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Views and Estimates of the President's Fiscal Year 2008 Budget

March 1, 2007

The Honorable John M. Spratt, Jr.
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to transmit pursuant to Clause 4(f)(1) of Rule X, the views and estimates of the Committee on Rules together with Minority Views regarding the President's fiscal year 2008 budget.

Although the Committee on Rules does not have legislative jurisdiction over spending or revenues measures required for inclusion in a budget resolution pursuant to section 301(a) of the Congressional Budget Act of 1974, we do wish to go on record regarding the President's budget reform proposals contained in the Analytical Perspectives portion of the FY08 budget.

Earmark Reform

The Committee notes that the President's budget calls for earmark reform, something we fully support and have already taken action to address in the opening day rules package for the 110th House of Representatives. The practice of earmarking has exploded in the past decade. According to statistics collected by Brian Riedl of the Heritage Foundation, earmarks on appropriations bills alone increased nearly 1,000% between 1995 and 2005, from 1,439 earmarks in 1995 to 13,997 in 2005. While in the mid-1990s earmarks accounted for about \$10 billion in annual federal spending, they now total more than \$27 billion. (Brian Riedl, the Heritage Foundation, 'Federal Spending--By the Numbers,' 2/6/06, p. 10).

In addition to advocating a reduction in the number of earmarks and a reduction in the cost of funding earmarks, the Administration's budget says "One major concern about earmarks is the lack of transparency." The Committee fully concurs. New House rules changes enacted on January 5th of this year provide for comprehensive earmark disclosure as well as full disclosure of limited tax benefits and limited tariff benefits. Clause 9 of Rule XXI requires all committees of jurisdiction and conference committees to publish lists of the earmarks, limited tax benefits, and limited tariff benefits contained in all reported bills, unreported bills, manager's amendments, and conference reports that come to the House floor. These lists will be electronically available to the public either through committee reports or printing in the *Congressional Record*. If the Rules Committee attempts to waive this new requirement, an enforcement mechanism is available to provide the full House with a vote on consideration of the underlying legislation. Any Member may make a point of order against the consideration of any special rule that waives this requirement. If that Member can show that no list has been provided in the committee report, the statement of managers accompanying a conference report, or in the *Congressional Record*, the new rule triggers an automatic 20 minutes of debate followed by a vote on whether to consider the underlying measure that is in violation of said new rule. These new rules would also prohibit trading earmarks for votes and would require Members to certify that they (and their spouses) have no personal financial interest in their earmark requests. The Committee believes these changes will help ensure that no earmarks can slip through the legislative process unnoticed. It is also the Committee's belief that transparency will help reduce the number of earmarks as well.

Line Item Veto

While the Committee understands that the President would like Congress to provide him with the authority to strike individual spending items with which he disagrees, the Committee does not believe that enactment of a line item veto authority for the executive branch is the appropriate approach to reducing wasteful and unnecessary spending. Section 8 of Article I of the Constitution grants to the Legislative Branch of government the "Power to lay and collect Taxes, Duties, Imports and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States." The constitution also provides in Section 9 of Article I that "no Money shall be drawn from the Treasury but in consequence of Appropriations made by Law" providing Congress with the powers of the purse. It is this grant of power which enables the Legislative Branch to set the spending priorities of the United States Government. Article II grants the President, or the Executive Branch, the authority to carry out the laws. Congress clearly has the responsibility and the duty to develop and enact legislation that meets the needs of the nation but also that which is respectful of the nation's taxpayers and therefore is fiscally responsible. And, while the President certainly plays a role in the effort to spend taxpayer dollars wisely, he does not have the constitutional authority to micromanage individual programs and services contained in comprehensive funding legislation.

The Constitution already provides veto authority for the President for legislation initiatives sent to him by Congress. If the President disagrees with provisions contained in any piece of legislation delivered to his desk, a stroke of his pen will send the legislation back to the legislative branch. His veto message is the vehicle to

inform Congress of the offending provision or provisions contained in the legislation. That alone sends a powerful message to the Congress who can then decide whether or not to strike the language and return a new bill to the White House.

Stricter Standard for Emergency Designation in the BEA

The Administration proposes a number of changes in the Budget Enforcement Act's (BEA) process for emergency designation of certain spending. The Committee shares the Administration's desire that any spending legislation that is deemed an emergency and therefore exempt from budget enforcement mechanisms should truly be a bonafide emergency and not a vehicle for inclusion of non-emergency items simply to circumvent discretionary spending caps.

The Administration proposals include a definition of an "emergency requirement" that would codify a number of criteria that must be met in order for an expenditure to be considered an emergency and therefore exempt from budgetary requirements. They also propose that "the President and the Congress must concur in designating an emergency for each spending proposal covered by a designation." While in a perfect world the White House and the Congress would easily agree on what constitutes an emergency spending situation, in reality requiring such an agreement would likely be more difficult. Emergencies are just that and cannot always wait for the two branches of government to be in total agreement before providing critically needed help. The President already has veto power over any emergency legislation that comes to his desk from Congress. If it contains provisions that the President does not consider to be true emergencies, once again he can return the measure to Congress.

Other Budget Reform Proposals

Joint Budget Resolution

The President proposes a joint vs. a concurrent resolution as the vehicle for the Congressional budget effectively granting the Administration with veto power over the Congressional Budget process. He argues that under the concurrent process there is no force of law. He further argues that with this force of law the President could have more influence on the budget process in the early stages. Again, while the House of Representatives certainly appreciates the views and other input from the White House in the Congressional budget process, the Constitution gives the Congress the power of the purse. Congress alone cannot fund any Federal programs or services unless they first go to the White House. The Congressional Budget Process does not by itself spend taxpayer dollars. It serves as a blueprint for Congress in the development of the appropriations process. Allowing veto authority by the President or other Presidential enforcement mechanisms of the Congressional budget process would be yet another abdication of Congressional power to the executive branch.

Biennial Budgeting & Appropriations

The Committee does not share the President's continued assertion that a biennial process for the budget and appropriations measures would be an improvement over the current annual process. The Committee believes that a biennial budgeting and appropriations system would erode spending control, weaken the role of the Legislative Branch in the budget process and impede Congress's ability to respond to emergencies. Despite the Administration's repeated push for biennial budgeting in its budget proposals, there has been little enthusiasm in the House for this change in the budget and appropriations process. In fact, biennial budgeting has been rejected twice by the House of Representatives. In the 106th Congress an amendment offered by then-Rules Chairman Dreier, would have established a biennial budget process under which the President would submit a 2-year budget, and Congress would consider a 2-year budget resolution and 13 2-year appropriations bills during the first session of a Congress. That amendment was defeated 201-217 (roll call #186). In the 108th Congress during consideration of H.R. 4663, the Spending Control Act of 2004, an amendment in the nature of a substitute offered by Rep. Hensarling included a provision allowing for biennial budgeting if President and Congress agree in advance. That amendment was defeated 96-317 (roll call #308).

Government Shutdown Prevention

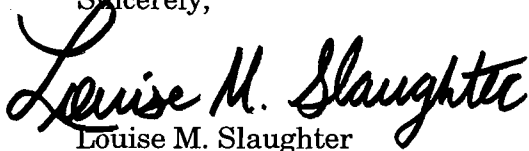
The President's plan to prevent a government shutdown in the absence of a completed appropriations process or stopgap continuing resolution is certainly a well-intended proposal and a laudable goal. No one wants to see a repeat of the disastrous 2-month long stalemate that shut down much of the Federal government in 1995 and 1996. It was one of the most irresponsible and shameful periods of this House in recent history. The lack of action on the part of the Congress was unforgivable and caused considerable economic hardship both in the government and the private sector as well. Under the Administration's proposal, if an appropriations bill is not signed into law by October 1st, the government would automatically continue to run under the lower of the previous year's funding level or the level in the President's Budget.

Unfortunately, however, the Committee believes this proposal would have the opposite result that the Administration intends. The need to avoid a shutdown of government services has always served as a forceful incentive to pass the appropriations bills or a continuing resolution in a timely manner. Because there are those who would always prefer to run the government on automatic pilot and at the lowest possible level, it could be even more difficult to pass the new appropriations' bills. Congress has not allowed a government shutdown for more than 10-years, due in large part to the harsh lessons learned from the fallout from the 95/96 debacle. One of the primary constitutional responsibilities of the Congress is to fund the government and keep it running. We need to move the appropriations bills in a responsible and timely manner that provides for their enactment by the beginning of the

new fiscal year or for a continuing resolution that keeps the government in business without interruption. Congress has generally taken this responsibility very seriously and we intend to continue our efforts to meet our constitutional duty by funding the government on time with the absolute minimal disruption possible.

The Members of this House were elected by the people of this great nation and entrusted with the authority to fund the government using their hard-earned taxpayer dollars. The Rules Committee is committed to working closely with the Budget Committee to ensure that the budget process in the upcoming year results in a Federal budget that is fair, fiscally responsible and still meets the needs of the American people.

Sincerely,

A handwritten signature in black ink that reads "Louise M. Slaughter". The signature is written in a cursive, flowing style with a large initial "L".

Louise M. Slaughter
Chairwoman

Minority Views

The Committee on Rules has no legislative jurisdiction over spending or revenue measures required for inclusion in a budget resolution pursuant to section 301(a) of the Congressional Budget Act of 1974, and therefore it is not necessary for the Committee to transmit its views and estimates pursuant to Clause 4(f)(1) of Rule X. However it is customary for the Committee on Rules to transmit, on occasion, its views pertaining to specific budget process proposals typically contained in the President's budget which either in whole or in part fall under the jurisdiction of the Committee on Rules.

The Republican Members of the Committee would like to congratulate Chairwoman Slaughter and the other Democratic members of the Committee for continuing the effort to reform the earmarking process in the House of Representatives. The arduous task began in the 109th Congress under the supervision of then Chairman Dreier. We were pleased to see that the provisions contained in H. Res. 6 pertaining to earmark reform were a natural progression of the reforms instituted by Republicans. We understand the challenges involved in taking on such reform and look forward to the Committee holding extensive hearings as to the progress and the implementation of the new rules.

While we understand the Democratic Majority's institutional concerns with the President's proposed legislative line item veto, we would hope that they would not completely rule out the possibility of a limited legislative line item veto being used to curb wasteful spending, particularly spending originating from the other body. While we have stated that we support the earmarking reforms instituted by the House, the Senate is yet to address this very troubling issue. Mr. Ryan of Wisconsin sponsored a Legislative Line Item proposal in the 109th Congress which passed the House by a vote of 247 to 172, with the support of both Republicans and Democrats. Mr. Ryan has again introduced a similar measure in the 110th Congress which enjoys bipartisan support. The benefits of a legislative line item veto would be judged on the amount of taxpayer dollars saved and in that light we would simply ask the Democratic Majority to keep an open mind to the concept.

On the issue of biennial budgeting we would like to courteously disagree with the Democratic Majority's assertions that implementing a two-year budget would erode spending control, weaken the role of the Legislative Branch in the budget process or impede Congress's ability to respond to emergencies. In fact, we believe it would do just the opposite by allowing Congress the ability to allocate its resources towards the managing and overseeing of Federal programs to ensure that taxpayer dollars are being allocated wisely and appropriately. Implementing a two year budget and appropriation cycle would significantly strengthen fiscal management. It is also worth mentioning that while proposals to implement biennial budgeting in the past have failed, they have done so by slim margins and in a very bipartisan fashion. On that same note, while the Majority's views state that Mr. Dreier's amendment in the 106th Congress only failed by

a vote of 201 to 217, Mr. Dreier's resolution, on biennial budgeting in the same Congress (H. Res. 396), enjoyed the bipartisan support of 244 original cosponsors. There is obviously a bipartisan desire to further examine the possibility of implementing a two-year budget and appropriations cycle which should not be out rightly dismissed by the Democratic Majority.

We would also like to take this opportunity to encourage the Majority to review the methodology used by the Congressional Budget Office (CBO) in scoring proposed legislation – a matter that has taken on new importance in light of the Majority's new commitment to so-called "Pay-go" rules. While we fundamentally disagree that tax cuts "cost" the government because tax revenue actually belongs to the public, not the government – there is an increasingly large body of quantitative data indicating that tax relief actually raises revenue for the government, not lowers it. For instance, the Joint Committee on Taxation forecast that 2003 capital gains tax cut would "cost" the Federal Treasury \$5.6 billion through fiscal year 2006. In reality, the federal treasury received an "unexpected" \$133 billion of capital gains tax collections through 2006 – a net error of \$138.6 billion. We believe that the method known as "dynamic scoring" better reflects the true economic consequences of tax relief, and encourage the Majority to direct the CBO to score future legislation accordingly so that the actual revenue forecast of future legislation can be more accurately assessed.

We applaud and congratulate the Democratic Majorities efforts to carry on Republican reforms such as earmarking and look forward to working with them on any issues they do deem appropriate for the Committee on Rules to consider as well as those proposals espoused by the President in his Fiscal Year 2008 budget.



David Dreier



Lincoln Diaz-Balart



Doc Hastings



Pete Sessions