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THE EFFECTS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT ON SCHOOLS, COLLEGES, AND UNIVERSITIES

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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THE EFFECTS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT ON SCHOOLS, COLLEGES, AND UNIVERSITIES

Thursday, November 14, 2013
House of Representatives,
Committee on Education and the Workforce,
Washington, D.C.

The committee met, pursuant to call, at 10:04 a.m., in Room 2175, Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Petri, Wilson, Foxx, Roe, Walberg, DesJarlais, Rokita, Bucshon, Barletta, Heck, Brooks, Messer, Miller, Andrews, Scott, Tierney, Holt, Courtney, Fudge, Polis, Bonamici, and Pocan.

Staff present: Andrew Banducci, Professional Staff Member; James Bergeron, Director of Education and Human Services Policy; Molly Conway, Professional Staff Member; Ed Gilroy, Director of Workforce Policy; Benjamin Hoog, Senior Legislative Assistant; Amy Raaf Jones, Education Policy Counsel and Senior Advisor; Nancy Locke, Chief Clerk; Daniel Murner, Press Assistant; Brian Newell, Deputy Communications Director; Krisann Pearce, General Counsel; Alissa Strawcutter, Deputy Clerk; Juliane Sullivan, Staff Director; Brad Thomas, Senior Education Policy Advisor; Alexa Turner, Legislative Assistant; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Jody Calemine, Minority Staff Director; Jamie Fasteau, Minority Director of Education Policy; Melissa Greenberg, Minority Staff Assistant; Eunice Ikene, Minority Staff Assistant; Brian Levin, Minority Deputy Press Secretary/New Media Coordinator; Megan O'Reilly, Minority General Counsel; Michele Varnhagen, Minority Chief Policy Advisor/Labor Policy Director; Michael Zola, Minority Deputy Staff Director; and Mark Zuckerman, Minority Senior Economic Advisor.

Chairman KLINE. A quorum being present, the committee will come to order.

Good morning, I would like to welcome our guests and thank our witnesses for joining us today. Today we are going to discuss how the Patient Protection Affordable Care Act affects our nation's schools, colleges and universities.

Before I do that though I see a number of faces in the room. I understand that we have a group of students from New York. I had

the name written down here, because I don't go around every day saying Mamaronick, but welcome. We are glad that you are here to see Congress in action.

Okay, since former Speaker Nancy Pelosi famously declared we had to pass the President's health care plan to learn what was in it, we continue to discover disturbing details. We have learned health care costs are going up, not down. Politico reports, quote—"Consumers are suffering from sticker shock." And the Associated Press revealed, people are being told to switch to more expensive policies.

Sue Klinkhammer is one of those individuals, a Democrat from Kane County, Illinois. Sue asks, "Someone please tell me why my premium in January will be 356 more than in December." A constituent from Plainview, Minnesota, recently shared with me that her health care plan is increasing more than 200 a month, and her family's deductible will jump by nearly 1,300. A couple from Chanhassen lamented a monthly increase of 140, money that could have helped pay for their daughter's college education.

President promised insurance premiums would drop $2,500 for the average family, yet for Sue and many others this is one of many broken promises. We have learned full time jobs are being destroyed. A recent resolution endorsed by one of the nation's largest trade associations warned that employers will try to avoid the law's punitive mandates by cutting hours and pay, creating an underclass of less than 30-hour workers.

This statement wasn't issued by a big business advocacy organization. It is a resolution endorsed by the leadership of the membership of the AFL–CIO. Other leaders in the labor community share this fear. The International Brotherhood of Teamsters, UFCW and Unite Here wrote the law will quote—"destroy the foundation of the 40-hour work week that is the back bone of the American middle class."

Secretary Sebelius dismissed similar concerns as, quote—"Speculation," but I think we can all agree with these union leaders that the law is leading to fewer full time jobs.

Finally, we have learned millions of Americans will lose the health care plan they like. Kaiser Health News recently broke the story of hundreds of thousands of individuals receiving cancellation notices from their insurance companies; their policies no longer meet the dictates established under the law, and we have discovered the Obama administration has known for years this was going to happen. For families, this isn't just the lost of an insurance policy. It means losing access to their trusted family doctor and pediatrician all because Washington bureaucrats think they know best. President promised time and again if people liked their health care plan they could keep it, but millions of Americans are realizing they can keep their health care plan only if the President likes it.

Higher health care costs, fewer full time jobs and loss of current coverage, that is a difficult reality unfolding in the lives of Americans across the country. The question we want to discuss today is whether the law is imposing similar hardships on America's classrooms.

The government take over of health care transforms one-sixth of our economy. Are schools and campuses immune from the con-

sequences of the law? Recent headlines show that is not the case. From the Richmond Times Dispatch, quote—"Obamacare prompts cut backs for school part-timer's." From the Baltimore Sun, "Community colleges cut adjunct hours to avoid Obamacare." From Education Week, "Health care law poses challenges for Districts," and from the Weekly Standard, "Obamacare Costs One Indiana School District $6 million."

Over the last several years, we have talked a great deal about the budgetary challenges facing states, school districts and institutions of higher education. We have discussed how Washington can at times make these fiscal problems worse. Much of the debate has focused on the cost of federal rules, regulations and mandates that directly intervene in classrooms.

Under the leadership of this committee, the House has taken action to reduce the federal footprint in K–12 education by passing the Student Success Act, and I hope we achieve similar results from Reform of Higher Education Act, both of which will help ensure taxpayers spend less on bureaucracy and more on student's education.

However, we must be mindful that federal policies unrelated to education can still burden classrooms. The health care law is a prime example. AT a time when we need to recruit the best teachers, train today's workers for the jobs of the future and school leaders are trying to do more with less, imposing a fundamentally flawed and costly law on our schools is not in the best interest of teachers, parents, taxpayers or students.

I look forward to exploring this issue further with the help of our witnesses. And with that, I will now yield to my distinguished colleague, George Miller, senior Democratic member of the committee, for his opening remarks.

[The statement of Chairman Kline follows:]

Prepared Statement of Hon. John Kline, Chairman, Committee on Education and the Workforce

Good morning. I'd like to welcome our guests and thank our witnesses for joining us. Today we will discuss how the *Patient Protection and Affordable Care Act* affects our nation's schools, colleges, and universities.

Since former Speaker Nancy Pelosi famously declared we had to pass the president's health care plan to learn what was in it, we continue to discover disturbing details. We've learned health care costs are going up, not down. *Politico* reports "consumers are suffering from sticker shock" and the Associated Press revealed people are being told to switch to more expensive policies.

Sue Klinkhamer is one of those individuals. A Democrat from Kane County, Illinois, Sue asked, "Someone please tell me why my premium in January will be $356 more than in December?" A constituent from Plainview, Minnesota recently shared with me that her health care plan is increasing more than 200 a month, and her family's deductible will jump by nearly 1,300. A couple from Chanhassen lamented a monthly increase of 140, money that could have helped pay for their daughters' college education. The president promised insurance premiums would drop 2,500 for the average family, yet for Sue and many others this is one of many broken promises.

We've learned full-time jobs are being destroyed. A recent resolution endorsed by one of the nation's largest trade associations warned that employers will try to avoid the law's punitive mandates by cutting hours and pay, creating an "underclass of less-than-30-hour workers." This statement wasn't issued by a "Big Business" advocacy organization – it's a resolution endorsed by the leadership and membership of the AFL–CIO. Other leaders in the labor community share this fear.

The International Brotherhood of Teamsters, UFCW, and UNITE–HERE wrote the law will "destroy the foundation of the 40 hour work week that is the backbone

of the American middle class." Secretary Sebelius dismissed similar concerns as "speculation," but I think we can all agree with these union leaders that the law is leading to fewer full-time jobs.

Finally, we've learned millions of Americans will lose the health care plan they like. Kaiser Health News recently broke the story of hundreds of thousands of individuals receiving cancellation notices from their insurance companies; their policies no longer meet the dictates established under the law. And we've discovered the Obama administration has known for years this was going to happen.

For families, this isn't just the loss of an insurance policy; it means losing access to their trusted family doctor and pediatrician, all because Washington bureaucrats think they know best. The president promised time and again if people liked their health care plan they could keep it. But millions of Americans are realizing they can keep their health care plan only if the *president* likes it.

Higher health care costs, fewer full-time jobs, and loss of current coverage – that's the difficult reality unfolding in the lives of Americans across the country. The question we want to discuss today is whether the law is imposing similar hardships on America's classrooms. The government takeover of health care transformed one-sixth of our economy. Are schools and campuses immune from the consequences of the law? Recent headlines prove that's not the case:

- From the *Richmond Times Dispatch,* "ObamaCare prompts cutbacks for school part-timers;"
- From *The Baltimore Sun,* "Community colleges cut adjunct hours to avoid ObamaCare;"
- From *Education Week,* "Health care law poses challenges for districts;" and
- From the *Weekly Standard,* "ObamaCare costs one Indiana school district $6 million."

Over the last several years we've talked a great deal about the budgetary challenges facing states, school districts, and institutions of higher education. We've discussed how Washington can at times make these fiscal problems worse. Much of the debate has focused on the costs of federal rules, regulations, and mandates that directly intervene in classrooms.

Under the leadership of this committee, the House has taken action to reduce the federal footprint in K–12 education by passing the *Student Success Act,* and I hope we achieve similar results through reform of the *Higher Education Act* – both of which will help ensure taxpayers spend less on bureaucracy and more on students' education.

However, we must be mindful that federal policies unrelated to education can still burden classrooms. The health care law is a prime example. At a time when we need to recruit the best teachers, train today's workers for the jobs of the future, and school leaders are trying to do more with less, imposing a fundamentally flawed and costly law on our schools is not in the best interests of teachers, parents, taxpayers, or students.

I look forward to exploring this issue further with the help of our witnesses. With that, I now yield to my distinguished colleague George Miller, the senior Democratic member of the committee, for his opening remarks.

Mr. MILLER. Thank you, Mr. Chairman.

Continuing the tale of two cities—

[Laughter.]

I want to thank the witnesses here—to begin with—for testifying today and appreciate your making time for this hearing. The goal of the Affordable Care Act is to provide affordable and quality health coverage for millions of Americans, regardless of whether they lose their jobs, regardless of whether they have pre-existing medical conditions, regardless of whether or not they can't afford the coverage.

The ACA calls on everyone to do their part to make health care work better.

Individuals are required to take personal responsibility to purchase health care coverage so that taxpayers and other policyholders don't have to foot the entire bill when they get sick. The federal government is doing its part by providing tax credits to those who can't afford to buy health coverage on their own. Large

employers, the overwhelming majority of whom are already responsibly providing health care coverage to their employees, are being asked to include coverage for all full-time employees.

Hospital and health care providers are doing their part by finding innovating and low cost—less costly ways to successfully treat patients. The insurance companies who are now finally prohibited from skimming off the best risk and discriminating against those who have pre-existing conditions are stepping up and competing for customers on price and quality of services.

The opponents of the ACA continue to claim that the employers across the country will shift full time workers to part time just under 30 hours because employer's responsibility rules. However, according to the Bureau of Labor Statistics, the BLS—since the ACA became law, nine out of 10 jobs created have been full-time jobs. The Bureau of Labor Statistics data also contradicts the claim that employers who are shifting employees just below a 30-hour threshold—there is no data to support this as a widespread practice.

What is true is, the ACA is helping improve the labor market by limiting the growth of health insurance premiums, reducing job lock, providing small businesses with tax credits for providing the coverage. If everyone does their part we can transform and modernize the nations' health care system by tackling the escalating health-care costs by improving patient access and outcomes across the country, and by boosting long term economic success of employment in the medical sector.

Local school districts and college, universities have long been successful partners with the federal government. We see this partnership in higher education to increase college access. Because of the leadership of this administration, and Democrats in Congress, the maximum award of the Pell Grants was increased 905 since 2008, and the number of Pell Grant recipients has expanded by 50 percent over the same time, providing college access to millions of low income and middle class students across the country.

We see this partnership in K–12 education for elementary and secondary schools, Congress provided billions of dollars in extra help to improve school performance through Title I, IDEA and Economic Recovery Act. We see this partnership in early childhood.

Just yesterday, we introduced a bipartisan legislation, the Strong Start for America's Children's Act, a landmark effort to improve and invest more in early childhood education. Democrats are also working closely with school districts to oppose the draconian sequestration budget cuts that threaten and have already cost tens of thousands of jobs, and to try to make an improvement in education quality. And now, we see this partnership in health care.

Schools and colleges are large employers. In rural areas, sometimes, they are the only significant employer. The ACA is another opportunity for education institutions, as employers, to partner with states and federal government to ensure that their employees have health coverage that keeps them healthy and hard at work educating the nation's children.

I hope today's conversation will be a constructive one, and we will welcome suggestions on how we can make these requirements work fairly for both employers and employees.

Thank you again for your time, and appearing as witness.
And Ms. Maisto, welcome.
[The statement of Mr. Miller follows:]

Prepared Statement of Hon. George Miller, Senior Democratic Member, Committee on Education and the Workforce

I want to thank the witnesses for testifying today. The goal of the Affordable Care Act is to provide affordable and quality health coverage for millions of Americans, regardless if they lose their job, regardless if they have pre-existing medical conditions, and regardless if they can't afford coverage.

The ACA calls on everyone to do their part to make health care work better.

Individuals are required to take personal responsibility to purchase health coverage so taxpayers and other policyholders don't have to foot the bill if they get sick.

The federal government is doing its part by providing tax credits to those who can't afford to buy health coverage on their own.

Large employers—the overwhelming majority of whom are already responsibly providing health care coverage to their employees—are being asked to include coverage to all full-time employees.

Hospitals and health care providers are doing their part by finding innovative and less costly ways to successfully treat patients.

And insurance companies—who are now finally prohibited from skimming off the best risks and discriminating against those who have pre-existing conditions—are stepping up and competing for customers on price and quality of service.

Opponents of the ACA continue to claim that employers across the country will shift full-time workers to part-time, just under 30 hours, because of the employer responsibility rules.

However, according to the Bureau of Labor Statistics (BLS), since the ACA became law, 9 out of 10 jobs created have been full time.

BLS data also contradicts claims that employers are shifting employees just below the 30-hour threshold; there is no data to support that this is a widespread practice.

What is true is the ACA is helping improve labor markets by limiting the growth of health insurance premiums, reducing job lock, and providing small businesses with new tax credits for providing coverage.

If everyone does their part, we can transform and modernize the nation's health care system by tackling escalating health care costs, by improving patient access and outcomes across the country, and by boosting the long-term economic success and employment in the medical sector.

Local school districts and colleges and universities have a long and successful partnership with the federal government.

We see this partnership in higher education, to increase college access. Because of leadership by this Administration and Democrats in Congress, the maximum award for Pell grants has increased by $905 since 2008, and the number of Pell Grant recipients has expanded by 50 percent over that same time, providing college access to millions of additional low-income and middle-class students across the country.

We see this partnership in K through 12 education. For elementary and secondary schools, Congress provided billions of dollars of extra help to improve school performance through Title I and IDEA through the Economic Recovery Act.

We see this partnership in early childhood. Just yesterday we introduced bipartisan legislation called the "Strong Start for America's Children Act," a landmark effort to improve and invest more in early childhood education.

Democrats are also working closely with school districts to oppose the draconian sequestration budget cuts that threaten the progress we're making to improve education quality.

And now we will see this partnership in health care. Schools and colleges are large employers. In rural areas, sometimes they are one of the only significant employers.

The ACA is another opportunity for education institutions – as employers – to partner with states and the federal government to ensure that their employees have health coverage that keeps them healthy and hard at work educating the nation's students.

I hope today's conversation will be a constructive one and we welcome suggestions on how we can make these requirements work fairly for both employers and employees in the education sector.

Chairman KLINE. The gentleman yields back. Thank you very much.

Sometimes, it is, indeed, a tale of two cities, and that is why we have witnesses—pursuant to Committee Rule 7C, all committee members will be permitted to submit written statements to be included in the permanent hearing record. Without objection, the hearing record will remain open for 14 days to allow statements, questions of the record, and other extraneous material referenced during the hearing to be submitted in the official hearing record.

It is now my pleasure to introduce our panel of witnesses.

First is Mr. Gregory Needles. He is a partner with the Morgan, Lewis and Bockius, LLP in Washington, D.C.

Welcome.

Dr. Thomas Jandris is the dean of the College of Graduate and Innovative Programs at Concordia University Chicago, in Chicago, Illinois.

Ms. Maria Maisto is the founder and president of the New Faculty Majority in Akron, Ohio, and we are very glad that you could make it. I—for all of—we know here—you don't know that she ran into our metro system. And the potential for Web site jokes is almost overwhelming me, but we are very glad that you made it.

And Dr. Mark Benigni is the superintendent for the Meriden Public School System in Meriden, Connecticut.

Before I recognize you to provide your testimony, let me briefly explain our very high-tech lighting system.

You each will have 5 minutes to present your testimony. When you begin, the light in front of you will turn green. When there is 1 minute left, the light will turn yellow, and when your time is expired, the light will turn red. And I would ask that you try to move to wrap up your remarks. I am loathe to gavel down witnesses in their opening remarks, but we do have some time constraints here.

After everyone has testified, members will each have 5 minutes to ask questions. And I am less loathe to gavel them down.

Mr. Needles, you are recognized for 5 minutes.

STATEMENT OF MR. GREGORY L. NEEDLES, PARTNER, MORGAN, LEWIS & BOCKIUS, WASHINGTON, D.C.

Mr. NEEDLES. Chairman Kline, Ranking Member Miller, and members of the committee, thank you for the opportunity to participate in today's hearing. I am honored to appear before you today.

This morning, I am going to briefly discuss the challenges that colleges and universities face as a result of the ACA.

For colleges and universities, it is mainly what to do with adjuncts and student employees. Because adjuncts are paid by the course, they do not fit neatly within the ACA's hours-based determination of who is full-time versus who is part-time. While the IRS recognized this in the preamble to the proposed shared responsibility regulations, it deferred taking a position.

It did make a passing reference, though, to a comment it received that an adjunct be credited 3 hours of service for every credit hour. Because of a lack of follow-up guidance from the IRS, many colleges and universities have adopted the 3-to-1 equivalency referenced in the preamble.

The result has been that in order to keep an adjunct at part-time status, and avoid having to incur the cost of having to provide him or her health benefits, colleges and universities are restricting adjuncts' course loads to 9 hours or less. As a consequence, adjuncts' course loads are being reduced, with a corresponding reduction in compensation.

It is sometimes the case that an adjunct faculty member will teach courses at several different colleges on a part-time basis, and, in effect, cobble together a full-time teaching schedule. Where those colleges may be part of a state system that is governed by a single statewide board, they may be grouped together as a single employer for purposes of the ACA under its control group rules, despite being separate institutions that are operationally distinct from one another. The result is that part-time adjunct inadvertently become a full-time employee under the ACA.

Because of the traditional autonomy of individual academic institutions, the control group rules really don't work when it comes to colleges and universities, and accordingly, they should not apply.

As for students, under the ACA, those who work at their college or university are employees of the institution, and, as such, must be taken into consideration when applying the employer mandate. Most students, though, will be scheduled to work less than 20 hours a week as part of their work-study program, and fall within the ACA's part-time employee exception. However, there are instances in which work-study-related students might also hold a second job with a college or university that is not related to work-study the program. And the hours aren't tracked, such as being an R.A., or resident assistant, which is what my nephew did at the University of Richmond to get through school.

If the combination of two jobs results in the student working 30 hours or more a week, he or she will have to be counted as a full-time employee, even though the student may have access to health care through his or her parents' health plan until age 26, or through an ACA-compliant student health plan.

There is no need to extend the protections afforded to other employees under the ACA to student employees, given their access to coverage elsewhere.

At the end of the day, the issues described above have created uncertainty among colleges and universities. They have created challenges for the long-standing business models under which these institutions operate. What is clear from discussions with our clients, though, is that they do not intend to change the model. They can't afford to.

If the equivalency for adjuncts is 3 hours of service for every credit hour taught, then adjuncts' hours will be cut, because the college cannot afford the cost of providing health insurance, or incurring the applicable penalty tax.

If students who work 30 hours or more are required to be counted as full-time employees, then their hours will be cut. As a client said to me, the ACA is forcing us, typically well-meaning employers, to make tough decisions that have negative consequences for our faculty and our students. And that can't be what was intended.

Mr. Chairman, thank you for giving me the opportunity to testify this morning. I will be happy to answer any questions from the committee members.

Thank you.

[The statement of Mr. Needles follows:]

Statement of Gregory L. Needles
Partner, Morgan, Lewis & Bockius LLP

before the

Education and the Workforce Committee
United States House of Representatives

November 14, 2013

Impact of the Patient Protection and ACA on Educational Institutions

Chairman Kline, Ranking Member Miller and Members of the Committee, thank you for the opportunity to participate in today's hearing. I am honored to appear before you today.

By way of introduction, I am a partner with the law firm of Morgan, Lewis & Bockius in the Washington D.C. office where I lead the office's Employee Benefits and Executive Compensation Practice Group. Over sixty percent (60%) of my practice involves advising tax-exempt and governmental employers regarding their benefit plans. In representing these plans, I have been actively involved in all aspects of their operation and administration. Recently my practice has focused on advising employers, including many colleges and universities, on the impact of the Patient Protection and Affordable Care Act (the "ACA") on their health plans. I want to relay to you today the challenges colleges and universities face as a result of the ACA.[1] In addition, I briefly will discuss the issues facing K-12.

I. Introduction

Central to the ACA are the shared responsibility provisions that impose obligations on individuals and employers. The "individual mandate" generally provides that individuals who do not have minimum essential health coverage will have to make a payment through their tax returns. On the other side of the coin, large employers who fail to offer group healthcare coverage to their full-time employees and their dependents will be subject to tax penalties (referred to as the "employer shared responsibility mandate" or "penalty") under section 4980H of the Internal Revenue Code. To avoid the tax penalty entirely, an employer's group health plan must meet certain coverage mandates, be affordable to each employee, and provide a minimum level of benefits to the employee.

The majority of working age people will meet their individual mandate requirement through participation in employer-sponsored group health plans. No employers that I advise will be

[1] I am not speaking on behalf of Morgan, Lewis & Bockius, and my testimony should not be attributed to that organization. My testimony reflects my own personal views.

terminating their health plans next year, or in 2015 for that matter. They feel compelled by the market to continue to offer their own plans in order to attract and retain talent. This would be particularly true of colleges and universities and K-12.

Both colleges and universities and K-12 have large variable workforces that are unique to them. For colleges and universities, they are primarily adjunct professors and student employees. For K-12, they are substitute teachers and after-school workers such as coaches. As I will describe further, the ACA's requirements result in unintended consequences when applying its rules to those unique populations.

II. Challenges Facing Colleges and Universities

Adjuncts and student employees serve a unique role in the college and university space. In the case of adjuncts, they generally supplement the institution's full-time faculty. For students, college employment through work-study is a way to finance their education. Typically neither adjuncts nor students are provided benefits. Instead, they are provided an opportunity to gain valuable experience, and the college or university is able to meet a need that might otherwise go unmet. It is a compact that has served students, adjuncts, and academia well for decades.

Adjunct Faculty

The Challenge of Measuring Hours.

Generally, in order for a college or university to avoid having to provide an adjunct health benefits under the ACA, the adjunct's average hours of service need to remain below 30 hours a week. Employees are considered full-time employees who must be offered group health coverage if they are employed, on average, for 30 or more hours each week (or 130 hours per month). Under the IRS proposed rules, for hourly employees, employers must calculate actual hours of service. For non-hourly employees, employers are instructed to use actual hours of service, or equivalency standards based on days-worked (which credits the employee with 8 hours for every day he/she works at least one hour of service) or weeks-worked (which credits the employee with 40 hours of service for each week that he/she works at least one hour of service).

Adjuncts are generally paid by the course, a unique arrangement that is neither strictly full-time nor part-time. The preamble to the IRS's proposed rules acknowledges that they present difficulties in terms of categorization as full-time versus part-time employees for purposes of the shared responsibility penalty tax and requests further comment on how they should be treated. In the interim, the preamble provides that a college or university may use a reasonable method for crediting hours. It goes on to say that a method would not be considered reasonable if it only took into account the time spent in class. The preamble notes that some have suggested an equivalency that credits an adjunct with three hours of service for every class hour or instead, determining what a full class load would be for a full-time professor and then determine the

maximum hours an adjunct might work and remain part-time under the ACA based on a percentage of what constitutes a full-time load.

What is lacking now is certainty for colleges and universities. They do not know where to draw the line when determining an equivalency method to use for adjuncts. And given the penalty taxes involved, many are afraid to take anything more than a conservative approach, which is typically crediting three hours of service for every one in class, one of the equivalency standards described above in the preamble to the regulations. Using this equivalency as the standard, in order to keep an adjunct in part-time status and avoid the cost of having to provide him or her health benefits, colleges and universities are restricting adjuncts course loads to nine hours or less. As a result, adjuncts' course loads are being reduced with a corresponding reduction in compensation.

The Unintended Effect of the Control Group Rules.

It is sometimes the case that an adjunct faculty member will teach courses at several different colleges, all on a part-time basis, and in effect, cobble together a full-time teaching position. Because of the professor's part-time status at each of the colleges at which he or she teaches, each college will not have to offer the professor health coverage under the ACA. This is fine if the colleges are not under common control, which is generally the case for private institutions. However, where colleges may be under common control, they will be treated as a single employer for purposes of the ACA despite being separate institutions that are operationally distinct from one another.

The issue normally arises in the community college system where "career adjuncts" are more prevalent. If the state has established its system where each college is treated as its own independent entity, governed by its own board, there will be no problem, because the colleges are unrelated. However, if each college in the system is governed by a single board at a state-wide level, then arguably, each college that makes up the system is part of the same controlled group and treated as one employer for purposes of applying ACA's employer mandate. The problem is that as a practical matter, there is usually no central office that tracks employees on a system-wide basis. In other words, no one knows when a part-time employee, including an adjunct, is working part-time at two or more colleges within the system; thus inadvertently becoming a full-time employee under the ACA. The issue is further compounded by the fact that community colleges may participate in their state's health plan rather than sponsoring their own, thus potentially jeopardizing the state plan's ACA status. And while payroll might be centralized at the state level, it is processed for each college using the college's own EIN. Meaning no one is tracking part-time employees on a statewide basis. The cost to establish the systems to track what might be a handful of "career adjuncts" and other part-timers may be prohibitive.

Students Who Work On Campus

As you know, many students must work to afford the college or university they attend. They take on hourly work-study jobs at their college and university such as clerical positions, security guard, furniture mover, etc. to finance their way through college. In addition, they could take on a non-hourly, non-work-study position such as a resident assistant. Under the ACA, though, they are employees of the college or university and as such, must be taken into consideration when applying the employer mandate.

Most of the students will be scheduled to work less than twenty hours a week as part of their work-study program and fall within ACA's part-time employee exception. However, there are instances in which a work-study student might hold a second job with the college or university that is not work-study related and the hours are not tracked, e.g., a resident assistant. The college or university is then forced into trying to determine appropriate equivalencies: what weekly equivalency should apply to an R.A.? And even if the combination of the two jobs results in the student working 30 hours or more a week, the student should not have to be counted in applying the employer mandate.

Unlike other employees, students have other avenues of access to health care beyond their employer. One of the ACA's most popular market reforms was to require employers to allow dependent children to stay on their parents' health plans until they turn 26. In addition, the Department of Health and Human Services (HHS) issued proposed rules that consider students who are covered under a self-funded student health plan to satisfy their individual mandate under the ACA. Thus, there is no need to extend the protections afforded to other employees under the ACA to student employees.

III. Challenges Facing K-12 School Districts

The IRS proposed rule addresses the academic year schedules of teachers and other traditionally full-time employees of educational organizations in terms of measuring their hours of service. For example, the proposed rule takes into account breaks in service for summer and winter breaks, an academic year versus a calendar year, and calculating average weekly hours for school employees (both hourly and non-hourly) when they typically will not work a full twelve-month period. While helping to ensure that teachers and staff who work over the course of the entire academic year are treated as full-time employees, the proposed rule does not adequately address other types of employees who do not work for school districts on a day-to-day basis. The unique status of these individuals may have a profound effect on very small public school districts who may inadvertently find themselves "large employers" for purposes of the ACA.

Under its proposed rule, the IRS states that a "large employer" for shared responsibility purposes is determined by totaling the number of "full-time employees" (defined by the statute as those working an average of at least 30 hours per week), along with the number of full-time *equivalent* employees (based on a calculation using a formula adding all the service hours for the month of

the employer's part-time employees and dividing them by 120). The application of this straightforward rule may be problematic for small school districts which employ substitutes and after-school employees.

The proposed rule specifically states that employers must take into account all part-time employees when conducting the FTE calculation. Certain types of substitute teachers, though, act more in a capacity as an independent contractor than an employee. For example, a substitute who is on-call and only works when there is a need of limited duration is not a typical part-time employee. He or she is more like an independent contractor who drops in and out when the need arises. In fact, for these types of substitutes it is not atypical for them to be on call to more than one school district given the sporadic nature of their work assignments. In reality, they are employees in name only, which is why they are characterized as variable-hour employees under the proposed IRS guidance. Yet, for purposes of determining whether an employer is a large employer under the ACA, these nomadic substitutes must be taken into account when determining full-time equivalents. For a small school district that has under 50 full-time employees, the inclusion of these types of substitutes can mean the difference between being subject to the ACA shared responsibility mandate or not. And clearly since the IRS did not intend to have the substitutes covered under the employer's health plan, it is incongruent to have them taken into account in determining whether the district is a large employer.

The same is true for those employees hired solely to assist with extracurricular or after-school activities. In the context of very small school systems that would otherwise not be large enough to have to be subject to the ACA's requirements, these individuals could tip the balance because they must be taken into consideration when determining full-time equivalents and whether a district has 50 or more full-time employees.

IV. Conclusion

The issues described above have created uncertainty among colleges and universities and K-12 employers. They have created challenges for the long-standing business models under which these entities operate. What is clear from discussions with our clients, though, is that they do not intend to change the model. They can't afford to. If the equivalency for adjuncts is three hours of service for every credit hour taught, then adjuncts' hours will be cut, because the college cannot afford the cost of providing health insurance or incurring the applicable penalty tax. If students who work 30 hours or more are required to be counted as full-time employees, then their hours will be cut to make sure that does not happen. As a client said, "The ACA is forcing us, typically well-meaning employers, to make tough decisions that have negative consequences for our faculty and our students, and that can't be what was intended."

Mr. Chairman, thank you for giving me the opportunity to testify this morning. I will be happy to answer any questions from the Committee members.

Chairman KLINE. Dr. Jandris, you are recognized for 5 minutes.

STATEMENT OF DR. THOMAS JANDRISS, DEAN, COLLEGE OF GRADUATE AND INNOVATIVE PROGRAMS, CONCORDIA UNIVERSITY CHICAGO, RIVER FOREST, ILLINOIS

Mr. JANDRIS. Chairman Kline and Representative Miller, distinguished members of the committee, I am grateful for the opportunity to make some important remarks to you.

My name is Tom Jandris. I am the senior vice president and dean of the Graduate School of Concordia University Chicago, and the proud namesake of this Jandris Center for Innovation at the University of Minnesota.

Concordia University is a 150-year-old Lutheran university based in the Chicago metropolitan area. We serve 5,000 students, 4,000 of which are graduate students, students in 38 states and 18 foreign countries, as well as in the Chicago metropolitan area.

We are the fifth-largest graduate school in Illinois. And we serve primarily first generation graduate students. That is, students whose family has never had another graduate student in the history of the family come through higher education.

We also represent a predominance of students who are frequently underserved, communities and populations with limited access to graduate education.

Our ground-based programs are not only in the Chicago metropolitan are, but have major concentrations in New York City, Ohio, Oregon, and other locations of that sort.

Our major emphasis is on programs leading to advancement, employment, and/or increased earning potential for our frequently-underserved students.

Affordability, flexibility, and convenience for our students are major priorities for us, and are the hallmarks of what has contributed to our remarkable growth.

My college, the largest college at my university, with 4,000 graduate students, is one of the largest colleges in Illinois providing graduate services to students. We have 4,000 graduate students and 300 undergraduate students, interestingly, studying in my college who are adult learners, all the way up, until this term, 78 years old.

We also provide 56 degree and certificate programs. And we are recognized by accreditors nationally as a 150-year-old institution.

I mention those data points because they represent the need for us to have nearly 500 full-and part-time faculty serving the numbers of students across the world that our university and my college serve. Only 71 of those nearly 500 full and adjunct faculty are tenure-tracked faculty members. The large preponderance of them—nearly 400 of them—are non-tenure-tracked part-time and/or adjunct faculty, sometimes referred to as contingent.

We also have 27 staff employees, several dozen student workers, graduate assistants, teaching assistants, and other students who are deeply affected by the consequences of the implementation of the Affordable Care Act.

There are several important unintended consequences of the Affordable Care Act that impact our programs, students and faculty. We are already in deep discussions about having to cap the teach-

ing loads for our part-time adjunct and contingent faculty at Concordia.

The annual employee cost, if we were not to cap the workers for these—or the loads for these 400—or 200 faculty members would be almost $12,500 per year for each part-time faculty member in the provision of the necessary insurance mandated by the law. That would result in nearly a million-dollar swing in additional expense to my college, an expense that we could little afford. It represents, actually, the jobs of 44 adjunct employees that we would be unable to provide. That is nearly a 30 percent, or 27.9 percent increase in our overall benefits expense in my college.

Since we don't get any state aid for the support of my college, every tuition dollar should go back into our programs.

The CUC will be forced to set limits and caps on the numbers of hours that can be taught by our contingent faculty, and thus, significantly limit, even reduce, their earnings. Some states are already reducing those earnings dramatically, as has been already pointed out.

But it is not only contingent faculty that will be affected. It is our students. It is our staff, our custodial staff, part-time coaches and others who will be deeply affected as a consequence of the limitation on the numbers of hours that they can work.

So we are asking for four things from this committee: a thorough, accurate and detailed review of the unintended deleterious impact of the ACA on universities, colleges' faculty, staff and students; second, based on the results of that review, rules, procedures and definitions be developed in order to insulate these groups from the dire consequences; third, that colleges and universities be provided with clear definitions and standards for identifying employees and others who may be impacted by it; and finally, at all costs, that the evolution of the implementation of the law ensure that no unnecessary or additional economic burdens be placed on students, especially those who are least able to manage to be able to afford those increases that we would have to pass on.

Thank you for the opportunity to be with you today.

[The statement of Dr. Jandris follows:]

THE AFFORDABLE CARE ACT AND

HIGHER EDUCATION –

UNINTENDED CONSEQUENCES

ANNOTATED OUTLINE OF TESTIMONY

HOUSE COMMITTEE ON EDUCATION AND THE

WORKFORCE

BY

THOMAS P. JANDRIS, Ph.D.,

Senior Vice President & Dean of Graduate Programs

Concordia University Chicago

Thursday, November 14, 2013

Mr. Chairman and members of the committee, I am grateful for the opportunity to testify before you today on this important matter as a Senior Vice President and Dean of a large and rapidly growing graduate school at a private university. The matters I intend to discuss regarding the unintended consequences of the implementation of the Affordable Care Act on higher education are of great importance to me, to my institution and to other colleges and universities across the country.

The University I represent, Concordia University Chicago, is a 150-year-old, private, Lutheran University located in the suburbs of Chicago, Illinois. Concordia enrolls over 5000 students with over 4000 of them being graduate students. We are proud to be recognized as the fifth-largest private graduate school in Illinois. Our growth has been remarkable, especially over the last seven years. One of the reasons for that growth is that we have refocused our institution's mission on serving primarily first-generation graduate students and students representing frequently underserved communities and populations. In our ground-based, face-to-face instruction program we teach students in 61 separate locations in the Chicago area. We do this in order to ensure that the opportunity to attend graduate school is as convenient and cost-effective for working adults as we can make it. We provide similar services and programs in many states but in particular to high concentrations of students in New York City, Ohio and Oregon. Our programs have a major emphasis on leading to advancement, employment and increased earnings potential for our students. Our programs are marked by being affordable, flexible and convenient.

Concordia University Chicago is comprised of four separate colleges. The College I represent is the largest of the four. It is the College of Graduate and Innovative Programs. As I said earlier, my College has over 4000 graduate students and 300 adult, undergraduate students studying in over 56 degree and certificate programs. Several of those programs are recognized by accreditors and others as nationally exemplary programs. In my College we employ over 500 full and part-time faculty. We also employ 71 full-time, tenure-track faculty and over 400 non-tenure track, part-time, and or adjunct faculty, sometimes referred to as contingent faculty. We have 27 full-time staff employees; several dozen student workers, such as graduate assistants, teaching assistants, and others. As a consequence of our review of our human resource records and teaching assignments, we have discovered that nearly 200 of our non-tenure track faculty could be affected by the 30 hour rule of the affordable care act. Most of my remaining comments will be focused on the unintended, negative consequences of the Affordable Care Act, as it currently exists, on those 200 non-tenure track faculty, students and the College.

First, there is a significant financial burden resulting. Based on our understanding of the Act and upon the advice of counsel it is estimated that if Concordia University Chicago fails to comply with the Act it will be exposed to potentially significant penalties, perhaps 2000 per employee per year. The cost could even be as high as $3000 per employee per year.

Concordia University, as well as many other colleges and universities across the country, are working hard to appropriately respond to the opportunities and constraints of the Affordable Care Act on our finances and operations. Concordia University Chicago is currently assessing the impact of putting a cap on teaching loads for part-time, adjunct and contingency faculty. Without this cap, our estimate is

that the annual insurance cost per identified employee would be an additional 12,500. Given the number of part-time faculty who may be affected, that would result in nearly $1 million of increased employee benefit costs to my College alone. That would represent a 27.9% increase in our overall benefits expense. If we were to pass on that cost to students, the tuition increase would be substantial, especially to those students least able to afford it.

According to the National Education Association, "Contingent faculty members get paid little as it is and cutting their work hours will make it even harder for them to make ends meet. But cutting their hours could also mean that experienced faculty members teaching multiple courses will have to give up courses that will be taught instead by new, inexperienced faculty; that would hurt students by depriving them of experienced faculty." For the NEA to take this position in admitting the potential deleterious effect on students of the "caps," is of great significance, we believe. Concordia University Chicago would prefer not to have to cap the instructional hours that we make available to our contingent faculty. The impact on faculty earnings as well as on our students would be painful. Some states are already reducing teaching hours. Indiana for example has reduced hours in state schools to 12 per semester for adjuncts and Michigan has made a reduction to 10 hours per semester.

However, it is not only contingent faculty who will be affected by the implementation of the Affordable Care Act. Concordia University Chicago will be forced to consider cutting the hours of other staff and even student workers. In a study recently completed by the Center for Digital Education, it was concluded that, " Part-time administrative, health, custodial, and even students will be deeply affected."

So with all due respect, I come before you to seek only for relatively simple things from this committee:

- We would like to see the Committee strongly suggest that a thorough, accurate and detailed review of the unintended, deleterious impact of ACA on universities, colleges, faculty, staff, and students be undertaken.
- We are also hoping that, based on the results of that review, rules, procedures and definitions would be developed in order to insulate these groups from dire consequences.
- Thirdly we would hope that the Committee would suggest that colleges and universities be provided with clear definitions and standards for identifying employees and others who may be impacted by the act.
- Finally, at all costs, that the Committee help to ensure that the evolution of the implementation of the Act results in no unnecessary or additional economic or opportunity burden to be placed on students–especially those who are least able to manage them or who have been historically among those groups most overlooked.

I am grateful and honored to have had this opportunity to express our point of view.

Thank you for your time and consideration.

Chairman KLINE. Thank you.

Ms. Maisto, you are recognized for 5 minutes.

STATEMENT OF MS. MARIA MAISTO, PRESIDENT, NEW FACULTY MAJORITY, AKRON, OHIO

Ms. MAISTO. Thank you.

Good morning, Chairman Kline, Ranking Member Miller and members of the committee. Thank you for the opportunity to speak here today. I am very grateful that I could be here.

My name is Maria Maisto and I am the president of New Faculty Majority and executive director of its affiliated foundation. We are the only national nonprofit organization dedicated exclusively to improving the quality of higher education by improving the working conditions of the majority of the faculty, often known as adjuncts, who work in temporary, precarious positions while teaching over half of all undergraduate courses in higher education. This majority is now 75 percent of the faculty, or over 1 million professors.

Just over 50 percent of college faculty, more than 800,000 college professors, are classified as part-time. At community colleges, 70 percent or more of the faculty are part-time. Indeed, at the community college where I teach this semester in Ohio, the percentage of part-time faculty has grown from 10 percent in 1995 to 76.3 percent in 2009. Adjunct faculty are paid by the course and the national average compensation is $2,700 per course.

Many adjuncts teach as many or more courses than full-time professors, but make less than $25,000 per year, the same salary, according to one of my students, that a high school dropout can earn as the manager of a fast-food restaurant.

Only 22 percent of college employers provide health benefits to their part-time faculty, according to a 2010 survey. Colleges rarely provide sick leave. In fact, most adjuncts are docked pay for absences. They provide minimal or no retirement benefits and they frequently block access to unemployment compensation.

A survey that we did 2 years ago showed that anywhere from 30 percent to 60 percent of faculty in these positions are assigned courses with three weeks or fewer to prepare, with scant access to the resources they need to teach like course materials, computers, permission to be involved in curriculum decisions, and offices in which to meet students.

Adjunct faculty teach every day with the threat of at-will dismissal and with little recourse to due process rights we typically expect professionals to have.

Thanks to the ACA, many adjuncts will now have health care or more affordable health care for the first time since they started teaching. However, as you may know, since the ACA has become law, some college and university administrations have been in the news for reducing part-time faculty work assignments or for redefining their work in order to avoid providing insurance.

Some people would have us believe that the ACA is giving these colleges and universities no choice but to enact these policies. I am here to correct that misperception. It is not the ACA, but rather these colleges' interpretation of and response to the law that is hurting adjuncts and their students. Colleges have lots of choices and unfortunately for their students, too many have chosen not to support or invest in faculty.

Unfortunately, this kind of policymaking, one that values misguided notions of labor productivity and managerial control over the educational mission at the core of higher education, is increasingly typical of the way that colleges and universities operate. It is the reason that the Association of American Colleges and Universities has called contingent faculty employment practices the, quote—"elephant in the room of higher education." It is the reason that the president of Colorado State University has made a public commitment to improving the working conditions of adjunct faculty on his campus.

It is the reason adjunct faculty are now unionizing in rapidly growing numbers at campuses all across the country. Too many higher education institutions have been making harmful choices for decades in deciding to balance their budgets on the backs of faculty and the students they serve. Students have noticed and they are

not happy about it, not least because of the debt into which they go in order to get a college education.

Yet most institutions still expect adjunct faculty to donate their time, resources and expertise to compensate for the support that these colleges have chosen not to provide. Our operating principle at New Faculty Majority is that faculty working conditions are student learning conditions. This principle is why I helped start this organization and not just because I have taught English composition for more than 15 years, but because my three children are future college students.

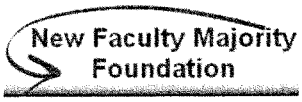
Access to health care is a crucial component of the working conditions of the majority of the faculty and is therefore a crucial component of the quality of the student learning experience. Faculty members who do not have access to health care or to the other professional supports that all faculty need, are being set up for failure, as are their millions of students.

That so many adjuncts do their job so well in spite of their working conditions, rather than because of them, is a testament to their professionalism and dedication, but they should not be in this position.

We hope that the light that has been shined on this dark secret of higher education as a result of the passage of the Affordable Care Act will continue to grow brighter and will lead to the reforms that these faculty, their students, and our country urgently need in order to ensure that American higher education is truly of the highest quality possible.

Thank you.

[The statement of Ms. Maisto follows:]



1700 West Market Street #159 Akron, OH 44313

Testimony for the Record

Submitted to the

U.S. House of Representatives Committee on Education and the Workforce

for the November 14, 2013 Hearing on "The Effects of the ***Patient Protection and Affordable Care Act*** on Schools, Colleges, and Universities."

Good morning, Chairman Kline, Ranking Member Miller, and members of the committee on Education and the Workforce. My name is Maria Maisto, and I am the president of New Faculty Majority and the Executive Director of its affiliated Foundation. We are the only national nonprofit organization dedicated exclusively to improving the quality of higher education by improving the working conditions of the majority of faculty who work in temporary, precarious positions while teaching over half of all undergraduate courses in higher education. This majority is now 75% of the faculty, or over a million professors, often known as "adjuncts," working on contingent appointments—that is, appointments that are contingent on budgets and enrollments and can be terminated with little or no notice.

Just over 50% of college faculty -- more than 800,000 college professors -- are assigned to positions that are classified by college administrations as "part-time"., These "part-time" classifications have traditionally been defined not by the number of hours worked but by the number of courses -- or credit hours -- taught. At community colleges, 70% or more of the faculty are classified as "part-time." Indeed, at the community college where I teach this semester, Cuyahoga Community College in Cleveland, 10% of the faculty were hired into part-time positions in 1995, whereas 76.3% were hired into these positions in 2009. "Part-

time" and "temporary" faculty in these contingent positions are paid by the course, and the national average compensation for such faculty is $2700 per course. Most part-time faculty teach the equivalent or more of a full-time teaching load and make less than $25,000 per year. (One of my students has told me that when he worked full-time as a manager of a fast-food restaurant as a high school dropout, he made that same salary.)

College employers rarely provide health benefits to their part-time faculty -- only 22% according to a 2010 survey by the Coalition on the Academic Workforce. College employers rarely provide paid sick leave (in fact most adjuncts, like me, are penalized for sick leave by being docked pay for any absences). College employers provide minimal or no retirement benefits to adjunct faculty. And they frequently block access to unemployment compensation. A survey that the NFM Foundation did with the Center for the Future of Higher Education two years ago showed that anywhere from 30-60% of faculty in these positions are assigned courses with three weeks or fewer to prepare, with scant access to the resources they need to teach -- resources like course materials, computers, permission to be involved in curriculum decisions, and offices in which to meet students. These part-time and temporary contingent faculty teach every day with the threat of at-will dismissal and with little recourse to due process rights we typically expect professionals to have.

I am here today to talk about the impact of the Affordable Care Act on these educators and their students. Thanks to the Affordable Care Act, many contingent faculty members will have healthcare, or more affordable healthcare, for the first time since they started teaching. As a result, they will have one fewer obstacle to their efforts to provide the highest possible quality education to students.

As you may know, since the Affordable Care Act has become law, some college and university administrations have been in the news for using the law as an excuse to reduce pay for part-time and temporary faculty by reducing their work assignments or by redefining their work according to formulas that, they claim, amount to a work week of less than 30 hours, the threshold at which they would be required to provide insurance. Some people would have us believe that the Affordable Care Act is giving the managers of colleges and universities no choice

but to enact these policies, which hurt faculty and students. I am here to correct that misperception.

It is not the Affordable Care Act but rather college and university administrations' interpretation of and response to the law that is hurting contingent faculty and their students. College and university administrators have lots of choices, and unfortunately for their students, they have chosen not to support or invest in faculty. If anything, they have attempted to circumvent the Affordable Care Act in increasingly destructive ways. For example: many colleges have adopted a definition of faculty work as comprising one hour outside of class for every hour a faculty member is in the classroom. This definition's sole purpose is to avoid the employer mandate. It is based on 10 year old data from a survey that was never intended for the purpose of determining the amount of time faculty do -- or should -- spend on the grading, preparation, research and mentoring that are required for high quality teaching.

Unfortunately, this kind of policymaking -- one that values misguided notions of labor productivity and managerial control over the educational mission at the core of higher education -- is increasingly typical of the way that colleges and universities operate. It is the reason the Association of American Colleges and Universities has called the employment of faculty in predominantly precarious, contingent positions "the 'elephant in the room' for American higher education." It is the reason the president of Colorado State University has made a public commitment to improving the working conditions of contingent faculty on his campus. It is the reason contingent faculty are now unionizing in rapidly growing numbers at campuses all across the country and are organizing as the new faculty majority to demand the professional conditions they deserve and that their students need them to have.

Too many managers of higher education institutions have been making harmful choices for decades in deciding to balance their budgets on the backs of faculty and the students they serve. Students have noticed, and they are not happy about it, not least because of the debt into which they go in order to get a college education. In a recent Public Agenda survey, community college students reported that faculty members "who offer support and guidance that is accurate, accessible, and tailored to students' educational and career goals are in high demand and can be hard to come by." They are hard to come by because too many institutions have created

working conditions that place significant obstacles to their ability to be accessible to their students. Instead these institutions have come to expect these faculty to donate their time, resources and expertise to compensate for the support that their employers have chosen not to provide.

Our organization is four years old and our growing membership includes faculty, staff, administrators, students, parents, and other community members who understand our operating principle that faculty working conditions are student learning conditions. In fact I helped start this organization not just because I have taught English Composition to first year college students for more than fifteen years, but because I have three children, all of whom, I hope, will have access to a high quality college education as I and my generation did. I, like so many of my colleagues, students, and fellow citizens, am concerned that the quality of the education students receive is being eroded by the working conditions of the majority of faculty who teach them.

Access to healthcare is a crucial component of the working conditions of the majority of the faculty, and is therefore a crucial component of the quality of the student learning experience. The faculty members who do not have access to healthcare through the colleges they work for -- or to the other professional supports that all faculty need in order to do their jobs consistently well -- are being set up for failure, as are their millions of students. That so many contingent faculty do their jobs so well in spite of their working conditions rather than because of them is a testament to their professionalism and dedication. We hope that the light that has been shined on this dark secret of higher education as a result of the passage of the Affordable Care Act will continue to grow brighter and will lead to the reforms that these faculty, their students, and our country urgently need in order to ensure that American higher education is truly of the highest quality possible.

Chairman KLINE. Thank you.

Dr. Benigni, you are recognized.

STATEMENT OF DR. MARK D. BENIGNI, SUPERINTENDENT, MERIDEN PUBLIC SCHOOLS, MERIDEN, CONNECTICUT

Mr. BENIGNI. Thank you.

I would like to thank Chairman Kline, Ranking Member Miller and all the distinguished congresswomen and congressmen for the opportunity to testify about the challenges that school systems are facing with the Patient Protection and Affordable Care Act.

My name is Mark Benigni, and I am the superintendent of schools in Meriden, Connecticut. I am an AASA governing board member, the co-chair of the Connecticut Association of Urban Superintendents, and a former mayor of the city of Meriden.

The Meriden public schools are home to over 1,100 employees and over 9,100 students. Our students come from diverse backgrounds; 65 percent of our students are minorities and 70 percent of our students receive free and reduced-price meals. We have received no local budget increase in 5 years, reduced federal funding, and significant increases in our health care costs. This has forced us to operate our school system with less funding for students and programs.

So why are we concerned and why am I here today? At a time when student needs are increasing, budgets are shrinking, and state and federal mandates escalating, we cannot effectively sustain these significant health care expenses. This will cause us to cut staff, reduce programs, minimize current health care plans, cut employee hours, and consider outsourcing current services. It will be our students who lose out.

Beginning in July 2011, the Affordable Care Act required that we make changes to the benefits covered by our plan and eligibility rules for who is covered by our plan. Amongst other items, this includes benefit items such as no cost-share for preventive care, women's health initiatives, and in-network out-of-pocket cost limits. Additionally, we are now required to cover children until age 26, expanding our previous eligibility criteria by as much as 6 years.

Our health plan administrator's estimate the cost impact for these benefits and eligibility requirements to range between 1 to 3 percent of our total plan costs. For the city of Meriden and the board of education, this could be as much as $900,000 a year; impact on the board of ed alone, up to $570,000. To put this into perspective, this equals an impact of over five teaching positions.

Additionally, our personnel and financial staff will absorb many additional reporting and communication requirements. While not having a direct impact on the cost of our health plan, it will impact our employee workload. These reporting, notification and enrollment responsibilities include distribution of health exchange notices, summary of benefits and coverage, new W–2 reporting, auto-enrollment of members into the plan, and ongoing tracking of affordability and minimum coverage. This additional workload could potentially force us to hire new staff to address these mandates.

Beginning in 2014 and beyond, our community will be subject to additional taxes to support Affordable Care Act initiatives and exchange and marketplace costs. The taxes are projected to be

$150,000 annually, costing us two more teaching positions. These taxes include the comparative effectiveness research fee and the Affordable Care Act reinsurance fee. In 2018, the excise tax will have a significant fiscal impact on us, which I will go into detail more in a moment.

Beginning in 2015, the accessibility and affordability requirements will require us to offer coverage to at least 95 percent of our full-time employees working 30 hours or more and their dependents, or be subject to penalties. This will impact us with our substitute teachers who are not currently considered board of education employees. Additionally, the benefits provided by our plan must fund at least 60 percent of projected costs covered by the plan and the employees' cost for coverage cannot exceed 9.5 percent of their wages. We project the costs for us to comply with these accessibility and affordability requirements to be $1.2 million in 2013 dollars, worth another 16 teaching positions.

In addition to the fiscal impact are the staffing implications I mentioned earlier, it will force us to make some tough decisions around people we have hired. We will need to intervene with some staff that have elected higher wages for nonbenefit-eligible positions. We will need to decide if we eliminate these positions altogether, reduce their hours, or decrease their wages in order to offer insurance. We will need to intervene with our bargaining groups over contracts that were negotiated in good faith. It will force us to make difficult political and community decisions on deciding whether we will offer coverage to nonbenefit-eligible positions or accept potential penalties. The public will want us to explain why we are potentially accepting penalties in lieu of offering our hard-working employees affordable coverage.

These new requirements will compel us to make difficult decisions around plan design and level of coverage. Our current 2,000 single and $4,000 family high-deductible plan exceeds the 60 percent coverage criteria, coming in at 77 percent. When looking at expanding coverage, if we elected and chose to offer a low-cost plan option, we would need to raise those deductibles to as much as $6,350 a single and $12,700 for a family plan.

Another obvious alternative for us to consider is to limit hours for some positions below the 30-hour threshold, or hire multiple part-time people for what have traditionally been 30-hour plus positions.

Chairman KLINE. Dr. Benigni, I am going to have to ask you to wrap up as quickly as you can.

Mr. BENIGNI. The cost exposure, if we were to accept accessibility and affordability penalties are considerable. The access penalty of $2,000 per employee less the first 30 would be 2 million for the Board of Education in Meriden. That would be an additional 27 teaching positions.

If these are all are not enough concerns, the excise tax on high-cost plans has us alarmed. The excise tax is really a double hit to us, as the other requirements of the Affordable Care Act drive up the cost of the plan, which in turn, drives the excise tax.

I thank you for your time and attention.

[The statement of Dr. Benigni follows:]

Oral Testimony given November 14, 2013
before the Education and the Workforce Committee at a hearing entitled
"The Effects of the Patient Protection and Affordable Care Act on Schools, Colleges, and Universities"

By: Mark D. Benigni, Ed.D
Superintendent of Schools
Meriden Public Schools
Meriden, Connecticut

I would like to thank Chairman Kline, Ranking Member Miller and all the distinguished Congresswomen and Congressmen for the opportunity to testify about the challenges that school systems are facing with the Patient Protection and Affordable Care Act. My name is Mark Benigni and I am the Superintendent of Schools in Meriden, Connecticut. I am an AASA Governing Board Member, the Co-Chair of the Connecticut Association of Urban Superintendents, and the former Mayor of the City of Meriden. The Meriden Public Schools are home to over 1100 employees and over 9100 students. Our students come from diverse backgrounds. 65% of our students are minorities and 70% of our students receive free and reduced price meals.

We have received no local budget increase in five years, reduced federal funding and significant increases in our healthcare costs. This has forced us to operate our school system with less funding for students and programs.

So, why are we so concerned? And why am I here today?

At a time when student needs are increasing, budgets are shrinking and state and federal mandates escalating, we cannot effectively sustain these significant healthcare expenses. This will cause us to cut staff, reduce programs, minimize current healthcare plans, cut employee hours, and consider outsourcing current services. It will be our students who lose out.

Beginning in July 2011, the Affordable Care Act (ACA) required that we make changes to the benefits covered by our plan and the eligibility rules for who is covered by our plan. Amongst other items, this includes benefit items such as: no cost share for preventive care, women's health initiatives and in-network out-of-pocket cost limits. Additionally, we are now required to cover children until age 26, expanding our previous eligibility criteria by as much as six years. Our health plan administrators estimate the cost impact for these benefit and eligibility requirements to range between 1-3% of our total plan cost. For the City and Board of Education of Meriden, this could be as much as $900,000 a year. The impact on the Board of Education alone is up to $570,000. To put this into perspective, this equals an impact of five teaching positions.

Additionally, our personnel and financial staff will absorb many additional reporting and communication requirements. While not having a direct impact on the cost of our health plan,

it will impact our employee work load. These reporting, notification, and enrollment responsibilities include distribution of health exchange notices, Summary of Benefits and Coverage, new W-2 reporting, auto-enrollment of members into the plan, and on-going tracking of affordability and minimum coverage. This additional workload could potentially force us to hire new staff to address these mandates.

Beginning in 2014 and beyond, our community will be subject to additional taxes to support Affordable Care Act initiatives and exchange and marketplace costs. The taxes are projected to be $150,000 annually, costing us two more teaching positions. These taxes include the Comparative Effectiveness Research Fee and the Affordable Care Act Reinsurance Fee. In 2018, the Excise Tax will have a significant fiscal impact on us, which I will go into more detail in a moment.

Beginning in 2015, The Accessibility and Affordability Requirements will require us to offer coverage to at least 95% of our "Full Time" employees, working 30 hours or more, and their dependents or be subject to penalties. This will impact us with our substitute teachers who are not currently considered employees. Additionally the benefits provided by our plan must fund at least 60% of projected costs covered by the plan and the employee's cost for coverage cannot not exceed 9.5% of their wages. We project the cost for us to comply with these accessibility and affordability requirements to be $1.2M, in 2013 dollars, worth another 16 teaching positions. In addition to the fiscal impact, these requirements will have staffing implications as well.

It will force us to make some tough decisions around people we have hired. We will need to intervene with some staff that have elected higher wages for non-benefit eligible positions. We will need to decide if we eliminate these positions altogether, reduce their hours, or decrease their wages in order to offer insurance. We will need to intervene with our bargaining groups over contracts that were negotiated in good faith. It will force us to make difficult political and community decisions on deciding whether we will offer coverage to non-benefit eligible positions or accept potential penalties. The public will want us to explain why we are potentially accepting penalties in lieu of offering our hard-working employees affordable coverage. These new requirements will compel us to make difficult decisions around plan design and level of coverage. Our current $2,000 single and $4,000 family high deductible plan exceeds the 60% coverage criteria coming in at 77%. When looking at expanding coverage, if we elected and chose to offer a low cost plan option, we would need to raise those deductibles to as much as $6,350 Single and $12,700 Family. Another obvious alternative for us to consider is to limit hours for some positions below the 30 hour threshold or hire multiple part-time people for what have traditionally been 30-plus hour positions.

The cost exposure if we were to accept the accessibility and affordability penalties are considerable. The access penalty of $2,000 per employee less the first thirty would be $2M for the Board of Education in Meriden. This is 27 more teaching positions. The affordability penalties as of today would range from $50,000 to $150,000 depending on our approach to the access penalty. Minimally, if we chose to offer affordable qualified coverage to the 60

employees who currently do not have coverage, it would come at a cost of $1.2M equating to 16 more teaching positions. I want to add that the private sector has more options than we do as a school system to address these requirements. I cannot split off one of my schools into a separate entity to stay under the 50 employee threshold and I certainly do not have the option to make everyone part-time as some companies will do. Conversely, I do urge you to support HR 2575 that would define full-time as 40 hours per week as opposed to 30 hours per week. This would allow us to balance the needs of the school district while providing full-time employees with affordable health care.

If these are not enough concerns, the Excise Tax on High Cost Plans has us alarmed. This tax becomes effective in 2018 and will charge a 40% excise tax based on plans that exceed $10,200 for single plans and $27,500 for two-person and family plans. At this point we are in excise tax "Mitigation" mode versus excise tax "Avoidance" mode. Our plans are projected to hit the thresholds in 2014, next year. We are projected to hit the threshold next year despite making major plan design changes during last negotiations that resulted in a 25% decrease in the cost of the plans. In particular, we have more exposure to the excise tax than other employers due to a significant number of retirees on the plan, higher average age of active employees, and the northeast having the highest healthcare costs in the nation.

The excise tax is really a double-hit to us as the other requirements of the Affordable Care Act drive up the cost of the plan, which in turn drives the excise tax. Similar to the accessibility and affordability requirements, this excise tax will force us to make significant plan design changes or limit our full-time staff. This negatively impacts us, our employees, and ultimately our students.

The cost of the excise tax is substantial. Assuming a conservatively low 8% increase per year, in 2018, the excise tax for the Meriden Board of Education is projected to be $2.6M worth another 35 teaching positions. When adding the tax to our rates, we estimate the tax alone will add as much at 15% to the cost of our plans.

Looking at these numbers in their entirety, the cost of the Affordable Care Act requirements to the Meriden Board of Education approaches $4.6M potentially costing us 58 teaching positions.

While I love my job, I am very concerned. Even in the best of times, this would be a huge burden. With reduced federal funding levels in Meriden and poverty rates increasing almost 16% since 2004, this is a recipe for disaster. With all of this said, I truly am the lucky one. I work with a tremendous team, who truly care about kids. I go to work every day knowing that our educators and our schools give our students a chance for a better life. Our students should not be the ones who foot the bill for healthcare. Our limited resources must go to ensuring that all children have what they need to grow and succeed.

In closing, I thank you for your time, your attention, and your service to our great nation!

Meriden Public Schools
Excise Tax on High Cost Health Plans Exhibit
November 14, 2013

July 2013 Teach Copay Plan-

Full Allocation Rates-Copay (includes Med & RX)
40% excise tax on premiums over the threshold amounts of:

Threshold-Single	$	10,200				
Threshold-Other	$	27,500				
Assumed Trend:		8%				
		Single		**2 Person**		**Family**
2013 Assumed Monthly Rates:	$	992.91	$	1,985.81	$	2,570.51
Annual Rates						
2013 Rates	$	11,915	$	23,830	$	30,846
2014 Proj. Rates	$	12,868	$	25,736	$	33,314
2015 Proj. Rates	$	13,898	$	27,795	$	35,979
2016 Proj. Rates	$	15,009	$	30,019	$	38,857
2017 Proj. Rates	$	16,210	$	32,420	$	41,966
2018 Proj. Rates	$	17,507	$	35,014	$	45,323
Amount over	$	7,307	$	7,514	$	17,823
Tax impact	$	2,923	$	3,005	$	7,129
Revised Rate	**$**	**20,430**	**$**	**38,019**	**$**	**52,452**

TAX IMPACT			
I	II	III	Total
431	240	374	1045
$ 1,259,703	$ 721,318	$ 2,666,332	$4,647,354

July 2013 HSA Plan-

Full "Premium" Rates-Copay (includes Med & RX)
40% excise tax on premiums over the threshold amounts of:

Threshold-Single	$	10,200				
Threshold-Other	$	27,500				
Assumed Trend:		8%				
		Single		**2 Person**		**Family**
2013 Assumed Monthly Rates:	$	738.72	$	1,477.44	$	1,912.46
Annual HSA Contribution*:	$	2,000	$	4,000	$	4,000
Annual Rates & HSA Contribution						
2013 Total	$	10,865	$	21,729	$	26,950
2014 Total	$	11,574	$	23,148	$	28,785
2015 Total	$	12,340	$	24,680	$	30,768
2016 Total	$	13,167	$	26,334	$	32,910
2017 Total	$	14,060	$	28,121	$	35,223
2018 Proj. Rates	$	13,025	$	26,050	$	33,720
HSA Contribution	*$*	*2,000*	*$*	*4,000*	*$*	*4,000*
2018 Total	$	15,025	$	30,050	$	37,720
Amount over	$	4,825	$	2,550	$	10,220
Tax impact	$	1,930	$	1,020	$	4,088
Revised Rate	**$**	**14,955**	**$**	**27,070**	**$**	**37,809**
Rate impact of tax		**14.82%**		**3.92%**		**12.12%**

TAX IMPACT			
I	II	III	Total
431	240	374	1045
$ 831,849	$ 244,821	$ 1,528,967	$2,605,636

*Current PPACA Guidelines State Employer HSA Contributions and Employee Disbursements. This Example Assumes Combined Employee and Employer Funding to cover the Full Deductible

Chairman KLINE. Thank you.

I thank all the witnesses.

I am going to defer my questions, and recognize now Dr. Foxx for 5 minutes.

Ms. FOXX. Thank you, Mr. Chairman. And I want to thank the witnesses for being here today and participating in this extremely important hearing. We appreciate your taking the time to do that.

Mr. Needles, in your experience representing colleges and universities, did the administration's decision to delay enforcement of the employer mandate for 1 year, provide any relief to these employers? Did it encourage employers to stop making business decisions now and wait until mid-2014 to make tough decisions like cutting hours for their contingent staff?

Mr. NEEDLES. No, our experience has been that it did provide relief to the extent that they had already started the process, and they were well down the road. So, they were making business decisions. That is why they were seeking our counsel as to what they could do under the parameters of the ACA.

What it did do, though is, instead of having to accelerate—and there was a lot of fear that they would have to get things in place by the end of 2013, and how that would look, particularly with open enrollment that occurs in October and November of every year. It was a lot of fear that they would not be able to make all the decisions in a rational way.

So, by extending it a year, that has helped them to take a more measured approach, but it is not changing the decisions that they are making. It is just—perhaps the implementation is getting delayed a fraction.

Ms. FOXX. [Off mike.]—as 61 locations. And it is because you are delivering education in locations that are nearest to the students, which significantly increases their ability to persist and complete their programs. Can you discuss what impact the health care law may have on your ability to deliver post-secondary education in this manner?

Mr. JANDRIS. Sure. Thank you, Representative Foxx.

The 61 locations are not campuses, by the way. They are rental facilities around the Chicago metropolitan area that we use on a semester-by-semester basis.

Many of those are staffed by our contingent faculty in the Chicago metropolitan area. Since we are a completely tuition-dependent university with a very small endowment, and literally no state aid coming into our university, every dollar we reallocate to any other expense is taken out of the instructional program. And so, if we are forced to absorb, say, the million-dollar swing that compliance with the Affordable Care Act would take, we would have to dramatically limit the numbers of adjuncts we had available to go to those 61 locations.

We would also have to limit our ability to pay the rents and other related expenses to operating those locations. And I am sure that the consequence would be a very significant reduction in the numbers of students who were able to participate in those programs. Because almost all of our students—92 percent of our students—are adult working students. And the accessibility to the lo-

cation for their instruction is extremely important to their ability to persevere in our program.

Ms. FOXX. Well, thank you very much. And thank you for taking the programs to the students. That is not a totally unique idea, but certainly for a small school to be operating so many different places, that is a real testament to you for doing your best to fulfill your mission, to be where the students are.

So, as someone who worked in higher education for a long time and understands that issue very well, I appreciate what you are doing.

Mr. JANDRIS. Thank you, ma'am.

Ms. FOXX. Thank you.

Mr. Needles, while I think we know somewhat the answer to this question, if you have some additional insights to us, in what are you hearing from colleges and universities about the other long-range concerns of limiting their hours of contingent faculty?

Mr. NEEDLES. Yes. We haven't been asked that question yet. Because I think the focus right now is to deal with the immediate. And that is, to make sure that they are compliant. And, remember, I think until June or July, they thought they would have to be compliant by the end of this year, which, again, meant October.

So, they are still, you know, focusing on those immediate needs and short-term needs. I don't think they have started thinking about the long-range planning and impact at this point. At least, it hasn't been—they haven't asked us to advise them on it.

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

Chairman KLINE. I thank the gentlelady for yielding back.

Mr. Miller, you are recognized.

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

This may be the most in-depth discussion we have had of adjunct professors in the history of the committee. It may also be the first time we have had this discussion of this matter. And I am not quite clear yet about the status here.

Ms. Maisto, this rule of three-to-one—is that considered—and, Mr. Needles, I would like you to respond after Ms. Maisto—is that policy? Is that—that is the proposal. Is that being challenged? Or are recommendations being made about how to deal with this, based on—Ms. Maisto and Mr. Needles?

Ms. MAISTO. Yes, this is not a question that has been settled. We have been involved in the conversation with the IRS and the rule-making process to try and figure out the most accurate way to do the conversion formula to figure out how to translate credit hours, which is how adjunct faculty work and full-time faculty work have always been measured—to translate into hours worked per week.

The problem is that the formula that has been recommended by many colleges, and, in fact, adopted by my own college, is a one-to-one ratio. Which presumes 1 hour of work outside of class for every hour of time you are in class—which is so far from the reality of what faculty need to do in order to supply enough quality higher education that it is extremely troubling. And it seems to be that formula is being used in order to avoid having to provide insurance.

What we would like to do is have a national conversation about what adjunct faculty work actually is, what faculty work actually

is. What you need to be able to do in order to provide quality education. And does—the passage of the Affordable Care Act has actually made it possible for us to start having that conversation.

Mr. MILLER. Let me just go to Mr. Needles quickly, because I want to come back to you—

Ms. MAISTO. Yes.

Mr. MILLER.—for another subject.

Mr. Needles?

Mr. NEEDLES. Yes. It is not a rule or a law yet. It is only found in the preamble of the IRS's regulations

Mr. MILLER. Right.

Mr. NEEDLES.—the three-to-one ratio. But they passed a—they made the comment that they—well, they said that they received a comment from somebody. And typically, when they do that in their preambles, they are sending a signal as to what they favor. So, in reaction to that—

Mr. MILLER. Do you recognize the validity of the comment they accepted? Or were they just taking—

Mr. NEEDLES. Well, I think what my—what—

Mr. MILLER.—was available?

Mr. NEEDLES. What our clients have done is, they felt that is probably the most conservative approach they can take, and not get into trouble with the IRS. So, that is the position they have chosen to take.

Mr. MILLER. I was going to say, we haven't had a broad discussion on this topic in this committee. My personal experience is, I think I had a nephew that was working in two community colleges as he was teaching three different schools within those two districts.

But this kind of raises a question. You know, we have been here dealing with student indebtedness, the rise in college cost, the states not holding—with respect to public institutions, not holding up their end of the bargain, so to speak, the decline from state assistance of 75 percent to 6 percent in some states, and certainly, single digits in a number of other states. And at the same time, we see the discussion of how you earn your place on the U.S. and News World Report. You have got to build a student lounge, you have got to build a cafeteria, you have to have 13 different kinds of food, and you have to have a climbing wall and a 24-hour exercise center. And then maybe you will boogle up a notch.

So, there are a lot of costs incurred out here in the name of lifestyle.

Ms. MAISTO. Mm-hmm.

Mr. MILLER. And, yet, when we get down to the people who are teaching, as you point out, the vast majority of the classes, all of a sudden, we got to skimp. I don't—I just don't—

Ms. MAISTO. Right.

Mr. MILLER.—the juxtaposition here. And not every college has embarked on this. And certainly, community colleges, it is a much different base to do this from.

Ms. MAISTO. Yes. Well, you know, one of the things that we are especially grateful for is that the IRS actually solicited comments and made it possible for us to explain what the nature of our work is and how it should be calculated. That is not something that col-

leges and universities typically do. It is very rare for colleges and universities to actually to involve adjunct faculty in any kind of governance. And that, we think, is a mistake, because faculty, after all, are dealing with students every day, and are the ones who are closest to them, and who know what they need. If they are not supported to be able to support those students, then the students suffer. And that is—so, we have been very grateful for the fact that we have been part of this conversation, and—and that it is really bringing to light the working conditions of adjunct faculty more generally, which need to be addressed, and which has been a problem since long before the Affordable Care Act came onto the scene.

Mr. MILLER. Thank you very much.

In my second round, I will ask you another question.

Chairman KLINE. Thank the gentleman.

Mr. Walberg is recognized.

Mr. WALBERG. Thank you, Mr. Chairman. And thanks to the panel for being here.

I believe it was Steve Jobs who had a slogan: "If it's your problem, it's our problem." And I think it is important for us to hear the practical ramifications of the Affordable Care Act to our educational systems. And so, thank you for your insights.

Dr. Jandris, earlier this year, I had the privilege of hosting a seminar symposium for more than a dozen presidents of independent colleges and universities surrounding my district in Michigan. Schools that you may be well aware of, like Spring Arbor University, Albion, Alma, Mercy Memorial, Mercy Hosp—not Hospital—University Concordia was involved from Ann Arbor area, also schools like Adrian, Siena Heights University. And their biggest concern, as we talked at that time a number of months ago, was what would be the impact upon education, students and faculty involvements, but education specifically because of the Affordable Care Act, which was a health care issue. And so it is interesting hearing your testimony today.

And so I guess I would like you to expand on what would a requirement to provide adjunct professors with health coverage do to your staffing costs in more specifics. And if these expenses were beyond a college's budget, would this require them to raise tuition, among other things?

Mr. JANDRIS. Thank you, sir. As a part-time resident of Cass County, Michigan, I am very familiar with those colleges and universities.

I can tell you that Concordia University is not one of those institutions that has climbing walls in our facilities. In fact, our dormitories are not even air conditioned. We put every single dollar we have available into instruction and the quality of instruction and to serving students where they can be served conveniently for their purposes.

In our university, the expense of providing what we believe to be, because the rules are still ambiguous, what we believe to be would be required insurance coverage to the adjuncts would actually cause us to have to either reduce adjuncts by almost 10 percent, and therefore limit our ability to provide the services that we provide in remote areas now.

We do, by the way, use the three-to-one ratio at Concordia for what identifies the working conditions of our adjuncts. Adjuncts are truly the lifeblood of our institution and we recognize that. But also, we would have to reduce, for example, technology services. Every dollar we spend one place at our institution, we have to take from somewhere else.

Mr. WALBERG. So we are talking there of quality of service?

Mr. JANDRIS. Absolutely, quality—

Mr. WALBERG. Education and value to the students.

Mr. JANDRIS.—absolutely, absolutely. And not only the quality of service, but the availability of service would have to be diminished.

Mr. WALBERG. Dr. Benigni? I hope I said that right.

Mr. BENIGNI. Perfect. Thank you.

Mr. WALBERG. And Meriden, right?

Mr. BENIGNI. Meriden, right.

Mr. WALBERG. Okay. As a former mayor of Meriden, current superintendent, review in a little more detail how the Affordable Care Act affected or is affecting your employees right now. And how has it impacted your budgeting and financial resources?

Mr. BENIGNI. Sure. I think a few things. The excise tax, if we start there, our co-pay plans on single-families and family plans are already over the thresholds. So that would be a major concern. Our HSAs with the 25 percent negotiated and agreed upon with our union reduction, in 2014 would break those thresholds as well.

Mr. WALBERG. And these are agreed-upon plans?

Mr. BENIGNI. Agreed-upon plans with union members at the table negotiating with us. And I guess the bigger concern would be in 2018, it would be a $2.6 million hit to my budget just to meet the thresholds as they stand now. And that is a substantial amount of people because 90 percent of my operation is staff, putting teachers and paras and behavior techs in classrooms with kids, the money needs to come from somewhere.

Mr. WALBERG. $2.6 million—

Mr. BENIGNI. In 2018.

Mr. WALBERG.—one local public school district.

Mr. BENIGNI. Yes.

Mr. WALBERG. Quality and value—

Mr. BENIGNI. The other thing that we would need to take into consideration is for some of our employees, we would actually have to reduce the coverage they are getting now because they take a low-paying job, but with a very good health plan. Well, this Affordable Care Act would force us to evaluate the type of health plan we provide them or look at outsourcing some of these services as well.

Mr. WALBERG. Low-paying job, less care on the health plan as a result of this.

Thank you. I yield back.

Chairman KLINE. Yes, the gentleman's time has indeed expired.

Mr. Andrews is recognized.

Mr. ANDREWS. Thank you, Mr. Chairman.

I thank the witnesses for their testimony this morning.

Dr. Jandris, of the 200 employees you are worried about that you mentioned in your testimony, how many of them are adjunct or part-time faculty?

Mr. JANDRIS. That is the number of adjuncts; the 200 that I am worried about are adjunct employees.

Mr. ANDREWS. Okay. How many credit hours do they teach per semester?

Mr. JANDRIS. There is a wide range of credit hours. We have several classifications of contingent employees based on the numbers of hours they take when we do a look-back on an annual basis. Some of them will teach as many as, in some instances, 24 hours in a semester.

Mr. ANDREWS. Twenty-four credit hours?

Mr. JANDRIS. Yes, or eight classes in a semester. We run on an all-year calendar-year basis, so sometimes—

Mr. ANDREWS. What would you say the average is?

Mr. JANDRIS. The average I would say is probably nine a semester.

Mr. ANDREWS. Okay. So for those that hit the average with the three-for-one rule, they are clearly not subject to the employer mandate. Right?

Mr. JANDRIS. Well, they may not be. I wouldn't use the word "clearly," with all due respect.

Mr. ANDREWS. Well, the law is 30 hours a week and they are at 27 under that. If that becomes the formula, they are at 27, right?

Mr. JANDRIS. If that becomes the formula. We still are unclear as to whether or not we are going to have to count driving time for our adjuncts and—

Mr. ANDREWS. I understand. I understand. But assuming that is the formula, that would be the case.

Mr. JANDRIS. Yes.

Mr. ANDREWS. How many of the 200 would then be exempted by that measure?

Mr. JANDRIS. I don't have that number right in front of me. A fair number, 20 to 50 percent. I am not sure.

Mr. ANDREWS. Okay. Let's say it is 35 percent. Say the other two-thirds would come in at over 30 hours per week. How much money do they make for teaching that load?

Mr. JANDRIS. We actually pay the exact average that was commented on earlier, which is $2,700 per course for a 3 semester-hour course.

Mr. ANDREWS. Okay. So if they taught 10 credit hours—no, per course. If they taught 10 credit hours that were around 3 each, it would be $8,100 per semester. How many semesters do you have in a year? Two?

Mr. JANDRIS. I am sorry?

Mr. ANDREWS. How many semesters in a year?

Mr. JANDRIS. We teach three semesters.

Mr. ANDREWS. Three. So if someone taught that for three, they would make about $24,000 or $25,000.

Mr. JANDRIS. That is correct.

Mr. ANDREWS. What do you think we should do to provide health insurance for that person? How do you think that person should be able to obtain health insurance?

Mr. JANDRIS. Our hope is, quite frankly, that after this kind of discussion, which is so helpful, that in fact the rules for implementation of the law will raise the threshold to 40 hours.

Mr. ANDREWS. Okay. So you would not insure them. Who would? And how would it be paid for?

Mr. JANDRIS. That is a question I am not prepared to answer at this point.

Mr. ANDREWS. Well, I think the country has to be prepared to answer that question in some way. A person making $24,000 or $25,000 a year in Chicago, I assume would not be able to afford any of the insurance products on the regular market, would they?

Mr. JANDRIS. I can't answer that question. I don't know.

Mr. ANDREWS. I think the answer is rather self-evident.

Would you favor a system where that person could go into a marketplace, buy private insurance, and receive some kind of tax credit or subsidy to help them buy insurance?

Mr. JANDRIS. In principle, I would covet such a system.

Mr. ANDREWS. That is the Affordable Care Act. So, you wouldn't be in favor of repealing that provision for a person in that situation, would you?

Mr. JANDRIS. We didn't ask the committee to discuss repealing. We asked the committee for clarification and consideration in relationship—

Mr. ANDREWS. I understand that, but our work and your work, too, is about human beings and we are positing here a person who is making $24,000 or 25,000 a year, who by your account would not receive coverage at work. Do you think the person should have health insurance?

Mr. JANDRIS. I think every American should have health insurance.

Mr. ANDREWS. I agree with you. And so one of the ways we could do that, of course, would be to set up a marketplace where that person could go buy insurance of their choosing and receive a subsidy to help them pay for it, which I assume you think that is a pretty good idea.

Mr. JANDRIS. As long as it is not paid for on the backs of our students and the adjunct faculty.

Mr. ANDREWS. Well, that is okay. That is okay.

Dr. Benigni, is that how—

Mr. BENIGNI. Yes.

Mr. ANDREWS. Is the "G" hard or silent there?

Mr. BENIGNI. Benigni.

Mr. ANDREWS. I admire your public service as mayor, as well as school superintendent. You are a glutton for punishment.

[Laughter.]

I looked up some statistics about Meriden, Connecticut. And the local community health center there says that they estimate that 23 percent of the people of the city are uninsured. How do you think we should provide health insurance to those families?

Mr. BENIGNI. I think that is really a discussion for you to have, but I think for me as a school system leader whose job and charge is to educate kids, you can't take money at a time when resources are so thin from students who need that upper-hand, too. Otherwise, you will continue to cycle a problem.

Mr. ANDREWS. So, I think you would agree that money shouldn't come from schools. Where do you think it should come from to help those citizens get health insurance?

Mr. BENIGNI. That is really a decision for Congress to make.

Mr. ANDREWS. You don't have an opinion on that?

Mr. BENIGNI. I have a personal opinion, but I am here as superintendent—

Chairman KLINE. The gentleman's time has expired.

Mr. ANDREWS. I would be delighted to hear it on the record. Thank you.

Chairman KLINE. I am always a little concerned when Mr. Andrews does mental math.

[Laughter.]

Dr. DesJarlais, you are recognized.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

I thank the witnesses for being here today.

Even before the implementation of the President's health care law, schools across my state in Tennessee spoke to me about the weight of bureaucracy and regulatory reporting requirements from the federal government. Now, with this law, that burden, you know, has certainly increased and I am sure you are seeing the increase of those regulatory burdens.

So, instead of focusing on improving student outcomes, schools are now worrying about how this health care law affects their teachers, their health care plans, how it affects their reporting requirements, and even affects their substitute teachers' hours in the classroom.

So, instead of focusing on providing college students with the skills and knowledge they need to excel in colleges and universities, they must instead contemplate caps, teaching loads for adjunct professors, and complying with more onerous paperwork and, you know, in some cases even possibly having to raise tuition, which we talked a little bit about today.

So, I guess, do you feel that this health care law has helped in any way or hurt your process for educating students?

We will start with Mr. Needles.

Mr. NEEDLES. Well, I am going to have to defer to Dr. Jandris and Dr. Benigni, because they are on the frontline for that.

Mr. DESJARLAIS. Okay. Mr. Jandris, go ahead.

Mr. JANDRIS. Yes, as I have said earlier, it will have a significantly deleterious impact on our ability to serve the kind of students, the number of students, and with the quality that we are committed to. A million-dollar swing in my small university is onerous to us in the extreme, quite frankly. It would result in the elimination of jobs for adults and for student workers. It would also reduce the locations at which we could teach our courses, and may have an impact on our ability to access instructional materials. It would be a very significant cost for us.

Mr. DESJARLAIS. Okay. And so you said that you think all Americans should have access to affordable health care, but the big question is how do we pay for it. And "affordable" is the key word there. You know, what we are not seeing with this health care law is anything affordable. You know, we are talking about, where does this pot of money come from? We are 17 trillion in debt. You were struggling before this law. You are struggling more now. And, you know, I don't know where we are magically going to create this money to provide this access, but we see a health care law that is

failing. It is failing in businesses, not just in universities, but we are here to talk today about universities.

Mr. Benigni?

Mr. BENIGNI. Yes, sure. From a school system perspective, I think, obviously, we are going to redirect resources to pay for health care for our employees. That can't be good for students. Because that means something else has to get cut to do that. That is why I am here today. That is my concern. I also think, when you look at the actual employees, some employees are getting better care than they are going to get when we make these changes. Some folks have made a decision to take a job at a low-paying wage because they get a quality health care plan. But the way this is going to force us to act is actually going to make us raise their deductibles through the roof and hold them more accountable for their expenses. And at the same time, I am cutting services and programs for students at a time when our school systems cannot weather the storm. I mean, I am here to tell you that we can't do without. And now, you are adding an additional expense onto the school systems.

Mr. DESJARLAIS. Are you in favor of socialized medicine?

Mr. BENIGNI. I don't—on a personal level, I am in favor of making sure that everyone gets health care, but I am also in favor of preventative medicine and some of the programs that we have put in place that now I am going to have to pay an excise tax on. That is not positive, either.

Mr. DESJARLAIS. Of the provisions, which, if changed or repealed, would provide you the greatest benefit?

Mr. BENIGNI. That is a great question. Well, I mean, the 30-hour threshold going up to 40 hours would obviously help for a public school system. Even though we operate two of our schools at 100 minutes more per day, most of our schools are on a 6 ½ hour school day. That would help.

And I also think you have to raise the excise tax threshold. We are already meeting some of them, and the law is just getting underway. By 2018, that is where I mention, it would cost my district $2.5 million. Those thresholds need to go up, because every part of the country operates at different insurance rates.

Mr. DESJARLAIS. Okay, so the Affordable Health Care Act is not working for you. It is not working. Is that correct? I mean, what you are seeing right now, it is not working? It is creating great headaches?

Mr. BENIGNI. It is not benefiting the students of my school system.

Mr. DESJARLAIS. All right.

And, Mr. Needles, do you agree?

Mr. NEEDLES. I think that it is having a detrimental effect on the adjunct professors and students and in the colleges and universities.

Mr. DESJARLAIS. So, maybe all this talk about scrapping and starting over, finding a better way would be something we should entertain.

I yield back.

Chairman KLINE. I thank the gentleman. Mr. Pocan, you are recognized for more than 30 seconds.

Mr. POCAN. Thank you, Mr. Chair.

Well, thank you to the witnesses.

You know, I do think one of the things that has come out for me—and I am glad we are having this conversation in a district that has about 75,000 students in a lot of different educational institutions at the higher ed level, plus all the folks in the K to 12—is the conversation specifically about some of the employment practices on the higher ed level.

You know, I have been an employer for 25 years. I know sometimes my rates can go up 30 percent. So, you know, I know there has been a lot of bad practices. One of the things I am really excited about the Affordable Care Act is the fact that we have strong evidence that cost increases are down. In fact, it is about half of the last 40-year increase just since 2010. So, I think that is something that I haven't really heard being factored in some of the conversation today, but I think certainly should be. Because I had to factor those costs into my business, just like any of your businesses. The fact that we are going to have those costs going down looking very solid, like that is a possibility. It is also going to affect things.

But really, on that employment side—Ms. Maisto, I forgot what you said again. The percent of people who currently get benefits, of those adjunct professors? What is that like?

Ms. MAISTO. The percentage of adjuncts who currently get—only about 22 percent currently get health insurance through their college employers.

Mr. POCAN. Yes, and I think that is one of the big stories that is out there, is, you know, in Wisconsin, when I looked at our state government, somewhat through the university system, there was a growing use of LTE's instead of FTE's. And it was strictly to get around providing benefits. So, this is a practice that has been going on for a very long time. It may have different words, it may have different terminology. The current attempt to do that is to say somehow, the Affordable Care Act is causing this. But it has been caused and happened—is this your experience, Ms. Maisto, in other states, like we have had with Wisconsin, and east of—things like LTE's and the other ways to try to get around this in the past?

Ms. MAISTO. Yes, absolutely. I mean, colleges and universities have figured out many different ways of reducing the benefits and the supports that adjunct faculty receive, all in the name of cutting costs, in the name of being efficient. And adjunct faculty have responded primarily by not allowing their students to suffer. But as a result, they end up sacrificing their own health, the own families' well-being. And that is the situation that needs to change, because we are churning through adjunct faculty, and not supporting them. And when you don't support the adjunct faculty, you are not supporting the students.

Mr. POCAN. Yes, especially when you look at what students are paying now with the rising costs—

Ms. MAISTO. Right.

Mr. POCAN.—and seeing that their salary—

Ms. MAISTO. And many adjunct faculty have significant student loan debt themselves that they cannot repay, in part, because the threshold is 30 hours, and the Public Student Loan Forgiveness

program is also 30 hours. So, when these calculations are made to avoid providing health insurance, they also don't—they are able to pay their student loans.

So, that is a problem. And so, the solution really is for colleges and universities to fairly calculate the work hours of adjunct faculty, to do it accurately, according to standards that ensure quality education, not according to standards that are designed to avoid mandates that are going to be good for adjuncts and for students.

Mr. POCAN. Sure. And then you add the complexity of—just as we have asked the panel, everyone should get health care. I agree with you.

Ms. MAISTO. Yes.

Mr. POCAN. But the answer, I think—at least Congress has tried—has been the Affordable Care Act. And the lack of other ideas as we have asked that question is part of, I think, the problem that we are trying to face soon as we look at the cost savings other things that can happen.

Let me switch gears just a little bit, Dr. Benigni. I think we are going all going to learn that word by the end of the day—your name and how to say it.

A question on the sequester. Because, obviously, I look at my school district. I have got about half the kids in my biggest school district in my district on free and reduced lunch. You have got 70 percent. You are obviously getting some big hits from the sequester.

What have you done in order to address those hits that you are getting right now? Are you letting staff go? What are you doing to absorb that?

Mr. BENIGNI. Sure. And, obviously, to talk about the sequester, it would be take much more time, and I would be cut off, for sure. But in general—

Mr. POCAN. How about just the simple part? Have you had to let people go? And, specifically, what have you done—

Mr. BENIGNI. What we have done is, we have redesigned our special education operation, and we have many more in-district programs operating. But the way I did that is by hiring behavior techs and non-bargaining employees to support the effort. Now, those employees now are going to be the same employees that I hired to deal with the cuts that came with sequestration. Those are now going to be extra benefits. So, I am going to weigh the benefit of bringing students back in district—

Mr. POCAN. Sure.

Mr. BENIGNI.—and doing what is best for students with—

Mr. POCAN. Yes, if I can just reclaim my time—so what it sounds like is, you found ways to shift the thin. So, not necessarily cutting off employees. So, like, if you did have different costs in health care, there are other things you can do within to try to address it.

The sequester, as I look at it, is, you know—and your state is one of the higher states that is getting those cuts—your district is 70 percent. They are certainly more of this.

Mr. BENIGNI. It is a fraction of what this would cost me what the sequester was. You are talking about—

Chairman KLINE. The gentleman's time has expired. So, you get more than 30 seconds, but not more than 5 extra.

Mr. Rokita?

Mr. ROKITA. Thank you, Mr. Chair. Thank the witnesses.

Dr. Benigni, continue on with your answer. Sequester—how much of the problem—

Mr. BENIGNI. Sure. And I didn't come prepared to talk a lot about sequester, but sequester cost our district about 300,000. The concerns with this is far greater than that, but some of the ways we marginalized that impact—we did look to redesign. But, you know, as I expressed in my opening remarks, we have had no increase from our local municipality. We have had decreased funding. It is pre-2004 levels from the federal government. There is only so much creative juice in any district. And I have a great team that I work with.

Mr. ROKITA. All right.

Mr. BENIGNI. But this would be substantially more concerning to me than even what the $300,000 cost our district.

Mr. ROKITA. Great. Thank you.

And continuing on with you, Dr. Benigni, what are your teachers saying about what is commonly known as Obamacare? Given all the testimony that has come out today, surely, there has been talk in the faculty lounge.

The President's experience before he came to office—you would think that Obamacare came from a faculty lounge.

Mr. BENIGNI. Yes.

Mr. ROKITA. What are they saying about Obamacare?

Mr. BENIGNI. Well, you know, I have a terrific relationship with our union. We are switching everyone to health savings accounts. It is—save 25 percent on every plan. We helped feed those accounts initially with some funding to get them started. We—

Mr. ROKITA. Do they know that health savings accounts are—do they know that health savings accounts are de-incentivized under Obamacare?

Mr. BENIGNI. I think the public school sector is just waking up to some of this data right now. I don't think—

Mr. ROKITA. Dr. Jandris, same question.

Mr. BENIGNI. I won't be the last person to talk to you about this.

Mr. ROKITA. Great, thank you.

Dr. Jandris, same question to you. What are your teachers saying about Obamacare?

Mr. JANDRIS. Yes. Well, obviously, our full-time faculty are not as deeply affected by it, but they are worried about the impact on our overall enrollment. Our adjunct faculty—because we tend to be a university that treats our adjunct faculty several steps better than many universities do—are very concerned about it. They—almost all of our adjuncts—the vast majority of our adjuncts have insurance through other sources—through spouses, through retirement plans and other sorts of things.

Mr. ROKITA. Yes.

Mr. JANDRIS. And so—

Mr. ROKITA. I wanted to go on—if you don't mind me interrupting you on that line of questioning—there has been, by another congressman, some mention made about how your adjunct folks make $24,000 a year. How can we expect them to survive in society? Talk to me about the average profile of one of your adjunct

professors? Talk to me about how they came to be an adjunct professor? If they have supplemental income? If they did in the past? What their average age is? How many are married? How many might be on other people's insurance?

Mr. JANDRIS. I don't have all the detail around that. I can tell you that 15 percent of our adjuncts only are what you would call "career adjunct workers."

Mr. ROKITA. How much?

Mr. JANDRIS. 15 percent.

Mr. ROKITA. Right.

Mr. JANDRIS. The others of them are second-career adjuncts, or people who are spouses of others who are covered under family packages of their spouses.

Mr. ROKITA. Do they—are they adjunct professors primarily for the money, in your opinion?

Mr. JANDRIS. Among that 15 percent?

Mr. ROKITA. No, no, no, among the 85 percent.

Mr. JANDRIS. Yes. No, no, they are not in it for the money, they are in it because they love education.

Mr. ROKITA. And they love teaching what they have learned through a lifelong experience, I imagine.

Mr. JANDRIS. Absolutely.

Mr. ROKITA. Right, and/or teaching.

Dr. Benigni, why do your teachers teach?

Mr. BENIGNI. Our teachers teach because they love kids, and they believe that having a positive impact on kids is the greatest reward you can have in any career.

Mr. ROKITA. Dr. Benigni, why do you think schools exist? For teachers or for students?

Mr. BENIGNI. Schools exist for students. They are at the heart and center of our work. Schools exist to make sure that we have a citizenry that can continue to support and make this the greatest nation in the world.

Mr. ROKITA. Dr. Jandris, why do schools exist?

Mr. JANDRIS. Same answer.

Mr. ROKITA. Mr. Needles, witness Maisto made mention about the, quote—"dark secret," unquote, which I took to mean the balancing of these budgets on the backs of the adjunct professors. Do you have any comment in reaction to that?

Mr. NEEDLES. I am not sure whether it is a dark secret or not. It has been a form of doing business in the higher ed world—

Mr. ROKITA. The idea of balancing a budget, you mean?

Mr. NEEDLES. Just using adjuncts to supplement full-time professors and to supplement the staff. That has been a model that has been in place for years.

Mr. ROKITA. Okay.

I yield back.

Chairman KLINE. The gentleman yields back.

Mr. Holt, you are recognized.

Mr. HOLT. Thank you, Mr. Chairman.

I hear from constituents back in New Jersey, some letters here in front of me, of teachers who are talking about this problem. But they are not talking about what the multiplier should be. They are talking about how can we have health care coverage for our family.

And I would hope that this hearing and other discussions would be not so much about how things might not work, but in fact how we can get adequate, excellent health care for all Americans.

I hear some talk about an idealized world here where gladly would they learn, gladly would they teach for free. Well, I don't think that is the world. I would like to explore for a moment the real world we are living in. Mr. Miller said or implied that it would be good to have some hearings on how teaching actually is done now.

So, Ms. Maisto, we just heard that part-time—there is a long pattern of using adjunct professors to supplement the full-time faculty. Tell us again what is the fraction of teaching that is done by adjunct faculty now.

Ms. MAISTO. Right. Faculty who are contingent now number 75 percent of the faculties. Fully 50 percent are part-time and the additional 25 percent are full-time—

Mr. HOLT. And why do you think colleges and universities are increasingly relying on part-time, adjunct faculty?

Ms. MAISTO. Well, it has been very clear. It is the business model that has been adopted in order to cut costs at the expense of the well-being of these faculty and at the expense of student outcomes.

Mr. HOLT. It is dominant or almost dominant, not just supplemental.

Ms. MAISTO. Absolutely—the majority.

Mr. HOLT. Can you describe the major differences in wages and benefits, particularly in health care, between full-time faculty and adjunct or part-time faculty?

Ms. MAISTO. Sure. Adjunct faculty make anywhere from about a third of what full-time faculty make; rarely have access to benefits. Although I have to say that there are many colleges and universities that have taken it upon themselves to provide health insurance to their adjunct faculty, recognizing that is an important component of the working conditions they need.

Mr. HOLT. It is about a quarter of them, I understand, or something like that.

Ms. MAISTO. Right. So, yes, and generally in unionized environments, there is health care.

Mr. HOLT. Now, I think you gave a figure about how over a 15- or 18-year period at least one community college that you are familiar with, how that percentage between full-time and part-time has changed. Would you give us that again, please?

Ms. MAISTO. Sure. At my community college in Ohio, we went from 10 percent part-time in 1995 to 76.6 percent part-time in 2009.

Mr. HOLT. So, 18 years ago, those 90 percent that were full-time, did they have health care coverage?

Ms. MAISTO. Yes, they did.

Mr. HOLT. And what fraction now of the teaching force has health care coverage?

Ms. MAISTO. At my college, only about 25 percent.

Mr. HOLT. Okay. So that, I would offer to this committee, is the issue, not what the multiplier is, but how it seems that in these employers, like other employers around the country, are finding it

difficult to offer the health care coverage. But more important, the families of these workers, these teachers, need it.

So, rather than talking about how the system might not work in some future case when a certain multiplier is approved, I would prefer to talk about how it is not working right now and how something like the Affordable Care Act, an honorable attempt to see that we have got affordable, excellent health care for all Americans, should be the focus of a discussion about how it is going to work, how we can make it work, rather than how it isn't working.

We have a perfectly good model. One of my colleagues across the aisle says, "Well, it is not affordable now." We have shown in my colleague's state here of Massachusetts, where we can get 99, 98 percent coverage, something like that, of all people and they are doing it. We should be looking for ways to make that work. And we have a reasonable way that we have been working on for several years now.

And so, the issue is not what is the multiplier in this sector of employment in colleges. It is, rather, the issue is how are we going to get affordable, excellent health care for all Americans.

Chairman KLINE. The gentleman's time has expired.

Dr. Roe?

Mr. ROE. I thank the chairman for yielding.

Let me just start off by saying that the problem with health care in this country is it costs too much. If it was affordable, everybody would have it. So that is the problem. It costs too much. And we do need to increase access to care in this country and we can talk about what is happening right now.

Let me share with you a passion that I have, medical education. Vanderbilt University, one of the great universities, I hope they play a lousy football game Saturday against U.T., but one of the great universities in this country this year has had to reduce their jobs by 1,300 in Nashville, Tennessee. They have also reduced their medical school class by 10 percent and their M.D. Ph.D program, which are our future researchers that are going to find the cures for cancer, by 10 percent. That is devastating when you see that, for me, as an educator.

And I did serve as an adjunct faculty. And I did believe my Hippocratic oath. I taught medical students and residents for 25 years with no pay because I thought I ought to give that back, that knowledge that I had back. And I know that is what a lot of teachers do, a lot of teachers who are adjunct.

Ms. Maisto, I agree with a lot of the things you have said today, by the way. I think colleges need to take a re-look. And I always worried about not having health benefits and retirement benefits and teaching for years. And I think that needs to be looked at. I agree with a lot of the things you have said.

I want to shift to Dr. Benigni. I think with you being a mayor, I am a former mayor myself. And you have had to look at people and decide whether to raise their taxes; how to provide certain things at your school system. We have a school system almost exactly the size—the community I am from, 60,000 people, almost 8,000 students, same as you have. And we provided health insurance for our bus drivers so we could get better bus drivers that just drove part-time.

We have having to re-look those things. And things that are not—it is a matter of numbers about what can I afford to provide. And what you have done is you have had to make some decisions in your executive position as a school superintendent about how do I provide a quality product, which is the education of my students, and yet how do I pay for it all?

And as you pointed out, the local community hasn't been able to provide you any more resources in 5 years, and yet you have now got a new mandate from the federal government to provide certain things you can't pay for.

So, and I think one of the things that you haven't mentioned that your city is going to have to do if it is self-insured, and I am sure it is, most are, is that you are going to have a 63 per person, not per family, but per person fee, a reinsurance fee that is going to cost my city of Johnson City, Tennessee 177,000 for which they get absolutely nothing for. Nothing. They are already providing it.

And we talk about affordable coverage, I looked at one of my employees who works for me in the Congress right now, works for me in Tennessee. She has a $55,000 or $56,000 a year employee, making $50-something thousand dollars a year, which were we live is above the per capita income, and her cost is going to be almost 20 percent of her yearly income to buy insurance that is supposed to be affordable.

And I think that is the real problem is the cost; is how do we get the cost down. And right now, this plan, I can see maybe some people will benefit from lower costs, but many people are going to be paying a lot more. And it is going to be paying a lot more because of the mandates that came along that you are having to deal with.

And I would like to have your comments about it. I think that is what you were talking about. And as a former mayor, I got tired of any kind of mandate that came down from the federal government, whether it was health care or water runoff or whatever it may be.

Mr. BENIGNI. Yes, I mean, as a superintendent, of course we want to provide for our employees. But at the same time, my charge is to provide for my students. And at a time when the local resources aren't there, there are reduced federal resources, something has to give. The last thing I need right now is another mandate and another expense because it will impact the enrichment programs. It will impact class size, which I already run elementary class sizes at 25-plus. I have some at the 29 and 30 level.

I have a poverty rate that only increases every year. We are to a breaking point. It is not a question of whether we want to. It is a question of affordability. And I can't tell you how to do it. I can tell you that is not going to be good for our students in Meriden if we continue on the road we have. I think we need to look at the thresholds right away and we should look at the hours and raise that up to 40 hours. And I think those are two quick things that would help us right away.

Mr. ROE. I thank you, Mr. Chairman. I yield back.

Chairman KLINE. The gentleman yields back.

Mr. Polis, you are recognized.

Mr. POLIS. Thank you, Mr. Chair.

I have a first question is for Ms. Maisto or Mr. Jandris, maybe give you both the opportunity to talk about. I have heard from two major universities, public universities in my district, Colorado State University and the University of Colorado at Boulder, and many adjunct faculty are part-time employees who are paid per course they teach. How would you recommend the universities determine whether their adjunct or part-time faculty are achieving the equivalent of 30 hours per week? And what strategies are your institutions undertaking? Or can I pass along this recommendation to them?

We will go to Ms. Maisto first.

Ms. MAISTO. I am sorry, I didn't hear the first part of the question.

Mr. POLIS. How would you recommend universities determine whether their adjunct or part-time faculty are achieving 30 hours a week? And what strategies are they undertaking?

Ms. MAISTO. Sure. We believe that certainly adjunct faculty need to be a part of the conversation.

Mr. POLIS. Meaning that they are paid per course?

Ms. MAISTO. Right.

Mr. POLIS. They are not paid per hour. So what is the best way internal to university operations to, if they are paid by course, not per hour, how are you determining are they meeting the 30 hours?

Ms. MAISTO. To figure out the conversion formula, you mean?

Mr. POLIS. That is right.

Ms. MAISTO. Yes. We believe that it is important that adjunct faculty be able to report honestly and truthfully the amount of time that it takes to do the work of educating students.

We believe that disciplinary organizations ought to be involved. The Modern Language Association, which is the disciplinary association for English teachers, has recommended a minimum of $7,000 per course for people teaching in that field, based on the amount of work that is required to do the job properly.

Mr. POLIS. How do you decide what is work? I mean, so, obviously, lecturing, that is work. I am sure grading papers is work. But keeping up with current developments in the field and reading journals—

Ms. MAISTO. Absolutely. Keeping up with current—

Mr. POLIS.—is that work?

Ms. MAISTO.—developments in the field—

Mr. POLIS. I mean—you know.

Ms. MAISTO. But a huge amount of the time that adjunct faculty, that all faculty need to spend is time mentoring students. That is what students always crave, it is what they always ask for.

And so, those of us who are especially teaching disadvantage students, students who are under-prepared, that one-on-one time is critically important for helping those students succeed.

But I have had to tell my students this semester, for example, that I cannot meet with them because my college has told me that I only work 1 hour outside of class for every hour I am in class.

So my students are suffering as a result of that calculation, which is simply not accurate.

Mr. POLIS. And, Dr. Jandris, what would you, again, recommend how universities are determining adjunct or part-time faculty that

are paid by the course are achieving the equivalent of 30 hours a week?

Mr. JANDRIS. Well, as a former adjunct faculty member myself, I actually agree in principle with most of which—with which Maisto has said, quite frankly.

We certainly would never consider a 1:1 ratio from credit hours to numbers of hours worked. I mentioned before we use a 3:1 ratio at Concordia. And, in fact, that is light. If we could afford to provide more, we would.

I am not sure 7:1 is the right ratio. But somewhere between—

Mr. POLIS. Is that 3:1 just based on their, like, classroom lecturing time—

Mr. JANDRIS. No.

Mr. POLIS.—or would it include office hours?

Mr. JANDRIS. No, it is assuming student contact hours outside of classes—

Mr. POLIS. Okay.

Mr. JANDRIS.—preparation time—

Mr. POLIS. And then multiplying that times three.

Mr. JANDRIS. We have the additional complexity at Concordia of actually asking our adjuncts to drive considerable distance to these 61 locations I was talking about. And there is a question about whether or not that time should be considered in there, too.

The raising, as one of my colleagues here said, the raising of the threshold to 40 hours would actually solve a lot of this for us, because we would be in a position then to be able to be more generous in the counting of these hours in a way that could accommodate for those faculty who reach those thresholds.

Mr. POLIS. Great. Let me move over to the student side, again, question is to both of you.

I want to ask whether your institutions self-fund student health insurance plans. As you know, self-funded student health plans are not subject to the same types of consumer protections and requirements in the Affordable Care Act.

But if self-funded plans do meet the requirements, they can then be considered minimal essential coverage for students.

So how have your institutions approached self-funded plans to ensure the students have insurance that meets their needs, for what—we just have about 20 seconds, so I guess we will go to Dr. Jandris first.

Mr. JANDRIS. Yes. We at this point have not been forced into a position in our planning to consider modifying our student health plan, at this point.

Mr. POLIS. Ms. Maisto?

Ms. MAISTO. Sure. For my institution, I would have to get back to you on that.

Mr. POLIS. Okay. Thank you.

And I yield back.

Chairman KLINE. Thank the gentleman.

Mr. Barletta, you are recognized.

Mr. BARLETTA. Thank you, Mr. Chairman.

Back in Pennsylvania last week, I hosted a higher education roundtable in the northern end of my district with higher education leaders from all sectors.

And a common theme that I heard was that Washington continues to pile on burdensome regulations and reporting requirements at the same time we come back and we tell our institutions of higher education that they need to address the rising cost of college. Yet, we continue to burden them with these requirements.

And the administrative burden of the Affordable Care Act will be substantial, as we heard today.

Dr. Jandris, you know, I am concerned about the non-traditional student, which I believe is becoming the traditional student.

Mr. JANDRIS. Absolutely.

Mr. BARLETTA. You know, the student that has to work during the day because they are supporting a family and can only go to class at night.

And I know our colleges around the country are trying to accommodate them so that they can get an education, so that they can take care of their families and support their families.

My question is, what would be the impact on the non-traditional student, since so many of those classes will be taught by adjunct faculty members?

Mr. JANDRIS. And thank you for asking the question. You just described 85 percent of my student body.

And the reality is that it could result—the full implementation of this under the current projected standards of 30 hours could, actually, force us into a position of having to increase tuition by as much as 20 percent.

That 20 percent burden, on many of the students who we serve, who are the adult, working, underserved students of color, in particular, especially in the urban centers, would simply break their backs.

Our comments are not about whether or not our faculty should have insurance. Our comments are about whether or not that insurance should be provided by further limiting access to higher education to students who have been underserved for so many decades.

Mr. BARLETTA. So many individuals may not be able to afford to go to college.

Mr. JANDRIS. Absolutely.

Mr. BARLETTA. Or you may have to cut back on some classes.

Mr. JANDRIS. A very substantial number of our students could never absorb a 20 percent increase in our tuition.

Mr. BARLETTA. And let me—

Mr. JANDRIS. And we have no other pot from which to draw those resources.

Mr. BARLETTA. I think the theme is pretty clear here today. And we are really getting back to the same theme here, is that—and, you know, yesterday, I learned at a Homeland Security Committee hearing how the cyber side effects of the Affordable Care Act—will—affect us, how Americans' personal information will be at risk through hackers of the Web site or how convicted felons could be hired as navigators.

And today, we are hearing how our education system will be impacted.

You know, this reminds me of an old saying that sometimes the medicine is more harmful than the disease.

Thank you. I yield back the balance of my time.

Chairman KLINE. The gentleman yields back.

Ms. Fudge, you are recognized.

Ms. FUDGE. Thank you so much, Mr. Chairman.

I thank you all for being here.

Ms. Maisto, thank you so much—from my hometown. Let me just for the record as well say that I am a former mayor as well, and no one had to mandate to me how to treat my employees. I treated them with respect and dignity and worth, and provided health care for every single one of them.

Mr. Benigni, you have used the number 2 million more than once about the impact that the Affordable Care Act would have on your institution. Where do you get that number from?

Mr. BENIGNI. It is on your exhibit, excise tax on high-cost health plans exhibit. It is the tax impact, total—

Ms. FUDGE. Well, I know that. Who provided that information, that date?

Mr. BENIGNI. Our health consultant, who works with the city and the board of education.

Ms. FUDGE. Yes, because I don't think that information is quite accurate, because I think it is based upon the excise being on the total amount and not the $1 above. I think that is incorrect. And I am not gonna argue with you because I haven't had the time to go through it.

But let me just ask you this one question, Dr. Jandris. You indicated to my colleague that most of the people who teach in your institution do so because they love teaching. They don't do it for the money. Why do they take a check?

Mr. JANDRIS. As I said earlier, the vast majority of them are in higher education, teaching in an adjunct role, as a second career.

Ms. FUDGE. That is not my question. If they don't do it for the money, why do they take the money?

Mr. JANDRIS. They take the money because they use it to supplement their already meager—

Ms. FUDGE. Oh, so they do need the money. That is the point I was trying to get to.

Let me just ask you, as we talk about the fact that in some institutions 75 percent of the professors are adjunct, we talk about the fact that they make, some of them, less than 25,000 a year. Some of them use other government benefits, like SNAP and/or other things.

Can you tell me what affect, if any, does the financial need of these adjunct professors have on the quality of the education they provide?

Ms. MAISTO. Sure. Absolutely. I can tell you from personal experience when my husband lost his job and I had to try to support my entire family as an adjunct professor, I did not have the time available for my students. I did not have the time available to meet with them, to prepare adequately.

The stress of having almost no resources certainly had an impact on my state of mind and my ability to do my job well.

The salaries of adjunct faculty ought to be determined not by whether they have outside employment or other sources of fi-

nances. What it really should be determined by is the nature of the work and how much we value the work.

And right now, what we are telling our public, what we are telling students is that this work is supplemental. It is not important. It is not critical.

And that in itself is a major—has a major deleterious impact on the quality of education.

We have done studies on what these circumstances of adjunct faculty do to the quality of education. There is a center at the University of Southern California that has been studying this carefully and has concluded that there is a real need for major reform in adjunct faculty working conditions, beginning with compensation, including health insurance and other professional supports.

Ms. FUDGE. Thank you very much.

And my last question, actually, and it is to the other three, not Ms. Maisto, you all indicated that you believe everyone should have health care, but we should not do it on the backs of students. And I agree, to some degree.

So where do you think it should come from? How do we pay your health care? Doesn't that come out of money that should go to students as well? Please? All three of you gentlemen.

Mr. JANDRIS. I didn't hear the last part of your question, ma'am.

Ms. FUDGE. Does not your health care come out of resources that should also maybe go to students, if that is your philosophy, that we should not use resources that could go to the classroom to pay for health care?

Mr. NEEDLES. Well—well, I pay my insurance fully. So.

Ms. FUDGE. Okay. Mr. Jandris?

Mr. JANDRIS. Yes, and for years, I have paid my own insurance personally too, and foregone charging it to the university.

Ms. FUDGE. Good.

Mr. BENIGNI. We have budgeted expenditures.

Ms. FUDGE. Oh.

Mr. BENIGNI. You are now asking us to take on a burden and not giving the resources—

Ms. FUDGE. That is not the answer to my question, sir.

Mr. BENIGNI. .., to take on the burden.

Ms. FUDGE. What is the answer to my question?

Mr. BENIGNI. That is the answer to the question.

Ms. FUDGE. No, it is not an answer.

Mr. Chairman, I yield back.

Chairman KLINE. I thank the gentlelady.

Mr. Messer, you are recognized for 5 minutes.

Mr. MESSER. Thank you, Mr. Chairman. I want to thank you and the entire team here on the committee for this important hearing today. I think it highlights a very important issue with what I would say is the unintended consequences of the Affordable Care Act.

I would associate myself with some of the comments earlier by others that recognizes health care costs too much in America. The status quo is not acceptable. It is why I have supported the Empowering Patients First Act, which is another, a different philosophy in trying to address these very same problems.

We are here today to talk about the impact, the real live consequences of the Affordable Care Act. And we have heard a lot of talk on the other side of the aisle about the best of intentions of the Affordable Care Act. And frankly, I don't quarrel with their intentions but you are accountable for both the intended and unintended consequences of your actions. That is the issue we are here to highlight today.

I appreciate the testimony of all of you—would like to highlight a little bit some of the impact. In Indiana, where I am from, we have had in recent days reported that 701 Hoosiers have signed up on the Affordable Health Care Act exchanges, and 108,000 are going to lose their health care plan.

The schools in my district have cited similar experiences to Mr. Benigni. Dave Adams at the Shelbyville school system in my district estimates a $794,000 impact on his school because of the law.

The Southern Hancock County schools estimate $340,000, both schools that were smaller than Mr. Benigni's school system.

The Fort Wayne community school system is going to change its policies with 840 part-time employees, keeping them below 30-hour work weeks, that would save the school, 10—the school system which is a county-wide school system $10 million.

Vigo County schools have a similar experience. And I would just—several of you highlighted this. Most directly, Mr. Benigni and Mr. Jandris, if you could highlight again, very specifically, the financial impact of this law on your school? And what that is going to do to directly impact student learning?

You cited, for example, the number of teachers.

Mr. BENIGNI. In general, the same concerns that you are hearing in Indiana is what is starting to develop in Connecticut. You know it all depends on the layers of the law. So when you ask me to give one figure, I don't know that I can give you one figure. I can give you a worse case, best case scenario.

Mr. MESSER. But you cited $2.5 million as one impact.

Mr. BENIGNI. As one of—in 2018. Looking at these numbers in their entirely, the cost of the Affordable Care Act requirements to the Meriden Board of Education approaches $4.6 million.

Mr. MESSER. Which is how many teachers in your school system?

Mr. BENIGNI. Fifty-eight teaching positions. Now obviously that wouldn't be 58 teachers, to be fair, it could be 20 paras, it could be 10 behavior techs, five administrators. But people will lose their positions.

Mr. MESSER. Fifty-eight out of how many total staff?

Mr. BENIGNI. Out of 1,100 total staff.

Mr. MESSER. A big number.

Mr. JANDRIS. In Toss, it is a similar situation, although I represent a private faith-based institution. We have no other resources except tuition dollars from which to reallocate this kind of expenses. As I mentioned earlier, in the worst case scenario it would be a million dollar hit to my budget, which would be substantial.

That could equate to 44 adjunct employees for us, and limited access to the kinds of students we serve as a result of that kind a reduction. A 10 percent reduction in our adjunct ranks.

Mr. MESSER. So it limits your curriculum, and it also raises costs for your students? But I think, in addition to the impact—the real

world impact on student learning, I think there is a real world impact to the rest of your faculty, right and the current opportunities that you are providing from a health care perspective and the decisions you may have to face, so if—either—again, I know, Mr. Benigni from your prior testimony, you provide health care to your current employees.

Or are you happen to look at other decisions with your health care plan?

Mr. BENIGNI. Ninety-four of our employees receive health care coverage, it is the cost that insure those other six at a time when there are no resources to do it. So already, we have reduced hours from 30 hours a week to 27 ½.

And I am like a private business, I can't separate into different LLCs and make sure they are all under 50 employees, we are a school system who depends on the support to run, and this is coming at a bad time, because the funding is not there to educate—

Mr. MESSER. And if those faculty leave, where does that burden fall?

Mr. BENIGNI. That burden falls back on Congress to discuss unemployment benefits.

Mr. MESSER. Well, I mean, but doesn't it fall to the people—well that, but it also falls on the rest of your staff.

Mr. BENIGNI. Right.

Mr. MESSER. The rest of your staff.

Mr. BENIGNI. Without question. And just to say, I have a tremendous amount of respect for my unions, we have a great working relations. We negotiated very good health plans for our employees, we have shifted them to HSA, they are happy with their health care plans right now. It is not like we are taking advantage of our employees, we are trying to serve our kids.

Chairman KLINE. The gentleman's time has expired.

Ms. Bonamici.

Ms. BONAMICI. Thank you very much, Mr. Chairman and thank you Mr. Ranking Member. And thank you to all the witnesses for being here today.

And I am glad that you all recognize the importance of access to health care. And I don't think that any of you would disagree that this was an issue that needed to be addressed. The health care costs were increasing, something needed to be done.

So I wasn't in Congress when the Affordable Care Act passed, but I do know and appreciate the goal of increasing the number of people who have insurance and therefore have better access to health care.

It is—that increase access to care can improve, you know, prevention, and that access to preventive care is important. In the long term reduce chronic disease, eliminate the cost shift of people getting high-priced health care in emergency rooms. And generally resolve in a healthier society. And I therefore applaud the goals of the law. And I really urge us to think long term about this, you know there are talks about how many people signed up on the first day or even the first week, or month.

We really need to look long term. As we are looking at the long term effect on our society of a healthier population.

And I certainly agree with my colleagues on both sides of the aisle that the Affordable Care Act, like many comprehensive laws when they first go into effect has room for improvement. And I think we would all agree on that.

And we should be working together constructively to identify issues that need to be addressed in order to improve this law.

One thing I do want point out too is the importance of some of the market reforms. And I know Mr. Needles, in your testimony, you talked about one of the more popular ones which is students up to the age of 26 staying on their parents health care plan.

And you know people who call for repeal, that wouldn't be very popular in my district. There are a lot of those students who are on their parents health care plans. I think there are more 6 ½ million in this country.

Now who are taking advantage of that to stay on that plan while they are either, you know, furthering education, looking for a job, so, there are very important parts of this law that are making a big difference.

So again, I hope we can have a constructive discussion about how to improve implementation.

Now, I know that there has been discussion about how the IRS has not published a final rule on the adjunct faculty issue. And some employers may be making what will turn out to be inaccurate assumptions about what the law requires.

And I wanted to ask you, Ms. Maisto, I appreciated your focus on the challenges facing adjunct professors, particularly concerned about what you say about the increase in percentage of faculty that is adjunct. It concerns me greatly.

But let's talk about this proposed rule and not knowing what eventually will be in the rule if employers are making decisions about hours and health care eligibility without complete and accurate information. How might that be affecting adjunct professors?

Ms. MAISTO. Well, it is certainly creating a huge amount of uncertainty for them. But what they are, I think, relying on is the idea that through the Affordable Care Act they will be able to get health insurance, if they need it.

When colleges have reduced adjunct hours, they have not corresponded with an increase in pay. So they have not provided them with more income. But the Affordable Care Act is now serving as a safety net for most of those adjunct faculty members.

And I know that there is a lot of relief out there that, even if their adjunct hours are cut that they probably will have access to health care.

Ms. BONAMICI. And you may have mentioned this already but what percentage of adjunct faculty have insurance already, either through a spouse or through another position that they may have, or through their own individual purchase through an exchange or an individual plan?

Ms. MAISTO. I would have to get you the exact figure. It is certainly true that many have access to insurance through other sources. So one of the things that we are hoping that will come out in the rule-making process is perhaps figuring out ways to exempt those who already have insurance from being counted for the purpose of the mandate.

So we think there are lots of creative ways that we can address this without penalizing people and denying them health insurance. And we think that there are some—you know, there ought to be some ways to come up with some creative solutions, and we are happy that we are part of the conversation because that doesn't usually happen,

Ms. BONAMICI. Thank you very much.

And I wanted just to reiterate some of the comments that my colleagues made about other issues, as well, that are affecting education and higher education, including the sequestration cuts. I had a lot of discussions out the last time I was in my district in Oregon about how sequestration cuts are affecting programs like Title I.

How state disinvestment and higher education is affecting tuition rates. So let's not let the Affordable—yes, there are issues to be addressed, but let's not let the Affordable Care Act take our focus away from those other important issues that are affecting both K–12 education and higher education.

And I see my time has expired, thank you, I yield back.

Chairman KLINE. I thank the gentlelady.

Mrs. Brooks, you are recognized.

Mrs. BROOKS. Thank you, Mr. Chairman. I would like to pick up on a question a couple of questions ago that really talked about the student impact, and we have heard a bit about the student impact. But I met last week, when I was in my district, with a number of school superintendents from Hamilton County and Madison County, and talked with them about the impact of the increased health care cost to their school district. And I guess, Dr. Benigni, you mentioned, you know, all these teaching positions and you, Ms. Maisto, talked about your inability to spend more time with our students outside of the classroom. That you have like 1 hour.

But could we actually talk about the real actual impacts? And one of the things that they brought up with me from the K–12 system is that a lot of teachers' aids were being cut in the—because of the hours. And that they have—including those for special needs kids, and you have obligations, particularly when it comes to special needs kids, which really kind of opens the systems up to lawsuits, if you aren't complying with those.

Can you actually—each of you, kind of share with us, briefly, some specific student impact that you are concerned about with respect to the additional cost to your systems.

Dr. Benigni?

Mr. BENIGNI. In regards to the special education, some of our students who deal with transitions not so well are now going to have to deal with the transition from one staff to another. Because we can't afford—the money is not there in the budget. So, you get no increase. Your health insurance increases are going up at 15 percent a year already, so there is $1.5 million in my budget that I need to make up for before I get out the gate.

That is just in contractual increases and where the health market is today. So, what I will do to address the student issue is—what I will do is, I will transition a para or a support staff member. They will stay with the student for the morning, bring him to lunch. After lunch, I will hire someone else to transition that student to the second half of the school day.

Mrs. BROOKS. In your opinion, is that best for that student?

Mr. BENIGNI. No, and that is the dilemma that we are facing now. But if I cut teachers and my class size—I mean, I have fourth and fifth grades with 28 to 30 students in them. I can't even fit the extra desks in the room to address it, so I have to cut somewhere. So, that was one option that we have on the table, is, let's split the shifts. Let's look at when there is a natural break in the day so it least impacts our students.

Mrs. BROOKS. And so, that would be with respect to teacher's aids?

Mr. BENIGNI. Behavior techs, para-professionals, teacher's aids—we all call them different things. But some of our key support staff members. But it is also coming at a time when we have worked very hard to bring special education students back into district. That is part of what has helped us sustain during these difficult times. We have more students choosing the Meriden Public School System than outplaced facilities.

I mean, we have a state-of-the-art autism center where students—so, I am concerned with those transitions. I am concerned with having those meetings with parents about, "You know what? You are going to—now, your child is going to have to work with two different support staff people." But the way I am pitching it to my people—because they need to be positive about this—is, let's look when we can do the natural breaks. Lunchtime, when they are already going to art class.

So, we are going to sort through it, but it is an uncomfortable position to be in.

Mrs. BROOKS. Thank you.

Ms. Maisto—

Ms. MAISTO. Yes, if I could just say—

Mrs. BROOKS.—affecting your students?

Ms. MAISTO.—as the parent of a child on the autism spectrum, this is something that I am very concerned about. But I think that the answer is not to argue over the Affordable Care Act. The answer is better funding for schools and for special education across the board.

There is a huge need across the board. And I think that we get distracted when we talk about what the impact is going to be of a specific law that was actually intended to help, and will help so many people, and not address the bigger question of providing the right amount of support to our students and their teachers.

Mrs. BROOKS. Thank you, but switching gears back to faculty members' inability with reduced hours, can you and Dr. Jandris please talk about how your students will be impacted besides rising costs? Any actual application?

Mr. JANDRIS. Yes, in my instance, we would first and foremost have to reduce the numbers of adjuncts available. In reducing that number of adjuncts, then those students who are in some of our hardest-to-serve areas would not have readily convenient access to their education.

We would also, since we are so diffuse in the way in which we teach, have to limit access to technology because technology is expensive when you do it remotely.

And then, finally and thirdly, we would have to reduce other ancillary and supplemental instructional supplies and materials, now that we distribute literally worldwide for our students to be able to have access to.

So, some very real consequences. We have no other pots of money form which to draw unless we reallocate from student from instruction to salaries and benefits.

Mrs. BROOKS. Which will affect our completion rate at the end of the day, or not.

Mr. JANDRIS. Exactly.

Mrs. BROOKS. Thank you.

Chairman KLINE. Thank the gentlelady.

Mr. Miller, you are recognized for any comments and closing remarks.

Mr. MILLER. Thank you, Mr. Chairman. And thank you again to the witnesses.

Ms. Maisto, so, who is a full-time professor?

Ms. MAISTO. Who is a full-time professor?

Mr. MILLER. Yes. One who does what?

Ms. MAISTO. Full-time professors, if they are on the tenure track, have obligations not just to teach, but also to be involved in research and service. Those are actually obligations that all faculty members have. But those who are not on the tenure track don't get credited for research and service, even if they do it.

Mr. MILLER. So, there are no full-time professors other than people in tenured track?

Ms. MAISTO. There are full-time non-tenure track professors—

Mr. MILLER. How many—

Ms. MAISTO.—but there are now sort of—

Mr. MILLER. How many units do they teach a week?

Ms. MAISTO. I am sorry?

Mr. MILLER. How many units—how many hours do they teach a week?

Ms. MAISTO. It depends. But usually, they have slightly higher teaching loads than perhaps tenure track professors who may have research and service obligations. But—

Mr. MILLER. But does this three-to-one ratio apply to them?

Ms. MAISTO. Ostensibly, these ratios are to apply to all faculty. It would be problematic if these ratios were to apply only to part-time faculty, and not to the other faculty. In part, because students pay the same tuition for classes taught by any type of faculty member.

Mr. MILLER. Right. Let me make my point.

We are deciding as an institution hiring—that adjunct professors are not inferior professors—

Ms. MAISTO. Right.

Mr. MILLER.—in terms of quality of course delivery. And I think we had a hearing here once on for-profits that have decided that since they are billing by unit—you know, $500 a unit, or whatever the price is—that these three-unit courses were really five-unit courses.

So, what is going on there? I mean, so we don't—you know, and the seat time unit course thing is under challenge because of Mook's online course—you know—

Ms. MAISTO. Mm-hmm.

Mr. MILLER. You know, Stanford professors teach 150,000 people.

Ms. MAISTO. Right.

Mr. MILLER. I don't—are you going to divide that? I mean, so we maybe have a clash here of accounting systems that don't make sense anymore, and are already under challenge for a whole host of reasons. It is a question of, you know, are you responsible for the outcomes of your students, however you put those together over that class period of 3 hours a week for 10 weeks, or whatever it is, is that outcome your work product? And is that not—you are not available for that work product, but a full-time professor could say that is my work product, because he or she somehow is in a different accounting system.

Ms. MAISTO. Mm-hmm.

Mr. MILLER. And, yet, they would not accept the three-to-one. So, if the three-to-one is—we are seeing, then, what? You are not preparing as much as the full-time professor?

Ms. MAISTO. Right, right.

Mr. MILLER. You are not doing the research to update your classes? I mean, I have looked through syllabuses when I visit the college classes. I like to see what has been put together here. There is a hell of a lot more than 3 hours a week with that class—

Ms. MAISTO. Mm-hmm.

Mr. MILLER.—just in contact time, even.

Ms. MAISTO. Right. Absolutely.

Mr. MILLER. And so, you may have a serious clash—this doesn't make it easy, but it is a serious clash of how we now measure this. And when we are moving to competencies and outcomes, and not course time and not units, and certificates and badges, all of which are unrelated to that whole thing that was in place—I guess still in place today—in place when I started college—of this is, what, three units three times—this is a two-unit course, a five-unit course. That may be as obsolete as the health care bill is new.

Ms. MAISTO. Mm-hmm.

Mr. MILLER. I think it raises really serious issues—

Ms. MAISTO. Yes, well, we need a national conversation.

Mr. MILLER.—about how people are standing in this pecking order, and how arbitrary that pecking order is, and who gets inside the system and who gets outside the system.

Ms. MAISTO. That is absolutely true. We need a national conversation about faculty work and its impact on students.

Mr. MILLER. Well, I would like to work with you. I would like to open up some kind of online site so people can talk about this to members of Congress. Because we are sitting here going back and forth like we haven't done this, or we should have done this, or we might do this. And I would like to—because I think there is a huge lack of understanding of what it means to be in the adjunct world. And I guess my perspective—I will raise the question—is there a level of subsidization that is going on here?

Ms. MAISTO. Well, absolutely.

Mr. MILLER. It is really unfair. I know that is your case.

Ms. MAISTO. Yes.

Mr. MILLER. I would just like to see if that could be quantified, or how we would put that in. And how does this fit into the evo-

lution that is, you know, rapidly accelerating on how we award students for their time in—for their time in class, outside of class. Because we are now—you know, education is becoming more of a process than a place.

Ms. MAISTO. Mm-hmm.

Mr. MILLER. Rapidly so. And who monitors that? And how do you guide those students? And is that the same as if they were all in your class? But they are not in class this week because they are out getting competencies and experiences that are related to class.

This is going to get more and more difficult—

Ms. MAISTO. Right.

Mr. MILLER.—and have a hell of a lot less to do with the Affordable Care Act than it is about institutions, about student loans, about debt funding—

Ms. MAISTO. Absolutely.

Mr. MILLER.—that are driving these changes. And how do we award competencies and outcome, as opposed to seat time?

Ms. MAISTO. Absolutely.

Mr. MILLER. So, you all think about this. We will have you back in a little while. Thank you so much for your attendance here.

Ms. MAISTO. Thank you.

Chairman KLINE. I thank the gentleman.

And we have been having a little side conversation here as we have started to think about the adjunct faculty issue. And I am sure there will be further discussions. And we are already having hearings and starting to wrestle with the Reauthorization of the Higher Education Act. And those will continue.

But the hearing today was not if we can fix the adjunct faculty, and it is not really whether or not the Affordable Care Act is working, or can be made to work, or something like that. It was to look at the unintended consequences of that law, which is unfolding in front of us.

And so, I very much appreciate your testimony and the answers to the questions. And what I heard out of this is, besides the education that we got up here about adjunct faculty, and some disagreement about whether they are paid enough or have enough benefits. That is an interesting issue. But we are trying to get at here, you got people, institutions, we have got a university here. We have got public school. We have got somebody who is advising. We have got somebody who is working as an adjunct faculty member.

What is the implementation of this law doing to you? And what I have heard is this. It is more expensive. And so, Dr. Jandris says, "Well, this is maybe a million dollars. And, okay, but around here a million dollars is—I think Ms. DeLauro said that is budget dust, or something like that. But to you, it is really important. And so, you have to make decisions. And you very, very carefully explained to us that you don't have a large endowment. And you are not a public institution, so you are not going to get more money from the state or something. So, you have to raise tuition.

And one of the other issues that we talk about here all the time is the ever-rising cost of higher education—tuitions and fees, going up. That certainly would be an unintended consequence if that is what you had to do, was raise the cost. And looking at your student

body, 85 percent of whom are non-traditional. I am kind of like Ms. Foxx—we ought to find another way of talking about that, since there are more non-traditional students than traditional students in many places.

Or you testified that, well, if you don't raise the tuition, you are going to have to reduce the number of sites. You may have to lay off some adjunct faculty, and so the quality of service is going to go down and that is something that we don't want to see happen—would certainly qualify as an unintended consequences of the implementation of this law.

And, Dr. Benigni—and I apologize, we have butchered your name every day as well as Ms. Maisto and Meriden and I don't know, I can't ever remember a day where we had so many mispronunciations up here.

But, your concern is not whether or not this law is a good law, whether it works or all of that kind of stuff, you are looking at dollars and cents, and you are having to make choices—are you gonna cut back on faculty, are you gonna have to go to split time—I thought that was a very excellent explanation of, are you gonna have somebody take the student to lunch and then somebody else pick them up after lunch?

And these are tough questions and you have a negotiated benefit package with your teachers, and they like the health care coverage they have got right now and your testimony is, you may not be able to keep that. The health care they like may not be the health care they end up with at the end of this.

And again, that is an unintended consequence. You have got a school district and it is working, and you are wrestling with the daily problems of staffing and discipline and students coming and going and now you have got potentially over 2 million that is gonna impact you by 2018. And our friend and colleague, Ms. Fudge, said, well why—she didn't believe that number, but you have got professionals that are giving that number and you are wrestling to how you are going to deal with that.

So again, that is what this hearing was for. And not surprising, because it is often at tale of two cities, we look at things a little bit different here. You know, I don't know if it is the best of times or worst of times. It really is both, but I want to thank the witnesses for coming, for your testimony and for your engaging in the discussions. I appreciate it very much.

There being no further business, we are adjourned.

[Whereupon, at 12:02 p.m., the committee was adjourned.]

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