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COMMITTEE ON THE BUDGET
U.S. HOUSE OF REPRESENTATIVES

VIEWS AND ESTIMATES

OF

COMMITTEES OF THE HOUSE

(With Additional and Minority Views)

ON THE

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2013

SUBMITTED PURSUANT TO SECTION 301(d) OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

APRIL 2012

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March 7, 2012

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

Dear Mr. Chairman:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 and clause 4(f) of House Rule X, we are providing below the recommendations of the Committee on Agriculture with respect to the suite of policies within the Committee's jurisdiction. The Committee on Agriculture appreciates this opportunity to share its views and estimates for the fiscal year 2013 budget cycle.

The Committee on Agriculture is dedicated to ensuring that the Federal government continues to promote policies and risk management tools that will keep American agriculture and rural communities strong and our citizens healthy and safe. We also know that this country continues to face a fiscal crisis that, if not addressed, will not only harm the agricultural sector and rural America but the country as a whole. The Committee on Agriculture has worked diligently over the past year to identify potential areas for deficit reduction and wants to be part of the solution as it develops the 2012 Farm Bill.

The Committee's main focus this year will be on reauthorizing the farm bill, which expires on September 30, 2012. Over the past year, the Committee held a series of eleven farm bill "audit" hearings of various policies under the Agriculture Committee's jurisdiction, including those relating to nutrition, commodities, conservation, crop insurance, trade promotion, rural development, credit, research, forestry, and energy. These audit hearings built on a series of eight farm bill field hearings held by Chairman Peterson in 2010. Combined, these hearings have helped to establish the framework with which the Committee will make decisions on which programs to prioritize and which programs need to be eliminated or consolidated. The Committee plans to finalize its farm bill preparation with a series of field hearings starting in early March followed by a series of hearings here in Washington D.C.

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Last fall, in response to the Budget Control Act of 2011 and acting in a bicameral, bipartisan fashion, we proposed $23 billion in net savings from programs under the Committee's jurisdiction. Those cuts included $15 billion from commodity programs, $6 billion from conservation programs, and $4 billion from nutrition programs. Expiring, unfunded livestock disaster programs would have been extended but fully paid for in recognition of the extreme drought conditions facing many livestock producers across the country.

At numerous hearings, both in the field and in D.C. the Committee heard loud and clear of the importance of the federal crop insurance program and how it must not be weakened, particularly since it has already experienced billions of dollars of cuts in recent years. Crop insurance, which is distinct from traditional farm policy, has become the cornerstone of risk management in agriculture for a great many producers. At one point last year, over 25% of the continental United States experienced severe to exceptional drought while many areas of the country were suffering devastating floods. While improvements to crop insurance can and will be made, these events are plainly beyond the control of producers and helping them manage these risks in a fiscally responsible manner is of vital importance.

One area of consensus that seems to be forming is to simplify and improve conservation programs. With the continued concerns that many of our producers have with environmental regulations, we believe it is vitally important to streamline many of our conservation programs that are designed to help producers avoid regulation or come into compliance. The Committee will build upon the good work from last fall to ensure that conservation programs are being administered as efficiently as possible under current fiscal and regulatory conditions.

The Committee believes the best way to achieve deficit reduction across all programs under the Committee's jurisdiction is to reauthorize the farm bill with sustainable and fiscally responsible reforms. This goal is vitally important since Congress was unable to achieve targeted spending reductions through the Joint Select Committee on Deficit Reduction. As a result, most mandatory programs within the Committee's jurisdiction will be subject to sequestration beginning in January 2013. Using the Congressional Budget Office's (CBO's) government-wide estimates, we expect that mandatory programs under the Committee's jurisdiction will be sequestered between $10 billion and $15 billion, depending on directives from the Office of Management and Budget.

We would also expect that discretionary appropriations authorized by the Committee—including agricultural research programs that are vital to feeding a burgeoning population—would be reduced even further as part of the Budget Control Act's reduced limits on discretionary spending. To offset these reduced limits, appropriators likely will impose even further annual spending limits on the Agriculture Committee's mandatory spending programs through the use of CHIMPS (Changes in Mandatory Program Spending), which they have done repeatedly over the last several years. These CHIMPS come at the expense of the Committee and its ability to fund its mandatory spending programs.

The largest program under the Committee's jurisdiction—the Supplemental Nutrition Assistance Program (SNAP)—is exempt from sequestration. SNAP is the part of the agriculture budget that has seen the most dramatic increases, with SNAP spending tripling over the last ten years. Given the economic downturn and high unemployment which has left many Americans with few options, an increase in nutrition assistance spending is to be expected. In fact, in 2001 there were 17.3 million SNAP (called Food Stamps at the time) recipients. That figure rose to 23.8 million in 2004, 28.2 million in 2008 and stands now at 44.7 million recipients for 2011, accounting for $700 billion.

The Committee looks forward to continued hearings and input from Members to achieve the most fiscally responsible Farm Bill. Every title and policy area will be examined to ensure greater efficiencies, avoid duplication, and streamline wherever necessary.

Beyond the $23 billion in savings proposed by us in response to the Budget Control Act, the Committee believes it is important to note the budget reductions that programs under our jurisdiction have experienced both recently and over the past several years. For example, the renegotiation of the Standard Reinsurance Agreement reduced the CBO baseline for agriculture by more than $6 billion. In contrast to many other mandatory funding policies, spending on farm policy has declined significantly. It is also important to note the traditional Title I commodity policies have come in under their projected CBO budgets by an average of $1.3 billion per year since 2002.

Another way to reduce the deficit is to grow the economy. To that end, the Committee will continue its oversight of regulations that affect jobs and the economies of rural communities. Continued oversight of the Commodity Futures Trading Commission (CFTC)—particularly in light of the MF Global bankruptcy and the CFTC's implementation of the Dodd–Frank Wall Street Reform and Consumer Protection Act—is of particular importance. In addition, regulatory overreach may adversely affect production agriculture and the communities and businesses they support. In general, regulations appear to be promulgated in spite of potential negative real-world economic consequences that could undermine U.S. producers' ability to produce the world's safest, most abundant, most affordable food and fiber supply in the world.

Some may argue that the current agricultural economy and farm prices are strong and, therefore, now would be a good time to cut our agriculture policies even further. But this conclusion ignores lessons from history. The agriculture economy is highly cyclical. When record-high prices fall—which they inevitably will do—having sound farm policy in place is vital not just for producers but for the entire national economy and has proven time and again to be the most fiscally responsible approach. Recent high prices have not made the family enterprises that make up our farm sector any less vulnerable—indeed it has just raised the stakes in what is still an exceptionally costly, risky business.

It bears mentioning that during some of the worst economic times in the last fifty years, production agriculture served as a catalyst for economic growth. Last year alone, U.S. farmers and ranchers produced $410 billion of goods after spending $227 billion to purchase inputs, made $65 billion in rent payments, paid $24 billion in wages to employees, and spent $15 billion in interest and financing. While agriculture would be the 25th largest economy based on the value of goods produced alone if it were its own country, the farm safety net now constitutes less than one quarter of one percent of the federal budget.

Recognizing the dire fiscal situation this country is in, we developed a bipartisan farm bill proposal last fall that would have contributed substantially to deficit reduction while simultaneously reforming policies and providing risk management tools for the nation's agricultural producers. That process, along with the audit hearings, field hearings, and hearings here in D.C. have given the Committee the information needed to write a farm bill that is more efficient and streamlined and that consolidates duplicative policies.

We are grateful for your consideration of the views we have presented and look forward to providing assistance in preparation of a responsible budget resolution.

Sincerely,

Frank D. Lucas
Frank D. Lucas
Chairman

Collin C. Peterson
Ranking Minority Member

Congress of the United States
Washington, DC 20515

March 9, 2011

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

The Honorable Chris Van Hollen
Ranking Member
Committee on the Budget
B-71 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Van Hollen,

As Members of the Committee on Agriculture, we write to provide additional views to the Committee's Views and Estimates that were considered and adopted by the Committee on March 7, 2012. We appreciate the opportunity to provide these additional views.

We recognize the fiscal challenges facing our nation and the need to focus on long-term solutions to reducing the nation's deficit. However, much has changed since the Agriculture Committee submitted Views and Estimates last year. Most importantly, the enactment of the Budget Control Act requires automatic cuts to a variety of federal programs if an agreement on budget reduction measures is not enacted by the end of the 112th Congress. While these automatic cuts totaling $1.2 trillion will touch almost every federal program, it is important to note the majority of the programs slated to be cut do not fall within the Agriculture Committee's jurisdiction. It is also important to note that the Supplemental Nutrition Program (SNAP) is exempted from sequestration under the Budget Control Act.

We are pleased that the Committee's Views and Estimates rightfully recognize the increase in SNAP participation and spending over the past few years was due to the economic downturn and high unemployment. We are also pleased that the Views and Estimates correctly points out that SNAP is indeed exempt from sequestration. We believe the facts show the importance of SNAP to our economy and to the people who rely on this important program.

As the Committee on Budget begins work on the Fiscal Year 2013 budget resolution, we hope you will consider all of the programs that fall within the jurisdiction of the Committee on Agriculture, including the need for and the fiscal impact of these programs. Singling out SNAP for cuts, whether for deficit reduction or not, is not only bad policy, it is harmful to our economy and to those who rely on SNAP for assistance with feeding their families during difficult economic times. Deficit reduction should not result in increased hunger and poverty and we believe that any budget framework the Committee on Budget pursues should incorporate the basic principle of improving our budget outlook while protecting our most vulnerable citizens from harm.

We continue to believe that we can achieve sensible deficit reduction without cutting programs that support our most vulnerable Americans. While the concept of shared sacrifice is understandable during these difficult economic times, one cannot overlook the facts surrounding poverty and hunger in America. Specifically, SNAP is one of the most efficiently run federal programs. SNAP's error rate is not only at an all-time low; it is among the lowest – if not the lowest – error rate among any federal program. SNAP's payment error rate was 3.81% in 2010, the most recent data available. In fact, only 3% of all SNAP benefits represented overpayments, meaning they either went to ineligible households or that eligible households received a higher benefit than they should have received, and less than 2% of all SNAP benefits went to ineligible people. In other words, more than 98% of the benefits went to people who are eligible for the program. Payment errors have been cut in half over the past ten years and improper payments were reduced by $2.7 billion in 2009. Additionally, SNAP trafficking has been reduced from four percent down to one percent over the past 15 years.

Despite the fact that SNAP is one of the most efficient federal programs and the fact that SNAP participation has increased precisely because of the historic economic downturn, we know that SNAP is a target to be cut in the upcoming budget process. We only have to look at last year's budget resolution for proof. The Fiscal Year 2012 budget resolution that was passed by the House last year included a $127 billion cut to SNAP. Chairman Lucas and Ranking Member Peterson developed a proposal during the supercommittee process that would have cut SNAP by $4 billion, a cut that pales in comparison to the FY 2012 budget resolution but a cut that would have led to fewer benefits for low-income families who are currently on SNAP. Simply, cuts to SNAP are cuts in benefits. Cuts to SNAP will reduce the amount and quality of food available to the most vulnerable people in America. We are concerned that cuts to SNAP could be included in the Fiscal Year 2013 budget resolution, and we believe the Fiscal Year 2013 budget resolution should not include these cuts. Rather, we believe this is a matter best left to the Committee on Agriculture, the committee of jurisdiction on these issues.

Thank you for your attention to these additional views. We look forward to working with you and with the Members of the Committee on Budget on these important issues.

Sincerely,

James P. McGovern
Member of Congress

Peter Welch
Member of Congress

Chellie Pingree
Member of Congress

Gregorio Sablan
Member of Congress

David Scott
Member of Congress

Joe Baca
Member of Congress

Marcia Fudge
Member of Congress

Joe Courtney
Member of Congress

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COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515–6035

ONE HUNDRED TWELFTH CONGRESS

March 9, 2012

The Honorable Paul Ryan
Chairman, Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to section 301(d) of the Congressional Budget Act of 1974, and clause 4(f) of rule X of the Rules of the House of Representatives, we are forwarding to you our views regarding the National Defense Budget Function (050) for fiscal year 2013 (FY13).

Budget Overview

The President's FY13 budget requests $550.6 billion in discretionary budget authority for national defense. Of this total, $525.4 billion is for the Department of Defense (DOD), $17.8 billion is for the Department of Energy's defense activities, and $7.4 billion is for other defense-related activities. The President's budget also includes $8.3 billion in mandatory budget authority.

In addition to the base budget request, as required by Section 1008 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364), the President's budget for FY13 includes a separate request of $88.5 billion for war-related expenditures in support of ongoing military operations in Afghanistan, presented again this fiscal year as Overseas Contingency Operations (OCO).

The DOD's $525.4 billion base budget is presented as "a transition from an emphasis on today's wars to preparing for future challenges while protecting the broad range of U.S. national security interests, advancing the Department's efforts to rebalance and reform, and supporting the national security imperative of deficit reduction through reduced defense spending". In the aggregate, the Department's budget submission for FY13 is $5.2 billion below the FY12 appropriation, $27.6 billion below the FY12 budget request, and $45.3 billion or 8% below the FY13 position in last year's Future Years Defense Program (FYDP).

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Strategic Implications of the Current Budget Request

DOD explains that in January, 2012, the Department published two papers detailing its strategy and budget. The first paper, "Sustaining U.S. Global Leadership; Priorities for the 21st Century Defense," outlines the new defense strategy that has been approved by the President. The second paper, "Defense Budget Priorities and Choices," shows how the strategy translated into the major budget decisions presented in the President's FY13 budget plan for the Department of Defense. These two published documents provided the strategy for the Department's budget development of the FY13 request and the FYDP.

The new strategy is a departure from the most recent Quadrennial Defense Review, but the Administration views it as consistent with the last National Security Strategy. The Department seeks to retain the lessons learned from counterinsurgency operations, but not the force structure necessary to conduct such operations. The strategic guidance also seeks to size U.S. forces to allow them to prevail in one major contingency, while denying the objectives of an enemy or imposing unacceptable costs on that enemy in another theater. Both approaches are a departure from prior strategic guidance of maintaining the capacity to fight and win two nearly simultaneous major regional conflicts. In an effort to ensure that DOD will be capable of adjusting course and rebuilding capacity and capabilities that are being given up, the Department has sought to maintain "reversibility" as key tenet of the strategy.

The committee does not share the Department's optimism on the fulfillment of all strategic priorities as identified above. The committee feels that the development of the Department's strategic priorities was financially constrained by the President's April 2011 call for continued reductions to the budget. Because of this fiscal limitation, the Department was forced to make programmatic decisions that were not in the best interest of the security of our Nation. Defense Secretary Leon Panetta affirmed in testimony to the committee that the strategy was developed within the constraints of the Budget Control Act[1]. Unfortunately, this is a "Budget-driven Strategy" rather than a "Strategy-driven Budget."

Shortfalls in the Current Budget Request

This committee believes that the 050 budget category requires an increase to the current budget request to support critical shortfalls and underestimates economic assumptions within the President's request. A significant number of program reductions could be restored and readiness risks mitigated, as discussed below, if the National Defense Budget Function received an increase in budget authority above the current President's Budget submission levels within the Budget Resolution. We would like to bring the following program areas to your attention.

[1] Hearing of the House Committee on Armed Services. "Fiscal Year 2013 National Defense Authorization Budget Request from the Department of Defense." (2/15/2012)

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Military Manpower

The Army budget submission for FY13 supports an end strength of 552,100 soldiers and a plan across the FYDP to reduce between 10,000 and 17,000 per fiscal year to minimize the impact on current efforts in Afghanistan and the Services' attempt to keep faith within the force. The end state for the Army is 490,000 by the end of FY17. The Marine Corps plans to reduce no more than 5,000 Marines per year, beginning in FY13 with a reduction of 4,800. The Marine Corps believes they can execute this reduction from 202,100 to 182,100 through normal attrition.

A particular concern to the committee is the Administration's request to fund additional end strength (personnel levels above the FY17 end state) for the Army (49,700) and Marine Corps (15,200) in the OCO beginning in FY13. If the Administration also decides to accelerate troop withdrawals in Afghanistan, as has been speculated, OCO funding could be dramatically reduced going forward. This would force the Army and Marine Corps to accelerate manpower reductions or fund the personnel from other accounts which will most certainly break faith with the all volunteer force, a key imperative to the Departments force structure plan and one this committee believes is critical. Therefore, **the committee strongly supports the funding for the Army and Marine Corps end strength above the FY17 end state levels be included in the base budget,** regardless of the Administration's view that it is non-enduring and war- related.

One of the challenges associated with a drawdown of military forces is providing the military services the tools they need to maximize the use of voluntary separations and retirements. When force reductions rely on involuntary initiatives, the perceived betrayal of trust results in residual resentment within the force that affects long term recruiting and retention. There are two initiatives that encourage the use of voluntary retirement as a force reduction tool. The committee ask that additional mandatory spending offsets be allocated to expand retirement options for officers as they approach the end of their careers.

Additionally, the committee is concerned with the significant increases in TRICARE fees proposed by the Administration. Secretary Panetta testified to the Committee on the Budget the following regarding TRICARE..."[W]hat we've done in TRICARE is basically provided fee increases for those that are covered by TRICARE...I've got to do something to try to control those costs and this was one of the ways we thought made sense."[2]. This is incorrect. Increasing fees merely funds the increased costs, not controls them. Much like Obamacare, the Administration's request simply passes costs to others instead of reducing costs from within the system. The committee would welcome initiatives that effectively bring down the costs associated with the health care of our servicemembers and their families. After ten years of war, our troops have endured enormous stresses, hardships, and consequences from their wartime service. They should not have to return home to such significant near-term increases in healthcare costs for their families.

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[2] Hearing of the House Committee on the Budget. "The Department of Defense and the FY13 Budget." (2/29/2012)

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Navy Ship Shortfall

The FY13 budget request for Shipbuilding and Construction, Navy is $13.6 billion, down from $14.9 billion requested, authorized, and appropriated in FY12. The request is for construction starts for 10 new ships in fiscal year 2013. In the FYDP, the request forecasts construction starts for 41 ships. In the forecast received with the FY12 budget request for the same period was for construction starts for 57 ships. This is a decrease of 16 ships over the FYDP.

In addition to 16 fewer new ship construction starts, the Navy also announced with the request that it intended to retire seven cruisers and two amphibious ships within the FYDP before the end of their service lives. Years ago, the Navy established a floor of 313 ships to meet its assigned tasking. The Navy began a new strategic assessment, and just last year it was reported that 313 would most likely climb to 324. This new strategic assessment has not yet been delivered to the committee. Today the Navy has 285 ships, and with fewer new construction starts than planned and early retirements, the Navy will still be at 285 ships at the end of the FYDP – prevented from going lower only because of new deliveries of ships that have already been paid for in previous years. This shortfall is of particular concern of the committee with the shift in strategy to the Pacific region, an area where the Navy is particularly necessary.

Navy Strike Fighter Forecasted Shortfall

The Department of the Navy's (DON) validated strike fighter inventory requirement to support the current National Defense Strategy in the most stressing combat scenarios, training and testing activities is 1,240 aircraft, 820 are of which in the Navy and 420 are in the Marine Corps. For wartime planning, the DON has a validated requirement for 10 aircraft carrier air wings (CVW) containing 50 strike fighter aircraft each, manned by squadrons from both the Navy and the Marine Corps. However, due to budgetary constraints, the DON maintains a wartime planning force structure of 44 strike-fighters per CVW, but only provides the necessary resources to maintain each at approximately 39, due to efficiencies (what the Navy terms as "productive ratio") that are achieved through aircraft sharing amongst Navy CVWs.

Based upon information provided by Navy officials to committee staff on February 24, 2012, the Navy anticipates a shortfall of about 56 aircraft in the 2025 timeframe. Recent delays in the F-35 program have required the Navy to procure an additional 41 F/A-18E/F aircraft and to extend the life of 150 F/A-18A, B, C and D aircraft from 8,000 to 10,000 hours. The shortfall began manifesting early in the last decade from the following: a fiscal year 2002 strike fighter inventory reduction from 548 to 460 F/A-18A through D aircraft; a program reduction from 1089 to 680 for the F-35B/C Joint Strike Fighter (JSF) aircraft; F-35B/C development delays in fiscal year 2005 that caused a 15 month setback to the F-35B, and a 39 month setback to the F-35C initial operation capability declaration dates; F/A-18A-D "legacy" Hornet aircraft reaching forecasted service life limits sooner based on higher than planned for utilization rates; an inventory reduction of AV-8B Harrier aircraft reaching their sooner than expected service life limits and a higher than expected attrition rate; due to the January, 2010, restructuring of the troubled JSF program; and most recently from further development and procurement delays resulting from the recent JSF technical baseline review.

Air Force Strike Fighter Forecasted Shortfall

The Air Force operates a strike fighter fleet of F-22, F-15, F-16, and A-10 aircraft.

The Department of the Air Force strike fighter requirement is a decrease of 100 aircraft from last year when the fiscal year 2012 budget was submitted. The Air Force considers this current force structure at increased risk compared to last year. The Air Force's strike fighter inventory requirement to support the current National Defense Strategy in the most stressing combat scenarios, at moderate risk, is 1900 aircraft, of which, 1100 are primary mission aircraft and 800 are for test, training, back up aircraft inventory, and attrition reserve. The Air Force believes that targeted actions are required to address capability and capacity gaps which include F-22 modernization, F-35 acquisition, legacy service life extension program and modernization and investments in preferred weapons capabilities.

Based upon information provided by Air Force officials to committee staff on February 27, 2012, the Air Force does not anticipate a shortfall of tactical fighter aircraft through 2030. Since last year, the Air Force has determined that the useful life of its F-15C, F-15E, and F-16 block 40 and block 50 fleets can be extended longer than planned last year. Additionally, the Air Force plans to fund a service life extension program (SLEP) for 300 to 350 F-16 blocks 40 and 50 aircraft so that those aircraft can also be operated to 10,000 hours. The Air Force believes that the structural sustainment program for F-16 blocks 25 to 32 and the SLEP for F-16 blocks 40 and 50 aircraft can meet tactical fighter inventory requirements before the F-35A can be produced in numbers to eventually replace these aircraft. The Air Force is concerned about a strike fighter capability gap and believes that F-22 modernization and F-35 acquisition are essential to close the fifth generation capability gap which would enable strike fighter operations in the most stressing integrated air defense environments. Additional F-35 production and development schedule delays would increase the Air Force's capacity and capability risks.

Air Force and Navy Reductions in Procurement of Air-to-Air Missiles

The Air Force budget request includes $229.6 million for procurement of 113 Air Intercept Missiles (AIM)-120Ds, a reduction of $235.2 million and 250 missiles from that planned last year when the fiscal year 2012 budget was submitted. Similarly, the Navy budget request includes $102.7 million for procurement of 67 AIM-120D missiles, a reduction of $125.2 million and 143 missiles than planned when the fiscal year 2012 budget request was submitted. Air Force AIM-120D reductions from fiscal years 2013 to 2016 total $423.5 million and 598 missiles, while Navy reductions from fiscal years 2013 to 2016 total $356.6 million and 497 missiles. The Air Force attributes these reductions as those to support higher Department of Defense priorities, while the Navy considers these reductions the result of programmatic adjustments and internal Department of the Navy reprogramming. As a key preferred munition, the Air Force considers AIM-120D procurement essential to mitigating risk in its reduced strike fighter inventory.

The Honorable Paul Ryan
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Air Force Aviation Capabilities

The Air Force has proposed to reduce its overall force structure but retain the current readiness of remaining assets. This force structure reduction will undoubtedly reduce the forces available to the combatant commanders to support future contingency efforts. Overall, the Air Force proposes to retire 227 aircraft in fiscal year 2013 and 59 aircraft in 2014-17. This proposal is expected to provide $8.9 billion in overall savings in the FYDP.

Readiness of our Armed Forces

While deployed Army forces in most cases have the equipment, personnel, and training they require for their missions, this deployed readiness over the last 10 years has come largely at the expense of non-deployed Army units. While FY12 saw improvements in non-deployed unit readiness, including equipment availability and condition, personnel, and training, there are still shortfalls in several areas, especially within the Guard and Reserve components to include training and equipment shortfalls. The overall FY13 budget request consists of $76 billion (base and OCO) for the active Army Operation and Maintenance (O&M) accounts, a $7.2 billion or 9.4% decrement from FY12 appropriated levels. Within this total, the active duty Army request includes $65.2 billion, the Army Reserve $3.3 billion, and Army National Guard $7.5 billion. These budgetary reductions impact several key areas of Army readiness to include a 13%, or $1.8 billion, reduction in depot maintenance funding thereby reducing the number of aircraft, communications systems, and combat vehicles undergoing needed repairs. The budget also cuts more than $155 million for maneuver unit combined arms training at the same time more units are returning to home station and are experiencing increased training requirements.

The Department of the Navy's O&M budget request for FY13 reflects a $2.7 billion increase from FY12. However, there are still known shortfalls. For example, the aircraft depot maintenance account has a shortfall of approximately $75 million which results in a backlog of 74 airframes and 170 engines. Additionally, the FY13 O&M request does not reflect an additional $217 million of deferred ship maintenance from FY12, and a backlog of 22 airframes and 148 engines. The O&M nominal growth from FY12 to FY13 is approximately 9%. After adjusting for the $1.0 billion congressional transfer from the base budget to OCO, the nominal growth rate is 6%. The remaining program growth is primarily due to a one-time increase of approximately $857.3 million in FY13 depot maintenance associated with the deactivation of the USS *Enterprise*.

The top line for Marine Corps O&M funding for the active-duty Marine Corps increased by $968.5 million to $10.0 billion, up from the $9.1 billion FY12 appropriated level. The request, however, does not support the continued operation of MPSRON-1, located in the Mediterranean Sea, in compliance with the Fiscal Year 2012 National Defense Authorization Act (Public Law 112-81) which prohibited the placement of MPSRON-1 into a reduced operating status (ROS) in Florida until the Secretary of Defense, the Chief of Naval Operations, and the Commandant of the Marine Corps assesses and report to the Congress on any impacts to military readiness for placing a MPSRON on reduced operating status. Instead, the budget assumes that MPSRON-1 would be placed in a reserve status beyond ROS (called Ready Reserve Force status), further increasing its response time in support of a contingency.

The request for Air Force O&M reflects a programmatic decrease of 2% as compared to the budget from the FY12 request. The base budget funds weapons system sustainment and depot maintenance at only 73%. Detrimental effects on equipment as a result of high operations tempo include engine and structural fatigue, deterioration, corrosion, and increased rates of component failures. The funding reduction from FY12 levels will undoubtedly result in lower standards of service, to include such services as police, fire, chaplain and other community support for airmen and their families. Like the other services, the Air Force will defer facilities, sustainment, restoration and maintenance, leading to sub-optimal living quarters and base operations. Finally, with the continued aging of the Air Force aviation force structure and the associated aircraft maintenance, the mission capable rates for aircraft continue to trend negatively. The Air Force measures the availability of their aircraft as a key performance indicator. Currently, the active forces' mission capable rate is 75%. The Air National Guard mission capable rate is 65% and the Air Force Reserve mission capable rate is 72%.

Army Industrial Base

From a modernization perspective the FY13 budget request continues to fund the 13th Combat Aviation Brigade, but outyear funding appears to slow down the actual stand up date of the Brigade. Procurement of tactical wheeled vehicles is significantly reduced as a result of end strength and force structure reductions. From an industrial base perspective, all combat and tactical wheeled vehicle programs will begin ramping down production starting in 2013 and 2014. Given other future modernization programs such as the Ground Combat Vehicle and the Joint Light Tactical Vehicle are not scheduled to enter into full rate production until approximately 2017 or beyond there are concerns of a potential gap in sustaining a viable and responsive industrial base and what the impact will be at the vendor level.

Army Brigade Combat Team Industrial Base

The Brigade Combat Team (BCT) is the basic deployable unit of maneuver in the Army. The Army has three types of BCT's: Infantry (I), Stryker (S), and Heavy (H). The HBCT is the Army's only full-spectrum force. It is designed around combined arms battalions that contain both M1 Abrams tanks and M2 Bradley infantry fighting vehicles. The Army has already announced that under the 2012 defense strategic guidance it will eliminate at least two HBCTs, and will likely eliminate more. The committee has seen no analysis that shows what mix of BCTs the Army will need to meet the strategic guidance. Congress authorized and appropriated additional funds in FY12 to sustain the industrial base through FY13. The fiscal year 2013 budget request does not include adequate funding to sustain the BCT industrial base and it will begin to shut down by the end of 2013 at the prime contractor level and sooner at the vendor base level. Given that other modernization programs such as the Ground Combat Vehicle, Stryker modernization, Abrams upgrades and Paladin upgrades are not scheduled to enter production until approximately 2017 or beyond, there are concerns of a gap in sustaining a viable industrial base and what the impact will be at the vendor level.

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Based on a quick-look analysis the Army believes it is more cost effective to let the production lines go cold for three to four years and to reinvest in start up costs at a later date than it would be to keep the lines warm. However, the preliminary report did not consider a number of factors such as cost increases to other programs because of rate impacts and impacts to the supplier base. The Army is in the process of conducting a more comprehensive analysis that should address the concerns that the committee has. There is potential for Foreign Military Sales (FMS) to help mitigate the impact to the industrial base, but it is unclear at this time how much FMS will help. The committee believes the industrial base will need approximately $400 million in additional fiscal year 2013 funds in order to sustain this critical industrial base through 2014 which will give the Army additional time to fully understand the ramifications of a complete shut down and possible FMS mitigation strategies.

National Guard and Reserve Component Equipment Modernization

The National Guard and Reserve Components are no longer considered a "strategic reserve," rather they are now considered to be an "operational" reserve. The specific amount of resources, including equipment, needed to adequately sustain the National Guard and Reserve Component's new operational reserve status remains a concern because of the fiscal environment, especially given the dual mission responsibility of the National Guard and Reserve Components, in particular the National Guard. The National Guard and Reserve Components still have significant equipment shortages in modernized equipment, specifically in rotorcraft and the tactical wheeled vehicle fleet. Over the past eight years, National Guard and Reserve Component equipment procurement averaged $7.0 billion annually. The FY13 request is $3.1 billion; a 44% reduction from FY12 enacted levels. Across the FYDP, procurement is expected to average $3.8 billion annually, a significant reduction from previous year requests. National Guard and Reserve Component equipment modernization is not funded to 100% of what they believe their requirements to be, and they are expected to have unfunded requirements in FY13. For example, the Army National Guard will require additional funding over the next 10 years for tactical wheeled vehicles and aviation systems of $500.0 million and $1.3 billion respectively. The Air National Guard equipment modernization shortfall is $1.4 billion over the next 10 years.

Missile Defense

National missile defense has been reduced every year since FY09. The FY09 budget request included $1.5 billion for national missile defense, the ground-based midcourse defense system. However, the budget request for FY13 seeks only $900 million, which is $260 million less than the FY12 request, and $600 million below the FY09 request. Yet, the nuclear and missile programs of Iran and North Korea have continued to expand. Former Defense Secretary Robert Gates referenced a potential new North Korean mobile Intercontinental Ballistic Missile in June, 2011, at the Shangri La conference:

"with the continued development of long-range missiles and potentially a road-mobile intercontinental ballistic missile and their continued development of nuclear weapons, North Korea is in the process of becoming a direct threat to the United States."[3]

A road mobile intercontinental ballistic missile would be a profound leap forward in North Korea's ballistic missile technology. In addition, China has fielded a "carrier killer" ballistic missile, which, according to press reports, the Navy does not have the money to test defenses against.

The committee is concerned with the lack of support for the missile defense of the United States. The current missile defense policy should be reevaluated, and national missile defense should be adequately funded.

Modernization of Nuclear Weapons, Forces, and Supporting Infrastructure

Our Nation's nuclear weapons are perhaps the ultimate guarantor of U.S. security; NATO calls them "the supreme guarantee of the security of the Allies." Every day, U.S. nuclear weapons provide a deterrent to would-be aggressors, assure the over 30 allies and partners that rely on U.S. extended deterrence, and prevent cascades of dangerous and unpredictable nuclear proliferation.

In December 2010, the Senate ratified the New START nuclear arms control treaty with Russia. To win ratification, the President made a series of commitments to modernize the Nation's aging nuclear weapons stockpile, delivery systems, and supporting infrastructure. In a December, 2010, letter to several Senators the President said, "I recognize that nuclear modernization requires investment for the long-term...that is my commitment to the Congress—that my administration will pursue these programs and capabilities for as long as I am president." These promises, coupled with Administration policy documents such as the 2010 Nuclear Posture Review and statements by senior Administration officials, clearly and explicitly linked reductions in the U.S. nuclear arsenal with nuclear modernization efforts. In a report to Congress mandated by section 1251 of the Fiscal Year 2010 National Defense Authorization Act (Public Law 111-84), the President committed to a robust funding profile over the subsequent 10 years to execute the critically-needed modernization plan.

With the FY13 budget request, the President has reneged on these promises in only the second year of the original 10 year plan. In particular, the President's request for the National Nuclear Security Administration (NNSA) is $372 million less than that promised in the "Section 1251" plan. This decrease includes at least a five-year deferment of construction of the Chemistry and Metallurgy Research Replacement (CMRR) building in New Mexico, a critical plutonium science facility that the President specifically promised to build to replace the current 60-year old building. The existing facility is one of several that the bipartisan 2009 Strategic

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[3] Remarks by Secretary Gates at the Shangri-La Dialogue, International Institute for Strategic Studies, Singapore. June 3, 2011.

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Posture Commission called "decrepit" and is critical to maintaining a safe, secure, reliable, and credible nuclear deterrent.

Additionally, the budget request for NNSA and DOD would delay procurement of new ballistic missile submarines by two years—potentially impacting the Navy's ability to ensure continuous at sea deterrence patrols in the late-2020s, delay development of a follow-on nuclear cruise missile, delay production of a life-extended B61 nuclear gravity bomb, and slow production of a life-extended W76 nuclear warhead.

The committee is deeply concerned by these cuts and their impact on the safety, security, reliability, and credibility of our nuclear deterrent as the Administration begins to implement reductions in U.S. nuclear forces to comply with New START, to say nothing of the reported 80% reductions in nuclear forces President Obama may now be seeking in a White House-led review of the nation's nuclear war plan. We believe any further reductions of U.S. nuclear weapons can only be in the national security interest of the United States if the President's promises regarding nuclear weapons modernization are requested and appropriated. Such funding is necessary, but not necessarily sufficient, to justify any further reductions.

General Reductions to the Budget

Of the $259 billion in reductions identified over the FYDP, $61 billion is attributed to a category called "more disciplined use of our resources". Within this category the committee would anticipate detailed analyses of major program initiatives to reduce current and future obligations while maintaining sufficient support for the warfighter. However, the category is littered with short-term adjustments that either reduce the readiness of the forces, or merely push expenses outside the 5-year FYDP yet remain within the 10-year fiscal constraints of the Budget Control Act of 2011. Significant reductions include:

- $10.1 billion for delaying MILCON projects, deferring training range revitalization projects, reducing facility restoration and modernization, and restructuring facility projects. This is a short-sighted attempt to provide a short-term fiscal solution while not accounting for long-term impacts of these decisions. The committee is concerned that the "reductions" in the FY13-17 timeframe have merely moved funding to the FY18-22 period, thereby not contributing to the overall $487 billion identified under the Budget Control Act of 2011. In addition, deferring restoration and modernization only increases future maintenance expenditures due to higher restoration projects, or ultimately the demolition and new construction of facilities.

- $5.3 billion for reduced Army installation support. Over the last few years, the Army has promised to streamline installation operations within the budget request, only to return to Congress during the year of execution to reprogram funds into these accounts. Significant shortfalls upwards of $1.5 billion within a single fiscal year have previously been identified by the Army. To state that services will be constrained without a detailed execution plan does not give the committee confidence that the reduced services can be realized.

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- $1.1 billion for rate reductions by Defense Working Capital Fund entities. By description, revolving funds should charge just enough to customers to cover current expenditures. By artificially reducing charges, higher rates will be required in future years to recover this one-year reduction of rates. This shortage of revenue will also cause these agencies to make short-term adjustments to their operations, again increasing expenses over the long-term. Finally, no changes have been made to account for possible fluctuations in fuel prices, so the possibility of fuel rate increases could damper current operations as the services make decisions to either reduce fuel purchases or adjust mission support in other operation and maintenance areas.

Oversight of Defense Financial Management Initiatives

The House Armed Services Committee Panel on Defense Financial Management and Auditability Reform was appointed in July, 2011, to carry out a comprehensive review of the Department of Defense's financial management system. The review was initiated to oversee the system's capacity for providing timely, reliable, and useful information for decision-making and reporting. It is imperative that the DOD has reliable information to manage its resources, especially as the Department absorbs $487 billion in budget cuts over the next decade. The Panel performed a six-month review, holding eight hearings and two briefings covering a broad range of issues in defense financial management. The Panel received comments from the Department and various stakeholder communities on the draft report prior to approving this final report on its findings and recommendations.

The Panel examined the DOD's Financial Improvement and Audit Readiness (FIAR) strategy and methodology; challenges in achieving FIAR objectives; financial management workforce competencies; and implementation efforts for Enterprise Resource Planning systems. A final report on the Panel's findings and recommendations was presented to the Full Committee on January 24, 2012, with 30 individual recommendations to the Department to ensure success of the FIAR plan.

Overview Summary

In summary, based on the extensive rationale provided above, the committee does not share the Department's enthusiasm that the current budget request fully supports the requirements necessary to tackle the security threats to our Nation. When developing a strategy that begins with a restriction on resources, as Secretary Gates eloquently put it, "that's math, not strategy". There are significant holes in this fiscally-driven strategy provided to Congress which could be rectified through a higher level of budget authority. For example, an increase of approximately $4 billion over 10 years would allow the Department to recover from the drastic low number of ships in the Navy by allowing for the full 30-year life of ships currently scheduled to retire in FY13 and FY14. Increasing funds by approximately $1.5 billion over the next few fiscal years will continue the operation of the industrial base for M1 Abrams and M2 Bradley as we await the arrival of the next generation of Ground Combat Vehicles.

The Honorable Paul Ryan
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Finally, the committee leaves you with further testimony from Defense leadership to the committee. In discussing the FY13 budget submission, Secretary Panetta stated:

"When you take a half a trillion dollars out of the defense budget, it comes with risk. We think they are acceptable risks. But, nevertheless, there are risks here. We are dealing with a smaller force. We are going to have to depend on the speedy mobilization. We are going to have to depend on new technologies. We are going to have to take care of troops coming home to make sure that they have jobs and have the support that they need."

Commenting on the FY13 budget impact on the Army, Chief of Staff General Ray Odierno told the House Committee on Armed Services:

"I think with the size of the force we have, we will be able to conduct combat operations. We will have the capability to do that. Where we have a little bit of risk is if it gets extended. So what we are not -- what we don't have is a force that could do long term stability operations over a long period of time. So if that occurs, we are going to have to relook growing the force again."[4]

In closing, we appreciate the opportunity to express these views on behalf of the Committee on Armed Services. We look forward to working with you and the members of the Committee on the Budget to construct a budget plan that reflects our commitment to meet emerging threats and secure our national defense. Because, as Secretary Panetta stated, "the world needs America to be a stabilizing global power."[5]

Sincerely,

Howard P. "Buck" McKeon

Howard P. "Buck" McKeon
Chairman

cc: The Honorable Chris Van Hollen

HPM:jas

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[4] Hearing of the House Committee on Armed Services. "Fiscal Year 2013 National Defense Authorization Budget Request from the Department of the Army." (2/17/2012)
[5] Hearing of the House Committee on the Budget. "The Department of Defense and the FY13 Budget." (2/29/2012)

COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515–6035

ONE HUNDRED TWELFTH CONGRESS

March 9, 2012

The Honorable Paul Ryan
Chairman, Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express views and estimates alternative to those submitted by Chairman McKeon in accordance with Section 301(d) of the Congressional Budget Act of 1974 and clause 4(f) of Rule X of the Rules of the House of Representatives, regarding the national defense budget function for fiscal year 2013 (FY13). There is no doubt that our country faces extensive national security challenges. I am committed to maximizing the military's preparedness for, and effectiveness in, meeting the full spectrum of present and future challenges, just as I am committed to the courageous men and women who sacrifice daily to make that effectiveness a reality through their service. We must ensure that we honor these commitments by fulfilling our duty to provide the Armed Forces with the proper resources, policies, and flexibilities to excel.

I am mindful, however, that the foundation of our national defense is a strong and vibrant economy. We continue to confront concerning economic conditions, deficit spending patterns, and exorbitant debt. A healthy economy is a national security priority, and budgeting in a tough economic climate demands diligence and decisiveness in making difficult choices and selecting tradeoffs. Our economic recovery requires a balanced approach to deficit reduction that combines revenue enhancements with greater fiscal discipline.

All national expenditures should be carefully evaluated for budgetary savings, and savings can certainly be realized within the defense budget. However, deficit-reduction goals cannot be effectuated through cuts alone. Revenues need to be increased. Moreover, shielding defense dollars from deficit-reduction efforts will only require other important federal spending priorities to shoulder disproportionate shares of the burden. That would be unacceptable. National security involves much more than defense; it includes prudent and meaningful investments in the workforce, infrastructure, education, health care, innovation, small business development, and many other facets of enduring national strength. We cannot afford to sacrifice any of these vital interests when budgeting for our future.

Consequently, I cannot advocate increasing the top-line allocation for the national defense budget function over the funding levels mandated by the Budget Control Act of 2011 (the BCA). The President's budget request sets responsible boundaries within which the Congress may activate savings without compromising military effectiveness. Spending more will not necessarily make us safer. We must invest wisely in national security.

The base budget request for FY13 contains approximately $550.6 billion in discretionary budget authority and roughly $8.3 billion in mandatory budget authority for the national defense budget function. Of the discretionary budget authority: $525.4 billion is apportioned to the Department of Defense (DOD) for military activities; $17.8 billion is allotted to the Department of Energy for atomic energy defense activities; and $7.4 billion is reserved for other defense-related activities. The President's budget request also includes $88.5 billion in discretionary budget authority to support continuing overseas contingency operations (OCO), conducted primarily in Afghanistan. The total amount requested for the national defense budget function for FY13 approximates $647.4 billion.

The President's budget request for the DOD FY13 base budget represents only a one-percent reduction (in nominal dollars) from the FY12 enacted level of $530.6 billion. Beyond FY13, the DOD's Future Years Defense Program projects defense base budgets either to grow or to keep pace with inflation over its remaining four fiscal years. Over the long term, the President's budget request slows the rate of predicted growth in the Pentagon's budget; it does not comprise a series of precipitous cuts.

The President's budget request offers the Congress a solid basis for cost-effective planning and fiscal decision-making. It offers ample support for current and future military requirements, and it provides a baseline from which additional savings may be derived as a result of close congressional scrutiny. Spending defense dollars wisely involves budgeting to sound military strategy, rather than strategizing to arbitrary budgetary goals. In January, the President released the findings of a comprehensive review, which assessed the global threat environment, and he issued new strategic guidance for addressing real threats. I support the President's defense budget proposal because it is predicated on strategic priorities. Our committees' adjustments to it must be discriminate and justified, and they must follow the same principle.

As we enter the FY13 budget cycle, we should be conscious of the potential budget implications for: military end strength and ground force structuring; shipbuilding; tactical aircraft production; research, development, testing, and evaluation prioritizations; the defense industrial base; non-proliferation efforts; military training and non-deployed unit readiness; equipment modernization and maintenance; and commodity purchases. We should also continue to budget for efforts to benefit service members, retirees, survivors, and dependents.

As we strive to reduce deficit spending, to pay down the national debt, to create employment opportunities, and to empower economic performance, I ask that you accept the President's budget request as the appropriate starting point for making a national defense budget function allocation for FY13 that is consistent with the BCA. It provides a balanced platform for maintaining military effectiveness from which justifiable savings may be garnered.

Thank you for your consideration of these alternative views. I look forward to working closely with you and your colleagues on the Budget Committee in crafting a budget that responsibly addresses our national defense needs.

Sincerely,

Adam Smith
Ranking Member

cc: The Honorable Chris Van Hollen

W. Todd Akin

Additional View of Congressman Todd Akin
March 8, 2012

I am deeply concerned by the risk of cuts to our defense budget putting our national security at risk. I am in complete agreement with the views submitted by Chairman McKeon but would like to highlight one additional area of concern that falls under the jurisdiction of the Seapower and Projection Forces Subcommittee. While the Administration announced a pivot to Asia in our national strategy, the same Administration has decided to cut the force structure necessary to maintain a real presence in the Asia/Pacific region. Chairman McKeon's comments highlighted this deficiency, but I would like to expand on the risks associated with cuts to our tactical and strategic airlift capacity that have been proposed by the Administration.

Due to insufficient resources, the budget request for fiscal year 2013 plans to divest inter-theater and intra-theater airlift aircraft force structure. The Air Force plans to decrease the inter-theater airlift fleet from 301 total aircraft to 274 total aircraft by retiring 27 C-5A aircraft from the inventory, and decrease the intra-theater airlift fleet from 421 total aircraft to 318 total aircraft by retiring 65 C-130s and divesting brand new C-27J aircraft. Air Force officials state that a singular scenario, of the 3 scenarios modeled, of the Mobility Capability and Requirements Study 2016 (MCRS-16) was the analytical underpinning for the new mobility force structure associated with the new 2012 Defense Strategy, and that a strategic airlift fleet of 274 aircraft and tactical airlift fleet of 318 aircraft would support the new defense strategy. Of note, the scenario that Department of Defense officials chose is the least demanding scenario that was modeled in MCRS-16. However, in the opinion of the committee, the other two scenarios modeled should be considered relevant when determining the size the airlift force because nothing to date has indicated that future major contingency operations are predictable or unlikely. And just two years ago, the Department considered all three scenarios relevant in sizing the airlift fleet before having to reduce the airlift force structure in the fiscal year 2013 budget request due to limited fiscal resources.

According to the MCRS-16 executive summary, the study recognized the reality of long-term U.S. involvement in globally dispersed operations which may include lengthy commitments to major campaigns. MCRS-16 realized important fact-of-life changes that placed new demands on the mobility system since the last mobility study, MCS-05, completed in 2006. The changes included a higher level of engagement around the world, increased reliance on the Reserve Components, increased reliance on airlift to move equipment and supplies that were once moved almost exclusively via surface transport, the introduction of new specialized equipment (i.e., MRAPs), the continued growth of Special Operations Forces, and the establishment of U.S. Africa Command. In response to these changes, DOD stated that MCRS-16 provided them an opportunity to make informed investment decisions designed to maintain the right mix of strategic and intra-theater transportation capabilities. In the committee's opinion, all assumptions remain valid today and into the foreseeable future, despite having a new 2012 defense strategy that assumes an operational tempo will decrease from today's levels.

The Air Force Chief of Staff, General Schwartz, stated during a briefing to the full committee on January 25, 2012, that his greatest concern with the new defense strategy was not having the capacity in the mobility and combat air forces to support and execute the new strategy. At the same briefing, Admiral Winnefeld, Vice Chairman of the Joint Chiefs of Staff, stated that DOD never had the required force structure under the previous defense strategy of conducting two, near-simultaneous major contingency operations. In the February 2012 Air Force White Paper provided to Congress outlining the Air Force's fiscal year 2013 force structure reorganization, the Air Force states that "although the U.S. has removed all combat forces from Iraq and the new strategic guidance reduces the steady state requirement for ground forces, we expect Air Force steady state rotational requirements to remain nearly constant, or perhaps increase, under the new strategy." Department of Defense officials have stated to the committee that there will need to be further analysis of what the airlift and sealift requirement, both inter-theater and intra-theater, will be for the new force lay-down plan in the Asia-Pacific Area of Responsibility.

Noting that DOD has never completed a comprehensive, multi-mission review of United States Code Title 32 and Title 10 intra-theater airlift requirements that support both State and Federal missions, the most significant and concerning changes in the budget request occur to the tactical airlift fleet inventory for both the C-130 and C-27J inventories. In the fiscal year 2012 National Defense Authorization Act, section 112 requires the Secretary of the Air Force, in consultation with the Secretary of the Army, the Director of the National Guard Bureau, each supported commander of a combatant command, and the Administrator of FEMA, to conduct a study to determine the number of fixed-wing and rotary-wing aircraft required to support both Title 32 and Title 10 USC homeland defense, time sensitive/mission critical, disaster response and humanitarian assistance missions to the congressional defense committees no later than December 2012.

Regarding the C-27J program, funds have been authorized and appropriated for 38 aircraft, however, the Air Force has only put on contract 21 aircraft, and taken delivery of 12 aircraft. The Air Force is currently withholding fiscal year 2011 and 2012 appropriations for the remaining 17 aircraft ($556.4 million total) and does not currently plan to put any additional production aircraft on contract. The Air Force plans to begin divestment of the 12 currently fielded aircraft beginning in June of this year. The two aircraft based at Robbins, GA and three aircraft based at Meridian, MS will be flown to the "boneyard" at Davis-Monthan AFB, AZ in June 2012. The four aircraft at Mansfield, OH and the three aircraft at Martin State, MD will be flown to the "boneyard" in September 2012. The remaining 9 aircraft on contract and still in production will be flown directly from the production line to the "boneyard." The Air Force has not stated what the disposition of the aircraft will be after reaching the "boneyard" final destination. Compounding the issue is that fulfillment of the Army's direct-support/mission-critical airlift requirements could be placed at risk given the Army's plans to divest all of its C-23 Sherpa inventory over the FYDP and the aged condition of its CH-47 fleet of rotorcraft.

I am concerned that the Department of Defense is accepting too much risk in regards to the planned airlift force structure in the fiscal year 2013 budget request and believes that an inter-theater airlift inventory of 301 aircraft and an intra-theater airlift inventory of 335 C-130s and 38 C-27s should be the minimum force structure to meet future mobility airlift requirements.

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 37^{th} 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
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/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.

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[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.

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[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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14

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ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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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 clause 4(f) of Rule X of the Rules of the House of Representatives and section 301(d) of the Congressional Budget Act of 1974, as amended, I am transmitting the views and estimates of the Committee on Energy and Commerce on the President's budget for fiscal year 2013.

As is the custom of my Committee, the Minority will be transmitting their views under separate cover.

Should you have any questions about this submission, please direct them to the Committee's General Counsel, Mr. Mike Bloomquist, at extension 5-2927.

Sincerely,

Fred Upton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Member

Attachment

Views and Estimates on the President's Budget For Fiscal Year 2013

Submitted by:

The Honorable Fred Upton, Chairman
Committee on Energy and Commerce
March 9, 2012

Introduction

Clause 4(f) of Rule X of the Rules of the House of Representatives for the 112th Congress and section 301(d) of the Congressional Budget Act of 1974, as amended, require each standing committee of the House to submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the Concurrent Resolution on the Budget for the ensuing fiscal year (FY 2013) which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

On February 13, 2012, President Obama submitted to Congress his proposed budget for fiscal year 2013 (the budget). The Committee on the Budget has requested that committees submit their Views and Estimates by March 9, 2012. The following represents the Committee on Energy and Commerce's views and estimates on the President's budget and its requests for additional budget authority beyond the requests contained therein.

Consumer Protection

National Highway Traffic Safety Administration (NHTSA)

The President's budget proposes to shift the funding of NHTSA's vehicle safety programs from General Funds to the Transportation Trust Fund. This shift has been proposed before and soundly rejected. The Committee insists that this funding mechanism would be inappropriate given the importance of these safety programs. Vehicle safety monies are used to fund the creation of vehicle safety standards, defect investigations, compliance and enforcement efforts and other important vehicle safety programs. The proposed shift would require NHTSA safety programs to compete with other highway trust fund projects. Given the uncertainty of the Trust Fund Cash flows and shortfalls in recent years, the Committee believes that the funding of these important programs should continue to be considered separately.

Separately, the Administration proposes to increase NHTSA's Vehicle Safety Research program by about $35 million dollars. The Committee does not find justification for the proposed increase. Over the last several years, traffic fatalities have continued to decline and are now near a sixty-year low.

Energy

Department of Energy

Overview. The President's proposed FY 2013 budget request for the Department of Energy (Department) is $27.2 billion, a 3.2 percent increase ($856 million) over FY 2012 appropriation levels. While the Committee supports many of the Department's national security, defense and civilian programs, and environmental cleanup activities, we believe such an overall increase in requested funding raises questions in view of the Nation's current fiscal and employment outlook.

Energy Efficiency and Renewable Energy. The 2013 budget request for the Office of Energy Efficiency and Renewable Energy (EERE) is $2.3 billion, an increase of 29 percent over current FY 2012 funding levels. The Committee supports the responsible development and deployment of renewable and alternative energy sources. However, the Committee does not view favorably the Department's request for such significant funding increases within this program, particularly given current fiscal realities. The Committee notes that the budget includes substantial increased funding for the expedited commercialization of high-risk, high-cost technologies, while reducing funding for conventional hydropower research and development, a critical component of the Nation's renewable generation portfolio.

Nuclear Energy. The FY 2013 budget request for the Office of Nuclear Energy is $770.4 million, or $88.3 million less than FY 2012, representing a 10.3% decrease in funding for the nuclear energy program. The Committee continues to take issue with the Administration's actions to shut down the statutorily mandated Yucca Mountain program. DOE alone has expended nearly $15 billion on the civilian nuclear waste program since 1983, including funds to support the Yucca Mountain application, complete the NRC's complex pre-licensing proceeding, and comply with the NRC's strict licensing requirements. As a result of termination of the Yucca Mountain program, the Nation currently has no plan for how to manage the growing amount of radioactive waste located at nuclear power plants throughout the nation, nor to address growing associated taxpayer liabilities.

The Committee reiterates that the Administration's actions relating to the Yucca Mountain program will set back the U.S. nuclear waste management and disposal program by decades, potentially undermine the expansion of nuclear power in the United States, waste billions of dollars in stranded costs and past taxpayer investment, increase additional taxpayer liabilities, and raise national security, environmental cleanup, and other issues.

Fossil Energy. The President requests $650.8 million for the Office of Fossil Energy. While this is an increase of 36 percent over the enacted FY 2012 level, that FY 2012 level reflects offsets from rescission of prior year balances and cancellations. According to the Department, without these offsets in FY 2012, the FY 2013 request represents a 15 percent reduction from the FY 2012 funding levels. Further, in the area of fossil energy research and development, the FY 2013 budget reduces the effective program level from $534 million in 2012 to $421 million in 2013, including reducing the budget for carbon capture and storage technologies.

Fossil fuels constitute 80 percent of the Nation's energy consumption and are critical to meeting our current and future energy needs and to powering a growing economy. Continued exploration and development of our Nation's fossil fuel resources depends on technology that minimizes environmental impacts and maximizes efficiency. The U.S. economy requires reliable, affordable energy in all its forms, yet the President's budget fails to recognize the critical importance that oil, natural gas, and coal have to our national energy portfolio, and their fundament role in ensuring our economic growth and global competitiveness.

HOME STAR Legislation. The President also continues to support passage of the HOME STAR program, which would provide rebates of $1000 to $3000 per household to encourage investment in energy efficient appliances, building mechanical systems and insulation, and whole-home energy retrofits. We oppose pursuit of such a costly program at this time given the Nation's fiscal outlook and growing deficits, as well as the presence of existing programs, both public and private, which encourage and require energy efficiency product development and adoption.

Nuclear Regulatory Commission

Overview. The NRC's proposed FY 2013 budget is $1.053 billion, a $15.1 million increase above its FY 2012 funding levels. NRC recovers approximately 90 percent of its budget from fees assessed to NRC licensees or applicants, and estimates that $924.8 million will be recovered from NRC fees and licensees.

High-Level Waste Repository Program. In its budget request, NRC zeros out resources for the closeout of the Yucca Mountain repository review. For the reasons stated above, we strongly oppose the defunding of, and actions related to, the shutdown of this statutorily mandated program.

Operating and New Reactors. The NRC's budget request for Operating Reactors is $545.1 million, and $264.8 million for New Reactors. The Committee encourages the NRC to timely review pending licensing actions, including license renewal and new reactor applications.

Environment

Environmental Protection Agency (EPA or Agency)

The President's overall FY 2013 budget request for the EPA is $8.344 billion, a $1.406 billion increase over the amount appropriated for FY 2008. The Committee does not believe that funding levels in excess of amounts appropriated for FY 2008 are necessary, at least for programs within the jurisdiction of the Committee.

During consideration of the FY 2012 budget, the Committee highlighted concerns with EPA's overall spending, management, and regulatory culture, as well as with the policy priorities reflected in the FY 2012 proposed budget. Regrettably, the Administration has done nothing to alleviate those concerns as we prepare for FY 2013. Many of EPA's actions, including its budget proposal, evince an ambition to impose a national agenda on individuals, families, and communities, regardless of the accomplishments of States, local governments, or private entities. It is more important than ever that EPA focus on its core responsibilities to carry out the statutes it is charged with implementing.

Agency Management Overview. Despite the Committee's concerns, expressed last year over EPA scrapping its "Position Management and Control Manual," the Agency has still taken no steps to install an Agency-wide position management program. The Committee, therefore, has no confidence that appropriated funds are well spent.

However, the real cost of the EPA is not so much in annually appropriated dollars, but in the economic burden imposed on regulated America, including American workers and consumers. The Agency's indifference to the real-life economic concerns of American citizens and taxpayers, cited by this Committee one year ago, continues unabated as the Agency's expensive regulatory agenda shows no signs of letting up. For example, on February 28, 2011, Administrator Jackson confirmed that the highly burdensome proposal to regulate re-usable coal combustion by-products as "hazardous" under Subtitle C of the Resource Conservation and

Recovery Act is still under consideration.

Despite this Committee's calls for restraint, our constituents continue to identify EPA as the largest government threat to their businesses, jobs opportunities, and way of life.

Specific Spending Programs

Global Warming and Clean Air Act Programs. The President requests $1.25 billion for the development and implementation of greenhouse gas (GHG) and Clean Air Act (CAA) standards and programs. This includes $240.3 million to address climate change which represents increased spending of approximately $40 million over levels enacted in FY 2010. The Committee has significant concerns about the cumulative cost and job implications of EPA's development and implementation of its global climate regulations, as well as a number of other recent or pending major rulemakings under the CAA. Specifically, one concern is how EPA plans to use the appropriated funds to develop emissions standards for GHG emissions from various diverse source categories, given that no emissions control technology for GHGs currently exists. An additional concern is that these standards introduce regulatory uncertainty into the economy and hold the potential to undermine economic growth, eliminate jobs in the United States, and encourage relocation of companies overseas. The manufacturing and industrial sectors, particularly energy intensive and trade exposed industries, face severe international competitiveness challenges from EPA's GHG regulations.

Sustainable and Healthy Communities. The President continues to request funding for this initiative without clear statutory authority. The language in the budget justification materials on this program continues to be vague and opaque. If this program is actually about urban planning we continue to believe that it is not an appropriate activity for the Federal government, especially while public debt continues to rise.

Protecting America's Waters/Drinking Water Grants. The President requests $850 million for the Drinking Water State Revolving Loan Fund (DWSRF) grants, pursuant to section 1452(m) of the Safe Drinking Water Act (SDWA). DWSRF grants help States comply with the mandates of the SDWA. The President's request is a $21 million increase over FY 2008 as enacted.

The President continues to propose earmarking ten percent of the DWSRF for projects, or portions of projects, that include green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. On one hand, EPA expresses concern with water infrastructure funding gaps, while on the other hand it persists in this mandatory set-aside, which it fails to justify. Community water system professionals are free to select efficiency improvements that are effective for their systems without a federal set-aside. This includes light bulbs and thermostats. EPA's proposed top-down mandate is not required by current law.

EPA's Homeland Security Activities. EPA has lead Federal responsibility for U.S. drinking water system security and the President requests $102.3 million for EPA's homeland security activities. While the Committee generally supports the recommendation for this program, we remain concerned that EPA is earmarking security money for climate change activities.

Dedicated Trust Funds. The President's FY 2013 budget renews his request that Congress extend or reinstate Federal taxing authority for the CERCLA/Superfund program and the leaking underground storage tank (LUST) program. The President proposed cutting CERCLA's cleanup spending and proposes not to start clean-up project phases, including new remedial construction starts. Despite the cut in remedial funding, there remain nearly $2 billion of unobligated funds in the Superfund special accounts to be used for site specific remediation, an ample amount of funding.

The President's budget proposes to spend $104.117 million on leaking underground storage tanks and to extend the excise tax on transportation fuels that funds the Leaking Underground Storage Tank (LUST) trust fund. The balance of the LUST Trust Fund already exceeds $3 billion. The annual interest accruing on the Trust Fund alone appears to exceed the President's request of $112.5 million for the LUST program in 2012. Accordingly, until the President requests and shows a compelling need to spend more on this program, the Committee fails to see the need to extend the LUST excise tax and believes that so long as it remains available, the balance of and annual interest on the LUST Trust Fund should serve as the funding mechanism for Subtitle I of the Solid Waste Disposal Act." The Committee does not believe that now is the time to raise taxes on retail fuel purchases.

Health Care

The President's budget request ignores and leaves unchanged the largest drivers of future government spending: the health-related entitlement programs, namely Medicare, Medicaid, and the new premium and cost sharing subsidies of the Patient Protection and Affordable Care Act (PPACA). The Simpson-Bowles and Rivlin-Domenici Commissions both identify health care entitlement programs as the key areas of the Federal budget requiring structural change in order to slow the unsustainable deficit growth that is adding trillions to the nation's accumulated debt. Instead, the President's FY 2013 budget includes cuts in Medicare and Medicaid, which offer no realistic solution to the health care entitlement crisis. In fact, the Administration abstains from addressing the structural change needed in these programs, even though their looming bankruptcy threatens the guarantee of the security they provide to the elderly, the disabled, and the poor.

Medicare

The President's budget offers up approximately $300 billion in Medicare reductions over ten years. Over one-half of the provider cuts come from extending Federal price controls to the pharmaceuticals that dual eligible and other low income Medicare beneficiaries receive through the Medicare Part D prescription drug benefit. Such a large extension of price controls in the prescription drug market place will not only interfere with the market pricing of these drugs, but will significantly undermine the competitive private insurance market in the Part D program, which has kept the cost of this program significantly below the initial Congressional Budget Office (CBO) projections of its cost. The other provider cuts included in the President's budget generally reduce payments to hospitals and skilled nursing facilities. Although the Administration embraces some very modest structural changes (increase income related premiums and some Medigap changes) it falls far short of what is desperately needed. There is no discussion in the President's budget of true structural reform that would build on the success of a competitive market in Medicare Part D, such as premium support, a model that now has bipartisan support. It has been embraced by Alice Rivlin and is the foundation of the recently released Ryan-Wyden health care plan. The Committee asserts that broad-based structural reform represents the only solution to the impeding bankruptcy of the Medicare program while keeping our promise to America's seniors.

The President's budget reduces Indirect Graduate Medical Education (IGME) payments by 10 percent, beginning in 2014. In addition, the Secretary would have the authority to set standards for teaching hospitals receiving Graduate Medical Education payments that "encourage training of primary care residents and skills that promote high-quality and high-value health care delivery." Given the enormous new powers delegated to the Secretary of Health and Human Services (HHS) in the health care law, the Committee is concerned about giving the Secretary any new authority to set standards for training physicians.

The President's budget would lower the Independent Payment Advisory Board (IPAB) spending target rate in 2018 and after from gross domestic product (GDP) per capita growth plus 1 percent to GDP per capita growth plus 0.5 percent. This proposal will significantly increase the likelihood that the IPAB trigger will be reached. Since hospitals and other providers are exempt from IPAB cuts till 2020, physicians and other individual providers will bear the brunt of IPAB cuts for the rest of the decade. This will affect access to care for patients and likely will have a deleterious effect on the health care workforce. The Committee opposes any funding for the IPAB, supports its repeal, and asserts its creation abdicated Congress' role to an unelected board that is unaccountable to the American public.

The President's budget includes an adjustment totaling $429 billion over 10 years (FY 2013 to FY 2022) to reflect the Administration's best estimate of the cost of future congressional action based on what Congress has done in recent years for physician payments and points out that "this adjustment does not signal a specific Administration policy." The Committee notes the failure of the Administration to include meaningful reform of the physician payment system or the Medicare program in the PPACA and their continued silence on the issue.

The Committee will continue to work on a long term and meaningful reform of the Medicare physician payment system and welcomes input from the Administration. The Committee notes that the PPACA cut the Medicare program by over $575 billion, including $22 billion from the Medicare Improvement Fund which was created to provide resources to fix the Medicare physician payment issue, yet the PPACA did not use any of these funds to fix the physician payment formula.

Medicaid

The Medicaid program is a shared responsibility between Federal and State governments to provide medical assistance to low-income individuals, including children, the aged blind, and/or disabled, and people who meet eligibility criteria under the old Aid to Families with Dependent Children (AFDC) program. Others receive Medicaid through waivers and amended State plans with higher income eligibility limits. The Federal share of Medicaid outlays is expected to be $283 billion in FY 2013. This is a $28 billion (approximately 11 percent) increase over the FY 2012 projections for Federal Medicaid spending.

In a program which the CBO estimates will spend $4.6 trillion of Federal funds over 10 years, the Administration could identify only $56 billion of savings over 10 years (approximately a 1% reduction). To add insult to injury, 80 percent of the Medicaid cuts are actually a cost shift onto States without any further flexibility for States on how they operate their programs. The most egregious example is a proposal applying a single Blended Matching Rate to Medicaid and the Children's Health Insurance Program (CHIP). The budget claims the proposal will save $17.9 billion over 10 years but a blended match rate should be budget neutral. In addition, the proposal contains an automatic countercyclical adjuster that will increase the Federal Medical Assistance Percentages (FMAP) (Federal outlays) during recessions, again bringing into question the savings estimated by the Administration.

The blended match rate proposal is a dollar for dollar cost shift to the States. Under the President's budget, States could receive a lower Federal match rate for the PPACA-mandated beneficiaries than originally promised in PPACA. In addition, the lack of details provided with such a proposal is troublesome as they do not reflect a serious attempt by the Administration to reform the Medicaid program in order to ensure state participation over the long-term.

The Committee remains deeply concerned that the fiscal pressure faced by States and the flexibility necessary for those States to sustain their Medicaid programs were not properly addressed in the President's FY 2013 budget. The Committee remains concerned the President's budget disregards the reality of a looming 33 percent expansion of the Medicaid program in 2014 and its impact on Federal and State budgets.

While the Committee appreciates the Administration's attempt to reduce fraud, waste, and abuse in the Medicaid program, the Committee remains concerned that many of these proposals do not do enough to reduce the Federal deficit or help both the Federal government and States handle the unsustainable growth of the Medicaid program. Of the 8 Medicaid-specific program integrity proposals outlined in the President's FY 2012 budget, only 3 of those proposed initiatives are projected to carry savings for the Federal government in the 10-year budget window.

Health Care Law Implementation

The President's budget includes several requests for implementation of the PPACA and Health Care and Education Reconciliation Act (HCERA).

The budget requests an additional $1 billion in discretionary funding for implementation of PPACA through the Center for Consumer Information and Insurance Oversight (CCIIO) at the Centers for Medicare and Medicaid Services (CMS). This request is in addition to the $1 billion implementation fund included in HCERA, which is expected to be exhausted by the end of FY 2012. The Committee questions the doubling of funding for PPACA implementation given the Administration's argument that moving implementation to CMS would provide operational "efficiencies." The Committee also is concerned that CCIIO has been unable to produce basic information about obligations and outlays incurred by the center, despite frequent oral and written requests from Members.

The Committee remains concerned with the mandatory spending included in PPACA that circumvents the annual appropriations process by providing the Secretary direct access to Treasury funds. For example, the President's budget outlines an appropriation of "such sums as necessary" for State grants to facilitate the purchase of qualified health plans in the exchanges.

As confirmed by Secretary Sebelius in testimony before the Subcommittee on Health, there is no monetary limitation to this mandatory appropriation, and the Secretary has the discretion to determine the size of the appropriation.

HHS has also continuously underestimated the cost of state exchange grants. In the President's FY 2012 budget, HHS estimated that the Department would spend $400 million on state exchange grants. Yet, the HHS FY 2013 budget indicates HHS will spend nearly $906 million in FY 2012 – meaning HHS outlay projections were wrong by 127%. In addition, HHS estimates over $1 billion in additional state grants will be obligated for FY 2013. This is highly troubling given statements from the CMS Administrator that the majority of the additional $1 billion request for PPACA implementation will be spent on the creation of a Federal exchange. While 33 States have refused so far even to enact authorizing legislation for an exchange, HHS spending on state grants is increasing exponentially. These facts are further evidence of the glaring fiscal unsustainability of PPACA.

National Clearinghouse for Long-Term Care Information

The National Clearinghouse for Long-Term Care Information (Clearinghouse) was established under the Deficit Reduction Act of 2005 (DRA). Under section 6021(d) of the DRA, the HHS Secretary is required to establish the Clearinghouse to (1) educate consumers with respect to the availability and limitations of coverage for long-term care under Medicaid; (2) provide objective information to assist consumers in the decision about whether to purchase LTCI; and (3) maintain a list of States with State long-term care partnerships under Medicaid. Congress provided $3 million in funding for the Clearinghouse for each of fiscal years 2006 to 2010. PPACA amended section 6021(d) of the DRA to extend this funding of $3 million per year for FY 2011 through FY 2015 for the Clearinghouse. PPACA also required the Clearinghouse to include information regarding how benefits provided under a Community Living Assistance and Support Services (CLASS) benefit plan differ from disability insurance benefits. The President's FY 2013 budget provides for $3 million to fund the Clearinghouse.

In light of the Administration's October 2011 announcement that it had halted work on the CLASS program (after concluding the program could not sustainable over a 75-year period), the Committee believes funding for the Clearinghouse should not be used to promote the failed-CLASS program. As of February 16, 2012, the Clearinghouse website still maintained information about the non-existent CLASS program services.

Food and Drug Administration (FDA)

The budget calls for $4.5 billion for the FDA. This amount constitutes a $654 billion (17 percent) increase over the total FDA budget for FY 2012. The President's budget includes $220 million in new user fees on food-related businesses. Some may question whether such fees are appropriate at a time when food prices continue to increase.

The budget request proposes reducing the period of exclusivity for follow-on biologics to seven years from the current twelve years. This short-sided proposal would reduce incentives to develop new biologics: threatening innovation, hurting job creation, and reducing patient access to life-saving therapies.

The budget request also would prohibit routine settlements of drug patent litigation. By ending these settlements, the President's budget would remove current incentives for generic drug companies to challenge patents by prohibiting a generic drug company from accepting anything of value from the patent holder in a settlement other than an "early entry date" for the marketing of a generic drug. Ending these settlements will achieve the opposite of the intent in that patients will wait longer for more affordable drugs: a generic drug company will have no incentive to settle for anything less than an immediate launch while a brand drug company will have no incentive to bargain away its authorized monopoly on patented drugs, forcing every patent challenge through the full course of litigation.

The Committee disagrees with the estimated savings from this policy in the President's budget request and believes such a prohibition on settlement agreements would increase the cost of Federal health care programs because fewer generic drugs will come to market before the brand drug patent expires. The Committee notes that parties to these settlements must file the agreements with the Federal Trade Commission within 10 days of execution. The Commission may then challenge the settlement in Federal court if it finds such ~~a~~ settlement to be anti-competitive.

Prevention and Public Health Fund (PPHF)

The President's 2013 budget is proposing to spend $903 million in funds from the PPHF on prevention programs at the Centers for Disease Control and Prevention (CDC) that will restrain health care costs. The Obama administration claims that each dollar spent will have the greatest possible impact because of a coordinated and comprehensive approach based on scientific evidence. The Committee is concerned that the Obama administration is not directing and overseeing these funds in a way that will impact health outcomes and reduce health care costs.

Since 2010, the CDC has spent $350 million on tobacco prevention and control programs in all 50 States. In the 2013 CDC budget, the Obama administration states that funded programs are comprehensive and coordinated for maximum benefit through cooperative agreements with all 50 States and six (6) national organizations. One of those national organizations is the American Lung Association (ALA). In a report, *State of Tobacco Control*, ALA issued on January 19, 2012, they describe the current tobacco prevention effort by the government as "a frustrating mix of progress and backsliding as it monitors progress on key tobacco control policies at the Federal and State level." It furthers describes the effort to protect children as "abysmal."

Tobacco and obesity control are the centerpiece of two other major prevention initiatives at the CDC, Communities Putting Prevention to Work (CPPW), and Community Transformation Grants (CTG) using funding from the PPHF. The Administration states that funded programs are using evidence-based and coordinated strategies. Yet, many States are funding educational campaigns that are purely informational without proper linkages to intervention programs as recommended by the Community Preventive Services Task Force. The Committee also questions the use of the fund for activities such as sign placement, which should not be an activity funded by the HHS. Two years into these programs, the Administration has not provided evidence from the program evaluations that show sustained changes in personal behavior or improved health outcomes as a result of these programs.

Prevention and public health are critically important to an overall strategy of improving health and reducing health care costs. The PPHF allows for $17.75 billion in advanced appropriations to the Secretary through this fund. The Committee is deeply concerned that the PPHF provides the Secretary the ability to fund programs beyond the level specified by the Congress and these concerns are exacerbated due to the fact that spending from the fund is not offset by an overall reduction in the HHS discretionary budget. In addition, almost 2 years later, the Administration has not demonstrated that this very expensive effort has significantly affected intended outcomes. Without adequate evidence and oversight, the Committee is concerned that the fund has been used to spend billions of Federal dollars on programs that do not and will not work.

Polio Eradication at the CDC

The Administration has budgeted $126 million for polio eradication, an increase of $15 million from FY 2012. According to the CDC, as of December 2011, there were 571 polio cases reported globally, down from 1,329 cases in 2010. Since 1996, USAID has contributed nearly $390 million to support polio eradication. The Global Polio Eradication Initiative coordinates international donations for polio eradication around the world. They have raised $1.14 billion in the 2012 to 2013 funding cycle.

The Committee supports the eradication of polio. However, the current U.S. contribution to the cause far outweighs its interests and the contributions of other countries. Currently, the incidence of polio is rare in the Western World and down to 571 cases internationally. The Committee believes that this funding level for polio is not justified.

Health Resources and Services Administration (HRSA)

The 340B Drug Pricing Program resulted from enactment of the Veterans Health Care Act of 1992, which is codified as section 340B of the Public Health Service Act. The 340B Drug Pricing Program is managed by HRSA Office of Pharmacy Affairs (OPA). Section 340B limits the cost of covered outpatient drugs to certain Federal grantees, Federally-qualified health center look-alikes and qualified hospitals. The President's FY 2013 budget request includes $10 million to improve access through the 340B program—an increase of $6 million over FY 2012. In light of the Government Accountability Organization's (GAO) recent investigation of the program, which highlighted a significant growth of the program and concerns with program compliance, the Committee believes that the 340B program should be further reviewed prior to any additional funding.

The Administration requests $296 million, an increase of $3 million, for the Title X Family Planning Program. The Committee has several concerns about increasing the funding level of the program in light of the new Women's Preventive Services Regulations and the Institute of Medicine (IOM) report on the Title X program.

The Women's Preventive Services Regulation finalized by HHS requires most health insurance plans to cover preventive services for women, including contraceptive services, at no cost to the patient. With this regulation in place, Title X, which provides family planning services, including contraception, will not be needed as broadly as in the past. Title X uses very liberal Program Guidelines to determine income and eligibility for services. These guidelines state that "Clients must not be denied project services or be subjected to any variation in the quality of services because of an inability to pay." In addition, "Fees must be waived for individuals with family incomes above this amount (250% of the federal poverty line), as determined by the service site project director, are unable, for good cause, to pay for family planning services." As a result of these guidelines, many women with insurance have used the services of Title X clinics to receive free contraception. With the new regulation, they will not need Title X services. According to the 2010 Family Planning Annual Report, Title X served 438,042 women with health insurance and 118,665 women who did not provide insurance information.

In 2009, IOM released a Review of the Family Planning Program (Title X) assessing the administration and management of the program. The report found that Office of Family Planning that administers the Title X program does not collect "all the data needed to monitor and evaluate its impact" in order to "assess how well clinics meet the family needs of the program's clients." The Committee is concerned that without an adequate evaluation, it is impossible to rely on claims in the FY 2013 budget justification that the Title X is successful.

National Institutes of Health (NIH)

The President's FY 2013 budget includes $13 million in funding for research in health economics through the NIH's Common Fund. The Committee is deeply concerned that this funding is not consistent with the mission of NIH and duplicative of the health economics research done at the Agency for Healthcare Research and Quality (AHRQ). The decision to pursue research related to health care reform and health economics using Common Fund resources is a dramatic departure from the mission of NIH and its legislative mandate in the National Institutes of Health Reform Act of 2006. The mission of NIH is "to seek fundamental knowledge about the nature and behavior of living systems and the application of that knowledge to enhance health, lengthen life, and reduce the burdens of illness and disability." There is no reference to health economics in the NIH mission, nor in the National Institutes of Health Reform Act of 2006.

Agency for Healthcare Research and Quality

The President's budget includes a total of $72 million for Patient-Centered Health Research (also known as Patient-Centered Outcomes Research or Comparative Effectiveness Research) "to advance research that compares the effectiveness of different health care treatment and strategy options and to provide patients, clinicians, and other stakeholders with timely, state-of-the-science, evidence-based information to enhance medical decision making."

The Committee thinks that the budget underestimates the amount of funding that will go to Patient-Centered Outcomes Research Institute (PCORI or Institute). The Institute will be funded through the Patient-Centered Outcomes Research Trust Fund (PCORTF), which will consist of funding streams from general revenues, an annual $2 fee per Medicare beneficiary transferred from the Medicare Trust Fund, and an annual $2 fee per-covered-life assessed on private health plans. The Medicare Trust Fund transfer and annual fee on insured and self-insured plans take effect in 2013. By 2015, total annual funding for the Institute will reach nearly $500 million.

The concept of patient-centered research remains poorly defined. The Committee believes that the Administration needs to define exactly what PCORI is charged to do and whether it will duplicate the many research and quality initiatives that already exist.

Since AHRQ and the NIH will receive priority funding consideration from PCORI, the Committee is concerned that research could be "Administration-centered." The Committee also questions whether agencies in HHS are being tasked with similar comparative effectiveness research functions and whether that is appropriate given the existence of PCORI.

Health economics research is the stated mission of AHRQ, yet similar research is being conducted by NIH and other HHS agencies, including the Office of the Assistant Secretary for Planning and Evaluation (ASPE). As mentioned above, a new research institute has been established to conduct outcomes research. The Center for Medicare and Medicaid Innovation (CMMI) has a budget of $10 billion over 10 years and a mission very similar to AHRQ. The President's budget proposal has requested $372 million for AHRQ. The Committee questions the level of AHRQ's funding and potentially the further need for AHRQ given that its mission and activities are currently being conducted by other HHS agencies.

Communications and Technology

The Universal Service Fund and Other Overlapping Subsidy Programs (USF or Fund)

The USF cost consumers $8.6 billion in 2011 and consists of four programs. The high-cost program cost more than $4.5 billion, more than three times the $1.3 billion the program cost in 1997. The schools and libraries program, also known as E-Rate, cost $2.3 billion. The low-income program—designed to subsidize poorer households—cost $1.7 billion, up from $800 million in 2008. The rural healthcare program subsidizes tele-health programs and costs $100 million. Carriers directly contribute to the USF to cover its quarterly costs and then recover those contributions from American consumers. The Federal Communications Commission adopted substantial reforms to the high-cost program in 2011, adopting a budget with a "soft cap" and directing support to broadband services. It is unclear whether these reforms will actually limit growth of the Fund. The Commission also adopted several reforms targeted to eliminate waste, fraud, and abuse from the low-income program in 2012. Nevertheless, the USF surcharge on subscribers' long-distance bills has grown with the Fund, and is expected to remain above 17 percent for the foreseeable future.

Legislation signed into law in 2005 exempted the USF programs from the application of the Anti-Deficiency Act (ADA) until December 31, 2006. Since then, Congress has continued to shield the universal service programs from the ADA with a series of one year extensions of the exemption. The most recent extension, signed into law on December 23, 2011, as part of the Consolidated Appropriations Act, lasts until December 21, 2013. The USF programs should not be exempted from the ADA, which helps maintain fiscal control over spending by requiring government agencies to have funds available before incurring obligations. This Committee has well documented cases of waste, fraud, and abuse in the USF programs that directly impact American consumers because they bear the cost of the USF. Exempting the USF program from the ADA will only make this problem worse. The FCC also has said that compliance with the ADA would not be an obstacle to the continued operation of the USF.

Several programs overlap significantly with the USF. The stimulus package allocated $7 billion in broadband funding through the Broadband Technology and Opportunities Program of the National Telecommunications and Information Administration and the Broadband Initiatives Program of the Rural Utility Service (RUS). Other RUS programs that offer similar coverage to the Fund include the Rural Broadband Access Loan and Loan Guarantee Program, the Community Connect Grant Program, and the Distance Learning and Telemedicine Program. The overlap of these programs threatens waste and inefficiency as the government may be directing duplicative support to areas already covered by other programs; overlap also frustrates oversight efforts as different inspectors general have differing oversight responsibilities and no one party is charged with looking at the support system as a whole. All such programs should be reviewed and reconciled to minimize waste, fraud, and abuse.

Spectrum

In the Middle Class Tax Relief and Job Creation Act of 2012, Congress extended the FCC's auction authority through 2022 and authorized the FCC to conduct voluntary incentive auctions so that spectrum licensees could relinquish their licenses in exchange for a portion of auction proceeds. The Congressional Budget Office (CBO) projects those auction provisions will raise approximately $26 billion in revenues.

The President's budget proposes the assessment of spectrum license user fees, which it estimates would raise of $4.8 billion over ten years. Although we agree that additional spectrum, as a valuable and scarce resource, should not be given away for free, we question the wisdom of imposing new spectrum fees on existing licensees, especially since spectrum license holders are already charged license application fees and yearly regulatory fees.

We note that a February 28, 2012, Government Accountability Office (GAO) report on duplicative government activities (GAO-12-342SP) has concluded that spectrum management "is fragmented between the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the Federal Communications Commission (FCC)" in a way "that could impact the nation's ability to meet the growing demand for spectrum." Indeed, slow progress in repurposing spectrum inefficiently used by the Federal government that might be better allocated toward the growing demand for commercial mobile broadband services, as well as the increasing number of interference disputes arising between Federal and commercial users, may be due, in part, to the division between the NTIA's management of federal spectrum use and the FCC's management of commercial, state, and local spectrum use. GAO pointed in particular "to a lack of transparency in their joint planning efforts"; a dearth of coordination in some circumstances; the NTIA's reliance "heavily on federal agencies to self-evaluate and determine their current and future spectrum needs, with limited oversight or emphasis on holistic spectrum management to ensure that spectrum is being used efficiently across the federal government"; and the fact that agencies do not pay for the spectrum they receive and do not have sufficient incentives to use spectrum more efficiently.

Federal Communications Commission

The President requests a $7 million increase in the FCC's budget for FY 2013 to $432 million, including $85 million from auction receipts and $347 million from regulatory fees. Of that $432 million, $413 million would go to continuing operations, $8.75 million would go to the FCC's Inspector General, and $10.6 million would go to new programs including initiatives to consolidate data centers and secure the Commission's online services.

In 2011, the Commission stated that it would reexamine its methodology for assessing regulatory fees on the industry, including a comprehensive review of how changes in the marketplace and the workload of the FCC's bureaus should affect the allocation of regulatory fees. We are prepared to consider the FCC's proposed changes to the assessment of regulatory fees as well as the withholding of auction receipts as part of the Committee's continuing oversight over the FCC.

We are also prepared to examine whether the FCC's Inspector General is adequately staffed and funded, given the oversight responsibilities of that office over the $8.5 billion USF and the $700 million Interstate Telecommunications Relay Service Fund. A 2008 appropriations act transferred $21.5 million to the Inspector General from the USF for increased oversight, but that funding has not been renewed and only $6 million remains for use in FY 2013 and beyond. One institutional issue also worth exploring is whether the Inspector General, who is selected by the Chairman, can be truly independent.

National Telecommunications and Information Administration

The President's budget requests a $1.4 million increase to $47 million in FY 2013 appropriations for the NTIA. The budget also proposes that the NTIA collect $37 million in spectrum management fees from other agencies, about $1 million less than last year. The Committee will consider the NTIA funding as part of the Committee's continuing oversight of the NTIA. Notably, in January 2012, the President proposed making government more efficient by consolidating certain functions of the U.S. Department of Commerce, the Small Business Administration, the Office of the U.S. Trade Representative, the Export-Import Bank, the Overseas Private Investment Corporation, and the U.S. Trade and Development Agency. To that end, it may be worthwhile to re-examine the functions the NTIA. For example, folding some of the NTIA's Federal spectrum management functions into the FCC might not only facilitate government consolidation, but also help address some of the spectrum management issues mentioned in the discussion of spectrum, above.

Corporation for Public Broadcasting (CPB)

The CPB customarily receives an advance appropriation. The latest appropriation, signed into law on December 23, 2011, as part of the Consolidated Appropriations Act, included an appropriation of $445 million for FY 2014. The Committee is prepared to consider CPB funding as part of the Committee's review of the statutory and programmatic framework for the distribution of funds to public television stations through the CPB.

Telecommunications Development Fund (TDF)

The President's budget proposes to provide no new funding to the TDF. This fund receives interest earnings from deposits on spectrum auctions, a portion of which it invests in small telecommunications firms and the rest of which it uses for salaries and administrative costs. Since 1996, TDF has collected over $100 million in interest that would have otherwise been deposited in the Treasury and directly benefited taxpayers.

In the Middle Class Tax Relief and Job Creation Act of 2012, Congress redirected interest earnings from deposits on spectrum auctions to go to deficit reduction rather than the TDF and removed government officials from TDF's board. These statutory changes ended TDF's dependence on government funding.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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Majority (202) 225-2927
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March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
U.S. House of Representatives
207 Cannon House Office Building
Washington, D.C. 20515

The Honorable Chris Van Hollen
Ranking Member
Committee on the Budget
U.S. House of Representatives
B-71 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Ryan and Ranking Member Van Hollen:

Pursuant to clause 4(f) of Rule X of the rules of the House of Representatives, and section 301(d) of the Congressional Budget Act of 1974, as amended, the Committee on Energy and Commerce is submitting views and estimates on President Obama's fiscal year 2013 budget. It is the custom of this Committee for the majority and minority to transmit separate views and estimates. Attached are the views and estimates of the minority.

Please let me know if you have any questions about this submission.

Sincerely,

Henry A. Waxman

Henry A. Waxman
Ranking Member

Attachment

cc: The Honorable Fred Upton
Chairman

Views and Estimates on President's Fiscal Year 2013 Budget
Committee on Energy and Commerce
Minority Views

Each standing Committee of the House is required by the Congressional Budget Act of 1974 and Rule X, clause 4(f) of the Rules of the House to submit to the Committee on the Budget its views and estimates on the budget with respect to matters within its jurisdiction or functions. The following discussion is not exhaustive, but highlights views on issues addressed in the President's fiscal year 2013 budget that are within the Committee's jurisdiction.

Commerce, Manufacturing, and Trade

FTC

The Administration's FY 2013 budget provides $300 million for the Federal Trade Commission (FTC), supporting a staff of 1,186 full-time equivalents (FTEs). This is an increase of 10 FTEs from FY 2012 levels and it is an increase in agency operation costs by $14 million.[1] The President is to be commended for increasing the resources of the FTC, which continues to operate with less funding and fewer FTEs than the agency had in the 1970s despite ever-increasing demands. The increase in operation costs would be spent primarily on cost of living adjustments, new hires, and information technology. This budget will ensure that the FTC's twin missions of protecting consumers and maintaining competition can be sustained.

CPSC

The Administration's FY 2013 budget provides $116 million for the Consumer Product Safety Commission (CPSC), including support for a staff of 560 FTEs.[2] This is an increase of $1.9 million and 12 FTEs from FY 2012 levels. The President is to be commended for a continuing dedication to adequate CPSC funding and staffing levels. Previously, the Commission's budgetary support had slid for more than two decades and reached a 30-year low in 2008. Consistent with the Consumer Product Safety Improvement Act of 2008, the Commission remains engaged in a major transformation from a reactive organization to a proactive one. This change is crucial to keep up with the safety of more than 15,000 types of consumer products, many of which are now imported. For example, 99% of toys, 96% of apparel, and 78% of electrical products are manufactured in other countries. Key priorities for the Commission will be increasing surveillance at U.S. ports to prevent dangerous products from entering the U.S.

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[1] This total FY 2013 budget proposal is $11.6 million less that the amount enacted in FY 2012 due to a decrease of $25.5 million from FY 2012 costs associated with moving staff from one leased building into another building.

[2] The budget also provides an additional $6 million available for two years to fund a potential relocation of CPSC headquarters. The funds will only be spent if U.S. General Services Administration determines a move would be cost-effective.

marketplace, bolstering enforcement of safety standards domestically and at the ports, and engaging in global outreach and education to improve compliance with safety standards.

NHTSA

The Administration's FY 2013 budget provides $981 million for the National Highway Traffic Safety Administration, an increase of $181 million over the FY 2012 enacted level. Funding for the agency's Operations and Research budget is set to rise by 35% to $338 million, to support the work of 655 FTEs to conduct compliance testing and enforcement of vehicle safety standards, as well as research and rulemaking to address emerging vehicle safety issues. The increase will help complete the transition to the updated New Car Assessment Program, improve the collection of traffic safety data relied upon by industry, safety and public health officials, and support key rulemaking activities to advance fuel efficiency, motorcoach safety, and other important crash prevention and mitigation priorities.

In addition, the proposed FY 2013 budget also reflects the Department of Transportation's proposal to reclassify all NHTSA programs, including Operations and Research programs, as mandatory spending supported by the Highway Trust Fund. The Committee should review this proposal in greater detail.

ITA

The Administration's FY 2013 budget provides $517 million for the International Trade Administration, taking into account $9.4 million in offsetting receipts from fee collections. This funding, which will support the work of 1,807 FTEs, represents an increase of $56.1 million and a decrease of 60 FTEs from FY 2012 levels. The President is to be commended for recognizing the importance of trade promotion to continued economic recovery. Nearly 80% of new resources for ITA would go toward trade promotion efforts, including the U.S. Commercial Service, a global field network of experts who help American businesses seeking to sell their products abroad, especially those businesses that are small or medium-sized firms. Other trade promotion priorities include: (1) the development of the second generation of Export.gov, which provides U.S. businesses with a one-stop source for information on exporting their products; (2) the implementation of SelectUSA, a program to encourage foreign direct investment in the United States; and (3) the enhancement of trade enforcement capabilities to reduce or eliminate unfair trade practices among foreign trading partners.

CFPB

The Administration requests no discretionary appropriations for the new Consumer Financial Protection Bureau (CFPB) in FY 2013. Accordingly, CFPB funding will come from the operating budget of the Federal Reserve per the statute (Pub. L. No. 111-203). The Administration chose not to use its authority to seek discretionary funds in this fiscal year. Measures that would curtail CFPB's budgetary independence should be strongly opposed.

Communications and Technology

The budget proposes for matters relating to the use of the electromagnetic spectrum:

(1) Permanent Auction Authority - To extend indefinitely the authority of the Federal Communications Commission (FCC) to auction spectrum licenses. (This authority is currently set to expire on September 30, 2012).

(2) Incentive Auction Authority - To provide the FCC with new authority to conduct incentive auctions, where current license holders receive a portion of auction revenues.

(3) Spectrum License User Free – To permit the FCC to impose license fees on un-auctioned spectrum license holders.

(4) Domestic Satellite Service Spectrum License Auctions – to require the auction of spectrum licenses for predominately domestic satellite services such as Direct Broadcast Satellite and Satellite Digital Audio Radio Services.

The budget proposes to eliminate the Telecommunications Development Fund, which receives interest earnings from deposits submitted in spectrum auctions and uses a portion of these earnings to invest in telecommunications firms with the objective of promoting access to capital for small businesses, enhancing competition in the telecommunications industry, and improving the delivery of telecommunications services to rural areas.

The budget also proposes spending $10 billion to build an interoperable public safety broadband network and to reallocate the "D block" spectrum in the 700 megahertz band for public safety use. From the monies devoted to the public safety network, the Administration would provide up to $300 million for a Wireless Innovation Fund to develop technologies and standards for the interoperable first responder network

Several of the Administration's proposals were addressed in the Middle *Class Tax Relief and Job Creation Act of 2012* (P.L. 112-96), enacted on February 22, 2012. The new law addresses the Administration's specific requests in the following ways: (1) it extends the FCC's auction authority through FY 2022; (2) it provides the FCC with authority to conduct voluntary incentive auctions; and (3) it winds down the Telecommunications Development Fund by redirecting and depositing interest earnings in the General Fund of the U.S. Treasury.

In addition, the *Middle Class Tax Relief and Job Creation Act of 2012* provides $7 billion for the development and construction of a nationwide, public safety interoperable broadband network. It also reallocates the D block for public safety use. In addition, the bill provides up to $300 million for the research and development of broadband technologies and standards for the public safety network.

Going forward, the Committee should conduct rigorous oversight of the implementation of these provisions.

Finally, the budget would eliminate annual appropriations language that bars the FCC from amending its Universal Service Fund (USF) rules with regard to "single connection or primary line restrictions on universal service support payments." The President is to be commended for supporting efforts to modernize USF by transitioning support towards providing broadband in underserved areas and improving financial management of the program.

Energy and Environment

Environmental Protection Agency

The President is to be commended for including $8.34 billion for the Environmental Protection Agency (EPA) and specifying $1.125 billion in funds for agency-wide efforts to take action on climate change and improve air quality. This funding will allow the agency to begin the technical work and analyses necessary to support greenhouse gas standards for non-road sources, support the Greenhouse Gas Reporting Program, and support the development of New Source Performance Standards. The President's budget also includes an increase of $65.8 million for grants to state and local air quality agencies to help them implement updated National Ambient Air Quality Standards for criteria pollutants and issue air permits to large sources of greenhouse gas emissions under the Clean Air Act.

The President's budget also proposes reducing funding for the Superfund program by $37.4 million from 2012 levels. There is concern that this request may not adequately fund the needs that this program serves. Almost 1,300 sites remain active on EPA's National Priority List. In 2011, 15 sites were added to the NPL and an additional 11 were proposed for inclusion, while only seven were deleted. Adequate funding for the Superfund Program is vital to accelerate cleanup efforts and protect human health and the environment from uncontrolled exposure to hazardous substances at these sites.

The President is to be commended for recognizing the importance of investing in clean and safe water and including $850 million for the drinking water State Revolving Fund (SRF). This funding, however, is a decrease of $38 million from FY2012 levels. Drinking water SRF funding is critical, as the country's drinking water utilities need to invest in drinking water infrastructure repair and replacement to keep pace with aging infrastructure, much of which is approaching the end of its useful life.

The President is to be commended for requesting $67.6 million in funding for chemical risk review and reduction, an increase of $11.1 million over 2012 levels. This funding demonstrates the Administration's commitment to ensuring that chemicals in commerce do not endanger public health. With additional resources, EPA will be able to conduct chemical risk assessments on priority chemicals and take action on chemicals determined to pose significant risks to human health and the environment. The agency also will increase the pace at which it obtains information about the health and safety risks of chemicals and makes such information public.

The President is also to be commended for requesting $2.1 million for the Community Action for a Renewed Environment program. This important program has helped communities living in "hot spots" of environmental contamination to come together to address the dangers in their neighborhoods. This small program can have a significant local impact for underserved and disproportionately affected communities.

Department of Energy

The President is to be commended for including $2.3 billion in the budget to support Department of Energy research, development, demonstration, and deployment of renewable energy and energy efficiency technologies that reduce carbon pollution. The budget increases for advanced manufacturing, building, and vehicle efficiency, as well as for solar, wind, geothermal, and biomass energy, will spur the nation's movement towards a clean energy economy. The budget supports passage of the Home Star program to provide incentives for energy efficiency improvements in residential buildings, which would create jobs while reducing the energy costs of American families.

Health

Centers for Medicare and Medicaid Services (CMS)

Medicare

The President's budget includes proposals that would save $302.8 billion in Medicare over the next 10 years through increasing value in Medicare payments, implementing structural reforms, reducing fraud waste and abuse, and increasing the availability of generic drugs and biologics.

- Reducing Costs for Prescription Drugs

More than half of the savings in Medicare come from achieving better value for prescription drugs. Slightly more than half of the Medicare savings ($155 billion over 10 years) come from aligning Medicare drug payment policies with Medicaid policies for low-income beneficiaries. An additional $12 billion over 10 years comes from increasing the availability of generic drugs and biologics ($8.6 billion in savings from pay for delay; $3.6 billion in savings from biologics exclusivity). These proposals ensure that Medicare is getting fair prices on prescription medicines and help patients by reducing their out of pocket costs.

- Purchasing Better Value in Health Care

Policies that increase value in Medicare provider payments account for $106 billion in savings. Of those, the largest savings come from aligning payment updates for certain post acute providers consistent with MedPAC recommendations ($56.6 billion over 10 years) and reducing Medicare's coverage of bad debt ($35.8 billion over 10 years). A proposal similar to the President's reducing Medicare's coverage of bad debt was enacted as part of the *Middle Class Tax Relief and Job Creation Act of 2012*.

- Physician Payment Reform

The President's budget sets aside $429 billion over 10 years for physician payment reform. This amount reflects an assumed update of 0% over the budget window, but does not propose any specific policy to fix the Medicare Sustainable Growth Rate (SGR). The SGR has consistently required cuts to Medicare physician payments as a result of a flawed formula, which Congress has continually overridden. This perennial exercise has caused concern among physicians and patients alike. Permanently fixing the SGR would ensure Medicare remains a dependable partner providing stability for physicians -- the vast majority of whom participate in the program -- and would provide certainty for beneficiaries as well.

- Structural Changes to Medicare

These changes would save approximately $32 billion over 10 years, shifting more of the program's cost to beneficiaries. These proposals include increasing income-related premiums under Medicare Part B and D; adding a surcharge to Part B premiums for beneficiaries that also have near-first dollar Medigap coverage; increasing the Part B deductible for new beneficiaries; and imposing a co-payment on home health care services for new beneficiaries. Medicare beneficiaries on average already pay 30% of program costs out of pocket. Shifting more program costs on to beneficiaries -- the vast majority of whom are lower to moderate income and already bear a significant portion of their health costs out of pocket -- could cause unintended consequences. These proposed changes should not be adopted.

Medicaid

The President's budget includes proposals that would net a savings of $55.7 billion from Medicaid over the next 10 years. These include, among other initiatives, restricting the Medicaid provider tax levels; creating a single blended Medicaid matching rate; extending Medicaid coverage for families transitioning from welfare to work; and continuing to pay the Medicare premiums for low-income seniors and individuals with disabilities.

- Cost Shifting Nearly $40 Billion of Medicaid Savings onto States

The President's budget creates a simplified, single blended matching rate for each state in Medicaid and the Children's Health Insurance Program (CHIP), beginning in 2017. This blended rate would be based on preliminary and incomplete information after only one to two years of experience under the Affordable Care Act (ACA). Although a single rate could yield some administrative savings, an additional cut in the federal government's share may be required to yield the estimated $17.9 billion in savings over 10 years. The President's budget also restricts an integral source of support for many state Medicaid programs -- the provider tax -- starting in 2015. Although this funding source was manipulated and abused in the program's early years, these problems were addressed in regulations issued by the Department of Health and Human Services (HHS) in the 1990s. The regulations required provider taxes to be broad-based and uniformly imposed, and prohibited states from holding providers harmless. The regulations also established a ceiling on taxes of 6% of gross revenues of the providers being taxed. Since the implementation of these regulations, there have been legitimate uses of the provider tax which serves as a key funding source for many state Medicaid programs. Together, these policies would restrict states' ability to finance their share of Medicaid costs at the very time that millions of additional Medicaid beneficiaries will be participating in the Medicaid program as a result of the reforms of the ACA. Accordingly, these proposals should not be adopted.

- Coverage for Low-Income Beneficiaries

The President's budget extends Medicaid coverage for low-income families transitioning from welfare to work under the Transitional Medical Assistance Program. It continues this program through calendar year 2013 until the ACA health insurance exchanges are in place, giving families an alternative source of assistance to access affordable health insurance. The budget projects this initiative to cost $815 million. The budget also includes funding for the qualified individual (QI) program through calendar year 2014. The QI program provides funding to pay the Medicare Part B premiums for low-income seniors and individuals with disabilities. The budget projects this initiative to cost $1.7 billion.

The *Middle Class Tax Relief and Job Creation Act of 2012* includes funding for these programs through calendar year 2012. The President is to be commended for extending funding for these important programs even further.

- Medicaid Disproportionate Share Hospital Payments

The President's budget rebases Medicaid disproportionate share hospitals (DSH) allotments in FY 2021 and thereafter, resulting in savings of $8.3 billion. The proposal limits DSH payments in FY 2021 and thereafter to FY 2020 levels set in the ACA. Although uncompensated care costs are expected to decrease significantly after full implementation of the ACA, uncompensated care costs will remain for those who choose not to purchase health insurance or are unable to afford to do so. Such costs must be considered in any reductions in disproportionate share payments.

The *Middle Class Tax Relief and Job Creation Act of 2012* rebases the Medicaid DSH funding for FY 2021, but not thereafter. This permits Congress to review uncompensated care costs in the future. The Committee should proceed with caution with further reductions in these critical payments.

Center for Medicare and Medicaid Innovation (CMMI)

In its first full year of operation, the CMMI unveiled a number of new demonstrations and programs intended to promote better care and better quality at reduced costs. Although Congress charged CMMI with testing a range of innovative payment and delivery models, many of the early efforts revolve around payment bundling. While it is too early for conclusive results about any of the innovation projects, the enthusiastic response from the provider community, states, and private sector partners is encouraging.

It does seem likely that a number of these models will provide a promising return on investment. Nonetheless, the health care system is not monolithic and one size will not fit all. Moving forward, the CMMI should invest and explore innovation activities other than bundling, with a core focus on improving patient care and quality without excessive risk exposure that could lead providers to short change on care.

The CMMI state initiatives also hold promise, but the Center must recognize that dually eligible beneficiaries are not the only Medicaid beneficiaries that could benefit from improved coordination and enhanced care. The CMMI should add more Medicaid activities that are designed to improve care and ensure patients are receiving all necessary care and support services.

Fraud, Waste and Abuse

The President's budget includes proposals to achieve $3.6 billion over 10 years in program integrity savings. This is comprised of $450 million in Medicare savings over 10 years and $3.2 billion in Medicaid savings over the same period. In addition, the budget assumes a combined $19.4 billion in savings in return on investment from discretionary spending on Health Care Fraud and Abuse Control (HCFAC) activities and Social Security Disability Review spending. The President's proposed increase in the HCFAC funding is reasonable. Although there is no proposed increase in Medicaid Integrity Program funding, consideration might be given to some increases in that area as well.

A number of the President's Medicare and Medicaid anti-fraud and waste proposals deserve attention. In particular, the proposal to allow CMS to retain a portion of the Recovery Audit Contractor recoveries would allow the agency to invest that funding in provider education, while corrective actions would help prevent future improper payments. The Medicaid proposals that improve compliance and reporting in the rebate program would also help ensure proper payments for these products.

However, some of the program integrity proposals may have unintended consequences for patients and the programs. Most concerning is the proposal relating to third-party liability. The President's budget includes a fraud and abuse proposal on Medicaid third-party liability that saves $1.5 billion over 10 years. The proposal does not permit prenatal and preventive pediatric claims to be submitted to Medicaid for 90 days after the service, during which time the pediatrician, primary care provider, or obstetrician is required to find and bill any third parties that may be liable for such claims and bill the noncustodial parent for such care. Currently, states have the obligation to pursue liable third parties, not providers of prenatal and pediatric claims. The proposal would shift this burden, and the associated delay in under-reimbursement, to these providers. The Medicaid program serves close to 30 million children and 41% of pregnant women. This new hurdle would add an administrative burden on providers that are integral to Medicaid, creating a disincentive for them to participate in the program.

Finally, the proposals relating to an ordering system for high risk items; higher risk banking arrangements; and how states pay their share of Medicaid and CHIP funding need to be better understood before being considered further.

CMS Program Management

The President's budget requests $4.8 billion in discretionary funds for program management for CMS, an increase of $1 billion over the enacted FY 2012 level. This includes $864 million for establishing insurance exchanges in states that have chosen not to operate their own exchange or have decided to partner with the federal government to run their exchange.

CMS is also seeking an increase in staffing of 136 full-time equivalents. This increase would allow for both continued effective administration of the Medicare, Medicaid, and CHIP programs and implementation of new health insurance reforms and improvements to these programs under the Affordable Care Act. The ACA is the bedrock of our continuing efforts to expand access to health care and reduce its cost for families and taxpayers and should be supported.

It is essential that Congress meet the President's budget request for funding program management at CMS in order to maintain important functions under Medicare, Medicaid, and CHIP and fully implement the ACA.

Food and Drug Administration (FDA)

The President's budget recognizes the importance of the FDA and its many critical public health missions. In overseeing the safety of our drugs, medical devices, tobacco, and food, the FDA plays a vital role that touches the lives of Americans every day. The President's budget acknowledges the fundamental importance of the FDA and appropriately provides an increase in its budget.

Food Safety

The President's budget includes $1.4 billion, an increase of $333 million over FY 2012, for enhanced food safety activities at the FDA and the Centers for Disease Control and Prevention. These agencies -- particularly the FDA -- are in great need of a significant infusion of dollars to enable them to fully implement the 2011 *FDA Food*

Safety Modernization Act (P.L. 111-353). The President is to be commended for acknowledging the critical need for greater resources for these vital agencies.

Generic Drugs and Biosimilars

The President's budget includes two new programs that would permit FDA to collect user fees which would provide a much-needed infusion of resources to support the agency's review of applications for generic drugs and biosimilars. These additional dollars would help speed low-cost generic drugs and biosimilars to market. We also commend the President for recognizing the importance of these programs in promoting access to affordable, safe medicines for American patients.

National Institutes of Health (NIH)

The President's budget proposes funding NIH at the FY 2012 program level of $30.86 billion. This would allow for 35,888 research project grants, of which 9,415 would be competing awards.

NIH research is critical in supporting American innovation efforts. For instance, NIH-supported advances have contributed to the development of as much as 20% of the drugs approved by FDA. Drugs resulting from NIH-sponsored work have also been shown to have a larger impact on public health than drugs developed without such support. NIH research also contributes to economic and job growth; studies indicate that every dollar in NIH funding generates $2.21 in economic output. Recognition should be given to the President's sustained investment in NIH's critical research in this difficult budgetary climate.

Centers for Disease Control and Prevention (CDC)

The President's budget proposes $11.24 billion to support various public health programs at CDC, a nearly $40 million increase over FY 2012. CDC is the nation's lead public health agency, charged with monitoring, investigating, and resolving public health problems in the U.S. and abroad and supporting activities to prevent such problems from occurring in the first instance.

Nonetheless, this figure is approximately $664 million below the FY 2012-comparable budget authority level. Additionally, the overall increase in the agency's proposed budget is attributable in large part to transfers from other resources (*e.g.*, the Prevention and Public Health Fund and Public Health Service Evaluation transfers). Such budgetary maneuvering causes great concern, particularly as it impacts a number of long-standing CDC programs that have been supported with discretionary funds.

HIV/AIDS

The President's budget includes a proposed increase of $40 million to support domestic HIV/AIDS prevention and research activities.

According to CDC, 1.2 million Americans are living with HIV, yet 20% are unaware of their infection and only 41% of those once diagnosed remain in care. In recent years, there have been significant research developments identifying the most effective approaches for preventing new HIV infections. For example, a recent study demonstrated that adherence to recommended treatment by an HIV-positive individual can reduce the risk of HIV transmission to others by 96%.

Continued investment in CDC activities -- together with support for HIV/AIDS programs in the Health Resources and Services Administration, CMS, and others agencies within HHS -- would make it possible to achieve the goals of the National HIV/AIDS Strategy to decrease the number of new NIV infections; increase access to care and improve health outcomes for those living with HIV; reduce HIV-related health disparities; and achieve a more coordinated national response to this epidemic. The President's continuing commitment to address this ongoing epidemic should be applauded.

Prevention and Public Health Fund (PPHF)

The President's budget provides for a $4 billion reduction in PPHF funds over 10 years. Such savings are achieved by retaining the $1.25 billion PPHF authorized level for FY2013, but decreasing available resources in subsequent fiscal years. The budget allocates $903 million from the PPHF in FY 2013 (over 70% of total available resources) to support a variety of CDC programs. However, subsequent to the submission of the President's budget, cuts were made to the PPHF as part of the *Middle Class Tax Relief and Job Creation Act of 2012*. This law cuts PPHF funding by $250 million for FY 2013 (in effect, reducing the Fund's mandatory spending level to $1 billion from the ACA-authorized level of $1.25 billion) and by over $5 billion in funding for FY 2013 through FY 2022.

The budget continues investment of PPHF resources in creative and targeted programs such as Community Transformation Grants (CTGs). These grants are designed to address risk factors for the leading causes of death and disability (heart disease, cancer, stroke, and diabetes) through support for evidence-based, community programs. In FY 2011, over 61 states and communities had a CTG program, reaching an estimated 120 million Americans. The President's budget also dedicates $20 million in PPHF funds for a new initiative to ensure that all U.S. community-based public laboratories have the capacity to address infectious disease outbreaks and perform other appropriate public health functions. These projects should be commended and supported.

In addition to these efforts, the President's budget also uses the fund to support core CDC programs such as cancer prevention and control, birth defects and developmental disabilities, and vaccinations for underserved children and adults. Each of these activities was put in place with its own funding stream and was not intended to be replaced with PPHF funds. But the President's budget proposal – rather than add to, enhance, or otherwise improve the level of funding going towards these programs –

appears to use the PPHF to make up for cutbacks in them. This approach should be rejected.

The PPHF cut enacted as part of the *Middle Class Tax Relief and Job Creation Act of 2012* and its impact on available funding for critical CDC activities in FY 2013 is of great concern. This action was short sighted and should not be repeated.

Health Resources and Services Administration

HRSA is the principal agency dedicated to ensuring that underserved Americans have increased access to basic health care. The President's budget continues to recognize the importance of HRSA-supported programs, and their work in conjunction with ACA insurance reform and coverage expansions, to ensure meaningful access to health care for our most vulnerable populations.

Community Health Centers

The President's budget includes nearly $3.1 billion in total programmatic support for community health centers (health centers), an increase of approximately $300 million through the health centers' ACA mandatory funding stream. This level of investment in the health centers program, which provides cost-effective and high-quality primary care services to over 20 million Americans, should be supported.

Recent investments in health centers through the American Recovery and Reinvestment Act (ARRA) (P.L. 111-5) have been instrumental in nearly doubling the number of patients served by health centers between FY 2001 and FY 2010. In FY 2011, ACA funding guaranteed continuation of ARRA-initiated activities in over 1,100 health centers and supported 67 grant awards for new health centers and 129 grant awards for non-profit entities to work towards becoming a health center. The President's proposal would build upon and enhance these efforts.

But these improvements would not occur if the President's full proposal for health centers funding were adopted. On the one hand, the President's budget provides for a $300 million increase in the health centers program for FY 2013. On the other hand, it also proposes reserving the vast majority of those funds for expenditure in future fiscal years. Although the President should be commended for his consideration of long-term management of ACA mandatory resources for health centers, it is in the best interest of those centers to fully utilize all resources available to them in FY 2013 and not to defer spending until a later date. The vast majority of patients currently served by health centers are uninsured or insured by Medicaid or CHIP. Because of their current patient demographics and statutory mandate to locate in underserved areas or to serve underserved populations, health centers are well-positioned to become the health care homes for millions of newly insured Americans beginning in 2014. It is imperative to invest now in sufficient primary care capacity -- in the years leading up to full implementation of ACA coverage expansion -- to ensure that health centers are able to meet this expectation.

Primary Care Health Professions

The President's budget proposes investments in the nation's primary care professionals that if sustained over five years, would add 2,800 providers (physician assistants and advanced practice nurses) to our current health workforce. Between FY 2008 and FY 2011, investments through ARRA and the ACA allowed the National Health Services Corps (NHSC) to triple the number of primary care clinicians practicing in underserved communities. The FY 2013 budget proposal would support 7,128 NHSC clinicians serving nearly 7.5 million patients.

National Center for Health Workforce Analysis

The President's budget triples the budget for the National Center for Health Care Workforce Analysis (bringing total funding to $10 million). Continued expansion of the Center's activities would improve data collection and analysis and, together with support for the National Health Care Workforce Commission, provide insight into current and future health workforce needs among other important policy questions.

Children's Hospital Graduate Medical Education

The President's budget proposes $88 million to support the Children's Hospital Graduate Medical Education program (CHGME) – an amount that is only one-third of current funding ($265 million) for the program. CHGME supports pediatric residency training at 55 freestanding children's hospitals in 30 states and Puerto Rico. These institutions train over 40% of pediatricians, 43% of pediatric subspecialists, and most pediatric researchers.

The House has already passed legislation, the *Children's Hospital GME Support Reauthorization Act of 2011* (H.R. 1852), that would reauthorize CHGME through FY 2016 at an authorization level of $330 million for FY 2013. S. 958 (the companion bill to H.R. 1852) awaits action on the Senate floor. Funding for CHGME should reflect the amount specified in this legislation for FY 2013.

Pediatric Specialty Loan Repayment Program

The President's budget proposes an investment of $5 million to support loan repayment for pediatric subspecialists who commit to serve in underserved communities. The pediatric loan repayment program was authorized in ACA; this is the first year funding has been requested for its support. The President is to be commended for moving forward with this program.

SPENCER BACHUS, AL, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

BARNEY FRANK, MA, RANKING MEMBER

March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
U.S. House of Representatives
207 Cannon House Office Building
Washington, D.C. 20515

Attention: Jonathan Romito, Counsel, Committee on the Budget, 309 CHOB

Dear Mr. Chairman:

Pursuant to clause 4(f) of rule X of the Rules of the House of Representatives, section 301(d) of the Congressional Budget Act of 1974, and section 425 of Senate Concurrent Resolution 13, 112th Congress, the Committee on Financial Services submits herewith its Views and Estimates on Matters to be Set Forth in the Concurrent Resolution on the Budget for Fiscal Year 2013, along with Minority Views. An electronic version in Microsoft Word Format was also sent to jonathan.romito@mail.house.gov earlier today, Friday, March 9, 2012.

If you have any questions, please do not hesitate to have your staff contact Natalie McGarry of my staff at extension 5-7502. Thank you for your attention to this matter.

Sincerely,

SPENCER BACHUS
Chairman

cc: The Honorable Chris Van Hollen
The Honorable Barney Frank

Views and Estimates of the Committee on Financial Services on Matters to be Set Forth in the Concurrent Resolution on the Budget for Fiscal Year 2013

Pursuant to clause 4(f) of rule X of the Rules of the House of Representatives, section 301(d) of the Congressional Budget Act of 1974, and section 425 of Senate Concurrent Resolution 13, 112th Congress, the Committee on Financial Services (Committee) is transmitting herewith its views and estimates on all matters within its jurisdiction or functions to be set forth in the concurrent resolution on the budget for fiscal year 2013.

OUR NATION'S FISCAL CHALLENGE

The President's Fiscal Year 2013 budget proposal is truly historic. It proposes the most government spending in history, the largest tax increase in history and the biggest debt in history. Not only does the budget proposal break the President's promise to "cut the deficit in half" by the end of his term, its record tax increases, borrowing and spending will hurt job growth and weaken our economy at a time when millions of Americans are already out of work.

Under the President's budget, the federal government will spend $3.8 trillion in FY 2013, and total federal spending over the next ten years will equal $47 trillion – a net increase of $1.5 trillion over current projections. This massive increase in spending will force our nation even deeper into debt. During President Obama's term in office, the size of our national debt has surpassed the size of our economy. Today the national debt equates to $47,000 for every man, woman and child in America. The President proposes to add $11 trillion to the debt. Spending on entitlement programs is the prime driver of our debt, yet President Obama's budget proposes no needed reforms and would allow mandatory spending and interest on the debt to grow by more than 96 percent over the coming decade.

In addition to its higher spending and deeper debt, the President's budget would impose $1.9 trillion in new taxes on families, small businesses and job creators – the largest tax hike in history. America's frail economy cannot withstand the litany of tax increases the President calls for in his budget. As the President's own budget concedes, these higher taxes will not reduce the debt. However, they *will* make it even harder for families to get ahead and harder for small businesses to create jobs.

The Committee finds that for those programs and agencies within its jurisdiction, the Administration's FY 2013 budget proposal fails to impose the spending discipline necessary to put this nation's finances in order. Just as ordinary Americans must live within their means, so must their government. Those who serve the American people must learn to do more with less. Because the resources of the American people and their government are not infinite, government officials must allocate those scarce resources wisely to fewer programs. The decision to cut spending is not an easy one. But it is necessary. And it will result in a more resilient economy and stronger nation for future generations of Americans. Because the Administration has failed to make these difficult choices, the Committee cannot, as a general matter, support the requests contained in the Administration's budget for fiscal year 2013.

SECURITIES AND EXCHANGE COMMISSION

In its budget for FY 2013, the Administration has requested $1.566 billion for the Securities and Exchange Commission (SEC), which is $245 million more than the SEC's FY 2012 spending authority. The Administration has asked for an increase in the number of SEC personnel to 5,180 positions (4,509 full time employees), which is 676 more positions (196 full time employees) than the SEC's FY 2012 levels.

The SEC's three-part mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. But in the run-up to the financial crisis, the SEC repeatedly failed to fulfill any part of its mission: the SEC failed to adequately supervise the nation's largest investment banks, which resulted in the bailout of Bear Stearns and the collapse of Lehman Brothers and the ensuing financial panic; the SEC failed to supervise the credit rating agencies that bestowed AAA ratings on securities that later proved to be no better than junk; and the SEC failed to ensure that issuers made adequate disclosures to investors about securities cobbled together from poorly underwritten mortgages that were bound to fail. Apart from these failures, the SEC's inability to detect the Madoff and Stanford Ponzi schemes cast further doubt on its ability to protect investors.

In light of these failures, Section 967 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) mandated that the SEC hire "an independent consultant . . . to examine the internal operations, structure, funding, and the need for comprehensive reform of the SEC." The SEC retained the Boston Consulting Group (BCG), which recommended that the SEC immediately overhaul its structure and management to optimize the use of its resources in light of the mandates placed upon it by the Dodd-Frank Act.

The BCG found that the SEC had a needlessly complex organizational structure, characterized by multiple reporting lines, fragmented authority, and duplicative and overlapping responsibilities. The BCG recommended that the SEC restructure several SEC divisions and offices, for example combining the Office of Compliance, Inspections, and Examinations into the Division of Trading and Markets and the Division of Investment Management. The BCG also found that the positions of Chief Operating Officer and Executive Director could be combined in one office, and that the Office of Public Affairs, Office of Investor Education and Advocacy, and Office of Legislative and Intergovernmental Affairs could be combined into a new Office of External Relations. The BCG suggested that after the SEC implemented these recommendations, Congress review those reforms to determine whether they improved the SEC's effectiveness.

In addition to recommending that the SEC reorganize its structure, the BCG also recommended that each SEC division and office group rank its activities into one of four categories: high-priority activities that were critical to the SEC's mission; activities that could be scaled back or eliminated; activities that could be delegated to self-regulatory organizations (SROs); and activities for which SEC management could request implementation flexibility.

The BCG also found that the SEC lacked "the full range of data management, analytics, knowledge management, and workflow capabilities that the agency requires—particularly given the increasing scale and complexity of the securities markets and trends such as high-frequency trading." While the SEC's senior management recognizes the critical role of technology at the agency, the BCG found that the SEC's Office of Information Technology did not have a clear strategy for adopting and implementing new technologies, instead responding to technology needs as they arose.

The SEC's FY 2013 budget shows that the SEC is making progress toward implementing some of the BCG's recommendations, and the Committee supports these efforts. The Committee supports the SEC's plans to spend $50 million from the Reserve Fund for information technology upgrades. The Committee also supports the SEC's pledge to "devote significant attention to development and consideration of possible rule changes designed to facilitate access to capital for smaller companies while at the same time protecting investors." Indeed, the Committee has approved a number of bipartisan measures – several of which have also passed the House – to promote capital formation at emerging growth companies.

But the SEC has made little progress in implementing the organizational recommendations made by the BCG; in fact, the SEC has completed few of the consolidations that the BCG recommended. Moreover, it appears that the SEC has similarly ignored the BCG's recommendation that the SEC prioritize its activities and focus on those that are critical to the SEC's mission. Instead, it appears that the SEC continues to expend resources on activities and issues that have only a tenuous relationship to investor protection and capital formation.

The SEC also needs to be a better steward of the substantial funding it receives, as evidenced by the 21,000 staff hours spent on the proxy access rulemaking (at an estimated cost of $2.2 million), which the U.S. Court of Appeals for the D.C. Circuit subsequently unanimously struck down. Moreover, the SEC continues to spend time and resources on non-mandatory rulemakings, such as the imposition of a fiduciary-like standard of care for broker-dealers even though former SEC Commissioner Kathleen Casey and Commissioner Troy Paredes expressed the view in January 2011 that the SEC staff had failed "to adequately justify its recommendation that the Commission embark on fundamentally changing the regulatory regime for broker-dealers and investment advisers." The Committee continues to believe that the SEC could better protect investors and prevent Madoff-like fraud by using its resources to conduct more examinations of registered investment advisers. In FY 2011, only 8% of registered investment advisers were examined and the Commission projects that it would examine only 11% of registered investment advisers in FY 2013.

SECURITIES INVESTOR PROTECTION CORPORATION

The Securities Investor Protection Corporation (SIPC) protects investors against losses that result from broker-dealer failures, thereby promoting investor confidence in the nation's securities markets. The Dodd-Frank Act increased SIPC's line of credit with Treasury from $1 billion to $2.5 billion. In its budget request, the Administration asserts that SIPC is not projected to draw on its $2.5 billion line of credit over the next ten years, a claim that the Committee finds to be overly optimistic.

In 2008, SIPC was confronted with two unprecedented events: the failure of Lehman Brothers and the Madoff fraud and their subsequent liquidations. Although SIPC has so far handled these "hundred year" events without having to access taxpayer funds, the Madoff proceeding continues to present SIPC with challenges that could overwhelm the SIPC fund. In addition to the Lehman Brothers and Madoff liquidations, SIPC may also be responsible for claims resulting from the Stanford Ponzi scheme. On June 15, 2011, the SEC instructed SIPC to liquidate the Stanford Group's broker-dealer. SIPC refused, and on December 12, 2011, the SEC sued SIPC in federal district court to force it to liquidate the broker-dealer. If the court finds that Stanford's customers are entitled to SIPC coverage, these new claims could overwhelm the SIPC fund.

The Committee believes that budget projections for SIPC should be realistic and account for the possibility that broker-dealers can fail, and that courts could expand SIPC's obligations. If SIPC's protection limit is raised from $500,000 to $1 million as part of possible SIPC reforms, the SIPC fund will face further stresses. The Committee will not endorse legislative reforms that would require SIPC to borrow against its recently increased line of credit with the Treasury, which places taxpayers at risk if the SIPC fund is insufficient to meet higher claims.

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

The Committee questions the inclusion of the Public Company Accounting Oversight Board (PCAOB) in the Administration's FY 2013 budget. The PCAOB is a non-governmental, private-sector corporation whose expenditures and revenues have no effect on the budget. The entries for the PCAOB in the Administration's budget are therefore potentially misleading. Because the PCAOB is funded through registration fees and accounting support fees, including the PCAOB in the budget creates the misleading impression that taxpayers are responsible for the PCAOB's funding. The Committee will closely examine the PCAOB's new authority arising from Title IX of the Dodd-Frank Act and the SEC's oversight of the PCAOB and its budget.

GOVERNMENT SPONSORED ENTERPRISES

The Government Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac were placed into the conservatorship of the Federal Housing Finance Agency (FHFA) in September 2008. To date, Fannie Mae has drawn more than $112 billion and Freddie Mac has drawn nearly $73 billion in taxpayer funds, for a total of approximately $185 billion ($153 billion, net of dividends paid), making the conservatorship of the GSEs the costliest of all the taxpayer bail-outs carried out over the past three years. Last October, the FHFA projected that the cumulative Fannie Mae and Freddie Mac draws on the Treasury range from $221 billion to $363 billion through 2013.

After Fannie Mae and Freddie Mac were placed in conservatorship, the Congressional Budget Office (CBO) concluded that they should be included in the federal budget to reflect their cost to the taxpayer. But the President's budget continues to treat Fannie Mae and Freddie Mac as off-budget private entities rather than government agencies whose activities are paid for by taxpayers. As a result, the mounting losses of the GSEs that are borne by the taxpayer do not appear on the government's financial statements. The Committee strongly recommends that the Office of Management and Budget be directed by statute to move Fannie Mae and Freddie Mac "on budget," and to account for losses sustained since they were placed in conservatorship in the same way that the CBO calculates their losses. The Committee also recommends subjecting the GSEs to the statutory debt limit. To allow time to implement these changes, the Committee recommends an effective date of 90 days after enactment.

TROUBLED ASSET RELIEF PROGRAM

Established in the fall of 2008 under the under the Emergency Economic Stabilization Act, the Troubled Asset Relief Program (TARP) was intended to be a temporary measure to address a crisis in the financial markets by making capital available to financial institutions. Members of Congress who voted for the Emergency Economic Stabilization Act did so with the assurance that funds appropriated for TARP would be returned to the Treasury when the crisis ended. Because most financial institutions that received TARP funds have repaid those funds with interest and fees, TARP's costs are now estimated to be far less than originally projected in 2008. The Administration, however, has used TARP funds to pay for mortgage assistance programs that have failed to help homeowners and exposed taxpayers to losses from these programs, and the Administration has indicated that it will continue to use TARP funds to pay for these programs. Because of these programs, the Administration in the FY 2013 budget estimates that TARP losses will grow by $20 billion, from $48 billion to $68 billion. To cover these costs, the President's budget includes a plan to extract $61 billion over the next ten years from the nation's largest banks, nearly double the amount the President proposed last year. Such a "bank tax" would either be passed on in the form of higher fees to consumers, or it could reduce the amount of credit available to businesses and consumers. To protect the fragile economic recovery and to avoid shifting this tax to consumers and job creators, the Committee opposes the "bank tax" proposed by the Administration and recommends that TARP be immediately shut down and unused funds be returned to the taxpayers.

CONSUMER FINANCIAL PROTECTION BUREAU

The Consumer Financial Protection Bureau (CFPB) is a federal agency created by the Dodd-Frank Act to regulate the provision of credit, financial products, and financial services to consumers. The Dodd-Frank Act confers upon one person—the CFPB's Director—a broad mandate to protect consumers as well as a correspondingly broad authority to write rules, supervise compliance, and enforce all consumer financial protection laws and regulations other than those governing investment products regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission. Although the Dodd-Frank Act houses the CFPB within the Federal Reserve Board as an "independent bureau," the Dodd-Frank Act makes clear that the Federal Reserve Board has no supervisory authority over the CFPB and that the CFPB is to be completely autonomous of the Federal Reserve Board in carrying out its mission.

The CFPB's Director sets the CFPB's budget, which is paid for from the Federal Reserve System's annual combined earnings. For FY 2013, the CFPB's budget is capped at 12 percent of those earnings, or $597.6 million; after FY 2013, the cap is adjusted upward for inflation. Because the CFPB's budget is funded directly from the Federal Reserve System's earnings and not subject to the Congressional appropriations, the CFPB need not submit a detailed budget request, nor does the agency have to justify or explain its budget to Congress. In FY 2011, for example, the CFPB articulated no strategic plan to govern its operations. Without a strategic plan, the CFPB had to request $28 million more over the course of FY 2011 than it estimated it would need in the President's Fiscal Year 2012 Budget.

As of February 15, 2012, the CFPB had 778 employees on its payroll, which represents the 546 new employees the CFPB hired and 232 employees that were transferred to the CFPB from seven other federal agencies. But without a detailed budget and justification that sets forth the rationale for the CFPB's spending and hiring, Congress cannot judge whether the Bureau has hired too many or too few employees. The Committee views the CFPB's operations as unacceptably opaque, and considers the CFPB's budget to lack sufficient justification. The Committee may consider legislation to subject the CFPB to the Congressional appropriations process to promote greater budgetary accountability and transparency.

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank is an independent agency that provides export financing through its loan, guarantee, and insurance programs, which helps U.S. exporters compete in the global marketplace and supports job creation in the United States. The Export-Import Bank is designed to provide export financing when the private sector is unable or unwilling to do so, and to help ensure that U.S. exporters can compete on an equal footing against foreign exporters financed by their governments. The Export-Import Bank estimates that each $1 billion of U.S. exports supports 7,300 U.S. jobs. Last year, the Export-Import Bank provided approximately $32.7 billion in export financing, including $6.0 billion in small business financing, which supported 288,000 U.S. jobs.

By collecting fees from its users, the Export-Import Bank has become a self-sustaining agency which has returned $3.7 billion to the Treasury since 2005. The Export-Import Bank is expected to recoup its FY 2013 appropriation, and it is projected to return approximately $359.1 million to the Treasury this year. The Committee has focused its consideration of the Export-Import Bank's reauthorization request on improving operations to better serve U.S. businesses while ensuring that the Export-Import Bank maintains its fiscal soundness.

In its budget, the Administration has proposed consolidating the trade-related functions of the Export-Import Bank with several other federal agencies. While the Committee support efforts to streamline government and eliminate wasteful spending, the Committee has an obligation to ensure that organizational changes are cost-effective and do not impose costs that outweigh the benefits of the changes. The Committee is concerned that changes to the structure of the Export-Import Bank and the provision of export financing could make it more difficult for U.S. companies to compete against their foreign counterparts.

MULTILATERAL DEVELOPMENT BANKS

The Administration has requested $2.9 billion for Treasury's international programs, a fourteen percent decrease from last year's request. The request includes funds for annual payments to multilateral development banks (MDBs); payments toward debt relief for some of the world's poorest countries; payments to World Bank trust funds; and payments to multilateral environmental organizations. The MDBs provide concessional lending and grants to the world's poorest countries and provide non-concessional lending to middle-income and poorer credit-worthy countries. The MDBs have provided resources to member countries in the aftermath of natural disasters and have been counter-cyclical lenders during economic downturns, including the most recent recession and the attendant global contraction of credit.

The U.S. provides funding to MDBs through pledges made by Treasury on behalf of the U.S. to international organizations. Congress considers these pledges and funds them through the appropriations process. The Committee will examine the individual requests and seek to ensure that the MDBs are using resources effectively and consistent with the goals of the institution. The Committee expects that Treasury will consult with the Committee before it begins discussions on new commitments to the MDBs.

The Committee urges Treasury to advocate that governments receiving assistance from the multilateral development institutions do not engage in gross violations of human rights or corrupt activities.

INTERNATIONAL DEVELOPMENT ASSOCIATION

The Administration has requested $1.4 billion for the second of three annual payments to replenish the International Development Association (IDA), the World Bank facility that lends to 79 of the world's poorest countries. The IDA's mission is to help these countries meet basic health, infrastructure, and development needs. The IDA is active in countries that are important to U.S. foreign policy, such as Afghanistan and Haiti.

The IDA provides the world's poorest and least credit-worthy countries with access to capital, which permits these countries to build the credit record necessary to raise capital from private sources. The Committee believes that the U.S. must retain its leadership role in the IDA, which permits the U.S. to veto unwelcome changes to the IDA's governing articles. The Committee will conduct oversight of U.S. contributions to the IDA to make sure that the IDA's projects are reviewed for effectiveness and that the IDA remains vigilant in its efforts to end corruption.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

The Administration has requested a total of $187 million for the second of five installments of $117.4 million toward a general capital increase and the first of four installments of $69.6 million toward a selective capital increase for the International Bank for Reconstruction and Development (IBRD). In response to requests from world leaders, the IBRD increased lending sharply at the onset of the economic crisis. In 2009, the IBRD increased lending to $39 billion, up from an average $15 billion per year. Member nations have agreed to increase capital to avoid reducing lending in the near-term. The IBRD has been a source of capital for middle-income and credit-worthy poorer countries during the economic crisis and has helped stabilize the global economy.

The World Bank's new lending instrument, Program for Results (P4R), links disbursement of funds to achievement of program results. P4R borrower governments may use their own procurement rules and are not required to comply with World Bank best practices. The Committee is concerned that innovation should not undermine strong procurement standards and anti-corruption safeguards and directs the Treasury to consult with the Committee before agreeing to adopt any aspect of the P4R policy.

DEBT RELIEF

The Administration has requested $250 million to forgive all of Sudan's outstanding debt to the U.S., contingent upon Sudan fulfilling the terms of the comprehensive peace agreement and meeting the Administration's benchmarks for human rights, peace, and stability in Sudan and neighboring states. The Committee believes that Sudan has not yet met these conditions. The Administration has requested the authority to transfer funding to other accounts if Sudan does not meet the Administration's benchmarks. The Committee will want to be sure that any transfer authority is subject to congressional oversight and could not be used in a manner inconsistent with congressional intent.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Administration has requested $44.8 billion in gross budget authority for the Department of Housing and Urban Development (HUD) for FY 2013, which is $1.4 billion (or 3.2 percent) more than FY 2012 enacted levels. Most of HUD's FY 2013 Budget—83 percent—will go towards renewing rental assistance for approximately 5.4 million residents in subsidized housing; at least half of those residents are either elderly or disabled. The Committee remains concerned that even as HUD's budget continues to grow, HUD has failed to address the problems of unexpended balances and slow spend-out rates in many of its programs. In particular, the Committee continues to have concerns about HUD's administration of the Section 8, HOME, Section 202, Section 811 programs for elderly and person with disabilities, and Community Development Block Grant programs, which concerns are detailed below. Given that there are more than 160 federal housing programs already in existence, the Committee is concerned that the Administration's new housing initiatives may overlap existing programs. The Committee will continue to monitor HUD's programs in order to consolidate or reduce duplicative programs and to ensure that funds appropriated to HUD are in fact being spent promptly for the purposes for which they were allocated and that these funds are being efficiently used by their recipients.

NATIONAL HOUSING TRUST FUND

Created by the Housing and Economic Recovery Act of 2008 (P.L. 110-289), the National Housing Trust Fund was originally to be funded by Fannie Mae and Freddie Mac. Because Fannie Mae and Freddie Mac are effectively insolvent and in conservatorship, however, they cannot fund the program. The Administration has therefore requested $1 billion in funding in its FY 2013 budget proposal. Given that the Trust Fund was established to meet needs similar to those currently being addressed by other government programs, the Committee questions whether there is a need to create yet another federal bureaucracy to administer essentially the same program already being administered by other federal agencies.

73-684

FORECLOSURE MITIGATION PROGRAMS

As the Committee noted last year, the Administration continues to devise and deploy foreclosure mitigation programs that have failed to stem the tide of foreclosures and that have cost taxpayers billions of dollars. Originally envisioned as a $75 billion effort that would help up to 9 million at-risk borrowers, the Making Home Affordable initiative includes federally-funded foreclosure prevention programs such as the Home Affordable Modification Program (HAMP), the Federal Housing Administration (FHA) Refinance Program, and the Hardest Hit Fund. In addition to these programs, the Committee is also concerned about the effectiveness of programs such as the Emergency Homeowners Loan Program (EHLP). All these programs have failed to meet their objectives.

Funding for programs in the Making Home Affordable initiative is derived from the Troubled Asset Relief Program (TARP). The Administration has obligated $45.6 billion of TARP money for its Making Home Affordable initiative. Both the Administration and the Congressional Budget Office (CBO) have indicated that since these programs consist largely of direct grants that require no repayment by recipients, the programs have a 100 percent taxpayer subsidy rate. In other words, the government does not intend to recover any of the $45.6 billion it spends on these programs. Thus, either taxpayers will be left to cover the entire cost of these programs directly, or indirectly in the form of higher fees or reduced access to credit if the costs are recouped in some other manner such as the President's proposed "bank tax" on financial institutions.

Although $30 billion of TARP funds has been obligated to HAMP, the results of this program have been disappointing. Although HAMP was originally projected to assist 3 to 4 million homeowners, according to program performance data through December 2011, only 2.01 million trial modifications were started under the program; of those trial modifications, only 762,839 (less than 38 percent) have transitioned to active permanent modifications. HAMP has been roundly criticized by a wide range of independent government watchdogs, including the Special Inspector General for the TARP, who testified before the Subcommittee on Insurance, Housing and Community Opportunity that "supporters of HAMP have little reason to hope that it will be anything more than it is today—a program that benefits only a small portion of distressed homeowners, offers others little more than false hope, and in certain cases causes more harm than good."

Despite the program's poor track record, on January 27, 2012, the Administration announced that it intended to expand HAMP by broadening the pool of eligible homeowners, covering tenants at risk of displacement due to foreclosure, and providing more assistance to underwater homeowners. Even before this announcement, the Committee was concerned about the HAMP's cost and effectiveness. In 2011 the House passed legislation (H.R. 839) to terminate the Treasury Department's authority to provide any new assistance to homeowners under HAMP, and to require that all unobligated balances be returned to the taxpayer, while preserving any assistance already provided to HAMP participants on a permanent or trial basis.

The Administration has also obligated more than $8 billion from TARP for the FHA Refinance Program, which was intended to help homeowners who owe more on their homes than the home is currently worth. Like HAMP, this program has also proven to be ineffective. From its inception in 2010 through December 2011, the FHA has reported that the program has made only 647 total loan endorsements from 2,181 total applications. The program is currently scheduled to continue until December 31, 2012. In 2011, the House passed legislation (H.R. 830) to terminate the FHA Refinance Program and return all unobligated balances from the program to the taxpayer.

The Committee is also concerned about the cost and effectiveness of the EHLP. The 111th Congress appropriated $1 billion to the EHLP, which was designed to provide loans or credit advances to borrowers who cannot pay their mortgages because of unemployment or reduction in income. Although eligibility for new EHLP participants expired on September 30, 2011, the Committee remains concerned about the underwriting of loans made under the program. The Committee is also concerned that the program's almost 100 percent subsidy rate will result in substantial losses to taxpayers. In 2011, the House passed legislation (H.R. 836) to terminate the EHLP and return all unobligated balances from the program to the taxpayer.

FEDERAL HOUSING ADMINISTRATION

As private sector lenders withdrew from the mortgage market during the economic crisis, the Federal Housing Administration (FHA) increased its overall share of the market from less than 5 percent to over 30 percent. Today, the FHA is the largest government insurer of mortgages in the world, with a mortgage portfolio of 7.1 million loans and a combined unpaid principal balance of over $1 trillion. The FHA's market share for mortgage insurance in-force is 58.4 percent of all mortgages insured in the U.S. As the FHA's share of the market grew, however, increased delinquencies and foreclosures have resulted in significant deterioration in the FHA's financial position. Late last year, an independent actuarial review showed that the FHA Mutual Mortgage Insurance Fund's (MMIF) capital reserve ratio had dropped to 0.24 percent, far below the Congressionally-mandated threshold of 2 percent. Given these figures, the FHA's finances appear to be heading toward insolvency. The Committee is therefore gravely concerned about the FHA's finances and is committed to protecting the taxpayers from losses sustained by the FHA.

According to the President's FY 2013 budget proposal, FHA is projecting a potential draw down of $688 million in emergency funds from the Treasury to replenish the MMIF. The Administration's acknowledgment that the MMIF may need to be recapitalized by diverting taxpayer funds from the Treasury underscores the risk that FHA poses to American taxpayers. To protect the FHA's scarce capital, the Committee urges the Administration to be vigilant in its efforts to weed out mortgage originators that seek to dump loans that were poorly or fraudulently underwritten on the FHA.

The Committee commends FHA for reforming the premiums it charges for mortgage insurance in 2009 and 2010 to better manage risk. But the Committee also believes that the FHA must explore additional measures to strengthen its credit policies. The Committee is also concerned that the FHA lacks the capacity to properly oversee its single-family loan insurance portfolio. With the increase in high cost loan limits through the end of 2013, the FHA must diligently monitor lenders to ensure that FHA programs are not being abused. The Committee looks forward to reviewing FHA's proposal to change its underwriting criteria to ensure that qualified borrowers are able to access and sustain mortgages insured by the FHA.

HOUSING COUNSELING

The Administration has requested $55 million for housing counseling to serve approximately 185,000 low-to-moderate income families and to train approximately 4,800 counselors. The Committee has supported initiatives to standardize and develop housing counseling metrics to assess the effectiveness of counseling programs. The Committee therefore views the establishment of the Office of Housing Counseling as a welcome first step in ensuring that the effectiveness and costs of counseling programs at HUD are being measured. The Committee will continue to monitor federally-funded housing counseling programs—including state, local and nonprofit counseling programs—to assess their effectiveness at mitigating foreclosures and assisting consumers in avoiding predatory or abusive lending practices.

HOUSING PROGRAMS FOR THE ELDERLY AND DISABLED

Section 202 (Supportive Housing for the Elderly) and Section 811 (Supportive Housing for Persons with Disabilities) are programs that help make housing available for the elderly and disabled. The Administration has requested $475 million for Section 202 programs, $150 million for Section 811 programs, and $111 million for the renewal of vouchers targeted at disabled populations. Given that the Frank Melville Supportive Housing Investment Act (P.L. 111-374) was enacted more than a year ago, the Committee expects HUD to meet the objectives of the Act, which are to provide more flexibility to align Section 811 programs with other federal, state, and local funding sources, and allow federal funds to be leveraged with other funds to make more housing available for the disabled. The Committee is aware that the 202 and 811 programs have unexpended balances; it will review these programs so that these funds can be used to better meet the needs of the elderly and disabled.

SECTION 8 VOUCHER PROGRAM

The Administration has requested an increase in funding for the Section 8 housing choice voucher program to $19.074 billion, from $18.914 billion enacted in 2012. While changes to the voucher funding formula over the last decade have increased voucher usage and efficiency, comprehensive reform is still needed. In 2007, the Office of Management and Budget reported that HUD "does not track long-term performance outcome measures because the agency lacks a reporting mechanism to capture how program funds are used." The Office of Management and Budget also found that the program's effectiveness remained unknown. The Committee will continue to work towards reforming Section 8 in the second session of the 112th Congress. The Committee believes that the public is better served not by expanding Section 8 but by reforming the program so that public housing authorities can serve more people within existing funding levels. The Committee believes that Section 8 recipients who are neither elderly nor disabled should be encouraged to move toward self-sufficiency so that assistance can be provided to those applicants who have patiently waited for assistance, in some cases for almost ten years.

PROJECT-BASED SECTION 8

The Administration has requested $8.7 billion for Project-Based Rental Assistance, a decline from the 2012 enacted level of $9.340 billion. The Committee is concerned that changes to the contract renewal process for project-based vouchers will push renewal costs into later years. As part of its examination of the project-based Section 8 program, the Committee will continue work on the Administration's proposals for converting public housing units to long-term, project-based Section 8 contracts.

PUBLIC HOUSING

The Administration has requested $6.594 billion for the Public Housing Operating Fund and the Public Housing Capital Fund, which will be combined and used to repair and maintain public housing units. Because the funds needed to maintain existing public housing stock outpace appropriations, the Committee will work on alternative means of financing the development of affordable housing, including the Administration's Rental Assistance Demonstration (RAD). The Administration has requested a number of reforms to HUD's affordable housing programs, which the Subcommittee on Insurance, Housing and Community Opportunity has already advanced in the 112th Congress. These reforms include an adjustment for inflation to the minimum rent contribution, updates to income calculation deductions, and new flexibility for housing authorities to best utilize their capital and operating funds for public housing.

The Administration has eliminated funding for the HOPE VI program, and has proposed folding the HOPE VI program into its Choice Neighborhoods program in 2013. The Administration has requested $150 million for the Choice Neighborhoods program. The Committee remains concerned about the performance of the Hope VI program, which has lagged for years. In the program's last comprehensive review in 2003, the Office of Management and Budget rated the program as ineffective. The Committee will continue to evaluate the HOPE VI program, and it will evaluate the effectiveness of the Choice Neighborhoods program. The Committee will also examine the prohibition of demolition-only grants, one-for-one replacement requirements, and tenant eligibility standards on housing availability.

McKINNEY-VENTO HOMELESS ASSISTANCE GRANTS

The 111th Congress enacted the Homeless Emergency Assistance and Rapid Transition to Housing Act as part of P.L. 111-22, which changed the administration of McKinney-Vento Homeless Assistance Grants. These changes consolidated separate grant programs into one Continuum of Care Program, expanded the definition of a qualifying "Homeless Individual" and "Chronically Homeless Person," and added measures aimed at preventing and ending homelessness. In connection with these changes, which became effective in late 2010, the Administration has proposed an increase in funding for Homeless Assistance Grants by more than $330 million to $2.2 billion. The Committee will monitor these changes to ensure that they make the program more effective.

COMMUNITY AND ECONOMIC DEVELOPMENT

Cities and counties use flexible Community Development Block Grants (CDBG) to meet local development, infrastructure, and affordable housing needs. For FY2013, the Administration has requested $3.1 billion for CDBG, making it the fourth largest program administered by HUD. This is the same amount that was appropriated for the program in FY 2012. Despite the increasing demand on state and local governments, funding for this program has been decreasing since a level of $3.990 billion in FY 2010 and $3.336 billion in FY 2011. The Committee recommends an increase in the suggested FY 2013 funding levels for the Community Development Block Grant program, and that the additional funds are provided by proposed FY 2013 funding of the Choice Neighborhoods and Sustainable Communities Initiatives. The Committee believes that the relatively new Choice Neighborhoods and Sustainable Communities Initiatives, which the Administration proposes to fund in FY 2013 for a total of $250 million and have yet to be authorized by the Committee, should not be funded at the expense of other critical affordable housing programs. This prospective proposal is in no way intended to impact Choice Neighborhoods and Sustainable Communities ongoing obligations based upon previous appropriations. As in previous years, concerns have been raised that some CDBG money is used to fund projects that reflect exclusively local priorities. In 2003, the Office of Management and Budget designated the CDBG program as ineffective, indicating that the program had failed to use tax dollars effectively; OMB attributed this failure of the CDBG program to a lack of clarity regarding the program's purpose, poor management, and other significant weaknesses. The Committee remains concerned about questionable uses of CDBG funds, and it will examine how CDBG funds are used by recipients, as well as the program's history of slow spend-out rates, to ensure that CDBG funds are spent appropriately. The Committee will also consider whether CDBG funds can be better targeted to benefit economically distressed communities.

RURAL HOUSING

The Administration's $28.31 million Rural Housing Service (RHS) budget request for FY 2013 represents a $322,000, or 1.18 percent increase, over its RHS budget request for FY 2012. The Administration notes that it will "not fund certain programs in order to focus resources on more efficient and less costly programs." The most significant program that was eliminated in the RHS budget is the Section 515 multifamily direct loan program for new construction. The Committee will review innovative proposals to address potential funding decreases in all RHS single-family and multifamily programs.

NATIONAL FLOOD INSURANCE PROGRAM

According to the Government Accountability Office (GAO), the National Flood Insurance Program (NFIP) must be fundamentally reformed to stabilize its long-term finances. As of January 31, 2011, the NFIP owes $17.775 billion in outstanding debt and accrued interest to Treasury, which it borrowed to pay flood claims resulting from hurricanes in 2005. The GAO found that the NFIP is failing to collect sufficient premiums from policyholders to cover the costs of estimated future losses. Approximately 25 percent of the NFIP's policies are subsidized, and these are primarily for high-risk structures built before the flood plain regulations and flood risk mapping went into effect. Some policyholders are paying rates that may be only 35 to 40 percent of actuarially-sound rates, which is a subsidy to these policyholders at taxpayer expense.

In 2011, the House twice passed broadly supported, bipartisan legislation that would move the NFIP closer to actuarially sound, risk-based pricing and institute reforms that would improve the structure and performance of the NFIP. To protect taxpayers from excessive and unwarranted exposure, Congress must move forward with comprehensive reforms to overhaul the NFIP that will increase the role of the private insurance sector in flood risk management.

HOME INVESTMENT PARTNERSHIPS PROGRAM

The HOME Investment Partnerships Program (HOME) is a formula-based block grant program that disburses funds to states and localities to provide affordable housing. HUD delegates authority to participating jurisdictions to manage and monitor the ultimate recipients of HOME funds. Since it began in 1990, HOME has received over $30 billion in appropriations. Over the past five years (FY 2007-11), funding for the program averaged $1.7 billion annually. Funding for HOME was cut dramatically following the Committee's examination of the program last year.

On June 3, 2011, the Full Committee held an oversight hearing to examine HUD's administration of the HOME program. The Committee examined reported mismanagement of funds, including the failure of grant recipients to begin projects, the failure of grant recipients to complete projects, and the program's failure to produce habitable residences. On November 2, 2011, the Subcommittees on Oversight & Investigations and Insurance, Housing and Community Opportunity held a joint hearing on fraud and mismanagement in the program. One witness – a former executive director of a HUD HOME-funded organization, which she was convicted of defrauding – testified under oath that HUD had failed to ensure that recipients of HOME funds had the development experience necessary to initiate and complete projects.

Following these hearings, Congress reduced the funding for the program by 37% to $1 billion for FY 2012 – a $607 million cut. In setting the FY 2012 funding level, the report to the Senate's spending bill noted "concerns that have been raised in recent months about the oversight of the HOME Investment Partnership Program." Likewise, in a statement in support of the House-Senate Conference Report, which included the cut and other restrictions on the program, the House Chairman of the Committee on Appropriations noted the need for "reforms to the mismanaged HOME" program. The Committee notes that in December 2011, HUD proposed new HOME regulations, which according to its Federal Register notice are "designed to enhance accountability by States and units of local government in the use of HOME funds, strengthen performance standards and require more timely housing production."

The Administration's FY 2013 Budget Request seeks $1 billion for the HOME program. To remedy the shortcomings identified at the Committee hearings, the Administration, as part of its Budget Request, also asks Congress to change the HOME authorizing statute to require that "no funds provided under this heading may be awarded for development activities to a community housing development organization that cannot demonstrate that it has staff with demonstrated development experience."

The Committee continues to be concerned about HUD's oversight of the HOME program; the Committee is particularly concerned that HUD appears unable to track the progress of the projects funded under the program. The Committee supports the reductions made to the HOME program in the Administration's FY 2013 Budget. The Committee also supports the legislative language suggested in the Administration's Budget that specifies that funds will not be provided to community housing development organizations that do not have development experience. The Committee will continue to monitor HUD's oversight of the HOME program to ensure that funds allocated to HOME projects produce affordable housing and are not wasted.

UNITED STATES MINT

The Committee is concerned about the Mint's ability to operate without appropriated funding. The Secretary's decision in December to suspend production of circulating $1 coins will deduct several million dollars of seigniorage from the amount the Mint returns to the Treasury general fund. High prices for commodity metals used to produce circulating coins have pushed production costs to the point where one-cent and five-cent coins are produced for an amount considerably above face value. The Committee notes that circulating coin production costs have been high for nearly a decade, and that the Mint has not proposed legislation to change the metallic composition of coins. The Committee further notes that 15 months after Congress directed the Mint to propose legislative changes to coin composition, the Mint has offered no proposals. In view of this history and in recognition that since 1792, Congress has made all decisions on coin weight, size and composition, the Committee rejects a legislative proposal contained in the Administration's budget that Congress transfer to the Mint the authority to independently decide the composition, size and weight of coins.

73-684

Minority Views

The following represent the views of the Democratic Members of the Committee on the following issues consistent with the Concurrent Resolution on the Budget for Fiscal Year 2013

SECURITIES AND EXCHANGE COMMISSION

U.S. and global capital markets have undergone momentous changes in the last decade as new investors have diversified capital sources and new market participants have transformed market structure, and new legislation has significantly broadened the responsibilities of the market's regulator, the Securities and Exchange Commission (SEC). Despite the rapidly growing and complex environment, the SEC has had serious constraints on its budget in all but the last few years, limiting its ability to oversee our capital markets and protect investors. Despite these budget shortfalls, in the past year the SEC has begun a comprehensive process to reform how it effectively uses its resources, informed by the recommendations of a Boston Consulting Group organizational study.

The SEC's 3,844 employees currently oversee approximately 35,000 entities -- including 11,700 investment advisers, 9,700 mutual funds, 4,500 broker-dealers, and more than 9,100 public companies. While the SEC had enough resources in 2005 to commit 19 examiners for each trillion dollars managed by investment advisors, today that number has fallen to 10. The size, complexity, and geographical diversity of the 4,500 broker-dealer operations have greatly expanded, with broker-dealer branch offices increasing from 95,000 in 2005 to 160,000 today. There are now nearly 9,700 mutual funds, in which 90 million Americans invest, almost half of all households. Moreover, the Wall Street Reform and Consumer Protection Act requires new registration of approximately 1000 municipal advisor firms, including up to 20,000 individual municipal advisors, and 85 swap repositories among others. The SEC needs resources adequate to keep pace with its increasing breadth and depth of responsibilities.

An area of particular concern is investments in technology. SEC's investments in new or enhanced information technology systems declined 50 percent from 2005 to 2009, while trading volumes more than doubled and the value of average daily trading volume nearly tripled. Technology plays a much larger role in trading today than a decade ago, with high frequency trading now making up 56 percent of all trading volume, up from only 15 percent in 2006. Trading volume is no longer concentrated on the NYSE, as it was at the beginning of the decade, but is spread across the markets, particularly on the 80 alternative trading systems, or "dark pools," that account for 38 percent of equity volume. This fragmentation of the capital markets may have unanticipated effects on the capital markets, a challenge for the SEC to track and monitor unless it has significantly better technological resources.

The SEC should be enabled to continue to improve its efforts to protect investors and pursue fraud. During FY 2011, the SEC filed a record 735 enforcement actions and more than $2.8 billion in penalties for the benefit of investors, but still has put only a small dent in the number of suspect transactions that led up to the financial crisis. Under the financial reform legislation, the SEC has initiated a Whistleblower Program, which has already provided high-quality information to inform future enforcement actions. The SEC has also implemented a risk-based examination program that more effectively directs its resources to detect and deter fraud, improve compliance, and monitor emerging risks to the capital markets and investors.

Additionally, the majority's Views and Estimates is misleading in that it claims that the SEC has done nothing to implement the recommendations issued by the Boston Consulting Group last year. As documented in the SEC's testimony before this committee on September 15th of last year, the SEC has already implemented those recommendations that could be done quickly. At the same time, SEC Chairman Shapiro explained that resource constraints prevented it from implementing all of the recommendations at once, but described the work to be done to consider and implement the other recommendations. We expect the SEC to announce additional implementation actions in the near future, as committed in that testimony.

The minority recognizes the SEC's need for additional resources to complete more investigations and inspections, to make investments in technology to improve its ability to perform new and existing responsibilities, to undertake its new duties and utilize improved enforcement authority under the Wall Street Reform and Consumer Protection Act, and continue to implement the reforms recommended by the Boston Consulting Group. The minority, therefore, recommends funding the SEC at the Administration's FY 2013 Budget request to provide better protection for investors and to more effectively oversee our capital markets. The SEC budget is funded by small industry transaction fees, so fully funding the SEC comes at no cost to the taxpayer.

CONSUMER FINANCIAL PROTECTION BUREAU

The Consumer Financial Protection Bureau (CFPB) is emerging as the strong, independent entity envisioned by those of us who fought for the Wall Street Reform and Consumer Protection Act. For the first time, consumers have a government agency dedicated specifically to protecting consumers in their financial transactions. The CFPB's efforts thus far are yielding tremendous results for military families, older Americans, and consumers generally, particularly regarding their mortgage and credit card transactions.

The Majority does not attack CFPB directly on its core mission of protecting consumers in their financial transactions, but focuses instead on CFPB's structure and funding, repeatedly asserting that CFPB lacks sufficient oversight, accountability and transparency.

We reject this assertion, and note CFPB's appearance at 14 hearings so far this Congress, including several designated as "oversight" hearings. CFPB's budget and activities are subject to significant review, including: a GAO audit of its financial statements; an independent performance audit; a semi-annual internal report by CFPB on its budget and activities, which is submitted to Congress and about which the Director must testify; and general oversight by the Federal Reserve System Inspector General. The CFPB's budget is capped by statute, a constraint unique among federal bank regulators. Finally, we note that CFPB posts its budget documents and all of the audit reports on its web site for the public to view.

The Administration's request of $448 million for FY2013 is roughly $150 million *below* the statutory cap on CFPB's funding for the year. This funding is critical to the CFPB in continuing its important consumer initiatives, including making clear to consumers the terms and costs of mortgage loans, credit cards, and student loans; continuing the work of the Office of Service Member Affairs and the Office of Older Americans; and resolving consumer complaints about financial products.

The Minority applauds the CFPB for its successes thus far and looks forward to continuing to support its important mission.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

We note that HUD's program funding level (i.e. gross budget authority) is offset by $9.4 billion in projected FHA and Ginnie Mae receipts, leaving net budget authority of $35.4 billion, or 7.3% below the fiscal year 2012 enacted level of $38.2 billion.

NATIONAL HOUSING TRUST FUND

This program was designed to provide a permanent source of funding for the development, rehabilitation and preservation of affordable rental housing for extremely low- and very low-income residents. Unlike other federal housing programs, such as the HOME Investment Partnership, 90 percent of funding must be used primarily for the production of affordable rental housing and 75 percent must be used exclusively for the benefit of extremely low-income households. The need for a National Housing Trust Fund continues to be great. In February, 2012, the National Low Income Housing Coalition, relying on data from the 2010 American Community Survey, found that there are only 58 affordable and available units for every 100 very low-income renters and just 30 such units for every 100 extremely low-income families. The Administration estimates that with a $1 billion appropriation, the National Housing Trust Fund could produce approximately 36,000 affordable housing units and help to offset the harmful affects of budget cuts to other affordable housing programs.

FEDERAL HOUSING ADMINISTRATION (FHA)

We note that the independent actuarial review also concludes that, barring a further significant downturn in home prices, the Mutual Mortgage Insurance Fund (MMIF) will start to rebuild capital in 2012 and return to a level of two percent by 2014 and outpacing last year's prediction. In addition, the Administration's Fiscal Year 2013 budget includes a 10 bps annual premium increase on all FHA insured loans to comply with the requirement passed by Congress late last year, as well as an additional 25 bps annual premium increase on jumbo loans making the total increase for these larger loans 35 bps. Also, FHA has recently announced of series of annual and upfront premium changes that will further increase receipts to FHA by over $1 billion in fiscal years 2012 and 2013, beyond the receipts already included in the President's budget submission. The recently announced settlements with some of America's largest lenders will also provide FHA with over $900 million compensation for losses associated with loans originated outside of FHA requirements or for which FHA's servicing requirements were violated. In addition, in January 2012, the FHA finalized regulations that toughen its standards for approving lenders that insure mortgages on its behalf and force more of them to buy back defaulted loans. Furthermore, we would note that the FHA was at 30 percent of the market at its peak in 2009, but that this percentage has been declining steadily. Today, the FHA accounts for 15.6 percent of all mortgages. Finally, it is important to note that it is the FHA's book of business in the years leading up to mid 2009 that experienced the worst delinquencies.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (Ginnie Mae)

We note that in Fiscal Year 2013, the Administration has requested $500 billion in Ginnie Mae loan guarantee authority, in order to help finance a wide array of government-insured products, increase liquidity and stabilize the housing market. The Committee also notes that the Administration's budget includes a proposal previously approved by the Committee in 2010 to authorize Ginnie Mae to securitize FHA Risk-Sharing multifamily loans under the same terms and conditions as if the loan were insured under the National Housing Act. According to the Congressional Budget Office, this proposal would result in more than $20 million in cost savings to taxpayers and would enhance liquidity, thereby increasing the preservation and development of much needed affordable rental housing.

HOUSING COUNSELING

We note that the Office of Housing Counseling, which was established by the Wall Street Reform and Consumer Protection Act, covers more than simply foreclosure mitigation and avoiding predatory lending. It also includes informing households about their housing choices in the areas of purchasing or refinancing a home; rental housing options; reverse mortgages for seniors; loss mitigation; preventing evictions and homelessness; and moving from homelessness to a more stable housing situation.

MINIMUM RENTS FOR HUD ASSISTED HOUSEHOLDS

We note that the Administration's budget calls for a mandatory $75 per month minimum rent for HUD assisted households. Currently, public housing agencies may, but are not required to, set a minimum rent of up to $50 per month for households in the public housing and housing voucher programs, and HUD has established a minimum rent of $25 for households in project-based section 8 units. The Center on Budget and Policy Priorities estimates that raising minimum rents to $75 could expose more than 500,000 of the most vulnerable recipients of housing assistance to greater economic hardship.

COMMUNITY AND ECONOMIC DEVELOPMENT

We note that the Administration's proposed funding amount for the Community Development Block Grant (CDBG) program for FY 2013 is the same amount that was appropriated for the program in FY 2012. Despite the increasing demand on state and local governments, funding for this program has been decreasing since a level of $3.990 billion in FY 2010 and $3.336 billion in FY 2011. Therefore, we are pleased that the Committee recognized the need for higher funding levels by adopting an amendment to increase funding for the CDBG program in order to help local governments that are struggling with budget cuts and staff layoffs. The additional funds are provided by proposed FY 2013 funding of the Choice Neighborhoods and Sustainable Communities Initiatives.

We also note that under improved budget conditions we would recommend continued funding for the Choice Neighborhoods and Sustainable Communities Initiatives. We recognize that both the Choice Neighborhoods and Sustainable Communities Initiatives are innovative programs that seek to provide affordable housing, revitalize neighborhoods and achieve sustainable development. Accordingly, we urge the House and Senate Appropriations Committees to increase the 302(b) allocation for the Transportation, Housing and Related Agencies Subcommittee in order to fund both programs at the Administration's proposed funding levels.

Finally, we note that the 2003 OMB rating of the CDBG program discussed in the majority's Budget Views and Estimates is nine years old and since then improvements have been made to the program. Subsequent to receiving that rating, HUD worked with OMB and outside stakeholders to develop and implement a performance measurement framework that was designed to provide more extensive information on the outcomes of CDBG investments in communities.

HOME INVESTMENT PARTNERSHIP PROGRAM

We note that another witness at the November 2011 hearing – HUD's Deputy Inspector General James McCarty – called for increased monitoring of the program and also stressed that the HOME is vitally important program in providing affordable housing to low income Americans. Moreover, in December 2011, HUD published a published new HOME proposed regulations which are intended to strengthen the program and significantly improve performance and accountability at the local level.

FAIR HOUSING

We note that in FY2013, the Administration has requested approximately $41 million in Fair Housing Initiatives Program (FHIP) funds, representing the Department's commitment to fair housing, including $28 million to support the efforts of private fair housing organizations that conduct private enforcement of the Fair Housing Act. FHIP is critical to building and sustaining inclusive communities. It is the only grant program within the federal government with a primary purpose of supporting private efforts to educate the public about fair housing rights and conduct private enforcement of the Fair Housing Act. We also note that in FY2013, the Administration has requested approximately $25 million in Fair Housing Assistance Program (FHAP) funds. FHAP is a critical component of HUD's effort to ensure the public's right to housing free from discrimination. FHAP multiplies HUD's enforcement capabilities, allowing the Department to protect fair housing rights in an efficient and effective manner.

UNITED STATES MINT

The Minority commends the **Treasury Secretary's action to address the over production of circulating Presidential $1 Coins in light of the Federal Reserve's finding that inventories of 1.4 billion $1 coins are sufficient to meet the needs of the United States for the next several years. By suspending production of circulating Presidential $1 Coins, the U.S. Mint's expects to reduce expenses by $50 million annually.**

In an effort to address increased production costs as a result of increasing metals prices, Congress passed the Coin Modernization, Oversight, and Continuity Act of 2010, which gave Treasury the authority to conduct research and development on circulating coins, and required Treasury to submit a report within two years on coin production costs and an analysis of alternative content. The Minority welcomes the opportunity to review Treasury's findings and consider any recommendations for appropriate changes to the metallic content of circulating coins. In the absence of such recommendations, production costs are expected to continue to exceed the face value of both the penny and the nickel, resulting in a reduction in funds remitted to Treasury's General Fund.

Minority Budget Views

Barney Frank

Rubén Hinojosa

Gwen Moore

[illegible]

David Scott

Al Green

Emanuel Cleaver

Wm. Lacy Clay

Gary C Peters

Joe Donnelly

Jim Himes

Brad Miller

Joe Baca

Carolyn B. Maloney

Melvin L. Watt

Stephen F. Lynch

Carolyn McCarthy

Gary L. Ackerman

Brad Sherman

[illegible]

Maxine Waters

Ed Perlmutter Colo #7

Keith Ellison

Michael E. Capuano

Minority Views, Signatories

Rep. Barney Frank	Rep. Joe Baca
Rep. Rubin Hinojosa	Rep. Carolyn Maloney
Rep. Gwen Moore	Rep. Melvin Watt
Rep. Andre Carson	Rep. Stephen Lynch
Rep. David Scott	Rep. Carolyn McCarthy
Rep. Al Green	Rep. Gary Ackerman
Rep. Emmanuel Cleaver	Rep. Brad Sherman
Rep. William Lacy Clay	Rep. Luis Gutierrez
Rep. Gary Peters	Rep. Maxine Waters
Rep. Joe Donnelly	Rep. Ed Perlmutter
Rep. Jim Himes	Rep. Keith Ellison
Rep. Brad Miller	Rep. Michael Capuano

One Hundred Twelfth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
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March 9, 2012

The Honorable Paul Ryan, Chairman
The Honorable Chris Van Hollen, Ranking Member
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Van Hollen:

I am writing to share the views and estimates of the House Committee on Foreign Affairs regarding the President's proposed budget for Fiscal Year 2013 (FY13). They include views and estimates submitted by the Subcommittee Chairmen and reflect concerns raised by the Majority Members of the Committee. Consistent with the past practice of the Committee, the Minority has prepared separate views and estimates that are also included in this transmittal.

At a February 29th Committee hearing with Secretary Clinton, the Administration's relative restraint in its top-line number for Foreign Affairs accounts was noted by the Majority: The total, cumulative FY13 International Affairs request of $56.37 billion is $5.1 billion below last year's request, and represents less of an increase over 2012 spending levels than the current, annualized inflation rate.

However, the Majority also expressed disagreement with a number of the priorities and programs that the Administration proposes to fund with those limited resources, some of which the Majority recommends be reduced or redirected to more important uses, as described below.

The President's FY13 budget continues the practice (begun last year) of dividing the International Affairs request into the "core" budget and so-called "overseas contingency operations" (OCO) funding, described by the State Department as "extraordinary, but temporary, costs of the Department of State and USAID in Iraq, Afghanistan, and Pakistan." While State and USAID face security-related contingencies overseas, the percentage of funding designated as OCO in each of the "front-line" states has varied significantly each year, and it is unclear exactly how the Administration determines what it carries under the OCO designation.

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The Honorable Chris Van Hollen
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Department of State and Related Programs

Middle East and North Africa Incentive Fund. In addition to bilateral aid for individual countries of the Middle East, the Administration is seeking $770 million for a "Middle East and North Africa (MENA) Incentive Fund" in addition to traditional bilateral aid. Of the $770 million requested for the fund, approximately $70 million comes from the Middle East Partnership Initiative (MEPI) and $5 million from USAID's Regional Office of Middle East Programs (OMEP).

However the other roughly $700 million is new money, for which recipient countries and programmatic activities have not yet been selected. The Administration is also seeking "notwithstanding" authority, which would allow it to spend those funds free of current statutory restrictions, for unforeseeably broad purposes (to potentially include new peacekeeping missions, security assistance, and foreign aid to countries in the region). The Committee Majority believes, and so articulated to the Secretary of State at the aforementioned February 29th hearing, that the Administration has done a poor job of managing the U.S. response to the transitions in the Middle East and North Africa. The U.S. needs to establish specific objectives and provide a detailed breakdown of what we hope to accomplish with this money and establish more effective management mechanisms.

Overseas Foreign Service Pay Raise. The FY13 request identifies $83 million for the final phase of a pay raise for overseas Foreign Service Officers (FSOs). FSOs currently receive a 24% locality pay premium while stationed in Washington, which the State Department is attempting to extend to overseas postings (and has been phasing in, using a temporary authority carried in a 2009 supplemental appropriations bill). But overseas FSOs are already eligible for additional benefits that they do not receive in Washington, such as cost-of-living adjustments, free housing, free private education for their children, and danger and hardship raises worth up to 70% of their base pay. According to GAO, even without the extension of any locality-based raise overseas, the average FSO salary already increases by $2,400 per year when FSOs move overseas. Furthermore, the Department has not provided any data demonstrating that this raise is necessary for recruitment or retention.

The $83 million identified for this purpose could be used to pay for the additional FSOs sought elsewhere in State's budget. Further, the permanent repeal of this authority was highlighted as an illustrative savings by the President's bipartisan National Commission on Fiscal Responsibility, which estimated that could save over $400 million in FY13 alone.

Conflict Stabilization Operations. There should be no increase in funding for the State Department's new Bureau of Conflict Stabilization Operations (CSO). Four months ago, the Administration justified the Bureau to Congress as just being a consolidation and replacement of existing resources, with no new funding. Yet the Administration has requested an 86% ($26.1 million) increase in funding for FY13. CSO's "principal mandate" states: "to stay ahead of change and play the appropriate operational role in anticipating, preventing, and responding to conflict." But presumably, if they were really able to anticipate conflict and stay ahead of

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change, existing State and USAID regional and programmatic personnel would already be doing so. CSO has not yet done anything to justify a near-doubling of its funding in FY13, and its mission is difficult to distinguish from what is already paid for under the Complex Crises Fund, the Office of Transition Initiatives, and other existing crisis mitigation efforts for which the Administration is also seeking increases.

Migration and Refugee Assistance. In contrast to the $462 million increase the Administration is seeking for State Department salaries and operations, the President's budget proposes to cut $250 million – a quarter of a billion dollars – from current-year Migration and Refugee Assistance, which provides lifesaving help to some of the world's most vulnerable people, and has long enjoyed bipartisan support in Congress. This reduction is not justified and does not appear driven by an anticipated reduction in critical refugee protection needs.

Iraq Police Development Program. Last October, State took over from the Department of Defense the Police Development Program (PDP) to train Iraqi police forces, one of the largest programs of its kind conducted by the State Department. State has spent approximately $1.245 billion for PDP since FY10. The State Department has requested an additional $850 million in FY13 INCLE funds for Iraq-OCO, which includes funds for the PDP and other related criminal justice and anti-corruption programs. The Administration's PDP request "will include approximately 190 advisors" which – as noted in a recent audit by the Special Inspector General for Iraq Reconstruction (SIGIR) – is a stark decrease from the initial goal of 350 advisors. Furthermore, SIGIR notes that, of the $200 million DOS requested for FY 2011 4th Quarter, "only about 12% of the funds are targeted to hire, train, and deploy police advisors and managers. The remaining 88% are for (1) life and mission support for the advisors and staff, (2) security for sites and transportation, and (3) operation and maintenance of the helicopter air wing. Based on INL's September 2011 data, $75.3 million—virtually all of the $75.5 million in expenditures—has been for security costs." The current formulation breaks down to nearly $4.5 million per advisor in FY2013, not counting money previously spent.

A number of PDP challenges remain, including incomplete facilities and vaguely defined advisory roles. Further, in an October 2011 SIGIR interview, Iraq's Senior Deputy Minister of Interior (MOI) Adnan al-Asadi, expressed "grave doubts as to the efficacy of the PDP" and predicted that it would provide "very little benefit" to his Ministry, stating: "I don't need it. I won't ask for it. But if you provide it, it will be a benefit and will add to our Ministry." U.S. officials do not yet have a written cost-sharing agreement with the Government of Iraq on the PDP. However, one U.S. official said that obtaining a written agreement is neither required nor critical. This raises a number of oversight issues with respect to the program that must be addressed before additional funding is appropriated.

East-West Center. The Administration is requesting $10.8 million for the East-West Center, located in Honolulu, Hawaii. Fifty years since its establishment, with the development of trans-Pacific travel, trade ties, as well as vibrant Asian American communities, U.S. ties to Asia have significantly deepened, eroding the East-West Center's *raison d'etre*, bridging the Pacific. Numerous privately-funded think-tanks and institutions have developed to do similar work today. Last year, the Committee passed a State Department Authorization bill that prohibited the

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Secretary of State from using funds authorized to be appropriated to support the East-West Center. The Center should rely solely on private funding.

U.S. Institute of Peace. The Administration is seeking $37.4 million for the U.S. Institute of Peace (USIP), a $1.6 million reduction from current levels. Last year, the House adopted an amendment to eliminate USIP funding, at a time when the government was borrowing approximately 40 cents of every dollar. Since 1985, U.S. taxpayers have backed USIP with $720 million (adjusted for inflation). While USIP has done some good work, the House voted that it should not be continued with taxpayer dollars.

U.S. Agency for International Development and Foreign Assistance

Global Climate Change and Environmental Programs. The Administration's Congressional Budget Justification states that the FY2013 budget seeks to request only what is absolutely necessary, reflecting difficult budget trade-offs. Yet, the Administration continues to propose substantial and unjustified funding for international climate change and environmental programs through the Global Climate Change Initiative (GCCI), while lifesaving activities such as the Migration and Refugee Account (MRA) have been scaled back.

With the shifting of limited resources to meet U.S. priorities for FY13, it is alarming that the Administration is seeking a total of nearly $2.6 billion (including export financing) for such programs. State and USAID funding alone totals approximately $470 million, of which $190 million (an increase of 3% from FY 2012 estimated levels) is being requested in programmatic funds for "adaptation," $149 million for "clean energy," and $130.5 million for "sustainable landscapes." In addition, the Administration is also seeking an increase of $40 million, or 44%, for the Global Environment Facility, an increase of $370 thousand for the Clean Technology Fund, and $100 thousand for the Strategic Climate Fund.

In the FY13 budget request, these programs continue to be vaguely defined, and have no mechanism for monitoring progress and determining success. In addition, programming funds have previously been allocated to the People's Republic of China (PRC), a donor country itself, to assist in reducing the PRC's global footprint and carbon emissions.

The substantial request for these programs remains out of sync with U.S. priorities and interests in times of fiscal austerity. The Committee Majority recommends the funding for the Global Climate Change Initiative (GCCI) be reduced by half and re-allocated to humanitarian assistance accounts in order to sustain their FY 2012 estimated levels.

Family Planning and Reproductive Health Funding. The Administration is proposing decreases in almost every bilateral global health program under the Global Health Initiative (GHI), *except* for Family Planning and Reproductive Health, which is set to increase. While bilateral HIV/AIDS programming through the Department of State would be reduced by 12.8%, and malaria and tuberculosis by 4.8% and 5.1%, respectively, the Administration is proposing a total of $530 million for family planning and reproductive health activities, a $6 million increase

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from FY 2012 levels. The FY13 request also proposes an objectionable $39 million contribution to the UN Population Fund, thus increasing overall funding for family planning and reproductive health activities to $569 million for FY13. The proposed increase and breakdown reflect seriously misplaced priorities for global health programs and should not be supported.

In addition, the Administration's reversal of the Mexico City Policy continues to allow U.S. government funds to be allocated to foreign non-governmental organizations that support or promote abortion as a method of family planning. The Administration currently supports such organizations, and will likely increase that support through the Global Health Initiative's integration of family planning programming with a wide range of global health programs. These integration measures are expanding funding opportunities for abortion organizations, and their potential to promote abortion both programmatically and geographically. The Committee Majority remains opposed to the Administration's abortion rights agenda, and strongly support the reinstatement of the Mexico City Policy. Funding for family planning and reproductive health activities under the FY13 request should be reduced and re-allocated to critical sectors of global health currently marked for cuts.

Global Fund to Fight AIDS, Tuberculosis, and Malaria. One of the most significant increases under the FY13 foreign aid budget is the U.S. contribution to the Global Fund to Fight AIDS, TB, and Malaria (Global Fund). The Administration is requesting approximately $1.65 billion, an increase of 27% from FY 2012 levels, and a 120% increase from FY 2011. In order to pay for this large increase, the FY13 request reduces direct funding to the U.S. President's Emergency Plan for AIDS Relief (PEPFAR), an effective and successful bilateral program.

Although the Majority supports the concept of a global fund to leverage international donor funding to fight the scourge of HIV/AIDS, the Global Fund itself has been plagued by graft and mismanagement. While the Fund has taken recent steps toward better internal oversight, the U.S. contribution should be reduced and re-directed through the proven, bilateral PEPFAR program until confidence is built that the Global Fund can make effective and transparent use of American taxpayer contributions.

Feed the Future Initiative. Funding for the Feed the Future initiative has been substantial in recent years. The Department of State and USAID portions of the Feed the Future request total $1 billion for FY13, an increase of $32.4 million (3%) from FY 2012 levels of $968 million.

Serious concerns have been raised about implementation of the Initiative, and its coordination with other U.S. implementing agencies. Funding for this initiative should not be increased until the Administration addresses the concerns raised in a March 2010 GAO report, including: Developing an operational definition of food security that is accepted by all U.S. agencies; developing a methodology to consistently report comprehensive data, food security-related inventory, and associated funding across agencies; and mitigating the risks associated with the host-country-led approach.

Complex Crises Fund. The Administration is seeking $50 million for the Complex Crises Fund (CCF), an increase of $10 million (25%) over FY 2012 estimated levels. The CCF was originally established within the Department of State to replace Department of Defense Section 1207

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assistance funds. Yet, the objectives of the Complex Crises Fund to "prevent root causes of conflict and instability" abroad remain vaguely defined. In addition, CCF activities remain duplicative of various departments and offices within USAID, the Department of Defense, and the Department of State that also seek to address post-conflict and stabilization issues abroad. This fund should be terminated.

Global Health Funding to China. Under the FY13 request, the Administration is seeking $2 million in global health programming for the People's Republic of China, in addition to $4.5 million in Economic Support Funds. Although the PRC continues to face global health challenges, it has emerged as one of the largest global economies, and currently funds major foreign assistance programs and investments of its own in such regions as Africa, Latin America, and Southeast Asia. United States global health assistance to the PRC should be terminated.

U.S. Foreign Aid to Major Donor Countries. Similar to the FY 2012 budget, the FY13 request continues to provide U.S. assistance, through bilateral and multilateral organizations and programs, to countries with robust and emerging economies. These countries, such as China, Brazil, South Africa, and India, have transitioned from being recipients of foreign aid to substantial donors, funding major foreign assistance programs and investments of their own. U.S. assistance should not be provided to countries that are economically viable enough to maintain their own assistance programs.

USAID Development Assistance Funds/Economic Growth Programs. The Administration is requesting approximately $2.5 billion for the Development Assistance (DA) account, a slight increase of $5.5 million over FY 2012 levels. Yet a larger allocation of DA funds should be redirected to USAID's underutilized economic growth programs -- the Development Credit Authority and the Global Development Alliance. Such programs continue to characterize the rising importance of private sector resources and actors in development aid. In 2011, the Development Credit Authority mobilized nearly $200 million in private capital for local loans in developing countries, while the Global Development Alliance has cultivated over 1000 public-private partnerships, resulting in billions of combined public-private resources for development projects. These programs highlight the crucial role of economic growth in development and help keep government costs low by leveraging private sector funds. Funding for USAID's Development Assistance account, which does little to match private sector funds and resources for development projects, should be reallocated to enhance these programs.

USAID Office of Budget and Resource Management. In order to reduce costs, better align budget resources, reduce replication and enhance accountability of foreign assistance programs, budget authorities and policy planning for all U.S. foreign assistance programs should be vested in one office at the Department of State to construct the federal budgets for both agencies, State and USAID. The Office of Budget and Resource Management at USAID should therefore be eliminated.

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International Broadcasting Operations

Broadcasting Board of Governors. The Broadcasting Board of Governors (BBG's) FY13 request for BBG is $720 million, $31.4 million less than FY12 enacted levels. BBG is completely restructuring its operations, cutting about 5% to 10% from each broadcasting service. Unfortunately, it is also cutting funds for programming that targets audiences living under repressive, communist regimes, such as in Laos, and Tibet. Reorganizational efficiencies are to be welcomed and encouraged, but care must be taken to avoid unnecessary cuts in freedom broadcasting overseas.

International and Multilateral Organizations

International Atomic Energy Agency. The Fiscal Year 2013 budget request proposes an increase in the U.S. voluntary contribution to the International Atomic Energy Agency (IAEA) from $85.9 billion in Fiscal Year 2012 to $90 million in FY13. Among other purposes, the U.S. voluntary contribution is used to support the IAEA's Technical Cooperation (TC) program, which received $21 million in 2010. But a 2009 GAO report found that the Department of State and the IAEA had failed to "systematically limit" assistance through the TC program to Cuba, Iran, Syria, and Sudan, which the State Department has designated as state sponsors of terrorism. Among GAO's recommendations were that Congress consider withholding a proportionate share of the U.S. voluntary contribution to the IAEA in the amount of nuclear-related assistance provided by the TC program to state sponsors of terrorism.

In a follow-up report in 2011, GAO found that the State Department and IAEA had made only modest improvements in preventing assistance being provided by the TC program to these countries. Nevertheless, the report also noted that the State Department continued to "strongly oppose" withholding proportionate funds from the U.S. voluntary contribution to the IAEA. Given the continuing assistance provided by the TC program to state sponsors of terrorism, the amount allotted for the U.S. voluntary contribution to the IAEA should be proportionately reduced until the IAEA implements reforms to end such assistance.

Reduce Funding for the Organization of American States. The Organization of American States (OAS) is increasingly seen as an ineffective regional body, not living up to the tenets of its Inter-American Democratic Charter and working in contravention of U.S. foreign policy and security objectives. And yet, U.S. contributions to its general fund have continued to rise. The FY13 budget request contains a $1.5 million funding increase for the general budget of OAS (to $51 million), but cuts contributions to the OAS Fund for Strengthening Democracy by nearly $2 million. This funding request works against U.S. policy priorities and is counterproductive to our democracy promotion efforts in the Hemisphere. Until sustainable and meaningful reform is undertaken by the OAS, the United States should reduce our assessed contributions and scrutinize our voluntary contributions.

United Nations Peacekeeping. While the head of UN peacekeeping has announced that the UN hopes to cut approximately $1 billion (about 12.5 percent) from its peacekeeping budget, the

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Administration's FY13 budget request includes $2.1 billion for assessed contributions for UN peacekeeping activities, a 15 percent increase from FY 2012. While some specific UN peacekeeping missions can advance U.S. national security interests, many hold mandates that are difficult or impossible to fulfill, becoming indefinite crisis-management measures instead of temporary conduits to permanent solutions. The Administration also seeks authority once again to pay up to 27.2 percent of the UN peacekeeping budget, even though U.S. law caps such payments at 25 percent. At a minimum, freezing contributions at FY 2012 levels would result in savings of over $270 million below the FY13 request.

UN Educational, Scientific, and Cultural Organization (UNESCO). UNESCO members voted on October 31, 2011 to grant membership to "Palestine" (i.e., the Palestine Liberation Organization (PLO)), triggering two longstanding provisions in U.S. law that prohibit funding to any UN agency that grants membership to the PLO or to entities that do not have the internationally-recognized attributes of statehood. However, the Administration's FY13 budget request includes almost $80 million in funding for UNESCO, and a footnote indicating that the Administration intends to ask for a waiver to U.S. law that would allow it to resume funding UNESCO. Such a waiver would damage our credibility at the UN and signal a green light for the Palestinians to receive membership at other UN agencies, which would further impede opportunities for peace and security between Israel and the Palestinians. Zeroing out UNESCO – in conjunction with a corresponding reduction to overall funding for the Contributions to International Organizations account – would result in savings of almost $80 million below the FY13 request.

United Nations Population Fund (UNFPA). The Administration is requesting $39 million for the United Nations Population Fund (UNFPA) despite that body's continuing support for and participation in the management of China's brutal "one-child policy." The Chinese government's practices of forced abortion and coerced sterilizations clearly violate international human rights standards and it has been demonstrated that UNFPA provides assistance to the very Chinese government agency that implements these human rights violations. The U.S. should return to its past practice, consistent with the Kemp-Kasten amendment, of prohibiting funding to UNFPA until it ceases direct or indirect involvement in coercive population control activities. Cutting funding to UNFPA was one of the winning "YouCut" proposals last year. Subsequently, Rep. Renee Ellmers introduced H.R. 2059, which does prohibit funding to UNFPA. H.R. 2059 was marked up and reported by our Committee on October 5, 2011, and presently awaits consideration by the full House. Zeroing-out funding to UNFPA—in conjunction with a corresponding reduction to overall funding for the International Organizations and Programs account—would result in savings of $39 million below the FY 2013 request.

United Nations Development Program (UNDP). The Administration's FY13 budget request includes $67.2 million in funding for the United Nations Development Program (UNDP). In addition to accusations of mismanagement and abuse of funds in numerous country programs, the United Nations Development Program (UNDP) has been accused of retaliating against whistleblowers who report these offenses. In North Korea, where UNDP had previously ceased

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operations due to accusations of scandal and abuse, UNDP employees are selected from a list of persons provided by the regime. UNDP's personnel costs reportedly skyrocketed between 2005 and 2010, increasing by 80% while actual staffing increased on 29% during the same period. In 2009, UNDP was reported to have $5 billion in reserve funds. UNDP does not need the funding requested by the Administration. Zeroing-out UNDP – in conjunction with a corresponding reduction to overall funding for the International Organizations and Programs account – would result in savings of $67.2 million below the FY13 request.

International Renewable Energy Agency (IRENA). U.S. assessed contributions to the new International Renewable Energy Agency (IRENA) have steadily increased since the Obama Administration chose to join in 2009. The Administration has requested almost $3.7 million in FY13, a 17.4 percent increase from FY 2012. The Administration has demonstrated little or no added value to membership in IRENA, and it is clearly not a U.S. priority, at a time of skyrocketing deficits and debt, to borrow money in order to finance membership in IRENA. Zeroing-out IRENA – in conjunction with a corresponding reduction to overall funding for the International Organizations and Programs account – would result in savings of almost $3.7 million below the FY13 request.

International Financial Institutions. Following the onset of the global economic crisis in 2008, most multilateral development banks (MDBs) accelerated lending and grant assistance to developing nations. As a result, several institutions ran short of financing sooner than expected and sought capitalization increases in 2010 and 2011. Combined with already-scheduled replenishment negotiations, the cost for donors grew significantly with much of the additional demands for the U.S. falling in the FY12 budget cycle. The House Appropriations mark for FY12, which called for 35% cut, was less than half that of the Senate ($2.87 billion) and lower still than the $3.3 billion request. The enacted level of $2.62 billion fell between the House and Senate levels, although considerably closer to the Senate recommendation. Given the dire fiscal outlook for the United States, the Committee Majority would support a cut similar to that included in last year's House Appropriations bill for the FY13 request of $2.6 billion.

Coordination Among International Development Aid Agencies. It is increasingly apparent that aid agencies administered by the UN are not properly coordinating with each other or overseeing their programs, resulting in duplication of effort, higher administrative costs and, most likely, less effective programs. It is also likely that programs administered by the multilateral development banks may duplicate UN development aid agencies' efforts at times as well. Limits should be placed on USG funding provided to all such international development aid agencies until the U.S. is persuaded that proper coordination of programs and elimination of duplication of effort has been implemented by the UN and other international aid organizations.

Policy Issues

Pakistan. Few relationships are as complex and challenging as that between the United States and Pakistan. While there is some hope for modest improvements in the relationship this year, such gains will likely be tactical and incremental – not strategic game changers. While the

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Committee Majority supports continued long-term engagement with Pakistan, we also believe the Congress must be clear about its expectations for the relationship. Absent credible steps to address longstanding United States concerns about official Pakistani support for the activities of violent non-state actors along the Afghan border and elsewhere in the region, the Majority cannot support continued assistance at current levels. In this regard, the Committee Majority would note that conditions contained in H.R. 2582 (the Foreign Relations Authorization Act for FY 2012) and analogous language contained in the end-year appropriations bill (H.R.2055) restrict the use of most foreign assistance authorities for Pakistan unless the Secretary of State can certify that Pakistan is cooperating with the United States in efforts against the Haqqani Network and other domestic and foreign extremist organizations. Recently a senior Member of our Committee, Mr. McCaul, introduced legislation along similar lines. The Committee Majority would envision similar language being carried over into the FY13 Foreign Operations Appropriations bill.

More broadly, the most recent quarterly report of the office of the inspector general (OIG) for U.S. civilian assistance to Afghanistan and Pakistan states that although Congress appropriated $1.48 billion for civilian assistance to Pakistan in FY12, only $618 million was obligated. In addition, over the last three years, $1.632 in obligated development funding (equal to 38% of total obligated civilian assistance since 2009) remains unspent. Given the political and diplomatic difficulties in the U.S.-Pakistan relationship, the Committee Majority thinks it would make more sense to scale back the pace of appropriations for civilian assistance in Pakistan, so that such funds are used more judiciously and sustainably over a longer period of time. It must be noted that the Government of Pakistan has repeatedly said that if the United States wants to support economic development in Pakistan, it should do so through a greater reliance on trade rather than aid policy. In this spirit, the Majority must urge the Executive Branch to look toward trade policy as an increasingly important tool in our efforts to foster stability in Pakistan and the broader South Asian region.

North Korea Food Aid. Bilateral talks with Pyongyang resumed in February 2012 following the death of North Korea's leader late last year, which have resulted in plans to provide 240,000 metric tons of food aid to North Korea in exchange for questionable commitments on North Korea's nuclear program, as well as a moratorium on missile launches and nuclear tests. The inclusion of food assistance in denuclearization negotiations represents a breach of seventeen years of U.S. policy that food assistance is a separate and distinct issue, based solely on the humanitarian needs (to avoid giving Pyongyang the impression that food assistance is payment to solicit good behavior).

Persistent concerns about diversion of food aid in North Korea have rightly led to skepticism in Congress. In 2011, the House passed an amendment to the Agriculture Appropriations bill prohibiting food aid to North Korea, offered by Committee Member Ed Royce. Ultimately, the conferees included language (Sec. 741 of P.L. 112-55) limiting food assistance to countries with "adequate monitoring and controls...to ensure that emergency food aid is received by the intended beneficiaries in areas affected by food shortages and not diverted for unauthorized or

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inappropriate purposes." No funding should be provided for any effort that skirts this law.

Burma. The State Department request for $27.2 million dollars in ESF funding for economic development programs inside Burma, part of the Obama Administration's engagement policy, is premature. The Burmese military has continued its assault against minority groups in border areas, especially in Kachin state. These military operations include the commitment of human rights atrocities such as mass rape, indentured labor, child soldiering, the targeting of Christian clergy, and also reports of the use of bio-chemical weapons. This new funding for Burma should not be approved before a comprehensive ceasefire agreement is concluded which is acceptable to all minority groups, and not before the results and political impact of the April 1st by-elections are known.

Comprehensive Nuclear Test Ban Treaty Organization (CTBTO). This year's budget request includes a $33 million contribution to the CTBT's "International Monitoring System." Additionally, the Administration seeks a separate, $3.5 million request (on top of the $33 million) for "special contributions." This brings the total request for the CTBTO to over $36.5 million. This is the third year in a row that the Administration has requested "special contribution" funding. The Administration continues to ramp up funding for a treaty to which the U.S. is not party.

Afghanistan. U.S. assistance to Afghanistan requested through USAID and Department of State budget accounts totals $2.5 billion, split almost evenly between enduring and Overseas Contingency Fund (OCO) categories. This total represents $178 million, or 7.6%, more than was provided through the same accounts in FY 2012. Most of this assistance is provided through USAID to support programs in health, education, agriculture, private sector growth, and civil society development. The budget request gives particular emphasis to support for transport, water, and electric power infrastructure, aimed at the long-term sustainability of these investments, including the infrastructure provided under the DOD Afghanistan Infrastructure Fund.

The most striking portion of the FY13 Afghanistan assistance request is for the State Department's INCLE account. At $600 million, the request represents a $274 million or 85% increase over FY 2012 levels. This increase aims to address the transition to the Afghan government of activities currently managed by DOD, such as military detainee housing, and will assist in the transition to State Department of programs currently coordinated closely with DOD, such as the counternarcotics and justice sectors. However, given the transitional experience in Iraq, the ability of DOD and State to properly transfer and assume certain roles and responsibilities remains questionable. And while the FY13 budget documents note that the requests for both aid and diplomatic operational expenses are meant to address the transition of responsibility to the Afghan government and the transition of current military projects to civilian oversight, it is unclear of what that entails in both financial and project terms. What specific activities is the Department of State taking over from DOD, what responsibilities are being handed over to the Government of Afghanistan? The specific planned timing for these transitions remains unclear.

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West Bank and Gaza. Despite U.S. provision of over nearly $3 billion in ESF (including hundreds of millions of dollars in direct cash transfers to the Palestinian Authority) since FY 2007, the Palestinian leadership continues to fail to meet its international obligations, including stopping anti-Israel and anti-American incitement, unequivocally rejecting and cracking down on violent extremism, negotiating directly with Israel, or recognizing Israel's right to exist as a democratic, Jewish state. During the past year, the Palestinian leadership has: repeatedly rejected and evaded efforts to resume direct negotiations; stepped up its campaign to demonize and de-legitimize Israel worldwide and in international forums; and sought to bypass negotiations by seeking unilateral recognition of a Palestinian state from foreign governments and in international forums. Despite some U.S. pressure to stop these counter-productive activities, the PA has persisted in its dangerous course by seeking to again form a coalition government in partnership with Hamas, a Foreign Terrorist Organization and an Iranian and Syrian proxy. A reconsideration of assistance to the PA is required.

Lebanon. The request for U.S. economic and humanitarian assistance to Lebanon has decreased for FY13, but remains substantial, even with the takeover of the Lebanese government by Hezbollah – a Foreign Terrorist Organization and an Iranian and Syrian proxy, and the emergence of a government antithetical to United States policy objectives. Congress must reassess the efficacy of continuing assistance to Lebanon that would enhance the ability of a Hezbollah-controlled Lebanese government to spend more of its own funds on activities that undermine Lebanese sovereignty, harm the Lebanese people, and threaten U.S. interests and allies.

Israel. U.S. assistance to Israel is critical in advancing U.S. security interests in the Middle East. Not only is the Committee supportive of fully funding security assistance to Israel, in accordance with the 2007 U.S.-Israel Memorandum of Understanding, but additional actions such as the provision of U.S. defensive equipment through lend-lease mechanisms, including air refueling tankers, missile defense capabilities, and specialized munitions. Additionally, the Committee Majority supports other activities such as increasing the forward-deployed U.S. munitions stockpile in Israel; examining ways to strengthen efforts to prevent weapons smuggling into Gaza, and to protect against weapons smuggling and terrorist threats from the Sinai Peninsula; permitting Israel to the maximum extent possible the use of commercial channels for Foreign Military Financing purchases; encouraging expanded role for Israel within NATO, including an enhanced presence at NATO headquarters and exercises; and extending U.S. loan guarantees for Israel. It is critical that the U.S. continue to help Israel preserve its Qualitative Military Edge amid rapid and uncertain regional political transformation.

Egypt. The State Department Congressional Budget Justification (CBJ) notes of Egypt that "bolstering reforms and strengthening civil society will serve as bedrocks for a region-wide strategy to advance U.S. interests. Political reform has become a necessary means to achieve the regional stability the U.S. seeks." But U.S. NGOs in Egypt, which have been at the forefront of providing democracy assistance to those Egyptians seeking free elections and better governance, have been deliberately targeted, resulting in office raids and U.S. government property being confiscated. For FY13, the Economic Support Fund request for Egypt remains the status quo with a request of $250 million. In a recent hearing before the Committee on Foreign Affairs,

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witnesses from the International Republican Institute (IRI), National Democratic Institute (NDI), and Freedom House (FH) testified that prospects for democratic governance in Egypt remain on the line. Furthermore, given the rise of the Muslim Brotherhood and other Islamist parties in Egypt, U.S. assistance to Egypt must be reevaluated.

Vietnam. Given the serious fiscal constraints our nation faces, it is difficult to justify providing $103 million in assistance to this communist country, particularly at a time when the Hanoi regime is backsliding on human rights issues and increasingly violating the religious freedoms of the Vietnamese people.

Assistance to Eastern Europe and Central Asia (AEECA) Account. The AEECA account was established to carry out the provisions of the Support for Eastern European Democracy (SEED) Act and the FREEDOM Support Act (FSA), to provide assistance to newly independent states following the breakup of the former Soviet Union. Therefore, those two laws, SEED and FSA, were enacted to focus assistance to these countries through a single account, with the stated goals of (a) producing democratic reforms and (b) economic reforms that would engender such levels of sustained growth that would allow for the eventual graduation of these countries from dependence upon U.S. foreign aid.

Over the past twenty years, these countries have emerged from the Soviet Union's shadow to become vibrant democracies with diverse economies. In fact, most of the nations in this region have become either full members or candidate states for membership in the European Union as well as in the North Atlantic Treaty Organization. Therefore, the proposal in this budget request for FY13 to eliminate the designated AEECA account and graduate these countries to funding through the general Economic Support Fund, Development Assistance or the Global Health accounts, reflects the maturing of these relationships between the United States and the nations of Eastern Europe and Central Asia. In fact, this proposal should be considered a first step, with the aim to transform our assistance programs in all these countries from a foreign aid basis into bilateral trade relationships alone. The eventual cessation of financial assistance to these nations in favor of increased trade engagement will not only decrease U.S. government expenditures, it will increase opportunities for American businesses, and ultimately allow for more substantial and sustained economic relations between our countries.

Development Assistance to Bolivia, Ecuador, and Nicaragua. Bolivia, Ecuador, and Nicaragua receive increases in the FY13 budget request over FY 2012 estimated levels. Yet, the regimes of Morales, Correa, and Ortega continue to undermine U.S. interests in the region, while also disregarding the rule of law and the fundamental human rights of their own citizens. These countries should not be rewarded with an increase of financial assistance from the United States.

In 2009, Bolivia expelled our ambassador and Drug Enforcement Administration (DEA) personnel, thereby restricting essential security and counter-narcotics efforts. Last year, the State Department signed a new Framework Agreement with Bolivia, which does not include the re-establishment of DEA personnel. Until Bolivia becomes a real democratic partner committed to

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combating narco-trafficking and narco-terrorism, Development Assistance should not be increased.

In the President's FY13 budget request, Ecuador receives a $1 million boost in Development Assistance funding over FY 2012 levels. Yet, under the rule of Rafael Correa, it has embraced totalitarian tendencies and viciously targeted the private media and freedom of expression, through the intimidation of independent journalists. As Ecuador descends further down the path of totalitarianism, the United States government should not reward the Correa regime with an increase of non-security assistance.

The FY13 budget request includes a $3.1 million increase in Development Assistance for Nicaragua. Previously, the State Department spent millions of American taxpayer dollars to support free and fair elections in Nicaragua. This money was not well-spent as the 2011 elections were marred with irregularities and resulted in the unconstitutional election of Daniel Ortega. Under the regime of Ortega, Nicaragua has not been a partner of the United States and should not receive an increase in Development Assistance.

Economic Support Funds to Cuba and Venezuela. The President's budget cuts funding for important democracy assistance programs in Cuba and Venezuela, by $5 million and $2 million respectively. These funds are vital to help democracy advocates, who are seeking freedom from the oppressive regimes of the Castro brothers and Hugo Chavez.

The United States should stand in solidarity with the people of Cuba and Venezuela during their time of need. Under the Cuban regime, the denial of basic human rights and arbitrary detentions and beatings of political dissidents occurs daily. In Venezuela, Hugo Chavez continues his subversion of the judicial branch, intimidation of opposition leaders, and attacks against the authority of the National Assembly. Reducing democracy funding sends the wrong message to the freedom-loving people in this Hemisphere and does not advance U.S. priorities in the region.

Western Hemisphere Security Funding. As drug trafficking and violence continue to escalate in the Western Hemisphere, the administration's decision to spend millions of dollars on environmental programs illustrates a failure to prioritize security as the top priority in the region. For example, last year in Ecuador, the Department of State spent more money on environmental programs than on counter-narcotics operations. Again, in Bolivia, the Department of State spent $4.5 million more on environmental programs than on good governance initiatives. Just last month, Ahmadinejad's 'Tour of Tyrants' trip to Venezuela, Nicaragua, Cuba, and Ecuador reaffirmed Iran's commitment to undermining U.S. national security interests. With the rising threat posed by the Qods force and its Iranian proxies such as Hezbollah in our region, the U.S. needs to dedicate more attention and resources to target and focus on combating illicit activities throughout the region.

Haiti. The recent resignation of the Haitian Prime Minister and the failure of the Haitian parliament to renew the authorities of the Interim Haiti Recovery Commission (IHRC), which was an integral transparency mechanism that monitored and coordinated international donor and

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U.S. taxpayer dollars, have raised serious concerns. The State Department needs to take significant steps to ensure accountability for assistance funds going to Haiti. In addition, the Haitian government must take much stronger measures to eliminate corruption, including committing to full transparency regarding international donor funds.

Foreign Military Financing for Unfriendly Governments. Some of the countries that receive United States assistance through Foreign Military Financing, such as Ecuador and Nicaragua, work against U.S. national security interests and foreign policy priorities. While those countries may have pressing needs, meeting those needs may not serve overall U.S. interests in the case of governments that are unfriendly and are not working to promote global stability and the security of democratically-elected governments.

Export Control Reform. The Directorate of Defense Trade Controls (DDTC) is currently supplementing their staff salary cuts by using revenue from registration requirements. If the export control reform initiative comes to fruition and the registration requirements for exporters is abolished (as set forth by the State Department). This does not seem to be factored into the reform process and needs closer examination.

The Committee has held several hearings on proposals by the Executive Branch to radically restructure United States strategic export controls. The Committee welcomes any reforms of our export control system that will enhance American national security, protect critical technologies, foster critical bilateral security relationships, and make our system easier to navigate for small business and other exporters. The Committee Majority has repeatedly cautioned, however, that current proposals by the Administration may not only weaken national security, but actually introduce additional complexities into an already complex system. These matters raise many significant policy and technical issues that require considerable Congressional due diligence. While the Committee is open to working with the Executive Branch on process issues attendant to the consideration of export control reform, it will not accept unilateral decisions by the Administration that materially infringe on Congressional oversight over these important national security matters.

East Africa Peacekeeping Operations. The East Africa region is experiencing numerous national crises that could rapidly evolve into major regional conflicts or humanitarian disasters. The request for the Contributions for International Peacekeeping Activities includes funding for peacekeeping operations in the Democratic Republic of the Congo, Darfur, Somalia, Abyei and South Sudan, which is $15.7 million less than FY 2012 funding for operations in the region. Although these ongoing operations are needed, strategies aimed at creating credible internal forces must be enhanced to minimize the need for international forces over extended periods of time. Greater use of effective equipment and logistical support in peacekeeping operations also may prevent crisis situations from being prolonged at a level of cost that may not be sustainable.

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Conclusion. The views and estimates outlined above reflect the work of our Committee over the past month to review the President's FY13 budget submission with an eye toward maximizing returns on U.S. investments in International Affairs, eliminating duplication, seeking reform and accountability, and setting clear priorities that best reflect the interests and values of the United States. We hope you find them helpful to your own deliberation on the budget.

Sincerely,

ILEANA ROS-LEHTINEN
Chairman

One Hundred Twelfth Congress
U.S. House of Representatives
Committee on Foreign Affairs

2170 Rayburn House Office Building
Washington, DC 20515
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March 5, 2012

The Honorable Paul Ryan, Chairman
The Honorable Chris Van Hollen, Ranking Member
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Van Hollen:

As Democratic Members on the House Committee on Foreign Affairs, we are writing to share our views of the President's proposed International Affairs budget for FY 2013. We believe that prudent investments in diplomacy and development are essential not only for protecting U.S. national security, but also for promoting America's economic recovery and for demonstrating the values and principles that define us as a nation.

While only accounting for about one percent of the federal budget, the International Affairs budget – or Function 150 – makes an outsized contribution to U.S. security and economic objectives abroad.

Nearly a quarter of the fiscal year 2013 international affairs budget request is dedicated to supporting critical U.S. efforts in the frontline states of Iraq, Afghanistan and Pakistan. But these are not the only places where diplomats and aid workers help keep America safe. Our security is threatened if nuclear weapons fall into the wrong hands or if fragile and failing states become training grounds for terrorists. We cannot effectively combat transnational crime or drug trafficking without the help of other nations. Our foreign assistance dollars help other countries to become better partners in preventing the proliferation of weapons of mass destruction, in countering the flow of illicit narcotics, and in reducing violent extremism.

Our overseas programs are also a critical part of strengthening the American economy and getting Americans back to work. Commercial and export agencies funded under the Function 150 account, such as the Overseas Private Investment Corporation and U.S. Trade and Development Agency, are identifying and financing business opportunities for American companies in new markets. These emerging markets are essential to future U.S. growth as 95 percent of the world's consumers live outside the United States and developing countries buy half of U.S. exports. Our officials not only

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provide support for American businesses and citizens abroad, but help attract investment and tourism to the United States, which enhances American competitiveness and creates jobs.

Foreign assistance programs also protect human rights, alleviate human suffering, and provide hope to millions who live in extreme poverty. The principles we cherish are undermined if we allow families to go hungry, children to die of easily preventable diseases, and girls to be kept out of school. Whether it is to respond to natural disasters, bring clean water and sanitation to urban slums, provide opportunities for women to start their own businesses, ensure free and fair elections, or combat human trafficking, there is broad bipartisan support for programs that reflect American values.

Americans are a generous people, but especially in this difficult budget environment we must ensure that our budget resources are allocated wisely, and that our international programs are carried out in the most cost-effective manner. The President's proposed budget provides a careful balance of continued engagement towards our interests and values while recognizing the difficult economic and budgetary environment that the United States is currently confronting.

The President's request limits unnecessary spending through greater efficiencies and by recognizing changing global priorities. Through the USAID FORWARD and streamlining initiatives, both USAID and the State Department are eliminating unnecessary duplication and overlap, simplifying procurement procedures, and promoting innovative approaches that can reduce costs and improve results. The budget also reflects the successful transition of a number of countries in Europe and Eurasia to free market democracies by eliminating the separate account for those countries, a net reduction of $113 million. Additionally, the request scales back construction projects worldwide that will result in at least $140 million in savings.

In this austere fiscal environment, we recognize that tough budgeting choices must be made. Yet we must guard against decisions that place America's security and well-being at risk for short-term gains. We urge support for the President's FY 2013 budget request for the Department of State, USAID and related agencies.

Sincerely,

Howard L. Berman Gerald E. Connolly

HOWARD L. BERMAN GERALD E. CONNOLLY

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THE VIEWS AND ESTIMATES OF THE COMMITTEE ON HOMELAND SECURITY ON THE PROPOSED FISCAL YEAR 2013 BUDGET FOR THE DEPARTMENT OF HOMELAND SECURITY

Pursuant to clause 4(f) of Rule X of the Rules of the House of Representatives, and section 301(d) of the Congressional Budget Act of 1974 (2 U.S.C. 601 *et seq.*), the Committee on Homeland Security (Committee) is transmitting herewith to the House Committee on the Budget its Views and Estimates on matters within its jurisdiction or functions to be set forth in the budget of Fiscal Year (FY) 2013. These Views and Estimates were circulated to all Members of the Committee for their review and comment. While the report reflects the bipartisan views of the Members of the Committee, the Committee wishes to note that not all Members necessarily agree with every aspect of the report. Accordingly, the Committee reserves its flexibility to determine program needs and recognizes the potential for funding changes, as the Committee and Congress work their will through the legislative process.

OVERVIEW

The Office of Management and Budget has projected that spending for Social Security and Medicare combined will exceed all discretionary spending in Fiscal Year 2013. This underscores how imperative it is that Congress prioritize funding for discretionary programs. The Committee has always maintained that Homeland Security is National Security. A terrorist attack in the United States would not only result in a tragic loss of life, but would create a catastrophic ripple effect through the economy. The Department of Homeland Security (DHS) must have adequate resources to carry out its mission critical programs to protect the Nation from terrorist attack and to prepare for and respond to natural disasters. The Committee applauds the Department's efforts in its Department-wide Efficiency Review and other cost-saving initiatives. The Department has identified $3 billion in cost avoidances and reductions and reallocated those funds to priority initiatives.[1] The Committee will continue to conduct oversight to identify further opportunities for cost-savings to ensure that taxpayer funds are being utilized in the most effective and efficient manner possible.

The President's FY 2013 budget request for the Department of Homeland Security is $39.5 billion in net discretionary funding ($44.9 total including $5.5 billion in disaster relief funding available pursuant to the Budget Control Act). This is a relatively modest decrease from the FY 2012 enacted level of $39.6 billion ($46.24 billion total including $6.4 billion in disaster relief funding funded under the Budget Control Act). This is the first time the Department's net discretionary funding request was lower than the previous year's request.

CUSTOMS AND BORDER PROTECTION

Operational Control of the Border

The Department has previously maintained that operational control is a "term of art" – that this concept is no longer suitable for measuring and assessing security along the borders. As a result, Customs and Border Protection (CBP) is currently developing a new measurement system called the Border Condition Index (BCI) that will serve as a substitute measurement for examining the level of security along the border; however, this metric has not yet been fully vetted, assessed, or

[1] FY 2013 Budget in Brief, the Department of Homeland Security, p. 6.

even released. The Committee generally supports CBP's attempt to produce a more accurate metric for analyzing border security beyond "operational control"; however, the Committee has concerns about the proposed elements that may potentially be included in the BCI. The Committee intends to fully review the BCI and other CBP metrics used to assess the security and integrity of the Nation's borders.

The President's budget request includes a $73 million decrease over the FY 2012 enacted levels in the Border Security Fencing, Infrastructure, and Technology account. After repeated technology failures, including the cancelled Secure Border Initiative, the Committee is concerned with the Department's lack of a comprehensive plan to utilize technology along the border. The Committee is disappointed that the Department has released a technology deployment plan that covers only Arizona, without releasing similar plans for other border states. To that end, the Committee believes a comprehensive strategy to secure the Northern and Southern borders is required to inform future technology investments.

Office of Air and Marine Recapitalization
CBP continues to have trouble managing its aging fleet of aircraft, including its 40 year-old P-3 fleet, operated by CBP's Office of Air and Marine (OAM). The President's budget request reduces funding for OAM by 13.5% from the FY 2012 level. While the budget request does include funding for the P-3 service life extension program, extending the life for 14 of the 16 P-3 airplanes, the Committee is concerned that there is no plan to further modernize the aircraft fleet. Without further modernization efforts, OAM's aircraft fleet will be increasingly obsolete and unable to assist the Border Patrol, other DHS agencies, and Joint Interagency Task Force South in securing the border, stopping illicit activities, including narcotics and migrants smuggling, and preventing terrorists from entering the United States through the same means and methods.

Supply Chain Security
The Committee is pleased to note that the President's budget request includes an increase of $31 million to improve the Automated Targeting System. This funding augmentation will allow CBP to better screen global cargo shipments to locate high-risk containers. By focusing CBP's limited resources on the highest risk cargo shipments, the Department is working to ensure that taxpayer funds are being utilized in the most effective and efficient manner possible. Furthermore, the Committee is pleased to note the increase of $13 million for the Container Security Initiative (CSI). The CSI program allows CBP officers to work with foreign nations to scan and physically inspect high-risk cargo prior to its loading on a ship destined for an American port.

US-VISIT
The mission of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) is to provide a biometric and biographic identification system through the collection, maintenance, and sharing of data to authorized DHS, Federal, state, and local law enforcement agencies in support of DHS missions. The President's budget request proposes the transfer of US-VISIT from the National Protection and Programs and Directorate (NPPD) to CBP and Immigration and Customs Enforcement (ICE) no later than October 1, 2012. CBP would assume responsibility for core US-VISIT operations, the management of biometric and biographic information storage, and matching and watchlist management services while ICE will assume responsibility of the US-VISIT visa overstay analysis. The Committee is hopeful that

transferring US-VISIT to CBP and ICE will allow the program to achieve its border security and visa overstay prevention missions.

The total FY 2013 budget request for the components of US-VISIT is $279 million, compared to $306 million in FY 2012. The Committee is concerned that DHS does not currently project cost savings from this transfer. The Committee encourages CBP and ICE to leverage existing administrative capabilities to reduce costs of operating the US-VISIT program. The Committee will conduct oversight over the US-VISIT program, with the goal of ensuring that biometric exit and entry are achieved and efficiencies and cost savings are realized in the long-term from this transition.

IMMIGRATION AND CUSTOMS ENFORCEMENT

Secure Communities

The Committee supports the nationwide activation of Secure Communities and the current projection that all jurisdictions will be active within the program no later than the end of FY 2013. Secure Communities effectively leverages state and local law enforcement as a force multiplier to identify criminal aliens. It is vital to ensure the program will be adequately funded in order to fully deploy Secure Communities in all jurisdictions nationwide. The Committee understands the need to assess the effectiveness of 287(g) partnerships, and has questions about the future of the programs, in light of the Department's FY 2013 budget request.

Enforcement and Removal

The Committee is concerned that the President's request reduces the number of detention bed space by 1,200 beds from 34,000 to 32,800. Detention bed space is expensive, averaging $122 per day. The Administration proposes to use the savings realized to enhance its Alternatives to Detention program. The Alternatives to Detention program allows ICE to monitor aliens, who are deemed to be low risk, without holding them in detention facilities; however, the Committee has questions about the metrics for this program. The Committee will conduct oversight to determine whether ICE has the resources necessary to carry out its immigration enforcement responsibilities and determine whether sufficient bed space is available for those illegal immigrants who have extensive criminal histories.

UNITED STATES COAST GUARD

The President's FY 2013 budget request is $9.9 billion for the U.S. Coast Guard (USCG), a decrease of 5.7% from the FY 2012 level. The Committee is deeply concerned that the President's budget request significantly decreases front line operations in the USCG. The budget would significantly reduce USCG personnel, eliminating 1,056 personnel from the service, including 772 front-line operational billets. Furthermore, the budget proposes decommissioning numerous operational cutters, which would result in a reduction of more than 15,000 cutter hours, including 10% of all 110 ft. Patrol Boat operations.

Front Line Operations

The budget request proposes decommissioning numerous front line operational units, including two 378 ft. High Endurance Cutters, three 110 ft. Patrol Boats, and the second crews for the eight dual-crewed 110 ft. Patrol Boats in Florida. The budget suggests that these assets will be replaced by new units coming online, and while the USCG does have replacements slowly being built, the new ships will not be operational by the time the subject cutters are decommissioned. This decrease will result in a loss of 13,000 patrol boat hours, which is approximately 10% of all 110 ft. Patrol Boat operations. Furthermore, there will be a gap of more than 2,500 High Endurance Cutter hours. While these aging cutters should be decommissioned, the Committee strongly believes that they should not be taken off line until the replacement ships are fully operational.

USCG Recapitalization
The Committee supports the budget request to fully fund the sixth National Security Cutter (NSC). This asset alone costs $683 million and is the single largest individual capital expenditure in the Department. However, due to this expense and the overall requested reduction in USCG acquisition funding ($1.46 billion in FY 2012 to $1.19 billion in FY 2013), the budget proposes significant decreases in funding for other acquisition programs. While acquiring all eight NSCs is vital to the future of the USCG, the Department must ensure that all vital assets of the USCG are fully funded to keep America's maritime borders secure.

The Committee is also concerned that, while the sixth NSC is fully funded, the President's budget request eliminates any future funding for the seventh and eighth NSCs in its Capital Investment Plan. By not constructing the seventh and eighth NSCs, the service would significantly reduce its high endurance cutter capability, which is primarily designed to conduct law enforcement, defense readiness, and command and control operations with the ability to project long-range presence and extensive on-scene time.

FEDERAL EMERGENCY MANAGEMENT AGENCY

State and Local Programs
The President's FY 2013 budget request includes $2.9 billion for State and Local Programs within the Federal Emergency Management Agency (FEMA), a $500 million increase over the FY 2012 enacted level. Within the State and Local Programs account, the request includes $1.54 billion for a new National Preparedness Grant Program (NPGP), which would consolidate and replace a number of homeland security grant programs including the State Homeland Security Grant Program (SHSGP), Urban Area Security Initiative (UASI), Port Security Grant Program (PSGP), Transit Security Grant Program (TSGP), Metropolitan Medical Response System (MMRS), the Citizen Corps Program, and the Buffer Zone Protection Program.

The Committee supports robust funding for homeland security grants and has concerns that the President's NPGP proposal lacks sufficient detail on how risk will be integrated into the allocation of these grants and which entities will be eligible to apply directly. The proposal relies heavily on a State's completion of a Threat and Hazard Identification and Risk Assessment (THIRA), yet nearly a year after the THIRA concept was introduced in the FY 2011 grant guidance, FEMA has not released guidance for grantees on how to conduct this THIRA.

The Committee is concerned about the lack of stakeholder engagement by FEMA on this new proposal. These grants have been, and will continue to be, vital to the security operations of States and localities, particularly high-risk urban areas. The Committee will carefully review and assess this proposal as it is a departure from the current authorizing language for these programs. The Committee will continue to examine this proposal through hearings and briefings and will work with the Department and relevant stakeholders to determine the best course for allocation and distribution of homeland security grants.

OFFICE OF HEALTH AFFAIRS

BioWatch

The President's FY 2013 budget requests $125 million for BioWatch, an increase of $11 million over the FY 2012 enacted level. BioWatch is the Office of Health Affairs' flagship operational program, designed to detect aerosolized bioterror agents, and accounts for the vast majority of its expenditures. Of the requested amount, $85 million will support current operations, and $39.9 million is for continued testing of the proposed next generation (Generation 3) system. This is an increase of $16 million over the FY 2012 enacted amount for Generation 3. The Committee is concerned that no formal cost benefit analysis has been performed to ensure that the significant funding dedicated over the project lifecycle will mitigate risk sufficiently to justify the expenditure. The Government Accountability Office (GAO) currently is conducting an investigation of Generation 3 due to serious Member concerns over this procurement, and the Committee awaits the GAO's findings before supporting this request.

National Biosurveillance and Integration Center

The National Biosurveillance and Integration Center (NBIC) budget request is $8 million; although this is $4 million below the FY 2012 enacted, it is $1 million more than levels at which the Center has historically been funded. The Committee included a provision in H.R. 3116, the Department of Homeland Security Authorization Act for FY 2012, to repeal the statutory NBIC authorization because the program has not provided sufficient value. Furthermore, a new strategy is expected from the Office of Health Affairs on how to improve the NBIC; however, the Committee understands the strategy is pending, as the Administration drafts a broader national biosurveillance strategy. In light of the Committee-passed legislation to repeal NBIC, the Committee does not support funding at $8 million at this time.

OFFICE OF INTELLIGENCE AND ANALYSIS

Non-National Intelligence Program

The Committee recognizes and is supportive of the inclusion of non-National Intelligence Program (NIP) funding within the Office of Intelligence and Analysis (I&A) in the FY 2013 budget request. The Committee continues to believe that I&A must maintain a strong role within the Intelligence Community (IC), and providing non-NIP funding is an important step toward strengthening I&A's position within the DHS Intelligence Enterprise and its ability to focus on Department-specific missions as well as its broader IC mission.

NATIONAL PROTECTIONS AND PROGRAMS DIRECTORATE

Cybersecurity

The President's FY 2013 budget request for the cybersecurity mission with the National Programs and Protection Directorate is significantly increased from the FY 2012 enacted levels. An increase of over $300 million is requested to improve the security of Federal networks through the implementation of both intrusion prevention technology and improved security procedures required under the Federal Information Security Management Act (FISMA). Both of these initiatives focus on necessary security improvements for Federal departments and agencies but these funds are not available for promoting security within the private sector critical infrastructure. Since threats and risks continue to grow and evolve, the Committee supports adequate funding to support the security and operational guidance for the Federal government and directs the Department to increase outreach to the private sector. The Committee, however, wants to avoid duplicative funding at different agencies for the same Federal network purposes and will conduct oversight to ensure that funding is streamlined.

The Committee notes that the Department's Science and Technology (S&T) Directorate has also requested significant increases in funding for cybersecurity research and development. The Committee supports the increase for S&T to build more secure cyber infrastructure and foundational elements which are critical components of cybersecurity research that are not addressed adequately outside of government directed research. The Committee will continue to monitor the Department's cybersecurity activities to ensure appropriate coordination between NPPD and S&T to ensure programmatic efficiencies and unnecessary redundancies.

Office of Infrastructure Security Compliance

While a leaked memorandum from an intradepartmental assessment revealed long-standing, serious management failures of the Chemical Facility Anti-Terrorism Standards (CFATS) program, the implementation of this program continues to be a priority for the Committee. It is important that all available funds allocated to the program be used to hire, train and retain qualified staff to conduct the required inspections. The Committee is disappointed that the Department did not provide prior warning of these management failures, many of which dated back to the establishment of the program in 2007. The Committee will conduct vigorous oversight of the Department's CFATS action items being implemented to address the problems identified in the internal assessment. The Committee will continue to work with the Department to complete CFATS implementation in a manner that makes the Nation more secure and maximizes the use of taxpayer funds.

The Committee believes it is important to hire, train, and develop a qualified staff capable of undertaking the wide range of technical and compliance activities. We also will be doing oversight to ensure that the Department advances a personnel surety program that meets the security and credentialing needs of modern chemical facilities without unreasonable cost or administrative delay.

The Committee looks forward to the prompt issuance of a final rule on the Secure Handling of Ammonium Nitrate. During its work to establish regulations for the sale and transfer of ammonium nitrate, the Department should seek to leverage appropriate features of the CFATS program.

DOMESTIC NUCLEAR DETECTION OFFICE

Securing the Cities (STC)

The Committee supports the $22 million funding request for Securing the Cities (STC), which plans to continue activities in the New York City metropolitan area, and also extend the program to a second location. STC is an important part of the layered architecture to reduce the risk from a radiological or nuclear attack. Budget briefing documents provided by the Department to the Committee, however, indicate that the existing program will receive at least $12 million, while the remaining funds will go toward plans for expansion of the program.

Radiation Portal Monitors (RPMs)

Funding for radiation portal monitors (RPMs) is significantly decreased and focused on directing remaining resources specifically toward the air cargo environment. The Committee is concerned that the President's budget request does not request funding for acquisition of new RPM systems at any land border or maritime Ports of Entry (POE). The use of RPMs to scan cargo shipments is a vital link in America's layered supply chain security strategy. The Committee believes that it is important to ensure that sufficient funding is available to acquire any new RPMs necessary for new POEs or the expansion of current POEs. The Committee is concerned that even with the use of remaining multi-year funds and use of existing inventories of RPMs, resources may run out and new and expanding ports may be left with an unfunded mandate.

TRANSPORTATION SECURITY ADMINISTRATION

Advanced Imaging Technology

The President's FY 2013 request does not include new funding for the procurement of additional Advanced Imaging Technology (AIT) units. However, the Transportation Security Administration (TSA) is currently purchasing and deploying AIT units with prior FY 2012 funds. To date, TSA has purchased 800 AIT units and has deployed over 600 units. TSA intends to have 1,250 units purchased by the end of FY 2013. The Committee is pleased that the Administration states, in the budget request, that any additional AIT units will be equipped with Automated Target Recognition (ATR) software, which uses a generic image of a person. The use of ATR addresses privacy and civil liberties concerns voiced by diverse stakeholders and should eliminate the need to have a separate TSO view the image in an isolated viewing room. While the Committee recognizes that this technology is currently the preferred option TSA has for screening passengers for non-metallic threats, the Committee will continue to conduct oversight of the technology's efficacy, potential health effects, and privacy implications and explore ways it can be improved.

Further, the President's FY 2013 request includes $40.1 million to annualize second year funding for screeners to staff the initial 1,000 AIT units. The Administration's justification for the increase of Transportation Security Officers (TSO) is to facilitate the rollout of the Advanced Imaging Technology. The Committee has questions regarding whether TSA has adequately assessed efficiencies that may be gained through the wider use of AIT technology.

Surface Transportation

The President's FY 2013 budget request includes $124.3 million for surface transportation, a decrease of $10.5 million (7.7%) from FY 2012. The surface transportation budget represents less than 2% of TSA's overall budget – a $10.5 million reduction therefore raises serious concerns. Additionally, while the budget request reduces all components within the Surface Transportation budget, the two components with the largest percentage decrease are the mass transit division (-5.8%) and the Visible Intermodal Prevention and Response (VIPR) Teams (-13.8%). VIPR Teams represent the largest component of TSA's surface transportation budget – 38% of the overall surface budget – and are largely allocated to mass transit. The vulnerability of our Nation's mass transit systems and the terrorists' continued interest in attacking these systems raise concerns as to why this mode suffered the largest percentage decrease within TSA's surface transportation budget.

Perimeter Security
Though the request does not specify funding to be dedicated to perimeter security, the Committee supports greater funding to ensure that TSA can effectively evaluate the perimeter security operations at our Nation's 450 commercial airports. In light of the recent high-profile breaches of perimeter security at Philadelphia International Airport and Charlotte Douglass airport, the Committee supports greater funding to support perimeter security and plans to enhance perimeter security initiatives by TSA across all airports.

Federal Flight Deck Officer Program
The President's FY 2013 request includes $12.5 million for the Federal Flight Deck Officer Program. This represents a $12.6 million or 50% decrease from FY 2012. The Federal Flight Deck Officers are eligible flight crewmembers that are authorized by TSA to use firearms to defend against an act of criminal violence or air piracy attempting to gain control of an aircraft. The Committee is concerned that this reduction may hinder the program's implementation. The Committee recommends increased funding for this program.

Office of Intelligence and Analysis
The Office of Intelligence and Analysis (OIA) FY 2013 request includes 20 additional Full Time Equivalent (FTE) positions and a budget request of $45.1 million, a $2.1 million or 4.9% increase over FY 2012. This office is the only Federal intelligence entity focused solely on the transportation sector. OIA operates and maintains 24/7 intelligence capabilities at TSA Headquarters and the TSA Freedom Center to disseminate warnings and notifications of credible and immediate threats. This requested increase is aligned with TSA Administrator Pistole's public statements about making TSA a more intelligence-driven entity, which the Committee supports.

Canines
The Committee notes that the request for explosives detection canine teams is focused on maintaining the 920 teams currently deployed across the country to protect aviation and surface transportation. As you know, Congress has supported the development of the canine program through years of sustainment, as well as by an increase in funding in the last fiscal year to support development of a novel passenger screening program. The Committee has concerns about how the decision to maintain only the current canine teams, thereby forgoing augmentation to the cargo and surface environments, may impact security.

SCIENCE AND TECHNOLOGY DIRECTORATE
Research, Development, and Innovation
The President's request for research, development, and innovation is $478 million, a substantial increase of $212 million over the FY 2012 enacted level. While the Committee values research and development in homeland security-related technologies and services, a sufficiently rigorous process must be implemented to ensure that all of the requested funds will be allocated to projects that end users deem necessary and will work in operational settings. The Science and Technology (S&T) Directorate has notably undertaken important steps toward project prioritization and aligning goals with Department components, but the Committee is concerned about the absence of an updated five-year research and development plan. The Committee plans to conduct continued oversight to ensure that S&T's approach to its allocation of funds is successful.

National Bio and Agro-Defense Facility (NBAF)
The President's request for the S&T Directorate includes no funding to construct the National Bio and Agro-Defense Facility (NBAF). The Committee recognizes that fiscal constraints require closer scrutiny of all proposed programs. The Department has stated its intention to convene an expert and stakeholder taskforce to assess whether a Biosafety Level (BSL) 4 facility – as currently proposed by the Department – is even necessary for the Nation at this time. The Committee is troubled that after five years and dedication of more than $110 million to NBAF the Department is only now making a determination on whether the facility is even necessary. The Committee is also skeptical of the Department's intention to request reprogramming of $15 million from FY 2012 funds to complete the design plans for the NBAF when a final determination on NBAF has not yet been made. The Plum Island Animal Disease Center, in the meantime, will continue to be maintained, which this Committee supports.

DEPARTMENTAL MANAGEMENT AND OPERATIONS

DHS Management
The Committee notes that while the Department's FY 2013 budget request reflects a modest reduction for departmental operations, funding for management would receive an increase. The Committee further notes that while reductions are noted in the budget request, some are created through budget realignments by shifting program funding from one office to another. For example, while the Office of Policy's budget would decline by about $6 million from the FY 2012 funding level, this decrease is realized, in part, by realigning the budgets of three different offices (the Office of International Affairs, Office of State and Local Law Enforcement, and Private Sector Office) which would actually receive funding increases. The Committee has serious questions about the removal of the Office of International Affairs from the Office of Policy, in light of the progress that has been made since the Department was established in 2003 to integrate policy development functions and to strengthen the role of the Assistant Secretary for Policy.

The Committee notes that while the Department's budget effectively delays the construction of the new DHS Headquarters at the St. Elizabeths site located in Southeast Washington, DC, the budget requests an additional $30 million to construct an access road for the future headquarters. The Committee intends to continue its oversight of the Department's future plans for consolidation of offices and components in a new headquarters to foster improved Departmental integration, efficiency, and enhanced operations.

Office of the Inspector General
The Committee supports the budget request for the Department's Inspector General (OIG), which seeks increased funding for investigative services, Emergency Management Oversight, and *9/11 Commission Act* audits. Over the past year, the OIG has identified poorly monitored programs, security issues with CBP's enterprise wireless infrastructure, and internal controls that could improve oversight of FEMA purchase cards. During these challenging budgetary times, the OIG plays an essential role in ensuring that DHS carries out its mission effectively and efficiently. The OIG, like the Government Accountability Office, play a critical role in identifying potential efficiencies, waste, fraud, and duplication and ultimately help bring about cost savings.

GAO Report on Duplicative Programs
The Committee notes that on February 28, 2012, the Government Accountability Office (GAO) issued its second annual report related to duplication, overlap, and fragmentation in programs across the Federal Government.[2] The report identified five new issues related to overlap, duplication, and cost savings opportunities in DHS. The Committee plans to conduct oversight on the Department's progress to address GAO recommendations issued last year in this area and the Department's plans to address GAO's recommendations issued this year to reduce and eliminate duplication and overlap of programs to achieve cost savings.

[2] GAO, 2012 Annual Report: Opportunities to Reduce Potential Duplication, Overlap, and Fragmentation, Achieve Savings, and Enhance Revenue, GAO-12-342SP.

PETER T. KING Chairman	BENNIE G. THOMPSON Ranking Member
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(AL) MIKE ROGERS	SHEILA JACKSON LEE
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TIM WALBERG	BRIAN HIGGINS
JOE WALSH	CEDRIC L. RICHMOND

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TOM MARINO

JANICE HAHN

BLAKE FARENTHOLD

ROBERT L. TURNER

ADDITIONAL VIEWS
OFFICE OF DEMOCRATIC MEMBERS OF
THE COMMITTEE ON HOMELAND SECURITY
ON THE PROPOSED FY 2013 BUDGET
FOR THE DEPARTMENT OF HOMELAND SECURITY

As Democrats on the Committee on Homeland Security, we support the Administration's fiscal year (FY) 2013 request of $59.032 billion in budget authority for the Department of Homeland Security to execute its homeland and non-homeland security missions, in general terms.

We would note that, for the first time since the Department's inception, the budget request seeks less funding than received in the previous fiscal year. Specifically, the Administration's FY 2013 budget request seeks $681 million (1.15%) less in overall budget authority than received in FY 2012. During these difficult budgetary times, we applaud the Administration's efforts to cut costs by identifying efficiencies, eliminating redundancies, implementing organizational changes, and better aligning programmatic objectives and component missions. That said, we are concerned that some of the reductions sought may jeopardize the Department's homeland security mission.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Grants

As you may recall, last year, under the Republican Majority, funding for State and local preparedness programs was significantly slashed. The FY 2012 Consolidated Appropriations Act cut overall Department of Homeland Security grant funding by nearly $1.1 billion to $2.29 billion (P.L. 112-74). It also punted responsibility to the Department to decide funding allocations for twelve distinct grant programs, and appropriated only $1.3 billion for the task. While we are pleased that the Administration's FY 2013 budget request seeks a $601 million increase over the paltry funding provided in FY 2012 for State and local grant programs, we strongly believe that the funding level sought is insufficient to ensure that longstanding capability goals are achieved and sustained.

Additionally, we are troubled by the Administration's proposed consolidation of all State and local grant programs[1] — except for Firefighter Assistance Grants and Emergency Management Performance Grants – into a new National Preparedness Grant Program (NPGP).

As Democrats, we are concerned that the funding level sought by the Administration is not sufficient to fully develop necessary domestic preparedness capabilities, and may not be

[1] The programs to be consolidated include: State Homeland Security Grant Program, Urban Area Security Initiative, Regional Catastrophic Preparedness Grants, Metropolitan Medical Response System (Medical Surge Grants), Citizen Corps program, Interoperable Emergency Communications Grant, Real ID Grants (Driver's License Grant Programs), Operation Stonegarden, Emergency Operations Centers, Port Security Grants, Transit Security Grants, Over-the-Road Bus Security Grants, and the Buffer Zone Protection Program.

sufficient to sustain the capabilities developed through previous grant investments. Indeed, we are concerned that many of the capabilities achieved through previous grant awards will be lost.

For example, because of funding cuts to the Urban Area Security Initiative (UASI) championed by the Republican Majority in FY 2011, several cities were eliminated from the program,[2] and the following resulted:

- The Buffalo-Erie-Niagara UASI has been unable to update its hazardous material response equipment and modernize the region's out-dated 9-1-1 system have been stymied.

- Prior to FY 2011, the Tucson UASI used grant funds to purchase an Automated Emergency Notification System and develop the Pima County Wireless Integration Network (PCWIN).[3] Since Tuscon was eliminated from the UASI program, the Automated Emergency Notification System is no longer operational and the development of PCWIN has been severely hampered.

- Upon being eliminated from the UASI program, the Oxnard, California UASI is no longer able to maintain training and exercises for existing Terrorism Liaison Officers, implement the recommendations in response to the Interoperable Communications Gap Analysis, or maintain its Infrastructure Protection Team.

We are concerned that cash-strapped States and localities will not be able to continue to maintain capabilities without strong Federal support.

As authorizers, we strongly believe that funding should be provided to discrete preparedness grant programs, as each specifically addresses significant gaps in preparedness capabilities in a targeted fashion. We do not believe that port authorities, transit authorities, and high-risk urban areas should have to compete for resources from the same, small pool of funding. Each of those entities faces different threats, and should have access to the resources necessary to address them. In addition, we are concerned that the important missions carried out with funding from smaller grant programs, such as the Metropolitan Medical Response System, the Urban Area Security Initiative Non-Profit Security Grant Program, and Citizen Corps, would not receive the necessary attention under the proposed grant consolidation.

Accordingly, we express our strong reservations regarding funding level requested for State and local grants as well as the consolidation proposal.

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[2] The cities eliminated from the program include: Albany, Austin, Bakersfield, Baton Rouge, Bridgeport, Buffalo, Columbus, El Paso, Hartford, Honolulu, Indianapolis, Jacksonville, Kansas City, Louisville, Memphis, Milwaukee, Nashville, New Orleans, Oklahoma City, Omaha, Oxnard, Providence, Richmond, Rochester, Sacramento, Salt Lake City, San Antonio, San Juan, Syracuse, Toledo, Tucson, and Tulsa.

[3] The Pima County Wireless Integration Network would enable seamless interoperable communications for every public safety agency in the region.

Disaster Relief Fund

We commend President Obama for submitting a realistic request for the Disaster Relief Fund. Last year, the Administration requested only $1.8 billion for the Disaster Relief Fund in the budget request, but ultimately sought billions more through supplemental spending requests. This year, the Administration is requesting just over $6 billion for the Disaster Relief Fund. Although the funding sought is approximately a $1 billion less than the amount ultimately appropriated for FY 2012, it appears to be reasonable and will likely render emergency supplemental requests unnecessary. We support this effort to provide sufficient funding to meet likely disaster relief needs before disasters strike, and avoid the political squabbles that repeatedly delayed shoring up the Disaster Relief Fund last year.

OTHER AREAS OF CONCERN

Cargo Security

The Administration's budget proposes $71.53 million for CBP's international cargo screening, a decrease of $3.03 million from the FY 2012 enacted amount. We are concerned, particularly in light of the statutory mandate that all international inbound maritime cargo be scanned before arriving at a U.S. port, that the budget request appears to reflect a decision to reduce oversees cargo scanning activities. Communities surrounding our major ports are particularly vulnerable to the threats posed by improvised explosive devices and other weapons of mass destruction being concealed in maritime cargo. Accordingly, we oppose the Administration's proposal to reduce funding for international cargo screening.

Infrastructure Protection

The Administration's budget request for budget authority for Infrastructure Protection and Information Security (IPIS) is $1.16 billion, which represents an increase of $278.3 million (31.3%) above $888.2 million, the FY 2012 level. The Committee supports this budget request—which bolsters Cybersecurity programs—but is concerned about reductions to the Infrastructure Protection side of the house.

The President requests a $40.3 million decrease for Infrastructure Protection activities. We are troubled by this reduction in light of the fact that the Chemical Facility Anti-Terrorism Standards (CFATS) and the Ammonium Nitrate (AN) programs are expected to need more resources in FY 2013, when they are implemented.

BENNIE G. THOMPSON
Ranking Member

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9TH DISTRICT, NEW YORK

COMMITTEE ON FOREIGN AFFAIRS
COMMITTEE ON HOMELAND SECURITY
COMMITTEE ON VETERANS' AFFAIRS

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Additional Views of Representative Robert Turner (NY-9) on the Proposed Fiscal Year 2013 Budget for the Department of Homeland Security

March 8, 2012

I have signed and concur with the views offered by the Members of the House Committee on Homeland Security. I am submitting additional views to highlight an important program within the Federal Emergency Management Agency State and Local Programs that was not referenced specifically in the views.

The new National Preparedness Grant Program consolidates and replaces a number of successful homeland security grant programs. Among these is the Non-profit Security Grant Program (NSGP), which provides security funding to eligible non-profit organizations that are at high-risk of terrorist attack.

Since the commencement of the NGSP in 2005, each year more than 250 organizations, including churches, synagogues, schools, hospitals and social service agencies, have received a grant of up to $75,000 for equipment and training programs. These funds are allocated in accordance with the 9/11 Commission's recommendation that homeland security funds be distributed "strictly on an assessment of risks and vulnerabilities."

A review of 42 attempted and/or thwarted terror plots since 9/11 found that 16, nearly 40% of the total, contemplated an attack on Jewish targets. Of these 16 cases, seven cases included criminal charges related to attacks on Jewish citizens or institutions. This finding is consistent with a recent study by the New York Police Department, which found that more than half the terror plots uncovered in New York City since 1992 have been directed at Jewish organizations.

These threats take on new significance in light of new concerns that Jewish facilities in the United States could be top targets for attack by Iranian agents and their proxies. I am, therefore, concerned that the creation of the National Preparedness Grant Program will result in further reductions in NSGP funding, which would frustrate the program's purpose of enhancing security for communities as risk. I look forward to working with all interested parties regarding this matter.

Sincerely,

Robert L. Turner
Member of Congress

DANIEL E. LUNGREN, CALIFORNIA
CHAIRMAN

GREGG HARPER, MISSISSIPPI
PHIL GINGREY, GEORGIA
AARON SCHOCK, ILLINOIS
TODD ROKITA, INDIANA
RICH NUGENT, FLORIDA

PHILIP KIKO, STAFF DIRECTOR

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ROBERT A. BRADY, PENNSYLVANIA
RANKING MINORITY MEMBER

ZOE LOFGREN, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS

ONE HUNDRED TWELFTH
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

March 9, 2011

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

I write this letter to formally submit the Fiscal Year 2013 views and estimates on matters within the jurisdiction of the Committee on House Administration to the Committee on the Budget. The views of the Minority Members are also included. Any questions your staff may have with regard to this submission may be directed to Peter Schalestock, Deputy General Counsel, Committee on House Administration.

Sincerely,

Daniel Lungren

Daniel E. Lungren
Chairman
Committee on House Administration

cc: The Honorable Robert A. Brady

COMMITTEE ON HOUSE ADMINISTRATION
112TH CONGRESS
COMMITTEE RESOLUTION 112-11
MARCH 7, 2012

Resolution to Approve Committee Views and Estimates

Resolved, pursuant to § 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f), the Committee adopts the following views and estimates for Fiscal Year 2013:

COMMITTEE ON HOUSE ADMINISTRATION VIEWS AND ESTIMATES FOR FISCAL YEAR 2013

Federal Election Commission

The Federal Election Commission (FEC) is an independent, bipartisan commission which facilitates transparency in the Federal election process through public disclosure of campaign finance data, and encourages compliance with the Federal Election Campaign Act by providing information and policy guidance. The FEC administers and interprets the Federal Election Campaign Act, the Presidential Election Campaign Fund, and the Presidential Primary Matching Payment Account Act. The FEC also enforces these Acts through audits, investigations, and civil litigation.

The FY 13 Presidential Budget Request totals $66,367,000. This amount is less than the FEC's FY 2010 appropriation of $66,500,000. The FEC's budget reflects the resources necessary to carry out its mission in the upcoming fiscal year. The Committee will conduct vigorous oversight to identify and realize future potential savings.

Presidential Election Campaign Fund

One means to reduce the budget needs of the FEC is to eliminate the Presidential Election Campaign Fund (PECF). The PECF provides taxpayer financing for presidential campaigns. The PECF receives its funds through a voluntary election on tax returns to have $3 of the taxpayer's taxes directed to the fund. For primary elections the PECF provides payments to candidates to match private contributions. Candidates who elect to participate are subject to state-by-state spending limits. For general elections the PECF provides a single grant payment to participating candidates, in return for which the candidate agrees not to spend funds from any other source. The PECF also provides a grant to each major political party for the costs of its nominating convention. The FEC incurs costs to administer the PECF and to audit recipients of PECF funds. These costs could be eliminated if the PECF were eliminated.

In 2011, the House twice voted to eliminate the Presidential Election Campaign Fund by passing both H.R. 359 and H.R. 3463. The fund is underutilized by candidates and undercapitalized because the American public chooses to no longer contribute. After pledging to participate in the PECF, in 2008 then-Senator Obama declined public financing during the general election. In the 2012 primary campaign, the only candidate who has so far applied for primary matching funds is Buddy Roemer. Public support for the PECF has declined precipitously since its introduction. The percentage of taxpayers participating dropped from 28.7% in 1980 to approximately 7% in 2010, even though participating does not affect tax liability. According to the CBO, eliminating the PECF will save American taxpayers $447 million in mandatory funds over the next five years and immediately return nearly $199 million to the Treasury for deficit reduction. A majority of the Committee's members voted in favor of eliminating the PECF.

The Committee does not support continued operation of the PECF and strongly supports the elimination of the PECF.

Election Assistance Commission

The Election Assistance Commission (EAC) is an independent, bipartisan commission which develops guidance to meet Help America Vote Act (HAVA) requirements, adopts voluntary voting system guidelines, and serves as a national clearinghouse of information on election administration. The EAC also certifies voting systems, accredits test laboratories, and audits the use of HAVA funds.

The FY 13 Presidential Budget Request, like the adopted appropriations for FY 2011 and FY 12, includes no funding for election reform grants. The Presidential Budget Request for the EAC totals $11,500,000, which includes a transfer of $2,750,000 to the National Institute of Standards and Technology. EAC is left with a net operating budget of $8,750,000. This is the same as the FY 2012 appropriated net operating budget (despite a 24% reduction in the number of staff positions) and less than the FY 2012 requested amount of $10,465,665.

The Inspector General of the EAC testified before the Appropriations Committee on March 2, 2011, that 51.7% of the FY 12 budget request went to "Management," meaning the Commission would use $5,406,718 to manage programs totaling $3,486,601. In its FY 2013 budget request the Commission no longer includes budget amounts for the "Management" category. Instead, the Commission allocates the costs previously attributed to that category to other categories as "Indirect Costs." An analysis of the Indirect Costs in the FY 2013 budget request indicates that the Commission's administrative overhead is 54.2% of its requested budget. The FY 2013 request also includes actual figures for previous years showing that the EAC's overhead costs were 55.8% of its spending in FY 11 and 53.8% in FY 12. On an ongoing basis, the EAC spends half or more of its budget to maintain its existence.

Twice in 2011, a majority of the House voted to eliminate the EAC, with 235 Members voting in favor of both H.R. 672 and H.R. 3463. A majority of the Committee's members voted in favor of eliminating the EAC on both occasions. The CBO estimate for H.R. 672 stated that eliminating the EAC would save taxpayers $33 million over five years.

The Committee does not support this request and strongly supports the elimination of the EAC.

Smithsonian Institution

Established in 1846 as a trust instrumentality to carry out the bequest of James Smithson, the Smithsonian Institution today is the largest museum and research complex in the world, composed of 19 museums, the National Zoological Park and several research centers. Guided by its broad mission to support "the increase and diffusion of knowledge," the Smithsonian is involved in numerous artistic, cultural, educational and scientific endeavors and its collections number over 137 million items.

Federal appropriations provide the core support of the Smithsonian, providing approximately 70% of the Institution's funding. Trust funds, which include private donations, government grants and contracts, and revenues from museum shops, restaurants and theaters, provide the remaining funding. The Committee plans to examine how the Smithsonian delineates activities supported by trust or federal funds.

The Smithsonian is an undisputed valuable cultural and scientific resource for all Americans. In today's fiscal climate however, Congress must carefully evaluate funding for even the most laudable institutions. Over the last decade, the federal component of the Smithsonian's budget has grown from $518.5 million in FY02 to $810.2 million in FY12 and the FY13 request of $856.8 million marks a 6% increase from the prior year. Included in that amount is $1.6 million to fund a pro-rated application of the President's proposed .5% COLA. The Committee does not support this request.

The Committee is reviewing the Smithsonian's decision to offer trips to Cuba, a nation designated by the State Department as a sponsor of terrorism, through its Smithsonian Enterprises division. Although federal appropriations do not directly support the travel, the trips facilitate access to U.S. dollars by a brutal and oppressive regime. Further, the Smithsonian's brand lends an imprimatur of government support for these trips.

The Smithsonian requests $196.5 million for Facilities Capital funding, an increase of $21.8 million from FY12 level. Of that amount, $85 million is slated for the continued construction of the National Museum of African American History and Culture (NMAAHC), an increase of $10 million from the prior year. An additional $13 million is requested in Salaries & Expenses funding to support increased staffing for the museum as it prepares for opening in late 2015. The legislation establishing the NMAAHC, estimated to cost $500 million to construct, provided for a 50-50 cost-sharing arrangement between federal appropriations and non-federal sources for construction.

The FY13 budget request includes an increase of $1.4 million for collections care initiatives. A recent report by the Inspector General identified problems with the safety and condition of the 3.2 million items in the National Museum of American History collection. These findings are identified 6 years after the 2005 report, *Concern at the Core: Managing Smithsonian Collections*, which identified problems with collections care at the museum. The Smithsonian's "Management Discussion and Analysis FY2011" report notes that collections management expenditures decreased by $8.9 million while research and administration expenditures increased by $26.2 and $6.8 million respectively. The Committee hopes Smithsonian management is adequately prioritizing collections stewardship within existing funding resources, consistent with the Institution's Strategic Plan.

MINORITY VIEWS OF RANKING MEMBER ROBERT A. BRADY, REP. ZOE LOFGREN AND REP. CHARLES A. GONZALEZ

Smithsonian Institution

The Democratic Members support the Administration's full budget request for the Smithsonian Institution, the world's most respected museum and research complex.

Noteworthy in 2012 was the February ground-breaking for the Smithsonian's National Museum of African American History and Culture on the National Mall, attended by President Obama, which our Committee and the Congress authorized in 2003 and which is anticipated to open in 2015. We urge the Appropriations Committee to fulfill Congress's commitment of Federal funds, which along with private funds being raised by the Smithsonian will help to ensure completion of this historic project on schedule.

Our Committee has no jurisdiction over foreign policy under clause 1(k) of House Rule X. This fact has apparently been overlooked in the majority's criticism of Smithsonian Journeys' new "people to people" exchange trips to Cuba. They complain that the Smithsonian's participation "lends an imprimatur of government support for these trips." Just to be clear, <u>it is the United States government which has authorized and licensed these trips</u>.

Smithsonian Journeys is part of Smithsonian Enterprises, which operates in the commercial marketplace to produce unrestricted trust fund revenues which may be spent for the Smithsonian's operations. The Smithsonian's travel program, like many similar ones operated by museums, universities and other organizations across the country, has been licensed by the Office of Foreign Assets Control of the Department of the Treasury, is consistent with American law and policy, and buttresses the Smithsonian's overriding mission to support "the increase and diffusion of knowledge."

The majority discusses the growth of the Federal component of the Smithsonian's budget, but offers no specific criticisms or suggestions for cuts in the $856 million request, with one exception. They pick on the $1.6 million to fund the President's proposed 0.5 percent pay raise for Smithsonian employees. The Smithsonian is required to provide the 0.5 percent raise, unless the amount is changed by Congress as provided by law. If the funding were removed, the Smithsonian would have to absorb the costs of the raise and cut other programs. The Democratic members support full funding of the request.

Bipartisan Legal Advisory Group contract/DOMA

The Republican views and estimates do not address the continued waste of taxpayer dollars by the House Bipartisan Legal Advisory Group to defend the indefensible and unconstitutional "Defense of Marriage Act". Continued defense of DOMA at any cost is inexcusable. The Administration has rightly refused to defend a law that serves only to institutionalize discrimination. On February 22, 2012, a United States District court roundly and decisively rejected the constitutionality of DOMA. Continuing to waste tax dollars in the pursuit of intolerance is unconscionable and unacceptable.

The original contract for $500,000 to the firm Bancroft PLLC was approved without proper vetting or review. The contract was later extended to $750,000, still without Democratic consultation, and includes an option to extend to $1,500,000. Given the lack of transparency in this process, we have every reason to believe the cost could continue to rise indefinitely.

Furthermore, no one seems to know where the funds are coming from. There has been no appropriation for this increased expense. There has been no mention of the funding source in the contract extensions. There is no record of a payment being made in the statement of disbursements. By improperly committing taxpayer funds without appropriate authorization, this action may be a violation of the Anti-Deficiency Act. The Republican majority promised greater transparency in government, but these actions do not live up to that rhetoric.

As the majority continues to search for new budget cuts, we see no reason to spend any more on a contract that was approved without proper vetting, that may violate federal anti-deficiency laws, and that serves no purpose except to defend discrimination.

Presidential Election Campaign Fund

We disagree with the Majority's views and estimates related to the Presidential Election Campaign Fund (PECF). H.R. 359 and H.R. 3463, Republican-sponsored bills passed by the House but not considered in the Senate, would terminate the fund. The PECF was created in the aftermath of the Watergate scandal in an attempt to restore faith in and integrity to our electoral process. Every Presidential election since 1976 has been financed at least in part with public funds. The fact that President Obama received such unprecedented support from small donations that he was able to forego PECF support is no reason to end the fund. It allows every taxpayer the opportunity to make political contributions. Further, if the Fund were eliminated, the $195 million balance would be transferred to the Department of the Treasury's general fund in contravention of the promise made to the millions of taxpayers who contributed. Simply transferring the funds by act of Congress would be tantamount to a misappropriation of taxpayer contributions.

Election Assistance Commission

Twice during the first session of the 112th Congress, the Republican members of the Committee on House Administration have tried to eliminate the Election Assistance Commission. First, the Committee considered and reported H.R. 672, a stand-alone bill to eliminate the EAC and transfer some of its duties and functions to the dysfunctional Federal Election Commission. On the House floor, the bill was defeated under suspension of the rules. The Majority then brought to the floor H.R.3463, a grab-bag bill to kill both the EAC and PECF, without moving it through the Committee for mark-up. H.R. 3463 passed the House but has not been considered in the Senate.

The Majority complains that the EAC spends half of its budget on administrative and indirect costs, suggesting that this is a reason for its termination. Of course, Members of Congress spend 60%, 70%, and even 80% of our budgets on personnel because we know that government involves more than giving out grants. The EAC issues reports on changes in election administration and best practices for local election officials, and conducts vast data collection and analysis from every state and local government. These reports save state and local election officials millions of dollars while improving the voting experience for our citizens and improving the security and accuracy of the results. In other words, the EAC spends most of its budget pursuing its statutory duty-- to assist local election officials.

In light of drastic and sweeping changes to election law at the state level, the EAC's role as an information clearinghouse is more crucial now than ever. A "War on Voting" imposing voter ID requirements and registration restrictions and curtailing early and absentee voting has created new hurdles for voters and local election officials. The EAC, as we have heard from Democratic and Republican state and local government officials from coast to coast, is invaluable to them in facing this challenge.

Failure of the Senate's Republican minority to allow action on nominations has left the EAC with an acting-executive director and no sitting commissioners. The Senate should overcome this obstructionism and act swiftly to guarantee that the agency has the proper tools to do its job. Especially in a presidential election year, it is our clear duty and imperative to fulfill our obligations to the American people and the laws of the United States by providing the EAC with the funding and staff necessary for it to operate fully.

Robert A Brady | Zoe Lofgren | Charles A. Gonzalez

March 9, 2012

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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March 9, 2012

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

The Honorable Chris Van Hollen
Ranking Member
Committee on the Budget
B71 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Ryan and Ranking Member Van Hollen,

Pursuant to section 301(d) of the Congressional Budget Act of 1974 (2 U.S.C. § 632(d)) and House Rule X, clause 4(f)(1), we are submitting the views and estimates of the Committee on the Judiciary on the President's budget proposal for Fiscal Year 2013. These views and estimates encompass a broad range of programs within the Judiciary Committee's jurisdiction. We hope that they provide valuable guidance to your Committee as you prepare the budget resolution. We note that, while this document reflects the bipartisan view of the Members of this Committee, some Members may have individual views that are not reflected in this document. Please feel free to contact us or our staffs should you have any questions or concerns.

Sincerely,

Lamar Smith
Lamar Smith
Chairman

John Conyers
John Conyers, Jr.
Ranking Member

Enclosure

COMMITTEE ON THE JUDICIARY
VIEWS AND ESTIMATES FOR FISCAL YEAR 2013

The following presents the views and estimates of the Committee on the Judiciary regarding the President's fiscal year 2013 budget request on matters within the Committee's Rule X jurisdiction.

The Committee recognizes that the Federal government currently faces significant budgetary constraints that will require federal departments and agencies to meet their respective missions and perform their functions while receiving fewer resources. The departments and agencies that fall within the Committee's jurisdiction serve a unique function in that they are among the few departments and agencies that perform functions specifically called for in the U.S. Constitution. Their related expenditures should be assessed in light of the core functions and responsibilities of the Federal government as defined by the U.S. Constitution.

The departments and agencies within the Committee's jurisdiction have made various spending reduction proposals. The Committee will assess those proposals, but the Committee will not support reductions that would put national security or public safety at risk.

MANDATORY SPENDING

FEDERAL JUDICIARY

The Federal Judiciary is comprised of the U.S. Supreme Court and the lower federal courts. Combined, they adjudicate criminal and civil disputes and carry out other constitutional and congressionally allotted responsibilities.

The Committee recognizes the Judiciary's essential role in providing justice to all citizens and the workload and additional responsibilities thrust upon the Judiciary, particularly in response to enhanced immigration enforcement and other law enforcement initiatives and the near record bankruptcy filings. The Committee understands that while the Judiciary has no control over the number of cases that are filed in the Courts, it must handle each case filed and has little flexibility in how quickly it must handle many of these cases. The Judiciary's workload is heavily influenced by national policies initiated in the Executive and Legislative Branches.

The submission for FY 2013 includes funding for the following institutions and programs: the U.S. Supreme Court; the U.S. Court of Appeals for the Federal Circuit; the U.S. Court of International Trade; the (regional) courts of appeals, district courts, and other judicial services; defender services; fees of jurors; court security; the Administrative Office of the U.S. Courts; the Federal Judicial Center; judicial retirement funds; and the U.S. Sentencing Commission. The Committee supports an FY 2013 funding level of $7.189 billion or, if less, at a level necessary for the Federal Judiciary to complete its mission.

The submission for FY 2013 represents a 3.1% increase over the FY 2012 enacted level. This reflects the Judiciary's smallest requested percentage increase on record. It follows a 2012 enacted appropriation level that essentially funds the bulk of federal court operations at slightly above a hard freeze. As a result of FY 2012 funding levels, and out of concern for FY 2013, the courts have already downsized by nearly 1,100 people since July 2011. The Judiciary's FY 2013 request does not seek new court support staff to address all of its workload needs, or new staff to replace the ones expected to be lost this fiscal year due to funding constraints. The request merely maintains the FY 2012 funded staffing level in FY 2013. At the requested level, despite a steady increase in caseload over the past several years, clerks and probation and pretrial services offices will be operating with fewer staff than were on board in FY 2011.

DISCRETIONARY SPENDING

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The Administrative Conference of the United States ("ACUS") is an independent, nonpartisan agency that was created to analyze the Federal administrative law process and to provide Congress, the President, the Judicial Conference of the United States, and Federal agencies with recommendations and guidance. On July 19, 2011, the Committee ordered reported with an amendment H.R. 2480, authorizing appropriations for ACUS of not more than $2.9 million for FYs 2012, 2013 and 2014. H.R. 2480 passed the House on August 1 and was ordered reported with an amendment by the Senate Judiciary Committee on September 22; it remains on the Senate Legislative Calendar.

The President's FY 2013 budget requests $3.2 million for ACUS. Recognizing current budgetary constraints and ACUS's mission to identify agency cost-saving measures, the Committee supports funding ACUS at a level necessary to accomplish its mission, but not more than $2.9 million.

ANTITRUST DIVISION (DOJ)

The Administration has requested $164.753 million for the Antitrust Division in FY 2013, an increase of $5.166 million from FY 2012 funding levels. Mandatory pre-merger filing fees paid by companies planning to merge are typically used to offset a majority of the Antitrust Division's funding. The Antitrust Division estimates receipt of $117.5 million in filing fees in FY 2013. As a result of this fee collection, the Antitrust Division's budget request anticipates an estimated final FY 2013 appropriation from the general fund of $47.253 million.

The Committee supports funding the Antitrust Division at levels necessary to accomplish its various missions.

EXECUTIVE OFFICE FOR U.S. ATTORNEYS (DOJ)

There are 94 U.S. Attorneys located throughout the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands. The U.S. Attorneys who lead each office are the chief law enforcement representatives of the Attorney General. Each enforces Federal criminal law, handles most of the civil litigation in which the United States is involved, and initiates proceedings for the collection of fines, penalties, and forfeitures owed to the United States. For FY 2013, the U.S. Attorneys will continue to investigate and prosecute the diverse workload of criminal cases brought by the Federal Government and will continue to initiate civil actions to assert and protect the interests of the United States.

The FY 2013 Presidential Budget request proposes $1.974 billion for necessary expenses which is $14.4 million over the FY 2012 enacted level. This request includes 185 new positions, including 115 attorneys, over the FY 2012 enacted level of 10,629 direct authorized positions. Recognizing current budgetary constraints, the Committee supports funding EOUSA at levels that will allow it to accomplish its mission.

GENERAL LEGAL ACTIVITIES (DOJ)

Office of the Solicitor General

The Office of the Solicitor General supervises and processes all appellate matters and represents the United States and federal agencies in the Supreme Court. The FY 2013 Presidential Budget Request proposes $10.805 million for the Office of the Solicitor General. This represents a net increase of $81,000 over FY 2012 appropriations as enacted. This increase is the sum of increases of $312,000 in Adjustment to Base (ATB) transfers, pay and benefits, and rent and facilities expenses, and a savings of $231,000 from consolidation of administrative functions. The Committee considers the work of the Solicitor General an important element of the role played by the Department of Justice. Recognizing current budgetary constraints, the Committee supports funding the Solicitor General's office at a level necessary to accomplish its mission.

Civil Division

The Civil Division represents the United States, its departments and agencies, Members of Congress, Cabinet officers, and other Federal employees in litigation in Federal and State courts. Its litigation reflects the diversity of government activities, involving, for example: False Claims Act litigation to protect the federal fisc; defense of challenges to Executive Branch actions; national security issues; commercial issues such as contract disputes, banking insurance, patents, fraud and debt collection; all manner of accident and liability claims; benefit programs; certain immigration matters; and certain violations of consumer protection laws. Each year, Division attorneys handle thousands of cases that collectively involve billions of dollars in claims and recoveries. The Division manages litigation over significant policy issues that often rise to constitutional dimensions in defending and enforcing various Federal programs and actions.

For FY 2013, the Administration requests $298.040 million for the Civil Division. This represents a net increase of $14.937 million over FY 2012 appropriations as enacted. This increase is the sum of increases of $8.199 million in ATB transfers, pay and benefits, and rent and facilities expenses, $7 million in new Full-Time Equivalent work years (FTEs) for financial and mortgage fraud matters, and savings of $262,000 in information technology and $33,000 in foreign expenses. The Administration's request also includes five positions and $1 million in supplemental annualization funds for litigation related to the Deepwater Horizon oil spill. The Committee considers the work of the Civil Division important to the mission of the Department of Justice. Recognizing current budgetary constraints, the Committee supports funding the Civil Division at a level necessary to accomplish its mission.

Environment and Natural Resources Division

The Environment and Natural Resources Division (ENRD) of the Department of Justice enforces the Nation's civil and criminal environmental laws; defends environmental challenges to federal laws and actions; and performs a variety of other important legal activities related to the environment and our nation's natural resources. Its activities include, for example, litigation concerning the Clean Air Act; the Clean Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund); defense against environmental challenges to Federal programs and activities; the protection, use, and development of national natural resources and public lands; the Endangered Species Act; Indian rights and claims; and the acquisition of private property for Federal use.

The President's budget for FY 2013 requests $110.360 million for ENRD. This represents a net increase of $2.351 million over FY 2012 appropriations as enacted. This increase is the sum of increases of $2.435 million in ATB transfers, pay and benefits, and rent and facilities expenses, and savings of $84,000 in information technology. Increases requested include a $795,000 adjustment to base funding for litigation related to the Deepwater Horizon oil spill. This adjustment is requested to provide permanent base funding for ENRD. Recognizing current budgetary constraints, the Committee supports funding ENRD at a level necessary to accomplish its mission.

Civil Rights Division

The Civil Rights Division of the Department of Justice is responsible for enforcing Federal statutes guaranteeing every American's civil rights and prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. The Division enforces Federal laws that protect every Americans' civil rights and freedom from discrimination in education, employment, credit, housing, certain federally funded and conducted programs, and voting.

The Division has eleven sections: Appellate, Coordination and Review, Criminal, Disability Rights, Educational Opportunities, Employment Litigation, Housing and Civil

Enforcement, Office of Special Counsel for Immigration Related Unfair Employment Practices, Special Litigation, Administrative Management, and Voting.

The Administration has requested $153.341 million for the Civil Rights Division in FY 2013, an increase of $8.841 million over FY 2012 levels.

The Administration is requesting additional resources of 50 positions, including 25 attorney positions, to pursue certain civil rights enforcement priorities identified by the Attorney General. There is disagreement on the Committee as to whether the need for this increase has been adequately demonstrated considering current budgetary constraints.

Recognizing current budgetary constraints, the Committee supports funding the Civil Rights Division at a level necessary to accomplish its various missions.

Criminal Division

The Criminal Division of the Department of Justice is responsible for supervising the application of all federal criminal laws except those specifically assigned to other divisions. Its mission is to identify and respond to critical and emerging national and international criminal threats, and to lead the enforcement, regulatory, and intelligence communities in a coordinated, nationwide response to reduce those threats. The Division provides expert guidance and advice to U.S. Attorneys and other federal, state, and local prosecutors and investigative agencies, as well as foreign criminal justice systems. It also oversees the use of the most sophisticated investigative tools available to federal law enforcement, including all federal electronic surveillance requests in criminal cases, and secures the return of fugitives and other assistance from foreign countries.

The Criminal Division requests a total of 792 permanent positions, 768 direct FTEs, and $185.473 million in its Salaries and Expenses appropriation for FY 2013. The Division's request will maintain the current level of services while providing funding for necessary resources to expand financial fraud enforcement and combating computer crimes and intellectual property crimes internationally. The emphasis placed on these areas of this request is consistent with the Department's Strategic Goals One and Two in its Strategic Plan, Fiscal Years 2012 – 2016. The FY 2013 budget request is a 6.6% increase over the FY 2012 enacted.

In addition to other initiatives, the Criminal Division will use its resources to prosecute the most significant financial crimes, including mortgage fraud, corporate fraud, and sophisticated investment fraud, coordinate multi-district financial crime cases, and assist U.S. Attorneys Offices (USAOs) in financial crime cases with significant money laundering and asset forfeiture components.

The Committee supports funding the Criminal Division at a level necessary to accomplish its various missions.

Tax Division

The Tax Division of the Department of Justice represents the United States in virtually all litigation arising under the internal revenue laws. This work includes both a civil component as well as assistance to U.S. Attorneys in prosecuting criminal tax violations. In addition, the Division's attorneys lend their financial crimes expertise to the enforcement of other laws with financial aspects.

The President requests $106.459 million for the Tax Division for FY 2013, an increase of $1.582 million over its FY 2012 enacted funding level. Recognizing current budgetary constraints, the Committee supports funding the Tax Division at levels necessary to accomplish its mission, but notes that every additional dollar provided to the Tax Division will result in many additional dollars being recovered for the Treasury.

U.S. National Central Bureau (INTERPOL Washington)

The U.S. National Central Bureau (INTERPOL Washington) facilitates cooperation and information sharing among police agencies in different countries. It is the link between more than 18,000 Federal, state, and local law enforcement authorities and the 187 other member countries for INTERPOL-related matters. The main goals of INTERPOL Washington are facilitating international law enforcement cooperation; transmitting information of a criminal justice, humanitarian or other law enforcement related nature between law enforcement agencies; responding to law enforcement requests; coordinating and integrating information for investigations of an international nature, and identifying patterns and trends in criminal activities. INTERPOL Washington also actively screens all inbound international flights for passports that are reported as lost or stolen to INTERPOL and generates over 200 hits monthly that require human analysis.

The President's FY 2013 budget requests $31.489 million for INTERPOL Washington, reflecting an increase of $1.735 million over its FY 2012 enacted funding level. The Committee supports INTERPOL Washington's continued efforts to enhance information sharing amongst international police authorities. Recognizing current budgetary constraints, the Committee supports funding INTERPOL Washington at a level allowing it to achieve its mission.

U.S. TRUSTEE PROGRAM (DOJ)

The U.S. Trustee Program is charged with supervising the administration of bankruptcy cases and trustees. Its mission is to protect and preserve the integrity of the U.S. bankruptcy system by regulating the conduct of parties, ensuring compliance with applicable laws and procedures, bringing civil actions to address bankruptcy abuse, securing the just and efficient resolution of bankruptcy cases, and referring bankruptcy crimes for prosecution. The Program is self-funded through user fees paid by participants in the bankruptcy system. The Program's appropriation is offset by fees it collects during the fiscal year. These monies are paid into the U.S. Trustee System Fund. Approximately 58% of the Program's funding is subsidized by quarterly fees paid by Chapter 11 debtors. The remaining funding is derived from a portion of filing fees paid to commence bankruptcy cases, interest earnings, and other miscellaneous revenues.

The President requests $227.4 million for FY 2013 for the U.S. Trustee Program, which represents a $4.1 million increase over FY 2012 enacted appropriations. Recognizing current budgetary constraints, the Committee supports funding the U.S. Trustee Program at a level necessary to accomplish its mission.

OFFICE OF THE INSPECTOR GENERAL (DOJ)

The Office of the Inspector General (OIG) is an independent office within the Justice Department that is charged with conducting investigations, audits, inspections, and special reviews of Justice Department personnel and programs to detect and deter waste, fraud, abuse, and misconduct, and to promote integrity, economy, efficiency, and effectiveness in Department operations.

The FY 2013 budget request for the OIG totals $85.985 million, which is a 2.1% increase over the FY 2012 enacted level. The Committee supports the work of the OIG. The Committee supports funding OIG at a level that will allow it to accomplish its mission.

NATIONAL SECURITY DIVISION (DOJ)

The National Security Division (NSD) was authorized by Congress in the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177), which was enacted in 2006. The NSD consists of the elements of the Department of Justice (other than the Federal Bureau of Investigation) engaged primarily in support of the intelligence and intelligence-related activities of the United States Government, including: (1) the Assistant Attorney General for National Security, (2) the Office of Intelligence Policy and Review, (3) the counterterrorism section, (4) the counterespionage section, and (5) any other office designated by the Attorney General.

For FY 2013, the President requests for NSD a total of 359 positions (including 236 attorneys) and $90.039 million. This is a 3.5% increase over the FY 2012 enacted level. This request includes a total program change of $3.039 million, 0 positions, and 6 FTE. The NSD's total request for FY 2013 will sustain the Division's responsibility for Goal One of the Department of Justice's Strategic Plan: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law. The NSD is not requesting any enhancements for information technology (IT), although this request does include base resources of $12.444 million, 9 positions, and 9 FTE to maintain existing IT activities. Also included is a decrease of $192,000 due to the Department's initiative to create cost savings through increased component collaboration on IT contracting.

The Committee agrees that the National Security Division's workload, including demands brought about by recent national security threats and their expanded oversight responsibilities, has created challenges for maintaining adequate attorney and support personnel staffing. The Committee supports funding the National Security Division at levels necessary to carry out its mission.

COMMUNITY RELATIONS SERVICE

The Community Relations Service assists State and local governments in quelling conflict arising from differences of race, color, and national origin, and to prevent and respond to alleged violent hate crimes committed on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion or disability. No programs within the Community Relations Service have been subject to the Program Assessment review.

The President has requested $12.036 million for the Community Relations Service in FY 2013, an increase of $580,000 from FY 2012 funding levels. The Administration is requesting the creation of 5 new positions in the Community Relations Service. The Service indicates that this increase is needed to meet the expanded jurisdiction created by the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (P.L. 111-84, 2009). Enforcement of this law was also within the Community Relations Service's jurisdiction in FY 2010, FY2011 and FY 2012.

Recognizing current budgetary constraints, the Committee supports funding the Community relations Service at levels necessary to continue performing its mission.

FEDERAL BUREAU OF INVESTIGATION (DOJ)

The Federal Bureau of Investigation (FBI) is the Nation's largest federal law enforcement agency, charged with investigating terrorism, cybercrimes, public corruption, white collar crime, organized crime, civil rights violations, and other federal offenses.

For FY 2013, the President requests $8.232 billion, which is a 1.4% increase over the FY 2012 enacted level. However, the FBI Salaries and Expenses funding includes a rescission of $162.2 million, and net funding levels are reduced by .6% from FY 2012. The FBI is requesting a total of $81 million for physical infrastructure and other construction initiatives. This reflects the recurrence of base funding for Sensitive Compartmented Information Facilities (SCIF) and Secure Work Environments (SWE) and FBI Academy renovations.

The requested funding will also increase the FBI's capacity to investigate financial fraud and mortgage fraud schemes.

The Committee recommends the FBI be funded at a level necessary to achieve its important objectives.

U.S. MARSHALS SERVICE (DOJ)

The U.S. Marshals Service (USMS) administers the Asset Forfeiture Program of the Justice Department; conducts investigations involving escaped federal prisoners and other fugitives; ensures safety at judicial proceedings; assumes custody of individuals arrested by all federal agencies; houses and transports prisoners; and manages the Witness Security Program.

The FY 2013 budget request for USMS totals $2.882 billion, which is a 142.4% increase over the FY 2012 enacted level. This increase is the result of the proposed realignment of federal detention funding under USMS, which will increase USMS' total budget authority by $1.693 billion. The request includes $1.203 billion for Salaries and Expenses, $10 million for Construction and $1.668 billion for Federal Prisoner Detention (FPD). A rescission of $14.4 million in prior year balances is also proposed.

The Department proposes merging the Office of the Federal Detention Trustee with the USMS. This will allow for efficiencies in human and physical capital, while maintaining the functions and expertise in detention management that have been developed over the past decade. The FPD appropriation will fund the housing, transportation, medical care, and medical guard services for federal detainees remanded to USMS custody. The FY 2013 request reflects increasing costs of detention and a growing detention population.

The Committee supports funding for the USMS at levels necessary to accomplish its various missions.

OFFICE OF THE FEDERAL DETENTION TRUSTEE

The mission of the Office of the Federal Detention Trustee (OFDT) is to manage and regulate the federal detention programs and the Justice Prisoner and Alien Transportation System. OFDT coordinates detention strategies and policy with the USMS, the BOP and the Department of Homeland Security's Immigration and Customs Enforcement and is led by the Federal Detention Trustee who is appointed by the Attorney General. The FY 2013 Budget proposes to merge the Office of the Federal Detention Trustee with the U.S. Marshals Service. The costs associated with the care of Federal detainees are proposed to be funded through the U.S. Marshals Service—Federal Prisoner Detention appropriation.

ASSETS FORFEITURE FUND

The Assets Forfeiture Fund (AFF) was established pursuant to the Comprehensive Crime Control Act of 1984. The USMS administers the program by managing and disposing of properties seized by and forfeited to federal law enforcement agencies and U.S. Attorneys nationwide. AFF is used to receive the proceeds of forfeiture and to pay the costs associated with forfeitures, including the costs of managing and disposing of property, satisfying valid liens, mortgages, and other innocent owner claims, and costs associated with accomplishing the legal forfeiture of the property. The Attorney General is authorized to use AFF to pay such necessary expenses associated with forfeitures. The Fund may also be used to finance certain general investigative expenses, as enumerated in 28 U.S.C. § 524(c). All AFF funding is provided through forfeiture activities. $20.9 million of these funds are scored as discretionary and may be used for non-forfeiture related activities. Current FY 2013 estimates for AFF mandatory expenses are $2.319 billion below the FY 2012 level. This adjustment is due to anticipated receipts and obligations related to extraordinarily large cases currently under adjudication. For FY 2013, for expenses authorized by 28 U.S.C. § 524(c)(1)(B), (F), and (G), $20.948 million, to be derived from the AFF. Of the unobligated balances available under this heading, $675 million are permanently cancelled.

The Committee supports the President's overall proposal for the AFF FY 2013 budget.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (DOJ)

The mission of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is to reduce violent crime, prevent terrorism, and protect the United States through enforcing laws and regulating the firearms and explosives industries. For FY 2013, the President requests $1.153 billion, a 0.1% increase over the FY 2012 enacted. Rescissions of $12.4 million in prior year balances and $1 million from ATF's Violent Crime Reduction Program account are also proposed.

The Committee supports funding ATF at levels necessary to accomplish its current mission.

DRUG ENFORCEMENT ADMINISTRATION (DOJ)

The Drug Enforcement Administration (DEA) is the lead federal agency tasked with reducing the illicit supply and abuse of narcotics and drugs through drug interdiction and seizing of illicit revenues and assets from drug trafficking organizations. The FY 2013 request totals $2.051 billion, which is a 0.8% increase over the FY 2012 enacted level. DEA's FY 2013 request for its Salary and Expense account includes $48.9 million in transfers and base adjustments. This includes $8.026 million and 57 positions to transfer document and media exploitation functions from the National Drug Intelligence Center to the DEA.

The Committee recommends funding at an appropriate level for FY 2013.

FEDERAL BUREAU OF PRISONS (DOJ)

The Federal Bureau of Prisons (BOP) is responsible for confining Federal offenders in prisons and community-based facilities.

For FY 2013, a total of $99.189 million, with 260 positions and 241 FTEs are requested for the Buildings and Facilities (B&F) appropriation. The FY 2013 request maintains B&F programs at prior years' request levels but does not add new prison beds. A rescission of $75 million in prior years' New Construction unobligated balances is also proposed. The rescission eliminates funding of $64.7 million from the "Acquire Existing Institution for Higher Security FCI" project and reduces four partially funded projects. This proposal requests $6.820 million for the administration, operation, and maintenance of federal penal and correctional institutions,

The BOP cannot control the number of inmates committed to its custody, and adequate resources are needed to assure the safety of inmates, employees, and visitors, while providing appropriate rehabilitation for offenders.

The Committee recommends funding at an appropriate level for FY 2013.

HEALTH CARE FRAUD

The Health Insurance Portability and Accountability Act (HIPAA) directed that the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) establish a joint Health Care Fraud and Abuse Control (HCFAC) program. The President's FY 2013 budget requests an increase in discretionary funding for the HCFAC program to $610 million. Funding to combat health care fraud is a sound investment from the standpoint of protecting our citizens and recapturing money obtained by criminals. In FY 2011, DOJ and HHS announced almost $4.1 billion in recoveries and payments to the Medicare Trust Fund, returned to victim programs, and others. The 3-year average Return-on-Investment for the HCFAC program was $7.2 to $1.0.

OFFICE OF JUSTICE PROGRAMS (DOJ)

The President requests for the Office of Justice Programs (OJP) a budget of $2.419 billion and 702 positions for FY 2013. This request level includes offsetting decreases totaling $426 million, including the State Criminal Alien Assistance Program ($170 million reduction), the Border Prosecution Initiative ($10 million decrease), the Youth Mentoring Program ($20 million reduction), and the Presidential Nominating Conventions that was requested in FY 2012 ($100 million reduction). The President also requests a $365 million increase to the Crime Victims Fund and a $250 million increase for the new mandatory Grants to State for Medical Malpractice Reform program. The request includes $43 million in one-time rescissions.

Byrne Justice Assistance Grants

The Byrne Justice Assistance Grants (Byrne JAG) program provides direct grants to states and local communities for a number of purposes, including funding local drug task forces. It is the only source of Federal funding for multi-jurisdictional efforts to prevent, fight, and prosecute drug-related and violent crime. For FY 2013, the President requests $430 million for the Edward Byrne Memorial Justice Assistance Grant program, which includes $17 million in set-asides for various initiatives including the Preventing Violence Against Law Enforcement Officer Resilience and Survivability Initiative (VALOR) program ($5 million).

In FY 2013, the President's budget requests $20 million for the Byrne Criminal Justice Innovation program, to provide demonstration grants in selected communities to support innovative, place-based, evidence-based approaches to fighting crime.

The President's FY 2013 Budget proposes $25 million for the Byrne Competitive Grant program, an increase of $10 million from the FY 2012 appropriation level. This program awards grants to improve the functioning of the criminal justice system, to prevent or combat juvenile delinquency, and to assist victims of crime (other than compensation). The program focuses on seven purpose areas, including: Preventing crime; enhancing local law enforcement; and enhancing local courts.

The FY 2013 President's budget requests $67 million for the Missing and Exploited Children Program (MECP), of which $22 million is set aside to combat internet crimes against children through the Internet Crimes Against Children Task Forces and other programs. The budget proposes funding these programs through the Crime Victims Fund.

Recognizing current budgetary constraints, the Committee supports funding these programs at appropriate levels.

DNA Backlog Elimination

The Committee supports full funding for the Debbie Smith Act, which funds reducing the backlog of DNA evidence in the Nation's labs, as well as the Innocence Protection Act, which funds post-conviction DNA testing. This technology is crucial and as it is increasingly used, larger numbers of departments are amassing biological evidence for use in criminal cases. However, using the technology and storing the evidence is costly.

For FY 2013, the President's request for this program (which also includes funding for DNA training for law enforcement and others, as well as the Sexual Assault Forensic Exam Program) is $100 million. The Committee supports funding these DNA programs at appropriate levels.

Juvenile Justice

OJP requests $245 million for the Juvenile Justice Programs account, which is $25 million below the FY 2012 appropriation level.

This account includes programs that support state, local, and tribal community efforts to develop and implement effective and coordinated prevention and intervention juvenile programs. The objectives of these programs are to reduce juvenile delinquency and crime, improve the juvenile justice system so that it protects public safety, hold offenders accountable, and provide treatment and rehabilitative services tailored to the needs of juveniles and their families.

For FY 2013, recognizing current budgetary constraints, the Committee supports funding the Juvenile Justice programs at appropriate levels.

Residential Substance Abuse Treatment

The Residential Substance Abuse Treatment (RSAT) program for state prisoners helps state and local governments develop, implement, and improve residential substance abuse treatment programs in correctional facilities, and provides community-based aftercare services for their probationers and parolees to assist them in remaining drug-free. In FY 2013, the President's budget requests $21 million for the RSAT program, an increase of $10 million over the FY 2012 appropriations. The Committee supports funding the program at the appropriate level.

State Criminal Alien Assistance Program

State and local governments have had to bear an immense fiscal burden as a result of incarcerating criminal aliens. Although control of our nation's borders is a federal responsibility, states and localities are only partially reimbursed for these expenditures. For FY 2013, the President requests $70 million for the State Criminal Alien Assistance Program (SCAAP). The Committee believes that SCAAP should be adequately funded to assist state and local jurisdictions.

Adam Walsh Act

The Adam Walsh Child Protection and Safety Act was enacted in 2006. Title I of the Act, the Sex Offender Registration and Notification Act (SORNA), established a comprehensive national system for the registration and notification to the public of those offenders. For FY 2013, the President's budget requests $20 million to provide critical assistance to SORNA jurisdictions, particularly in these difficult economic times, to ensure the continuation of SORNA implementation activities. The funding would support jurisdictions' investments in their registration and notification systems that will be necessary to implement SORNA's many requirements. The Committee recommends funding the Adam Walsh Act at appropriate levels.

Services for Victims of Crime

The Administration requests an increase of $365 million from the FY 2012 funding level for the Crime Victims Fund (CVF), increasing the obligation cap to $1.070 million. The increase in the obligation cap is proposed to fund programs both directly and indirectly related to victims' assistance, including grants to assist with the implementation of the Adam Walsh Act and the STOP Violence Against Women Formula Grant Program, The Crime Victims Fund is intended to provide compensation to victims of crime and survivors; support victims' services programs and victimization prevention strategies; and build capacity to improve response to crime victims' needs and increase offender accountability. The Committee supports using the Crime Victims Fund solely for programs directly related to victim compensation and services.

Recognizing current budgetary constraints, the Committee supports funding Services for Victims of Crime at appropriate levels.

Medical Malpractice

The Administration's FY 2013 Budget proposes $250 million in grants to states to reform the way they resolve medical malpractice disputes. The Administration has not, to date, provided specific legislative proposals concerning medical malpractice reform.

Recognizing current budgetary restraints, and pending specific legislative proposals from the Administration, the Committee withholds judgment on the need for the requested funding.

Mentally Ill Offender Act

The Mentally Ill Offender Treatment and Crime Reduction Reauthorization Improvement Act of 2008 reauthorizes funding for the Adult and Juvenile Collaborations Program grants. The President's budget proposes the consolidation of this program into other programs for FY 2013.

Recognizing current budgetary constraints, the Committee supports separate funding for this program at appropriate levels.

Second Chance Act

The Second Chance Act of 2008 provides grants to establish and expand various adult and juvenile offender reentry programs and funds reentry-related research.

Recognizing current budgetary constraints, the Committee supports funding the Second Chance Act at appropriate levels.

National Criminal History Improvement and National Instant Background Check System (NICS)

National Criminal History Improvement (NCHIP) provides grants and technical assistance to help states and territories improve the quality, timeliness, and immediate accessibility of their criminal history and related records. The Administration proposed $6 million in funding for this program for FY 2013. The NICS grant program provides grants to assist state and tribal governments in updating NICS with the criminal history and mental health records of individuals who are precluded from purchasing or possessing guns.

Recognizing current budgetary constraints, the Committee supports funding NICS at appropriate levels.

COMMUNITY ORIENTED POLICING SERVICES (COPS)

In FY 2013, the President requests for the Office of Community Oriented Policing Services (COPS) a total of $289.6 million and 188 positions. This represents a $91.1 million increase over the FY 2012 appropriations level.

The COPS Office is proposing several program increases to assist state, local, and tribal law enforcement to combat crime and increase law enforcement effectiveness by leveraging resources and maximizing cooperative efforts. The key highlight of this request is a $257 million request for the COPS Hiring Program to assist in hiring additional law enforcement professionals at the local level. Of this request, the budget requests $15 million to be dedicated to hiring of tribal law enforcement officers and $15 million to fund training and technical assistance that supports the integration of community policing strategies throughout the law enforcement community. This request is in addition to a request for $4 billion in assistance for the retention, rehiring, and hiring of police officers, which has been requested by the Administration under the American Jobs Act.

Recognizing current budgetary constraints, the Committee supports funding COPS at an appropriate level.

OFFICE OF VIOLENCE AGAINST WOMEN (OVW)

In FY 2012, OVW received $412.5 million for Violence against Women Act (VAWA) implementation and in FY 2013, the President requests for OVW flat funding of $412.5 million and 70 positions. The budget proposes funding $144.5 million of this request from the Crime Victims Fund. The request also includes a $6 million rescission from prior year balances.

Recognizing current budgetary constraints, the Committee supports funding OVW at levels necessary to accomplish its various missions.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (DOJ)

The Executive Office for Immigration Review (EOIR) contains the corps of Immigration Judges, the Board of Immigration Appeals (BIA), and the Office of the Chief Administrative Hearing Officer. EOIR presides over administrative immigration hearings such as removal, bond, and employer sanctions proceedings. The President's budget requests $310.6 million for EOIR in FY 2013, an increase of 2.8% over the FY 2012 enacted level of $302.3 million.

The FY 2012 enacted and the FY 2013 budget requests include an annual $4 million transfer from the DHS Immigration Fee Account to EOIR. The FY 2013 request for U.S. Immigration and Customs Enforcement (ICE) includes language that states ICE can transfer up to $5 million to EOIR "to increase the efficiency of the immigration court process."

EOIR's immigration court cases continue to grow. In FY 2009, EOIR received approximately 393,000 matters, a record volume that was replicated in FY 2010. Case receipts continue to rise and topped over 430,000 at the end of FY 2011. As a consequence, case backlogs have continued to increase, from 190,000 matters pending at the start of 2009 to over 295,000 matters pending by the start of FY 2012. Additionally, BIA receives over 30,000 appeals per year.

The Committee also supports funding of Legal Orientation Programs for detained noncitizens at a level necessary to accomplish the goals of the program.

Timely and fair adjudication of cases in Immigration Courts is an essential part of effective immigration enforcement. Funding for EOIR personnel and programs must keep pace with other immigration enforcement activities in order for the entire immigration enforcement system to function properly. The Committee recommends that EOIR be funded at a level that will enable it to achieve these goals.

U.S. CUSTOMS AND BORDER PROTECTION (DHS)

The Department of Homeland Security's Customs and Border Protection (CBP) is the federal agency principally responsible for the security of the Nation's borders, at and between the ports of entry along the border and at our seaports and airports. The Committee supports CBP's various missions, including the work of Inspectors and Border Patrol agents who are an essential component of our immigration enforcement system and serve as a critical shield against those who would enter the U.S. unlawfully.

The President's budget requests $11.97 billion for FY 2013, a 2% increase over the FY 2012 enacted level. The funds will support and maintain the current staffing level of 21,370 Border Patrol agents, a force that has nearly doubled since FY 2004, and 21,186 CBP officers who perform critical services at our ports of entry. Without the transfer of US-VISIT to CBP from the National Protection and Programs Directorate, CBP's budget would have decreased.

The Committee supports funding CBP at levels necessary to accomplish its various missions. The Committee also supports the use of funding for the addition and improvement of Border Patrol facilities.

The Committee notes that a high rate of attrition for Border Patrol agents has been resolved through increased vetting and training programs as well as improvements in salaries and benefits. The Committee notes from FY 2010 to FY 2013, salaries and benefits increased by approximately $1.89 billion from $6.4 billion to $8.29 billion.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (DHS)

Immigration and Customs Enforcement (ICE) is the largest investigative arm of DHS. Comprised of several components from the former Immigration and Naturalization Service (INS) and the U.S. Customs Service, the agency combines the investigative, detention and removal, and intelligence functions of the former INS with the investigative and intelligence functions of the former Customs Service.

The President's budget requests $5.644 billion for FY 2013, which is a decrease of $218 million from the FY 2012 enacted level of $5.862 billion. The budget request supports 19,996 full time employees (FTEs), similar to the 19,982 FTEs in FY 2012. Recognizing current budgetary constraints, the Committee supports funding ICE at levels necessary to accomplish its various missions.

The budget requests $17.6 million to transfer US-VISIT to ICE. This ICE portion of US-VISIT includes the visa overstay analysis functions, which collects, stores, and shares biometric and biographic information and is intended to fit within ICE due to ICE's office of Homeland Security Investigation's responsibility for visa overstay enforcement.

The President's request reduces the number of alien detention bed spaces by 1,200 beds from 34,000 to 32,800. The Administration proposes enhancing its alternatives to detention program by $39.9 million.

The Secure Communities Program is a comprehensive plan that seeks to identify and remove criminal aliens. The budget request includes $138.7 million, a decrease of 26.6% from FY 2012 enacted level of $189 million.

In addition, the Criminal Alien Program (CAP) focuses on identifying incarcerated criminal aliens in federal, state, and local facilities, and secures orders of removal prior to their release. The President's budget request includes a 10 percent increase of funding to CAP to $216.7 million. The Committee supports funding for Secure Communities and the Criminal Alien Program, which focus on criminal aliens to improve public safety.

The President's budget reduces funding for the 287(g) program by $17 million or 25%.

The President's budget provides $32.6 million to maintain the Visa Security Program (VSP) at current locations. This Congressionally-mandated program places ICE personnel in Department of State consular posts in high risk countries to provide additional security screening for visa applications. Currently, there are 19 VSP offices overseas. The Committee supports funding at levels necessary to support current VSP locations and to expand the program to additional locations deemed necessary.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (DHS)

United States Citizenship and Immigration Services (USCIS) administers the immigration service functions described in the Immigration and Nationality Act, such as adjudicating citizenship and immigration benefit applications and petitions.

The FY 2013 budget request is $3.005 billion, representing a decrease of 2.4% from the FY 2012 enacted level of $3.078 billion. The Committee supports funding CIS at levels necessary to accomplish its various missions.

The request for appropriation includes $111.9 million for E-Verify, $20 million for the Systematic Alien Verification for Entitlements (SAVE) program, and $11 million of immigrant integration and citizenship programs. The costs of many of the programs at USCIS are currently supported by individuals and businesses applying for citizenship and immigration benefits through USCIS fees.

US-VISIT (DHS)

The FY 2013 budget request of $279.1 million for the US-VISIT alien entry-exit system represents a decrease from the FY 2012 enacted level of $306.8 million. The President's FY 2013 budget proposes transferring US-VISIT from the National Protection and Programs Directorate (NPPD) to U.S. Customs and Border Protection (CBP) and ICE by October 2012. CBP would assume responsibility for core US-VISIT operations, the management of biometric and biographic information storage, and matching and watchlist management services while ICE will assume responsibility of the US-VISIT visa overstay analysis. The President's budget proposes spending $17.6 million for ICE's visa overstay analysis and $261.5 million in funding for CBP's US-VISIT operations.

The Committee has long supported sufficient funding to meet the entry-exit requirements mandated by Congress in 1996 in order to identify who is entering and exiting the U.S. and how long they stay in the country. The Committee supports the use of unobligated funds appropriated in previous years to proceed with implementation, but also recommends sufficient funding be provided to prioritize the development of an integrated master schedule for the full implementation of the legal mandate. The Committee recommends that US-VISIT be funded at a level that will enable it to achieve full implementation.

U.S. SECRET SERVICE

The Secret Service is primarily tasked with two law enforcement functions: handling protection and conducting criminal investigations. Criminal investigation activities encompass financial crimes, bank fraud, mortgage fraud, identity theft, counterfeiting, and computer fraud. The protection mission covers the President and Vice President, among others.

The President's FY 2013 request is for $1.544 billion. The Committee fully supports the FY 2013 request.

OFFICE OF REFUGEE RESETTLEMENT (HHS)

The Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) provides assistance and services to refugees, asylees, unaccompanied alien children, victims of human trafficking, and certain Amerasian, Iraqi, Afghan, Cuban, and Haitian immigrants. ORR assists these populations by providing a range of services, including cash and medical assistance, housing assistance, and economic and social integration services.

The President's budget request of $805 million contains a $37 million increase for ORR to cover increases in medical costs of newly-arrived refugees and for care for unaccompanied asylum-seeking children. The Committee recommends that ORR be funded at a level that will enable it to achieve its goals.

LEGAL SERVICES CORPORATION (LSC)

The Legal Services Corporation (LSC) is a non-membership, non-profit corporation established by Federal statute to provide funding for civil legal assistance to low-income Americans. For FY 2013 the President requests $402 million to LSC. This would be a 15.5% ($54 million) increase from LSC's current level of funding, which was set by the Continuing Resolution at $348 million (see P.L. 112-55, Title IV).

The President's FY 2013 budget would allocate $376.8 million for basic field programs and required independent audits; $4.2 million for the Office of Inspector General; $17 million for management and grants oversight; $3 million for client self-help and information technology; and, $1 million for loan repayment assistance. Pursuant to its independent budgetary authority, LSC requests $470 million in appropriated funds for FY 2013: $440.3 million for basic field grants; $4.2 million for the Office of Inspector General; $19.5 million for management and grants oversight; $5 million for technology initiative grants; and, $1 million for loan repayment assistance.

LSC has not been authorized for appropriations for more than 30 years, since FY 1980. The Subcommittee on Courts, Commercial and Administrative Law intends to hold an oversight hearing on LSC in 2012, at which time the Subcommittee can examine LSC's progress towards implementing recommendations made by the Government Accountability Office and the LSC Inspector General for improving transparency and accountability.

Recognizing current budgetary constraints, the Committee supports funding LSC at a level necessary to accomplish its mission.

PRIVATE CLAIMS LEGISLATION

The Committee anticipates it will consider private bills for claims against the United States. The Committee believes that $5 million was sufficient in the past several years and believes that this figure, based on an analysis of private claims bills passed by recent Congresses, continues to be sufficient to meet the unanticipated costs associated with private claims legislation.

OFFICE OF GOVERNMENT ETHICS

The Office of Government Ethics (OGE) is responsible for providing the overall direction of executive branch policies designed to prevent conflicts of interest and to ensure high ethical standards. In partnership with executive branch agencies and departments, OGE develops ethics training courses and other educational materials for government employees, conducts on-site reviews of existing ethics programs, and provides advice and guidance on the Standards of

Ethical Conduct for Employees of the Executive Branch. For FY 2013, the President requests $13.473 million for OGE, which is $431,000 less than its FY 2011 level of $13.904 million.

Recognizing current budgetary restraints, the Committee supports funding OGE at levels necessary to accomplish its various missions.

U.S. COMMISSION ON CIVIL RIGHTS

The Commission on Civil Rights was established by the Civil Rights Act of 1957, (P.L. 85-315), to serve as a bipartisan, fact-finding agency to investigate and report on the status of civil rights. For FY 2013, the President's budget requests $9.4 million for the Commission which is a continuation of its current funding level. The Committee will examine the continuing mission of the Commission and its ability to perform its statutory functions in its current configuration. The Committee supports funding the U.S. Commission on Civil Rights at levels necessary to perform its mission.

U.S. PATENT AND TRADEMARK OFFICE

The U.S. Patent and Trademark Office (USPTO) issues patents and registers trademarks, which provide protection to inventors and businesses for their inventions and corporate and product identifications. The agency also advises other government agencies on intellectual property issues and promotes stronger intellectual property protections in other countries.

The USPTO is funded through the imposition of user fees that are paid by individuals and businesses that file for patent and trademark protection. The USPTO Director deposits these funds in a special account at the Treasury. As a practical matter, the agency is beholden to Congress and the appropriations process to receive funds back.

The agency is critical to the economic health of the country as it is an innovation-driver and job-creator. The Committee believes the USPTO should be permitted to keep all of the funds it raises each fiscal year until expended. The Committee therefore supports "full" funding of the agency at $2.953 billion.

U.S. COPYRIGHT OFFICE

The U.S. Copyright Office is responsible for registering copyright claims and renewals, vessel hull designs, and mask works; recording assignments and related documents; acquiring US copyrighted works for possible inclusion in the Library of Congress collections; creating and making available records of copyright ownership; and providing copyright information to the public.

The Office is funded, in part, through the collection of fees received for services rendered. The Committee supports a FY 2013 funding level for the Copyright Office of $52.772

million ($33.611 million from the collection of fees and an additional appropriation of $19.161 million) or, if less, at a level necessary for the Office to accomplish its various missions.

The Committee believes this is a lean budget request for an agency that contributes to the economy in multiple ways, including by promoting American creativity and facilitating copyright transactions in the marketplace. With the advent of digital technology, copyright law has become more complex and more ubiquitous than ever before. In the long term, the Office cannot build 21st century services for the nation without providing for intelligent growth and making ongoing investments in staffing and information technology. The Register of Copyrights underscored these points in her "Priorities & Special Projects" document, released last fall (www.copyright.gov/docs/priorities.pdf) in consultation with the Committee.

The Committee believes that the Register's request for $19.161 million in appropriated dollars is further offset by the value of the copyright deposits the Office provides to the nation. Each year, the Office provides more than $30 million worth of books, films, music and other works of authorship to the Library of Congress, which are works the Library would otherwise have to purchase.

US OFFICE OF THE INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR (US-IPEC)

The Committee has determined that intellectual property theft presents a substantial threat and imposes significant harm, including major economic damage, on the United States. To address this problem, the Committee authorized, through the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (PRO-IP Act, P.L. 110-403), the creation of an Intellectual Property Enforcement Coordinator (IPEC) within the Executive Office of the President. The IPEC chairs an interagency intellectual property enforcement advisory committee, coordinates the development of the Joint Strategic Plan against counterfeiting and infringement and provides other assistance in the coordination of intellectual property enforcement efforts. The first IPEC was appointed in December 2009. The Committee urges the Administration to provide a detailed plan to staff the office with permanent FTEs, appropriate resources and a travel budget and supports such sums as are necessary to enable the IPEC to fully execute her statutory duties.

STATE JUSTICE INSTITUTE

The State Justice Institute (SJI) was established by Federal law in 1984 to award grants to improve the quality of justice in State courts, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common issues faced by all courts.

The President's FY 2013 request is $5.121 million. The Committee fully supports the FY 2013 request or a level necessary for SJI to accomplish its mission.

BUREAU OF COMPETITION (FTC)

The Federal Trade Commission's Bureau of Competition shares jurisdiction to enforce the nation's antitrust laws with the Antitrust Division of the Department of Justice. Recognizing current budgetary constraints, the Committee supports funding the Bureau of Competition at a level necessary to accomplish its mission.

ADDITIONAL VIEWS
COMMITTEE ON THE JUDICIARY
VIEWS AND ESTIMATES FOR FY 2013

John R. Justice Prosecutor and Defender Incentive Act

The John R. Justice Prosecutor and Defender Incentive Act was enacted in 2008. The Act authorizes funding for loan repayment assistance for state and federal public defenders and state prosecutors who commit for three years. In FY 2011, this program was funded at $10 million and, in FY 2012, this program was funded at $5 million. We support funding for this program at least equal to the level for FY 2011.

John Conyers
Congressman John Conyers, Jr.
Ranking Member
Committee on the Judiciary

Bobby Scott
Congressman Robert C. "Bobby" Scott
Ranking Member
Subcommittee on Crime, Terrorism, and Homeland Security

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
U.S. House of Representatives
207 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman,

Pursuant to the provisions of clause 4(f) of Rule X of the Rules of the House of Representatives for the 112th Congress and Section 301(d) of the Congressional Budget Act of 1974 as amended, I am transmitting the Views and Estimates, including Minority Views, of the Committee on Natural Resources for Fiscal Year 2013.

Sincerely,

Doc Hastings
Chairman

http://naturalresources.house.gov

Committee on Natural Resources
Views and Estimates for Fiscal Year 2013
Doc Hastings, Chairman

Overview

The Committee on Natural Resources (the Committee) recognizes that confronting trillion dollar budget deficits and record debt levels requires examining federal spending by this Committee and all others. Our Nation simply cannot afford to spend at the rate of the past several years. Real reductions must occur now. The Committee intends to do its part to contribute to this effort by looking for ways to decrease spending while creating jobs.

In making such reductions, the Committee recognizes that there are important and much-treasured matters under its jurisdiction that require care and consideration in determining how to protect valued federal activities and lands while ensuring the federal budget does not deteriorate further to a degree that requires even more painful spending cuts. The sooner that the federal budget can be put in order, the less of a threat it poses to vital federal assets and activities.

It is disappointing that for the fourth straight year the President's budget request does not reflect this sense of urgency to reduce spending, nor does it reflect the danger that excessive spending will increasingly pose to all federal programs and activities if action is not taken. Although the Fiscal Year (FY) 2013 request for the Department of the Interior (the Department) has been described as a "freeze budget", in reality it reduces spending in some programs, only to increase spending in other areas by a like amount. Simply freezing spending is not enough. We must set priorities and make tough choices where to best direct taxpayer dollars to get the Nation's fiscal house in order. It is necessary to make real, actual reductions.

In particular, the President's proposal to once again increase spending for land acquisition remains especially out of touch with the dire fiscal straits confronting the country. The proposed $450 million in the President's budget for the Land and Water Conservation Fund to primarily purchase more federal land is an increase of $100 million over FY2012 levels. Despite the Federal government's ballooning $15 trillion debt, the President is proposing a 58 percent spending increase for government land acquisition compared to funding levels when he first took office. The Department has a maintenance backlog on existing public lands that measures in the billions of dollars. The Committee believes the first and foremost focus should be caring for existing parks and lands before exacerbating the problem by buying more federal land that we cannot afford.

Additionally, efforts to restrict the ability of Americans to access existing public lands for recreation and enjoyment, as well as job creation and economic and energy development, is particularly distressing in these days of record deficits and debt. Our public lands should be open for the public to enjoy and made available for the public to benefit from the job creation, revenue generation, increased national and economic security, and lower prices that result from American-made energy production.

The President's budget request reveals more of the same proposals to block American energy production on public lands and the same job-destroying tax increases on American energy that will stifle production and cost jobs. The second largest source of revenue to the federal treasury comes directly from the multiple forms of revenues, royalties and payments generated from producing energy offshore and onshore public lands. Producing more American-made energy would generate new federal revenue, as well as strengthen job creation and our national security. The actions of this Administration, as furthered by the proposals in the President's FY2013 budget, move us in the opposite direction – towards lost jobs, less energy, higher prices and a climbing cost of life for American families.

President Obama's policies and proposals would result in higher taxes on energy, higher gasoline prices and increased dependence on energy from hostile, foreign nations. Every penny the price of gasoline increases, it costs consumers an accumulated $4 million per day. As gasoline prices continue to rise, the last thing consumers need is more expensive energy due to President Obama's billions of dollars in tax increases. The Committee instead recommends an all-of-the-above approach to energy production. By increasing all types of American energy production, we can create jobs, lower gasoline and energy prices, bolster our budget with greater revenue generation, and reduce our need for foreign energy.

More government spending and higher taxes is not the way to economic recovery. Page after page of the President's budget contains examples of the Obama Administration's misplaced priorities. Instead of promoting new American energy production, this budget will make energy more expensive for American families and small businesses by imposing new taxes and fees. Instead of reducing spending, this budget will spend millions of taxpayer dollars to buy more federal land even though we can't afford to properly maintain the land we already own. The President's budget ignores our growing national debt when we should be looking for ways to conserve scarce taxpayer dollars and decrease spending.

Department of the Interior

Bureau of Indian Affairs (BIA)

Trust Management – Over the last several decades some of the costliest recurring items in the annual budget request of the Department of the Interior have been for the management, probate, and consolidation of highly fractionated Indian lands. These functions are authorized by various Indian land leasing statutes, the Indian Land Consolidation Act, and the American Indian Probate Reform Act.

Undertaking the consolidation of highly fractionated Indian land remains a huge challenge. Funds to purchase and consolidate fractional interests in Indian lands have routinely been provided through annual appropriations. The Claims Resolution Act of 2010 provides for a mandatory appropriation of $1.9 billion to the Department for the Indian Land Consolidation Program, conditioned on final approval being granted to the *Cobell v. Salazar* Settlement Agreement. While final approval was given by the U.S. District Court for the District of Columbia, several objectors have appealed, questioning the Settlement's fairness and constitutionality. If the Settlement eventually receives final approval, the Department has ten years to spend the $1.9 billion for consolidating highly fractionated Indian lands before any unspent funds are returned to the U.S. Treasury.

While the Department has been assembling a land consolidation plan, it is doubtful that spending $1.9 billion on acquiring highly fractionated interests in Indian lands will resolve the land fractionation issue. The Committee is concerned that without a fresh approach to resolving this problem, the Department will approach Congress to request more appropriations. Moreover, there is no guarantee that enough willing sellers of fractional interests will be identified to reduce the burden on the Department, in part because many individuals regard even a tiny interest in land they own to be an inseparable link to their Native heritage.

The Department should study different approaches to consolidate or at least manage highly fractionated Indian lands. Along these lines, the Secretary has established a trust reform commission by Secretarial Order, to be funded through monies available in the *Cobell* Settlement Agreement. While the Committee comments new trust reform discussions in Indian Country, the Committee is concerned that the Secretary launched the Commission before the *Cobell* Settlement has been finally approved. This could result in the Department paying for the Commission's expenses using funds needed for other Indian services and functions.

Economic Development –The Committee is concerned that the Department continues to display less interest in conventional energy resource leasing on Indian lands than on non-competitive renewable energy development. Indian Country plays a key role in an all-of-the-above energy approach. Native lands hold an estimated ten percent of the Nation's untapped energy resources. Given the federal budget deficit, scarce federal resources should be steered toward conventional energy development on Native lands as U.S. infrastructure to deliver these forms of power is highly developed already, and these forms of energy are the most cost-competitive and marketable.

Law Enforcement – The Committee supports sufficient funds to meet law enforcement needs in Indian Country. Indian reservations experience unusually high rates of crime, including violent crime, while law enforcement personnel are responsible for covering large areas of land with relatively small resources. These problems should not be allowed to persist.

Office of the Special Trustee for American Indians

The Committee remains concerned that since dismissing the previous Special Trustee for American Indians, the President has not appointed a new one to oversee the Office of the Special Trustee for American Indians. This is the longest a Special Trustee has not been appointed since the position was established by Congress in 1994. The Office of the Special Trustee is the financial manager for approximately $3.7 billion held in trust for 350,000 individual Indians and hundreds of Indian tribes. The vacancy calls into question the Administration's commitment to carrying through reforms in the management of Indian trust funds that were initiated in 2001, and for which the Administration is requesting $146 million in fiscal year 2013, a $6 million reduction compared to FY2012 levels.

Bureau of Land Management (BLM)

Setting budget priorities that promote sound, multiple-use management of BLM lands will significantly contribute to the following goals: increased energy and resource independence, a wide diversity of outdoor recreation, job creation, economic growth, reduced deficit spending, and increased national security.

BLM has received significant pressure to convert its traditional multiple-use mandate into one focused only on preservation with a mission more akin to the National Park Service. Unfortunately, this movement received a big push with the creation of the National Landscape Conservation System (NLCS). As well as eroding the mission of BLM, NLCS has also morphed into a completely duplicative office at best, and an entirely new layer of bureaucratic, centralized, and unnecessary management at worst. The Committee strongly recommends eliminating the Office of the NLCS and restoring management of "units" to BLM state offices.

In these times of constrained budgets, it is curious that BLM is talking about expanding its mission to landscape level planning. BLM needs to focus on its own land and how to best manage it to be available to create jobs and promote a sound national economy. Opening up the vast energy potential on our public lands is one way to accomplish this.

BLM has taken a significant step backward and is continuing to advance the goals outlined in the Secretarial Order on "Wild Lands." While the "Wild Lands" title appears to have been abandoned, BLM is actively using the resource management planning process to reduce and eliminate acres of public lands that are currently available to multiple use and energy production. This is clearly the wrong direction when the country is more unified than ever in expressing a desire to have their public lands responsibly developed for energy production. The Committee recommends eliminating any funds that would further implement the Wild Lands policy and create *de facto* wilderness through administrative fiat.

As with other areas of the Department's budget, BLM squeezes important existing needs to quench this Administration's thirst for more federal lands. By requesting $34 million for land acquisition, BLM appears completely out of touch with the need to ensure that BLM land is in line with the country's current fiscal challenges. The Committee recommends that these funds be eliminated for FY2013.

The Committee is concerned about the BLM Sage Grouse Conservation plan and the associated Interim Management Strategy. This policy was driven by litigation and a closed-door settlement that was absent consultation or consideration of any economic impacts on agency, state and county budgets, including potential lost revenues from renewable energy, energy and mineral leasing and grazing permits. Greater transparency is needed in the formulation of these settlements, and the Committee recommends a cap on the costs associated with litigation-driven policies.

The Committee is troubled by the proposal to bypass Congress and charge an increase of $1.00 per animal unit month (AUM) fee under the guise of assisting in the processing of grazing permits. This would represent a 75% increase in grazing fees for a segment of America's food producers who rely on BLM grazing permits. The Committee opposes this proposal and questions the timing and intent of this fee increase because it does not appropriately or accurately reflect the intended purpose.

The rapidly increasing budget for the Wild Horses and Burros program is also of concern to the Committee. We continue to favor a critical re-examination of the program with the goal of maintaining a sustainable population of wild horses and burros compatible with the carrying capacity of the land and reality of budget constraints.

Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement

The Committee recognizes the importance of ensuring adequate resources to oversee and manage the leasing, exploration and production of offshore oil and natural gas. The President's budget proposes $164.1 million for the Bureau of Ocean Energy Management and $222.2 million for the Bureau of Safety and Environmental Enforcement, which reflects a total increase of $28.1 million above FY2012 levels. U.S. offshore drilling should be the safest in the world, and additional funds are needed for enhanced activity, such as hiring more inspectors. Yet, the Committee believes it is critical to make certain that these funds will be used to actually improve safety and resume offshore drilling. Most can agree that bigger government does not generally equate to better government. This Committee is specifically interested in how increased funding and staffing will improve the process and foster increased American energy production. The goal should be to make these agencies better and faster, not bigger and slower.

Again, in light of the current fiscal crisis, it is important to remember that American energy production on public lands and waters generates billions of dollars in revenue. Not only does this create jobs by producing energy in the U.S., but it helps lower the debt and deficit, and it prevents our energy dollars from being sent overseas to foreign countries.

For these reasons, the Committee believes strongly in the need to boost energy production offshore and onshore. This includes ending the *de facto* moratorium in the Gulf of Mexico that has put thousands out of work and idled American energy sources at a time of increasing gasoline prices and volatile turmoil in the Middle East and North Africa.

Additionally, the Obama Administration has acted repeatedly to delay and block production on the greater Outer Continental Shelf beyond the Gulf of Mexico, onshore on public lands, and on leased areas in Alaska. In stark contrast, the Committee has passed an active jobs plan to significantly expand American energy production offshore, onshore and in the coastal plain of the Arctic National Wildlife Reserve. This bipartisan plan will create more than 1 million American jobs, generate billions of dollars in revenue and reduce America's reliance on unstable Middle Eastern oil. As part of the American Energy Initiative, the Committee has also passed legislation to strengthen and streamline the permitting process by removing government barriers to energy production and providing certainty for American businesses that depend on affordable energy.

Instead of increasing production and thereby reducing the deficit, the President's FY2013 budget request proposes to increase the cost of producing American energy by raising a multitude of taxes. The President's budget includes over $85 billion in higher taxes and fee increases on American energy production. This will lead to less energy, higher gas prices and lost American jobs.

If the cost of producing gasoline is increased, the price of gasoline at the pump climbs higher. The last thing families and businesses need right now is even higher gasoline prices.

It is troubling that all of the President's budget submissions to Congress seek to increase energy taxes even higher than previously proposed. The Administration's insatiable appetite for higher taxes and higher gas and energy prices is a threat to job creation and economic growth.

Bureau of Reclamation (BOR)

The Bureau of Reclamation's dams and reservoirs provide water, emissions-free hydropower and numerous other benefits. BOR historical water and power mission formed the basis for growth of the Western United States, transforming arid land to some of the most productive farmland in the world and powering communities with affordable, reliable and renewable electricity. BOR played a leading role in building dams and storing water for these purposes, yet the agency generally has been transformed from a construction agency promoting abundant water and power supplies to an entity managing water shortages.

The Administration's FY2013 budget is a symbol of this transformation. In questioning before the Water and Power Subcommittee earlier this Congress, BOR indicated that it had little quantitative idea how its programs fit into western water supply needs for the next two decades. In that context, its proposed budget pays little attention to the aging facilities that have served as the water supply backbone for much of the West and instead focuses on taxpayer-financed programs that have a questionable federal nexus. Specifically, the agency seeks a 176 percent funding increase for its WaterSMART program, which has previously allocated $500,000 in grants to an entity with a history of litigating against the federal government's water projects. In 2011 this grant program provided hundreds of thousands of dollars for toilet rebates. The proposed budget featured this program prominently, yet it does not have a formal cost-benefit analysis compared to the benefits of other projects.

While focusing on conservation and efficiency programs like WaterSMART and water recycling, the budget lacks vision regarding new surface storage studies and other traditional water supply infrastructure. In conclusion, the proposed budget fails to address many of the real issues impacting jobs in the rural West and instead focuses on dubious American taxpayer-financed programs that could be paid for by local beneficiaries.

U. S. Fish and Wildlife Service (FWS)

In its budget submission to the Congress, the Director of FWS indicated that "the Service's budget request makes some tough choices." It is therefore surprising that the agency would submit a budget request for its programs that is $72 million more than FY2012 and $163.5 million above FY2008 appropriated levels.

The FWS budget includes a $106.8 million request for land acquisition under the Land and Water Conservation Fund. This request is $52.2 million above FY2012 appropriated levels. The proposed amount is excessive and defies the growing fiscal threat confronting our Nation. A nominal amount for the land acquisition account to undertake emergencies, hardships, exchanges and inholdings would be much better policy. At a time when the operations and maintenance backlog within the National Wildlife Refuge System and the National Fish Hatchery System exceeds $4 billion, there is no justification for acquiring an additional 85,519 acres of private property. A good illustration of FWS' land acquisition approach is its request to spend $1 million dollars to acquire four acres of property from The Trust for Public Land in Franklin County, Florida. With land prices deflated throughout the United States, it is remarkable that the Service would pay $250,000 per acre to buy land from a wealthy conservation organization.

The Committee also recommends consideration of zero funding for the State and Tribal Wildlife Grant Program in FY2013. Under the FWS budget submission, the state, territories and tribes would receive $63.1 million on top of the $858.7 million they will receive without any further Congressional action from the Federal Aid in Wildlife Restoration Program (Pittman-Robertson) and the Sport Fish Restoration Program (Dingell-Johnson). This action by itself would save our taxpayers $63 million next year.

U.S. Geological Survey (USGS)

The FY13 proposed budget for the USGS is an increase of $34 million over the FY12 enacted level. The proposed spending increases are in programs that continue to broaden the mission of USGS to new areas and duplicative projects, while making questionable reductions in core USGS programs. One example is the proposed USGS budget cut in the Mineral Resources program of $4.3 million. This proposed reduction will hamper the USGS from carrying out its core mission to collect, report, and analyze data on the supply of minerals critical to the Nation's economic and defense needs at a time when there are possible shortages of rare earth minerals (our Nation is 100% dependent on foreign sources of 17 different non-fuel mineral commodities).

In contrast, the budget proposal emphasizes the Secretary of the Interior's priorities: hydraulic fracturing research, New Energy Frontier; Cooperative Landscape Conservation; WaterSMART; Youth in the Great Outdoors; and Ecosystem Restoration. This includes increased funding for Regional Climate Science Centers. This program should certainly not be expanded and the authority and justification for continuing existing centers must be examined closely.

The Committee agrees with the Administration's proposal to eliminate funding for the agency's Water Resources Research Institutes. There is not a federal need or a clear federal responsibility for this research.

It is essential to refocus USGS on its traditional, Congressionally-authorized core mission if the United States is to be competitive in the world, reduce our dependence on foreign sources of fuel and non-fuel minerals and materials, create jobs, and strengthen our economy by improving opportunities for responsible development of the Nation's abundant natural resources.

National Park Service (NPS)

The Committee is concerned that NPS is diverting funds away from critical needs of the existing majestic and historic park units and into projects that do not further the NPS's essential mission to serve visitors and to preserve these great parks for the future. It is disappointing that despite historic increases to NPS's budget for the past two Administrations, the maintenance backlog on existing parks continues to balloon and visitation continues to decline. This Administration has shown a prevalence toward expanding its influence beyond its statutory boundaries. As such it recently created the "National Water Trails System" with little if any legal authority. This is yet another example of the Administration ignoring the existing needs of our parks and increasing its reach.

The President's proposal has $119 million for land acquisition programs administered by NPS, with $59 million specifically set aside to grow federal holdings. These funds would be better directed toward major maintenance projects addressing aging and neglected infrastructure.

NPS is also asking for a $13 million increase for operations. Again, after receiving historic increases in recent years, NPS has done little to show for this in terms of increased public use and enjoyment of parks or reduction in the maintenance backlog. The Committee also notes that the total NPS budget is nearly $237 million higher than the FY2008 enacted amount, which leads us to conclude that pleas of inadequate park funding may have more to do with management priorities than actual funding levels.

The Committee is encouraged that NPS recognizes some constraint in its appetite for initiatives spreading its reach outside of its boundaries. Specifically, NPS proposes slicing heritage areas grants in half, to $8 million. The Committee recommends consideration of possible further reductions.

The Committee's strong support for our country's unparalleled system of grand parks notwithstanding, it is important to recognize the need, in coordination with NPS, to commit to finding areas of waste and lower priority spending within the budget. The current proposal does raise some questions. Specifically, NPS proposes spending nearly $58 million for construction management and planning, but only $73 million on actual construction. This ratio appears inefficient, but unfortunately consistent, with reports of possible waste within the NPS such as the instance in which the NPS spent $1 million on a single toilet outhouse.

Office of Insular Affairs (OIA)

The President's FY2013 budget request for OIA is $575.3 million, a $4.7 million increase over the FY2012 enacted level. Out of the overall budget for OIA, only $60 million is discretionary funding. OIA has taken steps to respond to long-standing concerns raised by the Department of Interior Inspector General and the U.S. Government Accountability Office regarding insular area governments' internal control weaknesses, which increase the risk of fraud, waste and mismanagement. The Committee urges the Administration to continue its efforts to institute measures to effectively monitor its grants and other funding programs within OIA to ensure federal funds are being used efficiently and as intended in the insular areas.

Department of Commerce

National Oceanic and Atmospheric Administration (NOAA)

The President's FY2013 budget request for NOAA proposes an increase of more than 3 percent from the FY2012 level. Since FY2008, the NOAA budget has increased almost 30 percent. More disturbing is the fact that the budget for satellite programs since FY 2008 has increased by almost 114 percent. This attention to the atmospheric portions of the NOAA budget has come at the expense of many oceanic programs. To make matters worse, NOAA has proposed funding for a number of recently created initiatives that will drain funds from the agency's ability to maintain Congressionally-mandated functions and duties.

Adequate Science Necessary for Management Decisions – While funding for all federal agencies is restricted, NOAA seems reluctant to fund fishery surveys and other basic scientific research, which is necessary for the sustainable management of resources that provide the economic underpinning of many of the Nation's coastal communities. In particular, without an increase in fishery stock surveys in areas where the information is either poor or outdated, fishery managers are required to include multiple layers of precaution when making harvest decisions for many commercially and recreationally important fisheries. Without adequate and up-to-date information, management decisions become more risk averse and do not allow for the full, responsible harvest of fishery resources, costing jobs and causing adverse impacts on coastal communities. At the same time, annual surveys for the Nation's most valuable fisheries must not be allowed to be delayed. Delays of even one year for these fishery surveys could seriously reduce the amount of sustainable harvest that is allowed even when stocks continue to be healthy. The economic impact of such harvest reductions will affect jobs and the Nation's trade deficit.

Coastal and Marine Spatial Planning – Implementation of this recent initiative will require new funding. The initiative, being coordinated out of the White House and the Council on Environmental Quality, will result in coastal, marine, and inland zoning by federal agencies and will further erode the ability of coastal and ocean-dependent users to conduct their activities, either recreational or commercial. This broad federal initiative will require any agency with authority over programs that might affect the health of the ocean or Great Lakes ecosystems to adhere to new guidelines, which will be developed without public comment by unelected agency personnel. This initiative does not have specific statutory authority. No funds have been specifically requested for this initiative; however, concern remains that NOAA continues forward with this initiative by using funds from other Congressionally-appropriated activities.

Regional Ocean Partnership Grants – This was a new funding request in FY2012. It is also being driven by Presidential initiative and is related to Coastal and Marine Spatial Planning. The President's request is for $4 million for FY2013. The authorization for these grants has not been identified and it is unclear how these funds are being awarded by NOAA and used by the grant recipients.

Marine Protected Areas – There are numerous statutes that give NOAA authority to create specific types of protected areas, including the National Marine Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, and authorities for the National Estuarine Research Reserve System. It is unclear why NOAA also has a Marine Protected Area Center and has funded a Marine Protected Area Advisory Committee for more than ten years. While both of these activities have been rolled into the National Marine Sanctuary Program, funding for both should be examined for elimination.

National Catch Share Program – While some funding is necessary for recently-implemented fishery management plans and for amendments to existing catch share plans, it is unclear whether the request in the President's budget of $28 million for FY2013 matches the need for existing catch share programs or whether this level of funding will allow NOAA to continue to advocate for new catch shares in regions where this type of management system is not requested. NOAA has indicated that it intends to increase the number of catch share programs by more than double, even in fisheries where fishermen are not interested. This push for new catch shares from the top down is inappropriate.

Regional Councils and Fisheries Commissions – The Regional Fishery Management Councils provide the direct public involvement in the fisheries management process required under the Magnuson-Stevens Fishery Conservation and Management Act. In addition, the Fisheries Commissions provide an important link between federal and state management activities. While transparency and public involvement have been touted as foundations of this Administration, the requested funding for these important bodies for FY2013 is cut by almost 14 percent at the same time the request for the overall NOAA budget is increased by more than 3 percent. This indicates that the federal activities are more important than those which directly involve the states and affected stakeholders.

Department of Agriculture

U. S. Forest Service (USFS)

The Committee is concerned that USFS, faced with serious threats to forest health from fires, beetle infestations and the demise of many local wood products companies, now seeks to expand its reach and use its limited resources on projects that do not address current problems and may ultimately damage the public's forests. Specifically, the President's budget proposes spending $59 million in land acquisition and $7 million for the Forest Legacy Program for conservation easements. USFS is already behind in efforts to manage our forests in a manner that allows the American people to enjoy the full benefits of these lands. Properly managed, our national forests can contribute to our national well-being while providing economic opportunities that flow to surrounding communities and keep the forests healthy and disease free. In fact, our forests are literally collapsing as the scourge of beetle infestation grows unchecked. Therefore, the Committee cannot support expanding Forest Service lands until these basic responsibilities are met and budget concerns lessened.

The Committee also recommends eliminating funds that would otherwise go to well-funded and litigious groups in the form of Equal Access to Justice Act payments. The pattern is now well established. Almost every timber sale is contested in court by activists, with the attorney costs being picked up by the taxpayer. Beyond this waste, the unfortunate result is that forests go unmanaged, deteriorating into the inevitable state of a catastrophic forest fire time bomb. The Committee wants an end to the litigation-induced downward spiral in the condition of the taxpayers' forests and the injustice of forcing taxpayers to fund the attack.

The President's budget again proposes a phase out of the Secure Rural Schools system. While Secure Rural Schools has provided a much-needed backstop for essential county services, it has done nothing to put timber communities back to work. The Committee supports a new program with an emphasis on creating a more secure and dependable basis for funding from increased forest management.

The Committee remains concerned about the final Land Management Planning Rule, which encourages "landscape" level planning by USFS. Again, there is widespread support for efforts that contribute to the health of our forests, but USFS has more than enough to do in improving the management of its current forests and is not in a position to expand its influence over State or private lands that are regularly managed to a higher standard than federal forests. Funds must be focused on finding solutions to the health crisis found on our federal forests.

Department of Energy

Western Area Power Administration

The Western Area Power Administration continues to loan taxpayer money for the purpose of integrating wind and solar energy into the Nation's transmission grid. The goal of the program is to require loan recipients to pay back the federal funding with interest; however the actual statute authorizing the loan program indicates that, "If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven." This means that American taxpayers could be stuck with the bill for any outstanding balances on a project that cannot be repaid. The Inspector General for the Department of Energy found a number of troubling fiscal matters with this program, but the Western Area Power Administration has yet to provide any proof of resolution. Despite this, the FY2013 proposed budget envisions hiring of new staff to continue the loan program. American taxpayers cannot afford any more Solyndra-like bailouts.

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Dissenting Views
Committee on Natural Resources
Views and Estimates for Fiscal Year 2013

The Majority's *Views and Estimates* manage to be too small and too large at the same time. The *Views* are littered with admonitions that the Administration think smaller, evolve more slowly and accomplish less. Simultaneously, the Majority rejects virtually all of the Department's proposed revenue increases, a plan that would guarantee larger deficits. Because we support a modern Interior Department, fully equipped to manage changing resources and respond to new challenges, and because we support requiring those who reap the benefits of federal resources to pay for that privilege, we dissent from these *Views*.

On page one of these *Views*, the Majority makes the tough-sounding statement that, "It is necessary to make real, actual reductions." Unfortunately, pages two through eleven fail to include real, actual reductions. The *Views* are a hodge-podge of vague policy proposals and suggestions for "possible reductions." In some cases – the call to eliminate funding for the "Wildlands Policy" for example – the Majority's proposed cuts are for spending that does not even exist.

The Majority's chief complaint regarding the President's budget request is the proposal to allocate $450 million from the Land and Water Conservation Fund (LWCF) in order to actually conserve land and water. The *Views* demonstrate that the Majority fundamentally misunderstands LWCF, its mechanics and its purpose. To be clear, LWCF is funded through deposits of a small percentage of the enormous profits enjoyed by oil and gas companies operating on the federal Outer Continental Shelf into a fund dedicated to federal resource conservation and grants to states. LWCF is not funded by the taxpayers.

Unfortunately, over the life of the LWCF, more than $17 billion has been diverted from the fund and used to offset non-conservation federal spending. The *Views* repeatedly object to allocating LWCF monies for their intended conservation purposes and support further diversion of this revenue. The Majority's call to allow this diversion to continue would further weaken LWCF and would not save a single tax-payer dollar.

Bureau of Land Management (BLM)

The Majority's view of the Bureau of Land Management's (BLM) budget is myopic. While the National Landscape Conservation System (NLCS) is a shift in thinking, it is not radical, but rather holistic. Focusing the management of some lands for conservation purposes, the agency strives to find balance, which allows them the luxury of making sound decisions for both the scientific value and the economic future of an area. As a multiple-use agency, the BLM must weigh conservation with other parts of its development mission. Through the history of this agency, the pressure to produce more oil and gas on BLM lands has cheated the conservation part of the agency's mission. Creating and funding the NLCS ensures a more balanced multi-use mission of the BLM lands.

The majority also grouses about funding for Sage Grouse conservation. Our view is that the investment in sage grouse conservation efforts, including the necessary revision of resource management plans, will help insulate the BLM and other land management agencies from future litigation associated with the protection of this game species.

The Administration's proposal to create a pilot program to increase grazing fees is also subject to the majority's objections. Missing from the majority's view is a comparison of federal grazing fees with fees charged by state and private landowners. Even with a $1 increase per animal unit month (AUM), public land grazing fees are a fraction of what ranchers would pay to graze cattle on state or private lands.

Regarding energy development onshore, the Department of the Interior has approved more permits to drill and industry has begun drilling more wells in the first three years of the Obama Administration than in the first three years of the Bush Administration. And the oil and gas industry still has more than 7,000 approved permits to drill onshore that they are not using.

As part of its commitment to a true "all of the above" energy plan, the Obama Administration is also developing renewable energy on public lands, with the goal of permitting 11,000 megawatts by the end of 2013. This would be more than 5 times the amount of renewable energy permitted by all previous administrations combined. Yet the Republican Majority is threatening to raise taxes on the wind industry, which would jeopardize those projects and could kill 37,000 permanent and existing clean energy jobs.

Finally, the majority raises questions related to the increased funding for the Wild Horses and Burros program. The recommendation to have a "critical re-examination of the program" would actually mean rewriting the underlying legislation requiring the agency to manage these animals. To date, the majority has not undertaken this effort.

U.S. Forest Service

The Majority's view of the Forest Service's budget proposal contradicts their own legislative proposals pushed through the Committee. Citing Committee-reported legislation to fund rural schools, the majority ignores the increased costs the agency would incur to radically increase logging called for in their proposal. Under the Majority's county revenue proposal, the Forest

Service would need to increase logging by a factor of fifteen over current levels. It is nothing short of fantasy to believe that this increase in logging requires no new funding.

The only budget reduction the Majority proposes is to abolish payment of attorney's fees pursuant to the Equal Access of Justice Act. It is unclear if the Majority opposes equality, equality of access, or justice itself. It is also worth noting that this same position is not restated regarding entities that litigate Bureau of Reclamation decisions.

National Park Service (NPS)

In criticizing the budget request for the National Park Service, the Majority ignores the fact that the American public, and as a result the Congress, support expanded conservation and recreation. Responding to steady demand from Members of both parties, the Congress authorizes new site studies, creates new parks through legislation, and designates memorials and commemorations, all of which require management and care by the NPS. Indeed, in the last two fiscal years alone, five new NPS sites have been opened and staffed with more to come. The Committee Majority's continued attempts to starve our National Park System of the funding it needs to meet these demands is unwise and should be unsuccessful.

The request for NPS construction costs is appropriate for planning and construction management when one realizes that this agency is doing exactly what we hope many will do in the long run: planning for the future, leveraging partnerships, and doing careful preparation to prevent costly overages on large projects. Given the overall budget constraints, it is only prudent to delay new construction projects and focus on current needs.

Bureau of Ocean Energy Management/Bureau of Safety and Environmental Enforcement

Across the United States, oil production is at its highest level in nearly a decade. Natural gas production has reached levels we have never seen before. Oil production on public lands offshore is higher than it was during each of the last three years of the Bush Administration. According to industry analysts, by this summer there will be nearly 30 percent more floating rigs operating in the Gulf than there were prior to the BP spill.

And despite claims from the oil industry that companies need access to more areas offshore, the Interior Department's five year plan makes more than 75 percent of the offshore oil and gas resources available for development. It's not the Obama administration holding back more domestic production, it's the oil companies that are currently warehousing roughly 26 million acres offshore that hold billions of barrels of oil.

The budget request for BOEM also includes more than $1 million to support the development of a leasing program for offshore renewable energy. BOEM expects to hold the first competitive lease sales for offshore wind later this year and this budget request will facilitate that renewable leasing.

Legislative Proposals

A number of legislative proposals contained in the Administration's budget request are contained in legislation (H.R. 3446) introduced by Ranking Member Markey, Energy and Minerals Subcommittee Ranking Member Holt and other Committee Democrats.

The Administration has proposed reforming hardrock mining on federal lands to ensure taxpayers receive a fair return. H.R. 3446 would accomplish this reform of the General Mining Law of 1872. This 130-year old law allows mining companies to purchase valuable public lands at 19^{th} century prices and extract valuable minerals, including gold, silver and uranium from public lands without paying any royalties to American taxpayers. H.R. 3446 would impose a royalty of 12.5 percent on these minerals, the same royalty that is paid for extracting coal, oil and natural gas from public land. This proposal could generate at least $3 billion over the next 10 years.

According to the Environmental Protection Agency and the Congressional Research Service, there are over 500,000 hardrock abandoned mine locations (AMLs) on public and private lands in the United States, with approximately 100,000 sites on BLM and Forest Service lands. Cleanup of these AMLs is currently paid for by the taxpayer, rather than the mining industry. The Obama Administration has proposed a fee for material that is displaced during mining operations and H.R. 3446 contains a similar proposal. This provision could raise $200 million per year over ten years by decreasing discretionary spending on mine cleanup currently paid for by the taxpayer.

The Administration has proposed to repeal portions of Section 365 of the Energy Policy Act, beginning in 2014. Section 365 diverted mineral leasing receipts from the U.S. Treasury to a fund for processing permits and also prohibited BLM from establishing cost recovery fees for processing applications for permits to drill for oil and gas. Congress has implemented permit fees through appropriations language for the last several years and the 2013 budget proposes to continue this practice. The Administration projects that savings from terminating this mandatory funding are estimated at $18.0 million in 2014 and $36.0 million over two years.

The federal government and the States split the royalties from oil and gas activities on federal lands 50-50 even though the federal government pays 100 percent of the costs to administer the oil and gas program. As early as 1993, the Congress required the Department of Interior to retain a portion of the States' share of these royalties to offset the States' share of this cost. Under current appropriations law, two percent of oil and gas royalties are retained by the Department of Interior to offset the administrative costs of the program. The Republican majority has proposed ending this policy. If made permanent, the Department's ability to offset the administrative costs of the oil and gas program would save approximately $449 million over ten years.

The Administration has also proposed to eliminate additional royalty relief provisions for certain deep gas wells offshore on public land that were mandated by Section 344 of the Energy Policy Act of 2005. H.R. 3446 would also repeal this provision and ensure that the American people receive a proper return on these resources.

A review by the Interior Department last year documented that energy companies hold thousands of leases covering millions of acres, both on and off-shore, on which they are not producing. The Administration has proposed imposing a fee on nonproducing oil and gas leases as a way of incentivizing production and H.R. 3446 would impose an escalating fee on these non-producing leases starting at $4 per acre and rising to $8 per acre to incentivize production and raise revenue. It is estimated that this fee would generate nearly $1 billion over ten years while also increasing domestic energy production.

The Administration has proposed increasing inspection fees for offshore rigs to $65 million in the FY2013 budget in order to help fund the agency responsible for inspections. The BP Spill Commission has similarly recommended increasing inspections fees from their current levels "significantly" to fund the regulation of oil and gas operations offshore. H.R. 3446 would give the Department of the Interior the authority to increase inspection fees to fund its offshore inspection activities, which could save taxpayers more than $500 million over the next 10 years.

Unfortunately, the Majority apparently opposes *ALL* of these revenue proposals; a position that clearly favors the interests of Big Oil over deficit reduction and a fair return to the American taxpayers.

Bureau of Indian Affairs

Trust Management -- As part of President Obama's commitment to fulfilling this nation's trust responsibilities to American Indians and Alaska Natives, Secretary of the Interior Ken Salazar recently convened the first meeting of the National Commission on Indian Trust Administration and Reform which was established to undertake a forward-looking, comprehensive evaluation of Interior's trust management. The commission met to move forward on their comprehensive evaluation of Interior's management and administration of the nearly $4 billion in trust assets, as well as recommendations for improvement. Building upon the progress made with the historic *Cobell* Settlement, the reform commission will help usher in a new era of trust administration, stressing responsive, customer-friendly, accountable and transparent management of these substantial funds and assets. The Majority's vague criticism of the Commission is unwarranted.

The President's FY 2013 budget request for the Bureau of Indian Affairs includes increases for transportation and infrastructure, education, civilian scientific research, and green energy. While the $2.5 billion request is $4.6 million below the FY 2012 enacted level, the proposed budget maintains the President's commitment to meeting the government's responsibilities to the 566 Federally recognized American Indian and Alaska Native Tribes, while holding the line on fiscal responsibility and improving government efficiency.

Economic Development and Land Restoration - The President included language in the proposed budget to provide a no-cost economic development and jobs creation solution for restoring land to tribal governments impacted by the *Carcieri* Supreme Court decision.

Law Enforcement -- The President's FY 2013 Budget requests approximately $345 million for public safety initiatives in Indian Country, with a total of $156.8 million set aside for tribal grant programs within the Department of Justice (DOJ).

Notably, approximately $40.5 million is requested for tribal initiatives within the Office of Violence Against Women (OVW) aimed at addressing the high victimization rates of American Indian and Alaska Native women for the crimes of domestic violence, sexual assault, dating violence, and stalking on tribal lands. Of these funds, $35,320,000 (a $50,000 increase over FY 2012 enacted levels) is requested for disbursement through the VAWA Tribal Government Grants Program, while $3,605,000 would be funneled to tribal coalitions through the VAWA Tribal Coalitions Grants Program. Also within these OVW funds, the President has requested that $500,000 be available for an Indian Country Sexual Assault Clearinghouse that will offer a one-stop shop for tribes to request free on-site training and technical assistance.

Office of Special Trustee for American Indians

The Office for Special Trustee's (OST) FY 2013 budget request is consistent with the President's goal to reduce the deficit, provide the resources to meet the Trustee's fiduciary responsibilities and to provide quality services to Indian beneficiaries. The FY 2013 OST budget includes a net program increase of $2.6 million in Program Operations. The program increase will be used for the Office of Trust Review and Audit to conduct compliance reviews for the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM) and the Office of Natural Resources Revenue (ONRR), in accordance with the Indian Trust Reform Act.

The budget includes a $2.3 million decrease within Executive Direction and a $3.6 million decrease within Trust Accountability reflecting completion of trust reform tasks; a program decrease of $3.3 million for the Office of Historical Trust Accounting due to decreases in contractor assistance costs is also requested.

Office of Insular Affairs (OIA)

The Office of Insular Affairs (OIA) has broad general authority to provide for the special needs and address the concerns of the U.S.-affiliated insular areas. The economic forecast for the Insular Areas, as evidenced by Gross Domestic Product (GDP) and other economic measures are depressingly bleak. For these reasons, the OIA 2013 budget proposes to provide strategic investments to actively pursue economic development initiatives to encourage private sector development in insular areas. Programs funded under the fiscal year 2013 OIA budget will focus on strategies that empower insular communities through programs that improve quality of life, create economic opportunity, and promote efficient and effective governance.

Bureau of Reclamation (Reclamation)

Reclamation's Fiscal Year 2013 budget request supports project activities that provide water and power certainty while evolving with the changing water needs of the West. Quite simply, Reclamation's budget request will support activities that meet its core mission of delivering water and generating hydropower consistent with state and federal laws, and in an environmentally responsible and cost-effective manner.

Reclamation's budget request also funds program activities that have an extremely robust non-federal cost share, further leveraging federal dollars. We support the Administration's funding request of $53.9 million for the WaterSMART program which includes cost sharing activities like the Title XVI Water Reuse and Recycling Program (1:3 match), WaterSMART Grants (1:1 match), and the basin studies (1:1 match).

The Title XVI Water Reuse and Recycling Program is a model for doing "more with less." Title XVI projects have produced an estimated 260,000 acre-feet of real water made available in 2011. For every federal dollar spent on an authorized Title XVI project, there is a $3 dollar non-federal cost share. We support Reclamation's request of $20.3 million.

WaterSMART efficiency projects have also seen similar success in conserving and creating water. It is projected that WaterSMART project grant recipients will create 490,000 acre feet in 2012. These existing WaterSMART projects, ranging from lining of irrigation canals to industrial efficiencies, yield a cost of $130 per acre-foot. In comparison, a December 2006 appraisal level study estimated the cost to construct the Auburn-Folsom South Unit at $9.59 billion dollars. Reclamation has provided a rough estimate of $46,144 dollars per acre-foot. Some of the costs would be allocated for other project uses; however, tens of thousands of tax payer dollars per acre-foot would still be spent on irrigation water produced by this project.

In recognizing that most Reclamation Projects are at or approaching their engineering design life, we support the increases for Aging Infrastructure ($7.3 million), and the Dam Safety Program at $87.4 million.

Finally, we strongly support the Administration's funding requests in support of local, state and federal partnerships. We also strongly support the requested $12 million for the San Joaquin River Restoration Settlement, a Settlement committed to restoring flows and salmon to the San Joaquin River between Friant Dam and the Merced River confluence while avoiding or minimizing adverse water supply impacts to Friant contractors. We are also supportive of the $7.1 million in funding for activities associated with the Klamath Basin Restoration Agreement.

Power Marketing Administrations, Department of Energy

The American Recovery and Reinvestment Act of 2009 (Stimulus Act) provided both Bonneville Power Administration (Bonneville) and Western Area Power Administration (Western) with $3.25 billion in borrowing authority.

We support the use of borrowing authority by Bonneville and Western, consistent with their unique missions. However, the Majority in the Natural Resources Committee has reported out H.R. 2915, legislation that would repeal Western's borrowing authority, which finances transmission that would provide more reliability to the existing grid and bring renewable energy to market. Between one project in Montana that is already under construction and three others that are deep into development, there are an estimated 11,500 jobs at stake. We do not support H.R. 2915.

While we support Western's borrowing authority, we also believe that its management could be improved. On November 7, 2011, the Inspector General (IG) for the Department of Energy released a report regarding Western's use of the borrowing authority. The report found that "Western had not implemented the necessary safeguards to ensure its commitment of funding was optimally protected" when Western utilized its funding for the Montana Alberta Transmission Line (MATL), the first project funded through Western's borrowing authority. Western utilized $161 million in stimulus funds to build the MATL line. When complete, Western will own 18 miles of the line. Despite these setbacks, it is expected that the MATL line will be completed in the fall.

It is important to note that many of the delays in this project were out of Western's control and the result of litigation in Montana over the exercise of eminent domain authority to build the transmission line. It is also important to note that no loans through Western's borrowing authority for the MATL project or the other projects have resulted in default. The Department of Energy and Western should continue to conduct appropriate oversight over the program, and make the necessary changes to further safeguard our federal dollars.

U.S. Fish and Wildlife Service

As the fiscal deficit grows, so too does the environmental deficit. The Fish and Wildlife Service budget request provides a responsible plan to address these deficits through well-planned investments in natural resources. Not only are we in financially austere times, we are in environmentally austere times. We have to conserve natural resources as we do funding and place it in the best possible programs with the highest returns for Americans. Fish and wildlife resources provide billions of dollars in economic benefit to the United States, and provide even more in outdoor recreational opportunities. We support the President's request of $1.5 billion, an increase of $72 million over FY 12 enacted levels, to reconnect Americans with the outdoors; prepare the nation for the impacts of climate change; conserve and protect endangered species and habitats; and restore delicate ecosystems.

National Wildlife Refuge Fund

The National Wildlife Refuge Fund is increased by $9.1 million, with $10.2 million going to wildlife and habitat management. This increase will help address the maintenance backlog on our nation's refuges while still allowing the system to grow. We must not miss opportunities to protect critical and sensitive habitat because we have maintenance left to do.

While maintenance responsibilities are important, they should not supersede investment in land acquisition. National Wildlife Refuges are responsible for $1.7 billion in economic impacts, most of which goes to localities near the refuge, and 27,000 American jobs. Refuges not only support local economies but provide valuable opportunities for recreation and education for all citizens. Refuges are a great investment for our economy, environment, and future as each dollar spent on Refuges brings in $4 dollars.

State and Tribal Wildlife Grants

One of the most important aspects of the Fish and Wildlife Service is the interaction with state and tribal wildlife agencies through the State and Tribal Wildlife Grants. We support the FY 13 request; level with FY 12-enacted funding of $61.3 million. These grants support high priority species conservation at the State level, encouraging landscape level planning across borders, cooperation between states, and high priority conservation. The Majority's suggestion to defund this grant program would only reduce state capacity for wildlife conservation and management, potentially forcing the federal government to step in when otherwise the states would have been able to manage on their own.

Endangered Species

In order to reduce the Fish and Wildlife Service's intrusion into state matters we must adequately fund candidate species conservation, preventing the decline to species to the point where listing is required. Toward that end, the President's budget request includes $179.7 million, an increase of $3.7 million to administer the Endangered Species Act. Increases will support consultation and listing activities that have been put dangerously on hold due to past budget reductions. The budget request includes $4 million for New Energy Frontiers, an initiative which includes an increase of $1.5 million for the Endangered Species Consultation program to support assessments of renewable energy projects.

Federal Duck Stamp

The Majority has expressed concern over the proposal to increase the Federal Duck Stamp from $15 to $25, claiming that this may prevent individuals from participating in duck hunting. However, the revenues expected from this increase would not only improve conditions for duck hunters now, but well into the future. The anticipated revenues would allow for an additional 7,000 acres in purchased land and 10,000 acres in conservation easements to increase access for sportsmen. Along with Ducks Unlimited, the world's leader in wetlands conservation, we support this increase.

National Oceanic and Atmospheric Administration (NOAA)

We are concerned for the lack of robust funding for many of NOAA's ocean, coastal, and fisheries, or "wet" programs. The FY 13 request for "dry side" or atmosphere and climate programs is $3 billion, a 5% increase over FY 12. While we recognize and support the need for satellites, the request for the *wet side* is level funding at $1.77 billion, with program reorganizations, facility closures and cuts mainly in the National Ocean Service (NOS) and National Marine Fisheries Service (NMFS), is disappointing.

Marine Debris

The Marine Debris Program leverages federal dollars in local communities for research, cleanup, and prevention of ocean trash. Establishing strong partnerships with federal, state, NGO's, tribes, and industry, and addressing a range of issues from Japan tsunami debris to microplastics, this program has been a highly successful as part of Response and Restoration in the National Ocean Service. We are concerned that the consolidation of this program under Habitat

Management and Restoration along with the funding reduction will compromise the full spectrum of this program.

Integrated Ocean Observing System (IOOS)

NOAA and many other agencies and organizations within the IOOS collect data that deliver information needed to increase understanding of our oceans and coasts, so decision makers can take action to improve safety, enhance the economy, and protect the environment. Armed with this information, local planners can make long-term decisions that not only save billions of dollars, but also save lives. We support the Administration's request for $29.5 million to support IOOS regional observations.

Coral Reef Program

The Coral Reef Program helps build and lead U.S. efforts to protect, restore and sustainably use the nation's valuable coral reef ecosystems. We are pleased that the Administration has proposed $26.8 million for NOAA's coral reef conservation program.

National Marine Fisheries Service (NMFS)

Fulfilling the mandates of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006 will require adequate funding for stock assessments and other activities that provide the scientific and technical foundation to meet the statutory deadline for all federally managed stocks to adhere to annual catch limits by this year. Strong, up-to-date science is the foundation for rebuilding fisheries. NOAA estimates that if all stocks were rebuilt, this would generate an additional $31 billion in sales impacts, support an additional 500,000 jobs, and increase ex-vessel value by $2.2 billion.

We applaud the Administration's request for $69 million for annual stock assessments, $8 million for economic and social sciences research, $24 million for fisheries statistics, and $24 million for survey and monitoring projects. We are pleased the Administration has increased cooperative research by $1 million dollars and observers/training by $3 million. This supports efforts to increase and improve the working relationship between NMFS researchers, state fishery agencies, universities, and fishermen.

We were disappointed to see the elimination of multiple grant programs that have very few staff and provide money for research. For example, the John H. Prescott Marine Mammal Rescue Assistance Grant Program was eliminated ($3.8 million). The value of these grants extends far beyond the resources it provides for distressed and stranded marine mammals by providing scientists, fishermen and coastal communities with information about water quality, seafood safety and ecosystem health.

Conclusion

Overall, the President's FY 2013 budget request for these agencies would allow the administration to manage our precious natural resources and respond to new challenges. If enacted, this proposed budget would also reduce the deficit by $2.5 billion over ten years. The Majority of the Natural Resources Committee should get out of the way.

Edward J. Markey

Rep. Edward J. Markey
Ranking Member
Committee on Natural Resources

Rush Holt

[illegible]

Grace F. Napolitano

Raúl M. Grijalva

Niki Tsongas

Ben R. Luján

[illegible]

Paul Tonko

[illegible]

Madeleine Z. Bordallo

[illegible]

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

On behalf of the Committee on Oversight and Government Reform, I am transmitting Views and Estimates with respect to the President's Fiscal Year 2013 Budget. The Views of the Minority Members of the Committee are also attached.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

The Honorable Chris Van Hollen, Ranking Minority Member
Committee on the Budget

Enclosure

Views and Estimates on the Fiscal Year 2013 Budget
Committee on Oversight and Government Reform
United States House of Representatives

Overview

In submitting these Views and Estimates pursuant to § 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f), the Oversight and Government Reform Committee (the Committee) is primarily concerned with doing its part to help restore budgetary balance at a time when the Nation is grappling with historic annual budget deficits.

The Committee's oversight activities are focused on identifying barriers to job creation that are restraining the economic growth necessary to restore budgetary balance, and identifying the waste, fraud and abuse in government programs that create a perpetual drain on Federal coffers.

The Committee's legislative agenda is similarly focused on strengthening the Federal balance sheet. This includes efforts to increase transparency, empower inspectors general and improve Government management laws. It also includes harmonizing Federal workers' compensation with that of private sector counterparts, shoring up the long-term solvency of the Postal Service, and ensuring the efficiency and cost-effectiveness of the Federal contracting process.

Government Reorganization

The President's FY 2013 Budget calls for "a comprehensive reorganization of the parts of the Federal Government that help businesses grow and sell their products abroad." The Committee shares the Administration's goal of organizing Executive Branch functions in a manner that results in the most effective and efficient delivery of critical programs and services. The size and scope of our Federal Government has continued to grow, resulting in duplicative programs and functions that waste scarce taxpayer dollars and limit our ability to meet current and future needs.

The Administration has not embraced earlier bipartisan Congressional efforts to work collaboratively on proposals to reorganize government. Instead, it has requested reorganization authority that only requires the Administration to reduce the number of agencies or save money. Simply moving boxes around on an organizational chart is not reform, and will not better support our nation's business and trade functions. Instead we need a thorough reorganization of government.

The recent GAO report on duplicative programs, which would result in tangible savings, provides a good blueprint for reform. Reducing duplicative programs is the very first thing we should do in our efforts to save taxpayers' money while providing better service.

Human Capital Management

The Committee agrees that the Federal Government needs to improve management of the Federal workforce to better serve the American people, and was disappointed that the human resource dashboard proposed in the FY2012 Budget was not completed. Instead, the Budget proposes Congress establish a commission to develop recommendations on reforms to modernize Federal personnel policies and practices within fiscal constraints. The Committee views creation of a commission as a means to avoid needed reform. Congress and the administration are well aware of the need to reform the federal civil service to meet current and future mission requirements and should work together to advance a framework that will result on a modern personnel system.

The President's Budget proposes increasing the share of federal pensions that is paid for by employee contributions. He proposes to have individual federal employees – both existing employees and new hires – contribute an additional 1.2 percent of their salary. This increase would be phased in over three years, beginning in 2013. The President also proposes to eliminate the FERS annuity supplement for new employees.

On February 21, the President signed into enactment legislation requiring those federal employees entering public service on or after January 1, 2013 to pay more to retain their defined benefit pension.

The Committee will continue to pursue enactment of legislation requiring federal employees to pay a greater share of their defined benefit portion and eliminating the supplemental payment provided to employees who voluntarily retire before they are eligible for Social Security.
For new employees, the defined benefit formula should be brought into better alignment with the private sector. All these policies are incorporated in H.R. 3813, a bill reported by the committee last month.

Finally, the Committee believes that the federal government should eventually adopt a defined contribution-only system, similar to those plans to which most private sector employers have already converted to for new hires.

Federal Civilian Workforce Size and Compensation

In the context of an FY 2013 Budget that emphasizes the need to make "tough choices and sacrifices," the President proposes an increase of 2,400 full-time equivalents within the federal civil service (excluding the U.S. Postal Service) for the coming year. The Committee questions the logic behind an increase in federal employment when many -- including the National Commission on Fiscal Responsibility and Reform -- have called for reductions in the size of the federal workforce, either through attrition or force reductions. The Committee last year approved legislation reducing the size of the federal workforce by 10 percent via attrition.

On February 1, the House of Representatives voted to extend the freeze on annual, automatic adjustments on federal employee pay. The President's Budget requests a 0.5 percent increase in civilian pay for 2013. While the Committee supports a freeze, it does not believe that a permanent freeze on civilian pay is sustainable or desirable. Accordingly, the Committee intends to consider legislation to establish a total compensation system that is market and performance sensitive and attracts individuals with the skills necessary to meet current and future mission needs.

Telework

The Committee looks forward to ensuring telework is managed in a responsible, cost-effective manner that results in a more productive and efficient Federal workforce.

Office of Personnel Management

The Committee remains concerned with the Administration's growing backlog of retirement claims, while focusing additional resources on activities such as the implementation of the Affordable Care Act.

Federal employees should receive their retirement benefits in a timely manner. Management and administration of the retirement program for Federal employees is a High Priority Performance Goal linked directly to OPM's Strategic Goal of honoring Federal service. For more than 20 years, OPM has been undertaking initiatives to improve Federal employee retirement processing. Following the Committee's November 15, 2011 hearing, OPM provided a business plan to reduce the backlog of retirement claims. The Committee will continue to monitor OPM's progress in reducing the growing backlog.

Patent and Trademark Office

The Budget proposes that the Patent and Trademark Office (PTO) continue to fund accruals associated with post-retirement health benefits as well as the full cost for retirement benefits for its employees. The Committee supports this request.

Contracting Reform

The size and cost of government contracting has more than doubled in the last decade. From fiscal year 2001 to fiscal year 2011, total U.S. Government contract spending increased from $223 billion to $536 billion. Approximately 70% of this total goes toward defense spending. And about $80 billion of federal contracting dollars currently go toward information technology purchases.

The Committee looks forward to collaborating with the Administration in developing legislative proposals to reform the manner in which the Federal Government procures information technology (IT). A lack of skilled IT professionals in the acquisition workforce remains a problem. Federal agencies too often invest hundreds of millions of dollars on problematic or unrealistic IT projects, only to ultimately cancel them. Continued implementation of the 25 point plan to reform IT will help prevent future failures in IT procurement. The Committee will work to continue to develop a highly-skilled acquisition workforce and a dedicated cadre of IT acquisition professionals.

Waste, fraud and abuse continues to occur at an unacceptable rate in the various small business contracting programs. While these are well-intentioned social and economic development programs, recent work by the Committee and GAO continues to show that minority businesses often serve as "pass throughs" for contracting dollars that ultimately flow up to large corporations. The Committee intends to pursue legislation to ensure that funding is not siphoned off from intended beneficiaries, such as service disabled veterans and small businesses.

The Committee looks forward to working with the Administration to find the proper balance between Federal employees and contractors in ensuring that government functions are carried out effectively and cost-efficiently. Agencies must approach in-sourcing in a strategic, analytical, and transparent manner so as not to unnecessarily grow the Federal bureaucracy or harm small businesses contracting with the Federal Government.

DC Opportunity Scholarship Program

The Committee is concerned with the persistent and systemic failings of many schools in the DC Public School system, especially those in traditionally low-income areas. The Committee supports the role of the DC Opportunity Scholarship Program (DC OSP) in helping to improve the public schools, and in providing choice and opportunity in schooling for many low-income District residents who would otherwise be forced to attend a low-performing public school. For this reason, the Committee last March reported H.R. 471, the Scholarships for Opportunity and Results Act (SOAR), introduced by Speaker Boehner. H.R. 471 reauthorized the DCOSP for five years, increasing the annual scholarship amounts available for individual elementary and secondary students. H.R. 471 was adopted by the House and then incorporated into the Department of Defense and Full-Year Continuing Appropriations Act on April 15, 2011. The Committee believes the Administration's FY 2013 budget is short-sighted in again proposing to zero out program funds for new enrollees, while proposing $60 million for school improvement initiatives in DC public schools. The Committee is committed to again working with the Appropriations Committee to ensure DCOSP is fully funded.

DC Local Budget Autonomy

In order to ensure District of Columbia residents are not adversely impacted by the potential or actuality of a Federal Government shutdown, the Committee has been investigating ways to grant limited local budget autonomy to the city government. The Committee is committed to ensuring that there will remain sufficient checks in place to appropriately limit the scope of the District's budgetary authority and to maintain Congress's prerogative to oversee the federal city.

Postal Reform

The President's FY 2013 budget proposes significant short-term financial relief for the United States Postal Service (USPS). Under the plan, USPS would receive $14.1 billion in relief from retiree health care prefunding obligations over the next two years, and would be returned a $10.9 billion projected surplus it currently maintains with respect to the Federal Employee Retirement System (FERS). USPS has repeatedly stated it will not be able to make any of its statutorily-required $11.1 billion retiree health care prefunding payments due this year. Without the return of the projected FERS surplus – or receipt of some other financial lifeline – USPS has indicated it may be forced to default on one or more additional obligations.

The Committee is encouraged to note that the Administration's plan includes granting USPS the authority to shift to a five-day delivery schedule in 2013. The Committee supports the granting of this authority in order to empower USPS to implement required expense reductions.

Unfortunately, beyond the five-day proposal, the Administration offers no specific proposals in the way of structural reforms to ensure the long-term solvency of USPS. The Postal Service has taken some initial steps to cut costs, but its projected long-term costs continue to far exceed its projected long-term revenues. Last October, the Committee reported H.R. 2309, the Postal Reform Act, to the full House. This legislation will enable, expedite, and require further cost-cutting measures at USPS. Currently, USPS operates retail and mail processing networks far in excess of actual demand, operates an aging delivery fleet it cannot afford to replace, and maintains a workforce disproportionate to its evolving needs. Eighty percent of the operating expenses of the Postal Service are workforce-related – a percentage that easily exceeds competitors such as FedEx and UPS.

Major restructuring and modernization is necessary to preserve affordable, self-financing universal service through USPS. Without major action this Congress, the Postal Service will remain on an unsustainable financial trajectory that will necessitate repeated requests for short-term, taxpayer-funded financial relief to stave off insolvency.

National Archives

The Committee recommends elimination of the National Historical Publications and Records Commission Grants Program. Elimination of this program will save the taxpayers $10 million per year.

Office of National Drug Control Policy

The Committee strongly supports all efforts to protect the American people with a comprehensive, multi-faceted plan to combat domestic illegal drug use and the abuse of legal drugs. The Committee is particularly supportive of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas (HIDTA) Program, which coordinates the counter-drug efforts of Federal, state, local, and tribal law enforcement officials. The National HIDTA Directors Association (NHDA) found that the HIDTAs collectively removed $38 billion worth of wholesale drug value from market circulation in 2009, representing a return on investment of approximately $200 in wholesale drug value removed for every Federal dollar spent on HIDTAs that year.

Program Redundancy and Sunset Legislation

On March 1, 2011, GAO released its first annual report to Congress regarding redundant programs, agencies, and offices in the Federal Government. According to the report, taxpayers are now double-funding a wide array of programs, from food safety systems to surface transportation and employment training. While some of these programs are worthy endeavors that meet the government's basic responsibilities, the fragmented approach of Federal departments and agencies to meet these goals demands immediate reform.

At a time when the American people are increasingly concerned about the inflated cost of government and runaway Federal deficits, duplicative programs present an obvious area for spending cuts. The GAO has identified that in some instances more than 100 programs spread across numerous agencies are addressing the same concerns. Senator Tom Coburn (R-Okla.) has projected that the programs GAO identified represent more than $100 billion in annual losses to taxpayers. Eliminating this fragmentation and duplication could save taxpayers billions of dollars annually and foster a more responsive and efficient delivery of government services.

The Committee will consider legislation that would eliminate or sunset unnecessary or redundant Federal programs.

General Accountability Office

The Committee believes that GAO plays a necessary and important role in improving Government performance and accountability; it is committed to granting GAO the tools necessary to make Government work better. Thus, the Committee incorporated into the DATA Act as reported from Committee last year a provision granting GAO increased authority to obtain agency records. GAO also requires appropriate fiscal resources. The Committee is concerned about the impact of recent cuts to which the agency has been subject. GAO is requesting an appropriation of $526 million for FY 2013, which is 5.4 percent below the FY 2010 level. The Comptroller General warned in recent testimony before an Appropriations subcommittee that if this request is not met, GAO's ability to produce results that can help deal with the federal government's fiscal challenges will be adversely affected. The Comptroller General also testified that the agency produces a return on investment to taxpayers of $81 for every dollar invested in GAO.

Inspectors General Reform

In reporting the DATA Act last year, the Committee incorporated the bipartisan Inspector General Act reforms previously reported by the Committee as a stand-alone bill during the 111th Congress. These provisions empower IGs by providing them with testimonial subpoena authority and granting them relief from several onerous administrative requirements. Enactment of these IG reforms would enhance the ability of IGs to carry out their mission of identifying waste, fraud and abuse.

During 2009, IGs identified nearly $10 billion in questioned costs – expenditures that are questionable because they violated a law, regulation, contract or grant, were not adequately documented or were unnecessary or unreasonable. They also identified more than $45 billion related to instances where funds could be put to more effective or efficient use, including reducing outlays or avoiding unnecessary expenditures.

Improper Payments

OMB has estimated the volume of improper payments made by the Federal Government at $125 billion per year. The majority of all improper payments are made through just five programs: Unemployment Insurance, the Earned Income Tax Credit program, Medicare Fee-for-Service, Medicare Advantage, and Medicaid. The Subcommittee on Government Organization, Efficiency and Financial Managerment recently conducted a hearing to examine whether the $125 billion number can be substantially reduced by amending the Improper Payments Information Act and the Improper Payments Elimination and Recovery Act.

Transparency/Open Government

Federal agency information technology systems continue to lag far behind those utilized by the private sector. For example, GAO's annual review of the Federal Government's consolidated financial statements has never yielded a clean audit opinion; this is most directly the result of dozens of separate agencies using incompatible software systems and inconsistent accounting methods to report their financial results. Since the government cannot track its own finances, it cannot accurately report them to the public. Recently, government watchdog groups reported that USASpending.gov – which is supposed to list all Federal grants and contracts – is only accurate 35 percent of the time.

The Committee will continue to advocate technological solutions to achieve government transparency that allows for informed budgetary decision-making. The Committee will seek to ensure that the Federal Government's information – with a few well-defined exceptions, such as national security – is made available online, and that it is formatted in ways that facilitate easy access and analysis. The Committee will consider legislation to set policy goals for technology-driven transparency for Federal spending data, program performance information, regulatory materials, and legislative documents.

Congressionally-Mandated Reports

While it is essential that the Administration make information available and accessible to the public, it is also important that Congress periodically review reporting requirements it places on the Administration, in order to eliminate those reports that are no longer needed. The Administration is in the process of identifying hundreds of reports that it proposes be deemed unnecessary. The Committee will work with other Congressional panels to determine which reporting requirements should be kept, and which should be discarded. And it will pursue legislation eliminating those reports deemed extraneous. The committee anticipates that such legislation will eliminate millions of dollars each year in unnecessary expenses.

Whistleblowers

Considerable taxpayer savings can potentially be achieved by empowering federal whistleblowers to come forward and disclose instances of gross waste, fraud and mismanagement. Ehancing whistleblower protections from management reprisals is thus a key goal of H.R. 3289, the Whistleblower Protection Enhancement Act of 2011, a bill the committee reported unanimously on November 3, 2011.

Grant Reform

The Committee's Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform held a hearing on grant reform last June to identify vulnerabilities to waste, fraud and abuse in the granting of federal awards. The committee subsequently reported out H.R. 3433, the GRANT Act (Grant Reform and New Transparency Act). The legislation requires agencies that award competitive grants to post on a single grants website key information about the grant award process, including the criteria for awarding the grant, the basis for the grant award decision, and the successful grant application or proposal, redacted to protect from disclosure information that is exempt from Freedom of Information Act disclosure. This legislation is important because grants have now surpassed Federal contracts as the largest category of discretionary Federal Government spending. Despite their ubiquity, Federal grants are not subject to the same degree of accountability as contracts. There are no uniform government-wide regulations to ensure the consistent application of merit-based criteria in federal grant award processes. And there are no uniform transparency requirements concerning public access to grant applications and grant review materials.

Views and Estimates on the President's Fiscal Year 2013 Budget Proposal
Committee on Oversight and Government Reform – Minority Views
United States House of Representatives

Overview

The Minority offers these Views and Estimates on the President's Fiscal Year 2013 budget proposal pursuant to § 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f). The President's budget proposal appropriately focuses on the investments needed to create jobs, rebuild the middle class, and promote long-term fiscal sustainability.

The efficient and effective operation and organization of the federal government should be a primary focus of the Committee on Oversight and Government Reform. Unfortunately, rather than focus on proposals for growing jobs and supporting small businesses, the Committee has focused too heavily on attacking federal workers and public health and safety regulations.

The President's budget makes a number of proposals for reducing waste, fraud, and abuse within the federal government through such measures as contracting reform, reducing improper payments, and collecting debts to the government. Congress should support these proposals to save taxpayers money.

Federal Workforce

Improving the Federal Workforce

The Committee has the responsibility of ensuring that the federal workforce is serving the American people efficiently and effectively. The Minority supports the President's goal of improving the federal workforce and looks forward to working with the President to promote an engaged and well-trained workforce. These efforts are especially critical going forward as federal agencies must now find ways to do more with less as a result of the Budget Control Act of 2011.

The President's budget proposal recognizes that the current federal workforce is the most highly educated and skilled in the history of the country. In light of expected increases in retirements, the federal government will need to maximize knowledge transfer from one generation of federal employees to the next. The Minority supports the Administration's Phased Retirement proposal which would give agencies an additional tool to ensure continuity of operations and facilitate sharing of institutional knowledge by allowing valued employees to transition incrementally into retirement.

The President's budget proposal demonstrates a commitment to developing a 21st century workforce by improving recruitment, performance, and human capital management. The Minority supports the Administration's plans for a multiagency effort to be led by the Office of Personnel Management (OPM) to close critical employee skills gaps identified by the Government Accountability Office (GAO). We are encouraged by the work the Administration has done as part of the President's Hiring Reform Initiative to streamline the federal hiring process, and we will continue to work with the Administration to enhance the hiring process and increase manager and applicant satisfaction. We continue to strongly support the President's initiatives to promote the hiring of military veterans, diversity, and inclusion in the federal workforce, as well as promoting career pathways for recent college graduates.

The Minority recognizes the Administration's ongoing efforts to test a new employee performance management framework, known as the Goals-Engagement Accountability Results (GEAR) framework, by several agencies, including the Department of Veterans Affairs, OPM, the Coast Guard, the Department of Housing and Urban Development, and the Department of Energy. We also support the Administration's issuance of a standard governmentwide performance appraisal system for the Senior Executive Service.

The Minority believes it is unnecessary to establish a Commission on Federal Public Service Reform to study personnel policies and compensation, staff development and mobility, and personnel performance and motivation. This Committee and the Senate Committee on Homeland Security and Governmental Affairs have significant expertise in federal personnel policies and already undertake this task as part of their normal oversight duties.

Unfortunately, the Majority reiterates its support for H.R. 3029, legislation which requires a 10% governmentwide workforce reduction via attrition. The Minority strongly opposes such an arbitrary reduction in the size of the federal workforce. The budget proposes nearly flat employment levels, with an increase of only 2,400 FTEs, or 0.1%.[1]

According to OPM, there were more federal employees working under the Reagan and Bush Administrations in 1989 and 1990 than there are today.[2] As noted in the President's budget proposal, the size of the federal workforce in relation to the size of the U.S. population has shrunk significantly since the 1950s and 1960s.[3]

Growth in the civilian workforce between 2000 and 2010 was concentrated in security-related agencies such as the Departments of Defense and Veterans Affairs in response to the

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[1] *Budget of the U.S. Government, Fiscal Year 2013, Performance and Management*, 120-121 (Feb. 2012).

[2] U.S. Office of Personnel Management, *Historical Federal Workforce Tables: Executive Branch Civilian Employment Since 1940* (online at http://www.opm.gov/feddata/HistoricalTables/ExecutiveBranchSince1940.asp) (accessed Mar. 7, 2012); U.S. Office of Personnel Management, *Historical Federal Workforce Tables: Total Government Employment Since 1962* (online at http://www.opm.gov/feddata/HistoricalTables/TotalGovernmentSince1962.asp) (accessed Mar. 7, 2012).

[3] *Budget of the U.S. Government, Fiscal Year 2013, Performance and Management*, 113 (Feb. 2012) (In the 1950s and 1960s, there were on average 92 residents for every federal worker. Today, there are 145 residents for every federal worker.)

September 11 terrorist attacks. The civilian workforce at other departments and agencies has declined since 1998. As of December 2010, nearly 60% of the federal civilian workforce works for three security-related agencies: the Departments of Defense, Veterans Affairs, and Homeland Security.[4]

Broad-based workforce reductions historically have resulted in increased government spending in the form of increased backlogs, reduction or termination of agency services, or increased contracting costs. Such arbitrary cuts also lead to a decrease in the quality of services provided to taxpayers, skills imbalances, and the loss of institutional knowledge.

The Minority supports a more strategic approach that gives agency leaders the flexibility to determine how their specific organizations can achieve necessary cuts and how those cuts will impact mission and results. The Budget Control Act, which reduced spending caps for the federal government for fiscal year 2012 through 2021, has already set this process in motion. Under this approach, agencies have the discretion to determine the best way for them to meet the reduced budget caps and accomplish their core missions.

Federal Employee Compensation and Retirement Benefits

The Minority agrees with the President that a permanent pay freeze for federal civilian employees is neither sustainable nor desirable. The Minority is concerned that the President's proposed 0.5% pay increase for 2013 may not be enough to allow middle-class federal workers to keep pace with the increasing price of goods and services. The federal workforce has had to struggle through a two-year pay freeze initiated in 2011. In 2011, the Federal Salary Council found that federal employees were paid 26% less than employees in similar occupations in the private sector.[5]

The Minority strongly opposes the President's proposal to require federal employees to pay 1.2% more in retirement contributions over a three year period beginning in 2013, particularly since House Republicans have refused to ask the wealthiest individuals in our country to contribute any additional funds towards deficit reduction. This proposal would more than offset the slight increase in federal pay that the President proposes.

The President's proposal to eliminate the Federal Employees Retirement System (FERS) annuity supplement for new federal employees is another concern. Although this proposal would protect existing employees, it would eliminate a substantial portion of retirement benefits for new hires who retire after decades of service. According to OPM, the average supplement

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[4] Congressional Research Service, *The Federal Workforce: Characteristics and Trends* (Apr. 19, 2011) (RL34685).

[5] Memorandum from the Federal Salary Council to the President's Pay Agent, the Honorable Hilda L. Solis, the Honorable Jacob J. Lew, and the Honorable John Berry, Level of Comparability Payments for January 2013 and Other Matters Pertaining to the Locality Pay Program (Nov. 22, 2011) (The FSC study was compiled by experts in labor relations and pay policy and it used data from the Bureau of Labor Statistics.)

amount paid to current eligible annuitants is roughly $700 per month. Eliminating this supplement would degrade the retirement security of new federal employees and negatively impact recruitment.

The Majority proposes eliminating the FERS defined benefit pension and replacing it with a defined contribution-only retirement system for new federal employees. The Minority has serious concerns with this proposal as studies have shown that defined contribution plans may not provide sufficient retirement security for retired workers. In January, a hearing witness called by the Majority, Andrew G. Biggs, a Resident Scholar at the American Enterprise Institute, compared the income replacement rate generated by the FERS pension plan and a typical private sector defined contribution or 401(k) plan. Dr. Biggs noted that financial advisors generally recommend a replacement rate of between 70-80% of final earnings for an adequate retirement. Dr. Biggs testified that a private sector worker paid similarly to a typical federal worker after a 28 year career would receive a replacement rate of only 32% compared to 64% for a federal worker retiring under FERS.[6]

The Minority understands the significant fiscal challenges our nation is facing, but we are concerned that millions of middle-class federal workers are being asked to shoulder a disproportionate share of the burden. Dedicated federal employees have already contributed $60 billion towards deficit reduction in the form of a two-year pay freeze and another $15 billion to pay for an extension of unemployment benefits. No other group has been asked to sacrifice so much. We are troubled by the very real possibility that targeting federal employees in this way will undermine the government's ability to attract and retain the best and brightest to serve the public in these challenging times.

Federal Employee Health Benefits Plan

The Federal Employee Health Benefits Plan (FEHBP) provides affordable health care coverage to 8 million federal employees, retirees, and their families. Although the 2012 FEHBP premium rates will increase by 3.8% on average, which is about half of last year's increase of 7.3%, this increase is significant since employee pay has been frozen for the last two years. Concerns have also been raised regarding the costs of prescription drugs under FEHBP. OPM estimates that in 2013, 28% of FEHBP expenses, approximately $13 billion, will be for prescription drugs.[7]

The Minority will closely monitor OPM's progress in developing a data warehouse to collect, maintain, and analyze health claims data under the FEHBP and the Multi-State Plan options under the Patient Protection and Affordable Care Act (PPACA). The data warehouse should allow OPM to better understand the drivers of cost increases and to model potential effects of health system reform or environmental changes on federal employees.

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[6] Andrew G. Biggs, Resident Scholar, American Enterprise Institute, Statement Before the House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy, *Hearing on Retirement Readiness: Strengthening the Federal Pension System* (Jan. 25, 2012).

[7] *Budget of the U.S. Government, Fiscal Year 2013, Appendix*, 1253 (Feb. 2012).

The Minority supports the Administration's proposal to carve-out prescription drugs from individual FEHBP health plans in an effort to lower overall spending on pharmaceuticals. This proposal could potentially result in $1.7 billion in savings and is consistent with the Minority's previous efforts. On March 9, 2011, Rep. Stephen Lynch introduced H.R. 979, The FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act, which requires pharmacy benefits managers to directly pass drug price savings they receive from manufacturers and pharmacies on to FEHBP health plan participants.

Office of Personnel Management

The President's budget requests $2.1 billion to support OPM's overall operations. This is nearly $200 million less than the amount OPM received in fiscal year 2012 and raises concerns about whether the requested amount would provide OPM with sufficient funding to adequately carry out its responsibilities.

OPM's top priority is to improve retirement claims processing. The Minority is concerned that the workload will increase as some agencies and the United States Postal Service offer early retirement and buyouts to restructure and resize their workforces. We are hopeful that OPM can increase its retirement claim processing capacity to eliminate the backlog, process retirement claims in a timely manner, and handle workload surges caused by agency restructuring efforts.

Office of Personnel Management Inspector General

The OPM Office of Inspector General (OIG) is charged with conducting oversight of FEHBP, the Civil Service Retirement and Disability Trust Fund, and the Revolving Fund programs. With the passage of the PPACA, the OIG has the added responsibility of providing oversight to the new Multi-State Plan Program administered by OPM. An adequate level of funding is needed to ensure that the OIG has the resources necessary to conduct necessary audits and investigations. The Minority supports the approximately $1 million increase over the Fiscal Year 2012 enacted level included in the President's budget proposal for these purposes.

Postal Service

The Postal Service's financial condition continues to be impacted by declining mail volume, slow economic growth, and the requirement to pre-fund retiree health benefits at an accelerated rate. Since 2007, the Postal Service has experienced operating deficits totaling over $25 billion.[8]

The President's budget proposes several legislative initiatives designed to enhance the Postal Service's finances. The Minority appreciates the Administration's renewed focus on this valuable American institution. The Minority urges Congress to include some of the President's proposals in a bipartisan Postal reform bill later this year, but we reserve judgment on proposals to reduce the frequency of delivery services and raise postage rates.

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[8] Congressional Research Service, *The U.S. Postal Service's Financial Condition: Overview and Issues for Congress* (Feb. 13, 2012) (CRS – R41024).

The President's budget proposes an advance appropriation of $89 million to repay the Postal Service for free and reduced-rate mailing services to the blind and overseas voting in accordance with the Revenue Forgone Reform Act of 1993. This amount is approximately $46 million less than the total $153 million owed the Postal Service for providing those services. The Minority urges full reimbursement to the Postal Service for services rendered.

In order to improve the Postal Service's current financial outlook, the President's budget proposes modifying the Postal Service's Retiree Health Benefits prepayment schedule. The President's budget calls for permitting the Postal Service to pay the normal costs of future retiree health benefits for current employees, while also requiring the Postal Service to make a stream of payments to pay down unfunded liabilities associated with the health benefits of current annuitants.

The President proposes providing the Postal Service a total of $14.1 billion in temporary financial relief by deferring fiscal years 2011, 2012 and 2013 future retiree health benefits payments. The Postal Service would make up these payments by making slightly larger payments beginning in 2017 through a 40-year amortization schedule. This recommendation would provide the Postal Service with immediate financial relief and is similar to a provision contained in H.R. 2967, the Innovate to Deliver Act of 2011, introduced by Ranking Member Elijah E. Cummings and Representative Stephen F. Lynch on September 20, 2011.

The Minority supports the President's budget recommendation that OPM reevaluate the Postal Service's unfunded retiree health liability to reflect the reduced size of the Postal Service's current workforce.

The President's budget calls for refunding surplus balances in the Postal Service's Federal Employees Retirements System (FERS) account. According to OPM, as of September 30, 2010, the Postal Service has accumulated an approximate $10.9 billion surplus for its share of FERS costs. The President proposes returning half of this surplus to the Postal Service in 2012 and the other half in 2013. The Minority supports returning the full FERS surplus to the Postal Service in one lump sum payment.

Postal Regulatory Commission

The President's budget proposes $14.4 million to fund the Postal Regulatory Commission (PRC), which is a slight increase over the level of funding the agency received during fiscal year 2012. Over the past year, the PRC's workload has increased significantly due to an increase in number of advisory opinions on service standard changes requested by the Postal Service and the number of appeals of Post Office closings and consolidations. The Minority supports the President's proposed increase as an important first step towards providing the PRC with the resources necessary to carry out its statutory duties.

District of Columbia

Budget Autonomy

The Minority is committed to working with the Administration and the Majority to provide the District of Columbia with authority to spend its local funds without needing to seek Congressional approval. Budget autonomy would reinforce the Home Rule Act of 1973, which gave D.C. residents the right to self-government, and improve the District's finances and operations. The Minority supports the Administration's proposal to permanently authorize the District government to spend its funds during a fiscal year if Congress has not approved the District's budget by the start of that fiscal year.

Education

The Minority supports the President's continued emphasis on improving public education in Washington D.C. The President's budget proposes $60 million to support public school improvement, including $36.6 million for the D.C. Public Schools and $23.4 million for D.C. public charter schools, which serve approximately 40% of District public school students. The Minority opposes the use of federal funds to pay for private school vouchers in D.C. Recent studies demonstrate that the D.C. Opportunity Scholarship program has not improved participating students' overall achievement as measured by standardized tests.[9]

The Minority supports the President's budget proposal to provide $35.1 million for the D.C. Tuition Assistance Grant (DCTAG) program, which was established on a bipartisan basis to equalize postsecondary education opportunities for D.C. students by enabling them to attend any public college or university in the nation at in-state tuition rates. DCTAG also provides limited scholarships to help D.C. students attend private colleges in the D.C. metropolitan area and Historically Black Colleges and Universities throughout the country. DCTAG has served over 17,950 individuals and has helped double college attendance by D.C. students.

HIV/AIDS

The Minority fully supports the President's budget request to provide $5 million to assist the District of Columbia government in its efforts to combat HIV/AIDS. The D.C. government has been making steady and significant improvements in the fight against HIV/AIDS, and more work remains to be done on testing and treatment.

Water and Sewer Services

The Committee has continually supported funding for the implementation of the District of Columbia Water and Sewer Authority's (DC WASA) $2.2 billion Combined Sewer Overflow Long-Term Control Plan (CSO). The project is currently in the construction phase and will require approximately $200 million over the next several years. The Minority urges adoption of the President's recommended $11.5 million payment for the continuation of the CSO project as well as the requirement that DC WASA provide a 100% match for the payment.

Washington Metropolitan Area Transit Authority

The President's budget proposes $135 million for the Washington Metropolitan Area Transit Authority (WMATA), a $15 million decrease from the Fiscal Year 2012 enacted level. The budget requests $135 million to assist WMATA in eliminating its capital and preventative maintenance backlogs and in implementing its system reliability projects. The Minority

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[9] Department of Education, Institute of Education Sciences, *Evaluation of the DC Opportunity Scholarship Program: Final Report* (June 2010).

recognizes the vital role WMATA plays in transporting federal employees and other commuters, residents, and visitors in the national capital region and supports fully funding the authorized amount of $150 million. The Minority is also aware of the ongoing challenges WMATA faces in ensuring rider and system safety, security and reliability as well as current proposals to increase fares. The Minority urges the Committee to continue its oversight of the transit agency in Fiscal Year 2013.

Federal Real Property Disposal

The federal government owns 1.1 million properties across the country, making it the biggest property owner in the United States. However, billions of taxpayer dollars are wasted each year on government properties that are no longer needed by the federal government. In June 2010, the President directed federal agencies to accelerate efforts to remove surplus property from the federal inventory to achieve a savings of $3 billion by the end of 2012. To date, agencies have saved $1.5 billion and identified enough opportunities to meet or exceed the $3 billion goal in non-defense savings in real property. The Department of Defense has achieved half of its $5 billion goal in real property cost savings through the Base Realignment and Closure process in the same time period.

The Minority supports efforts to reduce the federal government's inventory of surplus real property. Such efforts should take into consideration the existing laws governing the disposal of federal real property that give priority consideration to providers of assistance to the homeless and to state and local governments for certain public benefit purposes. One such measure is H.R. 665, the Excess Federal Building and Property Disposal Act, which was reported by the Committee on February 27, 2012, and enjoys bipartisan support.

Improper Payments

The Minority supports the objectives of reducing the rate of improper payments and recapturing overpayments. In 2010, the President set a goal of reducing improper payments by $50 billion by 2012. Improper payments include those made in the wrong amount, to the wrong person, or for the wrong reason. The rate of improper payments declined from 5.29% to 4.69% between 2010 and 2011, and the amount of improper payments avoided exceeded $20 billion in 2011. The Administration has set a goal of recapturing $2 billion in overpayments by 2012. Federal agencies reported that $1.9 billion in improper payments were recaptured in 2010 and 2011 combined, which puts the Administration less than $100 million away from accomplishing its 2012 goal.

Collection of Debts Owed to the Government

The President's budget proposal includes several common-sense debt collection reforms that will significantly increase federal collections from individuals and businesses who have failed to pay taxes or repay government loans and help states collect a portion of the state income tax debt owed by former residents. The President's budget also proposes to consolidate the Financial Management Service and Bureau of Public Debt into the Fiscal Service by 2014. This would allow the Treasury Department to streamline management functions and reduce overhead and administrative expenses. The Minority supports these efforts to enhance efficiency and generate substantial savings in the future.

Regulatory Review

President Obama has led an extensive effort to streamline regulations in order to make them more cost-effective and reduce unnecessary burdens on businesses, government agencies, and the public. As a result of Executive Order 13563, which was issued in January 2011, federal agencies have conducted extensive reviews of regulations and produced over 500 reform proposals that have resulted in billions of dollars in savings. The Minority supports the President's goal of having pragmatic, evidence-based, and cost-effective regulations, and we support regulatory reform that preserves protections for the health and safety of Americans. The Committee should continue to review federal regulations as part of a broad effort to promote economic growth. However, an effective review of the impact of regulations must include an examination of the costs and benefits, receive input from a variety of sources, and draw conclusions based on solid data.

National Historical Publications and Records Commission

The National Historical Publications and Records Commission (NHPRC) works to preserve and publish non-federal records. The Majority's budget views recommend the elimination of the Commission's grants program. Cutting this program will negatively impact archives and historical records programs across the country and could put our national history at risk. The NHPRC awards competitive, matching grants to help finance the nation's non-federal archives and projects to edit and publish historical records of national importance. NHPRC grants make it possible for scholars and school children to have access to the papers of the Founding Fathers and national leaders like Abraham Lincoln and Dr. Martin Luther King, Jr.

Sunset Commission

Although the Majority's budget views indicate that the Committee will consider legislation that would sunset federal programs, the Minority generally does not support proposals that would unnecessarily jeopardize critical federal agencies and programs or inappropriately transfer power from Congress to the executive branch.

Contracting Reform

The Minority is committed to working on a bipartisan basis in support of the President's efforts to save contracting dollars through the elimination of waste, fraud, and abuse and strengthening the acquisition workforce. The Committee should continue to conduct oversight of inter-agency and agency-wide contracts.

After years of rapidly increased contract spending, "contracting decreased in 2010 for the first time in 13 years – with agencies spending $80 billion less than what they would have if contracts had continued to grow at the same rate as they did in 2000 to 2008."[10] In 2011, these agencies maintained this lower level of spending, the first time this has occurred in almost two decades. While the Office of Management and Budget (OMB) has taken steps to improve the inter-agency contracting process, more needs to be done to ensure that contracts remain efficient and effective.

The Minority supports the Administration's proposals to continue strengthening the acquisition workforce, including the improvement of training programs and the development of management systems for information technology procurements. The Minority also supports the Administration's efforts to strengthen suspension and debarment programs in order to "better ensure that bad actors who put taxpayer dollars at risk of waste, fraud, and abuse are prohibited from doing work with Federal agencies."[11]

Office of National Drug Control Policy

The President's budget proposes $342 million for the Office of National Drug Control Policy (ONDCP), which includes $118.8 million for programs aimed at reducing illicit drug use and its consequences in the United States. This request includes $200 million for the National High Intensity Drug Trafficking Program, which provides assistance to 670 initiatives through federal, state, local and tribal law enforcement communities for interdiction, investigations, intelligence, and drug treatment. The proposal represents a 7% decrease in ONDCP funding, but a 12% increase in other federal drug control programs. In order to promote the development of a scientifically based and effective National Drug Control Strategy, the Minority strongly urges the Committee to work with the Administration to reauthorize ONDCP this year.

Reform Military Acquisition

The President's budget proposal continues to place an emphasis on making military acquisitions more efficient and effective. Contracts at the Department of Defense (DOD) account for approximately 70% of all of federal procurement. Since 1992, GAO has identified DOD contract management as a high risk area and recently reiterated that DOD needs to take action to improve its acquisition workforce.

The Minority supports the President's budget proposal for military acquisition reform. Through the Administrations' "Better Buying Power" program, DOD is taking critical steps to improve efficiency and productivity in the defense acquisition system. By reducing the use of high-risk contracts and continuing to develop the acquisition workforce, these reforms can make available resources for high-priority programs and eliminate duplicate contracts.

Military Spending

DOD has identified $5.1 billion in savings in discretionary funding for FY 2013, a decrease of 1% below the 2012 enacted level. Although the Minority supports DOD's efforts to

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[10] *Budget of U.S. Government, Fiscal Year 2013 (Feb. 2012).*
[11] *Id.*

identify efficiencies and slow the rate of growth, we believe more can be done. For example, the U.S. currently possesses over 1,900 operationally deployed strategic nuclear warheads and over 5,000 active warheads, far exceeding the level of nuclear force needed to deter a nuclear attack. Reducing the arsenal to 500 operationally deployed warheads is more than sufficient to deter a nuclear attack and could save over $100 billion.

The Minority supports the Administration's request of $48.7 billion for the DOD Unified Medical Budget to support the Military Health System. These funds are necessary to keep our promise to our service members, to care for them during their service and after they return home. The Committee has conducted significant oversight of efforts to improve the transition to civilian healthcare programs for our wounded warriors. We support continued oversight in this area so our wounded warriors will receive the best care possible.

Cyber Security

Cyber threats and attacks against U.S. information systems continue to grow in both volume and intensity. In recent years, the U.S. electrical grid reportedly has been infiltrated by hackers, and attacks have brought down websites at the Department of State, the Secret Service, and the Federal Trade Commission. The federal government must be prepared to defend against a range of emerging cyber security threats. The Minority supports the President's request of $769 million to support the Department of Homeland Security's National Cyber Security Division, which protects federal computer systems and helps protect U.S information networks from the threat of cyber-attacks or disruptions. The Minority supports the President's request to sustain funding for the U.S. Cyber Command to protect the nation's critical infrastructure and core defense information systems.

The Minority also supports the Administration's efforts to improve reporting under the Federal Information and Security Management Act (FISMA) through the use of a modern digital platform that increases efficiency by automation, focuses on outcome-oriented security metrics, and improves real-time situational awareness. Although we support the Administration's efforts to improve network security at federal agencies through the National Cyber Security Division, we believe OMB should continue to be responsible for implementing FISMA, as required by statute.

Department of State and United States Agency for International Development

The President's budget proposes $51.6 billion in discretionary funding for the Department of State and the United States Agency for International Development (USAID), including expenditures for overseas contingency operations. This represents a 1.6% increase from 2012 enacted spending. The proposed spending includes funding for ongoing programs for diplomatic operations and assistance to strengthen long-term partnerships in Iraq, Afghanistan, and Pakistan. The Minority welcomes efforts to reduce administrative costs, increase efficiencies, and reduce the use of contractors. The Minority also welcomes efforts to reform USAID's procurement process through the Implementation and Procurement Reform Initiative.

The President's budget proposes $8.2 billion in funding for overseas contingency operations for the State Department and USAID, a reduction of 5.7% from 2012 proposed spending. In the 112th Congress, the Committee examined the transition from military to civilian operations in Iraq, as well as waste, fraud, and abuse in overseas contingency contracting. The Minority believes State and USAID were provided inadequate resources to fulfill their missions and that the transition to a civilian-led mission in Iraq highlights this concern. The Minority also believes that State and USAID have become overly reliant on contractors, which has increased the risk of waste, fraud, and abuse.

Healthcare Spending

The Minority strongly supports the President's decision to reject the budget plan adopted by House Republicans last April that would have ended the Medicare program as we know it. The plan, proposed by House Budget Committee Chairman Paul Ryan, would have ended the Medicare guarantee for millions of seniors and replaced it with a fixed payment or voucher that beneficiaries would use to purchase health coverage on their own. The Minority supports efforts to strengthen Medicare and lower costs to the American taxpayers without eliminating the core guarantee on which millions of seniors depend.

The Minority also supports the President's funding request for full implementation of the Affordable Care Act, including funding to support states in developing the infrastructure to establish Affordable Insurance Exchanges. The President's budget provides $76.4 billion for the Department of Health and Human Services. Beginning in 2014, millions of Americans will gain access to health insurance through the establishment of the Affordable Insurance Exchanges.

Housing

Homeowner Assistance Programs

The Minority supports aggressive action to help struggling homeowners avoid foreclosure, hold mortgage servicers accountable, and prevent unnecessary foreclosures. The Minority commends the Federal Housing Administration (FHA) for aggressively implementing loss mitigation programs to prevent unnecessary foreclosures. The Minority supports the President's proposed increase in housing counseling funding to $55 million, a $10 million increase over 2012.

The President's budget supports homeowner assistance programs under the Troubled Asset Relief Program, including the Home Affordable Modification Program (HAMP) and the Hardest Hit Fund. The Minority remains concerned about the slow pace of assistance and modifications being provided under these programs, as evidenced by the expenditure of less than $2 billion of the nearly $50 billion allocated for homeowner assistance.

The Minority is troubled by the Administration's failure to allocate 100% of the funds Congress appropriated under the Emergency Homeowner Loan Program. Given the millions of Americans who continue to struggle to save their homes after losing their jobs, it is unfortunate that only $210 million of the $1 billion appropriated was obligated and spent to assist these struggling homeowners.

The Minority supports the proposed implementation of a $61 billion Financial Crisis Responsibility Fee on the nation's largest financial institutions to pay for homeowner assistance programs and compensate American taxpayers for the extraordinary assistance they provided to Wall Street during the financial crisis.

Housing Trust Fund

The Minority supports the President's request for $1 billion in mandatory funding for the Housing Trust Fund, which was created in 2008 to finance the development, rehabilitation, and preservation of affordable housing for extremely low-income families. The trust fund, which has yet to be funded, would help address the devastation resulting from the foreclosure crisis by removing blight, providing housing for struggling families, and creating construction jobs.

CDBG and HOME Investment Partnership

The minority supports greater investment in funding levels for the Community Development Block Grant (CDBG) and the HOME Investment Partnerships than requested in the President's budget. CDBG enables thousands of state and local governments to invest in public infrastructure improvements, rehabilitate affordable housing, and create and retain jobs. State and local governments continue to face the consequences of the 2008 financial crisis, and they continue to struggle to retain and hire enough workers to provide essential services for their citizens.

Rental Assistance Programs

The Minority strongly supports the President's budget proposal of $44.8 billion for the Department of Housing and Urban Development (HUD), an increase of $1.4 billion. This funding will assist programs that support vulnerable families, revitalize distressed neighborhoods, and advance investments in sustainable development.

The Minority commends the Department for achieving savings in its rental assistance program without reducing the number of families served. The President proposes to save over $500 million in 2013 in HUD's rental assistance program by improving oversight of market rent students used to set subsidy levels and capping annual subsidy increases for certain properties. We are concerned, however, about the proposal to use excess reserves to offset payments to landlords. Given the importance of excess reserves in providing a cushion during severe economic conditions, the Minority urges the Administration to proceed thoughtfully.

The Minority is also concerned about the proposed increase in minimum rent to $75 per month for all HUD-assisted households. Although we appreciate that this level is comparable to the inflation-adjusted minimum rent in 1998, far too many families are experiencing hardship in the aftermath of the financial crisis, and we urge the Administration to provide flexibility in the application of this new rule.

The Minority strongly supports the Administration's request of $19 billion for the Housing Choice Voucher Program. This request will enable more than two million extremely-low and low-income families to continue to afford access to safe, decent housing in neighborhoods of their choice, and it will provide 10,000 new vouchers targeted at homeless veterans.

Modernization of Federal Housing Programs

The President's budget proposes to consolidate the Public Housing Operating and Capital Funds, streamline the Family Self-Sufficiency program, and modernize the formula used to distribute Housing Opportunities for Persons With AIDS (HOPWA) funds. The Minority commends these steps toward efficiency and effectiveness, and we urge the Administration to conduct close oversight of these proposed changes to ensure that funds continue to be spent appropriately. The Minority also supports the budget request to provide up to $50 million to pilot the expansion of the successful Jobs-Plus demonstration to over 30,000 Public Housing residents.

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Michael Allen
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MICHAEL H. SHANK
MINORITY STAFF DIRECTOR

March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to §301(d) of the Congressional Budget Act of 1974 and clause 4(f) of House Rule X, and in response to your request dated February 1, 2012, the Permanent Select Committee on Intelligence herewith provides its views and estimates on the President's budget for Fiscal Year 2013. The Committee is constrained in that the total amount of funding requested by the President within the Committee's jurisdiction, as well as the details underlying those figures, remains classified. As a result, we are unable to provide you with detailed, public recommendations as to the funding levels for Fiscal Year 2013.

While funding details for the U.S. government's intelligence activities are classified, we note that the Director of National Intelligence, in compliance with the Intelligence Authorization Act for Fiscal Year 2010, has disclosed that the aggregate amount requested for the National Intelligence Program for fiscal year 2013 is $52.6 billion. Within the National Intelligence Program, the funding levels for the Intelligence Community Management Account (ICMA) and the Central Intelligence Agency Retirement and Disability Program (CIARDs) are publicly available. The amounts requested for fiscal year 2013 for the ICMA and the CIARDS are $540 million and $514 million, respectively. In addition, the Department of Defense has disclosed that the aggregate amount requested for the Military Intelligence Program for fiscal year 2013 is $19.2 billion.

The Committee has some concerns over the level of funding and looks forward to working with the Committee on the budget to ensure proper funding levels in its fiscal year 2013 budget resolution. The Committee also notes, however, that a full sequester under the Budget Control Act of 2011 would prevent the Intelligence Community from fully carrying out its missions. Such an outcome would be extremely harmful to our national security. This sequester must be avoided.

Sincerely,

Mike Rogers M.C
Chairman

RALPH M. HALL, TEXAS
CHAIRMAN

EDDIE BERNICE JOHNSON, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

Pursuant to the provisions of clause 4(f) of House Rule X of the Rules of the House of Representatives for the 112th Congress and Section 301(d) of the Congressional Budget Act of 1974, as amended, I am transmitting the Views and Estimates, including Additional and Minority Views, of the Committee on Science, Space, and Technology for Fiscal Year 2013.

Sincerely,

Ralph M. Hall

Ralph M. Hall
Chairman
Committee on Science, Space, and Technology

Enclosure

cc: The Hon. Chris Van Hollen, Ranking Member, Committee on the Budget
The Hon. Eddie Bernice Johnson, Ranking Member, Committee on Science, Space, and Technology

VIEWS AND ESTIMATES
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
FISCAL YEAR 2013

President Obama transmitted his budget request for Fiscal Year 2013 (FY13) to Congress on February 13, 2012. The President proposes $37.9 billion in FY13 for all non-defense and non-health specific research and development, an 8.7 percent increase over the FY12 spending level. This amount includes basic and applied research, development, and facilities and equipment.

The Committee on Science, Space, and Technology supports the funding of basic research and development activities and believes that wise investments, coupled with favorable tax cuts and reduced regulations, can lead to economic growth, new jobs, and innovation. However, the Committee is mindful that in order to realize gains on investment, the Nation needs to be on a sound economic footing. We remain in a challenging economic environment. The Congressional Budget Office estimates that Federal spending will exceed $3.6 trillion or 23.2 percent of GDP this year and while slightly less than last year, it remains elevated by historical standards. We are running a deficit of $1.3 trillion and our gross Federal debt now exceeds $15 trillion. Not only are these levels truly unsustainable, but the Administration ignores the crisis in the FY13 Budget Request. This budget would increase the gross national debt by $11 trillion over ten years to $26 trillion in 2022. Congress, and this Committee, must address this challenge by reducing spending further and finding ways to cut unnecessary, duplicative, and wasteful programs so that we deliver the most efficient and effective programs for the country.

The following are the views of the Committee on Science, Space, and Technology on the budget for programs within the Committee's jurisdiction.

National Aeronautics and Space Administration (NASA)

The National Aeronautics and Space Administration is our Nation's primary civilian space and aeronautics research and development agency, planning and executing missions that increase our understanding of Earth, the solar system, and the universe. NASA operates the International Space Station, a fleet of satellites throughout our solar system, Mars rovers, and a small number of research aircraft. It carries out our Nation's largest portfolio of civil aeronautics research and development projects, helping to ensure that our national airspace system and aerospace industry remain the world's safest and most efficient. NASA also undertakes activities in technology development and transfer, education, outreach, and participates in a number of interagency activities such as the Next Generation Air Transportation System, information technology, and climate change research.

A notable event occurred last year that distinguishes the FY13 NASA budget request from submissions sent up during the previous three decades. On July 21, 2011, NASA retired the Shuttle program with the landing of STS-135, Shuttle *Atlantis*, bringing to an end a 30-year reign of American dominance in human space flight.. The United States currently has no domestic capability to ferry astronauts to and from the International Space Station. NASA is working now on developing two follow-on systems that will be discussed below in further detail.

The Committee supports NASA's FY13 budget request of $17.7 billion, which is $58 million less (0.3 percent reduction) than appropriated amounts for FY12. In FY11, NASA received $18.4 billion; and in FY10, the agency was funded at $18.7 billion. For FY13, NASA is authorized to receive $19.9 billion.

NASA has articulated three agency priorities that are reflected in its budget request: (1) completing the James Webb Space Telescope; (2) operating the International Space Station (ISS), including development of commercial cargo and crew capabilities to sustain ISS; and (3) building the Space Launch System to enable future manned space flight missions into deep space.

The budget request for NASA's Science Mission Directorate is $4.91 billion, which is $162.5 million less than FY12. The Mars Exploration Program sees a precipitous drop in funding, going from $587 million in FY12 to $360.8 million for FY13. The proposed budget effectively ends the planned joint European Space Agency (ESA) - NASA 2016 and 2018 Mars missions. While the Committee understands that the tremendous budgetary pressures faced by NASA must be met with prudent and tough decisions, the Committee is concerned that these plans will result in the loss of uniquely U.S. capabilities, particularly for entry, descent and landing that will be necessary for future robotic and human exploration. Furthermore, the Committee is concerned about how this decision may affect our ability to develop mutually beneficial international partnerships in the future. According to NASA, efforts are already underway to re-plan a less expensive Mars Exploration program with the goal of delivering a new architecture to Congress in spring 2012. The Committee is concerned that NASA's re-plan will come too late to inform the appropriations process and, due to the short time span in which it will be preformed, is unlikely to yield any recommendations that are superior to the current well-vetted program.

As expected, the James Webb Space Telescope (JWST) receives a generous increase to reflect the newly established baseline targeting a launch date of October 2018. This resulted from a lengthy re-plan process completed by NASA last year after experiencing extensive cost and schedule overruns. Per the re-plan, JWST would receive $627.6 million in FY13, an increase of over 20 percent when compared to the FY12 estimate of $518.6 million. The Committee will continue to provide thorough oversight to ensure the program remains on track and within budget.

Last year, the Committee noted with concern planned increases to Earth Science programs, particularly given the tight fiscal environment. We are pleased to see a more tempered approach; the budget reflects increasing launch costs and delays development of new missions.

Regarding the science portfolio at NASA in general, the Committee notes that several missions now in development are threatened with significant cost growth primarily due to increasing launch vehicle costs. We will continue to monitor this and seek innovative solutions to ensure our future earth and space science programs are not sidelined by escalating launch costs.

The budget request for the Aeronautics Research Mission Directorate (ARMD) is a 3.1 percent reduction in funding, dropping from $569.4 million in FY12 to $551.5 million in FY13. ARMD continues support in cutting-edge research to improve aviation safety, efficiency and air traffic management. Of particular note, hypersonic research has been combined with supersonic research and responsibility for "entry, descent and landing" (EDL) research has been transferred to the Space Technology account. The transfer of EDL research accounts for a significant amount of the ARMD funding reduction in FY13. The Committee is concerned that reductions in hypersonic research will negatively impact and delay game changing technology development for future rocket propulsion systems.

With regard to human space flight, the NASA Authorization Act directed the Agency to prioritize development of the Space Launch System (SLS) and Multi Purpose Crew Vehicle (MPCV) to replace the Space Shuttle, which was retired in 2011. The Act also authorized NASA to continue activities related to development of a commercial crew launch system, but articulated Congressional intent that NASA develop the SLS and MPCV as soon as possible to ensure U.S. backup access to the ISS in case commercial crew or cargo capabilities fail to materialize. NASA's FY13 budget proposes to reverse the priorities established by Congress in both authorization and appropriation legislation. NASA seeks to reduce funding for the continued development of the SLS by 11 percent or $162 million below FY12 levels to $1.34 billion, and reduce funding for the Orion MPCV by 14.6 percent or $175 million from FY12 levels to $1.02 billion. Under this budget proposal, the SLS/MPCV system will not be operational until 2021, one year after the current ISS program is due to expire. The Committee finds it unacceptable for the U.S. to rely on the Russian Soyuz system for the remainder of the ISS program and believes NASA should give higher priority to the SLS and MPCV programs.

For Commercial Crew Development activities, NASA's FY13 budget proposal diverges from previous Congressional direction by requesting $830 million, which is $424 million or 104 percent above the FY12 appropriated level and $330 million (66 percent) more than the FY13 authorization of $500 million.

The FY13 budget also includes increased funding for Space Technology development. The FY13 request seeks $699 million, an increase of $125.3 million or 21.8 percent above FY12 levels. The Committee supports this endeavor generally, but believes this level of increase is not warranted.

National Science Foundation (NSF)

The National Science Foundation (NSF) provides over 20 percent of federal support for all basic research at U.S. colleges and universities and is second only to the National Institutes of Health (NIH) in support for all academic research. It is the primary source of federal funding for non-medical basic research, providing approximately 40 percent of all federal support, and serves as a catalyst for science, technology, engineering, and mathematics (STEM) education improvement at all levels of education. It supports the fundamental investigations that ultimately serve as the foundation for progress in nationally significant areas such as national security, technology-driven economic growth, energy independence, health care, nanotechnology, and networking and information technology.

The FY13 budget request for NSF is $7.4 billion, a 4.8 percent increase over the FY12 level. The Committee recognizes the importance of making appropriate investments in science, space, and technology basic research, development, and STEM education in order for the United States to remain a world leader in competitiveness and innovation. However, while supporting a healthy budget request for NSF, the Committee remains concerned that the levels requested exceed what is fiscally responsible in the current economic climate. Further, new and expanded Administration priorities continue to seriously divert precious research and development (R&D) funds from other worthy endeavors.

The Committee applauds the Administration's $67 million in cuts and consolidations, but regrets that it did not go further in identifying additional areas for significant savings to the American taxpayer. This additional savings could go a long way in helping to protect the integrity of the Nation's essential basic R&D portfolio.

Research and Related Activities (RRA)

The FY13 budget request includes over $5.9 billion for Research and Related Activities (RRA) an increase of $294 million or 5.2 percent over FY12. Beginning in FY13, NSF plans to enable seamless operations across organizational and disciplinary boundaries through a new OneNSF Framework. The OneNSF Framework encompasses a set of currently funded investments to "create new knowledge, stimulate discovery, address complex societal problems, and promote national prosperity."[1] OneNSF Framework priorities for FY13 include: $257 million for Cyber-Enabled Materials, Manufacturing, and Smart Systems (CEMMSS) to transform static systems and processes into adaptive "smart" systems; $106 million for Cyberinfrastructure Framework for 21st Century Science and Engineering (CIF21) to address the science-driven integration of cyberinfrastructure; $49 million for Expedition in Education (E^2) to establish a partnership with the research directorates and the Education and Human Resources directorate to integrate and expand STEM education research; $19 million for NSF Innovation Corps (I-Corps) to assess opportunities to transition emerging technologies into new products; $63 million for Integrated NSF Support Promoting Interdisciplinary Research and Education (INSPIRE) to integrate existing interdisciplinary investments with new Foundation-wide activities; and $110 million for Secure and Trustworthy Cyberspace (SaTC) to align Foundation investments with the national cybersecurity strategy.

OneNSF Framework priorities also incorporate the existing Science, Engineering and Education for Sustainability (SEES) program, which crosses all NSF directorates and has a goal of advancing "climate and energy science, engineering, and education to inform the societal actions needed for environment and economic sustainability and sustainable human well-being." The FY13 budget request for SEES is $202.5 million, an increase of $45.5 million or 29 percent over the FY12 estimate. When compared to the FY12 budget request of $998.19 million, the SEES portfolio request appears to have shrunk dramatically. The FY12 request estimated spending on SEES for FY11 to be $660.74 million; the FY13 request reflects FY11 actual spending to be $87.96 million or $572.78 million less than reported in the previous year. The Committee is greatly concerned that the Foundation continues to fund activities that "advance climate and

[1] *FY13 NSF Budget Request to Congress*, p. 3.

energy science, engineering, and education to inform the societal actions needed for environmental economic sustainability and sustainable human well-being"[2] well above the amounts currently reflected in the FY13 budget request and far above what is fiscally responsible at this time.

The overall budget request for OneNSF Framework activities is $807 million, an increase of $291 million or 56 percent over the FY12 level. While the Committee is appreciative of the Foundation's goal to enable a seamless operation across organizational and disciplinary boundaries and supports the majority of funding priorities for this Framework, it is concerned that the additional funding requests continue to exceed what is prudent in this economic climate. In addition to the SEES request, the Committee questions the necessity of $49 million in new funding for the E^2 initiative, $29 million of which is funded through the RRA account. Further, the Committee is concerned with the $19 million request for I-Corps and believes the implementation and expansion of this program, which "builds upon fundamental research" but moves beyond that to "guide the output of scientific research towards the development of technologies, products, and processes that benefit society" continues to move the Foundation from its core mission of supporting basic R&D to significantly more support for applied areas of R&D, which are best left to market forces or agencies with specific applied R&D goals to advance their mission. The Committee believes that while basic research can and should lead to entrepreneurship, it is not an appropriate role for NSF to use its limited research dollars to provide additional federal funds to grantees in order to "increase the number of entrepreneurs emerging from university laboratories,"[3] as is stated as a priority goal of I-Corps. The Committee believes this is primarily a university responsibility. Further, it is the Committee's view that this program runs the risk of picking winners and losers.

In addition to OneNSF Framework investments, the FY13 NSF RRA budget request also illustrates the manner in which NSF plans to advance all fields of science and engineering and educate the workforce of tomorrow through their portfolio. NSF will continue investments in a number of multifaceted programs, including a $335 million investment in Clean Energy, a $149 investment in Advanced Manufacturing, a $216 million investment in the Faculty Early Career Development program (CAREER), a $243 million investment in the Graduate Research Fellowship program (GRF), and a $158 million investment in the Experimental Program to Stimulate Competitive Research (EPSCoR).

Education and Human Resources (EHR)

The FY13 budget request for Education and Human Resources (EHR) is $845.6 million, a $46.6 million or 5.6 percent increase over the FY12 level and the largest percentage increase for the agency.

Significant increases in the FY13 budget request include $20 million, a $12 million or 150 percent increase over FY12, for the Widening Implementation and Demonstration of Evidence-based Reforms (WIDER)/E^2 program and $20.5 million for a new Expedition in Education (E^2) initiative to engage, empower, and energize learners in STEM. Again, while fully supporting

[2] *FY12 NSF Budget Request to Congress*, NSF-Wide Investments, p. 37
[3] *FY13 NSF Budget Request to Congress*, NSF-Wide Investments, p. 28.

STEM education research, the Committee questions the use of limited resources on new, unproven initiatives, while cutting funding for proven ones.

The FY13 budget request continues to flat fund the Robert Noyce Scholarship Program (NOYCE) at $54.9 million and the Math and Science Partnership (MSP) at $57 million and decreases funding for the federal Cyber Service: Scholarship for Service/Cybercorps (SFS) program by 44 percent to $25 million. Likewise, the Administration's budget request continues to place a high priority on Graduate Research Fellowships (GRF) by increasing the funding to $121.5 million, a 10.8 percent increase over the FY12 level, while significantly reducing funding for the Integrative Graduate Education and Research Traineeship Program (IGERT) to $22.9 million, a 26.7 percent cut. The Committee continues to believe that increasing the number of GRFs is a laudable goal in a better economic environment, but continuing to increase the funding level for GRFs while essentially ignoring other graduate programs, is not fiscally responsible.

Several new or reprogrammed initiatives are to be carried out in conjunction with the Department of Education (ED), the Office of Science and Technology Policy (OSTP), and other federal science mission agencies to address national priorities in STEM education through a coordinated STEM education investment strategy. While the Committee supports a more engaged ED with regards to STEM education, it continues to believe that the STEM-related research and expertise that NSF can and does provide is world-class and needs to be included in any appropriate larger, overarching STEM education activities carried out by the federal government.

The FY13 request also calls for fundamentally reframing the EHR investment portfolio into three categories: Core R&D, Leadership, and Expeditions. The Core R&D investments include four divisions: STEM learning, STEM learning environments, broadening participation and institutional capacity in STEM, and STEM professional workforce preparation. A new $5 million "Core Launch Fund" to allow a first round of grant awards will shape each division. The Leadership investments will focus on the next generation of STEM researchers and educators. And finally, the Expedition investments will be a key component for EHR to partner with other NSF directorates and offices and with ED to take on specific challenges over defined periods of time. The Committee understands and commends the reconceptualization of the EHR directorate, but believes $20 million in new funding is excessive and not necessary to launch this endeavor, and encourages the use of existing and lesser funds.

While the Committee commends the decision to reduce funding for the Climate Change Education Program, it continues to believe the program should be eliminated in its entirety, as other funds within the Foundation may already be used to support similar activities.

Major Research Equipment and Facilities Construction (MREFC)

The FY13 budget request includes $196.2 for the Major Research Equipment and Facilities Construction (MREFC) account. This is a slight 0.4 percent decrease from FY12. The request includes funding for four existing projects: 1) $91 million for the National Ecological Observatory Network (NEON); 2) $25 million for the Advanced Technology Solar Telescope (ATST); 3) $15 million for the Advanced Laser Interferometer Gravitational-Wave Observatory

(AdvLIGO); and $65 million for the Ocean Observatories Initiatives (OOI). The IceCube Neutrino Observatory (IceCube) and the Atacama Large Millimeter Array (ALMA) no longer require MREFC funding.

Department of Energy (DOE)

The Department of Energy (DOE) funds a wide range of research, development, demonstration and commercial application activities. The overall FY13 budget request for DOE is $27.2 billion, which represents an $856 million or 3.2 percent increase over FY12 levels. Approximately one third of this amount is directed to research, development, and demonstration programs.

President Obama once more made clean energy technology development a centerpiece proposal of his State of the Union and reiterated his call for a clean energy standard (CES), which would require at least 80 percent of electricity to be generated by "clean" sources by 2035. The Committee recognizes the importance of energy technology development to America's economic future, but has serious concerns with the overall spending and relative prioritization within the President's budget request.

Office of Science (SC)

The DOE Office of Science (SC) is the federal government's primary supporter of long-term basic research in the physical sciences, as well as design, construction, and operation of major scientific user facilities. Office of Science activities are organized into the following six major programs: Basic Energy Sciences (BES), Advanced Scientific Computing Research (ASCR), Biological and Environmental Research (BER), Fusion Energy Sciences (FES), High Energy Physics (HEP), and Nuclear Physics (NP). The FY13 budget request for SC is $5.0 billion, a 2.4 percent increase over FY12 levels.

The Committee recognizes the key scientific role the Office of Science performs in the federal government's research capabilities. The Office of Science has an established record of making crucial scientific discoveries and serves as a long-term driver of innovation and economic growth. We also acknowledge SC's record of excellence in managing world-class scientific facilities, which deliver revolutionary scientific breakthroughs in numerous scientific disciplines. Accordingly, the Committee believes the SC should be the highest priority for DOE R&D programs.

However, in light of budget circumstances, the Committee believes there are some areas within the Office of Science budget that warrant consideration for reductions in spending. Of particular interest in this regard is SC BER activities, which fund significant research in areas ancillary to DOE's primary mission or potentially duplicative of research funded elsewhere in the government (such as climate change). Specifically, the Committee is concerned that the Atmospheric System Research and the Climate and Earth Systems Modeling programs are duplicative of research programs at the National Oceanic and Atmospheric Administration (NOAA) and the National Science Foundation (NSF). Additionally, although the Committee supports Fusion Energy Sciences, the program is an area of concern due to high-risk program management and international funding and cooperation challenges associated with the ITER project, while the relative value of SC spending on science education and workforce development also warrants further review.

The Committee objects to the budget request to have the Office of Science redirect funding and administrative and technical support to the President's Council of Advisors on Science and Technology (PCAST). PCAST serves exclusively to advise the President, and is charged with providing science and technology advice on matters concerning all federal agencies, not just the DOE Office of Science. As such, funding and administrative support should be requested and appropriated through the White House Office of Science and Technology Policy, and not be re-directed from other agencies.

Advanced Research Projects Agency – Energy (ARPA-E)

The Administration request for the Advanced Research Projects Agency – Energy (ARPA-E) is $350 million, a $75 million or 27.3 percent increase over FY12. In FY11, ARPA-E received $180 million. The DOE budget request states that in FY13, ARPA-E will emphasize: (1) $184 million for Transportation Systems, including batteries and systems for electric vehicles and development of market competitive fuels using domestic resources such as natural gas; and (2) $130 million for Stationary Power, including challenges associated with "power electronics, solar, wind, osmotic power, smart grid technologies, natural gas, geothermal, and waste heat capture."[4]

When ARPA-E was established, many expressed concern that it would be funded at the expense of priority basic research programs within the Office of Science. In 2006, DOE Secretary Chu, then-Director of the Lawrence Berkeley National Laboratory and appearing before the Committee on behalf of the National Academies' *"Rising Above the Gathering Storm"* panel testified, "In funding ARPA-E, it is critical that its funding not jeopardize the basic research supported by the Department of Energy's Office of Science. The committee's recommendations are prioritized and its top recommendation in the area of research is to increase the funding for basic research by 10 percent per year over the next seven years."[5] The Committee agrees with the National Academies' panel that basic research at the Office of Science should be a higher funding priority than ARPA-E and is disappointed that the budget does not reflect this recommendation.

The Committee also believes ARPA-E can improve its focus to better ensure it avoids funding late-stage technology development and commercialization activities more appropriately supported by the private sector. While most ARPA-E funding appears directed toward high-quality, high-risk research that is too risky for private investment, in some instances ARPA-E funding has accelerated existing private efforts. The Committee is also concerned that ARPA-E has allowed awardees to incur costs of questionable appropriateness, including using award funds to seek additional government funding and using funds for meeting with investors, as well as for commercialization, marketing, and promotion of ARPA-E funded technologies.

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[4] *Department of Energy, Detailed Budget Request Volume 4*, p. 417.
[5] Steven Chu, testimony before the Committee on Science *Rising above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future* hearing, March 9, 2006.

Accordingly, the Committee recommends that ARPA-E funding not exceed its FY12 House Appropriations Committee-passed level of $100 million, and that the agency place greater emphasis on overcoming fundamental scientific challenges and pursuing potentially transformational early-stage applied research.

Nuclear Energy (NE)

The Administration request for Office of Nuclear Energy (NE) R&D programs is $770.4 million, a .7 percent increase ($5.1 million) from the FY12 level. NE's four primary research programs - Reactor Concepts RD&D, Fuel Cycle R&D, Light Water Reactor Small and Modular Reactor Licensing Technical Support (LWR SMR Technical Support), and Nuclear Enabling Energy Technologies (NEET) - comprise approximately half of the total NE request The total NE research declines significantly in the request. The majority of this decrease is proposed to come out of the Reactor Concepts program (decreased by $41.2 million), including the Next Generation Nuclear Plant (NGNP, decreased by $19.2 million), advanced small modular reactors (decreased by $9.5 million), and advanced reactor concepts (decreased by $9.5 million).

The Committee recommends additional funding to advance nuclear energy technology and is disappointed the budget significantly reduces key NE research programs. The March 2011 earthquake and ensuing tsunami near Fukushima, Japan serves as a strong reminder of the need to ensure nuclear reactors continue to operate with maximum attention to public health and safety. Accordingly, the Committee supports continuing analytical examination of issues associated with nuclear safety in the Light Water Reactor Sustainability subprogram, such as identifying advanced fuel cladding to provide additional safety measures in the event of an unforeseen event.

The budget includes $59.7 million for the third year of the Used Fuel Disposition Research and Development subprogram, which examines issues associated with managing the back end of the nuclear fuel cycle. The Committee supports moving forward with the deep geologic repository for spent nuclear fuel and recognizes near-term activities have the potential to reduce uncertainties associated with handling of spent nuclear fuel.

The budget requests $65 million for the second year of the LWR SMR Technical Support program, a decrease of $2 million or 3 percent from FY12 levels. SMRs hold great potential to impact electricity generation; however, still require approval and licensing from the Nuclear Regulatory Commission (NRC). The second year of funding for this program will begin development of the license application for SMR designs. DOE should further its work with NRC to complete the licensing process.

Energy Efficiency and Renewable Energy (EERE)

The Office of Energy Efficiency and Renewable Energy (EERE) funds a wide array of energy efficiency and renewable energy technologies. The Administration's budget request of $2.3 billion for EERE represents a 29.1 percent ($527.4 million) increase from the FY12 level. This reflects President Obama's continued emphasis on increasing spending to develop clean energy technologies. Many EERE programs receive notable funding increases relative to the FY12 level. Specifically, the Advanced Manufacturing Program (formerly the Industrial Technologies Program) receives a $174.4 million increase (151 percent), of which over $100 million is added to the Systems Integration subprogram to demonstrate manufacturing processes. Geothermal Technology would see an increase of $27.1 million (71.7 percent) to expand the enhanced geothermal subprogram and the Building Technologies program would receive an additional $90.8 million (41.4 percent) to advance technologies and reduce market barriers.

The Committee objects to the requested increase in EERE's budget. This concern is based on: (1) EERE's focus on incremental, relatively low-impact technological advances through technology development, demonstration, commercialization, and deployment activities, many of which are unnecessary and represent inappropriate involvement in the marketplace, resulting in the government "picking winners and losers" among competing companies and technologies; (2) EERE's recent significant budget increases, which reflect a 56 percent increase since FY06, in addition to $16.5 billion in stimulus funding; and (3) the significant potential for overlap and duplication resulting from DOE's multitude of clean tech-focused programs and activities. Further, beyond specific programmatic concerns, the ability of the office to responsibly manage and effectively oversee a nearly 30 percent year-over-year budget increase is questionable.

EERE aligns its budget portfolio into four program activities based on Technology Readiness Levels:[6] Innovations (TRL 2-3), Emerging Technologies (TRL 3-6), Systems Integration (TRL 6-8), and Market Barriers (TRL 8-10). The Committee commends EERE for this informative characterization, but is concerned that nearly 40 percent of EERE funding is directed to late stage TRLs closest to market deployment and commercialization. For example, the Biomass and Biorefinery Systems program requests an additional $60.9 million to support deployment of a feedstock demonstration unit. The Solar Energy Technologies program requests a 140 percent increase to address "market barriers" by "using standard scientific techniques of data collection, analysis and the development of algorithms to reduce the permitting costs/time for solar installation."[7] The Committee believes the marketplace is best positioned to reduce associated installation costs, not the federal government.

Included in EERE's budget is a request by the Department for legislative language allowing the Secretary of Energy to transfer up to $100 million to the Defense Production Act Fund. According to the request, this transfer would support biofuel pilot demonstration projects as well as certain activities in the Advanced Manufacturing Program. The Committee questions the appropriateness of the request and seeks clarification as to the financial and programmatic consequences of such.

These concerns exemplify general trepidation associated with EERE. The Committee will continue to fulfill its oversight responsibilities of EERE and conduct a thorough examination of

[6] Technology Readiness Levels (TRL) are a method to characterize the maturity of a technology. The Department of Energy has detailed the descriptions of each level, which generally translate to the following stages of technology evolution: 1-2 Basic Technology Research; 2-3 Research to Prove Feasibility; 4 Technology Development; 5-6 Technology Demonstration; 7-8 System Commissioning; and 9 System Operation. For more information see "Technology Readiness Assessment Guide (DOE G 413.3-4)." United States Department of Energy, Office of Management. October 12, 2009.

[7] DOE Detailed budget p. 88.

EERE's programs. Recognizing the tight budgetary outlook, the Committee recommends reducing spending on EERE to maximize the value of limited taxpayer dollars, and focusing programs on early-stage applied research activities with the broadest potential benefits.

Electricity Delivery and Energy Reliability (OE)

The Office of Electricity Delivery and Energy Reliability (OE) oversees the modernization of the electric grid, the reliability of energy infrastructure, and conducts research and development for energy delivery-related technologies. Research and Development within OE would be funded at $103.4 million in the President's FY13 budget request. This would reflect an increase of $4.3 million (4.3 percent) from FY12 levels. Additionally, the President requests $20 million for the creation of an Electricity Systems Hub to be administered by OE.

The Committee notes the potential contributions of OE efforts to enhance electricity reliability and grid security, but remains concerned the OE portfolio includes R&D significantly overlapping with and potentially duplicative of other DOE programs. For example, the Office of Science, EERE's Vehicle Technologies Program and multiple ARPA-E programs all fund battery and energy storage research programs that, while generally distinct, appear to support potentially duplicative technology areas. The Committee also has reservations about the creation of a new Energy Innovation Hub. The proposed OE Hub would address issues associated with the nexus of power and information flows to reduce integration and coordination barriers. However, ARPA-E's "GENI" program and OE's other research programs currently fund R&D to integrate advanced power systems with the grid. These activities as well as others throughout DOE may potentially overlap with the Hub's activities. Additionally, the Committee finds it premature to fund a new Hub prior to thorough consideration of the performance of existing Hubs, including review of the assessment called for by the FY12 appropriations bill.

Fossil Energy (FE)

The DOE Office of Fossil Energy (FE) supports research and development focused on coal (including "clean coal" technologies), natural gas, and petroleum and also supports the federal government's Strategic Petroleum Reserve. The President's total budget request for the Office of Fossil Energy (FE) is $650.8 million. FE's research and development budget is $420.6 million, an increase of $73.9 million, or 21.3 percent, from FY12 levels. The FY12 level of $533.7 million included a rescission of $187 million resulting from termination of a major carbon capture and sequestration (CCS) demonstration project funded in a previous fiscal year. The base budget request for FE R&D, before accounting for this rescission, represents a decrease of $105.2 million, or 19.7 percent.

The FY13 budget request includes $275.9 million for Coal R&D, $17 million for the Natural Gas Technology Program, and proposes to terminate the Unconventional Fossil Energy Technologies program. Within the Carbon Capture and Storage and Power Systems Subprogram, the budget request proposes to eliminate the Hydrogen from Coal, Coal and Coal-Biomass to Liquids, and Solid Oxide Fuel Cells activities.

The Committee continues to support an "all-of-the-above" approach to energy policy centered on aggressively developing domestic energy resources to ensure access to abundant and affordable energy. We are disappointed to see the budget again propose to eliminate the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Program established in Section 999 of the Energy Policy Act of 2005 (P.L. 109-58). Section 999H(a) sets the funding for this program at a level of $50-million-per-year provided from federal lease royalties, rents, and bonuses paid by oil and gas companies – not taxpayers. It should be clear that the overall program was initiated and carried out to reach energy known to exist in the areas targeted – energy that was impossible to produce without new technology – and that the required technology would be eventually be paid for from the energy captured. Further, the Section 999 program is the only R&D program in the federal government capable of addressing drilling safety and accident prevention-related technology needs in a timely and effective manner.

The Committee disagrees with the myopic focus of FE's Coal R&D on near term Carbon Capture and Sequestration (CCS) programs at the expense of other research that could enable increased efficiency of coal-fired electricity, reducing operating costs and traditional criteria pollutant emissions. For example, the budget decreases the funding for Advanced Energy Systems $45 million. FE's goal to capture carbon dioxide at "no more than a 35 percent increase"[8] in electricity costs is indicative of FE's misguided approach. DOE should seek to reduce the cost of electricity, rather than raise it. The Committee appreciates FE's recognition that CCS by itself is not economically viable and the need to acquire commercial value of sequestered carbon through a Carbon Capture, Utilization, and Sequestration (CCUS) program. However, the Committee remains concerned this approach is still imprudent and will result in increased costs on American energy consumers.

The Committee is pleased the budget did not request additional funding for the Clean Coal Power Initiative (CCPI), choosing instead to focus on its portfolio of existing demonstration projects. Key milestones are scheduled for FY12 and FY13 for the current portfolio of CCPI demonstration projects, and the Committee expects to actively monitor the status of those projects.

The Committee is skeptical of the request for $17 million for the Natural Gas Technologies Program, of which $12 million is dedicated to a new priority collaboration with the Environmental Protection Agency and the U.S. Geological Survey to "understand and minimize the potential environmental, health, and safety impacts of shale gas development through hydraulic fracturing" as recommended by an Administration appointed panel. The budget provides very little information on what research topics or questions this funding seeks to answer, and the Committee is concerned this program is intended to simply identify additional opportunities for the Administration to regulate hydraulic fracturing. The Committee supports the current practice of state regulation of hydraulic fracturing and is concerned that the Administration seems to be actively searching for a reason to regulate this abundant domestic energy resource.

Loan Guarantee Program Office (LPO)

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[8] Department of Energy, Detailed Budget Request, Volume 3, p. 414.

Title 17 of the Energy Policy Act of 2005 authorizes DOE to make loan guarantees to encourage early commercial use of new or significantly improved technologies in energy projects. Projects supported must avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; employ new or significantly improved technologies; and offer a reasonable prospect of repayment of the principal and interest on the guaranteed obligation.

The FY13 budget for the Loan Guarantee Program Office requests $38 million for administrative operations "to focus on portfolio management and monitoring activities on the existing portfolio as well as originating new loan guarantees to utilize remaining loan authority in the nuclear power, front-end nuclear, fossil, and renewable and energy efficiency sectors."[9] The Administration proposes to offset requested spending with an equivalent amount of fee collections for a net-zero budget request. Additionally, the budget request states that the Department still has $170 million in credit subsidy funds available from prior appropriations that it intends to deploy.

The loan guarantee program offers businesses the ability to secure below market financing rates. Private financial institutions have a record of supporting economically feasible and valuable projects. Highly-developed financial markets have the necessary tools to evaluate the relative worth of an energy project and provide the appropriate level of financing. Accordingly, the federal government should avoid interference in energy technology markets that results in "picking winners and losers" among competing companies and technologies. This concern is further exacerbated by the appearance that political favoritism drove decision-making associated with loan decisions, particularly with respect to Solyndra, but potentially in the case of other loans as well.

In light of the loan guarantee program's troubling record, the Committee supports funding only those activities necessary to support management and oversight of the existing portfolio of loans, and recommends returning remaining credit subsidy funds to deficit reduction.

National Oceanic and Atmospheric Administration (NOAA)

The National Oceanic and Atmospheric Administration (NOAA) carries out its mission of science, service, and stewardship through activities to improve the understanding of oceans and atmosphere and how their interactions affect human life, property and ecosystem health. NOAA provides critical weather and climate data necessary to protect lives and to enhance commerce through the National Weather Service (NWS) and the National Environmental Satellite, Data, and Information Service (NESDIS). NOAA is responsible for mapping and charting coastal areas and other navigation support services through the National Ocean Service (NOS). NOAA also manages fisheries and conducts research on marine ecosystems and marine mammals through the National Marine Fisheries Service (NMFS). Finally, NOAA supports atmospheric and oceanic research through its Office of Oceanic and Atmospheric Research (OAR).

NOAA's FY13 budget request is 5.1 billion, an increase of $153.9 million or 3.1 percent above the FY12 level.

[9] *Department of Energy, Budget Highlights*, p. 52.

National Environmental Satellite, Data and Information Service (NESDIS)

The FY13 budget request for the National Environmental Satellite, Data and Information Service (NESDIS) is $2.04 billion, a $163.6 million or 8.7 percent increase over FY12 levels. This line office accounts for 40 percent of NOAA's total budget request. The bulk of the request is for the Joint Polar Satellite System (JPSS)[10] and the Geostationary Operational Environmental Satellites (GOES-R) program.

The budget request for JPSS is $916 million, a $7.4 million or 0.8 percent decrease below FY12. While the Committee was pleased to see the successful launch of the research-turned-operational NPOESS Preparatory Project (NPP) satellite in October 2011, the Committee remains extremely concerned about the potential for a data gap between the time that NPP expires and the first JPSS satellite launch in 2018. Furthermore, the Committee does not agree with NOAA's characterization of the gap as the result of insufficient funding in prior fiscal years. For years, this program and its predecessor have been plagued with cost over-runs, poor management, agency infighting, technical problems and contractor mistakes. The program restructuring in 2010 also increased costs and delayed the program schedule. [11] Furthermore, in the two years since the Administration announced the separation of the original program, NOAA has not re-baselined the JPSS budget as required under P.L. 110-161 and P.L. 109-155. This inaction and delay is troubling, and significantly hinders the Committee's ability to conduct proper oversight and undertake a complete assessment of the program's future. Additionally, the Committee is extremely concerned that NOAA has not developed a viable plan for acquiring necessary data if the gap materializes as expected. The Committee recommends an immediate focus on such an effort and believes that any such plan should be developed in a scientific manner, utilizing the resources and expertise of other NOAA line offices.

The largest increase in the NESDIS request is for the GOES-R program. NOAA is requesting $802.0 million for FY13, a $186.4 million or 30.3 percent increase above FY12 levels. The Committee supports this increase as part of the planned ramp-up for this program, which is critical for weather forecasting and must remain on track for replacing existing geostationary satellites when they become nonoperational.

Office of Oceanic and Atmospheric Research (OAR)

The FY13 request for the Office of Oceanic and Atmospheric Research (OAR) is $413.8 million, an increase of $29.1 million or 7.6 percent above the FY12 level. The Committee supports a strong research enterprise at NOAA but disagrees with the Administration's prioritization and proposal to direct new funding almost exclusively to climate research. Rather, the Committee

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[10] This program was previously the National Polar-orbiting Operational Environmental Satellite System (NPOESS), a tri-agency program with the National Aeronautical and Space Administration (NASA) and the Department of Defense (DoD). As part of the FY2011 budget request, the Administration split NPOESS into two programs. NOAA and NASA have responsibility for the JPSS program to cover the afternoon satellite orbit. DoD has already canceled its separate polar weather satellite program for the early morning orbit.
[11] See footnote #1.

believes the top priorities for OAR should be weather research to better protect American lives and property and fundamental science and basic research supported by its labs.

Specifically, the Committee notes its support for specific investment in three targeted weather forecasting and prediction innovations. The Multi-function Phased Array Radar (MPAR) R&D will greatly improve next generation weather radar forecasting accuracy and capability. Unmanned Aircraft Systems (UAS) R&D will allow for the testing and use of UAVs with NOAA instruments for significantly enhanced data and observations, especially useful when forecasting hurricanes. Baseline Information Technology R&D resources will enable integration of graphic processing units (GPUs) into supercomputers enabling weather and climate models to run significantly faster, more accurately, and at lower cost.

Within the climate research program, the Committee is supportive of NOAA's request for funding for the National Integrated Drought Information System, a vital program for researching and communicating information on droughts. However, the Committee does not support the increase requested for the climate portal, NOAA's climate website that has raised concerns regarding the objectivity and scientific robustness of the information posted to it. Instead, the Committee would encourage funding for such climate program to be used to offset the requested reduction to the Great Lakes Environmental Research Laboratory.

Funding for many programs have suffered significant budget cuts in the last few years as a direct result of NOAA redirecting funding to satellite programs. The Committee believes the above-mentioned OAR priorities—of small relative cost that can be offset by a redirection of lower priority climate research—will provide tremendous returns in terms of out-year budget savings, protection of lives and safety, and the potential avoidance of billions of dollars in property damages.

National Weather Service (NWS)

The Committee is generally supportive of the overall National Weather Service (NWS) FY13 budget request of $972.2 million which is a 2.0 percent decrease from the FY12 level of $991.9 million. The Committee is pleased that NWS plans to establish regional Information Technology (IT) Collaboration units to capitalize on efficiencies made through previous investments, and the resulting $9.7 million decrease in the request for these programs from FY12 levels of $12.1 million indicates NWS is heeding Congress' call to become more efficient while still providing exemplary services. Furthermore, the Committee supports the $7 million increase for the NWS telecommunications gateway and believes planned improvements will increase the ability of NWS to ensure timely flow of critical information to the public. With continuing concerns about the quality of the surface temperature data used for climate prediction, the Committee is hesitant about the zeroing out of funding for the National Mesonet Network. The Mesonet Network was established in response to the National Academy of Sciences expressing concern regarding the lack of integration of distributed monitoring and observational networks. While NWS will be able to achieve quality forecasts using existing networks, the quality of data generated by outside groups and the ability of NWS to properly integrate it into its own databases is a concern. Therefore, the Committee would support a decreased amount of funding for the Mesonet Network as opposed to a complete elimination of the program, as long as this would not increase the total proposed budgetary request. Finally, while there is concern about the virtual elimination of the NOAA Profiler Network, which provides Doppler Radar wind profile data, the Committee understands that upgrades to this system would be prohibitively expensive. The Committee believes NWS should develop a plan to help replace data provided by the Profiler Network.

National Ocean Service (NOS)

The Committee is supportive of the National Ocean Service (NOS) FY budget request of $478.1 million which is a 2.4 percent decrease from the FY12 level of $490 million. Despite this overall decrease, the Committee supports the budget increases requested for the Integrated Ocean Observing System and competitive research in the National Centers for Coastal Ocean Science. Both are critical to understanding harmful algal blooms and hypoxia conditions that occur in U.S. waters. Despite the Administration's intent to implement Coastal and Marine Spatial Planning (CMSP), a comprehensive plan to zone the ocean, NOAA did not include any funding request in the FY13 budget. The Committee believes that any sweeping initiative such as CMSP requires a strong basis in science and that the lack of a request for CMSP in the NOAA budget suggests the Administration intends to implement this policy without the necessary scientific justification. The Committee strongly objects to NOAA carrying out any such policy until the appropriate research has been conducted and is available to inform decision-makers.

National Institute of Standards and Technology (NIST)

The National Institute of Standards and Technology (NIST) is a non-regulatory laboratory of the federal government tasked with innovation and industrial competitiveness by advancing measurement science, standards and technology in ways that enhance economic security and improve our quality of life.

In FY13, the Administration has requested a funding level of $857 million or a 14.1 percent increase from FY12 funding for NIST. The budget request would provide $648 million for NIST's core Scientific and Technical Research and Services (STRS); $60 million for Construction of Research Facilities (CRF); and $149 million for Industrial Technology Services (ITS) programs, including $128 million for the Manufacturing Extension Partnership (MEP) program, and $21 million for the Advanced Manufacturing Technology (AMTech) Consortia Program.

Research and Facilities

The FY13 NIST budget request for Scientific and Technical Research and Services (STRS) is $648 million, an increase of $81 million or 14.3 percent over the FY12 level, and contains an increase of $45 million in measurement science research for advanced manufacturing. The budget request also includes $20 million to establish four competitively selected Centers for Excellence in measurement science areas defined by NIST.

The Committee remains supportive of NIST STRS activities and recognizes the importance of these activities to the economic security of the country. However, while the Committee believes it is prudent to support a modest increase in STRS funding, it will continue to scrutinize the specifics of the FY13 request. The Committee will expect additional information from NIST on its proposed increases for measurement science research for advanced manufacturing to ensure that these programs remain pre-competitive and have the potential to result in significant innovations in the future.

The FY13 budget request for Construction of Research Facilities (CRF) is $60 million, an 8.3 percent increase over the FY12 level. CRF funding would support maintenance and repair of existing NIST buildings ($48.2 million) as well as continue the interior renovation efforts of Building 1 on the NIST-Boulder campus ($11.8 million). The Committee supports the completion of the renovations of Building 1, and believes funding for maintenance and repair of existing facilities should be prioritized over any new construction activity.

Industrial Technology Services (ITS)

The FY13 budget request for Industrial Technology Services (ITS) is $149 million, an increase of $20.6 million or 16 percent over the FY12 level.

The Committee believes the $128 million request for the Manufacturing Extension Partnership (MEP) program, a $0.4 million or 0.3 percent decrease from the FY12 level, is appropriate. The MEP program is a public/private partnership run by Centers in all 50 states and Puerto Rico that provides technical assistance for small and medium-sized manufacturers to modernize their operations and adapt to foreign competition. MEP Centers are supported by equal contributions from federal funds, state funds, and industry client fees.

The Committee continues to question the creation of the proposed Advanced Manufacturing Technology Consortia (AMTech) Program, which did not receive funding in FY12, and which has an FY13 request of $21.0 million. This program would establish industry-led consortia to identify and prioritize research projects supporting long-term industrial research needs. Continued scrutiny of this program and its funding request is necessary.

National Network for Manufacturing Innovation

The Committee has significant conerns about the creation of a $1 billion National Network for Manufacturing Innovation (NNMI). This proposed program exceeds the entire annual budget of NIST in a time of fiscal crisis. To date, the Committee has not received an adequate description of the program, its goals, or its parameters for success. The Committee will need to further scrutinize this request.

Wireless Innovation Fund

In FY13, the Administration has included a plan to invest broadband spectrum auction proceeds in a variety of areas, including providing NIST with up to $300 million for a Wireless Innovation (WIN) Fund to establish a competitive grant program designed to award grants for public safety communications research, development, and demonstration projects. NIST's participation is a piece of the $7 billion National Wireless Initiative included in the American Jobs Act. The Committee will thoroughly review the plans for this program, but is generally supportive of dedicating broadband spectrum auction proceeds to address both public safety communications research and development at NIST and deficit reduction.

Department of Homeland Security (DHS)

The Department of Homeland Security Science and Technology Directorate (DHS S&T) funds research, development, and testing and evaluation to improve the security of the Nation. The Domestic Nuclear Detection Office (DNDO) is dedicated to both the development and enhancement of the global nuclear detection architecture, the coordination of nuclear detection research and development, and the establishment of procedures and training for end users of nuclear detection equipment.

The FY13 budget request for DHS S&T is $831.5 million, an increase of $163.5 million or 24.5 percent from the FY12 level. Within DNDO, the FY13 budget is $328 million, a $38 million or 11.6 percent increase from the FY12 level.

The Committee recognizes the important role that research and development plays in supporting DHS's mission, and believes that the S&T Directorate should be provided with the resources it needs to keep our nation safe and our borders secure. However, in a constrained fiscal environment, it is essential that DHS gets the most out of each and every scarce dollar by providing tangible results that further the Department's mission, and coordinating with other agencies to maximize efficiencies. The Committee is pleased that the funding increase at DHS S&T is focused on the Research, Development, and Innovation (RD&I) account, and specifically R&D for DHS S&T's stated priorities: biological threat security ($135.4 million), cybersecurity ($64.5 million), explosives/aviation security ($119.7 million), and first responder technology development ($49.3 million).

The Committee notes that the DNDO FY13 budget request indicates a departure from the beleaguered Advanced Spectroscopic Portal (ASP) Program, and a shift towards a new "Commercial First" acquisitions strategy, as well as increased investments in Human Portable Radiation Detection Systems. This transition to a reliance on Commercial-Off-The-Shelf (COTS) technology, and increased prioritization of next generation Radio-Isotope Identification Devices (RIIDs) will require continued oversight of the Department's test and evaluation (T&E) operations and proposed concept of operations in order to ensure its success.

The Committee recognizes the value of both the Assistance to Firefighter Grants (AFG) and Staffing for Adequate Fire and Emergency Response (SAFER) grants to our Nation's fire departments. The AFG and SAFER grant programs are funded at $335 million each, a slight reduction from FY12 funding. The Committee is pleased that the Administration has provided parity in the funding requests for the AFG and SAFER grant programs in FY13, ensuring that the two programs can continue to serve their complementary purposes. However, the Committee remains concerned that the Administration continues to expand the SAFER program with the proposed creation of a $1 billion First Responder Stabilization Fund. The fund would provide assistance for the hiring of firefighters, with a preference on programs and policies that focus on the recruitment of post-9/11 veterans for firefighter positions. The Committee is concerned that the proposed fund exceeds the total funding for the AFG and SAFER grants combined, and would surpass historical appropriations for both grant programs.

The Committee supports the Administration's FY13 request for the United States Fire Administration (USFA) of $42.5 million. The Committee recognizes the USFA's important mission of providing leadership, coordination, and support for the Nation's fire prevention and control, training and education, and emergency medical services activities.

Environmental Protection Agency (EPA)

The Science and Technology (S&T) account at EPA covers research and development activities at the Agency's Office of Research and Development (ORD) as well as activities in other line offices. ORD activities represent 68 percent of the overall S&T budget, and the S&T account provides 96 percent of ORD funds. The FY13 budget request for S&T is $807.3 million, a 1.7 percent increase from FY12 levels. The request for ORD is $576.6 million, a 1.3 percent increase from FY12 levels.

The President's ambitious regulatory agenda relies heavily on EPA authorities, and appropriate use of those authorities is dependent on objective, transparent scientific and technical information. Unfortunately, Committee oversight efforts have identified numerous instances in which such information was distorted, withheld from scrutiny, and selectively used to advance a pre-determined agenda. As a result of EPA's advocacy-driven scientific activities and the lack of transparency in major environmental research funded by the Agency, the Committee sees fundamental reforms and adherence to the newly-developed Scientific Integrity Policy as a prerequisite to funding EPA research at even existing levels.

In addition to requesting $6 million for ongoing research on hydraulic fracturing and drinking water, the Agency has requested an additional $8 million as part of a $45 million effort with the Department of Energy and the U.S. Geological Survey to examine the impacts of hydraulic fracturing on air, water quality, and ecosystems. The budget provides very little information on what research topics or questions this funding seeks to answer, and the Committee views this indiscriminate, "kitchen-sink" approach as indicative of an Administration in search of evidence to support a precautionary policy, ignoring and sidestepping the expertise and authority of the States. Furthermore, the request for additional funds for new research on hydraulic fracturing has reduced funding available for research on pathogen exposure and drinking water technologies. Due to these concerns, as well as the Agency's haphazard and nontransparent approach to research conducted thus far on hydraulic fracturing, the Committee does not support any additional funding for EPA research in this area.

In light of the numerous problems with the Agency's Integrated Risk Information System (IRIS) that have been highlighted by the National Academy of Sciences, Government Accountability Office, and in testimony before the Committee, the Committee recommends that resources be directed to ensure that all ongoing assessments adhere to more rigorous peer review, as well as the requirements outlined in the conference report of the Consolidated Appropriations Act of 2012, as well as the recommendations in chapter seven of the National Academy of Sciences' Review of EPA's Draft IRIS Assessment of Formaldehyde. Despite EPA's assurances, recently-released IRIS assessments for dioxin and trichloroethylene have failed to incorporate these reforms, further undermining the credibility of the program. The Committee also notes concern with potential duplication and conflicts between the IRIS program and health assessment programs in other agencies. Although individual programs have unique charges and purposes, multiple assessments with differing conclusions may lead to confusion and unwarranted fear that does nothing to protect public-health and safety.

Also within ORD, the Committee is concerned that the request for an additional $2 million to support the creation of a new "Center for Innovative Estuarine Approaches" ignores budgetary decisions by partner agencies on estuarine research, and may unnecessarily duplicate efforts. Within the budget request for the Air, Climate, and Energy research program, the Committee does not support EPA's proposal to significantly increase funding for climate change-related activities, including $3.3 million in new funding requested for research on the interactions between climate change and air quality. The Committee views this request as an unnecessary and duplicative use of limited resources, demonstrated since similar research is already conducted by NASA and NOAA using the very models EPA proposes to use. Furthermore, despite technical challenges associated with final and forthcoming regulations on mercury and particulate matter, the Agency has proposed to eliminate its Mercury Research Program and to reduce funding for exposure assessment tools and particulate matter decision support tools by almost $2 million. The Committee is concerned that the Agency's research focus on potential air quality and environmental impacts from hydraulic fracturing and climate change is representative of EPA's future regulatory agenda and ignores the real technical problems created by existing regulations.

EPA has pledged to operationalize the National Academy of Sciences' recommendations on sustainability, and the budget states that "[t]he EPA will incorporate sustainability principles into our policies, regulations, and actions."[12] The Committee is concerned about the lack of a detailed and useful definition of "sustainability," and fears that attempting to incorporate a value-laden interpretation in Agency actions could undermine quality science and sober analysis.

Department of Transportation

Federal Aviation Administration (FAA) – Research, Development and Technology

The FY13 budget request provides $333.5 million for Federal Aviation Administration (FAA) research and development activities, plus an additional $20.5 million for related activities, adding to a total request of $354 million, a $68.8 million decrease (16 percent) compared to the FY12 request. Agency R&D is spread among four accounts:

1. The Research, Engineering and Development (RE&D) account (Aviation Trust Fund), with a FY13 request of $180 million, is $10.0 million less than the amount requested in FY12. RE&D conducts research to support a safe, efficient and environmentally

[12] *Environmental Protection Agency, FY 2013 Budget in Brief*, p. 63.

acceptable aviation system in four key areas: Improve Aviation Safety; Improve Efficiency; Reduce Environmental Impact; and Mission Support.

2. A portion of the Facilities and Equipment account (Aviation Trust Fund) supporting engineering, development, test and evaluation, with an FY13 request of $118.4 million, a $59.1 million decrease (33 percent) compared to the FY12 request.

3. A portion of the Airport Improvement Program account (Aviation Trust Fund) with an FY13 request of $44.3 million, the same as requested in FY12.

4. Office of Commercial Space Transportation, with an FY13 R&D request of $1 million, a $0.4 million increase (76 percent) compared to the FY12 request.

Office of Commercial Space Transportation (AST)

The FY13 budget request for the Office of Commercial Space Transportation (AST) (operations) is $16.7 million, an increase of $429,000 over FY12. AST is responsible for licensing and regulating commercial space launches and reentries to ensure compliance with standards designed to protect public safety. The Committee intends to conduct necessary and appropriate oversight of AST.

Office of the Assistant Secretary for Research and Technology

The Department of Transportation FY13 budget request has moved all activities currently performed by the ***Research and Technology Administration (RITA)*** to a new Office within the Office of the Secretary. The RITA Administrator would become the Assistant Secretary for Research and Technology.

The FY13 budget request for the research and development activities of the new Office of the Assistant Secretary for Research and Technology is $13.7 million, a decrease of $2.3 million, or 14.4 percent from the FY12 levels for RITA. The Assistant Secretary will be charged with coordinating and reviewing the Department's research, development, and technology portfolio. The Office has direct budgetary authority over salaries and administrative expenses, alternative fuels research and development, research and development and technology coordination, the Nationwide Differential Global Positioning System, and Positioning, Navigation, and Timing.

The Office also administers the University Transportation Center (UTC) program and the Bureau of Transportation Statistics.

The Committee is pleased that the Assistant Secretary will be playing a more significant role in coordinating research across the entire Department, and is supportive of the Secretary's increasing focus in the UTC program on longer-term research projects. The Committee remains concerned about the Department's focus on research programs such as Livable Communities at the expense of highway safety, infrastructure improvements, and congestion mitigation.

The Committee will continue its long-standing jurisdiction over Department of Transportation research activities through vigorous oversight of the new Office of the Assistant Secretary for Research and Technology.

Ralph M. Hall

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Judy Biggert

M.D.

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LIST OF SIGNATURES

1. Representative Ralph M. Hall
2. Representative James F. Sensenbrenner
3. Representative Lamar Smith
4. Representative Chip Cravaack
5. Representative Randy Hultgren
6. Representative Steven M. Palazzo
7. Representative Scott E. Rigell
8. Representative Michael T. McCaul
9. Representative Mo Brooks
10. Representative Larry Buschon
11. Representative Sandy Adams
12. Representative Frank D. Lucas
13. Representative Roscoe G. Bartlett
14. Representative Judy Biggert
15. Representative Paul C. Broun
16. Representative Andy Harris
17. Representative Charles J. Fleischmann
18. Representative Benjamin Quayle
19. Representative Dan Benishek
20. Representative Randy Neugebauer

Dana Rohrabacher

ADDITIONAL VIEWS
OF HON. DANA ROHRABACHER
COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY
FISCAL YEAR 2013 BUDGET REQUEST

American science and technology provides the basis for new industries, which increase the private sector workforce and improved the lives of millions of Americans. We must continue to enable our citizens to grow the economy, which is consistently the strongest in the world. This is difficult, when deficit spending and crushing debt threaten our nation's prosperity and freedom.

We must make every dollar count because we are borrowing 40 cents of every dollar the federal government spends. We must show restraint. We must not duplicate efforts across agencies and departments. And we must not continue to spend by mortgaging the futures of our children by borrowing from our friends and from our enemies. Although I agree with much of the Views and Estimates, there are some specific areas on which I wish to state a different view.

U.S. Global Change Research Program The Administration asks for more and more and more to spend on the U.S. Global Change Research Program (USGCRP), the government-wide program created by Congress in 1990 "to improve understanding of uncertainties in climate science, expand global observing systems, develop science-based resources to support policymaking and resource management, and communicate findings broadly among scientific and stakeholder communities." For FY 2013 the requested increase is 5.6% over FY 2012. These funds are requested directly in the budgets of NASA, NSF, NOAA, NIST, DOE, and other departments.

I must continue to be clear and direct - the entire budget for this program should be zeroed out. Federal global warming research is not reducing uncertainties in climate science. The research is not changing minds. If we spend $2.6 billion in FY 2013, 40% of which we borrow from overseas, it will change zero minds about global warming. Every dollar spent on this is a dollar wasted. This path, which the Administration refuses to leave, is irrational and reckless.

National Aeronautics and Space Administration The budget request for Fiscal Year 2013 for the National Aeronautics and Space Administration (NASA) is significantly lower than expected by the NASA Authorization Act of 2010 (P.L. 111-267).

With our Exploration program, we are repeating history. Not the history of Apollo, but the history of Constellation. The funding is inadequate to the mission. The plan didn't fit under the expected funding level, and now that we have considerably less to work with we refuse to acknowledge reality. The single most important message of the Augustine

Commission was that you cannot succeed when your mission does not match your funding. The Administration continues to say that the SLS will fly in 2017 despite this significant budget pressure, but I remain skeptical.

I agree with the Committee that it is "unacceptable for the U.S. to rely on the Russian Soyuz system for the remainder of the ISS program" for crew transportation, but I strongly disagree about their suggested solution. In order to fix this problem we must fully fund the commercial crew program at the requested $830 million. Commercial crew is our most critical near-term civil space goal, and it's time we acted like it. We underfund this critical program, and then complain that it isn't progressing quickly enough.

Our use of the $100 billion International Space Station hangs in the balance. We currently rely on the Russians, who have been good partners, but the Soyuz is a single point of failure. We have it within our grasp to create redundancy by creating multiple, independent, sustainable systems that can bring people safely to orbit and return them to Earth. And NASA is spending $450 million for crew access to ISS every year that we fail to create domestic, private sector crew transportation. The increase of $330 million in this program above authorized levels is small relative to the potential gain for NASA, America, and humanity.

We continue to hear that the SLS/MPCV system will serve as a back-up for Earth-to-orbit transportation in the unlikely event that none of the other systems in development are successful. The FY 2013 request for this "back-up system" is 280% of the request of the primary system. By acting on this type of faulty logic, we have created a national debt as large as our GDP and still our nation refuses to take its foot off the deficit spending accelerator.

Department of Energy The Nuclear Energy R&D programs request continues the trend of maintaining the past instead of creating the future. In FY 2011, DOE's high temperature reactor programs - which include fast spectrum reactors, NGNP, and other advanced reactors - accounted for nearly 25 % of the DOE nuclear energy program, while in this request it is less than 15 %. During that same time, light water reactor programs have increased from 36 % up to 42 % of the program.

While the $65 million request for the SMR program shows that we are moving forward on some fronts, it will be disappointing if that program only funds light water reactor designs.

This request doubles down on old technologies and slows down on new technologies. We should accelerate the design and construction of commercially viable fast spectrum reactors, which can create vast amounts of energy while consuming 97% or more of the so-called waste material. We, as a nation, are pursuing a strategy of dumping nuclear waste in a deep hole instead of using it as the energy resource it is. We should partner with industry to pursue these technical advancements to enhance our energy future.

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Tuesday, March 6, 2012

THE HONORABLE RANDY NEUGEBAUER (R-TX)
U.S. House Committee on Science, Space, and Technology

Additional Views: Fiscal Year 2013 Budget

Chairman Hall:

The U.S. national debt reached $15 trillion last year, meaning that our irresponsible spending has now given each citizen a $50,000 share of our debt. Unfortunately, while European countries' debt crises are providing examples of the unsustainable road we are following, Washington has failed to make even the slightest dent in our habit of overspending. The President's budget request for Fiscal Year 2013 forces us even further down the path toward a major debt crisis. This proposal is yet another example of the Administration's intention to drastically increase spending and run massive deficits year in and year out.

The President proposes increasing all non-defense and non-health specific research and development spending by 8.7 percent over FY12 levels, for a total of $37.9 billion. This is fundamentally unsustainable, particularly at a time when the United States is borrowing 40 cents for every dollar we spend. While research and development funding in many scientific endeavors can have positive results, we must heavily scrutinize every single dollar of hard-earned taxpayer money that we send out the door. Unfortunately, our habit of repeatedly increasing spending each year cannot continue in our current fiscal environment, and research and development funding is no exception.

Specifically, the president proposes $27.2 billion for the Department of Energy (DOE) in FY13. This is an increase of $856 million (or 3.2 percent) over FY12 levels. Roughly one third of this is directed to DOE's research and development programs. The DOE Office of Science request is $5 billion, representing an increase of 2.4 percent. While this office does perform important R&D activities, I believe that we must expect greater austerity and more effective leveraging of federal dollars by better utilizing private and university partnerships. It is absolutely essential that we end our pattern of enormous yearly increases in expenditures. Spending cuts at DOE and the Office of Science must be part of that plan.

The case can be made that many federal programs merit additional appropriations. Yet I refuse to pass this massive burden of debt and an ever-expanding federal government to our children and grandchildren. Some cuts in spending may be painful, but every program must be on the table. Unfortunately, the President's FY13 budget request reinforces his pattern of massive spending and record deficits.

Sincerely,

Randy

Randy Neugebauer
Member of Congress

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Additional Views and Estimates

Congressman Mo Brooks

Committee on Science, Space and Technology

Fiscal Year 2013

National Aeronautics and Space Administration:

The NASA Authorization Act of 2010 authorizes $2.64 billion for the Space Launch System (SLS) and other *necessary* support for FY 2013. The President's FY 2013 Request allows for only $1.3 billion for SLS, attributing the decrease to a diversion of approximately $405 million to a new account entitled Exploration Ground Systems. While ground systems support is necessary for SLS, I continue to have concerns that the amount of funding being diverted to the Exploration Ground Systems account may not be fully necessary at this time and will continue to seek clarification on this issue.

According to Section 302 of the Authorization Act, the NASA Administrator "shall, as soon as practicable after the date of the enactment of this Act, initiate development of a Space Launch System meeting the minimum capabilities requirements specified in subsection (c)." Furthermore, per Section 302(c)(1)(D), the Space Launch System shall have, at a minimum, "The capability to serve as a backup system for supplying and supporting ISS cargo requirements or crew delivery requirements not otherwise met by available commercial or partner-supplied vehicles."

In addition, the Act states that the Administrator "shall continue the development of a multi-purpose crew vehicle to be available as soon as practicable, and no later than for use with the Space Launch System." I am pleased to see that the SLS and MPCV are finally underway but fail to see where this directive was carried out "as soon as practicable."

Furthermore, the Act states that the Administrator "shall ensure critical skills and capabilities are retained, modified, and developed, as appropriate, in areas related to solid and liquid engines, large diameter fuel tanks, rocket propulsion, and other ground test capabilities for an effective transition to the follow-on Space Launch System." Also related to this, Section 306 of the Act states the following:

> (a) Report Required--Not later than 120 days after the date of the enactment of this Act, the Administrator shall submit to Congress a report setting forth an assessment, prepared by the Administrator, in consultation with the Secretary of Defense and the Secretary of Commerce, of the effects of the retirement of the Space Shuttle, and of

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the transition to the Space Launch System developed pursuant to section 302, on the solid rocket motor industrial base and the liquid rocket motor industrial base in the United States.

(b) Matters To Be Addressed.--In preparing the assessment required by subsection (a), the Administrator shall address the following:

(1) The effects of efficiencies and efforts to stream-line the industrial bases referred to in subsection (a) for support of civil, military, and commercial users.

(2) The extent to which the United States is reliant on non-United States systems, including foreign rocket motors and foreign launch vehicles.

(3) Such other matters as the Administrator, in consultation with the Secretary of Defense and the Secretary of Commerce, may consider appropriate.

The intent of Congress is clear, and I am concerned that NASA continues to overfund programs such as Commercial Crew Development while underfunding the Space Launch System. The President's FY 2013 budget request for Commercial Crew is $829.7 million, $329.7 million *above* the amount authorized for FY2013 by the 2010 Authorization Act.

While it is good for the private sector to build commercial capabilities, it is a critical matter of national security that the United States maintains government access to space. This sentiment is echoed in Section 2 (9) of the 2010 Authorization Act, which states that "While commercial transportation systems have the promise to contribute valuable services, it is in the United States national interest to maintain a government operated space transportation system for crew and cargo delivery to space."

NASA, by law, continues to be a civilian space agency; however, the existence of dual use technologies and the liquid and solid rocket motor industrial base inherently tie the space agency with U.S. military capabilities. The Authorization Act states that "In the 50 years since the establishment of NASA, the arena of space has evolved substantially. As the uses and users of space continue to expand, the issues and operations in the regions closest to Earth have become increasingly complex, with a growing number of overlaps between civil, commercial and national security activities. These developments present opportunities and challenges to the space activities of NASA and the United States."

By continuing to divert funds from SLS, this Administration puts America at risk of indefinite reliance on the Russians for access to space. Meanwhile, countries such as China seek to develop military capabilities under the auspices of a civilian space agency and make no apology for this. Yet this Administration apparently fails to recognize the importance of United States government access to space. This is very troubling to me, and I will continue to closely monitor the progress of the SLS and MPCV.

Mo Brooks

Rep. Hultgren - Additional Views and Estimates of President Obama's Budget Request for Issues within the Jurisdiction of the Committee on Science, Space and Technology.
March 8, 2012

I truly believe the story of American exceptionalism is a story of our investments in basic research and exploration. And I do not believe that the President's budget takes us there; in fact, I believe it undercuts that investment.

First, with regard to NASA, the President has decimated our Mars exploration budget, cancelled our plans to return to space exploration, and left us entirely dependent on the Russians with no contingency plans. And that is just his proposal for NASA; his proposal for fundamental science research and our national labs is even worse.

I am deeply troubled by the administration's lack of commitment to basic science research. Within the Department of Energy, the Office of Science received a modest 2.4% increase, well below the rate required to double its investment over the next 10 years. The story for dedicated High Energy Physics is worse.

The Administration's budget is not only unsupportive of Fermilab, it actively undermines both the current operations and future of the lab. The Long Baseline Neutrino Experiment (LBNE) represents a strong flagship project for the future of the lab, and the administration's request would essentially end it. The President has proposed a nearly 10% cut to Fermilab's budget. Fermilab is our nation's only single purpose high energy physics lab, and I view the President's request as a slap in the face to the lab's legacy of scientific achievement.

Specifically, the administration's FY2013 budget for Fermilab is $365,000,000, a $30,000,000 cut from the current budget levels. The huge cut from Fermi's operations will have severe consequences for both staffing levels and their scientific program, which are inextricably intertwined.

Our national labs and the lack of commitment from the President for all forms of basic research at the other labs and other programs is similarly disheartening.

Moreover, it's not as if the President is proposing to cut spending across the board and science and NASA happen to be a casualty; no. The President is still trying to grow government and increase spending by hundreds of billions of dollars; he just happens to be proposing cuts to one of the few productive areas of government to pay for his expansion. And that is shameful.

And it's shameful because High Energy Physics and our broader scientific portfolio go beyond parochial interests and local politics; these endeavors are inextricably linked to both our national success and, fundamentally, our national character. Unfortunately, in addition to the President proposing cuts to High Energy Physics and Fermilab, he's also shown lukewarm support for the Department of Energy's Office of Science, all while his political pet projects like Solyndra style green energy gambles receive 30% increases.

And it's on this point that I think a constituent physicist of mine phrased it best: science is divided into "Edisonian" science – the research that leads to light bulbs and other tangible inventions – and "Einsteinian" science that not only seeks answers to questions about the nature of our world, but also provokes new questions.

American free enterprise and the private sector do an outstanding job of the Edisonian science, and our national labs have done an incredible job of the fundamental Einsteinian science. However, the President's budget sacrifices "Einsteinian" science at the political alter of trying to compete with the private sector and pick market winners.

Science requires a certain infrastructure. And the President's budget undermines the core part of this infrastructure; a part of the infrastructure that drives long-term economic growth and innovation. It is no accident that our investments in these various NASA and science endeavors in the 60s and 70s lead to that generation of adolescents creating companies like Microsoft, Apple and Amazon in their adult years. I fear our short sightedness now will cost us the leading companies of the future.

The U.S. research system is unique. We've found an incredibly powerful combination, wedding education and research by incorporating universities, user facilities and Department of Energy resources. With a pedigree spanning over half a century, it is self-evident that this basic research drives our understanding of the universe and our economic growth. These are new ideas and new innovations that spawn new products, new services, new companies and new industries.

But this system is only as stable as our commitment to it, which is why sustained and predictable research funding is crucial. The 2007 reorganization under America COMPETES was a good first step, but Congress must redouble its efforts to provide a clear, predictable, long-term path mapping out the seriousness of our investment. The President's budget represents a backward trend in this front.

With growing competition from overseas and economic uncertainty here at home, it is more important than ever that we reinforce our national commitment to basic research. Our long-term success in economic innovation, problem-solving, and inspiring future generations of Americans depends on it.

Europe now leads us in physics, China leads us in solar technology, India leads us in job creation, and we rely 100% on the Russians to get us into space. To say this concerns me is an understatement. I believe the seed corn for turning all of this around is our investment in both basic research and NASA's exploration. The President's budget request, however, undercuts both of those activities by sacrificing our seed corn to his political talking points. We must not let this continue.

Minority Views of the Democratic Caucus of the Committee on Science, Space, and Technology on the FY2013 Budget Request

We are pleased to see that the President's budget for FY2013 continues to propose investments in this Nation's future even as it takes steps to reign in the government's long-term deficit challenge. All of us believe that investing in the future of America--in its infrastructure, in research and innovation, and in the education of our children and workforce--represents the most important step the Federal government can do to ensure long-term economic success for the American people.

Cutting these investments would be detrimental to our capacity to balance the budget in the long-term and to sustain a high quality of life. Imagine parents who are able to send their children to college but choose not to do so because they want to cut back on family expenses. Based on average outcomes, such a decision would consign those children to a lifetime of reduced earnings--the latest census finds that annual earnings for a college graduate are approximately $51,000 while those for a high school graduate are just $28,000. So it is with the Nation. Balancing the budget through cuts to investments in infrastructure, education, and research and development would leave us poorer as a society with a harder road towards meeting our debts and growing our economy.

Therefore, we cannot support the Majority's Views and Estimates that are being submitted to the Committee on the Budget.

One overarching problem with the Majority's Views and Estimates is their lack of consistency on the issue of basic research versus technology investments. It seems that the only programs the Majority supports are basic research, except when the applied technology program--for example at NASA or in DOE nuclear technologies--involves a program they like. Our view is that a broad and balanced portfolio of investments, at all levels of research and development and across the full range of fields is a necessary condition for a robust national science and engineering enterprise. While we certainly prefer some investments over others, we have no ideological blinders when it comes to seeking benefits for the American taxpayer or American business.

Our view is informed by an appreciation that this country's economic success has always hinged on a creative interaction between government and the private sector. America's historical approach towards economic development has been pragmatic. Government--whether at the local, State, or Federal level--has taken steps to encourage private capital to support public goals and has used its revenues in part to make investments that will support private initiative. This approach represents neither a managed economy nor free-wheeling markets. Instead, public interest and private interest work together for mutual benefit, and the result has been one of the great economic miracles of the modern age.

Reflecting on the elaborate systems that tie our communities together into the most accomplished and dynamic country in the world, there is not a single system that has not involved significant government actions to improve its effectiveness of safety. Our Nation's entire infrastructure--its ports, airports, national airspace, railways, waterways, roads and highways, drinking water and sewer systems, telecommunications systems, information systems, and energy distribution systems have been established and maintained through collaboration between private capital and government. Increasingly, successful public-private collaborations in all of those areas have benefited from federal investments in science and technology.

We thus strongly encourage the Budget Committee to work to find the space in the budget to protect a diverse, robust, and wide-ranging set of research and development activities, and science, technology, engineering, and mathematics (STEM) education programs. Despite claims to the contrary, there is no evidence that any of the programs called out for cuts in the Majority's Views and Estimates are duplicative or ineffective or stray beyond the bounds of what Congress authorized agencies to do. While some of us have differences with the Administration on specific programs and activities, we endorse in the strongest possible terms the Obama Administration's budget request for the broad budget functions used by the Budget Committee for the purposes of meeting your obligations under the Budget Control Act.

We include some specific comments regarding agency-level issues as part of these Minority Views and Estimates. While we appreciate that some of these comments are at too fine-grained a level to inform your work, we include this material to help elucidate some areas of concern or disagreement with the proposed budget or with comments made by the Majority.

PROGRAMMATIC COMMENTS ON THE FY2013 BUDGET FOR SCIENCE AND TECHNOLOGY

Science, Technology, Engineering, and Mathematics (STEM) Education

In December, the Office of Science and Technology Policy (OSTP) in the Executive Office of the President released an inventory of Federal STEM programs required by the *America COMPETES Reauthorization Act of 2010*. In total, 13 agencies reported 252 distinct investments in STEM education for a total of $3.4 billion in FY 2010. OSTP will complete its detailed STEM strategic plan this spring. A recent GAO report, requested by Chairmen Kline and Hunter, is consistent with OSTP's findings and expresses support for OSTP's STEM education strategic planning and evaluation efforts.

Due to the phasing out of a large program at the Department of Education (ED) and the consolidation, and/or phasing out of a number of smaller programs across the government, the total request for FY 2013 is $2.95 billion, a 2.6 percent increase from FY 2012. The total number of programs in FY 2013 would stand at 209. We support this overall level of funding as well as OSTP's ongoing effort to evaluate and lead a reorganization of these important activities.

Of the approximately $3 billion in federal funding for STEM education, one-third is spent on activities--primarily scholarships and research experiences for undergraduate and graduate students--that specifically target the unique workforce needs of science mission agencies. As the current wave of retirements at our federal science agencies continues to be a challenge for these agencies, we support full funding for these STEM workforce development programs.

Of the remaining $2 billion spent on broader STEM education, much less than $1 billion is targeted to K-12 learning audiences and K-12 teacher professional development. The remainder is directed to strengthening STEM education and opportunities in higher education and to education research at the National Science Foundation (NSF) and ED. Approximately $1 billion of the total across program types and audience levels is spent on activities with the primary goal of targeting groups that are underrepresented in STEM. We go into this level of detail primarily to serve as a counterpoint to the Majority's tendency to imply that the Federal government is spending $3 billion on K-12 STEM education alone.

A number of the mission agencies, including the National Oceanic and Atmospheric Administration (NOAA), the Department of Energy (DOE), the Environmental Protection Agency (EPA), and the National Aeronautics and Space Administration (NASA), take 20 percent or larger cuts to their respective STEM education budgets, while ED would see a 21.5 percent increase and NSF would see a 3.4 percent increase. Until OSTP's STEM strategic plan is available for review and evaluation, it is hard to offer specific guidance on agency-by-agency STEM funding levels. However, as a general matter, the Committee has had concerns in the past about over-reliance on ED for STEM initiatives because of its history of checkered accomplishment in this area. We are aware of Secretary Duncan's passion for this issue, but we are also mindful of organizational interests and limits that tend to outlast even the most inspiring of Cabinet Secretaries, and that leads us to believe that agencies with a stronger track record might be better positioned to keep these STEM initiatives going.

National Science Foundation (NSF)

Overall, the NSF budget request would see a 4.8 percent increase to $7.37 billion, including a 5.2 percent increase for Research and Related Activities (R&RA) and a 5.6 percent increase for Education and Human Resources (EHR). This is the first time in recent memory that EHR will see a greater relative increase than R&RA. We support these funding requests. Also for the first time in memory, NSF is requesting a flat budget for its Agency Operations and Awards Management. We support this request with some reservations about the agency's ability to find such savings in operations after several years of flat funding while the research budgets have grown. We support the proposed budget for ongoing construction of the National Ecological Observatory Network (NEON), as well as the funding for the remaining major research facility construction projects.

We note the Majority's concerns that NSF needs to better explain the rescoping of the Science, Engineering and Education for Sustainability program. However, we remain supportive of NSF's role in fundamental research on the environment and sustainability science and engineering, including areas of research critical to understanding, predicting, and responding to global climate change. We believe that NSF's level of support in these areas of research is appropriate given both the challenges and NSF's mission.

The Innovation Corps (I-Corps) program is a public - private partnership that connects NSF-funded researchers with the technological, entrepreneurial, and business communities to help identify basic research that could be used as emerging technology concepts that hold the promise of transitioning, after several more steps, into new companies and jobs. The Majority calls this picking winners and losers; we could not disagree more. I-Corps sits on the boundary of the core mission of NSF to support basic research. But it fills a much-needed gap that no other agency is better suited to fill and that the universities themselves are too cash-strapped to fill. We support the proposed level of funding for I-Corps.

NSF is proposing significant changes for its Education and Human Resources Directorate, including realignment of the four subdivisions of EHR and creation of two new cross-directorate initiatives: Expeditions in Education and the Core Launch Fund. At the same time, NSF is proposing flat funding for several STEM education programs that are long-standing priorities of this Committee, including the Noyce Teacher Scholarship Fund, the Math and Science Partnerships program, the Advanced Technological Education program, and the full suite of programs targeted primarily to broadening participation in STEM. We are particularly concerned with the significant cut to informal STEM education at a time when every science mission agency is also proposing cuts to its respective informal STEM education activities.

We support NSF's ongoing efforts to strengthen the quality, coherence, focus, and management of EHR programs. The Expeditions in Education initiative will strengthen the collaborations between EHR and the R&RA Directorates, and between EHR and other agencies, in particular the Department of Education. We reiterate our concern, however, that collaboration not lead to an increasing role for ED at the expense of NSF. The Core Launch Fund is consistent with a House-passed provision in the *America COMPETES Reauthorization Act of 2010* that called on NSF to work with the research community to define grand challenges in education research and to make those grand challenges a priority in their education research portfolio. Having said that, we believe that $20 million seems excessive for this effort and some of those funds might be put to better use in increasing support for the previously mentioned ongoing programs that have been cut or held flat.

National Aeronautics and Space Administration (NASA)

Successive NASA Authorization Acts have directed that NASA implement a balanced portfolio of science, aeronautics, human spaceflight, and that NASA pursue a stepping stone approach to human exploration of the solar system that includes the Moon, near-Earth asteroids, Lagrangian points, and Mars. The overall funding level in the FY 2013 NASA budget request, while lower than a number of our Members think is needed, is reasonably good in light of the overall budget constraints. However, some of our Members are concerned that the mixed signals about programmatic priorities shifting from last year to this year need to be clarified and raise concerns about how priorities are being set for the Agency and what the Agency most hopes to achieve.

The Administration request would fund NASA at a level of $17.7 billion, a $58.6 million reduction from the FY 2012 appropriation (when the $30 million recission is included). NASA indicates that the FY 2013 budget request is designed to fund the agency's stated priorities and major elements of the NASA Authorization Act of 2010. Within that total amount, NASA's Science program is cut by $162.5 million, or about 3.2 percent from the FY 2012 appropriated amount and within the Science account, the funding for Planetary Exploration is cut by $309 million or about 21percent; funding for Aeronautics is cut by about 2 percent; funding for the Space Launch System/Multipurpose Crew Vehicle (SLS/MPCV) is cut by several hundred million dollars or about 12.5 percent; NASA's Education program is cut by $36 million or about 26 percent; and funding for the institutional needs of the agency and its field Centers is cut by almost 5 percent. The account that is increased the most in the budget request is the Commercial Crew Program, whose budget would more than double (from an FY 2012 appropriation of $406 million to a requested level of $830 million). In addition, the Space Technology account (which includes SBIR/STTR as well as technology R&D programs) would be increased by about $125.3 million (21.8 percent). When compared to the NASA Authorization Act of 2010, both the proposed cuts and the proposed increases are inconsistent with the Act's authorization levels for the accounts mentioned above.

Mars Exploration. In the area of Mars exploration, the Administration is signaling a significant departure from prior plans. The FY 2013 budget request for Mars exploration is $361 million, a $226 million decrease (about 39 percent) from the amount appropriated in FY 2012. More significantly, projections for future year budgets show even more drastic reductions. NASA has indicated it will no longer participate with the European Space Agency in previously agreed-to collaborative Mars missions in 2016 and 2018 and has initiated an analysis of how it can implement an integrated strategy for long-term human and robotic exploration of Mars. We are concerned that this course of action will result in a stand-down in developing Mars missions, or at least those that address top scientific priorities, and could also result in a loss of highly critical capabilities in landing and operating spacecraft on Mars, a capability that at present only the United States possesses. We are also concerned about the potential negative message we send to our long-term partners by stepping back from planned collaborations on joint missions with them, especially at a time when fiscal pressures argue for increased and enhanced international collaboration in undertaking challenging missions.

Human Spaceflight and Supplying the International Space Station (ISS). The Administration's funding request for development of a Multipurpose Crew Vehicle (MPCV) and a Space Launch System (SLS) is hundreds of millions of dollars less than the amount appropriated in FY 2012 and significantly below the authorized amounts for those programs in FY 2013. Making such cuts is typically not consistent with providing programmatic stability to an ongoing vehicle development program. NASA indicates that the FY 2013 funding requested for the MPCV and SLS, coupled with projected funding through FY 2017, will enable the agency to conduct unmanned test flights in FY 2014 and 2017. Despite direction in the NASA Authorization Act of 2010 that the MPCV/SLS system be developed on a timetable to allow it to serve as a back-up transportation system for crew and cargo to the ISS, NASA so far has taken no steps nor allocated any funding to address that Congressional requirement.

As noted above, the request for development of commercial crew transportation capabilities to low Earth orbit and the ISS is more than twice the FY 2012 appropriation level and $330 million higher than that authorized for FY 2013. This increased request for commercial crew development comes shortly after conferees noted in the Joint Explanatory Statement accompanying the FY 2012 appropriations that "significant unanswered questions remain about the long-term viability of the commercial space market" and provided $406 million for FY2012, less than half the requested amount for that year. NASA has not yet provided an independent cost and schedule estimate for its commercial crew program.

National Institute of Standards and Technology (NIST)

The FY 2013 budget for NIST includes an increase of $106.2 million (14.1 percent) from FY 2012.

Manufacturing. More than half of the proposed increase in funding would be focused on advanced manufacturing research. As part of this expanded focus on manufacturing, the budget proposes the creation of the Advanced Manufacturing Technology Consortia (AMTech) which would be focused on the creation of industry-led public-private consortia to identify research projects supporting long-term, precompetitive industrial research needs in advanced manufacturing. AMTech was first proposed as part of the FY 2012 budget, but was ultimately not funded by Congress. We believe that the Majority has not been supportive of the concept due to concerns about the appropriate role of the Federal Government in funding research by the private sector. The budget also proposes $1 billion in mandatory funding to NIST for the establishment of a National Network for Manufacturing Innovation (NNMI). The budget describes NNMI as collaboration between NIST, the Department of Defense, the Department of Energy, and the National Science Foundation to promote the development of manufacturing technologies with broad applications. While we await more details on this collaborative proposal, as a general matter we strongly encourage the Budget Committee to provide sufficient allocations to fund manufacturing technology initiatives designed to create American jobs and support American businesses.

Cybersecurity. The budget request for FY 2013 once again supports NIST's important cybersecurity activities. We strongly support NIST's longstanding responsibilities relating to cybersecurity and remain committed to ensuring that NIST's technical expertise in this area, particularly as it relates to the development of cybersecurity standards and guidelines for Federal agencies and U.S. industry, continues to be an integral part of the Federal Government's cybersecurity efforts.

Forensic Science. Since the release of the National Research Council's report on forensic science more than three years ago, we have been committed to improving forensic science in the United States and have been particularly interested in identifying the appropriate role for NIST in accomplishing this goal. For this reason, we are pleased that the FY 2013 budget request focuses on enhancing the scientific validity of forensic evidence and enabling reliable and accurate forensic practice through the development of new measurement tools and stronger measurement methodologies.

Technology Innovation Program. Our Members are disappointed that, for the first time in 25 years, NIST will not be operating a program providing early stage investment to accelerate the development of innovative technologies with the potential for significant commercial payoffs. While we understand that the decision to end the Technology Innovation Program (TIP) was forced upon NIST by Congress in the FY 2012 appropriations bill, we are concerned about the void created by the termination of this promising program and its future implications for economic growth and jobs. We hope to work with the Budget Committee, our other colleagues in Congress, and the Administration in finding an appropriate replacement for TIP as soon as possible.

National Oceanic and Atmospheric Administration (NOAA)

The National Oceanic and Atmospheric Administration's (NOAA) budget request for FY 2013 is $5.1 billion, a 3 percent increase ($154 million) over the FY12 enacted levels. The President's Request for NOAA reflects numerous tough choices, resulting in program terminations and budget cuts that include cutting the NOAA Education Program by more than half (a $14 million decrease) and terminating the National Mesonet.

Satellites. The bulk of the NOAA increase is for the Procurement, Acquisition, and Construction of the Geostationary Operational Environmental Satellite – R Series (GOES-R), which gets a $186 million increase. GOES-R is scheduled to be launched in 2015. There is a decrease of $34 million for the Joint Polar Satellite System (JPSS), formerly the National Polar-orbiting Operational Environmental Satellite (NPOESS) and its climate sensors We understand and support the necessity of this ramp-up in funding for GOES-R in order to ensure that it is ready for launch by 2015. However, we remain concerned about ensuring adequate funding requests to keep JPSS-1 on track, as well as the potential data gap between the current Suomi National Polar-orbiting Partnership (Suomi NPP) satellite and the launch of JPSS-1.

National Weather Service. The National Weather Service is the only line office within the agency to receive a significant decrease in funding. In the FY 2013 budget request, NWS receives a $30 million decrease in the operations and research budget for local warnings and forecasts during a time of increased severe weather around the country.

While we generally support the President's request for NOAA, we are concerned that funding for the NWS and JPSS may be insufficient to meet the Nation's needs and provide the best warnings and forecasts, but we must await more details from the agency before we can make a final decision on these specific requests.

Environmental Protection Agency (EPA)

The EPA R&D account includes a modest $8 million increase that reflects investments in many of our Committee's priorities. The Science and Technology account shifts priorities, with increases in some areas and decreases in others. The proposed decreases will still allow EPA to maintain much of its intramural research activities.
Despite claims in the Majority's Views that they have conducted oversight revealing weak science at EPA, the record reviewed to date largely reveals that EPA's problems with science have been a result of underfunding of its research enterprise and lack of a sufficient degree of independence to carry out its day-to-day activities. No facts that have been brought before the Committee would lead to a reasoned conclusion that the way to fix EPA is to cut its science budget. We support the Administration's request for EPA's R&D account.

Department of Energy (DOE)

We understand that prioritization is important in a time of fiscal austerity. This theme appears to be reflected throughout the Department of Energy's budget as a number of programs are slated to sustain large cuts while others see significant boosts in support. This is a significant departure from budget requests of recent years which typically included steady increases of varying degrees for most programs. In fact, the overall request of $27.1 billion for DOE is considerably less ambitious than last year's request of $29.5 billion. Generally, we agree with the budget's shift towards more of a focus on emerging "clean" energy technology research, and less of a focus on technology development for the conventional and commercially-mature energy sectors. However, we do not agree that this is the appropriate time to make substantial cuts to fundamental basic research activities within the Office of Science, and we urge the Budget Committee to allocate sufficient funding to sustain the research communities and world-class facilities it supports.

Our over-reliance on foreign, heavily-polluting, and finite sources of energy and on a rapidly aging energy infrastructure threaten our national security, economic well-being, and environmental health, as well as our standing as the world leader in technology development. Now, more than ever, it is critical for the U.S. to invest in an energy research and innovation system that matches the scale and complexity of the energy challenges we face. The path is simple. Federal investment in research leads to technological innovation, which in turn leads to economic development, well-paying jobs, and a more sustainable future.

The DOE Office of Science is the nation's primary supporter of basic research in the physical sciences, operating 10 of DOE's National Laboratories, and supporting roughly 25,000 government, academic, and industry researchers from all 50 states in facilities both here and abroad. It supports research in fields as diverse as materials science, biology, nanotechnology, plasma science, and supercomputing – all of which are essential to the development of advanced energy technologies - as well as fundamental research in particle and nuclear physics. The Office of Science oversees the construction and operation of some of the world's most advanced R&D user facilities, including supercomputers, particle accelerators, x-ray light sources, and neutron scattering facilities that enable the examination of materials and chemical processes for a wide range of industrial and basic energy research applications. We are concerned that a number of cuts proposed in this budget will force these facilities to reduce, suspend, or terminate operations, and thus greatly hinder our ability to maintain U.S. technological competitiveness, develop new energy solutions, and educate the next generation of scientists, innovators, and technicians.

We support the request for the Office of Science's Biological and Environmental Research (BER) and feel strongly that its activities are consistent with the Department's mission. BER focuses on generating breakthroughs in biological system science critical to development of biomass-based liquid transportation fuels, biobased products, and bioenergy. Furthermore, BER conducts research to understand the fundamental science associated with climate change, as well as DOE's environmental challenges related to legacy nuclear waste management. Congress authorized DOE to conduct climate research in the Global Change Research Act of 1990. As with the other agencies in the US Global Change Research Program, there are unique and indispensable technical and scientific capabilities found only at DOE. Furthermore, in its charge to support the development of a national energy system that is both secure and environmentally sound, the Department must anticipate the effect of these systems on the future global climate. We do not agree that climate change is a subject unworthy of study and reasoned action based on knowledge.

Investments in the Office of Energy Efficiency and Renewable Energy serve to strengthen U.S. scientific and economic leadership by advancing innovation in a range of technology areas, supporting the next generation of scientists and technology leaders, seeding the industries of tomorrow, and ultimately laying the groundwork for a cleaner, more sustainable energy future. We do not agree with those in the Majority who think that increased investments in energy efficiency or in non-fossil fuel sources of energy are ill-considered. We recognize that precious taxpayer dollars are better leveraged in a constrained budgetary environment by increased investment in research on the clean energy technologies that EERE focuses on, and less on the conventional energy sectors that have already enjoyed decades of government support and resulting commercial success. While we commend the Administration for prioritizing its innovation programs by shifting some resources away from commercially-mature areas within EERE, we are concerned that additional cuts to EERE would limit the program's ability to pursue emerging research areas, and ultimately do lasting harm to our ability to meet our energy objectives and compete in the global marketplace.

Every Member feels the pressure to act to bring down energy prices now and insulate our economy from future price shocks. With less than 8% of technically-recoverable global oil reserves, the U.S. cannot drill its way to energy independence, regardless of the technological advances in drilling. Furthermore, oil, gas, nuclear, and coal have benefitted from decades of direct taxpayer support and are now among the most profitable industries in the world. Members recognize the value of these industries to the U.S. economy, and understand that some continued taxpayer-funded research can yield improvements in efficiency and environmental impact. However, Democratic Members believe that a better balance must be achieved within the DOE research portfolio.

It is also time to take seriously the need to modernize our energy infrastructure and transition away from outdated technologies. We have extended the lifetimes and stretched the infrastructure's capacity to the point where massive new investments will be needed in the near future. We understand we must take this opportunity and leverage our resources to transition to a new, cleaner, more efficient, and "smarter" energy grid that gives both energy suppliers and consumers more control, and therefore we support the President's request for the Office of Electricity Deliverability and Energy Reliability.

Finally, ARPA-E has been an undeniable success. If allowed the time and resources to thrive, ARPA-E may well represent the first of a new generation of smaller, more agile and effective, and more efficient research programs. ARPA-E is oversubscribed, seeing far more good ideas than it can afford to sponsor. For ARPA-E to be effective, it must continue to grow beyond its relatively modest current level of $250 million, and because of its structure it is well-suited to do so. Therefore we support the proposed increase in the President's budget request.

Department of Homeland Security (DHS)

The FY 2013 budget for the Department of Homeland Security's Science and Technology Directorate is $831.5 million, a $163.5 million (24.5 percent) increase over FY 2012 levels. This funding level would return the S & T Directorate to its FY 2011 funding level, which was still $180 million less than the funding level in FY 2010.

As the Directorate has experienced sharp decreases in funding in recent years, it has been forced to prioritize some research areas over others and fund only its top priorities (biological defense, cybersecurity, explosive detection, and first responder technologies) with its limited resources. With the proposed increase in funding, the Directorate has identified a number of additional priorities (border security, chemical attack resiliency, counterterrorism, and information sharing and interoperability) as areas for which it will resume funding.

We support the level of the President's request and believe that the Congress should expand DHS's research enterprise back to its FY2011 level with an eye to stabilizing it in that range for the coming years. The yo-yoing of funding that has occurred to date is disruptive to the agency and damages its research enterprise.

Department of Transportation

Research and development at the Department of Transportation (DOT) has historically often been conducted in a stove-piped manner, meaning that research projects are very specific to the needs of a specific mode (i.e. railroads, freight, or mass transit). The stove-piped nature of DOT research has resulted in research gaps, duplication, and a fragmented national agenda. Our Committee has tried to improve the coordination of research across DOT's components through the establishment of the Research and Innovative Technology Administration (RITA). While RITA is charged with coordinating DOT's research programs and advancing the deployment of cross-cutting technologies, its impact has been limited in part by a lack of prominence within DOT. The President's FY2013 budget request proposes to address these concerns by transforming RITA into a new office, the Office of the Assistant Secretary for Research and Technology within the Office of the Secretary, funded at $14 million. According to the proposal, this will strengthen research functions across DOT by providing a prominent centralized focus on research and technology. We certainly support these goals and look forward to learning more about the proposal. We remain committed to ensuring an effective and coordinated research strategy at DOT.

Economic Development Administration

The FY 2013 budget also requests $25 million in dedicated funding for the Regional Innovation Strategies Program at the Economic Development Administration (EDA). This program, which was authorized in the *America COMPETES Reauthorization Act of 2010*, will encourage the development of new businesses, products, or services through strategic investments that help communities leverage their regional assets to spur innovation. Although dedicated funding was also requested for this program in FY 2012, Congress chose instead to require EDA to support these activities out of its Economic Adjustment Assistance (EAA) account. We strongly support the request for a separate account line for the Regional Innovation Strategies Program. A distinct line of funding will enable EDA to carry out this program as intended in the *America COMPETES Reauthorization Act* without being unnecessarily constrained by the limitations inherent in the EAA program.

Minority Views of the Democratic Caucus of the Committee on Science, Space, and Technology on the FY2013 Budget Request

Eddie Bernice Johnson

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Frederica S. Wilson

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Minority Views of the Democratic Caucus of the Committee on Science, Space, and Technology on the FY2013 Budget Request

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Marcia L. Fudge	Lynn Woolsey
Jerry F. Costello	Jerry McNerney
Daniel Lipinski	Frederica S. Wilson
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Ben R. Lujan	Brad Miller
Hansen Clarke	Donna F. Edwards
Suzanne Bonamici	
John P. Sarbanes	

Additional Views on the FY2013 Budget Request
Representative Zoe Lofgren

I wanted to submit additional views regarding the President's budget for Fiscal Year 2013.

The Administration has made an effort to invest smartly in science and technology; however, I am troubled by the potential impact of the Department of Energy (DOE) National Nuclear Security Administration's (NNSA) budget on domestic inertial confinement fusion research. The National Ignition Facility, located at Lawrence Livermore National Laboratory, is a basic science project that has enjoyed bipartisan support for many decades. It is the leading inertial confinement fusion experiment in the world and plays an important role in the stewardship of the nation's nuclear weapons, for the advancement of science and potentially for energy. China and Russia have accelerated efforts to compete in inertial confinement fusion but remain behind this premier U.S. effort.

Below is a letter from NIF that highlights the detrimental results of these proposed budget changes:

NIF

March 7, 2012

The Honorable Zoe Lofgren
U.S. House of Representatives
1401 Longworth House Office Building
Washington, DC 20515

Subject: Implications of the President's FY2013 budget and language on the NIF and Laser Fusion Program

Dear Representative Lofgren,

This is in response to your request regarding the effect of the President's FY13 budget guidance on the National Ignition Facility and the Laser Inertial Confinement Fusion program for our nation.

The result would be profound and negative.

In the President's budget there are two key directions reducing the funding of the Ignition Program at LLNL by $30,000,000 and eliminating the Self-Constructed Asset Pool (SCAP) overhead rate at LLNL.

The $30,000,000 funding reduction will result in the termination of approximately 100 highly trained staff jeopardizing our ability to support the Stockpile Stewardship and fusion energy missions for the nation. The elimination of the SCAP rate (without appropriate funding adjustments) will result in an additional reduction in spending power of approximately $140,000,000 and would, to first order, result in the elimination of the inertial confinement fusion program at NIF. The NIF staff would be reduced by another 450 key scientific, engineering and operations staff and NIF would be placed in a standby condition. Additional collateral damage would include the loss of the capabilities of key industrial high technology partners that we have cultivated over the last 30 years who are world leaders in these technologies.

This is occurring as we are on the verge of long-awaited ignition milestones and most importantly as France, China and Russia are following our nation's lead in building NIF-like laser fusion facilities.

We are in conversations with NNSA to understand their intent and to explore what could be done to mitigate this very unfortunate situation.

Sincerely,

Edward Moses

Edward Moses
Director, National Ignition Facility

Lawrence Livermore National Laboratory

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Fusion energy has the potential to become a game-changer in our efforts to reduce our dependence on dirty fossil fuels. In order to achieve practical fusion, though, we must have a robust fusion research program. I am concerned that the President's NNSA budget proposal may have a mothballing effect on NIF and inhibit the progress of domestic inertial confinement fusion research.

Additionally, the Department of Energy has yet to adequately justify the budget's reductions to the High Performance Computing and Network Facilities subprogram under the Advanced Scientific Computing Research program, and I continue to have concerns regarding this proposal.

Zoe Lofgren
Member of Congress

MARCIA L. FUDGE
11TH DISTRICT, OHIO

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March 8, 2012
Additional Views on the FY2013 Budget

Though I agree, for the most part, with the Minority Views of the Democratic Caucus of the Committee on Science, Space, and Technology on the FY2013 Budget Request, I must state my difference of opinion on the proposed NASA budget. I believe that the President's Budget Request sets forth the plan needed to develop a robust space and aeronautics industry in the United States. By leveraging private sector funds with federal investments, we will increase our national competition and progress.

However, what is most important to me and my constituents is the proposal's focus on research and development (R&D) within the agency, specifically that within the Space Technology account. I believe that we are at a critical time in our history where technology and innovation represent the future of our country. It is the role of the federal government to invest in a diverse portfolio of basic R&D that will carry our space and aeronautics industry forward. If we truly want to build the vehicles of the future, we must make these investments now. I urge my colleagues to protect funding for space technology in the proposal for the sake of our global leadership and future prosperity.

Sincerely,

Marcia L. Fudge

Marcia L. Fudge
Member of Congress

SAM GRAVES, MISSOURI
CHAIRMAN

NYDIA M. VELAZQUEZ, NEW YORK
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
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March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
United States House of Representatives
309 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

Pursuant to clause 4(f) of Rule X of the Rules of the House and § 301(d) of the Congressional Budget Act of 1974, 2 U.S.C. § 632(d), I am transmitting the "Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for Fiscal Year 2013." Dissenting views will be transmitted separately by Members of the Committee.

The Committee approved the Views and Estimates contained herein on March 7, 2012 by voice vote.

Should you or your staff have further questions regarding this document, please contact the Chief Counsel for the Committee, Barry Pineles, at x55821.

Sincerely,

Sam Graves
Chairman

Enclosure

Views and Estimates of the Committee on Small Business on Matters to be set forth in the Concurrent Resolution on the Budget for Fiscal Year 2013

Pursuant to clause 4(f) of Rule X of the Rules of the House and § 301(d) of the Congressional Budget Act of 1974, 2 U.S.C. § 632(d), the Committee on Small Business is transmitting herein: (1) its views and estimates on all matters within its jurisdiction or functions to be set forth in the concurrent resolution on the budget for Fiscal Year 2013; and (2) recommendations for improved governmental performance.

The budget request for the Small Business Administration (SBA) in FY 2013 is $1.115 billion – an increase of nearly $200 million from the FY 2012 enacted budget. The two main reasons for the increase are: (1) the need to account for the costs, as required by the Federal Credit Reform Act, of the primary SBA lending programs; and (2) the need to fund the SBA Disaster Loan Program. Rather than making necessary cuts, the President's budget actually requests additional funds for more duplicative programs. That is simply unacceptable given the current state of the federal deficit.

Capital Access Programs

Small businesses continue to have difficulty in obtaining needed credit to operate. In some cases, businesses with solid operating histories have seen their credit lines reduced or eliminated. Unlike large enterprises that can seek out funds from commercial debt and equity markets, small businesses must rely on their own personal assets, retained earnings, and commercial bank funds for needed capital. With the continued limitations in the normal commercial credit markets, the SBA capital access programs provide businesses with necessary capital and credit to create jobs that the economy needs.

7(a) Guaranteed Loan Program

The 7(a) Loan Program is the primary program for providing financial assistance to entrepreneurs. The program utilizes private lenders who make loans and receive guarantees from the SBA that a portion (varying from 50 to 85 percent of the loan) will be repaid by the United States Treasury even if the borrower defaults. Until FY 2005, Congress appropriated funds to supplement the fees charged by the SBA in order to cover the cost of the program as required by the Federal Credit Reform Act.[1] From FY 2005 until FY 2010, fees covered the cost of the program without the need for an appropriation. However, the recent economic downturn in conjunction with existing statutory limits on the fees that the SBA can charge to lenders and borrowers makes it impossible to cover the costs of the program without an additional appropriation. The SBA requests $235 million which includes an additional $96 million of new budget authority to cover the costs of the program as required by the Federal Credit Reform Act.

[1] Under the Federal Credit Reform Act, the SBA must determine the costs needed to cover potential losses from the cohort of loans made in the fiscal year in which the loans were made. Determining the net present value involves estimating expected loan defaults in the future less any recoveries of collateral on the defaulted loans. According to the agency's estimates, defaults are only expected to rise very modestly; the real issue is the expected recoveries will be lower due to reductions in the value of collateral.

The request would cover the costs associated with issuing guarantees on $16 billion in lending. Of this, $13.65 billion is conventional 7(a) loans.[2] Approximately, $197.3 million of the $235 million would be devoted to conventional 7(a) lending.[3]

Given the reduced access to normal commercial credit for small businesses, the Committee supports the need for funding the 7(a) Loan Program. Fees from borrowers and lenders could be increased or the size of the program could be reduced to offset the appropriations. Both alternatives are counterproductive because they would reduce available capital to small businesses at a time when such businesses need capital to expand and create jobs. As a result, the Committee believes that savings must be found in other areas of the SBA budget.

However, the Committee strongly disagrees with the establishment or continuation of pilot programs established under the 7(a) Loan Program. There are two "pilot" programs underway within the 7(a) Loan Program – Community Advantage and Small Loan Advantage. The pilot programs were established without direction from Congress or input from lenders or borrowers. As such, the programs often have internal problems that affect the overall subsidy rate of the 7(a) Loan Program. The Committee recommends that no funds be allocated from the 7(a) Loan Program or any other account be used to establish any new pilot programs or continue the operation of the Community Advantage and Small Loan Advantage programs. Furthermore, the Committee would be willing to work with the Committee on the Budget to obtain separate subsidy rates for these pilot programs from the SBA in order to determine their impact on the overall fiscal health of the 7(a) Loan Program.

The Certified Development Company Loan Program

The Certified Development Company (CDC or colloquially the "504 loan") program utilizes both private and government-guaranteed financing to provide long-term financing on larger capital projects that provide economic development to local communities. Loans made by CDCs must meet certain public policy goals (such as assisting manufacturers or promoting economic development) and demonstrate that the loans will create jobs.

Fees are charged to borrowers and lenders to cover the cost of the program in order to drive the subsidy rate to zero, i.e., so that there would be no appropriation needed to cover the cost of the program under the Federal Credit Reform Act. Despite the statutory mandate to maintain a zero subsidy, Congress also limited the size of fees that the SBA could impose on CDCs and borrowers. As with the 7(a) Loan Program, economic

[2] SBA's budget request parses the 7(a) Loan Guarantee program into three subsidiary parts: (1) conventional 7(a) loans; (2) 7(a) loans used for revolving lines of credit; and (3) floor plan financing for automobile, boat, recreational vehicle, and manufactured home dealers. Each has a different subsidy calculation. For purposes of these views and estimates, the critical lending component is the conventional 7(a) loans, i.e., loans other than revolving credit or floor plan financing.

[3] For each billion dollars in reduced loan authority, the savings on the total appropriation would be approximately $15.5 million dollars.

conditions (particularly lower than expected recoveries on the value of collateral)[4] have made it impossible for the SBA to continue operating the CDC Program without an appropriation. The SBA requested a $113 million dollar subsidy to cover $6 billion in lending. Given the value that CDC lending has to small businesses seeking to create jobs, the Committee believes it would be inappropriate to reduce the $6 billion in an effort to save money. There are other areas that could be reduced in the overall SBA budget without undermining the opportunities provided by this program.

Commercial Refinancing under the CDC Program

As an economic development program that was aimed at creating jobs, small businesses could not use loans from CDCs to refinance existing debt.[5] The Small Business Jobs Act of 2010, Pub. L. No. 111-240, created a temporary, two-year program (the authorization ceases on Sept. 27, 2012) that permits refinancing of existing debt using the CDC Loan Program. The program, as implemented by the SBA, does not require borrowers to create jobs as with conventional CDC loans.

In regulations published on February 17, 2011, the SBA claimed that the subsidy rate would be zero based on a new ongoing fee of .2934 percent of the total outstanding amount guaranteed. In the views submitted last year, the Committee stated that it was troubled by the risk that the refinancing poses to taxpayers.

The Committee's concerns turned out to be justified. The subsidy rate for the program skyrocketed from zero to 6.67 percent according to the Office of Management and Budget's reestimate of the subsidy rate.[6] Thus, a program that was to have cost nothing in its original form now will cost about $6.7 million dollars for each $100 million backed under the program.[7] Such additional risks might have been worth it to the taxpayer if jobs were created through such refinancing but, as already noted, no such requirement exists.

No additional funds should be provided to the Treasury to account for the cost of the Commercial Refinance Program. Instead, the SBA should be required to charge fees to cover the cost of the program. By not providing for any funds from the Treasury to account for losses in the program, the SBA will be forced to charge necessary fees to cover the cost of the program.[8]

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[4] Most of the collateral for CDC loans is in commercial real estate. Although that market has not experienced the precipitous drop that occurred in residential markets, commercial real estate values have declined and not yet rebounded. As a result, the SBA was required to recalculate the expected value of collateral recovered on defaulted loans and, given the decline in the market, estimated recoveries would decline. Reduced recoveries directly lead to an increase in the subsidy rate.

[5] The basic argument is that refinancing does not create jobs but simply lowers the costs to a borrower.

[6] OFFICE OF MANAGEMENT AND BUDGET, FEDERAL CREDIT SUPPLEMENT – BUDGET OF THE U.S. GOVERNMENT FISCAL YEAR 2013 Table 8 at 79 (2012).

[7] The SBA has issued approximately $57.375 million in loans under the Commercial Refinance Program with a current estimated cost to the taxpayer of about $3.7 million. *Id.*

[8] The position on fees with respect to the Commercial Refinance Program is not inconsistent with the Committee's resistance to increasing fees noted previously in these views and estimates. First, the Commercial Refinance Program was created explicitly under the assumption that fees would be sufficient

Microloans

The Microloan Program is a microfinancing program in which very small loans are made to very high risk customers, usually those that would not consider utilizing banks. The SBA makes loans, at below market rates, to intermediaries who then lend to small businesses. The default rate on loans made to intermediaries is nearly zero but the cost of the program primarily stems from cost between market interest rates and the interest rates charged to intermediaries. The SBA requests an appropriation of $2.8 million to cover lending to intermediaries of $25 million. Given the modest cost of the subsidy and the effectiveness of the program in supporting the underserved, including skilled craftsman who have been laid off from work, this modest investment should continue.

Small Business Investment Company Program

The Small Business Investment Company (SBIC) program provides that holders of securities issued by the SBICs will be repaid by the federal government. The program was instituted in an effort to ensure that small businesses could obtain equity as well as debt financing.[9] Although an oversimplification, the SBIC program operates by the federal government guaranteeing an instrument sold by the SBIC into the commercial market. The SBIC is obligated to repay the federal government generally from proceeds from the investments it makes.

The debenture SBIC program is designed to provide equity injections to small businesses that have been operational and have a track record of cash-flow and profits. Debenture SBICs have invested in enterprises such as Callaway Golf, Outback Steakhouse, Dell Computer, and Nike. The program is financially sound because the structure of repayments ensures that the government will not suffer significant losses.[10] Thus, no changes are needed to the program and it operates on a zero subsidy basis without an appropriation. The SBA budget is fully supportive of this program and we concur in that recommendation, including raising the program level from $3 billion to $4 billion.

Presumably, some of the additional program level (which will cost the federal government no money) will be used to support two new variations in the Debenture SBIC Program. One program already has commenced, the Impact Fund, and the other, the Early Stage Innovation Fund, has not yet started because it requires changes to SBA regulations. Neither initiative has received authority from Congress nor had its

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to cover the costs of the program. Second, the increase in fees will not be counterproductive to creating jobs since the rules that govern refinancing do not require any job creation unlike with conventional CDC financing. As a result, small businesses that pay increased fees under the Commercial Refinance Program will not have their job creation capacities reduced in the face of a fee increase.

[9] The Committee on Small Business held hearings in the 110th Congress in which small businesses noted difficulty in raising equity capital. This problem has been compounded by additional burdens associated with Sarbanes-Oxley compliance, turmoil in the commercial credit markets, and new regulations implementing Dodd-Frank.

[10] Without going into detail beyond the scope of this letter, the debenture SBIC program operates in terms more analogous to the SBA's 7(a) and CDC programs.

operational principles assessed by the Committee prior to implementation. The Committee reiterates its recommendation from last year's views and estimates – no funds should be allocated from the additional debenture program levels for these two programs.[11] The Committee on the Budget also should provide further protection to the existing debenture SBIC program by requiring any modifications to the program, whether a pilot program or not, be based on a new subsidy calculation that ensures the current debenture program will operate at zero subsidy without any increase in fees due to losses stemming from the Impact and Early Stage Innovation programs.

Surety Bond Program

Small federal contractors, particularly in the construction industry, are required to post bonds in order to protect the federal government against the failure to complete a project. Title IV of the Small Business Investment Act of 1958 authorizes the SBA to reimburse surety bond writers for up to 90 percent of the losses if a small business contractor defaults on a contract to which a surety issued a bond. The program operates on a revolving fund account and sufficient funds exist in the program so that no appropriation is needed. The Committee concurs that the program should not require any appropriated funds to cover the costs of defaults by contractors.

Although the FY 2013 Budget request does not include any funds for covering losses in the program, it requests approximately $400,000 in additional administrative resources primarily to increase awareness of the program. The SBA has significant outreach efforts in other areas to federal government procurement officials and federal contractors. No additional sums should be provided for the operation of the surety bond program beyond those needed to ensure that the risks to the taxpayer from guaranteeing the issuance of the bonds are minimized.

Disaster Loans

The SBA is the primary provider of assistance to the homeowners and small businesses after a natural disaster. According to the SBA, the disaster loan account continues to have sufficient funds to provide loans for homeowners and businesses in disasters other than significant outlier events such as a category 5 hurricane making landfall in a major metropolitan area or a Richter Scale 8 earthquake.[12]

To a certain extent, unused subsidy funds (be they for the disaster loan program or one of the other SBA loan programs) has been transferred to pay for the administration of the disaster loan program. The capacity to pay for these administrative costs has nearly been depleted; the SBA is requesting an allocation of $202 million to administer the disaster

[11] The limitation on use of additional program funds obviously would not apply to any commitments already made and issued by the SBA to back an Impact Fund Debenture SBIC.

[12] There is no way to ascertain on a priori basis the extent of damage from such a large-scale disaster. Historically, Congress has responded to such outlying events through separate emergency appropriations. As a result, the SBA has never requested funds to address outlier natural disaster events and the Committee concurs with that practice.

loan program, of which $35 million is reprogrammed funds from unused subsidies in various lending program accounts.[13] This represents about a $4 million dollar increase in the amount that the SBA historically used to administer the disaster loan program. Given the fact that the SBA does not explain why it needs an increase for administering what it expects to be the same number of loans[14] for FY 2013, the Committee recommends that $4 million of the carryover be returned to the Treasury for deficit reduction.

Management of Capital Access Programs

There are two primary areas where the SBA has failed to properly manage the capital access programs: (1) computer technology necessary to process data; and (2) procedures for addressing defaulted loans. Both failures have led directly to increased subsidy costs for the capital access programs.

The information technology needed to manage the SBA guaranteed loan portfolio is outdated and at significant risk. The loan accounting system, first developed by the SBA in the 1970s, utilizes COBOL in a mainframe environment. In the budget request for FY 2012, the SBA promoted the fact that this scaled-back modernization effort would save significant sums. Despite the putative savings, the ongoing efforts to modernize that system (that commenced in late 2005) raised significant concerns with the Committee who asked the Government Accountability Office (GAO) to assess the modernization process. At a February 8, 2012 Committee hearing, GAO testified that the process was already behind schedule and suffering from cost overruns. Despite these significant problems with an antiquated loan accounting system, the FY 2013 budget request from the SBA makes nary a mention of the modernization effort or any savings in the budget for the program. This is unacceptable because a modern loan accounting system would enable the SBA to manage its loan portfolio in a manner that protects the taxpayer, mainly by improving returns on recoveries of defaulted loans. The Committee recommends that information technology projects, except as otherwise specified in this letter, not be funded until the SBA has completed the first four projects of its scaled-down loan management accounting system modernization.

As already noted, collections on defaulted loans, particularly in the CDC Loan Program, are abysmal. In the FY 2013 Budget Credit Supplement, expected recoveries for the CDC program are expected to be about 23 cents on the dollar. This is about the historical average even in years when collateral values were rising. If the rate of recoveries on CDC loans achieved the results identical to those in the 7(a) Loan Program (in which recovery on defaults are managed by personnel of preferred lenders rather than SBA employees), the subsidy for the program could be reduced significantly – possibly by as much as $40 to $47 million.[15] Reimbursing CDCs for their expenses associated with

[13] If the lending accounts are overfunded, i.e., they have more in the accounts than needed due to loan demand being lower than expected, the Small Business Act and annual appropriation bills enable the Administrator to reprogram funds to pay for administrative expenses of the disaster loan program.
[14] Since the SBA is not requesting additional appropriations to fund disaster loans, it must expect that the number of such loans disbursed in FY 2013 will be about the same number as past years.
[15] Similar econometric models are used to calculate the subsidy rates in the 7(a) and CDC Loan Programs. The subsidy rate for the CDC Loan Program is about .47 percent higher than that for the 7(a) Loan

handling defaults probably would be less costly than paying SBA employees and would most likely result in higher returns due to CDCs' vested interest in reducing the fees that they pay for the guarantees. Thus, the Committee strongly endorses eliminating SBA's responsibility for managing defaults and transferring it to CDCs. This will result in a concomitant reduction in SBA personnel in addition to the savings associated with the subsidy cost.

Entrepreneurial Development Programs

There are a plethora of programs operated by the SBA in conjunction with non-federal partners to provide outreach and technical assistance to small businesses. These programs duplicate each other and programs in other agencies. In its consideration of these programs, the Committee first examined which programs had the broadest missions and best capability of meeting their federal match requirements. After making this identification, the Committee determined that programs with narrow missions or incapable of raising non-federal funds should not receive any funding or receive significantly reduced amounts of funding. Programs with broad missions and capable of obtaining non-federal funds to help defray costs should not receive cuts or even see a modest increase to cover expenses from an expanded mission.

In particular, the Committee endorses maintenance of funds for Small Business Development Center grantees and SCORE. Funds should be reduced for: 7(j) technical assistance; microloan technical assistance; and the National Women's Business Council. Funding should be eliminated for the following existing programs: Women's Business Centers; Veterans Business Centers; Prime Technical Assistance; HUBZone outreach; and the Offices of Native American Affairs, and International Trade. No funds should be made available for the following initiatives: Drug-Free Workplace, Clusters, or the National Veterans Entrepreneurial Training Program.

Small Business Development Centers

Small Business Development Centers deliver their services through 63 cooperative agreements with either state agencies or institutions of higher education. To the extent that a state agency is a grantee, the agency typically subcontracts that performance to an institution of higher education located in the state. These 63 grantees have established over 1,000 service centers to provide technical assistance to small businesses for: business strategy development, technology transfer, government procurement, engineering, accounting, etc. The FY 2013 budget request reduces the SBDC funding request by the SBA is $101.193 million. The Committee believes that SBDCs should be granted the $7 million devoted to the National Veterans Entrepreneurial Training Program. SBDCs are more capable of providing such training than a new unproven program to be developed by the SBA that has no authorization from Congress. This still represents an approximately $4 million dollar reduction in funding for SBDCs from FY 2012.

Program. Perforce, the only significant difference must be the amount obtained in recoveries on defaulted loans.

SCORE

SCORE provides face-to-face counseling from 389 chapter locations with 10,900 SCORE volunteers. SCORE volunteers provide the full gamut of business consultation services from development of business plans to strategic marketing to financing. SBA's SCORE database also enables small businesses to find a SCORE volunteer that best suits the need of the small business. For example, the owner of a restaurant can find SCORE volunteers who are or were in the food service business. The budget request for FY 2013 is $6.3 million which is $700,000 less than allocated in FY 2012. The Committee concurs with the request.

7(j) Technical Assistance

Section 7(j) of the Small Business Act authorizes the Administrator to contract for the provision of management, technical, and consulting services to participants in the 8(a) government contracting business development program. Unlike other assistance programs in which any interested individual may obtain an appointment and seek advice, this program is limited solely to participants in the 8(a) program. While the assistance is useful for participants, the Committee believes that these services can be provided, in part, by other entrepreneurial development partners and personnel at the agency. Given the current fiscal condition of the United States, the Committee recommends reducing that budget by $1.1 million to $2 million rather than the FY 2013 request of $2.79 million. Better coordination of existing technical assistance by agency personnel, improvement in the mentor-protégé program, and better coordination with SBDCs, SCORE and services from other federal and state agencies should enable participants in the program to obtain needed technical assistance.

Microloan Technical Assistance

The keystone of the Microloan Program is not the lending that is done by intermediaries but rather the training that they provide to their borrowers so that the borrowers can operate their businesses without defaulting on loans. The Committee believes that this is a valuable and irreplaceable component of the microloan program – assisting a new class of entrepreneurs. However, testimony before the Committee revealed that a majority of training provided by microloan intermediaries is not to borrowers but to prospective borrowers, many of whom do not utltimately become borrowers. This function can be provided by other programs at the SBA and elsewhere. As a result, the Committee recommends an additional $2.5 million reduction in microloan technical assistance and requiring that all technical assistance provided by microloan intermediaries be provided to borrowers. This will result in a drop of total microloan technical assistance to $17.2 million from the FY 2013 request of $19.76 million.

National Women's Business Council

The National Women's Business Council is a bipartisan federal advisory council created to serve as an independent source of advice and counsel to the President, Congress, and the SBA on economic issues of importance to women business owners. By interacting with women throughout the country, the Council develops and promotes policies and programs to help women entrepreneurs, the largest growing class of small business owners in the country. The Committee concurs with the FY 2013 request of $898,000.

Women's Business Centers

Women's Business Centers (WBCs) provide training, counseling, and mentoring to women entrepreneurs. WBCs are public/private partnerships in which the federal government provides funds that were to be matched by private donors. However, over time, the centers became more reliant on federal funds which undermines the original intent of Congress in creating the WBCs. Furthermore, many of the clients are not women but men. The services provided by WBCs fundamentally are indistinguishable from that provided by SCORE and SBDCs. Given the duplication in mission and the fact that WBCs were not created to obtain permanent federal funding, the program should be terminated thereby saving $12.6 million – the FY 2013 budget request.

Veterans Business Outreach Centers

Veterans Business Outreach Centers (VBOCs) are modeled on SBDCs and WBCs. The SBA already provides significant assistance to veterans who are seeking to start or already operate small businesses. The VBOCs duplicate services already available from the SBA, other entrepreneurial development partners and programs available from the Department of Veterans Affairs. As a result, the Committee believes that no funding should be made available for funding VBOCs. This will result in a savings of $6.3 million.

PRIME Technical Assistance

Under the Program for Investment in Microentrepreneurs (PRIME), the SBA provides federal funds to community-based, regional, and national organizations that in turn will offer training and technical assistance to low-income and very low-income entrepreneurs with small businesses of five employees or less. The major focus of PRIME is to provide assistance to very small businesses that, due to their lack of experience and education, are unable to gain access to banks and other providers of capital. The services provided by PRIME duplicate other services and the Committee concurs with the SBA FY 2013 budget request to eliminate funding. This will result in a savings of $3.5 million that was appropriated for PRIME in FY 2012.

HUBZone Program

The basic purpose of the HUBZone Program is to promote economic development in distressed urban and rural areas through the award of federal contracts to small businesses located in those regions. Contracting officers are authorized to set aside contracts for competition among eligible HUBZone small businesses, sole source, or use bid preferences when large firms and HUBZone small businesses are in competition. HUBZones are distressed urban and rural areas characterized by chronic high unemployment and/or low household income.

Investigations by GAO have revealed vulnerabilities in the program, especially related to self-certification. Funds related to correcting these problems and improving the operations of the HUBZone program are discussed elsewhere in this document. The FY 2013 budget request allocates $1.978 million to the HUBZone program but does not explain how those funds will be utilized. However, the funds are listed under entrepreneurial outreach programs. Given the lack of an explanation and the fact that any outreach duplicates existing efforts by other entrepreneurial development programs at the SBA, the Committee believes that those funds are not needed for the HUBZone program. It is important to note that the proposed elimination of these unexplained funds should not be interpreted as a recommendation to eliminate the HUBZone Program. Rather, the Committee believes that the program can be of significant value if the SBA ultimately removes ineligible firms and contracts are made available to eligible HUBZone firms.

Office of Native American Affairs

The Office of Native American Affairs offers technical assistance to American Indians, Alaska Natives, and Native Hawaiians seeking to create, develop and expand small businesses. The services provided by this Office can be provided by other SBA programs. More significantly, there is an entire agency at the Department of Interior – the Bureau of Indian Affairs – that has far greater resources to perform outreach to Native American small businesses. As a result, the Committee urges that the $850,000 budget request for FY 2013 be eliminated.

Office of International Trade

According to the SBA, the Office of International Trade enhances the ability of small businesses to compete in the global marketplace. The Committee certainly understands the importance of international trade to small businesses. However, the current fiscal constraints make it impossible for this office to continue given the fact that its services are duplicated by the Department of Commerce and the Department of Agriculture's Foreign Agriculture Service. As a result, the Committee is recommending that all appropriations for the Office be eliminated, including all programs under the Office of International Trade which will save nearly $1 million in salaries and expenses from the budget request. In addition, it would save a total of $8.4 million in total administrative resources.[16]

Drug-Free Workplace Program

The program was enacted to promote drug-free workplace programs in the small business community. It allows intermediaries, such as SBDCs, to provide employers with guidance regarding their drug-free workplace programs. The SBA provides competitive grants to intermediaries that have the best proposals for educating small businesses on developing drug-free workplace programs. This program duplicates efforts by the Department of Labor to educate businesses on maintaining drug-free workplaces. Therefore, the Committee concurs with the request from the SBA that funding for the program be terminated.

Regional Innovation Clusters

The SBA's Regional Innovative Cluster program awards grants to non-federal entities that in turn would help create clusters (a geographically confined grouping of firms in the same or similar industries). The SBA is asking for $3.350 million for FY 2013 to continue this program. There is no evidence that the government or the private sector can artificially create clusters. Furthermore, the SBA has not provided sufficient information on the results of its cluster efforts to continue its funding. As a result, the Committee strongly recommends that no funds be provided for the conduct of this program – saving $3.35 million.

Government Contracting Programs

One of the primary missions of the SBA is to ensure that small businesses receive a "fair proportion of the total purchases and contracts for property and services for the Government in each industry category...." 15 U.S.C. § 644(a). To achieve this objective, Congress created a number of programs designed to increase opportunities for small businesses. The SBA is requesting for FY 2013 a total of about $110.847 million to operate the various government contracting programs and functions at the agency.

The Committee believes that the SBA undervalues the importance of its mission to ensure that small businesses have a fair shot at winning government contracts. The issue is not about available resources but the correct deployment of those resources. In this regard, the Committee believes that the budget proposal for FY 2013 failed to allocate resources in a manner that maximizes the ability of small businesses to enter the federal procurement marketplace.

[16] U.S. SMALL BUSINESS ADMINISTRATION FY 2013 CONGRESSIONAL BUDGET JUSTIFICATION Table 1.5 at 60 (2012).

PCRs

PCRs generally are assigned to contracting activities and work under the supervision of the contracting activity personnel (but report to the Office of Government Contracting at the SBA). They are supposed to: (1) review proposed acquisitions to recommend procurements for setting aside to small businesses or specific categories of small businesses; (2) advise contracting officers whether the acquisition strategy will prevent small businesses from competing; (3) suggest alternative contracting methodologies designed to increase the probability that small businesses will be able to compete for various procurements; (4) recommend small businesses that should be contacted about procurement solicitations; (5) appeal a contracting officer's failure to solicit from small businesses after identification of responsible small business bidders by a PCR or other sources; (6) review contracting activity compliance with small business contracting requirements of federal laws and federal regulations; (7) participate in conferences designed to increase small business utilization in federal procurement; (8) advocate for use of full and open competition; and (9) recommend the breakout of items from contracts that could be provided by small businesses. Hence, PCRs are the SBA's front line in promoting the use of small businesses as prime contractors and also the first line of defense against inappropriate bundling of contracts.

The number of such individuals at the SBA is well short of their need. PCRs require significant knowledge of the procurement process as well as the needs of program offices at the various buying activities at which they are collocated. Given the technical requirements for these jobs, it would not be easy to simply have other SBA employees perform these functions. The Committee would suggest that $2 million dollars in savings found elsewhere in these recommendations be reallocated to the hiring of 15 new PCRs. This modest reallocation of resources will prove invaluable to the hundreds of thousands of small businesses interested in the federal procurement marketplace. By using more small businesses, the government will recoup in procurement savings the expense associated with hiring the additional PCRs.

Vulnerabilities in SBA Contracting Programs

There are five major programs developed by Congress to promote small business contracting opportunities. The Small Business Reserve Program requires that contracts of value between $3,000 and $150,000 (this maximum is now indexed for inflation) be set aside only for competition among small businesses if at least two small businesses can perform the contract at a fair market price. The other programs targeted at specific classes of small businesses are: 8(a) businesses; HUBZone businesses; service-disabled veteran-owned businesses; and women-owned businesses. The programs also enable contracting officers to limit competition to businesses within a specific category and in all cases, except small businesses owned by women, to award contracts on a sole source basis, i.e., without competition at all. If a contract is awarded under one of these programs, the small business awardee is required to perform the majority of the work.[17]

These contracting programs present a number of vulnerabilities: (1) small businesses might misrepresent their size (and not actually be small); (2) small businesses may misrepresent their status for purposes of eligibility such as not being a woman-owned and controlled business; or (3) small businesses do not perform the necessary quantum of work on the contract. Given these vulnerabilities, there are key defenses – adequate personnel to check the small businesses and updated databases for use by contractors and federal contracting officers. The Committee believes that the allocation of resources as reflected in the FY 2013 budget request for operation of the specific small business programs generally is adequate and appropriate.[18] In addition, the Committee believes that the resources available and requested by the Inspector General to help root out such fraud also is adequate.

Small Business Innovation Research Program (SBIR)[19]

The SBIR program is designed to assist small businesses (those with less than 500 employees) bootstrap federal research dollars into commercial products. In 2011, Congress reauthorized the SBIR program.[20] This represented the first comprehensive modification of the SBIR program in over a decade. Congress mandated significant new regulations and reporting requirements as part of the update to the SBIR program. The SBA requests $3 million to implement the changes to the SBIR program. The Committee believes that the SBIR program is very important and fully supports the additional funds devoted to implementation of the SBIR/STTR Reauthorization Act of 2011.

SBA Management and Administration

In its budget submission to Congress, the SBA claimed to have conducted a targeted review of program offices to ascertain whether additional efficiencies can be found. The agency also examined whether any of its programs or operations were duplicative. This self-examination was unrevealing, and the Committee believes the SBA missed opportunities to streamline its operations without undermining its ability to serve small businesses.

[17] This prohibits small firms from acting as fronts for large businesses. The first line of defense against this type of fraud is not the SBA, but the agency's contracting officer and the contracting officer technical representative (the individuals who handle post-contract award).
[18] Reductions in spending on this program could be counterproductive because it could lead to an increase in fraud or other abuse of these contracting programs. In turns, this fraud denies legitimate small businesses of valuable opportunities.
[19] Although the SBA places the SBIR program in the category of Investment and Innovation for small businesses, the program fundamentally is a mechanism by which federal agencies can contract for research and development services without following the formalities of the federal procurement statutes and regulations. Given this, the Committee believes the appropriate view is to discuss SBIR in its discussion of the SBA's government contracting programs.
[20] SBIR/STTR Reauthorization Act of 2011, Div. E. of National Defense Authorization Act of 2012, Pub. L. No. 112-81 (not yet available in United States Statutes at Large).

Information Technology

As already noted, the Committee is concerned with the efforts of the SBA in modernizing its loan accounting system. The Committee continues to believe that the SBA's information technology efforts should have a narrow focus on completing that modernization rather than undertaking other significant information technology projects. Even though the SBA remains significantly behind schedule in its modernization efforts, the agency requests funding for two other major projects – migration of its computers to cloud computing data centers; and efforts to create a BusinessUSA.gov website.

The Committee supports the $5 million request for migration to a cloud computing environment operated by the Department of Homeland security because the savings (first five years calculated at $12.5 million) will outweigh the costs. Given the SBA's history with respect to management of its information technology, the move to cloud data centers operated by another agency may be the wisest course of action for the agency and the taxpayer. Finally, the migration will enable the SBA to reallocate personnel and resources to the much more important job of modernizing the loan accounting systems.

The SBA requested $6 million to lead the development of a website BusinessUSA.gov which is supposed to be a one-stop website for information of relevance to business owners, especially small businesses. While such a site may be a valuable tool for America's entrepreneurs, the Committee cannot support any funding for the SBA to commence such a project. There are other agencies that have significantly greater resources with a better track record of information technology management than the SBA who should take the lead in such an endeavor. By not allocating any funds to the SBA for such a project, it will enable the agency to focus its limited information technology management resources on the completion of the loan accounting system modernization.

Personnel in the 10 Federal Regions

The SBA provides most of its services to small businesses through 84 district offices that are staffed with personnel who are knowledgeable on a variety of small business related topics. When a small business owner or entrepreneur has contact with an agency official, it is typically at a district office.[21] Those district offices are overseen by an Office of Field Operations at SBA headquarters in Washington, DC.

Despite this agency structure, the SBA also has ten regional administrators, regional communication officials and support staff. It remains unclear what management function or responsibility these regional administrators or regional offices have. Given that, the Committee believes that the position of regional administrator should be eliminated. Without regional administrators, there would be no reason to have regional offices and the Committee recommends that those offices be shuttered.

[21] The primary exception to this would be when applying for a disaster loan. In those cases, the applicant will be dealing with on-site field personnel and disaster loan call centers.

Another office at the SBA with ten regional representatives is the Office of the Chief Counsel for Advocacy. The primary responsibility of that office is to monitor agency compliance with the Regulatory Flexibility Act, a statute mandating agencies examine the impact of their proposed and final rules on small businesses. While input from small businesses is quite useful in performing that role, the office does not need regional representatives to obtain that input. As a result, the Committee believes that the Office of the Chief Counsel's regional personnel should be eliminated. However, rather than simply eliminate all ten positions from the Office of the Chief Counsel for Advocacy, the Committee recommends that five additional positions be created to review federal agency compliance with the Regulatory Flexibility Act. This would result in a net savings of five individuals in the office while boosting its capability to fight burdensome regulations inhibiting the ability of small businesses to create jobs.

District Personnel

As already noted, the SBA's primary contact with small businesses is through its district offices. The district offices are, logically enough, headed by a district director. However, in about 75 percent of the offices, there also is a deputy district director. The Committee is of the opinion that district offices do not need a separate, dedicated individual to be the deputy. If the district director is unavailable (due to vacation or illness), that person simply can appoint someone to act temporarily as the district director. The Committee strongly recommends that no monies be allocated to pay for individuals whose sole job is to act as a deputy district director. Instead, deputy district directors should be reassigned to other functions at the agencies that provide direct assistance to small businesses.

Headquarters Structure

According to the agency, there about 600 people at SBA headquarters leaving approximately 1,600 people to interact with small businesses in their field operations.[22] Given the fact that there are about 28 million small businesses in the United States, the Committee finds that the agency structure is too concentrated at headquarters in Washington, DC. This would include an Office of Policy with an apparently amorphous mission and a personal office of the Administrator that is the same size as that of the Secretaries of Defense or Agriculture.[23] This is unacceptable to the Committee and it recommends a 10 percent reduction in funds for the Office of the Administrator and that no funds should be provided to fund the Office of Policy.

[22] Not all field personnel are located at district offices. The SBA also has major employment centers to process loans (thereby speeding credit to small businesses) and a disaster loan call center (to help those seeking to rebuild after a disaster).
[23] Secretary Vilsack and Secretary Gates are able to manage much larger agencies (the Departments of Agriculture and Defense, respectively) with only 13 individuals in each of their personal offices.

Inspector General

The SBA manages a loan portfolio of approximately $90 billion. It also deals with thousands of small business federal government contractors. As has already been noted in this document, there are significant vulnerabilities in the SBA's operations – vulnerabilities that place the taxpayer at risk and undermine the integrity of the federal procurement process. As the first line of defense against waste, fraud and abuse, the Office of the Inspector General plays a vital role in uncovering significant criminal, civil, and management problems at the SBA. The Committee strongly recommends $2 million in savings recommended elsewhere in this document be transferred to the Inspector General to ensure that office has sufficient resources to root out fraud, abuse, and waste.

SAM GRAVES, MISSOURI
CHAIRMAN

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Congress of the United States
U.S. House of Representatives
Committee on Small Business
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March 9, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f), I am writing to advise you of the dissenting views and estimates of the Committee on Small Business with regard to the fiscal year (FY) 2013 budget. These views and estimates are in addition to those that will be submitted by the committee's majority. While we concur in several areas, there are notable areas of disagreement, which are discussed in greater detail below.

The Committee on Small Business has legislative jurisdiction over the Small Business Administration (SBA) and this letter accordingly focuses on the fiscal year 2013 budget request for this agency and the program it operates under the authorizations contained in the Small Business Act (15 U.S.C. 631 et seq.) and the Small Business Investment Act (15 U.S.C. 661 et seq.).

FY 2013 SBA BUDGET OVERVIEW

SBA's budget for FY 2013 totals $1.1 billion overall and $949 million when not including highly-variable disaster program spending. If all of the projected costs of operating the agency's access to capital programs (including costs for subsidy and administration) are excluded, in addition to disaster program spending expenditures, the budget for the remaining portions of the agency would be $452 million. A comparable FY 2012 enacted figure (also excluding disaster and all spending on the agency access to capital programs) would be $443 million. Such non-disaster, non-access to capital spending would therefore increase by 2 percent in the proposed FY 2013 budget.

The year-over-year increase in the total agency budget is due largely to $141 million in additional costs for credit subsidy for the 7(a) and 504 programs. This is driven by higher defaults in the SBA's loan portfolio, which is not unexpected during an economic downturn. As a result, the 7(a) program's subsidy rate nearly doubled from 0.87 percent to 1.55 percent, increasing costs from $104.4 million in FY 2012 to $197.3 million in FY 2013. For the 504 program, the situation is similar: the program's subsidy rate increased from 1.09 percent to 2.02 percent, increasing costs from $67.7 million in FY 2012 to $113 million in FY 2013. Even though costs are increasing in both the 7(a) and 504 programs, the SBA has reduced loan volume ceilings for both programs. The 7(a) cap is reduced from $17.5 billion to $16 billion, while the 504 cap is reduced from $7.5 billion to $6 billion. This is occurring even though empirical data shows that private sector lending remains well below pre-recession levels, making the need for SBA loans even more important to the on-going economic recovery.

The budget also proposes to decrease non-credit entrepreneurial development programs by $13 million. This includes a reduction to Small Business Development Centers ($101 million in FY 2013 from $113 million in FY 2012), Women's Business Centers ($12.6 million in FY 2013 from $14 million in FY 2012), and SCORE ($6.3 million in FY 2013 from $7 million if FY 2012). These cuts represent a 10 percent across-the-board reduction.

Within its budget submission, the SBA continues its practice of funding unauthorized pilot programs. Such initiatives include the Small Loan Advantage program, the Community Advantage program, the Impact Investing fund, the Early Stage Innovation fund, Regional Clusters, the Distance Learning Portal, the National Veterans Entrepreneurship Training program, the Emerging Leaders program, and the Business USA website. The cost of the last three alone equal more than $16 million and constitute 10 percent of the SBA's non-credit programs budget. The funding of all of these pilot programs should be 1) denied outright and be used to reduce the federal deficit or 2) reallocated to agency efforts, including those of the Inspector General, to reduce fraud, waste, and abuse in the SBA's programs.

Lending and Investment Programs

The main driver of the annual increase in SBA's FY 2013 budget submission is the rising cost of operating its core 7(a) and 504 lending programs. At $348.6 million, the operating costs for the 7(a) and 504 programs are now nearly half the size of what was provided over two years of stimulus efforts and will be higher than at any time in the history of the program. The total cost for FY 2013 has increased by $170 from FY 2012 and represents the third straight year in which costs have nearly doubled.[1] At this rate, the cost of administering these programs could increase to as much as a billion a year by FY 2014. This would exceed all the funding provided for SBA lending under the stimulus legislation from FY 2009 to FY 2012.

[1] Costs have increased steadily since FY 2010 when the program initially fell from zero-subsidy operating costs and required $40 million in subsidies for the 7(a) program. In the years since, the costs have only increased, to $90 million in FY 2011, $207 million in FY 2012, and now $376 in FY 2013.

7(a) Loan Program

In FY 2013, the SBA has requested $253 million for purpose of operating the 7(a) program. This is a 53 percent increase over the amount requested in FY 2012, which was $165 million. This subsidy amount will support $16 billion in lending, a $1.5 billion reduction from FY 2012. As such, it is recommended that the program level for 7(a) be maintained at FY 2012 levels and that appropriations as necessary be provided to accomplish this. Furthermore, it is recommended that the maximum size of 7(a) loans be reduced to levels that existed prior to the passage of the Small Business Jobs Act (P.L. 111-240). This will restore the program's historical focus to providing credit for small-dollar loans, which continue to be underserved by the conventional credit markets. It will also reduce the subsidy amount going to the growing segment of the market that is demanding multi-million dollar loans that do not foster job creation or economic growth.

SBA Dealer Floor Plan Pilot Program

In FY 2013, the SBA has requested $4.5 million for purpose of implementing the 7(a) Dealer Floor Plan program. This represents an increase of more than $1.5 million compared to the amount requested in FY 2012. This program was originally conceived in an effort to support the ailing automotive industry in the depth of the recession in 2009 and 2010. Today, this segment of the industry is recording record profits and no longer requires taxpayer subsidized support, particularly when considering that the program detracts agency resources from more broadly focused programs that benefit the entirety of the small business community. As such, it is recommended that this program be discontinued and that no funding be appropriated for its operation.

Pilot Lending Initiatives

Since FY 2011, the SBA has pursued several pilot lending initiatives that have had little impact on increasing the number of small-dollar loans or the amount of credit for small businesses located in underserved communities. The increased administrative and marketing efforts demanded by these initiatives, however, divert resources from more meaningful uses. In this regard, these programs should be discontinued for FY 2013 and no appropriations shall be made available for their operation.

504 Certified Development Company Program

In FY 2013, the SBA has requested $121.2 million in loan subsidies for the purpose of operating the 504 program. This is a 100 percent change over the amount requested in FY 2012, which comes on top of another doubling in FY 2011. At this rate of increase, the cost of this program can be expected to exceed half a billion dollars by FY 2014. The administration proposes to decrease the loan level by $1.5 billion to $6 billion. Instead, the program level should be restored to the FY 2012 enacted program level of $7.5 billion and appropriations should be made available as necessary to do.

It must also be noted that as recently as FY 2010, the 504 program did not require a subsidy. This dramatic increase in cost is unsustainable. The agency must prioritize lender oversight within the 504 program and emphasize the program's historical purpose on lending for the purpose of economic development. As such, the agency should discontinue efforts to expand the 504 program and immediately implement a meaningful lender oversight and portfolio risk management program.

7(m) Microloan Program

In FY 2013, the SBA has proposed reducing lending through the Microloan program by a total of $7 million. This would generate savings of just $1 million in loan subsidies. It is inappropriate to reduce the availability of Microloans when the administration is also proposing to cut the major lending programs at the agency. Given that this program has consistently focused on providing small-dollar loans to entrepreneurs that have been underserved by conventional lenders, it is recommended that this program be funded at levels that are consistent with FY 2011 and FY 2012. This would require loan subsidies of $3.8 million and $10 million in technical assistance grants.

Small Business Investment Company Program

In FY 2013, the SBA has not requested funds for the purpose of implementing the SBIC program. This is no change over FY 2012. The agency will, however, continue to bear increased administrative and marketing costs in order to promote the Impact Investing Initiative and Early Stage Investing Fund pilot programs. These programs remain premised on the SBIC debenture program, which is very ill-suited for meeting the needs of early-stage or startup firms. This is because these businesses often lack positive cash flow that can be used to make regular payments on debt. As a result, the gap for investment in early stage and capital intensive small businesses will likely not be conducive to either the "Impact Investing" or "Innovation Fund" programs. As such, it is recommended that no appropriations be made to carry out either pilot program.

New Markets Venture Capital Program

As it has since FY 2005, the SBA has not requested any funding for the New Markets Venture Capital program. With only two years of funding in a total amount of $70 million, the NMVC program is projected to return nearly $6 million to the Treasury in FY 2013. Given the cost-effective nature of the program, funding for SBA's untested and unauthorized programs should be reallocated to funding new leverage and operation assistance for this program.

Renewable Fuels Capital Investment Company Program

To date, SBA has taken no action to implement the Renewable Fuel Capital Investment (RFCI) program. Under the existing statutory framework of the program, no appropriation is necessary to implement the program. Given the program's potential to generate significant innovation in the area of energy efficiency and renewable fuels, its program level should be set at $1 billion in FY 2013 of which $30 million should be used to implement the operational assistance grants to RFCICs.

Disaster Assistance Program

In FY 2013, the SBA has requested $122 million for purpose of implementing the Disaster Assistance program. This is a small increase over the amount requested in FY 2012. While the loan making subsidy remains steady, however, the SBA is requesting an additional $51 million for administrative costs associated with the Disaster program, bringing the total administrative cost to $167 million.

ENTREPRENEURIAL DEVELOPMENT PROGRAMS

As has become par for the course over recent years, the SBA's requests for the agency's entrepreneurial development programs continue to be misguided and insufficient. This is due to the agency's repeated attempts to fund unauthorized and unproven pilot programs at the expense of proven core programs. Doing so is an inappropriate use of taxpayer funds and, given the insufficient oversight of many of these pilots, may lead to further fraud and abuse within the agency. Further, while the pilot programs make up at a minimum 10 percent of the agencies entrepreneurial program budget, no objective measures have been provided for Congress to evaluate their performance. Until these pilot programs are evaluated and authorized by Congress, these programs should not receive any funding. Instead, the agency should focus on strengthening its existing network of entrepreneurial development service providers.

Regional Innovation Clusters

This unauthorized program has already cost $25 million since its inception three years ago; however, there has been no objective full-scale evaluation of its impact on job creation by GAO or the SBA's Inspector General. In addition, the empirical evidence provided in the FY 2013 budget submission is not sourced in any manner, suggesting that the data is internal and could therefore be defective, as other SBA-collected performance data has been in the past. The goal of clusters is to increase collaboration among entities involved in a particular industry and no evidence has been presented to the committee that a government initiative can drive such cooperation. Until the SBA provides an evaluation of the cost-benefit of this initiative and the program is authorized by Congress, the agency's funding request should be denied. Therefore no funds should be expended on this initiative.

Business USA

The White House announced the creation of a Business USA web portal, which would serve as an on-line one-stop shop for all of the federal government's business programs. The committee agrees that the government's business-related websites are a confusing potpourri of insufficient resources and outdated information. This techno-jumble should be improved, but given the virtually non-existent justification for this initiative, the committee has a difficult time understanding that such improvements will cost $6 million. As such, no funding should be allocated to this project.

Emerging Leaders Initiative

The Emerging Leaders initiative is a pilot training program that is duplicative of existing SBA programs. The SBA already operates three training programs, including SBDCs, WBCs, and SCORE chapters. Entrepreneurial development infrastructure is located in all urban areas as well as in many Native American communities, which are currently responsible for providing services to the businesses also targeted by the initiative. In addition, this imitative has no performance measures and, as a result, its ability to fulfill any policy goal is unascertainable. Therefore, this program should not be funded.

Distance Learning Portal

SBA's Distance Learning Portal (formerly named the Small Business Training Network) is another unauthorized SBA program that is relying on scarce taxpayer funds. Due to the lack of any justification of the program's value, the agency's request for funding this initiative should be denied.

Veterans Programs

The administration's request for the SBA's Office of Veterans Business Development (OVBD) of $2.5 million is not sufficient to meet the needs of veterans. The proposal to fund the unauthorized National Veterans Entrepreneurship Training (VET) program at $7 million makes little sense, as the number of Veterans Business Outreach Centers stands at an insufficient level of 15. Instead, the proposed funding for the unauthorized VET program should be redirected to increasing the number of Veterans Business Outreach Centers. It is critical that the government does not turn their back on these veterans and ensures that they have the tools to pursue entrepreneurial opportunities after their military service ends.

Small Business Development Centers (SBDCs)

The administration's request of $101 million for the SBDC program, which is $11 million less than FY 2012, is not sufficient to meet the needs of small business. As a result of the cuts to core funding, many SBDCs will have to reduce their permanent training staff, affecting small businesses' ability to receive assistance. The administration's proposal to reduce spending would exacerbate the already stressed conditions of the SBDC network and could lead to lower startup rates and job creation. As a result, the SBDC program should be funded at $117 million in FY 2013, a 4 percent increase over FY 2012 enacted levels.

Women's Business Centers

The administration's request of $12.6 million for the Women's Business Center (WBC) program is also insufficient, as it is 10 percent below the FY 2012 level of $14 million. Instead, the WBC funding level should remain at 2012 levels. In allocating funding in FY 2013, the agency should give priority to both new and existing centers located in areas of high unemployment. In addition, the agency should ensure that all centers receiving funding in FY 2013 can demonstrate success in creating and maintaining jobs in their local communities.

SCORE

The administration requests $6.3 million for the SCORE program, which is 10 percent below the FY 2012 level. This level of funding is inappropriate and will reduce resources for the agency's core business mentoring services, which are critical for entrepreneurs adjusting to challenging economic conditions. As a result, SCORE should be level funded at FY 2012 levels.

PRIME

The administration proposes and the majority supports the elimination of this program, citing duplication with the Microloan technical assistance program. While both programs provide funding to micro intermediaries, Microloan technical assistance funds are tied to loan making, while PRIME funds have fewer restrictions and can be used for capacity building and general entrepreneurial training. This enables micro intermediaries to serve all low-income entrepreneurs in their local community, not just individuals seeking financing. Given continuing high unemployment rates in many parts of the country, the modest investment in this area is appropriate.

Drug Free Workplace Program

The administration's proposal to defund this initiative is appropriate. Given the financial challenges facing the government, it is not a prudent use of scarce taxpayer funds to purchase drug-testing services from and for viable private sector companies.

Office of Native American Affairs

The administration's request of $800,000 for this office is inadequate and represents a decrease of one-third from last year's spending. Instead it is recommended that spending should remain consistent at the FY 2012 enacted level. Given the significant impacts of the declining economy on Native American communities, the committee also recommends that the agency work to increase delivery to these communities through other programs, including existing SBDCs, WBCs, and SCORE chapters. Such expansion is a cost-effective means to serve high-unemployment population and increase entrepreneurship.

Office of International Trade

This office's budget has grown from $4.2 million in FY 2008 to a proposed level of $8.5 million in FY 2013. The doubling of this budget is untenable in the current fiscal environment where core agency programs are being dramatically cut. While the agency has a reasonable interest in ensuring that small businesses are successful in foreign markets, there are concerns that such substantial budgetary growth is occurring without sufficient oversight, planning, or coordination with other agencies involved in trade promotion activities. As a result, $2.5 million of this level should be transferred to the SBDC program to help mitigate its funding shortfall. Doing so will draw on SBDCs experience and expertise to provide international trade assistance and guidance to small businesses.

GOVERNMENT CONTRACTING PROGRAMS

SBA's inability to effectively operate and oversee its government contracts programs is concerning. These programs continue to be short-staffed and as a result fraud and abuse deprive legitimate small businesses of federal contracting opportunities. Additionally, we have yet to see these goals achieved on a government-wide level. Thus, it is the opinion of the committee that SBA is falling short of its obligation to ensure that a fair proportion of federal contracting be placed with small businesses.

Prime Contracting Program

In its budget request the administration has indicated that they will be devoting fewer resources to the Prime Contracting program by reducing its cost allocation by $1.1 million to $23.2 million. This decrease in funding to the Prime Contracting program should be rejected. This program is the main vehicle by which SBA assists agencies in meeting their small business goals, thereby further advancing the federal government towards reaching the 23 percent government-wide small business goal. SBA has indicated that one of their main goals for FY 2013 is to ensure that the small business federal contracting goal of 23 percent is met and/or exceeded. The reduction in funds allocated to providing small businesses with maximum practicable contracting opportunities will not get the federal government closer to the small business goals. Therefore, funding at FY 2012 levels should be maintained to ensure that SBA has the resources needed to reach the 23 percent goals.

8(a) Program

The committee supports the increase in funding to the 8(a) program as it continues to be short staffed. Recently, SBA implemented a system for increased scrutiny of 8(a) applicants that has resulted in a backlog of small businesses waiting for certification. Furthermore, SBA continues to see a large number of applicants for this program with nearly 1,700 applications in FY 2011. Of these applicants, 900 new companies were admitted into the 8(a) program. The additional funds requested will ensure that the program has the resources necessary to not only process applications but also provide assistance to those firms who are now participating in the program. However, it is important to oversee that this increase of allocation means that the 8(a) program is actually receiving more resources and not that more money is being charged to the account without the staff actually doing more work for the program.

7(j) Program

The decrease in funding to the 7(j) Technical Assistance program is inappropriate as it provides essential services to 8(a) participants. SBA continues to see a high number of businesses seeking assistance from this program as a program-high 3,550 businesses received assistance in FY 2011. This increase in small businesses participation and decrease in funding will equate to SBA spending $836 per firm. With the upward trend of 8(a) participants likely to continue into the next fiscal year, the value of assistance that SBA will be able to provide is likely to be less than its projected target.

This program provides valuable technical assistance to small businesses and therefore, a decrease in funding to this valuable program is not supportable. Rather than investing in programs that have yet to prove their effectiveness, a return to FY 2011 funding levels of $6.5 million is recommended. This will ensure that each small business receives the technical assistance needed to operate in the marketplace.

HUBZone Program

Over the years, GAO has released several reports that detail the fraud and abuse that is rampant in the HUBZone program. Millions of dollars in federal contracts have been awarded to ineligible businesses because SBA failed to have the proper measures in place to verify that businesses enrolled in the program met eligibility criteria. SBA has re-engineered its application process to include more rigorous document review and more site visits as well as implementing a Legacy Portfolio Review of firms that were certified prior to the new review for initial certification.

In the FY 2013 budget request, SBA has indicated that it will be reducing funding for the program by $524,000 and will reduce its cost allocation by an additional $358,000. It is unclear how SBA plans to continue its verification and oversight efforts at the same levels with decreased funding. Furthermore, despite multiple requests by the committee, SBA has yet to take any steps in developing outcome measures that show the program is meeting its mission. Thus, until this program can show progress and commitment to the elimination of fraud and develop metrics to show that it is effective in accomplishing its mission, this program should be terminated.

Service-Disabled Veteran-Owned Small Business Program

There have been reports that detail the awards of millions of dollars in contracting opportunities to ineligible businesses in this program as a result of fraud and misrepresentation of the businesses' eligibility. The committee has pushed for SBA to work in collaboration with the Department of Veterans Affairs to develop a verification method to ensure that veteran contracts are awarded to veterans. However, despite a pledge from the agency to do so, SBA has taken no affirmative steps towards this measure and the FY 2013 budget request does not contain funds to improve oversight of this program, which increases the risk that contracts under this program are awarded to non-service-disabled-veteran-owned businesses.

Women-Owned Small Business Federal Contracting Program

Last year, SBA released its final regulations for this program. However, although SBA requested $1 million for the development and maintenance of a data repository, eligibility examinations, and four employees processing protests in FY 2012, the FY 2013 budget request does not contain any funds to maintain the repository and process protests. Therefore, additional funds shall be allocated to oversee the program and to increase the number of staff to ensure that this program does not succumb to the fraud and abuse present in other programs.

Small Business Innovative Research (SBIR) Program

Last year, Congress passed a six-year extension of the program that changed several key provisions. For example, the extension increases the SBIR program allocation from 2.5 to 3.2 percent and the STTR allocation from .3 percent to .45 percent over the course of the reauthorization. Additionally, it allows for program participation from small businesses who receive backing from venture capital companies. While SBA does not award SBIR awards, the agency is charged with implementing broad policy and guidelines under which participating federal agencies operate autonomous SBIR programs. SBA has requested an additional $3 million for administrative expenses related to the SBIC and SBIR/STTR programs.

This additional funding for the SBIR/STTR programs is appropriate. With these funds SBA will be able to devote more resources to ensuring that the new and amended provisions of the program are properly implemented. These funds should also be used to provide additional oversight to prevent fraud and abuse in the program.

Procurement Center Representatives (PCRs)

Small businesses continue to complain about the consequences that the bundling and consolidation of contracts has on their ability to receive federal contracts. Yet, while the cost of government procurement has more than doubled between 2001 and 2010, from $223 to $536 billion, SBA has reduced their number of PCRs to less than 60, with many of these employees having to split their time between other duties and oversee multiple contracting offices. In FY 2011, more than $50 billion worth of contracts was awarded through bundled or consolidated contracts. The lack of oversight over these bundled contracts deprived hundreds of small businesses of the ability to receive federal contracting opportunities.

For FY 2013, SBA has not requested additional funds to build up their PCR staff. However, significantly more resources should be devoted to increase the number of PCR staff to 75.

Commercial Marketing Representative (CMRs)

While SBA data indicates there are 33 CMRs currently on staff, only 2 of these employees devote 100 percent of their time to the duties of overseeing subcontracting plans of large prime contractors. Reports from GAO and SBA's Inspector General have indicated that CMRs are reviewing only a fraction of the contracts that they should be reviewing and when done, reviews occur from the desk of the CMR rather than with an on-site review. With many of these subcontracting plans not being properly monitored, large contractors are performing the work themselves and denying small businesses of the ability to grow their capabilities to one day compete for a prime contract. For FY 2013, additional funds should be used to increase the number of CMRs to 50.

OFFICE OF ADVOCACY

The Small Business Jobs Act of 2010 required that each budget submitted by the president include a separate budget request for the Office of Advocacy. The act also required SBA to provide Advocacy with office space, equipment, an operating budget, and communications support as necessary, including the maintenance of such equipment and facilities. Prior to the act, Advocacy's budget was included in the Executive Direction portion of SBA's own budget.

The Office of Advocacy is requesting $8.9 million for FY 2013, a reduction of 2.4 percent. $7.65 million of this request is for salaries and benefits of Advocacy's staff and an additional $800,000 is for the acquisition of data. The remainder of the budget, $450,000, covers all other direct expenses including travel, periodicals, and supplies. As noted above and under current law, the SBA will continue to pay overhead costs for the Office of Advocacy.

The Office of Advocacy's continued work to reduce regulatory burden on small businesses is appreciated. With regard to its economic research, the Office of Advocacy should take steps to reduce the lag time in publishing important data pertaining to small businesses and also improve its website so that such information, including both current and historical reports, is more easily located and readily searchable.

INSPECTOR GENERAL

The Office of the Inspector General continues to be among the fastest growing divisions of the SBA. For FY 2013, the administration has requested $19.4 million, an increase of $3.1 million, or 19 percent, over the FY 2012 level.

Given the level of fraud and abuse in the agency's contracting and lending program, it is certainly appropriate to ensure that the IG maintains necessary funding and staff levels. However, it is disappointing that such a relatively large and well-funded division would not produce more and better quality investigative reports.

CONCLUSION

Given the increasingly tight fiscal environment, it is important to examine SBA's FY 2013 budget. While it provides adequate funding to operate many of its initiatives, it chooses to again fund unauthorized pilot programs that have not been objectively evaluated. Such a move comes not only at the expense of other proven SBA programs, but also channels scarce funds away from reducing fraud and waste. Going forward, the SBA should refocus its priorities on its core statutory mission, rather than expanding its bureaucratic footprint through opportunistic land-grabs or the development of the latest flavor-of-the-day pilot programs. Doing so would help ensure that taxpayer dollars are being well spent, while small businesses have the resources that they need to grow stronger. Thank you for your consideration of our views on this important matter.

With respect,

Nydia Velázquez
Ranking Member

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

John L. Mica
Chairman

James W. Coon II, Chief of Staff

Nick J. Rahall, II
Ranking Member

James H. Zoia, Democrat Chief of Staff

March 9, 2012

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

Dear Mr. Chairman:

As required by section 301(d) of the Congressional Budget Act and clause 4(f) of Rule X of the Rules of the House, the Committee on Transportation and Infrastructure transmits its Views and Estimates for the fiscal year (FY) 2013 Budget Resolution. On March 8, 2012, the Committee on Transportation and Infrastructure met in open session and adopted the enclosed FY 2013 Budget Views and Estimates by voice vote with a quorum present.

Thank you for the opportunity to present these Views and Estimates.

Sincerely,

John L. Mica, M.C.
Chairman

Enclosure

cc: The Honorable Chris Van Hollen, Ranking Member, Committee on the Budget
The Honorable Nick J. Rahall II, Ranking Member, Committee on Transportation and Infrastructure

VIEWS AND ESTIMATES
OF THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
FOR FISCAL YEAR 2013

Overview

The Federal government is on an unsustainable fiscal path that poses a critical threat to our economy. To address this threat, the Federal budget deficit must be reduced. Toward that end, the Committee on Transportation and Infrastructure recommends funding reductions in fiscal year (FY) 2013 for many programs within its jurisdiction. In addition, the Committee will continue to examine programs within its jurisdiction to identify ways to cut costs, streamline programs, consolidate facilities, eliminate waste, and create efficiencies. The Committee will also work to ensure that infrastructure investments funded by these programs are those that make sense and will yield the greatest benefit for the least cost. The Committee will also emphasize strategic planning and intermodalism to ensure that our scarce resources are targeted to the most effective investments.

The Committee recognizes that economic growth is affected not just by the aggregate levels of taxes and spending, but also by their composition and structure. Simply put, *how* we cut spending is as important as *how much* we cut spending. Therefore, as we address our long-term fiscal challenges, we must seek reforms that serve not only to reduce the deficit but also to enhance long-term economic growth.

The Committee believes that properly targeted investment in transportation and infrastructure programs is necessary to ensure the safe and efficient movement of people and goods, increase economic growth, and maintain our global economic competitiveness.

The Committee's legislative priorities this year include reauthorization of surface transportation programs, hazardous materials transportation safety programs, the Coast Guard, the Economic Development Administration (EDA), and the Federal Emergency Management Agency (FEMA), and development of a water resources development act.

This report was circulated to all Members of the Committee on Transportation and Infrastructure for their review and comment, and was approved in a Full Committee meeting on March 8, 2012. The Committee wishes to emphasize that not all Members of the Committee necessarily agree with every aspect of this report. Accordingly, the Committee reserves its flexibility to determine program needs and recognizes the potential for funding changes as the Committee and Congress work their will through the legislative process.

The detailed views and estimates presented below make specific recommendations for programs within the Committee's jurisdiction. These recommendations are made in recognition of the need to reduce the Federal budget deficit while at the same time make the properly-targeted investments in transportation and other infrastructure that will allow our economy to grow in the future.

Transportation and the Economy

Throughout our nation's history, economic growth, prosperity, and opportunity have followed investments in the nation's infrastructure. From the "internal improvements" of the early 1800s – canals, locks, and roads – to the Interstate Highway System of today, infrastructure investment has been our foundation for economic growth. For example, between 1980 and 1991, almost one-fifth of the increase in productivity in the U.S. economy was attributable to investment in highways.[1]

Our nation's highways, transit and rail systems, pipelines, airlines, airports, harbors, and waterways not only provide the backbone of our economy by moving people and goods, they also employ millions of workers and generate a significant share of total economic output. In 2010, transportation-related goods and services contributed $1.3 trillion, or 8.5 percent, to the total U.S. Gross Domestic Product of $14.5 trillion. Economic growth and vitality are also dependent upon high quality water and wastewater infrastructure systems.

In addition to facilitating economic growth and global competitiveness, our transportation system has a direct and significant impact on the daily lives of nearly all Americans. To the average American, properly targeted investment in transportation infrastructure will mean shorter commutes that save time, reduce fuel consumption, and decrease pollution; lives saved; safer systems to accommodate the transportation of hazardous materials; and fewer delays for the more than 700 million passengers who travel by air each year.

Transportation Trust Funds

To help construct and maintain our nation's infrastructure, Congress established a series of trust funds to collect user fees. These funds include the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund. Each of these trust funds dedicates user fee revenues in infrastructure programs to finance long-range construction and maintenance activities.

One of this Committee's highest priorities is to ensure that the user fees deposited into these trust funds are in fact used for their intended purposes – to rebuild our nation's infrastructure. These trust funds represent a contract between the government and the user. This contract specified that certain user fees would be levied on the users of highways, airports, inland waterways, and ports. In return, the government pledged to use the receipts to build transportation infrastructure for the taxpayer's use.

[1] "Transportation and the Economy: National and State Perspectives," American Association of State Highway and Transportation Officials, May 1998.

While this contract has been upheld for the Highway and Airport and Airway Trust Funds, the two remaining funds face unique challenges for addressing both the Inland Waterways and Harbor Maintenance needs of the nation. The Inland Waterways Trust Fund balance by the end of FY 2013 is estimated to be $146 million if Congress authorizes the administration-proposed user tax, and $66 million if Congress does not. The Harbor Maintenance Trust Fund balance at the end of FY 2013 is estimated to be $8.1 billion. These user fees should be made available for their intended purposes and not used to mask the federal budget deficit.

Budget Process Reforms

Given the Transportation and Infrastructure Committee's commitment to achieving budget reforms for the transportation trust funds, other budget process legislation is of significant interest to this Committee.

The Transportation and Infrastructure Committee would strongly oppose changes to transportation spending under the guise of "budget reform" that fail to recognize the unique nature of Trust-Funded programs, or negatively impact the ability of states or other relevant planning entities to have some traditional spending level guarantees that have been established for highway, transit, and aviation programs.

The Committee does not support the proposal in the FY 2013 President's Budget to shift all funding for surface transportation programs to the mandatory side of the budget because this proposal fails to recognize the need to link Trust Fund revenues to spending to adequately establish the user fee-based premise of the Trust Fund. The Committee is concerned that, under the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139) and the recently adopted House "Cutgo" rule, the administration's proposed budgetary treatment would not link Trust Fund revenues to Trust Fund spending, thereby resulting in a growing Trust Fund balance over time.

Eliminating Waste in the Management of Federal Real Property

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office (GAO) placed real property management on its list of "high risk" government activities, where it remains today. GAO conducts biennial reviews on high-risk areas within the Federal government to bring focus to specific areas needing added attention and oversight. Areas are identified as "high" risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement, or a need for broad-based transformation to address major economy, efficiency, or effectiveness challenges.

The key reasons the GAO identified federal real property as high risk are:

- excess and underutilized real property,
- deteriorating and aging facilities,
- unreliable property data; and
- over-reliance on costly leasing.[2]

Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of federal real property, these problems persist.[3] The GAO noted recently in the 2011 High Risk report issued in February 2011 that some progress has been made in some of these areas but that "federal agencies continue to face long-standing problems, such as overreliance on leasing, excess property, and protecting federal facilities."[4]

The high risk activities of Federal real property are significant. Considerable amounts of vacant or underperforming assets can translate into significant costs associated with their operation, maintenance, and security. For example, in FY 2009, the federal government spent $1.7 billion in annual operating costs for under-utilized buildings and $134 million, annually, for excess buildings.[5]

The dispersal of independent leasing authorities to various agencies has compounded the waste. Often agencies, which obtain such authority to circumvent General Services Administration (GSA) and the standard processes to ensure cost controls, lack the experience and expertise to make prudent decisions. For example in 2010, the Securities and Exchange Commission (SEC) entered into a sole-source lease of 900,000 square feet of prime office space in Washington, D.C. which is now under investigation by the SEC Inspector General. That lease was "negotiated" over the course of a few days and bound the federal government to pay approximately $500 million over ten years without any of the standard cancellation clauses that are typical in government leases. Not long after signing this lease, the SEC determined it did not need the space, having based its projected need on new staffing that had not been fully authorized or funded.

The proper management of Federal assets has been a major focus of the Committee's oversight activities during the 112th Congress, resulting in the development of H.R. 1734, the Civilian Property Realignment Act. This legislation, which passed the House on February 7, 2012, will establish a Commission to review federal properties and

[2] *See* High Risk Series: Federal Real Property, U.S. General Accountability Office, GAO-03-122, January 2003.
[3] *See,* for example, Executive Order 13327, Federal Real Property Asset Management, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, Disposing of Unneeded Federal Real Estate, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).
[4] High Risk Series: Managing Federal Real Property, U.S. General Accountability Office, GAO-11-278, February 2011, p. 58.
[5] FY2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

make recommendations for consolidations, co-locations, redevelopment, selling or other actions, thereby reducing waste, increasing the efficiency of the federal government and producing significant savings for the taxpayer.

Emergency Management

The Committee recognizes the inherent tension between providing disaster relief in an expeditious manner while at the same time minimizing waste, fraud, and abuse. Nevertheless, the Committee expects the Federal Emergency Management Agency (FEMA) to fulfill its obligation to be a good steward of the public's funds and trust. The Committee recognized the importance of this issue when it passed the Post-Katrina Emergency Management Reform Act of 2006, which includes Subtitle F, "Prevention of Waste Fraud and Abuse" (6 U.S.C. 791 -797). In 2007, the Committee continued to provide oversight to prevent waste, fraud, and abuse by holding the following oversight hearings to examine whether FEMA was carrying out these duties: "Post-Katrina Temporary Housing: Dilemmas and Solutions" (March 2007); and "FEMA's Emergency Food Supply System" (April 2007).

Often delays in the recovery process relate to burdensome regulations and policies. While the Stafford Act, which governs the response and recovery process, is broad and flexible, regulations and FEMA policies have created an enormous amount of "red tape" and simply do not work effectively in large-scale disasters. Slow recovery following a major disaster results in increased costs due to delays and stifles job creation and economic recovery in the affected areas.

The Committee will continue its vigorous oversight of FEMA's disaster relief program and emergency management operations to ensure the effective use of funds.

Aviation

The aviation industry is a vital part of the United States' economy, contributing roughly $1.3 trillion to our nation's gross domestic product and supporting 11 million jobs. Given this industry's contribution, it is critical that we maintain and improve the nation's aviation system to continue the growth of our economy and encourage job creation. Such improvements must be achieved in a cost-effective, streamlined, and efficient manner in partnership with the private sector.

Since airline deregulation in 1978, air travel has become an essential form of transportation for much of the nation. The number of commercial air travelers has grown dramatically since then, from 312 million travelers in 1980 to a record-high of 765 million in 2007.

This rise in the number of air travelers pushed our nation's air traffic control system and over-crowded airports to the brink of gridlock. In 2007, travelers experienced the highest percentage of late arrivals – 24.2 percent – in the 13 years since DOT has collected such data. On-time performance has since improved, due mainly to a temporary decline in enplanements.

In 2008 and 2009, a slowing economy and increased fuel costs caused enplanements to decline. However, as the economy began to recover, the number of passengers began to increase again in 2010, and is now projected to exceed one billion by 2021. Given this projected growth and the state of the Federal budget, it is imperative that air traffic control modernization and improvements in aviation system capacity and efficiency be achieved in the most cost effective and efficient manner possible to prevent future significant delays for air travelers.

The Airport and Airway Trust Fund (Trust Fund) provides the principal source of funding for the FAA's capital programs. It also provides funding for the FAA's Operations account and the Essential Air Service Program. The Trust Fund receives revenues from a variety of excise taxes paid by users of the national airspace system, most notably the passenger ticket tax. During the recent recession, Trust Fund revenues declined from $12.4 billion in FY 2008 to $10.8 billion in FY 2010. Revenues subsequently increased to $11.7 billion FY 2011.

According to the GAO, from FY 2000 through FY 2011, total FAA expenditures grew about 60 percent. However, during this same timeframe the Trust Fund's revenue contribution increased by only nine percent, while the contribution of general revenues from the U.S. Treasury generally increased to cover a larger share of FAA's operations expenditures. In FY 2011, FAA's budget totaled about $16 billion, with Trust Fund revenues covering about $11 billion, or 69 percent, of that total, and general revenues covering the remaining 31 percent.

From 1970 to 2001, Trust Fund revenues generally exceeded spending commitments from FAA's appropriations, resulting in a surplus. This surplus is referred to as the Trust Fund's uncommitted balance. Over the last decade the uncommitted balance in the Trust Fund, which exceeded $7 billion at the end of FY 2001, declined to $299 million at the end of FY 2009. It has since increased to a $1.4 billion balance at the end of FY 2011; however, that is still quite low historically.

The health of the Trust Fund and the ability of the FAA to meet its obligations given the size of the Federal budget deficit must be taken into consideration as the FY 2013 and future budgets are developed.

On February 14, 2012 the President signed into law the conference report for H.R. 658, the FAA Modernization and Reform Act of 2012 (P.L. 112-65). This Act was negotiated on a bicameral and bipartisan basis, and provides for the stability and growth of the aviation industry and system. The Act encourages industry growth, facilitates air traffic control system modernization, streamlines the FAA to increase efficiency, and authorizes constrained funding levels for the FAA, as discussed below.

FAA Facilities & Equipment

Capital funding for our air traffic control system is necessary to increase system capacity, efficiency, safety, and allow for growth in the economy. The efforts to maintain and modernize the federally-operated air traffic control system are funded mostly by the FAA's Facilities & Equipment (F&E) account.

The FAA has embarked upon on a major Next Generation Air Transportation System (NextGen) program to increase system capacity, safety, and efficiency. In 2007, the interagency Joint Planning and Development Office (JPDO) issued both an Enterprise Architecture and a Concept of Operations for NextGen. These documents provide a high-level blueprint for how to technologically transform the National Airspace System and triple capacity by the year 2025. In January 2009, the FAA issued a mid-term architecture, focusing on objectives through the year 2018. Despite the completion of these documents, the cost of transitioning to the NextGen remains uncertain. For FY 2013, the President requests $955 million within the F&E account for NextGen, an 11 percent increase above the FY 2012 enacted level, but a 16 percent decrease below the President's 2012 request for NextGen.

As it continues to develop and implement NextGen, the FAA also needs to properly fund the maintenance and upkeep of existing infrastructure. The FAA Modernization and Reform Act of 2012 (P.L. 112-95), which was developed by the Committee on Transportation and Infrastructure and signed into law on February 14, 2012, streamlines NextGen development and implementation processes, sets performance metrics, and requires accountability for the programs.

Consolidation of assets made possible by NextGen efficiencies will lead to savings in maintenance and upkeep costs. The FAA Modernization and Reform Act of 2012 provides a mechanism for the consolidation of old, obsolete, and unnecessary FAA facilities. Many of FAA's air traffic control facilities are over 30 years old and based on outdated technology. As the FAA and aviation users transition to newer, satellite-based technology, the number and location of FAA facilities must be adjusted as well. The last major FAA facility consolidation, the Potomac Terminal Radar Approach Control facility (TRACON) saved the FAA $1 million annually, even after taking into consideration the cost of the new, consolidated facility. The potential cost savings from FAA facility consolidations and realignments are enormous.

The FAA will also need to reform or eliminate unnecessary programs, duplicative functions, and wasteful practices to best manage the taxpayers' money.

To ensure that our nation's air traffic control system remains safe, reliable, and efficient, and is ready to accommodate the significantly increased number of passengers anticipated in the near future, the Committee recommends that the F&E program be funded at $2.715 billion in FY 2013, consistent with the funding level authorized by the FAA Modernization and Reform Act of 2012. This amount is sufficient to fund the FAA's priority NextGen projects while maintaining the existing air traffic control system through 2015. The Committee believes that the FAA can achieve greater cost efficiencies through better project management and avoiding past problems with programs that were over-budget and delayed.

The President has also requested an additional $1 billion in "Immediate Transportation Investments" for NextGen to be funded from the F&E account. However, according to testimony of the Department of Transportation Inspector General before the Subcommittee on Aviation, "FAA has not made the decisions needed to move NextGen from planning to implementation." Given the Inspector General's reservations, the Committee believes the additional funding for unplanned activities is not appropriate at this time.

Airport Improvement Program (AIP)

AIP funding is derived from the Airport and Airway Trust Fund, which is supported by excise taxes paid by aviation users. The Committee emphasizes that the primary purpose of the Trust Fund is to meet the capital needs of the aviation system. AIP funding increased significantly over the last decade. Additionally, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) provided an additional $1.1 billion in airport improvement grants. Given the current budget realities, this pace of funding cannot be maintained. Therefore, the Committee recommends a funding level of $3.350 billion for AIP in FY 2013, consistent with the funding level provided by the FAA Modernization and Reform Act of 2012. This amount represents a $165 million reduction from the FY 2011 appropriated level and the same level of funding provided in the FY 2012 Consolidated Appropriations Act.

The AIP program is one source of funding for airport development projects that are necessary to maintain a safe and efficient aviation system. Based on the latest National Plan of Integrated Airport Systems (NPIAS) report dated September 27, 2010, the FAA estimates that between 2011 and 2015 there will be $52.2 billion of AIP-eligible infrastructure development in all segments of civil aviation.

An airport trade association's Capital Needs Survey, conducted in September - December 2010, estimates that airport capital development costs for AIP-eligible and other necessary projects will total approximately $80.1 billion during the same time frame (2011-2015), an average annual cost of $16.0 billion. This survey covers a larger scope of projects than is eligible for assistance under the AIP program, providing a much broader and larger estimate of the amount of airport capital funding that the trade group believes is needed.

Airport development projects are financed by a variety of funding sources, including airport cash flow, revenue and general obligation bonds, Federal/State/local grants, and non-Federal Passenger Facility Charges (PFCs) that are locally imposed. AIP grants and PFC collections together account for about 40 percent of annual U.S. airport capital spending needs, according to information provided in an airport trade association's 2011 Airport Capital Needs survey. In 2011, according to the survey, airports expected that over 63 percent of their near-term infrastructure funding needs would be met by new bonds and PFCs. In 2010, airports reported to FAA that PFCs provided over $2.7 billion (calendar year basis) for local infrastructure investments and airports raised over $10.8 billion (fiscal year basis) in new bond proceeds.

FAA Operations and Maintenance

Consistent with the levels authorized in the FAA Modernization and Reform Act of 2012, the Committee recommends $9.539 billion for FAA Operations in FY 2013. This is $114 million less than the FY 2012 enacted level, and $179 million less than the President's request for FY 2013.

Pursuant to Section 103 of the FAA Modernization and Reform Act of 2012, the FAA is directed to accommodate this budget cut through reductions in non-safety-related activities and expenditures. This requirement was included to ensure that FAA continues to focus on its greatest priority, the safe operation of the National Airspace System. The FAA will also need to reform or eliminate unnecessary programs, duplicative functions, and wasteful practices to best manage the taxpayers' money.

Cost growth within the FAA Operations account has been, in part, the result of the 2009 arbitration decision which provided a final settlement for the National Air Traffic Controllers Association (NATCA) Collective Bargaining Agreement. This Agreement increased the pay scales for air traffic controllers over a three-year period ending in FY 2012. The total cost of the contract was approximately $669.1 million between 2010 and 2012. This cost was back-loaded with the minimum pay band levels for controllers increasing 30 percent by 2012. Certified Professional Controllers received a $9,300 increase in average base pay and new hires received a $45,665 increase in average base pay over three years. Unlike most Federal employees, the President's proposed Federal pay freeze does not apply to air traffic controllers. The Committee notes that this Agreement failed to take into consideration current budget realities and the inequity of boosting controller salaries at the expense of the salaries of other FAA employees. The Administration will be negotiating a new contract with controllers this year which will have an impact on the FY 2013 budget. The Committee notes that authorized funding levels have been prescribed by law through 2015, and encourages the Administration to negotiate a contract that is mindful of budget realities.

The President's budget request cuts $2 million from the FAA Contract Tower Program funding for FY 2013, and proposes an increased cost share for local communities to participate in the program. First established in 1982, the FAA Contract Tower Program allows the FAA to contract with private air traffic control providers to ensure the safety and efficiency of airfields at a far reduced cost compared to air traffic control services provided by government employees. The cost statistics for the program make a compelling case for the program's cost-effective nature. According to the FAA, during FY 2010, the 246 towers in the FAA Contract Tower Program handled 27 percent of all U.S. tower operations (14.8 million operations), but accounted for just 9 percent (approximately $126 million) of the FAA's overall budget allotted to air traffic control tower operations. In contrast, the 264 FAA-staffed towers that handled the remaining 73 percent of total tower operations (40 million operations), consumed 91 percent (approximately $1.25 billion) of the FAA's budget dedicated to that purpose.

As part of Vice-President Gore's National Performance Review, the FAA converted ninety nine (99) FAA-staffed towers to contract towers, saving the federal government hundreds of millions of dollars each year. A Transportation and Infrastructure Committee review earlier this year determined that converting all remaining low-activity towers to the FAA Contract Tower Program would achieve up to $140 million in annual savings. According to the U.S. Department of Transportation's Office of Inspector General, FAA Contract Towers provide better safety performance at a fraction of the cost to the FAA compared to air traffic control towers staffed by federal employees.

Rather than cutting funding for the program, and threatening access to the program by imposing an overly burdensome local cost share, the Committee urges the President to preserve cost effective programs, such as the FAA Contract Tower Program. Furthermore, the Committee believes the President's budget would be much better served by exploring cost savings opportunities that the FAA Contract Tower Program offers the FAA; these opportunities make good budgetary sense, preserve the safety of the flying public, and are in the taxpayers' best interest.

Essential Air Service

Funding for the Essential Air Service (EAS) program has increased significantly in recent years, from $50 million in 2001 to $200 million in FY 2011. Before September 11, 2001, a total of 106 communities required EAS subsidy (32 in Alaska and 74 elsewhere in the United States). As of March 1, 2012, there are 163 communities requiring EAS subsidy (including 44 in Alaska). The cost of funding the current array of contracts in FY 2012 is approximately $215 million. This does not assume any new communities require subsidy, or any subsidy increases are required as contracts expire and are re-let.

The EAS program is a good example of a taxpayer-subsidized program that has gone unchecked. In FY 2010, 34 EAS communities averaged fewer than 10 passengers per day. Also in FY 2010, 16 EAS communities had subsidies in excess of $500 per passenger, which means taxpayers subsidized service in these 16 communities by more than $1,000 per passenger on a round-trip basis. One community, Ely, Nevada, had a subsidy per passenger of $4,112, which equates to $8,224 on a round-trip basis.

While recognizing the EAS program's importance to many communities across the United States, the Committee supports the major reforms to the program that were recently enacted in the FAA Modernization and Reform Act of 2012. These reforms include: elimination of the most egregious subsidies (communities with fewer than 10 enplanements per day that are located within 175 miles of a large or medium hub airport); a prohibition on new communities joining the program; a continuation of the $1,000 per passenger subsidy cap (eliminating at least three communities, including one with a subsidy of over \$3,700 per passenger); and authorization of the appropriation of decreased funding levels (from \$143 million in FY 2012 to \$93 million in FY 2015, with rest of the program's funding coming from overflight fees paid by international aircraft operators flying in U.S. airspace) reducing the cost to taxpayers. These program reforms are estimated to save at least \$16 million per year in the near term. Total savings are likely to be even greater over time, since the 10 enplanement per day and \$1,000 per passenger subsidy cap requirements are ongoing and will be applied on an annual basis. In addition, the prohibition on new communities joining the program will likely avoid additional costs in the future.

Coast Guard and Maritime Transportation

United States Coast Guard

The Coast Guard – one of 22 agencies, and the only military service, in the Department of Homeland Security -- protects the safety, security and personal freedom of American seafarers, recreational boaters, cruise ship passengers, dock workers and others who go to sea, or live or work on or near America's coasts. The Coast Guard is the only military service with domestic law enforcement authority. The Service has 11 statutory missions including rescuing those in distress, keeping our ports and waterways safe for navigation, and protecting the U.S. maritime borders from drug and migrant smugglers.

The President requests \$8.32 billion in discretionary appropriations for the Coast Guard in FY 2012, \$338 million (or -3.9 percent) less than FY 2012 enacted level. For FY 2013, the Committee recommends \$8.77 billion to carry out Coast Guard missions, the amount consistent with the level authorized for FY 2013 in H.R. 2838, the Coast Guard and Maritime Transportation Act of 2011. H.R. 2838 passed the House of Representatives by voice vote on November 15, 2011.

Operating Expenses (OE)

The President requests \$6.79 billion for Coast Guard operating expenses, an increase of \$36 million (or 0.5 percent) over the FY 2012 enacted level. The Committee recommends funding Coast Guard operating expenses at \$6.92 billion, the level authorized for 2013 in H.R. 2838 as passed by the House. These funds are necessary to protect property and human life, defend our borders against drug and migrant smugglers, and secure our ports, and waterways against terrorists.

The budget request for OE does not include \$254.5 million for Overseas Contingency Operations, which the Administration proposes to appropriate to the Department of Defense (DoD) in FY 2013 and then make available to the Coast Guard. The Committee recommends this funding continue to be appropriated directly to the Coast Guard to provide more accurate accounting of the resources available to the Service to carry out its missions. Doing so would place the Committee recommendation for OE at \$7.18 billion.

The Committee supports the 1.5 percent pay raise for Coast Guard military servicemembers included in the FY 2013 budget request. The same amount is requested for DoD military servicemembers.

The Committee opposes the President's request to cut over 1,000 servicemembers from the Coast Guard, including servicemembers engaged in critical frontline operations such as intelligence gathéring and airborne use of force operations. The Committee notes the Coast Guard continues to struggle to meet mission performance goals due to a lack personnel. The Committee fails to see how a reduction in the force will enable the Coast Guard to continue to successfully conduct its critical missions.

The Committee opposes the President's request to decommission three 110 foot patrol boats while also terminating the Patrol Boat High Tempo High Maintenance (HTHM) Operations. The Coast Guard is currently operating 103,000 hours short of its patrol boat mission hour needs. The Service estimates the termination of HTHM operations and the decommissioning of three 110's will increase the current patrol boat mission hour shortfall by 17,000 hours. The Committee is very concerned with any request that would exacerbate existing gaps in the Service's mission readiness.

The Committee opposes the President's request to close two seasonal air stations on Lake Michigan. The Committee is concerned this request would result in the removal from service of three recently upgraded HH-65 helicopters, as well as the reassignment of two HH-60 helicopters currently assigned to drug interdiction in the Caribbean and one HH-60 primarily tasked with a tactical port security mission. The Committee recommends the Coast Guard review whether to acquire used HH-60's from the U.S. Navy's Sundown program and retrofit them for the Coast Guard mission as the Service has successfully done in the past.

Reserve Training

The President requests $132.6 million for training of Coast Guard Reserve personnel in FY 2013, a $1.7 million (or -1.3 percent) decrease over the FY 2012 enacted level. The Committee recommends funding for this account at $138 million, the level authorized for FY 2013 in H.R. 2838 as passed by the House. Reserves have been called up frequently in the last several years. Most notably, call ups have occurred to respond to 9/11, Katrina, the Haiti earthquake and the DEEPWATER HORIZON oil spill. It is imperative to keep reservists adequately trained to respond to such emergencies.

Environmental Compliance and Restoration (EC&R)

The President requests $13.2 million for environmental compliance and restoration in FY 2013, $338,000 (or -2.5 percent) less than the FY 2012 enacted level. The Committee recommends funding for this account at $16.7 million, the level authorized for FY 2013 in H.R. 2838 as passed by the House. This account funds the decommissioning of assets which will reduce Coast Guard operating costs and increase the efficiency of those operations in the future. The Coast Guard currently has a backlog of over 400 environmental cleanup projects with an estimated combined cost exceeding $300 million.

Acquisitions, Construction, and Improvements (AC&I)

The President's budget requests $1.19 billion for Coast Guard capital acquisitions in FY 2013, a reduction of $271 million (or 18.5 percent) from the FY 2012 enacted level. Coast Guard capital acquisition programs fund the acquisition, construction, and physical improvements of Coast Guard owned and operated vessels, aircraft, facilities, aids to navigation, information management systems, and related equipment. This account supports domestic shipbuilding capacity critical for expanding jobs, growing our economy, and protecting our national security.

The Committee strongly opposes President Obama's proposed reduction. These cuts threaten the ability of the Coast Guard to protect lives and property, defend our borders, and secure our ports, waterways, and coasts. The Committee supports funding AC&I at $1.5 billion, the amount authorized for FY 2013 in H.R. 2838 as passed by the House.

The Committee opposes the termination of funding for the Response Boat-Medium (RB-M) procurement. The Coast Guard's program of record for this procurement calls for the acquisition of 180 RB-M's to replace the aged, slow, and obsolete 41 foot utility boat. To date, funding has been secured to acquire 166 RB-Ms. Without continued funding, the Service will suffer readiness gaps in its small boat fleet which could undermine search and rescue mission effectiveness.

The Committee strongly opposes the President's request to withhold up to $139 million provided by Congress in FY 2012 to construct six new Fast Response Cutters (FRC) and instead use that funding in FY 2013 to construct four FRCs. The Committee opposes the administration's flagrant disregard for Congressional intent. The delay in acquisition of this critically needed asset is unacceptable. The Committee supports funding for the construction of six FRCs in FY 2012, as well as FY 2013.

The Committee is very concerned with the failure of the Administration to provide for the continued sustainment of the 210 foot and 270 foot Medium Endurance Cutters (WMEC). The Administration proposes to terminate funding for the WMEC Mission Effectiveness Project in 2014. The Mission Effectiveness Program is intended as a bridging strategy for the WMEC fleet until it is replaced by the Offshore Patrol Cutter (OPC). However, no OPC design has been selected and construction of the first OPC is still years away. The Service does not expect to receive the first operational OPC until 2018 and does not expect to complete the acquisition until the mid 2030's. In the interim, the Coast Guard has no plans to continue to ensure the viability of the WMEC fleet. The Coast Guard failed to maintain the High Endurance Cutter (WHEC) after the schedule for the acquisition of the replacement National Security Cutter (NSC) fell further and further behind. This led to a significant decrease in the Service's mission capability and increased the operating costs of the WHECs. Ultimately, these assets did less and less each year, until they were finally tied to the dock. The Coast Guard should not make the same mistake with the WMEC fleet. The Committee supports funding to conduct a condition survey and complete a mission effective project plan to ensure the WMECs can continue to operate effectively until the long-delayed OPCs come online.

The Committee remains opposed to the Office of Management and Budget's (OMB) decision to force the Service to keep certain capital acquisition funds sitting idle for several years rather than spending those funds for much needed capital improvements. OMB is requiring the Coast Guard to have funds available not only to cover the cost of long lead time materials and production, but also the cost of post production activities before entering into a construction contract for the sixth NSC. OMB is not applying this policy to the procurement of vessels for the Navy, or weapons systems for any of the other Armed Services. The Committee objects to the requirement that funds be available for post production activities prior to awarding a construction contract for the Coast Guard's sixth NSC.

The Committee is concerned with the continued delay in developing and testing designs for certain new assets including the Offshore Patrol Cutter (OPC), Cutter Small Boats, and Unmanned Aircraft Systems (UAS). Over 10 years into its recapitalization program and after spending millions of dollars, the Coast Guard still has not chosen an OPC design, identified a solution to the challenges of acquiring small boats capable of being stern launched from newly built cutters, or found a way to employ UAS aboard its cutters or otherwise improve maritime domain awareness for its assets. The Service must complete this process as soon as possible to contain costs, ensure the timely delivery of these critical assets, and maintain the capabilities necessary to carry out the Service's missions.

The Committee is opposed to the administration's decision to terminate funding for upgrades to the HH-60 helicopter fleet. The Service had planned to make critically needed upgrades to the helicopter's search radar sensor system to improve the asset's ability to conduct search and rescue. The Committee supports funding to continue these vital upgrades.

The President requests $15 million for renovation and improvement of shore facilities in FY 2013, $97.9 million (or -86.7 percent) below the FY 2012 enacted level. The Committee strongly opposes this drastic reduction in funding. The Coast Guard currently has a backlog of over 40 prioritized shore facility improvement projects with an estimated combined cost of over $500 million. Included in that list are several projects intended to renovate dilapidated servicemember housing. The Committee is very concerned with the state of Coast Guard servicemember housing and urges the Service to complete its analysis of housing needs as soon as possible. The Committee recommends providing the same level of funding for shore infrastructure improvement and projects to improve housing as was enacted in FY 2012. These funds would create construction jobs, enhance the Service's ability to successfully conduct its missions, and meet the long-term needs for Coast Guard servicemember housing in high cost and remote areas where private sector housing alternatives are limited.

Finally, the Committee supports the request for $8 million to begin design work on a new POLAR class icebreaker.

Research, Development, Testing and Evaluation (RDT&E)

The President requests $19.7 million for RDT&E in FY 2013, a decrease of $8 million (or -29 percent) below the FY 2012 enacted level. The Committee supports funding this account at $19.8 million, the amount authorized for FY 2013 in H.R. 2838 as passed by the House.

Alteration of Bridges

The Alteration of Bridges Program authorizes the Coast Guard to share with a bridge's owner the cost of altering or removing railroad and publicly owned highway bridges which are determined by the Service to obstruct marine navigation. Consistent with the FY 2013 budget request and the FY 2012 Consolidated Appropriations Act, the Committee does not support providing any funding for this program in 2013.

Federal Maritime Commission

The Federal Maritime Commission (FMC) is an independent agency which regulates oceanborne transportation in the foreign commerce of the United States. The President requests $26 million for the Federal Maritime Commission in FY 2013, an increase of $1.9 million (or 7.8 percent) over the FY 2012 enacted level. The Committee recommends $24 million for the FMC in FY 2013, an amount equal to the level authorized by H.R. 2838 as passed by the House.

Economic Development, Public Buildings, and Emergency Management

Economic Development

The President's FY 2013 Budget requests $182 billion for the Economic Development Administration's (EDA) grant programs, $38 billion or 17.3 percent less than FY 2012.

The Committee also has jurisdiction over five existing economic development programs: the Economic Development Administration (EDA), the Appalachian Regional Commission, the Denali Commission, the Delta Regional Authority, and the Northern Great Plains Regional Authority. In addition, the "Food, Conservation, and Energy Act of 2008" (P.L. 110-246) authorized the creation of three new regional commissions: the Southeast Crescent Regional Commission, the Southwest Border Regional Commission, and the Northern Border Regional Commission.

The Committee is committed to reviewing the economic development programs and believes there are opportunities to consolidate and streamline them.

Public Buildings

In the area of public buildings, the Committee intends to address a number of issues concerning the Public Buildings Service of GSA. These issues include the continued viability of the Federal Buildings Fund (FBF), GSA's courthouse construction program, the over-reliance on leased space, redeveloping or disposing of vacant or under-utilized space, realigning federal properties to maximize usage, and reigning in the dispersal of independent authorities.

The FBF, the primary source of funding for GSA's capital investment program, while receiving consistent funding over the past several years, is barely maintaining its present position to take advantage of the market and create a balanced portfolio of properties through construction or purchase of new Federal buildings and the repair of existing buildings. The FBF is supported by lease payments charged to Federal agencies occupying space in GSA facilities. GSA is increasingly relying on the use of leased space. The Committee recommends that the administration carefully review the need for any new space and base determinations of whether to lease or own on what would provide the greatest return on investment to the taxpayer. The administration should address issues related to the high number of old buildings in the federal inventory that drain resources from the FBF and are no longer efficient for modern office space. The Committee will continue take steps to ensure agencies decrease office space, improve space utilization, and lower costs.

In addition, GSA's repair and alteration program in previous years has failed to meet projected demand for the modernization of GSA's aging inventory of Federal buildings that are retained. While GSA outlines criteria it uses to develop its priorities for repairs and alteration, very often the Committee receives proposals for modernization of buildings that are barely used. GSA must work to ensure that its repair and alteration funds are consistent and in line with other property initiatives – such as improving space utilization and the disposal of under-used assets.

The FY 2013 repair and alteration request is $494.8 million which is $214.8 million or 77 percent increase above the FY 2012 enacted level of $280 million. The requested amount will fund repairs and alterations at Federal buildings and judicial facilities.

GSA has requested $56 million for the construction and acquisition of new facilities, a $6 million or 12 percent increase from the FY 2012 enacted level of $50 million. This request includes funding for two building purchases, one in Martinsburg, WV ($25 million) and one in Riverdale, MD ($31 million). Both buildings are currently under lease to the Federal Government and have purchase options within the existing leases. On December 2, 2010, the Committee approved a resolution authorizing the purchase of the building in Martinsburg, WV. Exercising the purchase option in this lease will be more cost-effective than continued lease payments. The Committee recently received, and is currently considering, the administration's request regarding the purchase of the building in Riverdale, MD.

The Committee will continue to monitor GSA's leasing program. The Committee continues to be concerned about the rising amount of leased space being used to meet the requirements of the civilian branch of the Federal Government where Federal facilities are not available. The leasing program is increasing from year to year, largely as a result of the scoring rules implemented pursuant to the Budget Enforcement Act of 1990, which force GSA into short-term, expensive leases, to avoid the budget impact of a capital lease.

Emergency Management

Federal Emergency Management Agency (FEMA)

National Preparedness Grants – The FY 2013 President's Budget requests $1.5 billion for a new national preparedness grants program, $670 million for federal fire grants, and $350 million for emergency management performance grants. The administration proposes consolidating a number of the all-hazards grant programs and the homeland security grant programs into this new program. The Committee does not support the administration's proposal for transferring all-hazards programs into homeland security programs. While typically consolidation may result in cost savings and the streamlining of overhead, consolidating all-hazards grant programs into terrorism-related grant programs would seriously undermine our Nation's readiness in preparing for all disasters – natural and man-made. The result could be that communities that are known to be prone to natural disasters such as wildfires, floods, hurricanes, and earthquakes will not be adequately prepared, potentially costing more dollars for response and recovery. Therefore, the Committee recommends consolidating the multiple terrorism preparedness grants and reducing their funding levels. While savings also can be achieved in the all-hazards grant programs, they should not be combined with the terrorism grants.

Mitigation – The FY 2013 President's Budget does not request funds for the Pre-Disaster Mitigation (PDM) program, which received $35.5 million in FY 2012. Effective disaster mitigation spending reduces the costs incurred in managing the consequences of natural disasters. Studies have shown that for every dollar invested in mitigation, three dollars are saved in damages from a disaster. The Committee supports cost effective mitigation programs and will work to ensure funding is targeted to those projects that maximize the return on investment.

Disaster Relief – For disaster relief programs administered by FEMA, the Committee recommends funding sufficient to meet the needs of communities hit by disasters. The FY 2013 President's Budget requests $6.1 billion, $1 billion or 14 percent less than the FY 2012 level.

Emergency Management Performance Grants (EMPG) – The EMPG program is the Federal Government's principal grant program to build basic State and local emergency management capability. For FY 2013, the President's Budget requests $350 million, equal to the FY 2012 enacted level. The Committee concurs with the President's request.

Fire Grants – The Firefighter Assistance grants include funding for the Staffing for Adequate Fire and Emergency Response Grants (SAFER) and Assistance to Firefighter Grants. The FY 2013 President's Budget requests $670 million, $5 million less than the FY 2012 level. The Committee supports the lower funding for these grants.

Smithsonian Institution

The FY 2013 President's Budget request for the construction and revitalization of Smithsonian facilities is $197 million, an increase of $22 million or 13 percent above the FY 2012 level. The Committee recommends funding the Smithsonian Institution's construction and revitalization program at a level that will allow it to meet its basic needs while continuing its research and outreach activities.

Architect of the Capitol

The Architect of the Capitol's (AOC) FY 2013 budget request includes $102.6 million for General Administration, $97.1 million for the Capitol Building (including $61 million for the Capitol dome rehabilitation), $18.5 million for Capitol Grounds, $79.4 million for Senate Office Buildings, $84.0 million for House Office Buildings, $53.6 million for libraries and grounds, $12.1 million for the Botanic Gardens, $30.8 million for Capitol Police, $21.6 million for the Capitol Visitor Center, $118.5 million for the Capitol power plant, and $50 million for the House Historic Building Revitalization Fund. The total for these accounts is $101 million above the FY 2012 level. The Committee intends to continue to exercise aggressive oversight over the Capitol buildings and grounds.

John F. Kennedy Center for the Performing Arts

The FY 2013 President's Budget requests $36.0 million for the John F. Kennedy Center for the Performing Arts (Kennedy Center). These funds are exclusively for the Operations and Maintenance (O&M, $22.4 million) and Capital Repair and Restoration (CR&R, $13.6 million) activities of the Kennedy Center. This level is $824,000 or 2.2 percent less than the amount enacted in FY 2012, and is less than the FY 2008 funding level. P.L. 110-338 authorizes appropriations for the John F. Kennedy Center for the Performing Arts through FY 2012. The performing arts programming and administrative support for the Kennedy Center is financed by ticket sales, auxiliary and investment income, and through private donations. The Committee supports the President's request.

Federal Protective Service (FPS)

The FY 2013 President's Budget requests $1.3 billion for the FPS, $66 million or 5.2 percent above the FY 2012 enacted level. The FPS is charged with protecting federal buildings and facilities. It is funded through a revolving account that receives fees collected from Federal tenants. The Committee intends to continue its oversight of building security and the FPS's Contract Guard program.

Highways and Transit

The most recent long-term authorization of the Federal surface transportation program, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59), expired at the end of FY 2009. Since that time, Federal highway, highway safety, and public transportation programs have been operating under a series of eight short-term extensions, the most recent of which extends the programs through March 31, 2012.

The administration's FY 2013 budget request provides the funding outline for a six-year $476 billion reauthorization of the surface transportation programs. This proposal is essentially the same as the FY 2012 Budget proposal, with two exceptions: (1) the $50 billion in "up-front" transportation investments to stimulate the economy would be provided in FY 2012, not as part of the reauthorization proposal beginning in FY 2013; and (2) the National Infrastructure Bank is proposed as an Independent Agency, rather than as part of the Department of Transportation, and is not included in the administration's surface transportation reauthorization proposal.

The administration claims that its surface transportation reauthorization proposal is fully paid for with savings achieved from ramping down overseas military operations. Specifically, the Budget uses $231 billion in savings from reduced Overseas Contingency Operations (OCO) to cover outlays associated with 100 percent of the new spending under the administration's proposal, as well as the shortfalls between revenue and spending that exist under current law for the six-year reauthorization period.

The Committee does not agree with the administration's assertion that its reauthorization proposal is "fully paid for." The reduction in overseas military operations is the result of policy decisions that have already been made. The administration's surface transportation reauthorization proposal would not achieve any additional savings beyond what is already scheduled to occur under current policy. The Committee believes that surface transportation reauthorization should be paid for with real savings.

The Committee on Transportation and Infrastructure recently reported its own surface transportation reauthorization proposal, H.R. 7, the American Energy and Infrastructure Jobs Act of 2012. H.R. 7 accomplishes more with less through significant reforms including cutting in half the time it takes to complete major infrastructure projects. H.R. 7 establishes a blueprint for job creation, is responsibly paid for, and includes no earmarks, tax increases or deficit spending. Rather than emphasize more deficit spending, as the administration has proposed, the Committee's focus in H.R. 7 is on making transportation programs and projects more efficient, and ensuring the best use of available funds.

Highways

The FY 2013 President's Budget proposes a $476 billion six-year reauthorization of the surface transportation programs, of which $305 billion is for road and bridge improvements and construction. In FY 2013 the administration proposes $42.6 billion for the Federal-Aid Highways program, $2.7 billion more than the FY 2012 appropriated level. In addition, the administration has requested an additional $28 billion for FY 2012 for the Immediate Transportation Investment program. The Committee supports funding the Federal-Aid Highways program at a level in FY 2013 that ensures the Highway Trust Fund remains solvent.

The Committee supports streamlining the number of highway programs to increase efficiency and flexibility. Fifty years ago the goal of the federal highway program was to fund road construction projects that facilitated interstate travel and interstate commerce. After the Interstate Highway System was largely completed, the federal highway program began to fund a broader range of projects. Currently, there are over 55 separate highway programs. The Committee believes that many of these programs should be consolidated and replaced with a relatively small number of core highway programs.

H.R. 7 eliminates approximately 40 Federal Highway Administration programs and focuses limited federal resources on projects that have regional or national significance. Federal approvals and processes are streamlined to ensure projects are expedited, and administrative overhead can be reduced through programmatic reform, increasing the amount of funding available for projects.

State Flexibility and Accountability

Under H.R. 7, states maintain the opportunity to fund the broad range of eligible projects under the current Surface Transportation and Congestion Mitigation and Air Quality Improvement programs, but they are not required to spend a specific amount of funding on specific types of projects, such as transportation museums or landscaping. More than 90 percent of federal highway program funding will be distributed through formula programs to state departments of transportation, allowing state and local transportation officials to prioritize projects rather than bureaucrats in Washington, D.C. States are provided the maximum amount of flexibility in choosing what projects to fund with their federal highway dollars, but will be held accountable for those choices through performance measures and transparency requirements.

A Focus on the National Highway System

The new federal highway program under H.R. 7 focuses primarily on the National Highway System – a 160,000 mile system of roads that includes the Interstate Highway System and other roads important to the nation's economy, defense and freight mobility. Under H.R. 7, approximately half of the funding provided for the federal highway program is directed to funding projects on the National Highway System.

Highway Safety

The legislation doubles the amount of funding dedicated to the Highway Safety Improvement Program. This program funds road infrastructure projects designed to improve safety and can fund projects on virtually any road.

Improved Leveraging of Resources

The bill better leverages our limited federal resources, including through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program and the existing state infrastructure bank structure. This approach keeps the federal financing bureaucracy at a minimum and maximizes states' financial capabilities.

Transit

The administration's budget request proposes total budget authority of $10.8 billion for the Federal Transit Administration (FTA) programs in FY 2013, an increase of $233 million (two percent) above the FY 2012 appropriated level. The proposal also includes an additional $9 billion for FY 2012 for the Immediate Transportation Investment program. The Committee supports funding federal transit programs at a level in FY 2013 that ensures the Highway Trust Fund remains solvent.

The President's Budget proposes to restructure the federal transit programs, bringing the total number of major programs down to five. However, within those five major programs, there are 20 different subprograms, seven of which are new. This is not real program reform, and does not serve the goal of increasing federal program transparency and predictability. The Committee is supportive of restructuring the federal surface transportation programs and eliminating programs that are no longer in the federal interest and consolidating programs that overlap or are duplicative. The transit title of H.R. 7 restructures and consolidates FTA programs, repealing programs that are discretionary in nature or are not in the federal interest (such as the Paul S. Sarbanes Transit in the Parks program and the Clean Fuels Discretionary Grant program) and consolidating programs that have similar missions and functions. Under H.R. 7, the actual number of federal transit programs is reduced from 20 to 10.

The administration's budget also proposes enormous growth in FTA administrative expenses, from current funding of $99 million to $166 million, and an increase in full time equivalent staff from 570 to 645. A major component of this proposed increase, $45 million, is associated with FTA's proposal to federalize transit safety, which is now regulated at the state level. The Committee opposes establishing a new federal bureaucracy to regulate transit safety. H.R. 7 addresses shortcomings in state safety oversight by authorizing formula funds to strengthen state safety oversight agencies, as well as establishing new safety standards for the states in performing this important regulatory function over their own rail transit systems.

Highway and Motor Carrier Safety

The FY 2013 budget proposes $793 million for the behavioral safety programs at the National Highway Traffic Safety Administration (NHTSA). This is a 20 percent increase over the FY 2012 appropriated level of $660 million. Additionally, the administration's FY 2013 budget proposes to increase funding for the Federal Motor Carrier Safety Administration to $580 million, an increase of 4 percent over the FY 2012 appropriated level of $555 million.

Recent years have seen a steady decline in highway fatalities, from 43,510 in 2005 to 32,885 in 2010. There has also been a dramatic reduction in severe and fatal crashes involving large trucks and buses, with fatalities from such crashes dropping from 5,539 in 2005 to 3,944 in 2010.

H.R. 7 builds upon the progress made in recent years and ensures continued safety improvements by incorporating performance measures into each state's highway safety and motor carrier safety plans. Under the bill, each state is required to establish quantifiable targets for each performance measure. This will help states target the most effective highway and motor carrier safety activities and hold states accountable for how they spend their federal funding.

National Highway Traffic Safety Administration (NHTSA) Safety Programs

H.R. 7 focuses funding on NHTSA's highway safety grant program, distributing money to states through a formula for highway safety activities, including initiatives to increase seat belt use, prevent impaired driving, and improve motorcycle safety. In addition, the bill changes the distribution formula for NHTSA's highway safety grant program so states that have laws and programs designed to increase seat belt use, prevent impaired driving, or improve the safety of young drivers receive more funding. Finally, the bill holds states accountable by requiring them to spend federal funding in areas where they are not meeting performance goals.

Motor Carrier Safety Programs

H.R. 7 ensures that federal regulations keep unsafe trucks and buses off the road while allowing companies that operate in a safe and responsible manner to continue to do so. Specifically, the bill prevents companies that have been shut down for violating safety standards from reincarnating as new carriers to avoid compliance. It consolidates grant programs and institutes new performance measures to focus state motor carrier safety efforts on reducing the number of crashes and fatalities involving large trucks and buses. It establishes annual inspection programs for buses. The bill also requires the Secretary to establish a clearinghouse of positive drug and alcohol test results by commercial drivers, and prescribe regulations to establish minimum training requirements for commercial drivers.

Railroads, Pipelines, and Hazardous Materials

Federal Railroad Administration

Rail Safety

The Committee reauthorized the Federal Railroad Administration's (FRA) rail safety program in the 110th Congress through enactment of the Rail Safety Improvement Act of 2008 (P.L. 110-432). Prior to enactment of the Rail Safety Improvement Act (RSIA), the FRA's rail safety program had not been reauthorized since 1994. The administration's FY 2013 Budget request of $196 million for FRA Safety and Operations activities represents a 10 percent increase over the FY 2012 funding level of $178.6 million.

To offset some of this cost increase, the administration proposes (as it did in FY 2012) to establish a new rail safety user fee on railroad carriers, specifically to cover the cost of FRA safety inspectors. The offsetting collections are budgeted at $80 million. There is no current statutory authority for imposing such a fee, and imposing a safety user fee on railroads would divert scarce resources that are necessary for safety-related investments in rail infrastructure, technology and equipment. The Committee strongly opposes the authorizing language included in the budget that would prescribe these user fees and rejects the proposed increase in funding and staffing for the Federal Railroad Administration.

Passenger Rail

The President's Budget requests $2.5 billion in two new accounts called Network Development and System Preservation and Renewal, which consolidate the High Speed and Intercity Passenger Rail (HSIPR) program, Operating Grants for Amtrak, and Capital and Debt Service Grants to Amtrak. Of this total, $1 billion is for high speed rail implementation to provide grants to meet a goal to offer fast and convenient passenger rail access to 80 percent of Americans within 25 years. Over $10 billion was appropriated for HSIPR grants in the American Recovery and Reinvestment Act of 2009 (2009 Stimulus Act) and the FY 2010 Consolidated Appropriations Act.

However, in the past two fiscal years, Congress has de-funded the HSIPR program. Numerous concerns have been raised regarding FRA's project selection process; these concerns are outlined in a March 2011 Government Accountability Office (GAO) report. The HSIPR program also experienced strong opposition at the state level from the Governors of Ohio, Wisconsin, and Florida, who cancelled HSIPR projects in their States that had been awarded funding by FRA and returned the funds to the Department of Transportation. Most recently, the single largest HSIPR project, the California High-Speed Rail project, has received almost $4 billion in HSIPR funding, but the cost estimate for construction has more than doubled from $43 billion to $98.5 billion and it will take 13 years longer than originally planned. This project appears to be in disarray. The Committee opposes providing further funds for the troubled HSIPR program until a clearer program mission and more transparent and merit-based grant award process have been developed.

In addition to the FY 2013 request of $2.5 billion, the President's Budget also requests supplemental funding in FY 2012: $4 billion for Network Development to make additional HSIPR grants, and $2 billion for System Preservation and Renewal for Amtrak to purchase new rail cars and make station accessibility improvements. This $6 billion in rail funding is part of the administration's FY 2012 supplemental request for $50 billion for Immediate Transportation Investments. The Committee does not support supplemental rail funding in FY 2012. Thus far, the HSIPR grants already appropriated and awarded are not being spent or creating new jobs. According to DOT, at the end of December 2011, only $365 million had been spent of the $8 billion awarded to HSIPR projects in the 2009 Stimulus Act.

Amtrak

On February 1, 2012, Amtrak submitted its General and Legislative Annual Report to Congress for FY 2013, which requests a total of $2.167 billion in FY 2013, a 53 percent increase above the FY 2012 appropriated level of $1.418 billion. Amtrak has averaged an appropriation of $1.36 billion annually over the last five fiscal years. In the 2009 Stimulus Act, Amtrak received an additional $1.3 billion for capital grants, doubling its annual funding, and 76 of the 78 HSIPR grants awarded by FRA to States were for existing Amtrak routes and services.

Amtrak was created in 1970 under the Rail Passenger Service Act, which established a national passenger rail route network and on May 1, 1971, Amtrak began operations. The railroad has required a federal subsidy for every year of its 41-year history and has received more than $39 billion in federal subsidies in total. Today, the federal government's subsidy of Amtrak's capital and operating costs results in an average per-ticket subsidy of $49.19. The subsidy is much higher on some routes. For example, the Sunset Limited from New Orleans to Los Angeles averaged a per ticket subsidy of $390.50.

It is notable that Amtrak is requesting a lower operating subsidy in FY 2013 than in previous years. Specifically, Amtrak requests $450 million for operating expenses, which is $16 million less than FY 2012 appropriations for operating expenses and $181 million less than the FY 2013 authorization. However, this lower operating expenses request is more than offset by a substantially increased request for capital grants. In H.R. 7, Amtrak's operating grant authorization was reduced without increasing the authorization for capital grants.

The Committee supports continuing the downward trend in federal operating subsidies for Amtrak, and does not support the significant increase in capital grants requested by Amtrak. To further reduce federal subsidies for passenger rail service, the Committee supports the full implementation of private sector participation initiatives included in the Passenger Rail Investment and Improvement Act of 2008 and in the rail title of the American Energy and Infrastructure Jobs Act.

The Northeast Corridor (NEC)

The NEC is one of the most valuable transportation assets in the United States, providing the only continuous physical link, along with I-95, between the major population centers of Washington, D.C., Baltimore, Philadelphia, New York City, and Boston. The Northeast mega-region is the most densely populated area in the United States, with 18 percent of the nation's population living in just two percent of its land area. Taken as a whole, the NEC region would be the sixth largest economy in the world with a GDP of $2.59 trillion, and a population equal to the United Kingdom.

In late 2010, Amtrak proposed a "Vision Plan" to bring the NEC up to world-class high-speed rail standards by building dedicated high-speed tracks on new rights-of-way between Washington, D.C. and Boston. Unfortunately, this vision would cost $117 billion and take 30 years to implement. Amtrak's historical failure to successfully execute capital projects strongly suggests that the United States should explore alternative solutions for future high-speed rail service on the NEC.

Bringing true high-speed rail to the NEC will be a net economic gain, resulting in reduced air and highway congestion, increased productivity, and development opportunities. The line will be profitable and will not require federal subsidy. However, the NEC was awarded only a very small percentage of HSIPR funding by the FRA, about $954 million of the total $10.1 billion program. If other passenger rail projects around the country fail to progress and are canceled, as occurred in Wisconsin, Ohio, and Florida, the Committee supports reinvesting those funds in the NEC. To make successful high-speed rail a reality, the expertise and investment capital of the private sector must be utilized, in conjunction with state and local participation.

Pipelines and Hazardous Materials Safety Administration

Pipeline Safety

The President's Budget request includes $177 million for Pipeline Safety, an increase of $67 million (61 percent) above both the FY 2012 enacted levels and the FY 2013 authorized level. The request also includes an additional 150 new positions within the Office of Pipeline Safety, 120 new inspectors and 30 program personnel. In addition, the Budget proposes a new Pipeline Safety Design Review fee that would be levied against pipeline operators to cover the costs associated with pipeline facility design safety reviews conducted by the Pipelines and Hazardous Materials Safety Administration (PHMSA).

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112-90) authorizes the pipeline safety programs through FY 2015. The President's Budget request ignores this bill that was signed by the President in January and continues to put forth proposals that were rejected by Congress during the reauthorization process. The Committee strongly supports the funding levels and the policies put forth in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 and recommends funding the pipeline safety programs consistent with the FY 2013 funding levels authorized in such Act.

Hazardous Materials Safety

The authorization for PHMSA's hazardous materials safety program expired in 2008. H.R. 7, the American Energy and Infrastructure Jobs Act of 2012, includes a Hazardous Materials Transportation title reauthorizing this program.

The President's Budget requests $51 million for FY 2013 for PHMSA's hazardous materials safety program, an increase of $8 million and 22 new positions above the current FY 2012 funding and staffing level. Of the $51 million requested, $12 million is proposed to be funded by a new Special Permits and Approvals Fee to be collected from companies and individuals involved in the transport of hazardous materials seeking special permits and approvals from the Hazardous Materials Regulations. The fee would range from $700 to $3,000 and would be assessed on a per-application basis. Governments and foreign entities would be exempt from the user fee. The Committee is concerned that the proposed fees would disproportionately impact small U.S. businesses, and the Committee opposes this proposal. Furthermore, the Committee's proposed reauthorization of hazardous materials transportation programs specifically prohibits PHMSA from charging such fees.

Surface Transportation Board

The Surface Transportation Board (STB), while administratively affiliated with the U.S. Department of Transportation, is decisionally independent. Therefore, the STB and the President submitted separate budget requests for the agency. The STB's budget requests $34.6 million (including offsetting collections of $1.25 million) and 170 full-time equivalent (FTE) staff for administration of the STB's economic oversight of the nation's freight rail system, the intercity bus industry, non-energy pipelines, household goods carriers, non-contiguous domestic water transportation, and certain aspects of Amtrak's relationships with the freight railroads and States. This request is $5 million more than the FY 2012 appropriation of $29.3 million and is 22 FTE over current staffing levels. The increase is primarily intended to cover the STB's enhanced statutory responsibilities under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and to process rate reasonableness cases, increase mediation efforts, and enhance auditing of industry financial filings.

The President's Budget requests a more modest FY 2013 funding level of $31 million. While the Committee recognizes that the STB's responsibilities have increased and its rate case docket has grown, the Committee agrees with Commissioner Ann D. Begeman who dissented from the STB's budget request stating that given our nation's fiscal crisis a modest but not significant budget increase to support the growing case load, notably in the rate case docket, would be appropriate.

Water Resources and Environment

Army Corps of Engineers

The President recommends $4.731 billion as the total budget for the Corps of Engineers for FY 2013. This represents a decrease of $271 million (-5.4 percent) below the $5.002 billion level provided for FY 2012 (excluding amounts provided in the Disaster Relief Appropriations Act, 2012). The Committee supports Federal investment in the Civil Works program at the total level recommended by the President as part of an overall strategy to significantly reduce federal spending.

More importantly, the Committee believes that the funds in the budget need to be focused on the missions of the Corps of Engineers that provide an economic return on investment – these are the missions of navigation and flood damage reduction. While aquatic ecosystem restoration is an important mission of the Corps, those projects do not typically generate long term jobs nor as high an economic return on investment as do navigation and flood damage reduction projects. For FY 2013, the Congress must focus on creating jobs and restoring economic health.

Investigations

The Corps must conduct new studies to determine where there is Federal interest in water resource development. The President's Budget requests $102 million to conduct studies in FY 2013. This is $23 million (-18 percent) less than the FY 2012 enacted level of $125 million.

The Committee recommends that the limited funds in the Investigations Account are prioritized to go to completing on-going studies on projects that provide economic benefits. Additionally, it has come to the Committee's attention that approximately 30 studies are taking 10 years or longer. The Committee recommends the Corps either terminate those studies or expedite their completion.

Construction

The President's Budget requests $1.471 billion for project construction in FY 2013, a decrease of $223 million (-13 percent) below the FY 2012 enacted level of $1.694 billion. The Committee is concerned that, unless funds are properly targeted, low funding levels for the Construction account will increase the cost of completing projects and delay the national economic and ecosystem restoration benefits that these investments provide. For this reason, it is important that funding be focused on those projects that provide the most economic return on investment – typically the navigation and flood damage reduction projects. Therefore, the Committee supports funding the projects in the Construction account at the Corps' capability level so that they could be completed in an efficient manner.

Operation and Maintenance

The President's Budget requests $2.398 billion for project operation and maintenance in FY 2013, a decrease of $14 million (-0.6 percent) below the FY 2012 enacted level of $2.412 billion. The Committee recommends that the these funds be focused on navigation and flood damage reduction projects so that the economic benefits of those projects can be more fully realized.

Harbor Maintenance Trust Fund

The Harbor Maintenance Trust Fund is supported by taxes paid by users of ports and is meant to pay for harbor maintenance projects. The Committee remains concerned that the Fund is not being fully utilized for its intended purpose. At the end of FY 2012, the estimated balance in this fund is expected to be $7.11 billion. The Committee believes that this practice is a breach of trust between the federal government and those who pay the taxes. In addition, currently, only one-third of the nation's federal navigation projects are at their authorized depths and widths. This results in ships having to lighten their load, increasing the cost of transportation. The Committee strongly believes that, if the federal government is going to charge a fee such as the harbor maintenance tax, the proceeds of that fee should be fully spent for its intended purposes.

Inland Waterways Trust Fund

Revenues in the Inland Waterways Trust Fund are derived from a 20-cent-per-gallon tax on diesel fuel used by commercial vessels engaged in inland waterway transportation, plus investment income. The Trust Fund is used to pay one-half of the costs associated with the construction, replacement, expansion, and major rehabilitation of Federal inland waterways projects. Currently, the Corps is using the money at the same rate that it is collected and that is insufficient to maintain an efficient construction schedule for existing projects or to begin any significant new investments. The budget calls for using $94.78 million from the fund in FY 2013, resulting in an estimated balance of $66 million at the end of FY 2013.

The infrastructure along the inland waterway system is old and in need of repair, replacement, and rehabilitation. The Committee is aware that the current rate of revenue collection and investments is not sustainable in the long term if we are to keep inland waterways as a viable part of a multimodal transportation system. Nevertheless, the Committee disagrees with the Administration's proposal to place an additional tax on those who utilize the inland navigation system to provide for operation and maintenance of the system. Some, including the Inland Waterway Users Board, have proposed new methods of collecting revenue to allow for greater investments in inland navigation infrastructure. Recognizing that water transportation is typically more economical, more fuel efficient, and less polluting per ton-mile than other modes of transportation, the Committee continues to express reservations regarding any proposal to raise the costs of shipping goods along the inland waterway system.

Regulatory Program

The President's budget requests $205 million for the regulatory program in FY 2013. This is $12 million (6 percent) more than the FY 2012 enacted level of $193 million. The requested funding provides for costs incurred to administer laws pertaining to regulation of activities affecting U.S. waters, including wetlands, in accordance with the Rivers and Harbors Act of 1899, the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act of 1972. The Committee expects the additional funds to be used to expedite permit processing.

The Committee notes the increasing regulatory burden being placed on the nation's economic development community by the current Administration. The Committee would recommend, in addition to the funds for the regulatory program, that the Administration reduce unnecessary regulations on the nation's job creators.

Formerly Utilized Sites Remedial Action Program (FUSRAP)

The President's budget requests $104 million for FUSRAP for FY 2013. This is $5 million (-2.6 percent) less than the FY 2012 enacted level of $109 million. FUSRAP provides for the cleanup of certain low-level radioactive materials and mixed wastes, which are located mostly at sites contaminated as a result of the nation's early atomic weapons development program. This program was transferred from the Department of Energy to the Corps in the FY 1998 Energy and Water Development Appropriations Act.

The Committee recommends funding be restricted to an amount that ensures existing projects continue and can be completed.

Mississippi River and Tributaries

The President's budget requests $234 million for FY 2013 for planning, construction, and operation and maintenance activities associated with Mississippi River and Tributaries water resources projects located in the lower Mississippi River Valley from Cape Girardeau, Missouri to the Gulf of Mexico. This is $18 million (-7 percent) less than the FY 2012 enacted level of $252 million.

The Committee notes that recent flood events on the Mississippi, Missouri, and Ohio Rivers require renewed attention to the nation's deteriorating flood damage reduction infrastructure. The Committee recognizes the importance of flood damage reduction projects and supports continued funding for such projects at a level consistent with current budget constraints.

Flood Control and Coastal Emergencies (FCCE)

The Administration's budget request proposes $30 million for the Corps of Engineers' Flood Control and Coastal Emergencies (FCCE) account. This is an increase of $3 million (11 percent) above the FY 2012 enacted level. The Corps has authority under P.L. 84-99 for emergency management activities, including disaster preparedness, emergency operations (flood response and post flood response), rehabilitation of flood control works threatened or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storms, and the provision of emergency water due to drought or contaminated sources. Funds for the Corps' FCCE account are typically provided on an emergency basis through supplemental appropriations acts.

Natural Resources Conservation Service (Small Watershed Program)

Under authority of the small watershed program, authorized in the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566) and the Act of December 22, 1944 (P.L. 78-534), NRCS provides technical and financial assistance to local organizations to install measures for watershed protection, flood prevention, agricultural water management, recreation, and fish and wildlife enhancement. Depending on its size and cost, a project may be carried out administratively or with Congressional approval by the House Agriculture Committee (projects with a structure up to 4000 acre feet of storage capacity) or the Transportation and Infrastructure Committee (projects with a structure over 4,000 acre feet of storage capacity) and comparable Senate committees. There are more than 11,000 such structures under the NRCS authority nationwide.

Watershed Surveys and Planning

The watershed surveys and planning account funds the studies needed to carry out the small watershed program. The President's budget requests no money for the Watershed Surveys and Planning Program (studies) in FY 2013, and no funds were provided in FY 2012. The Committee concurs with the President's request.

Watershed and Flood Prevention Operations

The Watershed and Flood Prevention Operations Account funds both the Small Watershed Program, discussed above, and the Emergency Watershed Protection Program, which provides assistance to State and local governments after a flood or other emergency has taken place. The President's FY 2013 budget requests no money for this account. For FY 2012, $215.9 million was appropriated for the Watershed and Flood Prevention Operations account. The Committee concurs with the President's request.

Watershed Rehabilitation Program

In 2000, Congress amended the Watershed Protection and Flood Prevention Act to allow NRCS to provide assistance to rehabilitate flood protection dams that had been built with assistance provided under that Act and have now reached the end of their useful lives, creating threats to property and lives. The President's FY 2013 budget request includes no funding for the Watershed Rehabilitation Program to provide technical and financial assistance for upgrading or removing aging dams. The FY 2012 enacted level for this account is $15 million. The Committee concurs with the President's request.

Environmental Protection Agency

For water infrastructure programs administered by the Environmental Protection Agency (EPA), the Committee recommends that limited funds be focused on programs that will have the greatest impact on local economies and job creation, such as the State Revolving Loan Fund Program, Brownfields, and Superfund programs. These programs generally lead to construction projects and turn contaminated land into usable property with an enhanced economic value. Further, these programs provide an opportunity to leverage state, local, and private funds to achieve greater economic and environmental benefits. The Committee supports programs that directly assist communities and businesses in their efforts to meet regulatory requirements.

The Committee does not support the administration's proposal to reinstate the Superfund tax on businesses. The Superfund program is designed to be principally a cost recovery statute, but the tax the administration is proposing would be aimed mostly at where the money is, not where the responsibility lies, and as a result, the taxes would unfairly penalize a substantial amount of companies who did not cause any pollution and had no contact with any Superfund site. During these challenging economic times, increasing the tax burden on businesses will only stifle investment, slow recovery, and slow the creation of new jobs.

Clean Water State Revolving Loan Funds

The Clean Water State Revolving Loan Fund (SRF) program is a highly successful program administered by states to provide low interest loans to local communities around the country to make wastewater infrastructure improvements and to address other water quality needs. To date, Congress has provided $32 billion in grants to help capitalize 51 Clean Water SRFs. With the 20 percent state match and the fact these SRFs earn interest, receive loan repayments, and are used to secure state bonds, the return on this Federal investment has been greater than two to one. The total amount made available in loans from Clean Water Act State Revolving Funds from 1998 through June 2008 exceeds $89.5 billion.

For FY 2013, the President's budget is requesting $1.175 billion to further capitalize these funds, a decrease of $291 million below the FY 2012 enacted level of $1.466 billion. The Committee supports the President's request for lower funding.

While there is a need for Federal investment in wastewater infrastructure, it is clear that the Federal government cannot meet this need alone. It is going to take a partnership of Federal, State, and local governments, and where appropriate, the private sector, to meet this challenge.

To this end, it is important that all entities who are looking for ways to maximize their investments in wastewater infrastructure and other water pollution control activities seek out innovative and alternative ways of raising capital and increasing investment to supplement the "traditional" ways of funding these programs. Our nation needs to have at its disposal a wide range of funding mechanisms and funding sources available to meet our nation's clean water needs. There is a tremendous amount of capital from other public and private sources potentially available for investment in our infrastructure, and there is a need to learn more about innovative and alternative ways of accessing it.

The Committee supports a shift in the focus of EPA's water program away from creating new unfunded regulatory mandates and toward finding additional ways to leverage current resources to pay for the multitude of regulatory mandates on the regulated community that EPA already has in place.

Nonpoint Source

The nonpoint source management program authorized by section 319 of the Clean Water Act has been very helpful to States and local governments in addressing nonpoint source water quality issues around the nation. For FY 2013, the President's Budget is requesting $164.76 million for EPA's nonpoint source management program, a slight increase above the FY 2012 enacted level of $164.5 million.

The Committee supports the President's request. The Committee notes that the EPA needs to focus on additional ways to leverage current resources under the Clean Water Act for addressing nonpoint sources with the resources available from other Federal and State programs. For example, there are programs and resources under the U.S. Department of Agriculture and other agencies that support complementary efforts aimed at improving water quality. EPA needs to improve its coordination with these other agencies and programs to maximize the collective water quality benefit from these programs.

State Water Management Programs

The foundation of the Clean Water Act has long been the Federal-state partnership in implementing the provisions of the Act. In support of this partnership, the Federal funding is provided to the states for state water quality management programs under Section 106 of the Clean Water Act. Prevention and control measures supported by state water quality management programs include Clean Water Act permitting, pollution control activities, surveillance, monitoring, enforcement, local governmental training, and public information. For FY 2013, the President's Budget requests an appropriation of $265.3 million for state water quality management programs under section 106 of the Clean Water Act, an increase of $26.9 million above the FY 2012 enacted level of $238.4 million. These funds go directly to States to help communities meet federal environmental requirements. The Committee supports the requested increase.

Superfund

For FY 2013, the President's Budget requests an appropriation of $1.176 billion for the Superfund program administered by the EPA, a decrease of $37.4 million below the FY 2012 enacted level of $1.214 billion. The Committee supports the President's request for lower funding. The economic benefits from the Superfund program are derived from the cleanups that occur under the program, which return sites to productive use. Therefore, the Committee recommends that EPA devote a larger proportion of the funding for on-the-ground removal and remedial activities, and less for program overhead, to maximize the economic return from the program. As with other accounts, the EPA should give highest priority to projects that create the most jobs and economic activities.

Brownfields

The Brownfields program was authorized under the Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118). This program authorizes brownfields site assessments, cleanup, research, and technical assistance, which enables local communities and private landowners to assess and physically clean-up sites, putting valuable urban land back into productive use. The results are jobs created during the cleanup and more jobs created during the economic development generated by the land coming into productive use. The President's FY 2013 Budget requests $139.891 million for the brownfields program, a $3.345 million decrease below the FY 2012 enacted level of $144.165. The total request of $139.891 million includes $93.291 million for direct grants to assess and cleanup brownfields, and $47.572 million to support state response efforts to clean up brownfields sites. The Committee supports funding at the level requested by the President. The Committee recommends that EPA devote a larger proportion of the funding for on-the-ground removal and remedial activities, and less for program overhead, to maximize the economic return from the program.

Saint Lawrence Seaway Development Corporation

The Saint Lawrence Seaway Development Corporation is a wholly-owned government enterprise created in 1954 to construct, operate, and develop jointly with Canada a seaway between Montreal and Lake Erie. Funding for operation and maintenance of Seaway facilities is appropriated from the Harbor Maintenance Trust Fund, which derives its revenue from a 0.125 percent tax on the value of cargo loaded or unloaded at U.S. ports, as well as from tolls collected on the Saint Lawrence Seaway.

The Saint Lawrence Seaway Development Corporation has developed a 10-year U.S. Asset Renewal Program Capital Investment Plan for navigation infrastructure and facilities, including lock operation upgrades and maintenance, waterway management, tunnel and bridge maintenance, and facility upgrade and maintenance. The total cost of the 10-year asset renewal program is $164,605,000, which is authorized by section 5015 of the Water Resources Development Act of 2007 (Pub. L. 110-114).

The Committee strongly supports sufficient appropriations in FY 2013 and beyond to carry out the long-term asset renewal plan of the Seaway.

U.S. House of Representatives
COMMITTEE ON VETERANS' AFFAIRS
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March 9, 2012

The Honorable Paul Ryan
Chairman
The Honorable Chris Van Hollen
Ranking Democratic Member
Committee on the Budget
207 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Ryan and Ranking Member Van Hollen:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 and House Rule X, clause 4(f), and with the approval of the undersigned Members of the Committee on Veterans' Affairs (Committee), we write to provide our Views and Estimates with regard to programs and matters within the jurisdiction of the Committee to be set forth in the concurrent resolution on the budget for fiscal year (FY) 2013, including the Department of Veterans Affairs (VA) request for medical care advance appropriations for FY 2014.

General Comments

We are all aware of the tremendous challenges facing our nation. Although the economy is showing signs of improvement, far too many Americans remain unemployed; annual deficits and debt remain too high; and even though we are in the midst of a drawdown of our military engagements overseas, the need for a strong national defense to protect Americans at home and abroad remains. Notwithstanding the many partisan battles over these and other issues Congress has engaged in over the course of the last year, we remain united in placing the welfare of the men and women who have served our country in uniform as our top priority.

One expression of the priority veterans have earned is the funding of programs that serve their needs, principally through programs administered by VA. Although the Budget Control Act of 2011 (BCA) (P.L. 112-25, 125 Stat.240) instituted discretionary spending caps on all of government for the next decade, programs affecting veterans will continue to take special precedence. The Administration's proposed 4.3% increase in VA discretionary spending for FY 2013, relative to what is proposed in other areas of government, is an example of that precedence, and one that we, with a few caveats, endorse.

The Committee's ability to judge the sufficiency of the Administration's budget request and whether the budget responds to the real needs of veterans depends, in large measure, on the accuracy and timeliness of the resource-related information provided to the Committee, and the transparency and detail with which this information is conveyed to Congress. The Committee raises concerns regarding the following three issues, and how they relate to the provision of information to Congress.

Sequestration: All of us agree that sequestration is a poor tool to achieve necessary budgetary savings. The present reality, however, is that absent Congressional intervention there will be painful, automatic cuts made to defense and other programs beginning January 2, 2013.

Due to a conflict in law governing sequestration rules, one that only the Office of Management and Budget (OMB) can clarify immediately, it is unclear whether VA programs are a part of the sequestration conversation. Section 905(b) of title 2, United States Code, was amended in 2010 to clarify that "[a]ll programs administered by the Department of Veterans Affairs" are exempt from any order of sequestration. However, section 906(e) of title 2, United States Code, added originally as part of the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177, 99 Stat.1037, 1088), permits a maximum 2% reduction in budget authority under a sequester order for, among other things, "veterans' medical care." The Committee has attempted to get clarity from OMB about how the BCA interacts with these two, seemingly contradictory sections of law. To date, although the ambiguity has been acknowledged by the Administration, no definitive answer regarding sequestration and its potential inclusion of VA has been received by the Committee.

We believe the intent of Congress was for all VA programs to be exempt from the threat of sequester, and a bill is pending before the Budget Committee (H.R. 3895) to make that explicit. Lawyers with both the Government Accountability Office (GAO) and the Congressional Research Service (CRS) have provided legal opinions to the Committee arguing that, in their judgment, VA is exempt under existing law. However, should OMB not agree, the implications of sequestration on VA healthcare would be profound. This is an area of great uncertainty surrounding the FY 2013 request, one that the Committee will be following closely. The Committee is requesting that OMB make a determination as soon as possible to enable VA to better forecast its future resource needs.

Revisions to Estimates: In February of 2011 the Administration submitted its budget request for FY 2012 and the FY 2013 advance appropriation for VA medical care. That request had a degree of specificity regarding how health care appropriations were planned to be expended. It was that request that veterans' organizations, the Committee, the Appropriations Committee, and this Congress relied upon as the blueprint of how money provided would be spent. The Committee only learned last month, with the submission of the Administration's budget, that there had been a significant revision to both the FY 2012 and FY 2013 estimates of resource requirements for VA medical care. This revision occurred after VA ran its Enrollee Healthcare Projection Model (the Model) in the Spring of 2011 using updated information, nearly nine months before the Committee was notified The result of the Model update was a lowering of the resource requirements for VA medical care in FY 2012 by nearly $3 billion, and a lowering of the resource requirements for medical care in FY 2013 by nearly $2 billion. VA subsequently made an internal decision to reallocate those resources to fund a variety of initiatives.

Although we understand that forecasting resource needs for a medical care system far in advance of the year being funded presents challenges, it is unacceptable that VA kept important information internal for so long. Congress has the ultimate responsibility and obligation to make final funding decisions with regard to the Executive Branch. Especially in a tight fiscal climate, decisions about how best to allocate an overestimation of resources should be made in a transparent fashion and with Congressional involvement, even if these resource overestimations and adjustments are expended within the appropriations account in which they were originally provided. This is essential to ensure that Congressional responsibilities are met and competing priorities can be balanced.

We note that in two months VA will, again, run its Model to update its resource requirements for FY 2013 and FY 2014. It could be that the Model forecasts another overestimation of resources; it could be that the Model forecasts a need for additional resources. Regardless of the outcome, the Committee expects to be notified regarding any substantial revisions to these forecasts.

Operational Improvements: As discussed, the Administration's budget request for VA medical care is an effort to reflect an accurate accounting of the resource needs of the healthcare system. The resource needs are influenced by a variety of factors, including the degree to which improvements to internal operations obviates the need for appropriated resources. For FY 2012 and FY 2013, the Administration asserts that certain operational improvements will reduce the resource need by a combined $2.4 billion. These operational improvements include making VA fee-care payments for certain services consistent with Medicare payment rates, improving VA's acquisition process, and making unspecified administrative changes.

We applaud efficiency and improved operations; however, we are concerned about VA claiming savings without any real way of transparently measuring whether they, in fact, occurred. GAO released a report last month on VA's claimed operational improvements and raised the same concern. The report noted that "VA's estimated savings from two of its six operational improvements lacked analytic support and estimated savings from another were flawed. Without a sound methodology for estimating these savings, VA runs the risk of not achieving them."

Again, transparency regarding claimed operational savings, resource re-estimations, and sequestration is essential going forward.

I. Summary

For VA programs, we support the Administration's request of $60.998 billion in total discretionary spending in FY 2013, a 4.3% increase above the FY 2012 enacted level (excluding medical collections). $52.541 billion of the FY 2013 request has already been provided in advance for VA medical care. The Administration requests an additional $165 million for VA medical care on top of the advance appropriation provided in the Consolidated Budget Act, FY 2012 (P.L. 112-74, 125 Stat. 786). The Committee believes that at this time, this additional $165 million would better be used to increase funding levels for other high priority VA accounts. The Committee stands ready, as more recent data becomes available and if an immediate need is demonstrated, to work to provide any additional medical care resources required to provide health care to our veterans. The Committee recommends that this $165 million be used in the following manner:

+$17 million above the Administration's request for Medical Research
+$5 million above the Administration's request for the Veterans Benefits Administration
+$3 million above the Administration's request for General Administration to provide an increase for the Board of Veterans' Appeals (BVA)
+$5 million above the Administration's request for the VA Office of the Inspector General
+$135 million above the Administration's request for VA's construction programs (Construction, Major Projects; Construction, Minor Projects, and non-recurring maintenance within the Medical Facilities account)

We, at this point, also endorse the Administration's request of $54.462 billion (excluding collections) in FY 2014 advance appropriation for VA medical care. We reserve the right to revisit this recommendation as more information is revealed this year and next about the actual resource requirements necessary for FY 2014.

We further endorse the overall discretionary requests for other programs in the Committee's jurisdiction, including the American Battle Monuments Commission (ABMC), the U.S. Court of Appeals for Veterans Claims (CAVC), and the Veterans' Employment and Training Service (VETS).

Finally, although we do not request additional resources beyond those listed above, we do have recommendations on how funding should be allocated within specific appropriation accounts. Those recommendations will be outlined in the body of the letter.

II. Discretionary Spending

1. VA Medical Care

For FY 2013, the Administration requests $52.7 billion (excluding estimated medical collections) for the three VA medical care appropriation accounts – Medical Services ($41.5 billion), Medical Support and Compliance ($5.7 billion), and Medical Facilities ($5.4 billion). This request, which represents a 4.1% increase over the FY 2012 enacted appropriations for medical care, is $165 million higher than what the Administration requested one year ago through the FY 2013 advance appropriations request. VA states that the increase is the result of updated estimates from the Enrollee Health Care Projection Model (the Model). The Administration also requests an FY 2014 advance appropriation of $54.4 billion (excluding estimated medical collections), a 3.3% increase above the Administration's FY 2013 medical care request.

In addition, the Administration assumes the availability of $3 billion in medical care collections in FY 2013, including receipts from pharmacy and other first-party copayments including inpatient, outpatient and nursing home care and third-party insurance payment collections associated with care provided for non service-connected conditions. This estimate represents a

7.2% increase over the FY 2012 collections estimate. In FY 2014, the Administration assumes the availability of $3.1 billion in collections, a 2.9% increase over the FY 2013 estimate.

Finally, the Administration assumes the ability to carry over, from FY 2012 to FY 2013, $500 million in unobligated balances.

At this time we will defer any judgment on the additional $165 million the Administration requests for medical care to supplement the $52.541 billion that has already been provided in advance for FY 2013. As discussed above, the Administration announced $5 billion in overestimation for the FY 2012 and FY 2013 periods, and will soon run its Model again in early spring. The Committee needs time to gather more information before updating our views.

We do, however, applaud the broad goals outlined in the Administration's request, including initiatives to eliminate veteran homelessness, increase access to mental health care, expand access to care for rural veterans, overcome barriers to care for female veterans, and prevent suicides among veterans.

We remain concerned about the Administration's rising administrative costs. From FY 2011 to FY 2012, the Medical Support and Compliance account grew nearly 8%. The Administration's FY 2013 budget request would increase this account, which provides funds for expenses related to the administration of VA medical facilities, by an additional 3.8%. We question the continued significant increase in funding directed towards Departmental bureaucracy rather than direct services to veterans and their families. In prior Committee testimony the Administration has agreed to reassess the size and functional make up of its Veterans Integrated Service Network (VISN) headquarters staff. We will continue our oversight of that effort and assess its impact on budgetary resources going forward.

We also remain concerned about two aspects of the Medical Facilities portion of this request. First, non-recurring maintenance needs identified in VA's Strategic Capital Investment Plan total $20 to $25 billion. However, the Administration requests only $710 million in FY 2013 to meet this need. If that amount of funding is carried forward each year it will take approximately 30 to 35 years to fund all identified projects. We will discuss this further in the "VA Construction Programs" heading below, but, needless to say, this is an obvious area of strategic concern.

The second aspect of the Medical Facilities account we will conduct additional oversight on is VA's medical facility lease program. According to a status report within VA's budget submission, there are 55 major medical facility leases that have been authorized in recent years with a total start-up cost of $442 million, but only 5 of those facilities are now open (meaning a contractor has built a suitable clinic for VA to lease with the money Congress has authorized and appropriated). Completion schedules contained in the original lease authorization requests to Congress suggest that many more of these facilities should be at, or nearing, completion at this point. The Committee will investigate the funding, justification, and timely completion of these and other lease projects going forward and their implications for VA budget levels.

2. VA Medical Research

For FY 2013, the Administration requests $583 million for medical and prosthetic research, an increase of approximately $2 million above the FY 2012 enacted level. The Bureau of Economic Analysis in the U.S. Department of Commerce estimates a 2.8% increase in the Biomedical Research and Development Price Index for FY 2013. To reflect this increase due to inflation would require an increase above the Administration's request of $14 million. The medical and prosthetic research program improves the day-to-day lives of the veteran population and makes significant contributions to the advancement of medicine by conducting research into the injuries, illnesses, and conditions related to military service. In addition, the program serves as an effective recruitment and retention tool to attract high quality clinician-investigators. We recommend a funding level of $600 million for this account, $17 million above the requested level. In particular, we support increased research into the provision of cutting-edge orthotic and prosthetic care and the long-term health effects of environmental exposures.

Improvements in the efficacy and efficiency of battlefield medicine have resulted in a growing population of veterans surviving with catastrophic injuries, including, in some cases, multiple limb loss. Data from the Department of Defense (DOD) indicates that more servicemembers lost limbs in 2011 than in any previous year of the Global War on Terror (GWOT). We are increasingly concerned about the Administration's ability to effectively meet the needs of the growing number of younger and more active veterans with amputations. Servicemembers returning from combat typically receive state-of-the-art prosthetic technology, rehabilitation, and care at specialized military treatment facilities in Bethesda, Maryland; San Antonio, Texas; and San Diego, California. These servicemembers eventually transition to and receive prosthetic care from VA. Increased outcomes-based research into the latest prosthetic technology, treatment, and best practices must become a priority in the coming years. It is vital to ensure system wide access to consistent and coordinated evidence-based care and standardized performance measures to enable our veterans to achieve maximum function. Of note is the need for focused research regarding upper limb amputations. Less common and less studied than lower limb amputations, upper limb amputations are becoming more prevalent in the veteran population as a result of blast-related injuries. We recommend increased research into the unique needs of veteran with multiple amputations.

In addition to increased research regarding limb loss, there is an identified need for increased research into the long-term health effects of exposure to environmental hazards, including burn pits and other chemical pollutants, during military service. On October 31, 2011, the Institute of Medicine (IOM) released a report showing so-called "limited or suggestive" evidence of an association between exposure to combustion products and reduced pulmonary function for veterans of Iraq and Afghanistan. The IOM study further raised the question as to the need for additional research into deployment exposure to particulate matters. Coupled with increased anecdotal evidence suggesting a link between wartime service in the GWOT and chronic health conditions including respiratory disease gastrointestinal disorders, we believe the Administration must leverage lessons learned from previous conflicts in Vietnam and the Gulf War and take a proactive approach to addressing the long-term consequences of war-related exposure to environmental hazards.

3. VA Information Technology

For FY 2013, the Administration requests $3.327 billion for the Office of Information and Technology (OI&T), $216 million more than the FY 2012 level. While the Committee supports a funding level sufficient to meet the considerable Information Technology (IT) needs of the Department, concerns remain in several areas.

One of these concerns is a continued lack of a clearly defined IT strategy, including how VA intends to address weaknesses in information security. From very basic breaches in data security to outstanding questions about information security going forward with an integrated Electronic Health Record (iEHR), veterans and taxpayers need to know that those past problems have been taken seriously and addressed. We believe that resolving these security issues and better defining a long-term IT strategy, as well as placing priority on developing a comprehensive IT architecture, will not only help VA better address the needs of veterans, it will also enable better coordination between VA and the Department of Defense in transitioning service members to veteran status.

VA's failure of due diligence in IT contracting continues to worry the Committee. The discovery of contracting problems in the middle of a system's development not only delays its implementation, but adds to its ultimate cost. As VA moves ahead with plans for implementing cloud computing, it is vital that it employs thorough contracting methods. The recent cancellation of a large IT contract directly involved with the iEHR fails to provide assurance that contracting personnel are providing necessary attention to detail at the front end of the contracting process, resulting in lost time and taxpayer dollars on an already overdue project.

The Committee also remains concerned about the effective utilization of all human capital within OI&T. Given a recent large influx of personnel over the past year, it remains unclear what the long-term plan is for these employees once IT milestones have been reached. The Administration's FY 2013 budget includes a staffing level of 7,435 FTE, an increase of nearly 10 percent over FY 2010 staffing levels. A clearer definition of the job roles, titles, and locations of both existing employees, as well as the significant number of new employees, would greatly increase transparency and accountability for VA's IT performance and accomplishments.

Lastly, the Committee remains concerned about a lack of cost-benefit analyses being provided before VA undertakes major IT projects. Given a history of several multimillion dollar programs being cancelled after a period of time with no result to show for the expenditure, a cost-benefit analysis provided in advance of undertaking large-scale IT programs would provide better stewardship of taxpayer dollars and clearly identify intended goals and milestones.

4. General Operating Expenses, Veterans Benefits Administration

The Veterans Benefits Administration account funds the operation of VA's benefit programs, broadly categorized within the following service lines: Compensation and Pension, Education, Housing, Insurance, and Vocational Rehabilitation and Employment. We recommend an increase of $5 million above the Administration's request. Below are selected highlights of service lines funded through this account.

Compensation and Pension Service

We continue to be deeply troubled by the growing size of the backlog of claims for VA disability compensation. VA has stated its goal of eliminating the disability claims backlog by 2015. Although we commend VA for its bold assertion and agree that steps to eliminate the backlog must be taken, we remain skeptical of this goal. Since 2005, the number of annual claims receipts by VBA has increased 95 percent, from 674,000 in 2001 to 1,311,091 in 2011. Further, VA anticipates that the growth in disability claims volume will continue, with an expectation that approximately 1,250,000 claims will be filed in 2013. This number is well over the approximately 1,000,000 claims VA processed in 2011. This budget continues to assert that VA will address the backlog by hiring more FTEs, stating that "our employees are the key to our success." However, despite the large number of FTEs VBA has hired since 2007, the backlog has continued to increase rather than decrease.

In addition, VA has stated that its backlog will greatly decrease as a result of national deployment of the Veterans Benefits Management System (VBMS). VA anticipates that this system will be fully implemented by the end of 2013. However, the budget fails to address how the full implementation of this system will initially impact both the budget and the backlog. For example, while learning the new system, employees will be required to take time away from processing claims. Further, at this time, VA does not have a long term solution in place to address how documents relating to claims processing will be scanned and incorporated into VBMS. Thus, although we support the $35,711,000 allocated to the VBMS initiative, VA must dedicate an adequate percentage of this funding to the long-term use of this system, to include a long-term scanning solution.

We continue to believe that a multi-faceted approach is necessary for the Veterans Benefits Administration to overcome the challenges it faces. To this end, VA has allocated $18,440,000 to its transformation plan, which includes a paradigm shift that involves placing a high level of priority on quality of work as well as quantity. We support this request and will conduct vigorous oversight of the transformation process to ensure that VA places the required emphasis on reducing the backlog, accuracy in claims processing, and employee training and accountability, including as it relates to using VBMS.

Vocational Rehabilitation and Employment Service

We also draw attention to the needs of veterans being served under the Vocational Rehabilitation and Employment (VR&E) program. Unlike other VA benefit programs, VR&E is a "high touch" program that begins with a detailed evaluation of the impact a service-connected disability has on a veteran's ability to obtain and maintain satisfactory employment. The process consists of formal testing and evaluation by professional counselors who hold advanced degrees in vocational rehabilitation-related fields. Evaluation is followed by development and implementation of a rehabilitation plan focused on maximizing the veteran's employability. Nearly 90 percent of VR&E participants are attending formal training including college degree programs.

For FY 2013, the Administration requests resources to support 1,672 direct FTE to provide vocational rehabilitation services, an increase of 145 FTE above the FY 2012 direct FTE level for the VR&E program. However, given that VA projects an increase of 5,437 veterans to the total VR&E caseload over the FY 2012 estimate, the FTE increase is welcome, but still insufficient. The Committee believes it is imperative to reduce the average caseload from the current 135 to 150 veterans per counselor, to a level approaching an average caseload of about 100 per counselor, which is roughly the private sector standard. Therefore, we recommend an additional $5.5 million above the Administration's request to support an additional 50 professional VR&E counselors and counseling psychologists. Such an increase would shorten both the time needed to begin receiving VR&E services and would increase the quality of those services to disabled veterans in need of employment assistance.

Education Service

The Administration has proposed reducing Education Service FTE by 189 from FY 2012 levels despite a projected increase of 43,385 veterans and dependents participating in the various GI Bill programs. The increase in workload includes an estimated 54,000 unemployed veterans who will receive up to a year of Montgomery GI Bill benefits as a result of the Public Law 112-56, the VOW to Hire Heroes Act of 2011. VA bases the proposed staffing reduction primarily on increased automation of the new system used to process Post-9/11 GI Bill claims. The Committee does not agree with the reduction in FTE at this point for the following reasons.

VA intends to implement Release 6 of the Post 9/11 GI Bill Long Term Solution processing system in mid-summer 2012. Unfortunately, VA does not plan to activate all of the extensive automation features in that release pending resolution of several remaining integration issues that involve other VA information technology programs. Without the additional automation functions available to claims processors, the Committee is not convinced that VA's projected improvements in claims processing productivity will be realized.

The reduction in Education Service FTE would come from experienced claim processors whose absence will immediately impact education claims processing. Therefore, rather than risk a service deterioration at so critical a juncture, the Committee recommends funding in the amount of $15 million be shifted from other accounts within General Operating Expenses to retain those experienced claims processors until such time as the technology integration issues are solved.

5. General Administration

The General Administration account funds the operation of the Office of the Secretary, six Assistant Secretaries' offices, and three VA staff offices. We recommend an increase of $3 million in this account to provide additional staffing for one of the VA-level staff offices, the BVA.

BVA is the final VA decision-maker with respect to all benefits matters on appeal, to include disability compensation claims. BVA's workload has risen significantly in recent years along with the increase in claims filings overall. As was stated by Mr. Jeffrey C. Hall, Assistant National Legislative Director for the Disabled American Veterans, at the Committee's February

15, 2012 hearing, "[t]he IBVSOs are concerned that unless additional resources are provided to the Board, its ability to produce timely and accurate decisions will be constrained by an inadequate budget, and either the backlog will rise or accuracy will fall." Mr. Hall, on behalf of the other authors of the *Independent Budget,* recommended a staffing increase of 40 FTE. According to VA's budget submission there is "[a] direct and proportional correlation [that] exists between the number of employees and decisional output." Because reducing the backlog of claims at the BVA remains a priority, we encourage the BVA to not only hire the additional staff it requires, but to use the remainder of its resources to ensure that any new staff are trained properly to produce timely, accurate decisions.

6. VA Construction Programs

For FY 2013, the Administration requests a total of $1.271 billion for VA's four construction accounts: Major Construction ($532.5 million); Minor Construction ($607.5 million); State Extended Care Facility Construction Grants ($85 million); and State Cemetery Construction Grants ($46 million). In addition, the Administration requests $710 million for non-recurring maintenance needs for its medical facilities (funded through the Medical Facilities account). Given that the stated needs of the VA healthcare system are vast and growing, we recommend an additional $135 million above the Administration's request to support VA's capital and maintenance needs.

To identify and prioritize system-wide capital needs and address gaps in safety, security, utilization, access, seismic protection, facility condition, space, parking and energy, the Administration relies on the Strategic Capital Investment Planning (SCIP) process. For FY 2013, SCIP identified 4,043 capital projects, which, based on a 10-year resource need, require between $51 and $62 billion (excluding activation and operational costs).

We believe that the Administration failed to request sufficient funding for non-recurring maintenance (NRM). Funded out of the Medical Facilities account, the Administration has requested $710 million in FY 2013 and $464.7 million in the FY 2014 advance appropriation for NRM, a decrease of $158.4 million and $245.8 million respectively. We believe that NRM is a vital part of ensuring the safe, effective, and efficient function of the Administration's medical facilities and support increased funding for NRM projects. Funding requests which put scheduled completion of SCIP-identified projects on a 30 to 40 year timetable is worrisome.

7. National Cemetery Administration

The Administration requests a budget for the National Cemetery Administration (NCA) of $258 million. We concur with the Administration's request for NCA.

Although funded in different accounts, NCA has administrative control over funds within VA's major and minor construction accounts. Considerable sums have been spent in the last several years from all NCA-controlled accounts to advance VA's National Shrine Commitment, an effort to enhance the appearance of VA's national cemeteries. The National Shrine Commitment effort began largely in response to a contractor-provided assessment in 2002 identifying over 900 projects at a cost of $280 million. The Committee will be following up with VA to discern exactly where NCA is in its current funding for this initiative, how much of the funding going forward is for cyclical repair needs, and VA's methodology for deciding which projects will receive priority for funding.

8. VA Office of the Inspector General

For FY 2013, the Administration requests $117.881 million for the Office of the Inspector General (OIG). This represents a .5% requested increase in funding over the FY 2012 request, with a decrease from 649 FTE in FY 2012 to 644 FTE in FY 2013. The Committee believes that the proposed funding level will not allow the OIG to maintain the level of quality in its work and proposes an additional $5 million.

The OIG is responsible for the audit, investigation, and inspection of all VA programs and operations. Investigations conducted by the OIG and other agencies, as well as this Committee, substantiate a need for the work conducted. Reports produced by the OIG consistently show areas needing improvement both in services delivered to veterans and stewardship of taxpayer dollars by VA. Over the past year, OIG reports have also chronicled mismanagement by VA employees, failure to follow acquisition regulations, and negligent IT project development, in addition to reviewing Regional Offices and VA medical facilities.

These reports and other work conducted by OIG directly result in veterans getting their benefits faster and receiving a higher standard of care while ensuring that taxpayer dollars are not misused. With the expansion of VA's budget comes a clear need for additional resources in the OIG's office to continue sufficient and sustained internal oversight of VA.

Increased funding for the OIG will be used to strengthen its ability to conduct investigations in all facets of VA, review healthcare facilities, examine Departmental practice and procedure, and make recommendations on how VA can improve utilization of its resources and better serve veterans.

9. U.S. Court of Appeals for Veterans Claims

Although the U.S. Court of Appeals for Veterans Claims (CAVC) is independent of VA and therefore not included in VA's FY 2013 budget submission, we encourage you to also closely consider the CAVC's budget request as it closely relates to the priorities of VA. The Court's FY 2013 budget request totals $32,480,700. This request is comprised of two parts – the Court's necessary operating expenses of $29,754,700, and a request by the Veterans Consortium Pro Bono Program for $2,726,000. This amounts to an increase of $1,710,700 over the CAVC's FY 2012 appropriation and is mainly attributed to (1) an increase of $1.443 million in contributions to the CAVC Retirement Fund (*see* 38 U.S.C. § 7298); (2) an increase of $455,000 in payroll compensation and benefits; and (3) a decrease of almost $190,000 in the Court's other operation expenses. Although we support the Court's increase in funding for its payroll compensation and benefits, we are not convinced that over $1.4 million is required for the CAVC's retirement fund. Pursuant to 38 U.S.C. § 7298, contributions to this fund are "subject to the availability of appropriations" and the Chief Judge may direct the fund to be examined by an actuary for evaluation. We would encourage the Chief Judge of the CAVC to undertake such an evaluation by an actuary before appropriating such a large sum to the CAVC Retirement Fund.

10. American Battle Monuments Commission

Although the American Battle Monuments commission (ABMC) is independent of VA and therefore not included in VA's FY2013 budget submission, we encourage you to also consider the ABMC's budget request as it closely relates to the priorities of NCA. ABMC requests $73.6 million in total budget authority and a 400 full time equivalent employment level for FY 2013. We fully concur with this request. For FY 2013, ABMC's request for Salaries and benefits is $2.7 million below the funding provided in FY 2012, in addition to a $700,000 reduction in travel expenses. We commend ABMC's leadership under Secretary Cleland in this area as a fine example of responsible and prudent stewards of tax payer money.

11. Veterans Employment and Training Service

We agree with the Administration's request of $258,870,000 for the Veterans Employment and Training Service. This would represent a $5,567,000 reduction from FY 2012 levels, which reduction is principally explained by the proposed elimination of $14.5 million for the Veterans Workforce Investment Program (VWIP). The Administration proposes allocating $9 million of that amount among other VETS programs, including an additional $5 million for the Local Veteran Employment Representative (LVER) and Disabled Veteran Outreach Program (DVOP) specialist state grant programs.

Rather than allocate $5 million to the LVER and DVOP programs, we recommend only a $2 million allocation. We recommend investing $3 million above the Administration's request for the Homeless Veterans Reintegration (HVRP) programs. This balanced allocation will enable states to still make necessary improvements to employment services to veterans through the state workforce development system, and it will also increase the number of homeless veterans served by community providers under HVRP.

III. Mandatory Spending

We support the Administration's request for appropriated mandatory budget authority of $74.638 billion in FY 2013. Included in that amount is an expected 3.6% cost-of-living-adjustment (COLA) applied towards disability and indemnity compensation payments for veterans and certain survivors of veterans effective December 1, 2012.

The Administration seeks an additional $1 billion on top of the $74.638 billion to fund a Veterans Job Corps proposal. In the absence of the Committee having any details on this proposal, to include how it would be paid for, we must defer views on it at this time.

Veterans have earned their benefits by virtue of honorable military service. Any cost-saving efforts must be sobered by that essential fact. Similar to our message to you in last year's Views and Estimates letter, should the Budget Committee choose to look to VA mandatory spending programs for budgetary savings in a reconciliation instruction, we ask that you limit the instruction to the modest savings proposals that have advanced out of the Committee on a bipartisan basis in past times of severe fiscal restraint.

Conclusion

These views reflect the best judgment of the undersigned Members of the Committee as of this date. We will submit additional questions regarding the Administration's budget proposal and will conduct a series of oversight hearings in the coming months on other facets of the request. If we, or the Committee staff, can provide assistance regarding the views contained in this letter, please don't hesitate to contact us.

Sincerely,

JEFF MILLER
Chairman

BOB FILNER
Ranking Democratic Member

Bill Johnson

Joe Donnelly

Connie Brown

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March 1, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Last year's budget resolution provided the initial outlines of the Ways & Means Committee's agenda for tax reform. The Committee intends to build on the significant work it undertook over the last year to advance tax reform and believes that the Budget Resolution for Fiscal Year 2013 should reflect the progress that has been made and the work the Committee intends to undertake this year. Therefore, the Committee is expanding on the discussion of tax reform contained in the Budget Resolution for Fiscal Year 2012. The Committee is transmitting the attached paper as our recommendation for inclusion in the Budget Resolution for Fiscal Year 2013.

Sincerely,

Dave Camp

DAVE CAMP
Chairman

cc: The Honorable John Boehner
The Honorable Eric Cantor

Rep. Geoff Davis
Rep. David G. Reichert
Rep. Vern Buchanan
Rep. Lynn Jenkins
Rep. Kenny Marchant
Rep. Erik Paulsen
Rep. Patrick J. Tiberi
Rep. Aaron Schock
Rep. Rick Berg
Rep. Adrian Smith

Rep. Peter J. Roskam
Rep. Jim Gerlach
Rep. Tom Price
Rep. Kevin Brady
Rep. Charles W. Boustany, Jr.
Rep. Wally Herger
Rep. Tom Reed
Rep. Diane Black
Rep. Sam Johnson
Rep. Devin Nunes

PRO-GROWTH TAX REFORM

The American tax system should be simple, efficient and fair to promote innovation and sustained job creation in the private sector. The current U.S. tax code fails on all these fronts. The system is notoriously complex, as individuals, families and employers spend over six billion hours and over $160 billion per year trying to negotiate a labyrinth of deductions and credits, a tangle of different rules for characterizing income, and a variety of schedules for taxing that income. Simply put, the code is too costly and too burdensome and is hindering job creation.

The U.S. tax system is highly inefficient, as tax considerations rather than economic fundamentals often distort individual decisions to work, save, and invest, which leads to slower economic growth. For example, on April 1, 2012, the United States will achieve the dubious distinction of having the highest corporate tax rate (federal and state combined) in the developed world – a factor that discourages employers and investors from locating in the United States. Furthermore, the United States has become an outlier in that it still uses a "worldwide" system of taxation. That system has not been substantially reformed in 50 years – when the United States accounted for half of global economic output and had no serious competitors around the world. This combination of the highest corporate tax rate with an antiquated "worldwide" system subjects American companies to double taxation when they attempt to compete with foreign companies in overseas markets and then reinvest their earnings in the United States.

The code is also patently unfair. It is littered with lobbyist loopholes that benefit narrow special interests. Washington should not be in the business of picking winners and losers based on which industry is politically popular or powerful. Nor should two families in similar circumstances pay very different tax bills based on which has the better accountant. A tax code that leads to such results violates the fundamental American principle of equal justice.

This budget starts with the proposition that first, Congress must do no harm. It assumes that Congress will not allow massive, across-the-board tax increases to hit the economy in 2013, when current law calls for the tax cuts that were first enacted in 2001 and 2003 to expire. And it assumes that Congress will not let the Alternative Minimum Tax (AMT) – originally designed to catch a handful of super-wealthy households who paid no federal income tax – ensnare tens of millions of middle-class American families. This budget then attacks all three of the problems described above with a set of fundamental reforms designed to lower tax rates, broaden the tax base, and reform the U.S. international tax rules, while getting rid of distortions, loopholes and preferences that divert economic resources from their most efficient uses.

Following the unveiling of these principles in last year's budget resolution, an overwhelming consensus has emerged that the country is in dire need of tax reform that lowers rates, broadens the tax base, and addresses global competitiveness. After three years, the Administration also has begun to recognize the need for tax reform. The outline for corporate tax reform released by the Administration in February, however, falls woefully short: the rates are too high; the tax base is too narrow (and used as a tool to provide political favors); and the international reforms are anti-competitive.

By contrast, the principles of reform outlined in this budget ensure a simpler, fairer tax code not just for large corporations but for small businesses and American families as well. Unlike the Administration's plan, it improves the competitiveness of American workers and businesses in the global economy. Our trading partners have already reformed their tax systems to provide their companies with a competitive advantage. Competing in a 21st century global economy requires that we do the same.

Simplifying the Tax Code and Promoting Job Creation and Economic Growth

Major proposals

- **Reject the President's call to raise taxes.**
- **Consolidate the current six individual income tax brackets into just two brackets of 10 and 25 percent.**
- **Reduce the corporate rate to 25 percent.**
- **Repeal the Alternative Minimum Tax.**
- **Broaden the tax base to maintain revenue at the appropriate level designated by this budget resolution for the next ten years, and at a share of the economy consistent with historical norms of 18 to 19 percent in the following decades. These are levels compatible with growth, and – if the spending restraints in this budget are enacted – sufficient to fund government operations over time.**
- **Shift from a "worldwide" system of taxation to a "territorial" tax system that puts American companies and their workers on a level playing field with foreign competitors and ends the "lock-out effect" that discourages companies from bringing back foreign earnings to invest in the United States.**

In 1981, President Ronald Reagan inherited a stagnant economy and a tax code that featured 16 brackets, with a top rate of 70 percent. When he left office in 1989, the tax code had been simplified down to just three brackets, with a top rate of 28 percent. Reagan's tax reforms proved to be a cornerstone of the unprecedented economic boom that occurred in the decade during his presidency and continued in the decade that followed.

Over time, additional brackets, credits, carve-outs and lobbyist loopholes have undone the simpler and fairer tax code ushered in by the 1986 tax reform. In the last ten years alone, there have been nearly 4,500 changes made to the tax code. The current version for individuals has six brackets, with a top rate of 35 percent (which is set to climb to over 40 percent after the end of 2012, when hidden rates are considered). Individuals react negatively toward the tax code partly because it is complex and attempts to steer them toward certain activities and away from others. In addition, there are always a few "surprises" that end up raising their tax bills. One such surprise – the Alternative Minimum Tax (AMT) – was initially designed to hit only the very highest-income taxpayers but now ensnares a growing number of middle-class households because of a flawed design.

The House plan affirmatively rejects President Obama's efforts to raise tax rates on small businesses and investors and to add new loopholes to the tax code for favored interests. Economic theory and analysis show that increasing marginal tax rates – tax increases that reduce incentives to work, save and invest that next dollar of income – reduces economic output. By contrast, reductions in marginal tax rates increase output, mainly by letting people keep more of each dollar they earn and thereby strengthening incentives to work, produce, and invest in the future. The House plan both realizes the job-promoting benefits of lower rates and ensures these reductions are revenue neutral through base broadening.

Unlike President Obama's proposal, the House plan would not penalize the nearly three quarters of America's small businesses that file taxes as individuals by imposing higher individual rates that make it harder for these vital enterprises to compete. As President Obama repeatedly says, small businesses have been responsible for two-thirds of the jobs created in the United States over the past 15 years, and almost 50 percent of small-business profits are taxed at the top two rates. Raising these rates means increasing taxes on the most successful job creators.

Raising taxes on capital is another idea that purports to affect the wealthy but actually hurts all participants in the economy. Mainstream economics, not to mention common sense, teaches that raising taxes on any activity generally results in less of it. Economics and common sense also teach that the size of a nation's capital stock – the pool of saved money available for investment and job creation – has an effect on employment, productivity, and wages. Tax reform should promote savings and investment because more savings and more investment mean a larger stock of capital available for job creation. That means more jobs, more productivity, and higher wages for all American workers.

The negative effects of high tax rates on work, savings and investment are compounded when a large mix of exemptions, deductions and credits are added to the system. These tax preferences are similar to government spending – instead of markets directing economic resources to their most efficient uses, the government directs resources to politically favored uses, creating a drag on economic growth and job creation.

In the worst cases, these tax subsidies literally take the form of spending through the tax code, because they take taxes paid by hardworking Americans and issue government checks to individuals and corporations who do not owe any taxes at all. In fact, President Obama's corporate tax "reform" framework would expand this practice by transferring taxes paid by middle class Americans to the pockets of politically favored industries.

Eliminating large tax subsidies would not be for the purpose of increasing total tax revenues. Instead, when offset by lower rates, it would have a doubly positive impact on the economy – it would stop diverting economic resources to less productive uses, while making possible the lower tax rates that provide greater incentives for economic growth.

President Reagan's tax reforms inaugurated an era of great prosperity. It is time to reclaim his legacy and once again enact a fundamental reform of the tax code as the final step in rebuilding the foundations for economic growth: spending restraint, reasonable and predictable regulations, sound money, and a simple tax code with low rates.

Congress of the United States
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March 1, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman:

As required by Section 301(d) of the Congressional Budget Act of 1974 (P.L. 93-344) and in response to your letter of February 1, 2012, this letter transmits the Views and Estimates of the Committee on Ways and Means on those aspects of the Federal budget for the Fiscal Year 2013 that fall within the Committee's jurisdiction.

The current pace of the economic recovery is insufficient and far too many Americans remain unemployed. As such, the Committee will continue to focus on promoting policies that spur private sector job creation and economic growth. These policies include reforming the tax code to make American employers more competitive, expanding trade especially through providing new opportunities to grow exports of American made goods and services and by reducing the burden placed on American employers by the recent rapid growth in budget deficits, reducing the national debt, and eliminating inefficient and counter-productive government regulation.

I. Legislative Issues with Budgetary Impact

A. Human Resources – The Committee will work to help more unemployed Americans find jobs by reviewing the operation of current State and Federal unemployment benefits and programs, including the implementation of newly enacted provisions, developing improvements as needed. The Committee will continue its effort to improve the exchange of program data to improve administrative efficiency and reduce waste, fraud, and abuse. The Committee will also review the effectiveness of the Temporary Assistance for Needy Families (TANF), Child Support Enforcement, and Child Care and Development Block Grant programs to ensure they target those most in need and promote economic mobility through employment. The Committee will also continue its general oversight over the Human Resources programs under its jurisdiction, including reviewing program interactions and eligibility standards. The Committee will also review and act, as appropriate, on proposals in the President's Fiscal Year 2013 Budget.

B. Medicare and Other Health Care Issues – The Committee will closely oversee the implementation of the health care overhaul and its impact on federal spending, the economy, those who are currently insured, Medicare beneficiaries, and health care providers. In addition, the Committee will look for ways to reform the Medicare program to ensure its sustainability for current and future beneficiaries. The Committee will also examine policies that reduce the cost of health insurance, increase health care quality and improve outcomes, encourage transparency, and eliminate waste, fraud, and abuse.

C. Social Security – The Committee will continue to examine the significant financing challenges facing Social Security's retirement and disability programs, with particular focus on the impacts the economic slowdown are having on these programs' resources, beneficiary needs, and the Social Security Administration's (SSA's) ability to serve the public. With the disability program experiencing imminent financial and management strains, the Committee has initiated a series of hearings on securing the disability insurance program's future, including an in-depth examination of the program's purpose, its process for awarding disability benefits and its return to work programs. In addition, the Committee will continue to examine the agency's efforts to increase efficiencies and productivity through the use of information technology and other cost effective management practices. The Committee will also monitor administrative actions to prevent waste, fraud and abuse, including the SSA's efforts to reduce the backlog of continuing disability reviews as required by the Budget Control Act of 2011. The Committee will also continue to pursue options to better protect individuals, including children, from identity theft related to the proliferation of use and misuse of Social Security numbers.

D. Tax – The Committee recognizes that a complex, burdensome, anti-growth tax code remains a significant obstacle to economic recovery and job creation. Accordingly, the Committee anticipates continuing its extensive efforts to simplify and reform the tax code for individuals, families, and employers, in order to spur the robust job creation and economic growth necessary to reduce the Nation's persistently high unemployment rate. In so doing, the Committee will build on its record from 2011, which featured not only more than a dozen hearings devoted to tax reform at the Full Committee, the Select Revenue Measures Subcommittee, and the Oversight Subcommittee – including two joint hearings with the Senate Finance Committee – but also the formal release of a discussion draft on international tax reform last October. In addition, the Committee will continue to consider appropriate tax relief measures for individual taxpayers, families, and employers, while also closely scrutinizing the revenue recommendations contained in the President's Fiscal Year 2013 budget proposal and his "Framework for Business Tax Reform."

E. Trade – The Committee seeks to increase economic opportunities for American workers and businesses through the expansion of trade opportunities, adherence to trade agreements and rules by our trading partners and by the United States, and the elimination of foreign trade barriers to our goods and services by opening new markets and by enforcing U.S. rights. The Committee will continue its oversight over the entry into force of the Colombia and Panama agreements, for which implementing bills have been signed into law. The Committee will continue its oversight of systemic problems in U.S.-China trade relations, including issues related to China's consistent lack of protection and enforcement of U.S. intellectual property rights, indigenous innovation requirements, use of industrial subsides, export restraints on key products such as rare earth minerals, and currency undervaluation. The Committee expects to move targeted and World Trade Organization (WTO) consistent legislation to address a recent Federal Circuit ruling holding that the Commerce Department cannot apply the countervailing duty laws to subsidized imports from nonmarket economies. The Committee will continue its oversight over the Trans-Pacific Partnership negotiations and work with the Administration to develop an action plan for new bilateral, regional, plurilateral, and multilateral trade and investment negotiations. The Committee will continue its oversight responsibilities with respect to the WTO and intends to consider legislation to grant Permanent Normal Trade Relations to Russia given its imminent accession to the WTO. The Committee will continue to be active in overseeing the budgets and activities of agencies within its jurisdiction and intends to consider authorization legislation. The Committee expects to address the expiration of key aspects of U.S. trade preference programs and will continue its oversight over the operation of these programs and the Trade Adjustment Assistance programs. The Committee intends to move a package of noncontroversial bills to eliminate or reduce duties on products not made in sufficient quantities in the United States.

II. The Fiscal Year 2013 Budget

The Committee is reviewing the President's Fiscal Year 2013 Budget. This review will provide the Committee the opportunity to assess the effectiveness of the President's budget in promoting job creation and economic growth, reduce budget deficits and debt, and ensure the long term sustainability of programs within the Committee's jurisdiction.

III. Public Debt Limit

The current statutory public debt limit already is now greater than the gross domestic product of the United States. While the Committee recognizes its responsibility to ensure that the United States meets all its obligations, the current growth of the national debt is not sustainable. Current debt levels are already a threat to economic growth and unless action is taken, the projected increase in the national debt will threaten the economic foundation of the country. Thus the Committee intends to pursue policies to slow and ultimately reverse the growth in the national debt and prevent the need for future increases in the statutory debt limit.

The Committee on Ways and Means looks forward to working with the Committee on the Budget as we promote prosperity, opportunity, security, and fiscal prudence.

Sincerely,

DAVE CAMP
Chairman

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

March 1, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
207 Cannon House Office Building
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The Honorable Chris Van Hollen
Ranking Member
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Washington, D.C. 20515

Dear Chairman Ryan and Ranking Member Van Hollen:

Today Ways and Means Committee Republicans forwarded to you and your colleagues a letter transmitting the "views and estimates" of the Committee on Ways and Means as required by Section 301(d) of the Congressional Budget Act of 1974. I am writing to advise you that the Committee Democrats do not concur with all of the statements and priorities presented in that correspondence and to provide you with our perspectives on budget priorities within our Committee's jurisdiction.

Last year's budget resolution attempted to bind our committee to a blueprint for America's future which would have dismantled Medicare, replacing Medicare's guaranteed benefits with under-funded vouchers, and raised taxes on hard-working American families in order to lower tax rates for the very wealthy. We hope you will reject that approach this year, and instead, work with us to protect Medicare and Social Security for current and future generations, support working families, and strengthen our economy.

President Obama inherited an economy losing 700,000 jobs a month. In large part because of the Recovery Act, private employers have added more than 3.5 million jobs in the last two years and the rate of unemployment has dropped measurably. But we still have a long way to go to put our economy back on its feet and to make sure jobs are available for the Americans who are desperately seeking them. The legislation we enacted last month to continue unemployment insurance, extend tax relief for working families, and preserve access to Medicare for millions of Americans is a good first step, but far more work is needed.

Trade

The Democratic Members of the Committee have been actively working to shape a new trade policy that is responsive to the changing dynamics of a global economy. It is an approach premised on the reality that expanded trade does not automatically benefit everyone and that embraces expansion of trade in ways that acknowledge its impact and broaden its benefits.

With this in mind, the Committee should focus on eliminating foreign trade barriers and unfair trade practices that affect U.S. workers, producers and service providers, in the U.S. and overseas markets. In particular, the Committee should focus on the persistent problems in our trade and investment relationship with China, including by addressing currency manipulation in a manner consistent with our WTO obligations, as was done in legislation passed by the 111th Congress. The Committee should also provide oversight of the International Trade Enforcement Center (ITEC), which was recently established by the President to marshal resources and create a more comprehensive approach to trade enforcement. The President has requested $26 million to the ITEC for FY2013, which the Committee should support.

The Committee expects to move WTO consistent legislation shortly which overturns an erroneous court decision to ensure that we can continue to use existing U.S. laws to address harmful, illegally subsidized imports from non-market economies, such as China.

The Committee also should play an active role in providing guidance for and oversight of the Trans-Pacific Partnership Agreement negotiations. The Committee should ensure that the TPP includes and builds upon the key elements of the May 2007 Agreement, including provisions relating to labor rights, environmental standards, and access to medicines. The Committee also should ensure that the agreement addresses the challenges presented by unfair competition from state owned enterprises, and the unique circumstances presented by negotiating an FTA with Vietnam, which will be our first communist/non-market economy FTA partner. The Committee should also provide active guidance for the consideration of new entrants, and with respect to Japan in particular, ensure that there is a realistic assessment of the market structures blocking U.S. goods and services exports.

The Committee should work with and provide active guidance to the Administration on new trade and investment agreement negotiations, to ensure that contemplated agreements provide meaningful new opportunities for U.S. workers, producers and service providers, including by eliminating market distortions, and reflect American priorities and values. The Committee should also continue its oversight of implementation of the free trade agreements and related agreements with Korea, Colombia and Panama, for which implementing bills were enacted last year, after the Administration took significant action to address outstanding issues with respect to each agreement.

In the context of consideration of permanent normal trade relations (PNTR) for Russia, the Committee should seek to address key outstanding issues, such as those with respect to intellectual property rights enforcement and the rule of law.

The Committee should consider immediately legislation to extend key, expiring provisions of the African Growth and Opportunity Act and to expand the list of beneficiary countries to include South Sudan. The Committee also should explore ways to improve the efficacy of U.S. preference programs, including to better address the needs of the poorest countries.

The Committee should continue its oversight responsibilities related to the World Trade Organization (WTO), both with respect to the on-going negotiations and accessions, as well as decisions by the WTO's Appellate Body. The Committee has a duty to provide active oversight to ensure U.S. rights under such agreements, including the ability to address unfair trade, are not curtailed.

The Committee should continue to oversee the budget and activities of the trade-related agencies, and to ensure the effective functioning of the advisory committees established under the Trade Act of 1974. The Committee should continue to perform oversight of the Trade Adjustment Assistance programs, which were renewed last year after an unacceptable lapse, to ensure that workers, firms and farmers receive effective assistance.

Committee Democrats look forward to continuing the bipartisan work begun last Congress on the Customs and Trade Agency Reauthorization bill. The Committee should also continue its work on legislation to temporarily suspend duties on products not produced domestically to make U.S. companies more competitive. Finally, the Committee should work with the Administration as it implements its National Export Initiative and seeks to address global trade imbalances.

Health

Committee Democrats will continue to protect the Affordable Care Act and its implementation. This law stands as major entitlement reform for Medicare. It lowers cost-sharing, extends Medicare solvency, improves benefits, reduces program expenditures by 0.5 percent of GDP, and modernizes the health care delivery system. The law also slows growth in national health expenditures and shrinks the deficit by $124 billion in the first ten years. It extends coverage, lowers group health insurance premiums, and protects individuals from insurance company abuses and denials of care. The Republican letter sets forth a plan to monitor ACA implementation. The Republican oversight plan should be expanded to include the uninsured, as absent the Affordable Care Act, their ranks will grow by 33 million.

The Republican letter describes the work the Committee plans with regard to Medicare, stating it will "look for ways to reform the Medicare program to ensure its sustainability for current and future beneficiaries." We fear that this suggests Budget Chairman Ryan's plan to convert Medicare to a voucher program. We note that the Affordable Care Act strengthens the Medicare program's financial future for beneficiaries and taxpayers, improves benefits, advances program innovations to better reward high quality and coordinated care, and authorizes new fraud-fighting tools. Committee Democrats will defend the Medicare program against any attacks that attempt to dismantle it, cut benefits or shift costs onto beneficiaries.

The Committee must also pursue a fix to the Medicare physician payment system, which faces a cut in payment rates of -32 percent in 2013. Legislation passed in the House of Representatives in the last Congress offered a comprehensive solution to this perennial problem. Unfortunately, only one Republican joined us in voting for that bill. In February, we voted to protect physicians from a payment cut through CY 2012, but Republicans wasted a unique opportunity to repeal the sustainable growth rate formula once and for all when they refused to use savings from the diminished war effort to pay for a permanent fix to the physician payment system. We hope that as we work to fix this problem later this year the Republican majority will show newfound interest in seeking a real solution to this problem. Additional efforts of the Committee must focus on ongoing oversight of programs within our jurisdiction as well as efforts to combat fraud, waste and abuse. We look forward to continued review of the President's anti-fraud proposals.

Social Security

Protecting Social Security is a top priority for Democrats, as it is for the 160 million American workers who are paying into Social Security and the 56 million seniors, widows, disabled workers, and children who depend on it now. Social Security currently has a Trust Fund surplus of $2.7 trillion. We were deeply concerned that last year's House-passed budget resolution slashed future operating budgets for the Social Security Administration (SSA) and would have created an unprecedented "fast track" procedure for cutting Social Security benefits. We hope the Committee will reconsider that approach this year.

We look forward to continuing our bipartisan efforts to reduce waiting times for disabled Social Security applicants, support SSA's efforts to reduce waste, fraud, and abuse, and protect Americans' Social Security numbers from identity theft. We are, however, very concerned by our Committee's failure to hold hearings on the impact of ongoing operating budget cuts at SSA, which have led to office closings, longer telephone wait times, early closing times at Social Security offices, and delays in providing earned benefits.

Human Resources

While the labor market has shown significant improvement, there are still over 5 million fewer jobs in our economy compared to the start of the recession in December of 2007. This has led to the highest level of long-term unemployment on record. To help jobless workers, Democratic

Members of the Committee support both a strong unemployment insurance (UI) system and job placement and training services. This means maintaining the Federal role in providing assistance to laid-off workers as the economy continues to recover, rejecting devastating cuts to job training programs included in past Republican budget plans, and evaluating proposals to address solvency issues within the UI system.

Democrats on the Committee also recognize the need to reauthorize the Temporary Assistance for Needy Families (TANF) program to better enable it to support struggling families and promote work. Democratic Members oppose efforts to cut this program, including the decision by the Republican majority to allow the TANF Supplemental Grants to expire for 17 States.

Tax Policy

The Republican letter cites the "anti-growth" tax code as an obstacle to economic recovery and calls for reform and simplification. The desire to simplify and reform the tax code is shared by both parties. The Republican letter makes reference to the over one dozen hearings the Committee has held on reforming the individual and corporate tax systems, but the Committee Republicans have yet to engage in any meaningful debate on a realistic proposal. To date, Committee Republicans have simply presented tax cut "targets" without any discussion of how those rates would be achieved in a revenue-neutral manner.

Notably absent from the Republican discussion of taxes is any mention of the role the tax code will need to play in raising revenue to address long-term deficits. The temporary extension of the Bush tax cuts for the wealthiest Americans passed in December 2010 added to the debt and is now forcing painful cuts in critical services. That extension is set to expire at the end of this year, and the Committee should be prepared to have a sincere discussion on how extension of these tax cuts, or any further tax breaks for the wealthiest Americans, must be considered in the context of our country's future revenue needs. Creating jobs and promoting growth by providing targeted tax cuts for businesses and tax incentives for infrastructure construction and the development of green technologies are among the principal policy objectives of both Congressional Democrats and the President.

The Public Debt Limit

We appreciate that the Majority acknowledged their responsibility to act when we reach the statutory public debt limit. We hope this means that they will not again choose to play games with the full faith and credit of the United States of America should the statutory limit be reached before the end of this Congress. The brinksmanship that some in their party forced upon the Congress last year had significant economic consequences and was directly cited by Standard & Poor's in their downgrade of U.S. sovereign debt. To repeat this mistake would undermine our economic recovery and risk another financial crisis.

We appreciate this opportunity to share our views. We look forward to working with you to craft this year's budget resolution.

Sincerely,

Sander M. Levin
Ranking Member

Congress of the United States
JOINT ECONOMIC COMMITTEE
(CREATED PURSUANT TO SEC. 5(a) OF PUBLIC LAW 304, 79TH CONGRESS)
Washington, DC 20510-6602

March 16, 2012

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

Dear Chairman Ryan:

Thank you for inviting me to submit my views on the budget resolution for fiscal year 2013 to the Committee on the Budget. As you know, the Joint Economic Committee is charged with reviewing and responding to the *Economic Report of the President together with the Annual Report of the Council of Economic Advisers* (ERP). The Committee is also charged by the *Full Employment and Balanced Growth Act of 1978* (15 U.S.C. 3101 *et seq.*) to provide the Budget Committee with views, recommendations, and appropriate analyses of the goals set forth in the ERP.

I am disappointed that both the ERP and the *Budget of the U.S. Government for Fiscal Year 2013* exhibit a noticeable lack of urgency in addressing the serious fiscal challenges facing the nation. Both the ERP and the Budget make clear that the President believes that the federal government, not the free enterprise system, should lead the way in creating more jobs. I know you share my view that the President's beliefs are misguided.

The United States confronts a looming fiscal crisis because: (1) it is easier to agree to special interest demands for higher federal spending than to stand up for the general interest for spending restraint; and (2) there is no comprehensive federal spending cap to force spending choices among competing programs. In recent fiscal years, these public choice problems of "concentrated benefits and widely dispersed costs" and a "lack of transparency of opportunity costs" have been exacerbated as federal spending as a percentage of gross domestic product (GDP) has increased far above its post-World War II average.

There has also been a tendency to focus on symptoms—federal budget deficits and federal debt—instead of the root cause of our fiscal problems. Excessive federal spending is the disease. Large, persistent federal budget deficits and an increasing federal debt as a percentage of GDP are merely symptoms of the disease.

To treat the disease, Congress should impose a comprehensive cap on federal spending expressed as a percentage of national income. The 10-year cap on discretionary spending enacted in the *Budget Control Act of 2011*, while a small step forward, is inadequate to put the federal government on a sound fiscal course because the discretionary cap excludes mandatory spending, which will account for almost all of the growth in non-interest spending over next 10 years and beyond.

But how should Congress design a comprehensive cap on federal spending? Based on research conducted by JEC Republican staff, I propose a new formula in which non-interest spending is the numerator and potential GDP, which is the estimate of what GDP would be under conditions of full employment and stable prices, is the denominator.

Non-interest spending (i.e., discretionary and mandatory spending) is a better numerator than total spending because:

1. The current Congress can directly control discretionary spending through appropriations laws and mandatory programs through changes in their authorizing laws. In contrast, the current Congress has a very limited ability to affect interest outlays. The amount of federal debt is largely a function of the collective spending and tax decisions of previous Congresses. Interest rates are largely a function of the monetary policy pursued by the Federal Reserve and market forces.

2. In the face of large and persistent federal budget deficits and an increasing federal debt as a percentage of GDP, Congress and the President may press the Federal Reserve for an overly accommodative monetary policy to reduce federal interest outlays and make it easier to adhere to the spending cap, but this would have bad economic consequences. The inevitable result of such political pressure on the Federal Reserve would be higher price inflation. In fact, this happened during and after World War II until the Accord was reached in March 1951, granting the Federal Reserve independence in determining monetary policy from the Treasury. Using non-interest spending instead of total spending as the numerator helps to preserve the independence of the Federal Reserve to pursue a non-inflationary monetary policy.

Potential GDP is a much better denominator than actual GDP (most recent estimate, a forecast, or an average of recent estimates of GDP) because:

1. Using actual GDP as the denominator for calculating the spending cap makes the spending cap "pro-cyclical." During a boom, the spending cap would increase rapidly, allowing a spending surge; and the spending cap would fall during a recession, forcing deep spending cuts at the worst time in the business cycle.

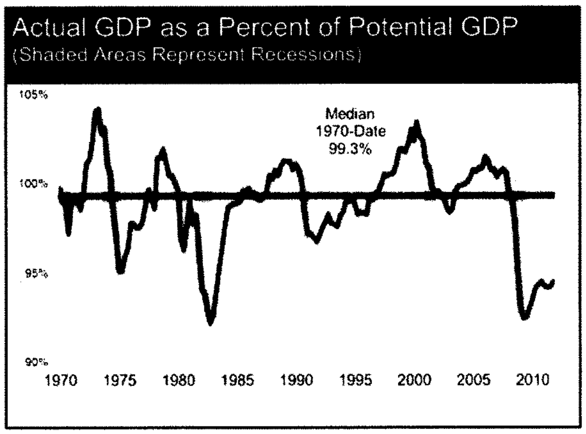
2. Forecasting what actual GDP will be is obviously difficult, especially 10 years into the future.

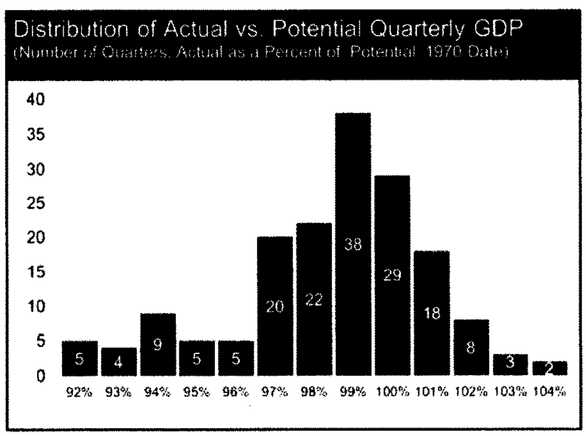
3. For each quarter, the Bureau of Economic Analysis issues three "initial" estimates of quarterly GDP. Each July, estimates of GDP during the last three years are subject to annual revisions. Consequently, using the most recent estimate of GDP or an average of recent estimates of GDP as the denominator for calculating the spending cap creates a disruptive "bouncing ball" effect because GDP revisions may cause the spending cap to gyrate during the budget and appropriations process.

4. However, using potential GDP as the denominator for calculating the spending cap resolves these problems. Estimates of potential GDP are fairly stable and may be easily projected 10 years into the future. By definition, potential GDP is an estimate of what economic output would be at full employment without price inflation. Therefore,

potential GDP is unaffected by the business cycle. This eliminates the problems of a spending surge during a boom followed by a large spending decline during the subsequent recession. While potential GDP is subject to annual revisions, the magnitude of revisions to potential GDP is much smaller than revisions to actual GDP.

Actual GDP has maintained a close relationship to potential GDP over time. The following two charts show (a) the relationship of actual GDP to potential GDP over the 1970 – date timeframe, and (b) the distribution of that relationship. Except during recessions and the end of expansions, the range is rather tight.





The budget has become a political statement for the President rather than a management tool that both the President and Congress use to control spending. For the budget and appropriations process to work, the President should be required to present a fiscally responsibly budget that complies with the spending caps. At the same time, each House of Congress should be required to consider a budget resolution that complies with the spending caps.

In the budget, the President should be required to prioritize all non-interest spending that he proposed into five categories from most essential to least essential, with at least 12 percent of non-interest spending in each category. Moreover, if either Social Security or Medicare are not "sustainably solvent" for next the 75 years, the President should be required to submit a plan in the budget to make these programs "sustainably solvent."

Under these reforms, both Congress and the President would have to "lay their cards on the table." Neither Congress nor the President would be able to avoid the tough choices necessary to reduce federal spending.

Another failure of the current budget and appropriations process is the threat of a government shutdown if Congress and the President cannot agree on appropriations bills. Instead, Congress should enact a permanent continuing resolution for discretionary spending at 90 percent of spending in the previous fiscal year for programs that would otherwise be threatened by a government shutdown if Congress fails to enact the required appropriations bills. A permanent continuing resolution strengthens the advocates of spending restraint by ending the threat of a government shutdown and setting a 10 percent spending reduction as the default position on discretionary spending, while sparing federal contractors and workers the agony of not knowing whether they would be paid.

The federal government has exhibited a bias toward growth and permanence of programs once authorized ever since World War II. To counteract this bias, Congress should create a Federal Sunset Commission, which would place end dates on all federal agencies and their programs (subject to Congressional approval) and would review the efficiency and public need of each agency and its programs over a 12-year cycle.

The Commission's work should lead to a reduction in the size and scope of the federal government. Sunset legislation would shift the "burden of proof" off policymakers, who have traditionally fought an uphill battle against the bureaucratic inertia, and onto the administrators of federal agencies and programs, who would have to prove to the Commission that they are efficiently providing government services for which there is a demonstrated public need. By simply existing, the Commission would act as a discipline on the administrative state.

Ideally, a comprehensive cap on federal spending should be placed into the Constitution. However, the difficulty in passing and ratifying such a constitutional amendment should not deter Congress from acting.

On June 23, 2011, I introduced H.R.2319, the *Maximizing America's Prosperity Act of 2011* (or MAP). MAP contains all of the reforms that I have discussed in this letter. I strongly recommend that your Committee should pursue this legislation.

Sincerely,

Kevin Brady
Vice Chairman
Joint Economic Committee
U.S. Congress