

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

Committee Democrats will continue to fight for America's middle class during the second session of the 112th 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/cesbtbl1.htm>

fighters. 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/1797b93dd1ccd9e7d_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.

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