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RANKING MEMBER

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

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.