COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6100

March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
309 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Ryan:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 and clause 4(f) of House Rule X, enclosed please find the budget views and estimates for fiscal year 2013 for the Committee on Education and the Workforce, with minority views and estimates attached.

If you have any questions, please contact me at your convenience.

Sincerely,

John Kline

John Kline
Chairman

COMMITTEE VIEWS AND ESTIMATES FOR FISCAL YEAR 2013

COMMITTEE ON EDUCATION AND THE WORKFORCE

112TH CONGRESS, SECOND SESSION

MARCH 9, 2012

One year ago, the House Education and the Workforce Committee pledged to "advance fiscally responsible reforms that provide every child across the nation access to the highest quality education and free every worker to pursue the American Dream." As it considers the budget for Fiscal Year 2013, the committee recognizes the progress made during the last 12 months and the need to remain vigilant in our efforts to address the difficult challenges that remain.

With 12.8 million individuals searching for work, expanding job creation and American competitiveness continue to be the committee's top priorities. The committee has already taken steps to help restore confidence to employers and protect the rights of workers. We maintained aggressive oversight of the agencies and regulations within the committee's jurisdiction to identify federal policies and initiatives that stand in the way of job creation and waste taxpayer resources. We will take additional action – whenever necessary – to help foster economic growth and fiscal responsibility.

Recognizing a strong education system is critical to a productive and successful workforce, the committee advanced responsible legislation to improve federal elementary and secondary education law. We will continue our efforts to enact reforms that reduce federal overreach in schools, support effective teachers, and free state leaders from policies that stifle innovation and student achievement.

Adopting such positive reforms today will help lay the foundation for a stronger, more prosperous United States. Unfortunately, the president's budget proposal for the next fiscal year doubles down on the failed policies of the past. For the fourth consecutive year, the president has introduced a budget that calls for tax hikes, spending increases, higher deficits, and additional burdensome regulations. Extending policies that create uncertainty among employers and plunge our nation further into debt will only prolong the pain of the economic downturn.

The House Education and the Workforce Committee is dedicated to pursuing a better approach. The committee's agenda for the coming year includes promoting fiscal discipline, holding the federal bureaucracy accountable, improving job training services, and cutting unnecessary red tape. Recognizing the trust and responsibility placed in the committee, we will move forward with sensible policies to help tackle the challenges facing our teachers, workers, students, and employers.

EDUCATION PRIORITIES

Despite the near tripling of overall per pupil funding since 1965, national academic performance has not improved. Math and reading scores have largely gone flat, and graduation rates have remained stagnant. It is time to re-examine the appropriate federal role in education and limit the amount of burdensome regulations imposed on states and school districts.

Regrettably, the Department of Education's FY 2013 budget request continues past policies of expanding federal intrusion in state and local affairs and dictating a one-size-fits-all approach to education. Not only does this budget request create several new federal education programs, the extensive costs of these programs are disguised in the budget documents provided to Congress.

Winning the future is a goal we all share, but it cannot be won through record spending and record debt. While the committee recognizes a role for the federal government in education, it does not support an Education Department that acts as the nation's superintendent and crushes states with piles of costly regulations and mandates. We must change the status quo, not only in how we approach our fiscal future, but also in the way we support the nation's education system.

The committee respectfully offers the following recommendations for consideration by the Committee on the Budget as it prepares its FY 2013 budget resolution:

Race to the Top

The administration's budget request for the Department of Education expands its Race to the Top program, a slush fund operated at the sole discretion of the Secretary of Education to coerce states and school districts to implement preferred and narrow policies. The budget requests nearly $2 billion for three different iterations of Race to the Top to influence state education policies from birth through postsecondary education. The committee urges the Committee on the Budget to reject the administration's request for additional rounds of Race to the Top, and instead maintain its commitment to long-standing elementary and secondary education, special education, Head Start, and student financial assistance programs.

Race to the Top – Elementary and Secondary Education

The administration's request of $850 million for elementary and secondary education and early learning represents an increase of more than 35 percent over last year's level. The request comes at a time when, by the department's own admission, the more than $5 billion program has largely failed to meet its goals. Earlier this year, the Department of Education released a report on the initial K-12 program showing widespread failure of previous state recipients to fulfill the promises made in their state applications. In fact, one state had enough missteps that the department took the unusual step of limiting the balance of its grant and will conduct an extensive on-site review. In a separate report released by the Government Accountability Office (GAO), the agency found that every Race to the Top winner requested, and received, an amendment to its original plan. In spite of this, the administration continues to increase funding for this unproven, unnecessary, and unauthorized program. The committee believes Congress should support its existing commitments rather than fund new priorities.

Race to the Top - Early Learning Challenge Grants

The FY 2013 budget request continues funding for the Race to the Top - Early Learning Challenge grant, which was funded for the first time in FY 2011. The program administered jointly by the Department of Education and the Department of Health and Human Services (HHS), provides competitive grants to support states in coordinating the standards and quality of early learning programs serving children from birth to age five. The committee believes the program is largely duplicative of the long-standing Head Start program, which provides grants directly to organizations, school districts, and other community-based entities to promote school readiness in low-income children from birth to age five. Instead of creating new and unproven programs, the committee will work to address problems in the Head Start program, including the lack of coordination between states and Head Start grantees. The reauthorization of the Head Start Act is due for consideration this year and the committee will examine commonsense ways to improve the program's functions and benefits for preschool-aged children.

Race to the Top - College Affordability and Completion

The committee opposes the administration's proposal to use taxpayer dollars to create a new billion-dollar slush fund for institutions of higher education, operated at the sole discretion of the Secretary of Education. The department already used this open-ended pot of funds to force its heavy-handed reforms on states and school districts, and is now looking to build more federal control over the nation's postsecondary education system. Too much federal involvement will put us on the slippery slope toward a one-size-fits-all set of reforms for higher education. The committee is concerned that more federal bureaucracy, mandates, and regulations – which will be required for those states that choose to accept the funds – will lead to additional costs that could be passed along to students in the form of higher tuition and fees.

American Jobs Act

The administration's FY 2013 budget request for the Department of Education fails to account for $60 billion in mandatory costs associated with the American Jobs Act. Hidden in the department's budget is a $25 billion proposal to supposedly prevent teacher layoffs and hire additional educators over the next two years. An additional $5 billion is proposed to support reforms in teacher preparation, recruitment, evaluation, and compensation. As has become all too typical, this funding comes with new federal mandates, and requires states to reform teacher colleges, establish new career ladders for teachers, create new opportunities for teachers to participate in school leadership, increase collaboration time among teachers, create evaluation systems, and reform tenure. While the committee supports a number of these goals, it is not the role of the federal government to impose its one-size-fits-all vision of reform in exchange for federal dollars.

The plan also includes $30 billion for additional school construction projects. When the failed economic stimulus package was originally passed, Americans were told it would be a one-time infusion of emergency cash. Despite that promise and the failed track record of so-called stimulus projects, the administration continues to provide giveaways to its political allies at the expense of American families eager for an economic turnaround. At a time when the federal government is running trillion dollar deficits and the national debt totals more than $15 trillion, this administration continues to pay for programs with massive tax increases that will further cripple the economy.

The administration's FY 2013 budget proposes to create a new $8 billion Community College to Career Fund, which would create additional federally administered incentive grants to community colleges and states to partner with employers to train workers for in-demand industries. This program would be administered jointly by the Department of Education and Department of Labor, and is duplicative of the Strengthening Institutions program, the Fund for the Improvement of Postsecondary Education (FIPSE), and the main funding streams under the Workforce Investment Act (WIA). The American Jobs Act also creates a new $12.5 billion Pathways Back to Work Fund, which aims to tackle long-term unemployment by funding summer employment programs for low-income youth and new competitive grants administered by the Secretary of Labor, both of which have no proven history of helping those unemployed for 26 weeks or longer. We need postsecondary education and job training systems that are efficient and effective. Wasting federal resources on untested and unproven programs does a disservice to taxpayers and workers. The committee strongly urges the Committee on the Budget to reject the administration's costly proposals and put forth pro-growth policies that give small businesses and entrepreneurs renewed confidence in our economy and remove Washington as the roadblock to job creation.

Empowering State and Local Education Reform

In his State of the Union address in January, President Obama expressed his desire to provide elementary and secondary schools greater flexibility and empower teachers to teach with creativity and passion. The committee agrees. State and local leaders are already promoting innovative solutions to improve student achievement and fostering school and teacher accountability to ensure students have the skills they need to graduate high school. The committee believes the federal government should reduce its interference in the day-to-day operations of our K-12 schools and free these education reformers to succeed.

Despite the president's rhetoric, his actions perpetuate more of the same top-down approaches to education reform that have proven unsuccessful for students and families. By attempting to rewrite the Elementary and Secondary Education Act (ESEA) by executive fiat under the guise of flexibility and waivers, the president is requiring states to jump through hoops based on the administration's own narrow agenda for uncertain and temporary relief. The committee supports providing waivers to all states and school districts struggling under the unrealistic requirements of No Child Left Behind Act (NCLB) without conditions, restrictions, or coercion. That is why the committee has been working to aggressively reauthorize the law in a way that removes the barriers to critical state- and locally led reform efforts. The committee calls on the president to work with Congress to provide real flexibility to state and local leaders and empower parents.

Reforming Elementary and Secondary Education

When NCLB was signed into law more than 10 years ago, it was heralded as a game changer for education policy. It was certainly a strong step forward, but it has become clear the law is in need of urgent reform.

Recognizing the shortfalls of current law, many states are taking matters into their own hands. At the behest of parents, teachers, and principals, reform-minded individuals are working to expand transparency, implement higher academic standards, and enhance accountability for student achievement at the local level. The results have been nothing short of impressive: states have managed to shrink student achievement gaps, engage parents, and improve student learning without federal intervention. Unfortunately, some critics disregard these positive results, preferring to question the intent and downplay the capabilities of state and local education experts who work with our children every day. Effective education reform will never come from the top down – it must be encouraged from the bottom up. The bold steps taken by education reformers nationwide are working for children, and they deserve the appreciation and support of lawmakers and this administration.

The administration's plan for reauthorizing ESEA would integrate the heavy-handed approach and mandates included in the Race to the Top program, first funded under the American Recovery and Reinvestment Act. The committee is opposed to the administration's proposals and new programs that call for a more intrusive federal role in education.

Instead, the committee recently reported two pieces of legislation to the full House of Representatives that will complete its work on ESEA reauthorization. The Student Success Act and the Encouraging Innovation and Effective Teachers Act build on the exceptional progress being made at the state and local levels while also including responsible measures to ensure all students continue to have access to a quality education. The bills will:

- uphold high standards for student achievement;
- enhance transparency and data reporting;
- protect taxpayers; and
- support teacher effectiveness.

Most importantly, the Student Success Act and the Encouraging Innovation and Effective Teachers Act authorize ESEA programs at the FY 2012 appropriated levels and reject the administration's irresponsible budget blueprint. These bills focus the federal role in education on supporting long-standing programs designed to improve student achievement and teacher effectiveness. The committee strongly believes Congress should fulfill its current commitments before creating new programs and mandates. In FY 2012, the House version of the Labor/Health and Human Services/Education Appropriations Act would have increased Title I funding by $1 billion. Instead, the administration insisted on funding its pet projects at the expense of Title I, which ultimately received only a nominal increase. The committee urges the Committee on the Budget to reject the administration's approach and support our state and local leaders.

Supporting Effective Teachers

The administration requests an overall increase in elementary and secondary education funding for programs focused on teacher quality. Its proposal contains a new set-aside to competitively distribute grants to states, school districts, and teacher and principal preparation programs with evidence of success in recruiting and training effective teachers and school leaders, specifically in high-need subjects and schools. In addition to these initiatives, the administration creates three new teaching and learning programs. These new programs come on top of the 82 existing teacher quality programs administered by the federal government that were identified by the Government Accountability Office. The agency's report found that the federal government spent more than $4 billion on teacher quality initiatives, and the proliferation of programs complicates federal efforts to invest dollars effectively.

The Student Success Act and the Encouraging Innovation and Effective Teachers Act reject the administration's irresponsible teacher proposals. The committee's ESEA reauthorization package consolidates many current teacher quality programs into a single Teacher and School Leader Flexible Grant, allowing states and school districts to support a variety of innovative and proven teacher effectiveness strategies. The legislation engages the private sector, including the for- and non-profit communities, to partner with school districts to drive improvements and innovation in the teaching profession. The bills also eliminate the onerous Highly Qualified Teacher requirement that is an enormous burden on states and districts and tells superintendents, teachers, and parents very little about teacher effectiveness. Parents know the best teachers are the ones who keep students motivated and challenged in the classroom and the committee's legislation promotes effective teachers and better classroom instruction.

Protecting Impact Aid

The Department of Education's FY 2013 budget proposes to eliminate Impact Aid payments for certain school districts that have federal property. The program provides critical resources to school districts that lack local resources due to the presence of federal land within district boundaries and the resulting diminished property tax base. The committee's ESEA reauthorization proposal reauthorizes the Impact Aid program, including payments for federal land; updates the formula by which school district allotments are determined; and provides timelier payments to schools. The federal government has a responsibility to compensate school districts near Indian reservations, military bases, and national parks to ensure they have adequate resources to provide their students with a quality education.

Making Special Education a Priority

The committee believes the federal government must keep the commitment it made to states, school districts, parents, and students with disabilities to assist with special education costs. In 1975, Congress passed the Individuals with Disabilities Education Act (IDEA) and committed to pay states 40 percent of the average per-pupil expenditure in the nation's public schools. To date, Congress has not come close to meeting this funding commitment. The President's FY 2013 budget proposal includes $11.6 billion for the Grants to States (Part B) program, the same as last year. This funding level decreases the federal government's contribution to 16 percent of the national average per-pupil expenditure. In contrast, the House version of last year's Labor/Health and Human Services/Education Appropriations Act would have increased Part B funding by $1.2 billion. Unfortunately, the administration insisted on funding its pet projects at the expense of Part B, which ultimately received only a nominal increase. While we recognize current budgetary constraints make it difficult to fully fund IDEA, the committee is troubled by the administration proposals to reduce the IDEA funding commitment. More importantly, we urge additional funding for IDEA, Part B in order to noticeably increase the federal government's contribution toward special education costs.

Continuing the Successful DC Opportunity Scholarship Program

The committee continues to support educational choices for parents, assisting them with the tools they need to send their children to higher-performing schools that provide a better opportunity for their children's future. Empowering parents with more options is a critical component of the committee's effort to help students access a quality education. The DC Opportunity Scholarship program, created in 2004, has allowed thousands of students in the District of Columbia to attend a high-performing private school of their choice. If not for this critical program, more than 85 percent of students who receive scholarships would be forced to attend some of the district's lowest performing schools.

In 2011, Congress passed the Scholarships for Opportunity and Results Act, which reauthorized the DC Opportunity Scholarship program with important updates. Among its provisions, the bill increased the limits on scholarships to ensure students could have access to more schools, especially high schools. The announcement of the program's reauthorization resulted in a dramatic increase in the number of families – more than 700 at the last recruiting event – requesting a scholarship under the program. That demand is expected to continue to grow as more families learn about the recent changes and reinstatement of the program.

Unfortunately, even though the president chooses to exercise private school choice for his children, his budget denies the same opportunities for low-income families who live blocks from the White House. The administration's FY 2013 proposal requests no new funding for the DC Opportunity Scholarship program, despite its pledge to continue the program as part of the Budget Control Act of 2011. While continuing to request additional funding for District of Columbia public schools and charter schools, the administration demonstrated no support for this important educational choice for parents. The committee strongly supports funding for the DC Opportunity Scholarship program so District of Columbia parents can access quality education options for their children. The committee urges the Committee on the Budget to reject the administration's request and demonstrate support for this important educational choice for parents in the Department of Education's budget.

Expanding College Access and Promoting College Affordability

With more than 6,000 institutions of higher education eligible to participate in federal student aid programs, students have the ability to select the college and university that best suits their postsecondary education needs. The diversity of these institutions is vital to educating the current college-going population. America's colleges and universities are now serving students beyond the traditional 18-to-22 year-old high school graduate. More and more, our nation's higher education system is serving an increasing number of non-traditional students, many of whom are current workers looking to gain the necessary skills to excel in the workplace. These students are not looking for a four-year college degree, but instead want to update their skill sets while working full-time and/or raising a family. These students tend to be more cost conscious, and want to obtain their degree or credential as fast as possible. The committee strongly supports policies that promote informed student choice, allow the nation's diverse higher education system to flourish, and help tamp down burdensome federal requirements or regulations that have unintended consequences to the overall cost of a postsecondary education.

Promoting Policies to Further College Affordability

The committee has long supported policies to assist students and families in accessing postsecondary education. The committee believes the federal government has an important role to play in ensuring students and families have access to information so they can make informed choices about the college and university that meets their unique needs. This includes providing important information about college tuition and fees and other factors important to students and parents concerned about college affordability. Unfortunately, the amount of information institutions of higher education are required to disclose to potential students and report to the Department of Education has grown exponentially over the last decade, with limited evidence of its value. As such, the committee supports proposals that refine data collection requirements to ensure the information being reported is reflective of the current student population and useful to students and families. The committee also believes the federal government should coordinate efforts to streamline federal higher education data collection requirements. Our nation's current regulatory approach could result, for example, in one institution having multiple graduation rates because each agency defines the term differently. This will result in confusion for students and an increased cost of compliance for institutions. The committee is concerned that the administration's proposed College Scorecard will layer more data collection requirements on institutions of higher education without eliminating other, less useful information.

As Congress examines and discusses college affordability issues, the committee will keep in mind the significant costs imposed on colleges and universities through burdensome federal regulations. In recent years, the Department of Education has churned out regulation and after regulation in the name of program quality, yet no one has stopped to examine the true costs for colleges and universities or how these regulatory actions have allowed the federal government to increase its footprint on college campuses. Recently, the House passed H.R. 2117, the Protecting Academic Freedom in Higher Education Act, to strike down the credit hour regulation and state authorization regulation, two regulations promulgated in 2010 by the Obama administration that put the federal government in the heart of academic issues historically the responsibility of colleges and universities or states. The committee continues to oppose the gainful employment regulation, which unfairly targets the proprietary sector of higher education, and will destroy jobs and stifle local economic development.

The committee supports federal efforts to simplify, streamline, and improve federal student aid programs and plans to examine these issues during the next reauthorization of the Higher Education Act. The committee is concerned, however, that the administration's FY 2013 budget proposal complicates the nation's student aid programs by creating new and unnecessary higher education programs; ignores long-term challenges facing a number of federal programs, including Pell Grants; and dramatically expands the reach of the federal government into college and university budget decisions. In particular, the committee opposes the proposed changes to the Perkins Loan program, which will convert this institutionally based loan program to another federally administered loan program while increasing interest rates on students. The committee urges the Committee on the Budget to, once again, reject this revamped Perkins program. While we agree with the administration that rising college costs continue to be a challenge to low-income and middle class families, the committee favors competition and transparency to help lower costs rather than price controls. Institutions have a shared responsibility, along with federal and state governments, to do everything they can to provide a quality education at an affordable price. In the meantime, the committee believes Congress should stop taking a piecemeal approach to reforming student aid programs and begin examining comprehensive changes that could ensure the stability of student aid for future generations.

Putting Pell Grants on a Path to Stability

The committee supports Pell Grants as the foundation of our nation's commitment to help low-income students access higher education, but believes the program is on an unsustainable path. Even after enacting a number of short-term fixes through the Budget Control Act and making changes to reduce eligibility for the program though the FY 2012 Consolidated Appropriations Act, the program's costs continue to rise. For FY 2014, the program is expected to have a $7.5 billion shortfall. Instead of making tough choices about the future of Pell Grants, the president's budget proposal simply ignores the problem by masking the true cost of the program through scoring gimmicks that create fictional mandatory "savings." The committee urges the Committee on the Budget to continue its work to put the Pell Grant program back on the path to long-term stability, enabling millions of low-income students to pursue their dream of a postsecondary education.

Assessing the True Taxpayer Costs for Student Loans

The committee believes budget gimmicks that have masked the cost of federal student loan programs for decades should not be allowed to continue. The Committee on the Budget should be commended for its work to pass H.R. 3581, the Budget and Accounting Transparency Act, which includes reforms that will more clearly illustrate taxpayer costs associated with federal student loan programs. Congress has seen the impact on Congressional Budget Office (CBO) estimates when market risk is taken into account. Not only did the alleged "savings" from eliminating the Federal Family Education Loan (FFEL) program decrease dramatically, but the purported savings garnered from the president's FY 2012 budget proposal to convert FFEL loans to Direct Loans shrank by approximately $550 million. In addition, the savings from the FY 2012 budget proposal to expand the Perkins loan program and bring it onto the government's books vanished entirely.

The committee is deeply disappointed that the administration has chosen to put forward these budget gimmicks again in its FY 2013 budget proposal. The committee agrees with the Committee on the Budget that incorporating market risk, as was done in assessing the costs of the Troubled Asset Relief Program, is a more accurate and fiscally responsible way to account for the government's liabilities in programs such as the Federal Direct Loan program.

Ensuring Quality Child Nutrition

The National School Lunch program and the other initiatives that make up the Child Nutrition Act are designed to combat hunger and poor nutrition among low-income children and families. According to the Congressional Research Service, federally supported child nutrition programs reach more than 40 million children and two million lower-income expectant and new mothers daily. In 2010, Congress passed the Healthy, Hunger Free Kids Act, which updated and extended these programs. However, the legislation also opened the door for the first time to federal micromanagement of school lunches, breakfasts, suppers, snacks, and other food sold on school campuses. The committee will continue to monitor the regulatory agenda coming from the Department of Agriculture, which has been overly burdensome and costly to our nation's schools. The committee urges the Committee on the Budget to prevent the administration from imposing additional costs and burdensome requirements that hinder elementary and secondary schools' ability to run effective nutrition programs.

WORKFORCE PRIORITIES

Many families continue to face significant hardships as our nation struggles with the economic downturn. The number of Americans participating in the labor force is at the lowest level in 28 years. Unemployment remains greater than 8 percent for the 37th consecutive month. Regrettably, the Obama Administration's FY 2013 budget request exacerbates the problems in our economy and workforce by promoting policies that create uncertainty, such as costly regulations and bureaucratic actions that put special interests ahead of workers and employers.

The committee remains focused on supporting the nation's workforce and advancing policies that will help strengthen the economy. We continue to pursue aggressive oversight to ensure federal agencies are held accountable for programs and regulations that stand in the way of innovation, job creation, and American competitiveness. Additionally, the committee is determined to streamline and enhance the nation's job training programs and help job seekers access the support and skills they need. The committee also remains committed to protecting workplace democracy, improving retirement security, and promoting workplace safety.

The committee respectfully offers the following for consideration by the Committee on the Budget as it prepares its FY 2013 budget resolution:

Streamlining Workforce Development Programs

In his State of the Union address in January, President Obama called on Congress to cut through the maze of confusing training programs, asking for "one program, one website, and one place to go" for workers to receive important employment and training services. The committee shares the administration's concern that the sheer number of federal employment and training programs are a confusing, bureaucratic maze for workers looking for job supports. According to the Government Accountability Office (GAO), the federal government operates 47 separate job training programs, most of which are overlapping, duplicative, and target similar populations.

Despite the president's public rhetoric, his FY 2013 budget request does not include a proposal to create a single workforce development program for unemployed workers. The budget also lacks any comprehensive proposal to modernize the Workforce Investment Act (WIA), the primary vehicle for providing states and localities with federal resources to support worker training through a network of 3,000 One-Stop Career Centers. Instead of working with Congress to streamline federal workforce development programs, the president's budget proposes two new initiatives aimed at unemployed and underemployed workers (in addition to the 47 GAO-identified programs). The $12.5 billion Pathways Back to Work Fund and a $8 billion Community College to Career Fund, along with a third request for continued funding for the unauthorized Workforce Innovation Fund, are duplicative of the main employment and training programs authorized under WIA that are responsible for developing and maintaining a coordinated statewide workforce investment system. While the committee commends the administration for proposing the elimination of the Women in Apprenticeship and Non-Traditional Occupations Act and the Veterans Workforce Investment Program, and committing to closing down chronically low-performing Job Corps Centers, this is simply not enough.

The committee urges the Committee on the Budget to reject the administration's budget proposal on job training. Our nation's workers need bold solutions, not more empty promises. Instead of adding to the maze of federal initiatives, the committee will work to reauthorize WIA and ensure the nation's workforce development system can respond quickly and effectively to the changing needs of job seekers and those in need of training. Last year, Rep. Buck McKeon introduced H.R. 2295, the Workforce Investment Improvement Act, to eliminate arbitrary barriers that prevent workers from accessing training immediately and enhance flexibility in the services provided to job seekers. Rep. Virginia Foxx introduced H.R. 3610, the Streamlining Workforce Development Programs Act, to consolidate more than 30 workforce development programs into four flexible funding streams to simplify program administration at the state level and create more efficient programs for employers and job seekers. Rep. Joe Heck introduced H.R. 3611, the Local Job Opportunities and Business Success Act, which expands the role of employers in workforce decisions to ensure the training available fills the demands of local businesses. The committee's WIA reform package will reflect the principles included in these three bills to provide workers, employers, and taxpayers with a more effective, flexible, and accountable workforce investment system that will foster the long-term growth and prosperity our nation needs and deserves.

Protecting Workplace Democracy

During the past year, the committee has grown increasingly concerned by actions taken by the Obama administration on behalf of its special interest supporters. In particular, the committee is concerned the administration has sought to promote an activist agenda to the detriment of workers and employers alike. This activist approach to labor-management relations threatens not only the rights of workers to choose whether to join a union, but also the ability of employers to maintain and create jobs. In the coming months, the committee will continue to examine the activities and policies being promoted by the administration, and evaluate their consequences for workers and employers.

National Labor Relations Board

The committee is committed to stopping the National Labor Relations Board's (NLRB) activist agenda and protecting employee and employer rights. Last year, the NLRB restricted workers' right to a secret ballot, made it more difficult for employees to challenge union representation, issued a rule that would require employers to post vague, union-biased posters on employee rights under the National Labor Relations Act (NLRA), changed the test for determining employee bargaining units to allow unions to gerrymander the workplace, reduced neutral employer protection from union attacks, and issued the first part of a final rule that will significantly restrict employer free speech and employee free choice. At the same time, the acting NLRB General Counsel attempted to force the Boeing Company to move more than a thousand jobs from South Carolina to Washington.

On January 4, 2012, despite serious constitutional questions, President Obama announced the recess appointment of three individuals to the NLRB. Upon their appointment, the NLRB Chairman announced the NLRB will move forward with additional changes to union election procedures that will likely further limit employee free choice and employer free speech. The committee will remain vigilant in oversight of the NLRB and will use all tools available to oppose any actions that harm the rights of workers and employers. Additionally, the committee will focus its legislative attention on NLRA reforms that promote job growth, while ensuring employees have the right to choose whether to join a union.

Office of Labor-Management Standards

For those employees who choose to join a union, the Department of Labor's Office of Labor-Management Standards (OLMS) plays a critical role in holding union leadership accountable to rank-and-file members. The committee will continue to conduct aggressive oversight of the performance of OLMS and support measures that improve union transparency and accountability on behalf of workers. Additionally, it will oppose actions that unnecessarily trample on recognized privileges.

Promoting Retirement Security

The committee remains committed to strengthening the retirement security of American workers by protecting existing pensions, cutting regulatory burdens, and increasing opportunities for retirement savings. In addition, the committee remains committed to a strong, voluntary, and portable private-sector pension structure. This involves fighting against proposals that would take away or limit workers' 401(k) retirement accounts and proposals that would increase the costs of such accounts through burdensome regulations and increased liability and litigation. The committee also supports fiscally responsible efforts to ensure the continued viability of the defined benefit pension structure. As part of this commitment, the committee will examine the state of the multiemployer pension plan framework, and vigorously oversee the management of terminated plans by the Pension Benefit Guaranty Corporation (PBGC).

Additionally, the committee will again scrutinize proposals included in the president's proposed budget that would require employers to establish new individual retirement accounts for their workers, and give the PBGC the authority to determine insurance premiums assessed to defined benefit pension plans. The committee will guard against efforts to utilize the latter, vague proposal to address budget concerns, which while legitimate, should not determine important policy changes affecting the future retirement security of American workers.

Working to Repeal the New Health Care Law and Ensure Lower Health Care Costs

The committee continues to support fiscally responsible efforts to lower the costs of health care and insurance coverage for all Americans. We also continue to support the employer-based system through which most Americans obtain their health coverage. As a result, the committee remains concerned the new health care law, the Patient Protection and Affordable Care Act (PPACA), fails to "bend the cost curve," as promised by President Obama. Worse, PPACA threatens to exacerbate the problem of rising health care costs, making it increasingly difficult to access quality, affordable health insurance. This creates economic uncertainty that places a significant strain on businesses, employees, and families, at a time when we are trying to put Americans back to work.

With these concerns in mind, the committee will continue to conduct comprehensive oversight of the administration's efforts to implement the law, and oppose regulatory proposals that increase costs and burdens for businesses and workers. We will be particularly vigilant in examining insurance coverage mandates that will inevitably drive up the cost of employer-provided coverage, including so-called "essential health benefits."

At its core, PPACA remains a fiscally irresponsible entitlement program that will impose massive new taxes and penalties on all Americans. As such, the committee continues to oppose this government takeover of the health care system and offer and support sensible proposals to increase access to affordable health insurance coverage to reduce financial pressures and uncertainty on employers, workers, and their families.

Monitoring and Assessing the Family and Medical Leave Act

The committee remains concerned by proposals that would impose costly and onerous new burdens on employers, particularly those that would mandate paid leave for employees under the Family and Medical Leave Act (FMLA). As such, the committee intends to monitor the Department of Labor's regulatory proposals to implement the Fiscal Year 2010 National Defense Authorization Act's and the Airline Flight Crew Technical Corrections Act of 2009's amendments to the FMLA. The Department of Labor has requested $5 million to establish a State Paid Leave Fund to support competitive grants to states that establish paid leave programs; however, it is not clear how the fund would be created, nor how it would be administered. More troubling, it is unclear how the fund would help businesses – especially small businesses – create jobs and hire new workers. In fact, the fund would likely make it more expensive for employers to create jobs and hire new workers. The committee will make every effort to guard against such an outcome.

Updating the Fair Labor Standards Act

Numerous hearings held by the committee over the past several years – including two hearings held last year – have demonstrated the ongoing need to update the regulatory construct of the Fair Labor Standards Act of 1938 (FLSA). During the Bush Administration, the Department of Labor sought to update the FLSA's regulatory scheme and ensure the regulations reflect congressional intent and the realities of the 21st century work environment. Revisions made by the Bush Administration have helped clarify workers' overtime rights, assisted employers in determining employee pay, and assisted the Department of Labor in its enforcement of this law's important wage and hour protections. In light of these achievements, the committee believes the Department of Labor should now focus its efforts on utilizing a combination of technical assistance, education, and targeted enforcement in truly at-risk industries to encourage compliance under the FLSA.

The committee is concerned that rather than pursuing a cooperative approach to FLSA compliance, the Department of Labor seems intent on pursuing a far more punitive agenda. As a result, the committee intends to scrutinize the Department of Labor's regulatory and enforcement initiatives under the FLSA. Specifically, the committee will examine the Department of Labor's proposals concerning youth labor in the agriculture industry, and the FLSA's exemption for so-called "companionship services." The committee also intends to monitor the Department of Labor's approach to compliance and enforcement efforts relating to worker misclassification issues. In every instance, the committee will seek to evaluate the implications of the Department of Labor's efforts not only for workers, but also on the ability of employers to manage and grow their businesses.

Reforming the Federal Employees' Compensation Act

Last year, in a bipartisan effort, the committee sponsored legislation, ultimately passed by the House of Representatives in November 2011, to reform the Federal Employees' Compensation Act (FECA). This legislation, known as the Federal Workers' Compensation Modernization and

Improvement Act (H.R. 2465), contains reforms that would improve the integrity of the FECA program and provide much-needed updates to current law. The provisions in H.R. 2465 largely mirror reforms proposed by the Obama Administration early last year. The committee looks forward to continuing its work with the administration and other interested parties to achieve a balanced reform of the FECA program, while also ensuring the program is responsive to the needs of federal employees who are injured or become ill on the job.

Enhancing Workplace Health and Safety

The committee continues to make the health and safety of all American workers a high priority. We believe that is best accomplished through policies that combine proactive safety programs, compliance assistance, and appropriate enforcement of workplace safety laws. In the coming months, the committee will continue to examine the regulatory and enforcement policies proposed by federal workplace safety agencies, and their implications for both workers and employers.

Occupational Safety and Health Administration

The committee remains concerned that by shifting its resources to an enforcement-only approach, the Occupational Safety and Health Administration (OSHA) is missing opportunities to prevent accidents and illnesses by better educating workers and employers on how to ensure a safe and healthy workplace. The committee believes this punitive approach to workplace safety is reflected in OSHA's proposed budget, which seeks to shift resources away from assistance programs and into onerous regulatory and enforcement measures. The Department of Labor's statistics demonstrate that while occupational injury and illness rates showed improvement every year since 2003, they have now stagnated. The committee believes achieving the right mix of cooperative programs and enforcement, rather than OSHA's current punitive approach to workplace safety, provides a better way to ensure occupational injury and illness rates will again continue to decline.

The committee is also troubled by OSHA's continued use of resources on a program, the Injury and Illness Prevention Program (I2P2), that has shown no demonstrable improvement to the safety of our nation's workforce. OSHA has provided no data supporting its assertion that I2P2 programs decrease injuries and illnesses in the workplace. In contrast, a recent Rand Corporation study concluded that a similar state program showed no improvement in fatality rates. In light of this conflicting data, the committee strongly believes a re-evaluation of OSHA's budget and policy priorities is in order, particularly as it relates to the Department's I2P2 proposal.

Mine Safety and Health Administration

During the past year, the Mine Safety and Health Administration (MSHA) has continued to utilize its existing regulatory authority to achieve the goal of zero mining fatalities. By increasing impact inspections, reinstating the conference process, and re-examining the pattern of violations regulations, MSHA has demonstrated that tools do exist within the current statutory and regulatory framework to effectively protect our nation's miners. While these efforts are welcome, the committee continues to question the extent to which MSHA is fully and effectively utilizing all of the tools available to it under federal mine safety law. With those concerns in mind, the committee will continue to examine and evaluate the agency's performance, and the extent to which the agency is availing itself of all available resources that might further ensure the health and safety of America's miners. Finally, the committee will give careful consideration to the findings of the investigations into the Upper Big Branch mining disaster, including MSHA's performance prior to and after that tragic accident.

CONCLUSION

The Committee on Education and the Workforce believes the federal budget is a statement of priorities. The fiscal challenges we face as we prepare the FY 2013 budget are daunting, but those challenges must not deter our commitment to reform. The committee stands ready to work with the Committee on the Budget and the administration to enact fiscally responsible reforms on behalf of students, workers, and retirees.

John Kline

John Kline
Chairman

Democratic Views and Estimates for Fiscal Year 2013
Committee on Education and the Workforce
112^{th} Congress, Second Session
March 9, 2012

Committee Democrats will continue to fight for America's middle class during the second session of the 112^{th} Congress. Although our economy is showing signs of improvement, much work remains to be done to put more Americans back to work. Now is not the time to walk away from the commitments we have made to this country's children, workers, and seniors. We must make good on the promise that every child must have a fair shot at success, no matter their background. Students must have access to affordable high-quality degrees, certificates and credentials so that they can compete in the workforce. Employers should have access to a well-prepared and skilled workforce. Workers deserve basic rights and protections to secure their place in a vibrant middle class, with fair wages, affordable quality health care and a decent retirement.

We urge the Committee on the Budget to consider the following views when developing its FY 2013 budget resolution. As outlined below, the nation's long-term economic and fiscal health depends upon working together to make critical investments in our future and upholding the basic rights and protections that helped build a strong middle class.

EDUCATION

Committee Democrats remain committed to ensuring all children and young adults have equal access to high-quality educational opportunities, allowing them to pursue careers with financial independence and become a part of a productive and competitive workforce in today's global economy.

Early Education

Committee Democrats agree with economists, business leaders, child development experts, and others that access to high-quality early education opportunities is critical to ensuring educational success later in school. The Head Start program and the Child Care Development Block Grant (CCDBG) play a central role in allowing low-income parents access to higher quality and safer care than they would otherwise be able to afford. Committee Democrats believe CCDBG should be reformed to place a stronger focus on helping state initiatives to improve quality and commend efforts the Administration has undertaken with regard to the Race to the Top – Early Learning Challenge program, which supports state reforms to improve early learning programs.

The Elementary and Secondary Education Act (ESEA)

Since the beginning of this Congress, Committee Democrats have been calling for a bipartisan ESEA reauthorization bill that addresses our current education challenges and modernizes the education system as a whole. Instead of heeding this call from Committee Democrats, the President, and communities across the country, Committee Republicans chose to move partisan and ideologically-driven ESEA reauthorization legislation that would take the country back decades in public education. Since 1965, the nation has seen marked progress not only in areas of equity and fairness but also in student achievement.

Committee Democrats believe that ESEA reauthorization legislation should retain the law's critical focus on civil rights and equity while modernizing the education system. ESEA should set high standards and goals of college and career readiness. It should support a modern assessment system; maintain accountability for *all* students; provide states, districts, and schools with the flexibility to improve schools based on their student, school and community needs; support a professional environment for teachers and school leaders and provide them with the information and resources necessary to succeed; ensure performance is transparent to parents and communities so that they can participate in their schools and support their success; and support consolidated funding streams for literacy, Science, Technology, Engineering and Mathematics (STEM), a well-rounded education, wrap-around services, and extending learning time. Additionally, ESEA reauthorization should not set arbitrary caps on funding critical investments in education. Nor should the reauthorization abandon a focus on ensuring states and localities maintain their fair share of funding.

To support such an effort, we must continue to focus on the core education programs, including Title I and Title II of ESEA. Additionally, Committee Democrats believe we must fund programs in the most efficient ways and provide districts with increased flexibility to support the needs of their students. Accordingly, we support consolidating funding streams around areas of critical need to create more efficient programs for schools and districts, increased flexibility in how funds are used while providing accountability to taxpayers regarding how funds are spent. This year, Committee Democrats remain committed to reauthorize ESEA, but only in a manner that continues to support equity in education to ensure that all students have the opportunity to succeed.

Given the Committee Republicans' failure to produce a bipartisan ESEA reauthorization, Committee Democrats support the Department of Education's efforts to provide states with flexibility under No Child Left Behind. The waiver package demonstrates that we can raise standards to meet the workforce demands of a global economy, empower states and districts to meet the needs of their students and communities, and not lose sight of the critical federal role of ensuring equal opportunity. Committee Democrats believe the federal role can and should strike the appropriate balance between accountability and flexibility. Clearly states agree that the waivers reflect the appropriate federal role with nearly 40 states signing up to participate.

The Individuals with Disabilities Act (IDEA)

Committee Democrats remain committed to meeting the developmental and educational needs of young children and students with disabilities, and we believe that every child has the opportunity to succeed. IDEA works in tandem with ESEA to ensure that students receive the supports they need to access their education and that schools are held accountable for ensuring students with disabilities are held to high-standards. Through IDEA, all students with disabilities have the right to access the general education curriculum. Committee Democrats will fight for full funding of IDEA to provide schools with adequate resources to support the appropriate public education IDEA guarantees. In addition, Part C of IDEA helps identify developmental delays in infants and toddlers through screenings and provides intervention services that can have a lifelong impact on the quality of life for children and their families, and limit the need for special education and medical services later in life. We are committed to funding and supporting this extremely important federal program.

Higher Education

Committee Democrats support efforts to help more students receive affordable high-quality degrees, certificates and credentials they need to compete in today's marketplace. The increasing cost of higher education continues to be a chief concern for American families; in the past year alone, the average in-state tuition and fees at a four-year public college increased by 8.3 percent, more than double the rate of inflation.

Committee Democrats are deeply concerned about an impending increase to the interest rate on need-based student loans, which is scheduled to double from 3.4 to 6.8 percent in July 2012. Unless this Congress takes action soon, over 7 million borrowers will face higher student loan payments over the next decade, costing the average borrower $2,800 more over the life of his or her loan. At a time when unemployment for recent college graduates is still high, interest rates are at historic lows, and family budgets are tight, Committee Democrats believe the Congress should take action and protect American families from this impending increase.

Grant aid is an essential tool in ensuring broad-based access to postsecondary education. Over the last five years, the average published price of higher education increased at a rate of 5.1 percent per year, but the price actually paid by students only increased at an average rate of 1.4 percent per year. This difference is in large part due to the continued commitment to the Pell grant program. During the last two Congresses, Committee Democrats worked to increase the maximum Pell Grant from $4,050 to $5,550 – an increase of $1,500. For the 2012-2013 school year, the maximum Pell Grant award is scheduled to increase with the rate of inflation for the first time, due to a provision Committee Democrats supported in the Student Aid and Fiscal Responsibility Act in 2010.

In the first session of this Congress, a number of changes were made to the eligibility criterion for the Pell Grant and student loan programs. Although these changes were necessary to provide a continued commitment to students with the highest levels of financial need given federal budget constraints, Committee Democrats do not support any future changes to the program that do not protect the principles of the federal student aid program as a cornerstone to higher education access and affordability.

Child Well-Being

The Committee on Education and the Workforce has jurisdiction over a number of policies and programs affecting the health and safety of children and students. Committee Democrats are strongly committed to ensuring our children's well-being so they have the supports they need to live happy, healthy, and independent lives.

Nutrition Programs

Committee Democrats remain committed to fully funding the implementation of the Healthy, Hunger-Free Kids Act of 2010. We are strongly committed to ensuring that the 32 million students participating in the National School Lunch Program and the 13 million students participating in the School Breakfast Program continue to have access to healthy and nutritious meals. In addition, Committee Democrats continue to recognize the importance of providing healthy and nutritious meals at child care centers and family daycare homes to promote a child's overall well-being. Committee Democrats remain committed to ensuring that all of the estimated 9 million women, infants, and children eligible for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits each month receive their benefits.

Safety

Committee Democrats are committed to improving the safety of our nation's children while they are in the care of others. Investigations by Committee Democrats with the U.S. Government Accountability Office (GAO) have uncovered scores of cases where teens attending residential treatment programs to overcome their behavioral, emotional and other challenges were abused and neglected. In some instances, teens died as a result of abusive and negligent treatment. Other GAO investigations highlighted abusive seclusion and restraint practices at public and private schools that in some cases resulted in the death of a child. Committee Democrats also investigated with GAO loopholes and inadequate policies that allow dangerous predators to work in schools and child care programs across the country.

In response, Committee Democrats introduced significant legislation over the last two Congresses that passed the House of Representatives with bi-partisan support. We passed the Stop Child Abuse in Residential Programs for Teens Act to address inadequate state-level oversight of certain residential treatment programs. We passed the Keeping All Students Safe Act, the first national effort to address the use of seclusion and restraint techniques to protect both students and teachers in the classroom. And, in the last Congress, we passed the Protecting Students from Sexual and Violent Predators Act to prevent registered sex offenders and criminals convicted of crimes against children from working in our schools. Committee Democrats believe parents should know their children are safe from sexual predators at school and child care centers.

Committee Democrats reintroduced the Stop Child Abuse in Residential Programs for Teens Act and the Keeping All Students Safe Act in the first session of this Congress. These measures should be marked up and reported to the House for consideration.

Finally, Committee Democrats believe concussions among student athletes are an alarming safety concern that demands further attention. According to recent estimates, up to 3.8 million American student athletes sustain concussions annually, and the injury is particularly common among children and adolescents. During a series of hearings in the 111th Congress, witnesses testified about the academic effects of concussions and emphasized the need to improve recognition and response to these injuries both on and off the field. Committee Democrats believe legislation, such as the Protecting Student Athletes from Concussion Act, is needed to keep student athletes safe on the field and thriving in the classroom. We believe the Committee should act on this legislation.

LABOR

During the second session of this Congress, Committee Democrats will continue to fight for the middle class and promote legislative solutions that will help put Americans back to work. Committee Democrats will further work to invest in and train American workers; protect workers' rights to organize and collectively bargain; protect workers' right to a pension and health benefits during retirement; strengthen the Affordable Care Act (ACA); oversee the enforcement of labor laws; help workers balance the demands of work and family; and improve workplace safety.

Jobs and Job Training

With critical actions taken by the previous Congress to pull the economy back from the brink, the U.S. economy has been showing stronger signs of recovery. The unemployment rate has decreased from 9.7 percent two years ago down to 8.3 percent in February of this year. But, more work needs to be done. Five and a half million Americans have been looking for jobs for at least six months.[1] At the same time, many employers in health care, advanced manufacturing, and other high-growth sectors assert that they cannot find skilled people to fill positions among the current 3.4 million job openings.[2] To help the many jobless workers, including the long-term unemployed, acquire the skills that many growing industries need requires innovative use of the knowledge, information and opportunities within our workforce investment system. We must rethink how best to strengthen partnerships between the workforce investment system, employers, community colleges, labor-management organizations and other key community partners. Committee Democrats remain committed to ensuring that America's workforce is equipped to meet the world's labor-market challenges while also making sure that businesses in the United States continue to grow and remain ahead of global competition.

Committee Democrats support a reauthorization of the Workforce Investment Act (WIA) that will modernize the nation's workforce investment infrastructure, focus on finding jobs through strategic partnerships with in-demand sector employers, community colleges, labor organizations and non-profits, and support the workforce boards to be more focused, agile, and driven by 21st century labor market needs. Recent proposals on WIA from Republicans, however, would dismantle the national commitment to the millions of Americans seeking job assistance, skills assessment, career counseling, and job training programs. During this Congress, the Republican Majority has even proposed cutting nearly $3 billion in WIA funds, effectively eliminating critical job training formula programs targeting low-income adults, dislocated workers, and young people. These are among the most vulnerable American workers. Republican proposals put U.S. workers and U.S. businesses at a disadvantage. Investments in our workforce are not only critical for building momentum for the current recovery, but also for our long term global competitiveness.

---

[1] Bureau of Labor Statistic, The Employment Situation- February 2012 (March 9, 2012). *Available* at: http://www.bls.gov/news.release/empsit.nr0.htm

[2] Bureau of Labor Statistics. Job opening Levels. *Available* at: http://www.bls.gov/news.release/pdf/jolts.pdf.

Committee Democrats have urged Committee Republicans to take up President Obama's American Jobs Act. These measures would provide an additional lift to our economic recovery, saving jobs and putting more Americans back to work. Provisions of the American Jobs Act for funding school repair and modernization would not only improve children's learning environments at 35,000 schools across the country but also put construction workers back to work and help small contractors stay in business. The President's proposed Community College to Career fund would bolster the important role that community colleges play in providing individuals with the skills that employers need and is integrated with, not duplicative of, the existing workforce investment system. Committee Democrats will continue to press for action on these and other jobs measures.

National Labor Relations Board (NLRB)

The NLRB administers federal labor law for much of the private sector, including enforcing employees' rights to organize and collectively bargain. The right to organize and collectively bargain is a fundamental right long-enshrined in federal law for American workers. Workers deserve a voice on the job. Empowering workers to bargain for better wages and working conditions is essential for maintaining a strong middle class and a strong democracy.

For more than a year, Committee Republicans have spent an unprecedented amount of time attacking the NLRB through hearings, legislation, requests for documents from open cases, and appropriations riders. Committee Democrats are deeply concerned by special-interest-driven efforts to weaken or interfere with the agency that is the sole enforcer of workers' rights to organize and collectively bargain. Those concerns also extend to information reported by the NLRB Inspector General regarding employment conversations with a sitting NLRB Member at a time when special interests were calling on him to resign to incapacitate the agency. That information was referred to the Department of Justice for further investigation. Earlier this year, the Committee heard from a bipartisan panel of governors who urged the Committee to focus on areas where Congress can agree and not on divisive issues such as efforts to roll back workers' rights. Committee Democrats could not agree more. Republican attacks on these rights only weaken prospects for a fair and sustainable economic recovery with good jobs for all.

Health Care

Health care costs have been rising at an unsustainable level for decades. In the last 10 years health care premiums have increased 113 percent and at a rate that is on average four times faster than workers' wages.[3] Recognizing that Americans could no longer afford the status quo, Congress passed and President Obama signed the *Affordable Care Act* (ACA) nearly two years ago.

As we celebrate the law's second anniversary, millions of Americans already are realizing its benefits. Families are starting to have more control over their own health care. As a result of the ACA, over 2.5 million additional young adults between the ages of 19 and 25 have already

[3] National Coalition on Health Care, *Health Insurance Costs,* (2009). *Available* at: *www.nchc.org/facts/cost.shtml*

gained health insurance coverage.[4] Approximately 86 million people benefited from the law's expanded coverage of preventive services.[5] More than 105 million people no longer have lifetime coverage limits on their health insurance plans.[6] The law's medical loss ratio requirement has ensured that either 80 or 85 percent of premium dollars from over 76 million Americans have been spent on medical care or quality improvement.[7] In addition, as a result of the ACA, insurers can no longer discriminate against a child with a pre-existing condition or rescind health coverage when someone becomes ill. The law has provided substantial funding to states to help them establish state-based health insurance exchanges, improve public health and prohibit unreasonable health insurance premium increases.

Employers also have benefited from the law. Approximately 2,800 employers are participating in the law's early retiree reinsurance program and as a result 13 million employees have benefited from the program.[8] Of the small business tax returns the Internal Revenue Service has processed to date, over 300,000 small employers already have saved money as a result of the ACA's small business tax credit.[9]

Committee Republicans state that they will continue to "offer and support sensible proposals" that increase access to affordable health care and lower costs. Committee Democrats are concerned by the Republican proposal to end the Medicare guarantee and shift costs onto seniors. The Affordable Care Act is already lowering health care costs for millions of seniors. Last year, 3.6 million beneficiaries who hit the prescription drug donut hole saved $2.1 billion-an average savings of $604 per beneficiary.[10] In addition, nearly three out of four Medicare beneficiaries (about 32.5 million) took advantage of the ACA's coverage of prevention benefits with no cost sharing.[11]

Despite Republican rhetoric that the ACA would destroy jobs, the economy has actually added over 3 million new private jobs since the law's enactment, including an additional 514,900 in the health field.[12] Rather than recognizing these benefits and working with Committee Democrats to improve the law, Committee Republicans continue to focus on re-litigating past ideological

---

[4] Benjamin Sommers, *2.5 Million Young Adults Gain Health Insurance Due to the Affordable Care Act,* ASPE Issue Brief (Dec. 2012). *Available* at: http://aspe.hhs.gov/health/reports/2011/YoungAdultsACA/ib.shtml

[5] Department of Health and Human Services, *Affordable Care Act extended free preventive services to 54 million Americans with private health insurance in 2011*(Feb. 15, 2012). *Available* at: http://www.hhs.gov/news/press/2012pres/02/20120215a.html

[6] Thomas Musco, *Under The Affordable Care Act, 105 Million Americans No Longer Face Lifetime Limits on Health Benefits*, ASPE Issue Brief (March 2012). *Available* at: http://aspe.hhs.gov/health/reports/2012/LifetimeLimits/ib.shtml

[7] *New Data: The Affordable Care Act in Your State* (March 5, 2012). *Available* at: http://www.whitehouse.gov/blog/2012/03/05/new-data-affordable-care-act-your-state

[8] Early Retiree Reinsurance Program Reimbursement Update (Dec. 9, 2011). *Available* at: http://cciio.cms.gov/resources/files/Files2/12092011/errp_disbursement_12_02_2011_508.pdf

[9] Testimony of the Honorable J. Russell George, Committee on Ways and Means, Subcommittee on Oversight (Nov. 15, 2011). *Available* at: http://waysandmeans.house.gov/UploadedFiles/GeorgeTestimonyOS911.pdf

[10] *Medicare Beneficiary Savings and the Affordable Care Act*, ASPE Issue Brief (Feb. 2012). *Available* at: http://aspe.hhs.gov/health/reports/2012/MedicareBeneficiarySavings/ib.shtml

[11] *Supra* note 5.

[12] Bureau of Labor Statistics, *Employment Situation News Release (December 2011), Current Employment Statistics, Historical 'B' Tables (Establishment Data): Previous years and months. Available* at: http://www.bls.gov/webapps/legacy/cesbtab1.htm

fights. Committee Democrats believe the ACA is a landmark step forward in reforming this nation's health care system and will fight all efforts by the Republican Majority to repeal these long overdue reforms.

Retirement Security

Social Security was never intended to be the sole source of workers' retirement income. Private pensions were intended to supplement Social Security's final salary replacement rate of 20 percent for higher income earners and 40 percent for middle income earners. Traditional defined benefit pensions cover 20 million workers and 20 million retirees. Many of these plans were well-funded before the recession, but many employers have struggled to maintain funding levels in light of weakened economic and financial conditions. Committee Democrats will continue to monitor funding levels to make sure employers can fulfill the pension promises they have made to their workers.

In addition, over 50 million workers are covered by defined contribution pensions, typically known as 401(k) plans. These plans primarily rely on employee contributions and they bear the risk of poor investment selection and burden of high fees. Research and Committee Democrat oversight has found a number of problem areas for employees, including the lack of fee transparency, confusing investment choices, and conflicts of interest in the provision of plan services. The Department of Labor has taken steps to require disclosure of plan fees. The Department is considering rules to make clear the fiduciary status of service providers who provide investment advice to workers. The Republican Majority has not committed to strengthen any of these pension programs or expand them to the millions of workers who have no assets other than Social Security. Committee Democrats will work with the Department of Labor, Pension Benefit Guaranty Corporation (PBGC), and interested stakeholders to protect and improve retirement security.

Oversight work by Committee Democrats has resulted in a reexamination of valuations of terminated pension plans performed by the PBGC, including the 2005 termination of the United Airlines pension plans. Committee Democrats will continue to monitor the PBGC's efforts to rework those valuations and ensure any retirees harmed by earlier valuation errors are made whole.

Guest Worker Programs

Committee Democrats are committed to protecting job opportunities for U.S. workers, ending abuse of foreign guest worker programs and eliminating the adverse effects such abuse has on U.S. workers' terms and conditions of employment. On February 21, 2012, the Employment and Training Administration published a Final Rule amending the regulations addressing the employment certification of H2-B temporary non-agricultural workers. The new rule aims to improve U.S. workers' access to job opportunities and better protect both U.S. and foreign workers from weaknesses in the guest worker program. Committee Democrats urge the Department of Labor to continue efforts to end abuses in this and other guest worker programs.

Wage and Hour Protection

The Fair Labor Standards Act (FLSA) is the nation's basic law governing wages and hours of work. It provides fundamental protections to over 120 million workers. The FLSA establishes a federal minimum wage, sets standards for when employers must pay overtime, and prohibits many forms of child labor. While the FLSA was enacted 70 years ago, it remains a critical part of federal labor policy. Committee Democrats oppose any attempt to rollback minimum wage and overtime protections. Eliminating workers' right to overtime pay will simultaneously decrease pressure to create more jobs and decrease workers' take-home pay, further weakening consumer demand and employment.

Enforcement of the Act is vital to ensuring that workers are paid for the work they perform. Wage theft, including theft through the misclassification of workers, is a widespread problem in the United States. A 2009 study of low-wage workers in major cities found that more than a quarter of workers were paid below the minimum wage in the preceding week.[13] And, two-thirds of workers had either been underpaid or not paid for overtime worked at all. A 2009 GAO report estimated that independent contractor misclassification cost federal revenues $2.72 billion in 2006.[14]

The President's Budget requested $6 million for increased enforcement of workforce protection laws including laws that ensure workers receive appropriate wages and overtime pay. The President's Budget also requested $14 million to combat the misclassification of workers as independent contractors through providing $4 million for personnel at the Wage and Hour Division to investigate misclassification and $10 million for grants to states to identify misclassification and recover unpaid taxes. Committee Democrats remain committed to ensuring that there is a greater emphasis on effective enforcement of the law, which includes a commitment to adequate funding, staffing, and training of investigators and other enforcement staff in the field as well as greater outreach and communication with communities and vulnerable populations.

Committee Democrats continue to strongly support the Department of Labor's Misclassification Initiative to strengthen and coordinate federal and state efforts to combat labor law violations resulting from the misclassification of employees as "independent contractors," a practice that costs taxpayers at least $3-4 billion each year in lost federal income and employment tax revenue. Under this initiative, the Wage and Hour Division has already signed agreements with thirteen states to share information and to coordinate enforcement efforts in order to ensure that employees receive the labor protections that they are entitled to under the law. Committee Democrats will continue examining legislative solutions addressing wage theft and misclassification.

---

[13] Annette Bernhardt, et. al. *Broken Laws, Unprotected Workers,* National Employment Law Project (2009). *Available* at: http://nelp.3cdn.net/1797b93dd1ccdf9e7d_sdm6bc50n.pdf

[14] Government Accountability Office, *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention* (Aug. 2009). *Available* at: http://www.gao.gov/products/GAO-09-717.

Balance of Work and Family

Working parents struggle to balance work and family responsibilities. During good and bad economic times, employees periodically need workplace flexibility to deal with predictable and unexpected family and medical needs. Congress has not enacted significant work and family protections since the enactment of the Family and Medical Leave Act of 1993. Millions of workers have benefited from the law's family and medical leave protections. Since its passage, many studies and proposals have recommended additional protections such as paid sick leave, paid parental leave and related types of work-family friendly legislative policies. President Obama has proposed small federal grants to states to provide seed money to test out innovative family leave initiatives. Several states have successfully implemented leave programs and other states have sought Federal support to adopt their own reforms. Committee Democrats will continue to press for improvements to workers' family and medical leave protections. Workers should not have to choose between their jobs and their families. Family friendly policies benefit both workers and employers.

Mine Safety and Health Administration (MSHA)

MSHA must be able to meet its statutory mandate to inspect every underground mine four times per year and every surface mine at least twice per year. While the President's budget provides resources to meet this statutory mandate, Committee Democrats are concerned that additional funding must be provided in FY 2013 to reduce the backlog of contested mine safety enforcement cases before the Federal Mine Safety and Health Review Commission (FMSHRC). A massive and growing backlog, which was inherited by the Obama Administration, has hobbled MSHA's efforts to impose enhanced sanctions on those operators who are endangering miners' safety. While supplemental funding was provided in FY 2010 that enabled MSHA and the Office of Solicitor to begin to reduce the backlog, which had reached a peak of 19,000 cases, the FY 2013 budget is projected to leave the backlog unchanged with an estimated 16,000 cases at the end of the fiscal year. Given that enforcement actions are not finalized for at least two to three years due to this backlog, it is essential that MSHA and the Office of Solicitor receive a modest increase to eliminate the backlog by the end of FY 2013. When chronic violators can game the system by delaying penalties and evading stronger sanctions, miners' safety is endangered. MSHA will need resources to implement the dozens of recommendations to improve its effectiveness that were identified in its internal review of the Upper Big Branch Mine explosion. That preventable accident killed 29 miners on April 5, 2010 and was the worst coal mine disaster in this country in the past 40 years. Committee Democrats believe MSHA must have the resources necessary to train, hire, and retain experienced staff. MSHA's proposal to reduce grants to state mining agencies by over 60 percent should be re-examined. Committee Democrats will continue to push for greater protections for miners across this country.

Occupational Safety and Health Administration (OSHA)

OSHA's mission as defined in its authorizing legislation is to assure, so far as possible, that every working man and woman in the nation has safe and healthful working conditions. Committee Democrats support OSHA's request to provide modest increases in resources to modernize the agency's injury and illness data collection, improve the timeliness of whistleblower investigations, and develop and revise safety and health standards. OSHA is developing standards to protect workers from combustible dust explosions, and to reduce occupational exposure to beryllium, crystalline silica, diacetyl and construction hazards. OSHA is also developing a rule to require injury and illness prevention programs nationally. States have adopted similar programs in 15 states, and 19 state workers' compensation programs now provide employer incentives to adopt these programs. Major corporations have already adopted these programs. Despite widespread acceptance, the Republican Majority mischaracterizes a Rand Corporation study on California's injury and illness prevention program to support their contention that these programs do little good. What Rand found is that California's program "can help prevent injuries to workers, but only if it is adequately enforced."[15] Rand said: when "inspectors …found failures to comply with provisions to train workers, identify and abate hazards, and investigate injury causes, the average injury rates at targeted businesses declined more than 20 percent in the following two years."[16]

OSHA supports 26 state OSHA plans through matching funds, which should be increased each year to keep pace with inflation. Consistent with an assessment by the Department of Labor Inspector General and the GAO, OSHA's budget reprioritized funding to assure that the Whistleblower Protection Program can reduce a backlog of complaints and to implement four new whistleblower laws that were included in food safety, health care, financial reform and maritime safety laws. Committee Democrats will continue to work to ensure that the health and safety of this country's workforce is protected.

Office of Workers' Compensation Programs/Federal Employee Compensation Act (FECA)

Committee Democrats support part of the Administration's proposal to reform the Federal Employee Compensation Act, a law which provides workers' compensation coverage for all civilian federal employees who are injured or killed on the job. Nine of the reforms were included in the Federal Workers' Compensation Modernization and Improvement Act (HR 2465), which was adopted by the House of Representatives on November 29, 2011, and which will provide a savings to the Treasury and the U.S. Postal Service. However, other proposals have been referred to the GAO for further analysis to determine the extent to which proposed benefit cuts inappropriately shift the costs of a workplace injury from the federal employer to the injured worker or his or her family. The Department of Labor Inspector General testified that "careful consideration is needed to ensure that the percent of benefits ultimately established will have the desired effect while ensuring fairness to injured workers, especially those who have been determined to be permanently impaired and thus unable to return to work."[17]

FECA modernization should improve federal employer efforts to promptly rehire workers after they recover, ensure that injured workers receive full due process under FECA, including judicial review, and eliminate the use of questionable assessment methods for determining disability, such as the 6th edition of the American Medical Association Guides for Permanent Impairment.

[15] Press Release, RAND Corp., California Workplace Safety Program Can Reduce Injuries When Inspectors Enforce It, (Jan. 26, 2012).
[16] *Id.*
[17] Testimony of Elliot P. Lewis, Assistant Inspector General for Audit, U.S. Department of Labor, Hearing Before the Subcommittee on Workforce Protections, Committee on Education and the Workforce (May 12, 2011).

Committee Democrats will work to ensure that reforms to FECA will protect both injured workers and taxpayers.

Office of Labor-Management Standards (OLMS)

OLMS serves to safeguard the rights of union members. The Department of Labor has taken important steps over the last three years to rebalance agency resources in a manner that maintains strong enforcement and oversight while increasing capacity in other agency offices in critical need of resources. Committee Democrats strongly support OLMS's efforts to enhance the reporting requirements of union avoidance consultants. The proposed enhanced reporting rule will bring transparency to labor-management relations and help ensure that employees are fully informed when making decisions about whether and when to exercise their rights. Committee Democrats will continue to work to ensure that OLMS continues to fully and effectively serve the purposes of the Labor Management Reporting and Disclosure Act.

National Institute for Occupational Safety and Health (NIOSH)/Centers for Disease Control

NIOSH, which was established as part of the Occupational Safety and Health Act of 1970, performs critical scientific and technical research to support mine safety and occupational safety, implements the 9/11-World Trade Center medical monitoring and health care program, and provides scientific support under the Energy Employees Occupational Illness Compensation Program Act. The agency's successful Agriculture, Fishing and Forestry (AFF) program and the Education and Resource Center programs were eliminated in the budget request, and funding should be restored in the FY 2013 budget.

Federal Mine Safety and Health Review Commission (FMSHRC)

The FMSHRC is an independent agency that provides administrative and appellate review of disputed mine safety enforcement cases and adjudicates employee retaliation cases under the Federal Mine Safety and Health Act of 1977. Committee Democrats are concerned that the budget request is below what FMSHRC requires to reduce the number of contested cases in its backlog. Following a series of mine accidents in 2006 and 2007, MSHA increased its enforcement efforts. In response to these enforcement efforts, mine operators began to increase the rate at which they contested citations before the FMSHRC, which grew from 7 percent to 26 percent. While the caseload grew, commensurate resources were not provided to deal with the increased influx of cases. FMSHRC's backlog of cases grew from under 3,000 cases in FY 2006 to a peak of 19,000 cases in FY 2011. In late FY 2010, Congress provided FMSHRC with a Supplemental Appropriation which allowed the agency to stem the growth in the backlog and begin to reduce its caseload. However, the requested funding for FY 2013 will not decline from its current level of approximately 16,000 because the disposition of cases will equal the influx, absent global settlements. Committee Democrats will work to ensure that this small agency is able to perform its critical functions to protect miner safety and vindicate the rights of those who justifiably blow the whistle on mine safety.

Equal Employment Opportunity Commission (EEOC)

The EEOC plays a critical role in promoting equal opportunity in the workplace and enforcing federal laws prohibiting employment discrimination. In FY 2011, the agency received nearly one-million discrimination charges, the fourth consecutive year of record charge filings. Committee Democrats believe it is critical that the agency have the ability to combat discrimination and retaliation in the workplace and protect workers on the job, particularly during these difficult economic times. Committee Democrats will continue to press for workplace nondiscrimination protections for all Americans and the restoration of civil rights protections eroded by the Courts.

GEORGE MILLER
Senior Democratic Member

RUSH D. HOLT

JOHN F. TIERNEY

MAZIE HIRONO

LYNN C. WOOLSEY

DAVE LOEBSACK

ROBERT E. ANDREWS

RAUL M. GRIJALVA

RUBEN HINOJOSA

TIMOTHY H. BISHOP

CAROLYN MCCARTHY

JASON ALTMIRE

ROBERT C. SCOTT

SUSAN A. DAVIS

DALE E. KILDEE

DENNIS J. KUCINICH