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Representative John Shimkus, Chair
Environment and Economy Subcommittee
House Energy and Commerce Committee

Representative Paul Tonko, Ranking Member
Environment and Economy Subcommittee
House Energy and Commerce Committee

Representative Fred Upton, Chair
House Energy and Commerce Committee

Representative Henry Waxman, Ranking Member
House Energy and Commerce Committee

March 10, 2014

Dear Chairman Shimkus, Ranking Member Tonko, Chairman Upton, and Ranking Member Waxman,

The Learning Disabilities Association of America and our national network of affiliate offices serve and support children and adults with learning disabilities, along with their families and teachers. We welcome the opportunity to comment on the discussion draft of the "Chemicals in Commerce Act." However, we are alarmed and dismayed by the bill's overall failure to protect public health, especially for those most vulnerable to harm from toxic chemical exposures.

We need a law that enables the Environmental Protection Agency (EPA) to assess chemicals for safety to human health, especially fetal and children's health, identify chemicals that are toxic, and restrict their use in consumer products and industrial processes. This bill would not accomplish those purposes, and in fact would do the opposite, actually further hindering EPA from obtaining information, assessing toxicity, and taking action.

This bill rejects the findings of our country's top scientists and pediatricians: that certain chemicals in everyday products are harming children's developing brains and contributing to learning and developmental disabilities, including autism and ADHD; and that hundreds more chemicals are suspect and should be tested for effects on brain development.

Vulnerable Populations Unprotected: The bill fails to ensure protection for vulnerable populations, such as pregnant women and children. According to the American Academy of Pediatrics, pregnant women's exposures to harmful chemicals can cross the placenta, and in some cases accumulate in the fetus, resulting in higher fetal exposures. Scientists have discovered that there are critical "windows" of vulnerability during pregnancy when even tiny doses of toxic chemicals can cause lasting harm to a baby's developing brain.

Safety Standard Not Health-Based: As in the Toxic Substances Control Act, EPA would have to find that a chemical is likely to pose an "unreasonable risk of harm" to human health. Instead of assessing the chemical solely on the basis of health effects, such as being carcinogenic or neurotoxic, this standard requires EPA to consider the chemical's economic costs and benefits. This is the same failed standard in TSCA under which EPA was unable to ban asbestos.

EPA Unable to Restrict Worst Chemicals: Even if EPA determines that a chemical fails to meet the "unreasonable risk of harm" standard, the Administrator has to meet a series of requirements that would make it virtually impossible to restrict the use of even the most harmful chemicals. EPA would have to show that restrictions on a dangerous chemical are "proportionate to the risks", would "result in net benefits" and are "cost-effective compared to other requirements or restrictions." Further, EPA could restrict the use of a chemical found to harm human health only when there are technically and economically feasible alternatives available.

State Health and Chemical Safety Laws Pre-Empted: Parents and health advocates rely on state laws for information and protection from toxic chemicals in products. Recently, manufacturers of children’s products submitted reports to Washington State on the presence in their products of chemicals of high concern for links to cancer, neurodevelopmental problems, and endocrine disruption. LDA and other organizations are able to share that information with parents, teachers and healthcare providers to help them reduce children’s exposures to harmful chemicals. The “Chemicals in Commerce Act” would prevent states from acting to protect the public from toxic chemical exposures, and would dismantle existing state chemical programs.

The parents and teachers we work with are in the trenches every day, helping and supporting children with learning disabilities, autism and behavior disorders. They read labels that provide no information, search the internet for affordable alternatives to products containing toxic chemicals, and worry about chemicals in the water, furniture, clothing and cleaning products. They strive daily to keep their children as safe and healthy as possible.

This bill leaves America’s children and parents alone in the trenches with toxic chemicals, and puts future generations at greater risk of disease and disability. The Learning Disabilities Association urges the House Committee to draft a new chemical safety law, based on National Academy of Sciences and American Academy of Pediatrics recommendations that would require chemicals to be found safe for our children’s developing minds and bodies.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancie Payne".

Nancie Payne, President
Learning Disabilities Association of America