by the Hoover Institute. The research shows this rule impacts 2.6 million Americans, 89 percent of whom don't have a college degree, and have a median income of under \$30,000. Could you explain in more detail who this population is and why the 30-hour rule hits lower income Americans so much harder than the rest of the population?

Mr. CHEN. The research that we've conducted is an update of the study from the University of California Berkeley, and we take the same definition of a vulnerable population that they do. One

can quibble with that definition, but we've decided simply to update it. The definition of a vulnerable worker—someone between the ages of 19 to 64, currently working between 30 and 36 hours, family income below 400 percent of Federal poverty, which would make them eligible for the subsidies, the cost-sharing subsidies in the Affordable Care Act, and who do not currently receive health insurance from their employers.

When you take all of that data and you crunch the numbers, what you end up with, as you said, Mr. Chairman, is approximately 2.6 million workers who are in danger of having their hours cut. That's approximately 3 percent of the U.S. workforce.

With respect to why it's particularly dangerous for these individuals, Mr. Chairman, it's because of the fact that they are at an income level which is highly vulnerable. There is some discussion about moving to the 40-hour threshold and the impact that would have. The reality is you're looking at different categories of workers. At the 30-hour threshold the worker is far more vulnerable from an income perspective than at the 40-hour threshold. Therefore, the vulnerable population clearly is one that the ACA's 30-hour rule has the potential to hit quite hard.

Chairman CAMP. All right. Thank you. I now recognize Ranking Member Levin for his questions.

Mr. LEVIN. Thank you and welcome. Let me just read something from an analysis of the Center on Budget and Policy Priorities. And I ask that this be placed in the record.

And it covers the testimony of yours, Dr. Levy. "Moreover, raising the law's threshold for full-time work from 30 hours a week to 40 hours would make a shift towards part-time employment much more likely, not less so. That's because only a small share of workers today, less than 8 percent, work 30 to 34 hours a week and thus are most at risk of having their hours cut below health reform's threshold.

In comparison, 43 percent of employees work 40 hours a week, and another several percent work 41 to 44 hours a week. Thus, raising the threshold to 40 hours would place more than five times as many workers at risk of having their hours reduced." Do any of you challenge that? You do?

Mr. Anastos.

Mr. ANASTOS. An employer who is not offering insurance and goes from 40 hours to 39, is barely making a move at all. Whereas, if you go from 40—it's to save all that money, you certainly would be looking at lowering the amount of people you have at that level that you had to insure. That's for those people that don't already insure them. But I certainly—in all due respect, it just seems like it flies in the face of almost rationality that if it was 30 hours a week, people would not be managing to that level to save so much money. It's a large portion. The health care is such a large portion of how much we have to pay, to be doubling and tripling our cost, our healthcare cost, and to then say, "If you go over 30 hours"—I mean, we want to reward those people over 30 hours, but you're going to artificially keep them down at that level.

Mr. LEVIN. Yeah, but that doesn't challenge the State in terms of the number of people you put at risk. Can I represent commu-

nity colleges, one of the largest in the Nation? People who work 35 hours—how do they get insurance? Don't you want them insured?

Mr. SNYDER. Representative Levin, I think the issue for the community colleges is a unique structure of building a partnership in the community and requiring both, because of cost and because of vision, to have half the faculty be on an adjunct part-time basis—

Mr. LEVIN. Okay. But—

Mr. SNYDER [continuing]. Most of whom have insurance and full-time jobs at another—

Mr. LEVIN. Then all you have to do is offer and they refuse. It's not going to increase your cost in most cases. I mean those who—

Mr. SNYDER. We've done an—

Mr. LEVIN. For those who work 35, 36, 37 hours and don't have insurance, don't you want them covered?

Mr. SNYDER. So the issue at the community college is that, as we've done right now, we've reduced the credit load, which is actually the classroom load, to 9 hours or three classes. And the reason that we've done that is that we are very likely to have a preparation time mandate that we either have to justify internally by having data on all 4,500 adjuncts or rely on an outside party how many hours of work outside the classroom—

Mr. LEVIN. But that's an issue that has to be worked out. But you say in your testimony you want people covered.

Mr. SNYDER. We want people covered.

Mr. LEVIN. Okay. Now, if they work 35 hours, 36 hours, and they don't have insurance, do you want them covered?

Mr. SNYDER. I think, in general, everybody in the country wants people that are working virtually full-time—

Mr. LEVIN. Okay. So if their spouse works and they have insurance, they'll turn it down. It won't cost you anything. You say you want them to have insurance. They work 35, 36, 37 hours. You're not going to—you don't want to have to cover them, so who's going to cover them?

Mr. SNYDER. Our concept really regarding our adjuncts is that they are part-time, and our expectation is we did not plan to give them insurance because we did not plan to work them 35 hours. The issue is that the bulk of the time that is counted is time outside of our control; it's preparation time.

Mr. LEVIN. Yeah, but that's an issue that has to be worked out.

Mr. SNYDER. But that is the biggest issue for the community college.

Mr. LEVIN. Okay. So then it should be worked out. But for you to say this is the problem with ACA and with healthcare reform and all the rhetoric—people say they want everybody covered. You're a community college. People are working 35, 36 hours. The assumption is they don't have health coverage through a spouse. And you're essentially saying you want everybody covered, but you don't want to cover them.

Mr. SNYDER. We cover people working 35 hours or more with health insurance if they are working outside of the adjunct roles. We cover them today.

Chairman CAMP. All right. Thank you. Mr. Johnson is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman. Let me tell you about one of my constituents from McKinney, Texas, who is doing her best to make a way for herself. Jillian, a college student in her early 20s—and I'm sure you're familiar with those people—has worked part-time at a local grocery store to help pay for her school expenses. For several years Jillian clocked between 30 to 40 hours a week, and suddenly she was cut between 15 and 18 hours a week. Jillian was shocked and decided to approach her manager. His answer was loud and clear. "The cuts are due to ObamaCare." The so-called 30-hour rule imposed by ObamaCare forced this employer, like many others across the country, to cut worker hours, therefore harming the workers it promised to help.

Let's put this into perspective, and I'll be conservative with my calculation. Let's say Jillian worked 30 hours a week and, because of ObamaCare, was cut to 18 hours a workweek. That's a loss of 12 working hours. Having worked at the grocery store for a long time, Jillian was up to \$9 an hour. This meant she was losing \$108 a week. Worse, that adds up to more than \$430 each month. That's \$430 less for her pocket that she uses to pay for textbooks, gas, groceries, and living expenses.

Mr. Chen, many people like Jillian find part-time work to help make ends meet. How does the 30-hour rule impact waiters and waitresses?

Mr. CHEN. Congressman, it has a severe impact on individuals who are employed as waiters or waitresses. If you consider that the average wait staff earns about \$9 an hour, working 39 hours a week, they would earn approximately \$350 a week. If they're cut back to 29 hours, they lose \$90 a week, which is roughly a quarter, a 26 percent pay cut. If the waiter works 35 hours a week, they earn \$300. If you cut them to 29 hours a week, they lose \$54 a week, which is a 17 percent pay cut.

Congressman, the basic point here is that if you make something more expensive, you're going to have less of it. And so that is the dynamic that we see at play here.

Mr. JOHNSON. Thank you. And, Mr. Anastos, in your testimony you state that, because of the 30-hour rule, "Unfortunately for my part-time workers, they will no longer be able to pick up additional shifts when their schedules change, or work more hours during busier times to bring home more pay." Can you go into more detail about how this rule impacts the part-time waitresses and waiters that you have managed over the years?

Mr. ANASTOS. Well, Congressman, I got out of the restaurant business and stuck to the hotels. I found it a lot more profitable. In fact, I'm glad you asked me that question because we were one of the first companies in Maine—hospitality companies—20 years ago—to institute health insurance. We've had it as low as 24 hours. Of course, we want to insure people from 30 to 40 hours. But we are two and a half times—our costs are going to go up right now. I mean, how much more can we do? So when I have people at 30 hours and I want to reward them with more, sure, but I have to have the viability of our business first. We're a small business. I'm not like Apple Computer or some other large company. I have, basically, 80-room hotels, so you have a relatively small profit margin. When you're talking about doubling and tripling your health insur-

ance costs, you just—there has to be a point where you just can't do it. So, of course, you're going to manage down to 30 hours. I'd like to raise them up, but if you're talking about a \$10, \$12 an hour employee and then it's going to cost \$4 or \$5,000 just to raise them up a few hours, it makes it extremely difficult to do.

Mr. JOHNSON. Thank you.

Mr. ANASTOS. And one last thing. Small businesses in this country—I just think sometimes we miss the point about how we grow our businesses together from scratch. I mean, I had one hotel 10 years ago. All these people we know. We know them well. I feel like we're driving a wedge between us. And I just—it's going to make it so hard when they want more hours to say no to them. Thank you.

Mr. JOHNSON. Thank you.

Dr. Chen, doesn't that cause a reduction in Social Security benefits, and won't that have an effect in increasing poverty among seniors down the line?

Mr. CHEN. That certainly potentially could be one side effect, Congressman, given the lower wages and therefore the lower payment of taxes into the system, yes, sir.

Mr. JOHNSON. It affects disability also, does it not?

Mr. CHEN. Thank you.

Thank you, Mr. Chairman.

Chairman CAMP. All right. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman, and let me thank this panel. It is seldom that we get a panel that really believes in health insurance for as many people as possible. And I gather from all of your statements that, if the resources were there, you would think that it would be in the best interest of the company to give access to health care to all the workers, right? No one disagrees with that. And I assume there has to be some evidence that a workforce that does have health care is more productive and has less sick time, less disabilities. I assume that the research would point that out.

Now, you have worked, Dr. Chen, with Governor Romney where he had some concepts about health insurance. Are there any similarities between the ACA and the program that Governor Romney supported in Massachusetts?

Mr. CHEN. Congressman Rangel, I believe that Governor Romney and President Obama share an interest in insuring that as many Americans receive access to quality health insurance coverage as possible. I have no doubt that—

Mr. RANGEL. Well, that's a general feeling of Americans. But the Chair has restricted me to 5 minutes, and I would rather talk about the plan rather than the man in terms of—

Mr. CHEN. Yes, sir.

Mr. RANGEL [continuing]. The overwhelming belief that it would be good if we could afford it. So what are the similarities between the man as it relates to the plan?

Mr. CHEN. Certainly, there are elements structurally that are similar.

Mr. RANGEL. I know. That's what I'm asking you. What are they?

Mr. CHEN. The creation of health insurance exchanges, the notion of individual responsibility, those are certainly similar between the plans——

Mr. RANGEL. And the mandates?

Mr. CHEN. Pardon me?

Mr. RANGEL. And the mandates?

Mr. CHEN. The individual mandate as well as the fair share responsibility are——

Mr. RANGEL. Well, let me ask you this, then. With those similarities, is there anything that you could suggest that we could do to perfect the ACA in order to get the same type of support, I assume, that you give to Governor Romney's health plan?

Mr. CHEN. I would say, Congressman, that the problem with the Affordable Care Act is that it takes a Federal approach to what I believe should be State-based reform.

Mr. RANGEL. So what would you suggest, that we repeal the ACA?

Mr. CHEN. Yes, sir, I would.

Mr. RANGEL. I don't know how much political science you've taken in your background and training, but assuming that the overwhelming majority of the people wanted to repeal it, what would be the first step that you would suggest that the Congress would do, put in a bill to repeal it?

Mr. CHEN. I would suggest the first step would be to have a replacement for it, Congressman, that repeal alone would be insufficient.

Mr. RANGEL. Now, what would happen to the people that have signed up already? Now we're in a repeal mode, and we have to sell it. Do we cancel out all of the contracts that are out there under the ACA now and tell them that in the future we will have another plan? Does that make any sense to you as a citizen rather than as an expert?

Mr. CHEN. I make two points, Congressman. First of all, unfortunately, many Americans have already had their plans canceled. Second of all——

Mr. RANGEL. But I'm talking about the millions of people that just signed up.

Mr. CHEN. I think it's important that there be some mechanism to ensure that people who have insurance are able to retain that insurance.

Mr. RANGEL. Now that's where we want to get some area of agreement. Could you give any idea, rather than repeal of what we have, because I think almost all of the Republicans and most of the witnesses—not this panel, of course—believe in repeal? But unlike you, they haven't the slightest clue as to where do we go with the people who have no insurance. Now you're saying that those that have signed up for this—that you do have some idea based on your experience with Governor Romney that they should be protected, and I agree with you. What will you suggest we do right now, besides repeal, because, politically speaking, impeachment is more probable than repeal. And that's on the minds of a lot of people, too, so forget that. What can we do to protect those people who signed up under ACA?

Mr. CHEN. Congressman, I would suggest one of the things we can do is fix the 30-hour rule, which we're here talking about today.

Mr. RANGEL. What?

Mr. CHEN. One of the things we can do is fix the 30-hour rule, which is contained—

Mr. RANGEL. No. No.

Mr. CHEN [continuing]. In the employer mandate which we're talking—

Mr. RANGEL. We're talking about people that work 40, 50 hours. They're insured now. Don't go into this other group. Those are problems that we can't overcome that we're talking about. I'm talking about protecting the millions of people that had no insurance. They have now signed up, 30, 40, 50 hours. And I, as a legislator, have to protect them as I try to perfect the delivery system. You have no ideas as to what happens to them?

Mr. CHEN. I would suggest one of the problems we have now is that many Americans are unable to afford insurance on the health insurance exchanges because of the structure of the ACA and what's required of plans on the exchanges. Therefore, one of the things I would do to answer your question, Congressman, is I would revisit the essential health benefits requirement in the ACA.

Chairman CAMP. All right. Thank you. Mr. Brady is recognized.

Mr. BRADY. Thank you, Mr. Chairman. If you don't think this 30-hour mandate isn't hurting workers and cutting hours, you're in deeper denial than Justin Bieber.

Chairman CAMP. Will the gentleman yield? Will the gentleman yield?

Mr. BRADY. You know, I never yield—

Chairman CAMP. He has a Canadian employer that's single payer.

Mr. BRADY. You know the head of United Food and Commercial Workers says it is happening, so the facts are already starting to show up. You're seeing workers have their hours reduced and their incomes reduced. And Jimmy Hoffa, not exactly a conservative, has said that this rule will destroy the foundation of the 40-hour workweek that's the backbone of the American middle class. They know it's happening. They're seeing it. I was with a Houston restaurant owner who got off a conference call with all his store managers and basically told them, "We will never hire a full-time worker again. Never. We just can't afford it." And this is a successful restaurant owner who likes opening up new restaurants and hiring new workers.

We're told today that if we go back to the traditional 40-hour workweek, which has been the case for many, many decades, that it will actually make the problem worse. But we know that nearly 9 out of 10 workers who have a full-time job are eligible for health care. We know if they're part-time it's about a 15 percent chance. So this rule is forcing workers into part-time work with less of a chance of health care.

So, Dr. Chen, what happens if we return to the 40-hour workweek? And I'm going to ask some of our business people as well. So what happens if we return to a 40-hour workweek? What—how does it impact that local worker?

Mr. CHEN. Well, I think, administratively, it's much easier for employers. I mean, bear in mind that the 40-hour workweek was originally enshrined in the Fair Labor Standards Act. Even though it does not define full-time employment as 40 hours per week, it does dictate that non-exempt workers are paid overtime once they go over 40 hours. Therefore, the standard definition has become 40 hours a week. I would suggest that if we go back to that system of a workweek, full-time workweek being 40 hours, employers would not have as many of the administrative challenges and hindrances to growth that the 30-hour workweek provides.

Mr. BRADY. Okay. Thank you. Mr. Anastos, what happens if we do away with the 30-hour rule and you're able to bring your folks back up in their hours?

Mr. ANASTOS. Quite simply, it greatly simplifies our life. I mean, when I talk about doubling or tripling of cost, I'm not even talking about the administrative cost. I talked to our CEO before I came down here, and what—and asked him what he thought. And he said, "Anything." He said, "Any relief at all to get close to 40 hours"——

Mr. BRADY. Will workers' hours likely increase at your place?

Mr. ANASTOS. Absolutely. In other words, instead of having to manage all the time and keep this ledger where you're always trying to figure out are they over 30 hours and, therefore, as an average, going to cost you many thousands of dollars more—the survivability of the business—I have to manage to that first. And it puts us in a situation where I'm managing against my employees' interests, and it's against my interests.

Mr. BRADY. Mr. Trautwein, retail—does this help increase workers' hours if we do away with the 30-hour rule?

Mr. TRAUTWEIN. Without a doubt. It makes the compliance cost easier, and makes it easier to manage the blend between full- and part-time employees. Many part-time employees don't want to work full-time, and that's something that, under the 30-hour rule, they have continued to work, that part-time, but with fewer hours, less money in their pockets. So, certainly, from a retail and chain restaurant standpoint, this would improve things measurably.

Mr. BRADY. Mr. Snyder, do you think adjunct professors at community colleges want to see this 30-hour rule changed?

Mr. SNYDER. Absolutely, because the bulk of them are making decisions that are counter to their own best interests and certainly counter to ours. And I think the point that you made—and that is the 40-hour rule, if we move to that, would memorialize 40 hours as a benchmark that you should, in good conscience as an employer, be offering health care to everyone and trying to get more people into that 40 hours because I think the 30-hour rule actually puts 40-hour plans at risk because somebody has to pay for that cost.

Mr. BRADY. Yes. Good point. Thank you, Mr. Chairman.

Chairman CAMP. Thank you.

Mr. McDermott.

Mr. MCDERMOTT. Thank you, Mr. Chairman. Last week I read a headline, "Did ObamaCare Break Up the Captain and Tennille Marriage?" Now, a reasonable reader could write that off as sensational journalism, but the way the right wing media has played it,

the Affordable Care Act appears to be a very devious thing. I'm sure we'll hear shortly how ObamaCare has brought problems in the Middle East and created problems in the waters of West Virginia and probably even climate change. "If we can get rid of this 30-hour rule, why, everything will be all better."

We're talking about a preposterous accusation that the ACA has forced—and I emphasize forced, f-o-r-c-e-d—businesses to cut hours. Now, I have no doubt that think tanks can come up with statistics to make their claim and that our panel is doing without any real evidence. They have anecdotal stuff. I know more about the community colleges in the State of Washington than, I think, probably anybody, having been the Chairman of the Ways and Means Committee. They have used part-time employees and jerked their employees around for years to reduce their full-time equivalents. So it's not something new that's coming because of ObamaCare. There are no penalties until 2016. Who exactly is forcing you to do this now?

For those of you wondering what this phony hearing is really all about, you ought to look no further than tonight's State of the Union. This is put in the morning before the State of the Union to create a make-believe problem that the President has to deal with, right?

Here's what this hearing really ought to be about. What is corporate responsibility? Now, Citizens United decided that corporations were individuals. So I guess they're individually responsible, right? But people like to talk about individual responsibility. Individuals ought to have their own health care, and there's three ways you get it. You either get it from—you buy it yourself, or you get it through your employment, or the government provides it for you. And we took this Republican idea of letting industry and the insurance industry and the corporations put this together. And now every time we turn around, there's another problem that's destroying the American economy because of the Affordable Care Act. They basically are saying they have no responsibility for their employees.

Now you have to ask yourself, with record profits—if you look at what's going on in the stock market right now, you have to say, "Don't they have a responsibility to insure their employees?" I mean, is there no responsibility in this country? We were talking in this Committee, "We're going to lower taxes. The corporate tax rate is killing America. We have to lower that corporate tax rate." And we're not going to require them to provide or offer insurance to their employees?

What the Congress decided with the Affordable Care Act was that people had a responsibility to offer to their employees health insurance. Now, we can argue about the level until the cows come home. Really, the question is do you want a workforce that's healthy or not, or do you just want them to work—see, we could go back to 1910 when there was no unemployment insurance and there was no industrial insurance and we treated workers like, "Well, you get sick, your problem. Get out of here. We'll hire another one off the street to replace you." And if that's the world we want to go back to, then you're going in the wrong direction for me

because this bill is trying to figure out how do we use this system we've created.

Now, Mr. Rangel has asked Mr. Chen, "Give me an example of something we can do to fix it," and we get nothing except repeal the bill. Well, we tried that 49 times, and it isn't going to happen. This is, in my view, a question that this Committee has to deal with. Whose responsibility is it for the health of American people? And I like—somebody said that this is the first hearing on single-payer. It probably is because if you keep working to kill what you've created under RomneyCare, which Mr. Obama took and put in place for the whole country, you're going to get single-payer care because Americans are not going to walk away from people who don't have health care.

Chairman CAMP. All right. Time has expired.

Mr. MCDERMOTT. You and I pay a thousand bucks a month.

Chairman CAMP. Mr. Tiberi is recognized.

Mr. TIBERI. Thank you, Mr. Chairman.

Mr. Chen, in central Ohio this make-believe problem has caused the Ohio State University to lower the cap on student work hours to below 30 hours. They're not the only 4-year college to have announced that. Students have been impacted. Columbus State Community College has reduced hours for adjunct professors, adjunct faculty, and hourly workers to less than 30 hours a week as a result of the Affordable Care Act. The Upper Arlington City School District has already cut hours for aides who work with disabled students from 32½ hours per week to 28 hours per week citing the Affordable Care Act.

In my sister's city where she lives with her two sons and her husband, Lebanon, Ohio, the hours of 18 part-time paramedics and firefighters were reduced. Public Safety Director Michael Blackwell said, "We were scheduling most of our part-time workers to about 39 hours a week. With ObamaCare and the regulations that follow, we've cut all those part-time employees down to less than 29 hours per week." And many towns who employ part-time paramedics and EMTs have done the same thing throughout the State where I live. How does a 30-hour rule that some call preposterous—others say is make-believe—impact the typical paramedic who now is working less than 30 hours a week?

Mr. CHEN. Congressman Tiberi, the typical paramedic probably makes about \$11 an hour. And if the work is cut from 39 hours a week to 29 hours a week, that paramedic loses about 25 percent of his or her pay. In similar fashion, if it's cut from 39—excuse me—from 35 down to 29, they lose about 17 percent of their pay. So, obviously, there is a negative impact with respect to those folks.

Mr. TIBERI. I ran into a lady at the grocery store who was working part-time for a retail employer and she was provided health care. She lost her health care this month, and her hours were reduced to less than 30 hours a week, and she was fine working part-time. Her husband's an independent contractor—he did not get health care through his work. So she took a pay cut. She lost her ability to purchase insurance. She took a second part-time job so her and her husband could afford to go onto the exchange and make up for the fact that she lost insurance and lost hours. Is that something typical that you've heard among the 3 million people

who now are getting health care in the exchange who were forced off because they either no longer qualify because of the 30-hour workweek or as a spouse they've lost their coverage through their working spouse?

Mr. CHEN. Yes, sir, those stories are quite common. And, in fact, I think the incentives are aligned in such a way that you may be hearing more of those kinds of stories.

Mr. TIBERI. I received an email from a constituent in New Albany. Her 25-year-old son-in-law was offered a full-time position with a retail company in Ohio. He accepted the job and was eligible to receive healthcare benefits after 6 months on the job. And, according to her, it was a "godsend" for him and her daughter who had an 11-month-old baby at the time and was pregnant with another on the way. After 4 months on the job, because of the ACA requirement, his employer cut his hours to less than 30 hours per week, which made him no longer eligible for healthcare benefits. They were forced to give up their apartment, move in with family, and now can't locate full-time work with another employer due to this fear of the regulation. Is that something you've heard as well?

Mr. CHEN. Yes, sir, it is.

Mr. TIBERI. Mr. Anastos, it is pretty clear that the 30-hour rule is forcing employers to cut back on hours. You were beginning to talk about the food service industry. White Castle's headquartered in Columbus. They have already made this announcement in July that they were going to hire all new people at less than 30 hours because of the mandate. Have you heard this happening across the fast food sector and retail sector? Can you turn on your microphone?

Mr. ANASTOS. In fact, that grocery story was the same story I heard last week where a woman was—I mean, where she said the same thing about her hours being cut. But, you know, I'd just like to say that we're not all record profits and Wall Street companies. I mean, I started painting houses and working in a Wonder Bread factory as a union worker. And what I'm getting at is we don't have—so we're going to double and triple our health costs. I mean, small business is like the golden goose of job creation. How much more can they put on us? But as far as managing to 30 hours, yes. Those three new hotels which we will be building—and we are building them because we are building them essentially with other people's money—we will manage those to 30 hours because we have to find out how viable that business is.

Mr. TIBERI. Thank you. I yield back.

Chairman CAMP. Mr. Neal is recognized.

Mr. NEAL. Thank you, Mr. Chairman. Mr. Snyder, I am a big supporter of community colleges. I think for the purposes of clarification, just to raise a couple of questions with you, in the last 10 years have you hired more adjunct faculty, or have you hired more tenure track professors?

Mr. SNYDER. Well, we have tried to actually increase our percentage of full-time professors, but the growth of the community college is not permitted. So I would say that we probably added about—the ratio is about the same. We have gone from about 4,000 to 4,500 and from about 1,200 to 1,500. It's both a cost and availability issue.

Mr. NEAL. Fair enough. But has the trend line over this decade been to hire more part-timers than more full-timers?

Mr. SNYDER. No. I think our goal was to reduce our costs and actually hire more full-time on a percentage basis.

Mr. NEAL. And would it be conceivable that within the system—well, let me ask you this. What would a full-time faculty member carry for classroom hours?

Mr. SNYDER. In the community college they teach. So they would teach five courses per semester, and then they would sign an additional contract for the summer if they were going to teach in the summer.

Mr. NEAL. Okay, so 15 hours?

Mr. SNYDER. Full load. Right.

Mr. NEAL. Is it conceivable that, within the system, you would have two professors, both teaching 15 hours, where one might be considered full-time and the other might be considered adjunct?

Mr. SNYDER. It might be.

Mr. NEAL. Okay. That is kind of the point of this. And I understand the argument is flat around. But part of the problem here has clearly been that there has been a long-term trend toward hiring—across the country, hiring more adjuncts. Now, some universities for cost purposes—I understand that. But I think it's kind of difficult sometimes to just discern the point that you raised earlier, that you might not hire based upon the following. Is that fairly accurate?

Mr. SNYDER. Well, I think that you would want to look at the bigger picture. And that is the full-time professor signs an annual contract, which requires office hours, requires advising, which requires course development.

Mr. NEAL. A tenured faculty member would sign a year-to-year contract?

Mr. SNYDER. Well, ours are not tenured, but they have always signed a year-to-year contract, yes.

Mr. NEAL. Okay. But generally in academic life—

Mr. SNYDER. It would be the same in a tenured agreement. These would be the job requirements.

Mr. NEAL. Most tenured professors would sign a year-to-year contract?

Mr. SNYDER. Well, our professors all do.

Mr. NEAL. But I would suggest that that's probably not the case at most universities and colleges.

Mr. SNYDER. Well, it's been that way for the school for decades, so—

Mr. NEAL. Okay.

Mr. SNYDER. But the point being that the adjunct—just to be clear, the adjunct is only obligated to show up for orientation, to do the outside-the-course work—

Mr. NEAL. Right.

Mr. SNYDER [continuing]. And to be in class what would typically be 9 to 12 hours per week. And so what the regulations would require is that we somehow assess on a fair basis the prep time in a way that determines did they or did they not exceed 30 hours, which is an unconscionable task at the moment.

Mr. NEAL. But in the State of New York today—it's very clear in the State of New York that more and more full-time faculty members are augmented by those who carry the same number of hours in the State of New York who are adjuncts. And I think the trend line is pretty clear over the last 10 years, that most universities have moved in the direction of more and more part-time lecturers who they have not had to pay full-time benefits.

Mr. SNYDER. Right. I would say this. Having read the articles—and I don't have all the details. I read the articles.

Mr. NEAL. Yeah.

Mr. SNYDER. There is also the implication that there is an increase in professors who are non-tenured, not exactly adjuncts, which would be a different pay level.

Mr. NEAL. Okay. Well, fair enough. Fair enough.

Mr. SNYDER. Right.

Mr. NEAL. But I just wanted to see if we could clear some of that up.

Dr. Levy, productivity. The whole notion of productivity and what's happened over the last few years even as the economy has been mired in this slump, productivity has actually gone up, hasn't it?

Ms. LEVY. It has, yes.

Mr. NEAL. Substantially?

Ms. LEVY. Yes, I would say so.

Mr. NEAL. So could you link that notion of productivity gains perhaps to healthcare benefits and the security of one having health care?

Ms. LEVY. Well, there's very good evidence that having health insurance improves financial security and health outcomes for the people who have it. So it's certainly the case that some of the economic benefits that the coverage expansions of the Affordable Care Act would include improvements in health and productivity, yes.

Mr. NEAL. Mr. Chairman, I think one of the arguments that would be worth having here at some point—or discussions, I should say—would be having some folks come in to talk about the whole notion of productivity gains across the American economy during the last few years. They've been really substantial. The problem is, as we discuss this whole notion of income disparity, one of the interesting parts of it is, while productivity has really been gained, real wages and salary haven't.

And, Dr. Levy, would you comment on that?

Ms. LEVY. Yes, that's right. I mean, to the extent that we're concerned about inequality, as Dr. Chen highlighted in his testimony, of course we do always need to be worried about the well-being of low-income families, of, in particular, the workers who are less likely to have health insurance. And I think that's exactly why the idea of changing the hours threshold is so problematic because you put many more of those workers at risk of having their hours reduced by changing the threshold for full-time.

Chairman CAMP. All right. Thank you.

Ms. LEVY. I'll stop.

Chairman CAMP. Thank you.

I'm going to go two to one now. So Mr. Reichert is recognized.

Mr. REICHERT. Thank you, Mr. Chairman.

Dr. Chen, how does the 30-hour rule impact school bus drivers?

Mr. CHEN. Congressman, I think the reality is that many of these individuals are going to face the same kinds of difficulties as other workers we've talked about. You might see, for example, that if they were to have their hours cut from 39 hours down to 29 hours a week, that they would be looking at a pay cut of roughly 25 percent or more. If they're cut from 39 hours to 35 hours, you're looking at a pay cut of about 20 percent, so obviously the impact is significant. And school districts—the data is pretty clear with respect to school districts, that they are feeling the pinch of the 30-hour rule. In fact, over a hundred school districts have reported making changes to hours for people like school bus drivers, temporary and other workers, or just outsourcing that work entirely.

Mr. REICHERT. Thank you. Mr. Chairman and Dr. Chen, of course, we know this is not a make-believe problem. It's not a theoretical concern. It's not a political or ideological disagreement. This is really happening to workers out there across the country. It's happening now. School bus drivers are having their hours cut because of ObamaCare's 30-hour rule.

Mr. Chairman, I'd like to submit this article for the record from the *Huffington Post* that reports how school districts have cut back hours because of this rule.

Chairman CAMP. Without objection, so ordered.

Mr. REICHERT. I'd also like to enter into the record, Mr. Chairman, a letter to you, Mr. Chairman, and the Ranking Member from the Employers for Flexibility in Health Care Coalition.

Chairman CAMP. Without objection, so ordered.

Mr. REICHERT. Thank you.

Dr. Chen, I would like to follow up on a line of questioning that Mr. Johnson began as to what happens when people lose hours and earnings as a result of the 30-hour rule. We know that businesses are reducing employer's hours or reducing the size of their workforce in response to the 30-hour rule. So what happens to individuals' unemployment benefits if they're laid off? Don't checks for the unemployed go down if people work less while they're employed?

Mr. CHEN. Yes, sir, that would be an impact.

Mr. REICHERT. How about the 401(k) contributions based on earnings? Won't those go down as well?

Mr. CHEN. Yes, sir, that would also be affected.

Mr. REICHERT. So wouldn't that cause retirement income to decline and poverty to increase down the line?

Mr. CHEN. There is no question that retirement security would be one of the side effects—or less retirement security would be a side effect, yes, sir.

Mr. REICHERT. Are there any other examples of unintended consequences for the safety net from this misguided 30-hour rule that you can think of?

Mr. CHEN. You know, the biggest one simply is the loss of wages. The other thing I would say is that the more global concern about cost increases created by the ACA also makes it less likely that employers would offer health insurance to part-time workers. We have seen recent examples of this, Target, Home Depot, and other companies. Major companies have made the decision to mi-

grate away from an offer of health insurance to part-time employees as well.

Mr. REICHERT. And, Dr. Chen, from the data in the back of your testimony we find that the persons who are most vulnerable to ObamaCare's 30-hour rule are young females with a high school education or less. Fifty-nine percent of the vulnerable population are under age 35. Sixty-three percent are female. Fifty-three percent have a high school diploma or less. Is that true?

Mr. CHEN. Yes, sir, that is true.

Mr. REICHERT. These are the groups who are most likely to lose hours and earnings as a result of ObamaCare's 30-hour rule. Do you think the Administration intended for these groups to lose hours and earnings?

Mr. CHEN. I would hope not, sir.

Mr. REICHERT. Won't many of them be single moms who are already struggling to raise children on a limited income?

Mr. CHEN. Unfortunately, yes, that may be the case.

Mr. REICHERT. And why do you think it makes sense to reduce—or does it make sense to reduce their hours and wages as the 30-hour rule will do?

Mr. CHEN. You know, I think the reality is that this is another example of not thinking through the incentives clearly. And, obviously, what's happening here is that many of these individuals are going to feel the impact of the 30-hour rule, although that may not have been intended at the time but certainly will be the outcome.

Mr. REICHERT. Mr. Chairman, I yield back.

Chairman CAMP. Thank you.

Dr. Boustany is recognized.

Mr. BOUSTANY. Thank you, Mr. Chairman. Leonard Frank is a constituent of mine in Lafayette, Louisiana. When he was in college some years ago, he started working at a Pizza Hut. And he started probably at minimum wage and worked and saved. Today he's a proud owner of America's Pizza Company, which is headquartered in Lafayette, Louisiana. They have 148 Pizza Hut locations in five States and 4,000 employees, a real entrepreneur, a great American story.

I spoke to Leonard, and he told me, because of this 30-hour rule, every employee—every employee—in his organization will be moving to a less than 30-hour workweek. The company—he made an economic decision. The company was going to be penalized \$3 to \$4 million per year under ACA if he didn't make this decision.

Furthermore, this decision will primarily affect college kids, first-time employees, and single working mothers. And in his business he starts them off above minimum wage. He pays market rates. This provision is now forcing employees to leave the company to seek out minimum wage jobs to make up lost hours. Dr. Chen, is this the new normal for America's working families?

Mr. CHEN. We've certainly seen some troubling trends over these last several years, Congressman. As I mentioned earlier, 7.8 million Americans currently are in part-time work but desire full-time work. They're unable to find it due to a variety of different economic reasons. And beyond that, certainly a number of individuals will face—as we argue, almost 3 million individuals will face

potentially their hours being cut because of the dynamics created by the 30-hour rule.

Mr. BOUSTANY. Mr. Trautwein, you represent the retailers. Is this the new normal?

Mr. TRAUTWEIN. I fear it could be. There is a 1-year delay in the employer-mandated penalties. So I think that has softened the path. There is also a prohibition in the ACA against making insurance-based employment decisions. That may be deferring that. But if I were out there running a store, I'd have to think twice about the next hire I make and where I would place that individual in my company. So it's certainly not good.

You know, from a standpoint of a part-time employee, some want to work more. They want to work their way into full-time. And retail and chain restaurants have rewarded the best-performing employees that way. Others wrap their work around school, around other obligations, and they want to stay part-time. So, again, it's a question of how many dollars are in their pockets. Are they working under 30 hours or up toward 40 hours. And, certainly, from that standpoint, they're better off at that higher rate of compensation.

Mr. BOUSTANY. Thank you.

Mr. Chairman, I have a letter from the NFIB that was addressed to you and to Ranking Member Levin. And I would like for it to be made part of the record.

Chairman CAMP. Without objection, so ordered.

Mr. BOUSTANY. Mr. Anastos, it's been almost 4 years since the law passed, and the employer mandate has been put on hold. It would have gone into effect this month. What—I mean, you're still having to prepare for this because there's a temporary reprieve in this. Do you have the information you need to make decisions?

Mr. ANASTOS. It's funny you should ask. I mean, well, not funny you should ask, but it is so—I have met with more people, the head of the insurance commission in Maine, every insurance person I can think of. And the problem is it's hard—it's almost like that old saying, "Nailing Jello to a wall," to figure out really how much it's going to hurt us or not hurt us. So do I feel I have all the information? I have all I can possibly get. But then, of course, the law changes all the time. I don't know.

Mr. BOUSTANY. So you're faced with tremendous uncertainty as you try to plan how to grow your business and create jobs?

Mr. ANASTOS. That's the understatement of the year here really, truly, truly.

Mr. BOUSTANY. Thank you. I yield back.

Chairman CAMP. All right. Mr. Doggett.

Mr. DOGETT. Thank you, Mr. Chairman, and thanks to our witnesses. There are those who believe that we are better off in America if many of the people who serve our meals, make up the bed at our hotel room, or educate our youth cannot access health insurance. I don't share that view. I would rather like the people who are serving my meal to have gone to the doctor if they have the flu or maybe gotten a flu shot and have access to health care.

I think the underlying reasoning of those who would repeal the Affordable Health Care Act is not unlike those who say they are helping minimum wage workers by keeping the minimum wage at

a minimum and not raising it to a livable wage, as the President is seeking to do through an executive order for those who are Federal contractors and which the Congress should extend to all minimum wage workers.

It is true that the Affordable Care Act has been blamed for just about everything but the polar vortex. And I read this—heard this story about the bus drivers in Indiana. I mean, that was something that was reported last June about an event that won't even occur until 2016. You have to wonder whether it really had anything to do with the Affordable Care Act.

We had a little of that with at least one community college system in Texas blaming the Affordable Care Act for what it would do with adjunct faculty. And they ended up having to retreat from that position because, in fact, in Texas, since 2003, adjunct faculty at our community colleges have been eligible for health coverage of the same type that is offered to full-time faculty and employees. Indeed, 3 years after the Affordable Care Act, last year Governor Rick Perry signed a law that made even more adjunct faculty eligible for that health coverage. You have to think that if a State can't meet the low level Governor Perry sets, that it really has problems much bigger than adjunct faculty.

At Austin Community College at the Alamo Colleges, we have many adjunct faculty members that are working fewer hours than 30. They are eligible to get coverage. The question is who pays for it. And at the adjunct faculty level, if you have a lawyer who is part-time teaching business law, they probably have coverage through their employer already unless the insurance is unaffordable; it exceeds 10 percent—9½ percent, I guess—of their income, there is not an obligation to provide coverage.

There are many reasons why community colleges use adjunct faculty. Some of them are citizens in the community who are doing very well and enjoy teaching on a part-time basis. There are many others in some communities, as the Democratic staff of the Education and Workforce Committee reported in January, who are treated very poorly and paid very poorly and very much need the very kind of health insurance coverage that the Affordable Care Act offers.

There are also many people in the private sector who are benefiting from the Affordable Health Care Act. I think of Gabe Farias, who is the Executive Director of the West Chamber of Commerce in San Antonio, Texas, a group of small businesses that are really encouraging job growth in that community. Mr. Farias was telling me that both he and his wife were able to get significantly better coverage at less cost because of the exchanges and the Affordable Health Care Act.

I think of Ron Romero, who is in the technology industry, who talked about the advantages of avoiding job lock that were offered through the Affordable Care Act that encouraged the expansion and innovation in small business. And it's to be remembered that this 30-hour rule did not come to us like manna from heaven. Like most of the problems with the Affordable Care Act, and there are many, it was the result of compromise in the legislative process.

There were some who said, well, we really should not ask employers to cover half-time workers. Let's go with 30 hours as a rea-

sonable compromise. If we had gone with 25, we would be here today hearing about the 24-hour rule. If we had gone with 35, we would be here today hearing about the 34-hour rule.

I think, Dr. Levy, you pointed out that if we had used the 40-hour standard, what would we have, about three times as many people affected?

Ms. LEVY. Yes. That is right. We would have three to five times as many workers potentially at risk of having their hours cut.

Mr. DOGETT. So I think what we achieved is a reasonable balance. We need to be working to see that all Americans have access to a family doctor, to affordable health care. That is the direction in which we have moved.

We have done so imperfectly. We have done so with a considerable amount of bungling in the rollout of the Affordable Care Act. But its objectives are genuine, and the potential is great. We need to be working to achieve it instead of undermining it.

I yield back.

Mr. BOUSTANY [presiding]. I thank the gentleman.

Mr. Smith, you are recognized.

Mr. SMITH. Thank you, Mr. Chairman, and thank you to our panel, all of you, for sharing your insight and perspective. I think it is very valuable and important.

I was looking at a report of various entry-level jobs, and it was intriguing to know the average wage of many of these jobs. For example, dishwashers earn \$8.82 an hour, just under \$9 an hour. I do not think anyone would say that that provides a great deal of financial comfort. But if they go from 39 hours a week, earning \$344, to 29 hours a week, they would lose about \$53 per week, or the equivalent of a 17 percent pay cut.

And it is very compelling, looking at all of this information, and certainly as I hear from folks, across rural Nebraska in this case, there are realities out there that are very difficult for employees, employers, virtually everyone to contend with.

So I would ask, Dr. Levy, can you point to perhaps some component of the healthcare law that reflects the differences between rural and urban areas of the country?

Ms. LEVY. I am not sure exactly, when you are saying urban and rural—in terms of the labor markets, do you mean?

Mr. SMITH. Well, as it relates to this issue. We know that unemployment rates vary drastically from one State to another, not to mention regions of one State to another.

Ms. LEVY. Okay. Sure. I guess I tend to think of the impacts of the law being more related to where people are in the income distribution rather than their geographic location. So the affordability issue, as you know, is much more of a problem for lower income families.

Mr. SMITH. Right. And on the affordability topic, have you studied how the affordability of health insurance would impact the frequency of its purchase?

Ms. LEVY. Oh, yes. We do know that people are more likely to buy things when the price is lower. Yes.

Mr. SMITH. But in terms of its practical application, has that been a part of recent reviews or studies?

Ms. LEVY. We expect that the combination of the individual mandate in the Affordable Care Act combined with the subsidies through the premium tax credits will have a large effect on the takeup of health insurance, yes. So we would expect many more people to get insurance both through the exchanges, ultimately, and through the Medicaid expansion. And we expect that to improve.

The evidence we have suggests that that will have positive effects on health and financial security so that the overall plan of the Affordable Care Act, in making health insurance more affordable to people, provides better economic security.

Mr. SMITH. Now, you indicated in your testimony that because of the ACA, such workers will be able to choose the schedules they prefer. Prior to that, in context, you highlighted how people are in different situations. Are there some specific examples of people really being able to have more flexibility or more choice of their hours in the last few months?

Ms. LEVY. I have not heard any individual examples of someone saying, thank goodness I can now go to part-time, or now I can start my own business. But I do expect that, over time, we will be hearing those stories.

Mr. SMITH. Because for a long time, some folks, depending on their personal situation, have preferred to work part-time. Would you agree with that?

Ms. LEVY. The majority of part-time employment is what is called voluntary part-time employment, yes, people who work part-time because they are also taking care of family members or going to school or something like that.

So, as Dr. Chen has said, 7.8 million workers are currently in voluntary part-time, what we call part-time for economic reasons, but that is higher than usual at the moment because we are recovering from a recession still. And even now, it is less than half of the part-time workforce. So the majority of part-time workers want to work part-time.

Mr. SMITH. And, Dr. Chen, have you ever affixed a dollar figure, perhaps, an hourly dollar figure, on the value of health insurance?

Mr. CHEN. I do not have a single figure, Congressman. What I would say is that certainly it is the case that under the ACA, for employees who are working in that 30- to 36-hour slot, it is more expensive for the employer to provide that employee with health insurance than someone working closer to 40 hours, let's say, because of the 9.5 percent affordability requirement contained in the ACA.

So I am not sure if that gets at the exact question you are asking, but I think the point is simply that it is more expensive for the employer to furnish insurance to someone working 30 to 36 hours versus someone working 40 or more hours.

Mr. SMITH. Thank you, Mr. Chairman.

Chairman CAMP [presiding]. Thank you.

Mr. Paulsen is recognized.

Mr. PAULSEN. Thank you, Mr. Chairman.

This testimony really strikes home with me. It is very similar to what I am hearing from a lot of folks in Minnesota, employers, particularly in the restaurant and retail industry, and also fire departments.

There is no doubt that I have heard from several fire chiefs that have told me the bottom line is that if the language is not changed, the law is not changed in the Affordable Care Act, a lot of city fire departments are going to have to either lay off or reduce hours for volunteer firefighters—volunteer firefighters—or they are going to have to drastically increase taxes to expand the budgets for these fire departments.

And companies are no doubt having to scale back hours with more part-time jobs and less full-time jobs. So there is a direct consequence that employees that have had good full-time jobs now have part-time jobs.

I know this one restaurateur that I spoke with in Minnesota. He owns seven restaurants. He has 535 employees. And many in this industry, you think they only employ part-time folks. Right? He actually has 41 percent of his workers working full-time.

But now, because of the new law, he is being forced to move all of those folks, nearly all of them, into part-time status of 29 hours, and that is just wrong. That is the consequence again.

Mr. Chen, let me just ask a question on retail sales workers. How does the 30-hour rule impact retail sales workers?

Mr. CHEN. The research that we have done suggests that they are clearly at risk because of the 30-hour rule. And, in fact, if I recall correctly, I think they are most at risk because of the nature of their work schedules and the way in which the 30-hour rule sets up the incentives for them potentially to have their hours cut. So I would say that workers in the retail industry are at significant risk.

Mr. PAULSEN. And, Mr. Trautwein, this just follows up with your area of expertise. What is different about the retail business that makes the 30-hour rule such a top priority for your industry as opposed to, say, an insurance company or a big Wall Street firm?

Mr. TRAUTWEIN. It is really the nature of the retail industry. Frequently we are open 7 days a week, not quite 24 hours a day, but occasionally that, too. But because of the close margins the retail industry has, certainly if we increase the cost of labor, we can afford to have fewer employees in. And it is less expensive to have part-time employees than have full-time employees.

But from our standpoint, this is not something that we are either for or against insurance coverage. Retailers were one of the first industries to come up with health insurance coverage. So it is a question of how much additional cost for providing coverage, how much additional compliance cost, how do you keep people in that sweet spot there, and what effect that has on how people operate their businesses.

There are very, very expensive ways, technological ways, to manage workforce within that look-back period. But I worry a lot about the small independent stores who maybe are up above that 50-employee applicable level. It is a lot harder for them to manage that cost. So a lot of what we retailers and chain restaurants worry about is the compliance costs of managing this.

Mr. PAULSEN. Thank you, Mr. Chairman. I yield back.

Chairman CAMP. Thank you.

Mr. Kind is recognized.

Mr. KIND. Thank you, Mr. Chairman. And I want to thank our witnesses for your testimony here today.

When I had supported the Affordable Care Act a few years ago, I was one who did not believe it was a perfect bill, that it was going to be a bill that required constant updating and changes and reform as we learn what is working and what is not.

So getting feedback is going to be important as we move forward so that we try to obtain the goal of more affordable, more quality healthcare coverage for all Americans. And hopefully it is a goal that is shared. But the constant drumbeat of criticism about what is taking place I do not think is very helpful or constructive in trying to come up with some workable solutions.

Recently, I think there has been some misconceptions about Target's recent announcement that they released. Earlier this week, Target, on a blog, clarified a few of the points that have been, I think, misinterpreted.

First of all, they made clear that they are not reducing hours for their workers. They do not support raising the 30-hour rule to a 40-hour full-time rule. And they also feel that less than 10 percent of the workers that are now going into the exchange are better served in the exchange because there is more affordable coverage in it.

So, Mr. Chairman, with your permission, with unanimous consent, I would like to introduce the Target blog for the record for the sake of clarification at this time.

Chairman CAMP. Without objection, so ordered.

Mr. KIND. Dr. Levy, let me ask you just a couple of questions with my time remaining. Anecdotally, I have been struck by the number of people in Wisconsin who have come up to me talking about the job lock issue, that now, for the first time, they are able to branch off and start a business that they were reluctant to before for fear of them or a family member with a preexisting condition then losing healthcare coverage.

What are you seeing in the labor market in regards to job lock and whether or not this might spur some more entrepreneurs that have the ability now to finally strike out on their own if they do have a good idea or if they have wanted to start a business for some time?

Ms. LEVY. There is good research that supports the idea that currently people are inhibited from starting businesses by the fact that employment and health insurance are so closely tied to each other. So the best research we have looks at, for example, people who already have employer-sponsored health insurance coverage through their spouse. Those people are significantly more likely to go start a business than people who do not have that option of coverage.

Also, you can see at age 65, for men who are working full-time, there is a jump up in the probability of starting a business at age 65 when men become eligible for Medicare that is presumably related to the fact that now they no longer have to keep working for the health insurance.

So all of the evidence from what we have seen so far suggests that the fact that the Affordable Care Act provides an alternative to employer-sponsored coverage should increase mobility across

types of employment and increase the rate at which people start businesses.

Mr. KIND. Now, I have a lot of small business owners, obviously, in Western Wisconsin. Many of them have been able to take advantage of the tax credit. When the ACA was first passed, the data and the information we had showed that with employers of 50 or more workers, roughly 95 percent of them were already providing healthcare coverage.

Of course, those small businesses up to 50 workers were not required under the law to provide healthcare coverage. But there were incentives to help small business owners be in a better position to extend coverage for their workers.

What are you seeing with small business owners, small businesses generally in the labor market, their ability to start providing healthcare coverage for their workers?

Ms. LEVY. As you say, the Affordable Care Act has included and still includes a premium tax credit to help offset the costs for small businesses that are providing health insurance. It is also true that it is built into the Tax Code that there is assistance for employers providing insurance because health insurance is not taxed as income to the worker.

So there is a significant advantage to employers who provide health insurance compared to providing that compensation in the form of wages. That is one important reason why so many small firms, in addition to almost every large firm, already provide health insurance for their workers, even in the absence of any kind of requirement to do so.

Mr. KIND. We are hoping with the creation of the small business health insurance marketplace, too, that there will be a better choice for them with affordable rates that they will be able to extend to their employees.

Oftentimes, this conversation is focused on some of the anomalies that are working their way through the system, about the 30-hour week or 40-hour week, and not enough focus about, all right, if it is not working, then what is the alternative of making sure that those workers have access to affordable healthcare coverage?

We just saw one announced on the Senate side by some Republican Senators, and it is one big cost-shift proposal, is what they are offering in their plan. And it is taking away the tax exclusion within the Code, making it harder then for businesses to be able to offer healthcare coverage, and then shifting.

And this has been a trend, I think, with a lot of large businesses. We are getting away from defined benefit plans to a now-defined contribution. Pensions are going away. And the concern I think a lot of workers are feeling is that employer-based healthcare coverage, too, is going to either continue to be shifted on their backs through higher deductibles and copays or it will just go away entirely.

What trends are you seeing in that regard, Dr. Levy?

Ms. LEVY. Well, there is very little evidence that there will be large-scale dropping of employer-sponsored coverage by large firms. They have almost all always offered it, even in the absence of a requirement to do so.

The business case for doing so remains strong, and in fact, it is even stronger as a result of the individual mandate because now even more workers—and we have heard that from Mr. Anastos—even more workers want to get health insurance. So large firms have very strong incentives, as they always have, to continue to offer employer health insurance.

Mr. KIND. All right. Thank you.

Chairman CAMP. Mr. Marchant is recognized.

Mr. MARCHANT. Thank you, Mr. Chairman.

I received a letter recently from a Tom Hardeman, who runs a McDonald's, has a franchise in my district:

"The Affordable Care Act must be repealed. The financial impact of this law on my business will be devastating if not changed. I do not think I need to go into details, but there are businesses across the country that will go broke because of this unreasonable law.

I will repeat what I said to you in the office. I used to think of Burger King, Wendy's, and Sonic as my competition and the greatest risk to my business. But now I believe it is our government. As I look into the future and assess risk, it is regulation, taxation, mandated programs, and interference from the government that has the potential to destroy my business and small businesses like mine across this great land."

This is just an example of the many letters that I receive in my office every day, and many of the comments are about the lack of flexibility the ACA gives to part-time employees.

Dr. Chen, not only is health care a major consideration for companies when they consider moving someone from part-time to full-time, but there are pension obligations that go along with it. Is it fair to say that if you were to move somebody from, say, 36 or 39 hours to a 40-hour full-time position, that it could add 30, 35 percent cost to employ that person readily?

Mr. CHEN. Certainly the addition of the additional hours plus the additional benefits could add up. Yes, sir.

Mr. MARCHANT. So that same company now is having to make a decision to keep that person on to bring them back to 29 hours. Now, some of the unintended consequences of that, I believe, not in the higher-paid staff but in the restaurant business, the hospitality business, is that many of those employees are near minimum wage or just above minimum wage.

And if you take them from, say, 39 hours a week, they are above some of the thresholds that are very important in the public assistance world. If you take them from 39 hours to 29 hours, in many instances they will then begin to qualify for Medicaid. They will then begin to qualify for food stamps. They will then begin to qualify for almost a 100 percent supplement to their Affordable Health Care Act.

So they will pay much less into the Social Security old age fund. They will pay much less into the Social Security disability fund. And it will trigger all kinds of other public assistance.

So, really, does this law enable people to get out of poverty and to begin to work in the workplace and get themselves off of all of these assistance programs, or does this law really push those same people back into a dependence mode?

We already have a situation where major corporations in America are being accused of bringing their employees in and coaching them on how many hours they should take and how few hours they should work at the amount, and then they begin to show them if they will work a certain number of hours, then they can trigger the food stamp threshold. They can trigger the Social Security threshold. They can trigger the Affordable Care Act threshold.

To me, if you look at this in a long-term perspective, the Affordable Health Care Act, the net effect of it, is not going to be that more of these people are going to have health insurance and more of these people are going to be more productive. It is going to create a new normal where people will not work as much because their access to benefits will be so much greater because they are working less.

Thank you, Mr. Chairman.

Chairman CAMP. Mr. Reed.

Mr. REED. Thank you, Mr. Chairman. Thank you to the panel.

I am going to echo some comments from Mr. Marchant, and those comments are to read to you a real letter from a real person from western New York that is dealing with this situation.

Last week, I received this letter from Victor Taroni in Jamestown, New York, a small town in my district, who is the owner of a local coffee shop, a Tim Hortons, sharing his frustrations with me as a small business owner who is trying to keep his restaurant afloat while doing the best thing for his employees while complying with the maze of regulations coming out of Washington.

He writes, "Dear Congressman Reed: As a hardworking restaurateur, I am writing to urge you to work in a bipartisan way to address the challenges to me and restaurant operators like me with the Affordable Care Act—the definitions of full-time employee, applicable large employer, and the automatic enrollment provision.

"The healthcare law has a particularly profound impact on the restaurant and food service industry. Our businesses are labor-intensive, with low profit margins, with a workforce that is young and mobile, while employing a significant number of part-time and seasonal employees. Due to these characteristics, the law is more difficult for restaurants to comply with than many other employers.

"It is critically important that the law's definition of full-time employee be rewritten so that it is more in line with the current employment practices and reflects my workforce's needs and my employees' desires for flexible hours. If not addressed by Congress soon, disruptions to the workforce could and will occur, and flexible work options for employees will begin to disappear in my operation.

"The definition of large employer under the law is based on a complex, 12-month calculation to determine whether an employer has 50 or more full-time equivalents, a calculation unique to this law and not easily implemented in large shift work environments.

"The annual calculation is unnecessarily complicated and sweeps millions of small businesses into its reach. Those on the cusp of the threshold must closely track their status, which increases small businesses' compliance burden. Congress should act to simplify the determination who is a small or large business under the law. Thank you for considering these issues."

That is a real person. That is not some made-up issue. That is not some made-up fact or anecdotal case. That is a real person that is dealing with this law today. And that resonates with me.

And it is not just the definition of full-time employee; it's the compliance cost. As a small business creator myself prior to when I came to Congress, to comply with these mandates, to comply with these regulations, takes real time. It takes real money. It takes a lot of stress as an owner of a small business.

This gentleman employs 120 of my friends, neighbors, family members, and he is reaching out to me and telling me, you have to do something. So I get a little frustrated when I hear colleagues on the other side of the aisle say this is not really an issue, it is not something that needs to be dealt with, that we are trying to blame everything under the sun on the Affordable Care Act. That is not the case.

I care about these people. This is not fair. These are real people that are business owners that have gone out there, risked their livelihoods, are employing real people, and those people that are employed? Just do a calculation.

In New York, we have an \$8 an hour minimum wage. So let's assume he takes his employees and goes from 40 hours a week down to 30 hours a week, just to comply with this situation he is dealing with on a day-to-day basis. That is \$80 less each week they are taking home, and about \$350 each month.

I don't know about you, but there are a lot of people in my district that are struggling. And when they get impacted by losing \$350 a month because of some policy out of Washington, D.C., that is frustrating.

So I guess I will turn to you, Mr. Trautwein. You represent a lot of people in the retail industry. What Victor is explaining to me and reaching out to me for help with, is that real or is he just making this up?

Mr. TRAUTWEIN. Unfortunately, Congressman, it is very, very real. I spend a lot of time trying to help my members understand the various requirements of the Affordable Care Act, when they need to start worrying about them. This issue of the counting of variable-hour employees in January, I am sure there are still companies who are not aware of that and then will be foreclosed from having as much as a 1-year look-back.

But to your point, their stock in trade is not health care. They want to run their business. They want to run their restaurant. And their compliance burden with this is tremendous. If they're lucky, they've got a licensed insurance agent who can lead them through this. But the complexity of the different requirements are continuing to pile up, and they are not happy with that compliance burden.

Mr. REED. Thank you. With that, I yield back, Mr. Chairman.

Chairman CAMP. Mr. Davis is recognized.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Dr. Levy, as I have listened to the discussion this morning, I am reminded of myself, that I have attended in the last 2 months at least five openings of new facilities, new opportunities—community health clinics, school clinics for teens. And I believe that in each

one of these instances, new individuals are also being hired to take care of the additional workload that is developing.

My county government has actually signed up more than 100,000 potential clients that they are going to be serving ultimately through their County Care program due to a Medicaid waiver that they were able to acquire.

Does the impact of these new services, new individuals, new clients, individuals who in some instances are in great need of health care to prevent debilitating experiences that they will have later on that will take them out of the workforce, that will prevent them from working at all, what impact does this have on job creation and our economy as a whole?

Ms. LEVY. I think that is a great point. The best evidence we have on the overall impact of what the Affordable Care Act requires of employers comes from Massachusetts and Hawaii. And I do not mean to dismiss either the economic or the emotional resonance of the stories from individuals that we are hearing.

But at the same time, I think it is important to look at the big picture, to take into account the fact that there are both other investments in hiring people occurring as a result of the Affordable Care Act; and also the fact that the economy is a powerful engine of growth, even as we are recovering from a recession, even in the face of these new requirements that we are hearing from my fellow panelists, are presenting a challenge for them.

As I said, the best evidence we have of what the overall picture is, adding up all of the stories that people tell and counting them as data, comes from Massachusetts and Hawaii, where we see no aggregate effect on employment, no negative effect on employment, and in Massachusetts, no shift toward part-time work as a result of the employer health insurance mandate.

So I think the big picture—while it will always be possible, in an economy with 150 million civilian workers, it will always be possible to find heart-rending stories of bad things that are happening to people that their employers may be attributing to the Affordable Care Act, the aggregate evidence we have is that the Affordable Care Act will not harm the labor market.

Mr. DAVIS. I have also listened intently to the gloom and doom that is being projected, and some of which is being experienced, as corporations and businesses and everybody figure out how do they best navigate the compliance.

It seems to me that talking about reducing hours that people work so that they cannot experience a quality of life that simply becomes desirable to me is not something that we should be encouraging businesses to do in our country.

How would you respond to that notion?

Ms. LEVY. I think that is right. You don't want to do anything that creates an incentive that affects—you want to minimize any kind of distortion that might be associated with these kind of regulations. That is why you want to have as few workers as possible at risk of having their employers cut their hours, and that is one reason why it is very important to keep the threshold at 30 hours instead of 40 because you have many more workers who are at risk if you move the threshold to 40 hours.

Mr. DAVIS. Thank you very much. No further questions, Mr. Chairman.

Chairman CAMP. Thank you. Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman. I ask permission to submit for the record a statement by NFIB about the impact the 30-hour rule is having on small business, and in support of H.R. 2575, to restore the traditional definition of "full time" within the ACA.

Chairman CAMP. Without objection, so ordered.

Mr. YOUNG. Just last week, I visited with the superintendent of a school in southern Indiana in my district, in Salem, Indiana. She was distraught, joined by other members of her school board. She was distraught that this new requirement, not only leading to administrative costs, which are burdening the school whose budget is already constrained, but she is concerned about the future, the future of her substitute teachers and the ability to manage personnel.

She is concerned about the ability to schedule said teachers in the classrooms at the right time. She speculated that she may have to ask those teachers to come in late while students are in empty classrooms so they can keep those teachers below the 30 hour threshold.

Very recently, one of her best employees actually left citing this specific provision of the Affordable Care Act.

Thirty-nine Indiana school corporations have sued the Federal Government in reference to this 30 hour provision because of the undue financial and administrative burdens it puts on them.

I have talked to representatives from Indiana University who said they will cut the hours of 1,000 employees over the coming year to comply with this Act and this provision.

Of course, we have heard the compelling testimony today from the largest community college system in the country, known as Ivy Tech out of Indiana. Mr. Snyder is President of Ivy Tech. We have heard from him today on the impact of this 30 hour provision. It seems clear, at least from your perspective, that this impact has not been exaggerated, it is not speculative. It is very real, and it is impacting your operations here and now.

Has the delay of the employer mandate for 1 year to any significant degree made it easier to deal with this 30 hour provision?

Mr. SNYDER. Well, part of the law is the look back provision, so you actually have to keep the data now. We started keeping it on October 1. The administrative burden on this is taking place as we speak.

Mr. YOUNG. What about the changes that were discussed here today? There were some discussed to solve any problems related to this 30 hour provision, do you think those proposals that were put forward—have you heard anything here today that would entirely solve the challenges you are dealing with?

Mr. SNYDER. No, I think your proposal is probably directionally the way we have to go. The current law is very prescriptive and vague at the same time, so that people in our situation don't really have a full compliance understanding.

I think the other thing which was brought up by your colleagues about the 40 hour benefit of health care is something throughout the land, and I think employers—having spent decades in the auto

industry where competitive pressures are enormous—employers are going to great lengths to preserve 40 hour health care for everybody, and trying to minimize the reduction in the benefit.

I think this is actually counter-intuitive, and that making the 30 hour week the threshold is going to force everybody in that same bucket and add additional cost for us, which is \$12 million on a \$25 million current spend, and is unachievable.

Mr. YOUNG. Thank you. Mr. Trautwein, you are here obviously representing the retail industry today. Maybe you can speak to the retail industry and whether the employer mandate has helped in an immeasurably significant way addressing the challenges created by this 30 hour provision.

Mr. TRAUTWEIN. I think it is a huge, huge challenge, Congressman. We congratulate you on your legislation. We support it. With the additional tight margins that I mentioned earlier in the retail industry, it is very hard for us to take on additional labor costs.

This question of managing people to a new threshold is something that is very uncomfortable for our stores and restaurants.

From our standpoint, it is a big problem.

Mr. YOUNG. Thank you. I hope we can move forward, we can address this in a bipartisan way. I am proud of the bill you referenced that I introduced with Representative Kelly, Representative Paulsen, and Representative Walberg. I hope we support this in a bipartisan fashion moving forward. We need to restore this traditional definition of “full time” under the Affordable Care Act. I yield back.

Chairman CAMP. Mr. Griffin.

Mr. GRIFFIN. Thank you, Mr. Chairman. I am going to start out by asking you, Dr. Chen, where did the 30 hour number come from?

Mr. CHEN. Congressman, I believe there are different explanations, one is it was a product of legislative compromise. Some might say it was pulled out of a hat. It certainly does not seem to make much sense to me from where I sit, sir.

Mr. GRIFFIN. In Arkansas, we try to apply common sense. I do not know anywhere where 30 hours is full time. If you just want to have some kind of requirement, that is one thing, but to call 30 hours full time—in France, it is not even full time. In France, it is 35 hours and moving to 40. That is on its face laughable.

When I look at the folks who have been impacted, let me tell you the sad part, and this often happens here, good intentions by people on both sides of the aisle make their way into legislation which fails.

Let me give you an example. In Arkansas, Arkansas State University, the alma mater of our Democratic Governor, they had to cut folks back to a maximum of 28 hours per week.

I assumed those were people, the people that wrote this law, that wanted to make sure employees had insurance. That is the goal. What did they get? No insurance and less pay. Genius. That is a genius Federal program right there.

Let me read you another. This is from the Area Agency on Aging of Western Arkansas. They did the same thing, went down to 28 hours per week. These people already had insurance because prior to the passage of ObamaCare, they had been taking part in a pro-

gram offered with the State of Arkansas called Arkansas Health Networks. These people now lose their health insurance and get paid less. Just a great deal for them; right?

Asian American Hotel Owners and Operators have complained to me about this. There have been numerous stories from back home. Pulaski Technical College has complained. The list goes on and on.

I do not doubt the intention, the well intentioned actions of a lot of people, but Washington often gets it wrong. I heard a lot about Hawaii. I have not been to Hawaii. I have seen pictures. I do not think Hawaii's economy looks anything like Arkansas. I would probably dig a little deeper on that.

When I look at who this hurts, they are the people that folks up here in Washington talk about wanting to help, the vulnerable. I made a list of the people you talked about, and you are a sharp guy, Stanford and all that. I look at all these numbers. I believe what you are telling me.

You talked about lower income folks, vulnerable folks, seniors, jobs, it hurts jobs. You talked about school districts, colleges, small businesses.

If I were to adopt the Democrat language, I would probably say that the 30-hour rule is a weapon on the war on women, the war on lower income folks, the war on the vulnerable, the war on seniors, the war on job creation, the war on school districts, the war on colleges and small businesses. Sounds ludicrous, does it not?

That is the type of language that is used here. Let me tell you, the people who say they want to help those folks, they are hurting them. I have pages and pages and pages of letters, people talking about the impact of this.

I do not buy your numbers, Dr. Levy. I would like to take a closer look. Maybe we can sit down. I hear so many voices from back home, and it is no consolation to them that the jobs they are losing in the private sector are being replaced by the county, whatever, expanding government jobs, which are not sustainable and with borrowed money anyway.

This is ridiculous. That is why I am proud to support my colleague's bill. I think ultimately we will get there. I think the President has basically recognized a lot of these problems. The number one person in terms of appealing ObamaCare has been President Obama. He does it unilaterally all the time. He does not like it when we do it. Maybe we can convince him to take a look at this.

Thank you.

Chairman CAMP. Mr. Pascrell is recognized for 5 minutes.

Mr. PASCRELL. Mr. Chairman, I would hope there would be growing support now to vote the unemployment insurance back for those 1.4 million people who lost their long term unemployment insurance, since you want to help those very people. Do not hold your breath.

Before I begin, Mr. Chairman, I would like to address one issue raised earlier in this hearing, if I may. Everyone here knows I support the ACA and the intentions behind the employer mandate.

I wrote the IRS a letter raising concerns about the impact of this provision on volunteer emergency personnel. The Obama Administration has since indicated they are addressing concerns that I and others have outlined.

I would like to enter into the record, with your permission, the response I received from the IRS on this issue, since many of our Members have discussed this with me, Mr. Chairman.

Chairman CAMP. Without objection, so ordered.

Mr. PASCARELL. Thank you very much. Mr. Chairman, no one can deny that the facts are the facts, that healthcare spending growth has slowed to the lowest levels in 50 years. Medicare per capita cost growth is historically low.

The fact that is in addition to providing 32 million Americans with health insurance, many for the first time, and giving parents piece of mind knowing they can take their sick child to the doctor without being suffocated by medical bills they cannot afford, the ACA is an investment in our citizens and in our economy.

Dr. Levy, expansion of Medicaid, a major part of the ACA, some of the Governors have bought in, some of the Governors have said no, and some of the Governors have been obstructionists. That expansion is an important component of the Affordable Care Act. I think it will help millions of Americans gain coverage. That has already been seen.

However, expanding Medicaid programs also provides important economic benefits for States, and the Federal Government will pick up virtually all the costs of the expansion.

According to Families USA, in my home State of New Jersey, "The expansion of the Medicaid program will insure nearly 400,000 residents." That will result in \$1 billion in new Federal funding and support 14,500 jobs by 2016.

Unfortunately, not expanding the Medicaid programs is just one way some of the Governors are priding themselves as being impediments, God knows, we have seen enough here, to the ACA's success.

In my home State of New Jersey, thankfully, the Governor got something right, the Governor decided to expand our Medicaid program. However, he continues to sit on more than \$7 million in Federal funding to help educate our residents about the ACA. If he does not spend it, we should get it back. I am fighting for this in every State, and let private organizations educate the public.

Dr. Levy, can you discuss some potential positive economic effects just on that portion of the ACA, Medicaid expansion?

Ms. LEVY. Absolutely. I think that is a very important piece of this story. I am also fortunate enough to live in a State where we have enlightened Republican leadership that has taken up the Medicaid expansion, and in Michigan, we expect this to provide coverage to 400,000 new Medicaid enrollees who previously would not have had insurance, with significant health and financial benefits, in terms of providing financial security.

In Michigan, over the first 10 years of the expansion of Medicaid, because of the significant Federal role in paying for the expansion, it actually reduces spending by the State. That has been shown in an analysis that we did at the University of Michigan, the State House and Senate fiscal agencies also released an analysis showing that.

By reducing what the State has to pay—the State currently pays a lot for mental health and community health care for people who will become folded into Medicaid, and as a result, it lifts some of

the pressing burden on the State who can then spend more money on education, highways, or many other things that Michigan would like to spend money on.

Chairman CAMP. All right. Mr. Renacci.

Mr. PASCARELL. Mr. Chairman, may I ask one question?

Chairman CAMP. Just quickly.

Mr. PASCARELL. Thank you, Mr. Chairman. What was the situation with mental patients before, when they were not covered by Medicaid?

Ms. LEVY. The State spends a considerable amount of money on community mental health spending, so mental health care that is provided through public clinics. Those patients would now have access through Medicaid to other providers and the State's commitment through the community mental health system is reduced.

Chairman CAMP. Mr. Renacci is recognized.

Mr. RENACCI. Thank you, Mr. Chairman. I want to thank the witnesses today also. As a business owner for approximately three decades, I often wondered why some of this legislation would come out of Washington, and then I realized many times when legislation comes out of Washington, it is by people who never have to live with it.

As a small business owner for almost three decades, I had to, and I understand the struggle that small business owners are going through on a day-to-day basis, especially with the ACA and with the hour requirements, and I also realize that every day they have to make decisions on whether they lay people off, whether they can add people, what are they going to do next?

Coming from Ohio, the Cleveland/Akron/Canton area, I get the opportunity to go back on a weekly basis, so I am talking to these people. It is shocking when I hear many of my colleagues on the other side say this is not affecting some of these people.

Let me give you some examples in my district and in the Cleveland/Akron/Canton area of what is going on with the hours and the Affordable Care Act.

The Cleveland Clinic, which is ranked among the top four hospitals, has announced layoffs of employees as a direct result of the Affordable Care Act. Summa Health Systems has laid off 58 workers since September, another 25 in December. Akron General Health System, Summit County's second largest employer, laid off 132 workers in February and another 30 in September.

The City of Akron and the City of Medina, the City of Fairlawn, the City of Tallmadge, and the City of Westlake, are limiting part timer's to fewer than 30 hours per week. Cuyahoga County Community College capped hours for 1,559 part timer's at 20 hours per week. Kent State University limited course loads of adjunct faculty. Medina City Schools cut weekly hours for cafeteria workers and teacher's aides from 30 to 28 hours per week. Stark State College cut hours of adjunct faculty at 29 hours per week. University of Akron cut course loads for part time faculty.

A local tavern in Canton, Ohio, saw a 32 percent increase in its projected premiums after the employer mandate was delayed. If premiums increase again, they will have to look at a reduction in workforce or stop providing health insurance to their employees.

Claudia, from Cleveland, wrote, concerned over losing her employer-sponsored health coverage after previously having been laid off from a full time job. She accepted a part time job at J.C. Penney that offered her affordable health care. However, her employer has now stopped offering insurance for part time employees due to the ACA.

John, from Wadsworth, a small business owner, wrote to tell me that he will not be able to offer insurance in the future due to increased costs as a direct result of the ACA.

Most recently, a woman working at a counter at a local restaurant in my home town said to me, Congressman, I have been here for 22 years, I have worked 32 to 35 hours per week, I love my job. I enjoy my job. Now, because of the ACA and the skyrocketing costs, we have been told that all of our staff will be reduced to approximately 28 hours per week. That is approximately a 15 to 17 percent pay cut plus she is going to lose her health insurance. Now, she said to me, I have to go on the Affordable Care Act. She looked at me and said, I am scared. She said, can you help me, can you overturn this law?

These are the kinds of things you hear when you go back to the district, but when I am in Washington and I hear some of my colleagues, I never hear that. This is what you actually hear when you are dealing with these people when you are back there listening to them.

It is amazing. I worked in the healthcare industry most of my career. I had nursing homes. I saw your statistics on how they are going to be affected. I think of those over 1,000 employees that I employed, and look at those nursing assistants, many of them single mom's, 35 hours per week, that earned approximately \$411.

If the nursing assistant hours are cut back to 29 hours, he or she will lose \$71 per week, or the equivalent of a 17 percent pay cut. That is unheard of when we are thinking of these single mothers and fathers that are trying to provide for their families.

I go back to certainty and predictability, and I would ask this general question. As a business owner, you need certainty and predictability. I would ask all the panel members, do you believe the ACA and this hour situation brings certainty and predictability to the small business owner?

Mr. CHEN. Absolutely not, Congressman.

Mr. ANASTOS. No, not at all.

Mr. TRAUTWEIN. No, sir.

Mr. SNYDER. No, sir.

Ms. LEVY. But you are large business owners. For small business owners, now their workers can get health insurance from another source if they have to.

Mr. ANASTOS. Can I just say one thing?

Mr. RENACCI. Yes.

Mr. ANASTOS. We are large business owners. There are large business owners like general corporations, Wall Street and such, and then there are small business owners like us. That is a big difference.

May I just add, the hardest thing to understand here is this idea of the changing of the rule, the 40 hours is going to cost more, certainly there are more people closer to 40 hours, but as someone

who has worked many years on the floor by the hour, I would much rather lose 1 hour of pay, 40 to 39, than 40 to 29. Thank you.

Chairman CAMP. Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman. Again, panel, thank you for being here. I know sometimes we talk about oh, these are just anecdotal, but I also, like Mr. Renacci, Mr. Young and Mr. Griffin, have people back home. Barbara Wilson works for the Arc of Mercer County, Pennsylvania. This is a phenomenal organization that assists people with developmental disabilities.

Barbara is a part time employee who used to work 30 to 35 hours a week. She was recently informed that her co-workers, all part time employees, would be having their hours cut to around 20 hours a week because of the Affordable Care Act.

Barbara told me she was shocked when she heard this news, and because of her hours being cut, she said she could no longer afford the cost of living.

There is also a lot of private companies I have talked to. I think the chilling effect of this current run is these people say you can use our story but not my name, because I am afraid of some type of retribution.

Mr. Anastos, thanks for being here. I know it is tough and I have people back home who tell me—I have a guy who had 92 of his 93 employees that worked more than 30 hours a week. Now all 92 have had their hours cut to less than 30 hours a week. On top of that, more than 30 employees have had access to their health insurance plans ended.

It is not only affecting the private sector, it is also affecting the public sector. In our school district where I come from, they had to implement procedures to keep all the part time employees working less than 30 hours. The entire Orange County government has had to reduce all of its part time employees to just 28 hours.

The purpose of this meeting today was to examine the impact of going from 40 hours to 30 hours, and I think it is absolutely ridiculous for anybody to say there is no impact.

Small business owners, we spend about \$400,000 a year on health care.

Mr. Anastos, if you could just relate—I do not think people get the picture—your total cost of labor and what this adds to your total cost of labor, and how that affects your final product that you have to put in the market and compete against every single person that does what you do?

When you talk about it, also talk about Social Security contributions, wage taxes, Medicaid contributions. It is a lot more than people think.

In our place, someone says we need to hire this person. I say fine, do you know what it is going to cost? They say this is what we will be paying them per hour. I said that is not my total cost, you can add about 40 percent to that with wage taxes and benefits.

Would you talk about it a little bit? You do it every day. You have to cut checks that you sign the front of, not the back of.

Mr. ANASTOS. Thank you, Representative. It does add about 40 percent. Well, it adds quite a bit. I would have to look at it and see exactly what it costs. There are different levels for different amounts.

Of course, the thing about health insurance is if you have people you are paying \$12 an hour, it is a much bigger percentage, and it adds to it all the time.

Like I said, we are small businesses in America. We may be large when considered over 50, but at the same time, two and a half times our healthcare costs and say we are large businesses and do we not want to cover everybody? Of course, you do. At the same time, the survivability of your business is first and foremost.

Mr. KELLY. Dr. Chen, this idea of the 40 hours to 30, I have no idea where this came from. I also wonder how it will impact overtime pay. What are we going to use now as a definition when we go to overtime? Forty to 30, we have no idea how this came about. Why did it come about? How did we change from 40 to 30? Does anybody know?

Mr. CHEN. It certainly does not match precedent that we have in the Fair Labor Standards Act, which sets 40 hours as the threshold for the payment of non-exempt employees for overtime pay.

This is inconsistent with that and one of the reasons why it raises employer costs.

Mr. KELLY. Here is my question. Since we have cut the work-week from 40 hours a week to 30 hours a week, that is about a 25 percent reduction in the number of hours. Using the President's terminology, it is just arithmetic. If I cut your hours by 25 percent, then I am going to have to raise your wage by 25 percent. I see this pivot to the minimum wage now. It is kind of funny how it kind of matches, the 25 percent less hours, matched by a 25 percent increase in the minimum wage that the government wants to establish.

I think that is a Judas goat, okay, we are going to raise your wage. I do not believe that is the way to approach this.

Mr. Chairman, I thank you so much for holding this hearing. This is not a Republican issue or a Democrat issue. This is an American worker issue.

When Mr. Hoffa jumps on this and says you are destroying the backbone of the American middle class, then there is a concern.

This effect, it is a very chilling effect, and I really am concerned about the gap now that is widening between what the people have faith and trust in and what we are coming out with in policies.

Mr. Anastos, thanks for being here. Mr. Snyder, thank you. Mr. Trautwein, Dr. Levy and Dr. Chen, thank you for being here.

I think the greater concern today better be how we are destroying the American people's confidence in the government that continues to come out with policies that destroy our middle class, and then somehow say no, no, that is not the problem, the problem is we are just not paying enough at the minimum level. It should never be a minimum wage that we try to get to. It should be a market wage where we allow all workers with their skills and their abilities to make as much as they can.

Thank you all for being here. Mr. Chairman, thank you. I yield back.

Chairman CAMP. Thank you. Ms. Jenkins is recognized.

Ms. JENKINS. Thank you, Mr. Chairman. I, too, thank the panel. You have had a long day.

During my short time on this Committee, there have been countless hearings on the President's healthcare law. Just last spring, the Committee had the opportunity to question Secretary Sebelius about the progress of the law. She informed us everything was proceeding according to schedule.

In July, of course, the President decided to delay enforcement of the employer mandate until 2015. This was a surprising but welcome retreat. I think the witnesses here today have demonstrated this.

This delay, unfortunately, is only a temporary relief for employees and employers. This fall, employers will have to make a very difficult decision regarding healthcare coverage and full time status of their employees. These decisions will ultimately hurt employees, not employers.

I have a letter here from a Kansan, Jon Rolph, who operates 64 restaurants across the Midwest, and several in my congressional district. I would request, Mr. Chairman, that this letter be entered into the record.

Chairman CAMP. Without objection, so ordered.

Ms. JENKINS. Mr. Rolph, whose restaurants employ hundreds of people, has made a good faith effort in the past to provide all employees with a modest health insurance plan and will continue this effort by complying with the employer mandate in 2015.

Additionally, he has made the decision not to cut his employees' hours below 30 in order to avoid the mandate. This means that he will continue to offer healthcare coverage for those folks even though it will be more expensive than his old plans that were canceled.

This is nothing short of admirable, and is representative of the strong relationships that many employers and employees share all over the Nation.

However, Mr. Rolph worries the 30 hour definition for full time employees could have adverse consequences for companies in this situation, because his employees tend to work more than 30 hours a week and are offered a health plan, and their option will be to either take this more expensive health plan or search for a plan on *Healthcare.gov* where they will no longer be eligible for a subsidy.

Mr. Rolph worries that many of these employees will actually request to work fewer than 30 hours a week so they will not be offered health insurance by the company and can obtain subsidies over the exchange.

I doubt these are the outcomes the President envisioned when he put pen to paper on this law, but the sad reality is his healthcare law will encourage many Americans to be only part time employees, which will make it increasingly difficult for many of them to achieve the American dream.

Mr. Anastos, I feel that your testimony really reflected the comments of Mr. Rolph and others. As somebody in the hospitality industry, do you have comments regarding how true this letter is?

Mr. ANASTOS. Yes, Congresswoman, that letter is right on the money. I think Congressman Reed had similar comments that I think were right on the money.

To me, and I have to look at it from the employer's side, but like I said, I have worked on factory floors and that sort of thing for

many years, and I truly think it hurts the worker more than us, because they are the ones who are going to have their hours knocked down by a significant amount, and secondly, the whole idea about the relationship between us small employers or even large employers and our employees, it just creates this wedge and division that is totally unnecessary.

Certainly, I would reemphasize everything that gentleman said.

Ms. JENKINS. Mr. Chen, would you care to comment on if you agree this provision will disproportionately hurt the employee?

Mr. CHEN. There is no question the biggest loser from this is the employee, particularly the vulnerable population we have talked about today that we look at in our research and others have looked at as well.

You are talking about millions of Americans who will be adversely impacted because the incentives created by the law frankly are perverse.

Ms. JENKINS. Thank you. I yield back, Mr. Chairman.

Chairman CAMP. Thank you very much. I want to thank our witnesses for their testimony today. I would appreciate your continued assistance in getting answers to the questions that were asked by the Committee.

As a reminder, any Member wishing to submit a question for the record will have 14 days to do so. If any Member submits questions after this hearing, I would ask the witnesses to respond in a timely manner.

Thank you very much, and with that, this hearing is adjourned.

[Whereupon, at 12:39 p.m., the Committee was adjourned.]

[Submissions for the Record follow:]



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Updated October 12, 2013

Health Reform Not Causing Significant Shift to Part-Time Work But Raising Threshold to 40 Hours a Week Would Make a Sizeable Shift Likely

By Paul N. Van de Water

Congressional Republicans are reportedly considering whether to add — to legislation to reopen the government and raise the debt limit — a measure to raise the threshold for full-time work under the Affordable Care Act (ACA) from 30 to 40 hours. **That's because the ACA** requires employers with at least 50 full-time-equivalent workers to offer health coverage to full-time employees or pay a penalty, and critics claim the requirement creates a disincentive to hire full-timers, prompting a shift to part-time work **that's already evident** in the data.¹

Recent data, however, provide scant evidence that health reform is causing a significant shift toward **part-time work, and there's** every reason to believe that the ultimate effect will be small as a share of total employment.

Moreover, **raising the law's threshold** for full-time work from 30 hours a week to 40 hours would make a shift towards part-time employment much more likely — not less so. **That's because only a** small share of workers today — less than 8 percent — work 30 to 34 hours a week and thus are most at risk of having their hours cut below **health reform's threshold**. **In comparison, 43 percent** of employees work 40 hours a week, and another several percent work 41 to 44 hours a week. Thus, raising the threshold to 40 hours would place **more than five times** as many workers at risk of having their hours reduced.

Data Don't Support Claim of Big Shift to Part-Time Work

The share of part-time jobs rose sharply during the recent recession, as it does in every recession — employers **cut workers' hours when demand for the firm's products or services weakens**. Has this share continued to grow as we approach the start of **the ACA's** employer mandate, which was recently pushed back a year to 2015? The answer is no. Part-time workers represent 18.9 percent of

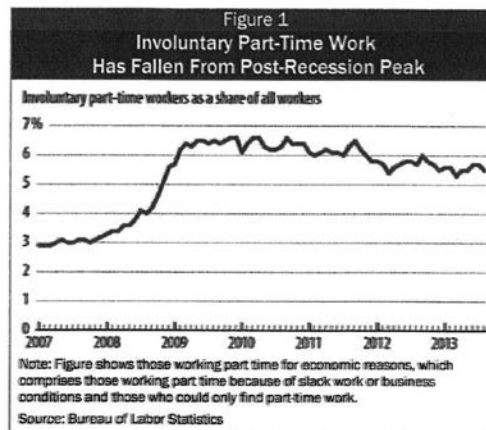
¹ Kaiser Family Foundation, "Employer Responsibility Under the Affordable Care Act," updated July 15, 2013, <http://kff.org/infographic/employer-responsibility-under-the-affordable-care-act/>.

total employment — below the post-recession peak of 20.0 percent and the same as a year ago.² Since President Obama signed health reform into law in March 2010, civilian employment has grown by 5.4 million, and over 90 percent of the increase is among people who usually work full time.³ Economists at the Federal Reserve Bank of San Francisco have concluded that “part-time work is not unusually high compared to levels observed in the past, most notably in the aftermath of the early 1980s recession.”⁴

A more rigorous test examines the recent trend in the share of involuntary part-timers — workers who’d rather have full-time jobs but can’t find them.⁵ If health reform’s employer mandate were distorting hiring practices in the way critics claim, we’d expect the share of involuntary part-timers to be growing. Instead, as shown in Figure 1, it is down about one percentage point from its peak.

Nor do the employment data provide any evidence that employers have cut workers’ hours below 30 hours a week to avoid the requirement to provide health insurance. During the first half of this year, the share of workers putting in 30 or more hours a week actually rose to 80.7 percent from 80.2 percent in the comparable part of 2012. Although the increase is small, it refutes the claim that shortening of the workweek is widespread.⁶

To be sure, some employers have announced they are cutting certain employees’ hours to avoid the requirement to provide health coverage to full-time workers, but they are the exception. A small



² Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, Tables A-1 and A-7, persons at work part time for economic or noneconomic reasons as a percentage of civilian employment. BLS defines part-time work as less than 35 hours a week.

³ Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, Tables A-1 and A-6.

⁴ Rob Valetta and Leila Bengali, “What’s Behind the Increase in Part-Time Work?,” *Federal Reserve Bank of San Francisco Economic Letter*, August 26, 2013, <http://www.frbf.org/economic-research/publications/economic-letter/2013/august/part-time-work-employment-increase-recession/>.

⁵ Federal Reserve Bank of St. Louis, *Federal Reserve Economic Data (FRED)*, Employment Level - Part-Time for Economic Reasons, All Industries, <http://research.stlouisfed.org/fred2/series/LNS12032194>.

⁶ Helene Jorgensen and Dean Baker, “The Numbers Are In,” Center for Economic and Policy Research, August 26, 2013, <http://www.cepr.net/index.php/blogs/cepr-blog/the-numbers-are-in-obamacare-increased-percentage-of-people-working-36-29-hours-a-week>.

survey by the Federal Reserve Bank of Minneapolis finds that only 4 percent of companies had shifted to more part-time workers in response to health reform.⁷

Most recently, health-reform critics point to an increase in part-time work in June and July as evidence of the law's impact. That's highly unconvincing, for several reasons.

First, there's simply too much noise in the monthly data to attribute short-term changes to a mandate that (a) most employers don't yet understand well and (b) wasn't originally scheduled to kick in until next January. Moreover, the number of people working part-time involuntarily "for economic reasons" dropped substantially in August, almost entirely offsetting the increases in June and July.

Second, furloughs prompted by the sequestration have moved many federal workers into the part-time category in recent months. Almost 200,000 federal workers were forced to work shorter hours in July — up from 55,000 a year previously.⁸ That has nothing to do with health reform.

Third, when you observe trends over longer periods, some signs point in the opposite direction. Since the trough of the recession in June 2009, for example, the length of the average work week has returned to roughly its pre-recession level.

The fact is, it's too early to know how health reform will ultimately affect the amount of part-time work. But there's every reason to expect the impact to be small as a share of total employment.

In particular, there simply aren't as many would-be part-timers as the critics expect: fewer than 8 percent of employees work 30 to 34 hours a week (and thus would be easiest for employers to shift below 30 hours). Moreover, fewer than 1 percent of employees work 30 to 34 hours a week and are employed by businesses affected by the employer mandate and do not have insurance.⁹ And only some of these workers would likely be at risk of having their hours cut.

"Recent research suggests that the ultimate increase in the incidence of part-time work when the ACA provisions are fully implemented is likely to be small, on the order of a 1 to 2 percentage point increase or less," according to economists at the San Francisco Federal Reserve. This conclusion is consistent with the example of Hawaii, where part-time work increased only slightly in the two decades following enforcement of the state's employer health-care mandate.¹⁰ Since 1975, Hawaii has required nearly all employers to provide health insurance to employees who work 20 hours or more a week for four consecutive weeks. Employers must pay at least half the premium, and the employee's contribution must not exceed 1.5 percent of wages.

⁷ Federal Reserve Bank of Minneapolis, "So far, few employers cutting workers to part time in response to Affordable Care Act," *Fedgazette Roundup*, March 20, 2013, <http://minneapolisfed.typepad.com/roundup/2013/03/like-it-or-not-the-affordable-care-act-will-offer-an-interesting-economic-experiment-on-incentives-or-punishments-dependin.html>.

⁸ Jackie Calmes and Catherine Rampell, "U.S. Cuts Take Increasing Toll on Job Growth," *New York Times*, August 2, 2013, <http://www.nytimes.com/2013/08/03/business/economy/us-cuts-take-increasing-toll-on-job-growth.html>.

⁹ Julie Rovner, "Will Obamacare Mean Fewer Jobs?," *All Things Considered*, National Public Radio, July 30, 2013.

¹⁰ Rob Valetta and Leila Bengali, "What's Behind the Increase in Part-Time Work?"

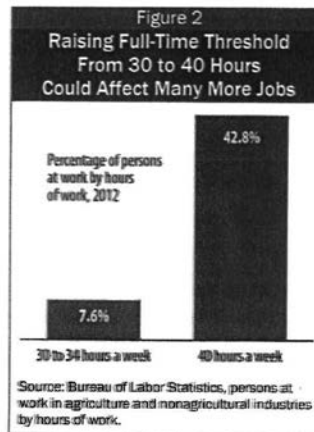
Finally, low-wage, part-time workers who work less than 30 hours a week will be eligible for **subsidies to purchase health insurance in the ACA's new health insurance exchanges (also known as marketplaces)**. For many of these workers, the value of this health insurance subsidy will more than make up for a loss in earnings from working slightly fewer hours.

Raising Threshold to 40 Hours Would Make Shift to Part-Time Work More Likely, Not Less

Some legislators have proposed raising the cutoff for the employer mandate from 30 hours a week to 40 hours.¹¹ That change, however, would make a shift towards part-time employment much *more* likely — not less so. Since 40 hours is the typical work week, employers could easily cut back large numbers of employees from 40 to 39 hours so **they wouldn't have to offer them health coverage**. The result would be substantially less employer-sponsored health coverage — and as a result, *a potentially large increase in federal spending* for the premium tax credits that many low- and moderate-income people will receive under health reform to help them buy coverage through the health insurance exchanges.

As Figure 2 shows, only about 8 percent of employees work 30 to 34 hours a week (at or modestly **above the ACA's 30-hour threshold**), but 43 percent of employees work 40 hours a week and would be vulnerable if the threshold rose to 40 hours. Another few percent of employees work 41 to 44 hours a week. Thus, more than five times as many workers would be at risk of having their hours reduced if the standard for full-time work went from 30 to 40 hours.

Health reform's employer mandate is likely to have some effect on hours worked, but it hasn't yet shown up in the data. Moreover, since few workers *without health coverage* are near the 30-hour cutoff, the employer mandate is very unlikely to prompt much of a shift toward part-time work even when it takes effect. Raising the cutoff to 40 hours, however, could turn the **misleading claims of health reform's critics into reality**.



¹¹ H.R. 2575, The "Save American Workers Act of 2013", S. 1188, The "Forty Hours Is Full Time Act of 2013."

The Honorable Lynn Jenkins
United States House of Representatives
Washington, D.C

Dear Congresswoman Jenkins:

My name is Jon Rolph. I operate 64 restaurants that my uncle and my father built over the last four decades making ours a multi-generational family business. I am writing you to ask for your help in persuading your colleagues to change the definition of a full-time employee under the Affordable Care Act from 30 hours per week to 40.

We have always enjoyed exceptionally good relations with our employees as evidenced by our low turnover in an industry that is notable for high turnover. I say this so you will know that, while our workforce is more stable than is common in the hospitality business, ours is still a business in which it is common for people to work for a season of their lives before moving on. A high percentage of our employees are drawn to us because of their need to have a flexible schedule. We are uniquely capable of accommodating that need.

Our managers and supervisors are offered an excellent health insurance plan at a relatively low cost to them. We have been doing this since we opened our second restaurant. A more modest insurance program has been available for purchase by all our employees for over a decade. However, under the terms of the Affordable Care Act that insurance plan, a so called mini-med, does not qualify, and, even though the Administration reversed itself in the 11th hour to allow us to continue for another year, our provider will not offer this policy after December 31. This has had the effect of making our employees think that we have taken something of value away from them. Now they have to go to Healthcare.gov to figure out how to replace it. The good news, I suppose, is that many of them will find that they qualify for a subsidy. I imagine that these are the circumstances Congress had in mind when they made provisions for these subsidies.

A year from now, when we will offer them insurance coverage as we are required to do, it will most likely be priced at 9.5% of their wages which is the maximum premium. If they don't take our plan, however, they will have to go back to the exchange, but they will no longer qualify for the subsidy they had in 2014. The practical effect is that they will have to pay more or they will simply go without insurance and be subject to a fine. This is the demographic of the young and the healthy that is required to make the ACA work as it was intended.

A second but related problem is that our industry has an exceptionally high proportion of employees who work schedules that average between 30 and 40 hours. It is common for employees to go back and forth over the 30-hour threshold and still average greater than that number. As you have heard reported in the press, some restaurant chains have cut employees' hours to get them below the 30 hours per week during the "look back period" which will determine their eligibility to participate in company-offered plans beginning in 2015. A purely mathematical analysis of the situation would seem to support such a policy.

We chose not to do that. We think it is unfair to break faith with the people we depend on and who depend on us.

We see it as an unintended and harmful consequence that in 2015, once they realize the cost impact, many employees will find it to their advantage to ask for their hours to be reduced below the 30-hour threshold in order to continue to qualify for the subsidized healthcare.

As a practical matter, setting the definition of full-time at 40 hours per week, the same definition that is used in determining overtime pay, would make the cost of providing health insurance to our "truly" full-time employees affordable to us and our customers within our traditional business model. In other words, we could absorb the costs without pricing our menu up to the point of discouraging patronage.

Thanks for your consideration.

Sincerely,

Jon Rolph
President
Sasnak Management Corporation





January 28, 2014

The Honorable Dave Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Camp and Ranking Member Levin:

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business organization, thank you for holding a hearing on the Impact of the Employer Mandate's Definition of Full-time Employee on Jobs and Opportunity. The employer mandate is a requirement that businesses with 50 or more full-time or full-time equivalent (FTE) employees offer qualified, "affordable" health insurance to full-time employees or pay costly penalties. The Patient Protection and Affordable Care Act (PPACA) defines full-time employee as an employee who works an average of 30-hours per week (130-hours per month). There are bipartisan, bicameral efforts to amend the definition of full-time employee to the more traditional 40-hours per week.

NFIB testified before the House Committee on Small Business in April that the new definition is "one of the most dangerous parts in the law." Many small businesses have a combination of full-time, part-time and seasonal workers. In order to maintain this type of workforce *and* comply with the new definition, small employers will be forced to spend significant time and resources each month carefully tracking and monitoring employees' hours of service and spend less time running their businesses.

PPACA marks the first time that "full-time" is expressly defined in law. Prior to PPACA's enactment, the determination was left up to the employer.¹ Similarly, the Fair Labor Standards Act has long dictated that overtime pay starts after 40-hours per week.² Thus, employers and employees have long understood "full-time" to be equivalent to 40-hours per week.

The 30-hour full-time definition is already resulting in less opportunities, fewer hours and lower incomes for employees. Small businesses are already being forced to shrink their workforce below the 50 employee threshold in preparation for the costly mandate.

NFIB encourages the Committee to continue its work on this important issue by conducting a markup of H.R. 2575, *the Save American Workers Act of 2013*, introduced by Congressman Todd Young (IN-09), which would replace the new 30-hour per week full-time or FTE employee

¹ <http://www.dol.gov/dol/topic/workhours/full-time.htm>

² http://www.dol.gov/whd/overtime_pay.htm

definition in PPACA with a 40-hour per week definition. Again, NFIB commends you for holding a hearing on this important issue. We look forward to working with you on this and other matters that are important to small business in the 113th Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Danner", with a long horizontal flourish extending to the right.

Dan Danner
President and CEO
NFIB