Views and Estimates on the President's Budget For Fiscal Year 2016

Submitted by:

The Honorable Fred Upton, Chairman
Committee on Energy and Commerce
February 20, 2015

Introduction

Clause 4(f) of Rule X of the Rules of the House of Representatives for the 114th 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 2016) that 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 that it intends to be effective during that fiscal year.

On February 2, 2015, President Obama submitted to Congress his proposed budget for FY 2016 (the budget). The Committee on the Budget has requested that committees submit their views and estimates by February 20, 2015. 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

As in recent years, the President's budget again proposes to shift the funding of National Highway Traffic Safety Administration's (NHTSA) vehicle safety programs from general funds to a Transportation Trust Fund. The Administration has proposed this shift in previous budgets, and each time it has been rejected soundly. 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 Transportation Trust Fund cash flows and shortfalls in recent years, the Committee believes that the funding of these important programs should continue to be considered independently.

The Committee also is concerned that the Administration's budget does not place enough focus on addressing NHTSA's shortcomings in the large recalls that have dominated the past year in auto safety. At a time when auto safety is evolving into a technical world of autonomous features and cars that communicate, there is a concern that NHTSA does not have the technical expertise to keep up with these advances. Despite headline after headline in 2014 showing that NHTSA was behind on automobile science, there is no budgetary redirection to update NHTSA, and no clear plan to address the future of car safety.

Consumer Product Safety Commission

The President's FY 2016 budget request for the Consumer Product Safety Commission (CPSC) of $129 million includes $5 million to establish a nanotechnology center to conduct research and develop test methods for measuring and describing exposure to nanomaterials from consumer product. The CPSC is proposing the creation of the Center for Consumer Product

Applications and Safety Implications of Nanotechnology (CPASION). In order to create CPASION, the CPSC must enter into a five-year interagency agreement with the National Science Foundation (NSF). Nanotechnology is an incredibly broad area that is overseen by multiple Federal agencies and is not limited to one industry or product category. The proposal would model CPASION on a similarly sized existing NSF collaboration with the Environmental Protection Agency (EPA), but the CPSC's proposed budget is less than 2 percent of EPA's budget. The Committee is concerned that an allocation of funds that does not include an implementation plan with accountability metrics will detract from the CPSC's execution of its broader consumer protection charge to address known and quantifiable risks. Further, the proposal does not indicate the manner in which the CPSC would be able to support the science behind nanotechnology safety research. Without a solid basis in science and accountability, the Committee opposes funding any such program.

The FY 2016 budget request includes the previously requested $5 million that was approved in the FY 2015 budget for expanding the import surveillance initiative. The FY 2016 budget also renews the request for user fee authority for the CPSC to impose on the regulated community to offset the program cost by half in the first year and fully in the outlying years. The outlying year requests are projected to more than double to $36 million annually over the next five years, chiefly for investment in technology acquisition for the risk assessment function.

The import surveillance program is an important piece of the consumer product safety net, but coordination with industry to ensure the success of such a program is vital. Questions remain about the risk assessment methodology, including whether the information that will be required on the Certificates of Conformity (the Certificates) inform the mission of risk assessment; whether the existing Customs and Border Protection (CBP) database — the Automated Commercial Environment (ACE) system — is interoperable with the format or type of information required on the Certificates; whether the existing CBP database infrastructure can handle the influx of information; and how the CPSC intends to make its systems interoperable with ACE such that it can receive the information collected. A pilot program, by definition, is a trial period used to identify programmatic successes and issues. Pilot programs should be followed by review and resolution of outstanding issues. Overall, the Committee is concerned that initiating implementation of the pilot-scale program as a full-scale program with so many programmatic issues unresolved is untimely, unnecessary, and a waste of resources, which will impair the CPSC in its consumer protection mission.

In addition to the operation and functionality of the surveillance program, the Committee is concerned with the introduction of a user fee beginning in FY 2017. In concept, the Committee does not object to user fees. The Committee does object, however, to a fee-based program that is not transparent to those paying to fund it, where the fees are not tied to the costs incurred by the agency administering it, and for which there are no restrictions on how the fees will be spent. The Committee also objects to user fees that are estimated without a plan for implementation or a concrete basis for estimating the program's costs. From a technical perspective, it remains unclear how the CPSC intends to enforce the user fee consistent with the scope of the products in its jurisdiction as products currently are classified under the Harmonized Tariff System, which does not delineate clearly between products that fall within the CPSC's jurisdiction and those that do not. Finally, the Committee opposes delegating to a regulator the authority to establish user fees by rule. This authority traditionally is established by statute after

consultation with both the regulator and the regulated community.

Federal Trade Commission

The President's FY 2016 budget request proposes two changes to one source of the Federal Trade Commission's (FTC or Commission) funding. First, it proposes to increase the statutory Hart-Scott-Rodino (HSR) premerger notification filing fees for each category of merger. Specifically, the FTC seeks the following increases by merger size:

- For mergers resulting in a merged entity valued at $100 million or less, the current filing fee is $45,000—for FY 2016, the FTC seeks an increase of this filing fee to $70,000, an increase of $25,000;
- For mergers resulting in an entity worth $100 million to $500 million, an increase in filing fee from $125,000 to $190,000;
- For mergers resulting in an entity worth $500 million to $1 billion, an increase in the filing fee from $280,000 to $425,000; and,
- For mergers resulting in an entity worth $1 billion or above, a new filing fee category of $565,000.

Thus, the President's budget proposes to increase fees for each merger size and also to create a new fee category for mergers valued at over $1 billion dollars. There is no explanation to support this proposal or why mergers of each size should be subject to higher fees. If there is credible data to support a new fee category for mergers over $1 billion, the Committee would be interested in reviewing it. Such a proposal could give rise to a complete restructuring of fees that potentially could provide a welcome reduction in the amount smaller companies pay. However, the Committee fears that raising HSR fees for every category of merger would be used merely to support other FTC activities. The Committee does not support unjustified fee increases that discourage economic growth and job creation.

Second, the President's budget seeks to increase all future HSR filing fees by indexing them to the annual percentage change in gross national product (GNP). While the Committee does not oppose a fee-based system to pay for the actual cost of government services used, the Committee would like to see evidence that an increase is needed, and if so, what is the best way of approximating the FTC's actual cost increases. Linking a fee to the growth of GNP is unlikely to be an appropriate metric to approximate the actual cost of government resources because the number, size, types, and complexity of mergers will vary greatly from year to year. For example, the FTC's 2013 Hart-Scott-Rodino Annual Report (the most recent available) noted that transaction filings were down 7.2 percent from 2012, and second notice requests for merger investigations were down 4.1 percent. This indicates that predicting the need for increased resources on an annual basis is difficult and does not lend support for this potential expansion of fees. Given the continuing, difficult economic environment, unnecessarily raising fees on businesses could constitute a tax that hurts the economy and job creation.

International Trade Administration, Department of Commerce

The President's FY 2015 budget proposes to increase the budget of the International Trade Administration to the International Trade and Investment Administration by $34 million. A portion of the funding increase, $15 million, will go to the Interagency Trade Enforcement Center (ITEC), which monitors and enforces U.S. trade rights under international agreements and other domestic and international trade enforcement authorities. The Committee supports efforts by the administration to ensure that foreign governments are not harming U.S. jobs via trade barriers. However, the Committee has concerns over the rest of the increase. It is not clear how the money will be directed for export promotion or that there will be any incremental increase in exports directly attributable to the increased expenditure. Without a supportive cost-benefit analysis, the Committee cannot support the additional funding.

Energy

Department of Energy

Overview. The President's proposed FY 2016 budget request for the Department of Energy (DOE or Department) was $29.9 billion, a 9.2 percent increase ($2.52 billion) over FY 2015 enacted levels. While the Committee supports many of the Department's national security, defense and civilian programs, and environmental cleanup activities, the Committee continues to believe such an overall increase in requested funding raises questions in view of the Nation's continuing fiscal and employment challenges.

Energy Efficiency and Renewable Energy. The FY 2016 budget request for the Office of Energy Efficiency and Renewable Energy (EERE) is $2.7 billion, an increase of 42.3 percent over FY 2015 funding levels. The Committee supports the responsible development and deployment of renewable and alternative energy sources. However, the Committee does not support such significant funding increases within this program, particularly given current fiscal realities. The Committee notes that the FY 2016 budget includes substantial increased funding for the expedited commercialization of unproven and costly technologies that put taxpayer dollars at risk. The FY 2016 budget for EERE also seeks funding to establish stricter energy efficiency standards for appliances, which reduce consumer choice and increase product price, with minimal energy savings or environmental benefits. The $2.7 billion request for EERE is substantially higher than the requests for the Department's other applied energy offices. The Committee believes the funding across the Department's applied energy offices should be more equitable.

Electricity Delivery and Energy Reliability. The FY 2016 budget request for the Office of Electricity Delivery and Energy Reliability (OE) is $270 million, an increase of 83 percent over FY 2015 funding levels. The Committee supports the Department's efforts to improve grid resiliency and redundancy, including improved protection against cyber threats. The Committee also supports OE's advanced grid integration efforts and emergency response and restoration programs.

Nuclear Energy. The FY 2016 budget requested for the Office of Nuclear Energy was $907.6 million, or $74 million more than FY 2015 funding. The Committee continues to take issue with the Administration's failure to proceed with Yucca Mountain program as mandated under the Nuclear Waste Policy Act. 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 Nuclear Regulatory Commission's complex pre-licensing proceeding, and comply with the NRC's strict licensing requirements. As a result of the Administration's effort to terminate the Yucca Mountain program, the Nation currently has no clear pathway 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 requested $842 million for the Office of Fossil Energy in the FY 2016 budget request, or $51 million more than FY 2015 funding. In the area of fossil energy research and development, the FY 2016 budget request reduces the effective program level from $560.59 million in 2015 to $560 million in 2016, 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 FY 2016 budget fails to recognize the critical importance that oil, natural gas, and coal have to our national energy portfolio, and their fundamental role in ensuring our economic growth and global competitiveness.

Energy Information Administration. The President requested $131 million for the Energy Information Administration (EIA) in the FY 2016 budget request, an increase of $14 million over the FY 2015 enacted level. We support this requested funding level. EIA provides critical information and continually has shown proper management of its appropriated funds. This 12 percent increase over the prior year's funding level will allow for EIA to continue to meet the growing demand for timely, independent, and relevant data about energy in a time of rapid transformation and abundance.

Nuclear Regulatory Commission

Overview. The Nuclear Regulatory Commission's (NRC) proposed FY 2016 budget is $1.032 billion**,** a $16.9 million increase above its FY 2015 funding levels. NRC recovers approximately 90 percent of its budget from fees assessed to NRC licensees or applicants, and estimates that $910 million will be recovered from NRC licensees, a decrease of $25.3 million.

High-Level Waste Repository Program. The FY 2016 NRC budget fails to request funding to continue the review of the license application for authorization to construct a repository at Yucca Mountain. On August 13, 2013, the District of Columbia Circuit Court issued a writ of mandamus upholding the NRC's legal mandate to review the application and issue a final decision and compelling the agency to resume its review. The NRC repeatedly has indicated that it lacks the funds necessary to complete the process and reach a final decision. For the reasons stated above, the Committee objects to the NRC's continuing failure to request the

funds necessary to execute its responsibility under the Nuclear Waste Policy Act as upheld by the courts.

Operating and New Reactors. The NRC's budget request for operating reactors was $601 million, and $191 million for new reactors. The Committee notes that the NRC's seems unable to reach decisions on a range of licensing issues in a timely fashion, including new reactor design certifications, license extensions, and power uprates. The Committee encourages the NRC to improve efficiency and schedule discipline in an effort to reign in costs.

Environment

Environmental Protection Agency

The President's FY 2016 budget request for the Environmental Protection Agency (EPA or Agency) is $8.59 billion, which is approximately $452 million above the FY 2015 enacted budget, and approximately $1.07 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 2015 budget, the Committee highlighted concerns with EPA's overall spending, management, and recently finalized or pending regulations that propose to impose billions of dollars cumulatively in new compliance costs. Many of EPA's actions evince an ambition to impose overreaching Federal regulations affecting individuals, families, and communities, regardless of the accomplishments of States, local governments, or private entities. This is particularly with respect to EPA's pending carbon dioxide rules for new and existing power plants, which reflect an unprecedented attempt by the agency to change the way we generate, transmit, and consume electricity in the United States by asserting new regulatory authorities over State electricity decision-making. It is more important than ever that EPA focus on its core responsibilities to carry out the statutes it is charged with implementing, and that the Agency respect the role of States and localities in environmental regulation.

Agency Management Overview. Despite the Committee's concerns about the Agency's management and the costs of its programs, the Agency is continuing to develop new regulations that have the potential to significantly harm the U.S. economy and jobs. The real cost of the EPA is not so much in annually appropriated dollars, but in the significant economic burdens imposed on regulated America, including American workers and consumers. The Agency's indifference to the real-life economic concerns of American citizens and taxpayers continues unabated as the Agency's expensive regulatory agenda shows no signs of letting up. For example, in addition to EPA's pending expansive carbon dioxide regulations for existing power plants, which would impose billions of dollars in compliance costs and raise electricity rates in many regions of the country, EPA's proposed new ozone regulations would put hundreds of counties in nonattainment and restrict their future economic growth. EPA also continues to work on and implement an ever expanding suite of multi-billion dollar regulations, ranging from the Agency's new regulations for power plants, to additional rules for the transportation sector, to

other rules affecting the energy, manufacturing, industrial, and other key sectors of the economy. Despite this Committee's calls for restraint, our constituents continue to identify EPA as the largest government threat to their businesses, jobs opportunities, and their way of life.

Specific Spending Programs

Climate Action Plan and Clean Air Act Programs. For FY 2016, the President requested $1.113 billion for the development and implementation of greenhouse gas (GHG) and Clean Air Act (CAA) standards and programs to address global warming concerns. This includes $279.5 million to address climate change, which represented increased spending of approximately $88.8 million over levels enacted in FY 2015. The Committee continues to have significant concerns about the cumulative cost and job implications of EPA's development and implementation of its growing set of GHG regulations, as well as a number of other recent or pending major rulemakings under the CAA. Specifically, there are concerns about the reliability and affordability of electricity as an unprecedented number of coal-fired power plants are scheduled to shut down by 2016 in order to comply with EPA's Utility MACT rule, and the pending carbon dioxide rules for new and existing plants being pursued by the agency under section 111 of the CAA. Further, there are concerns about how EPA plans to develop GHG emissions standards for other source categories, beyond power plants. An additional concern is that these proposed or pending standards introduce regulatory uncertainty into the economy and have 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 and other CAA regulations.

Streamlining Environmental Reporting Systems and Federal-State Cooperation. The Committee continues to appreciate the President's budgetary commitment to keep the e-Manifest program on track. The Committee, however, is puzzled and concerned by the Administration's apparent inference that a discrete appropriation to implement the E-manifest program is linked to a diminished Administration commitment to the Association of State and Territorial Sold Waste Management Officials grant, which the Administration itself states "was in prior years an effective mechanism to seek the input of states on rulemakings, set program priorities, promote program advances such as SMM, share knowledge with and among states on RCRA implementing issues, develop mutually agreeable guidance and policies, and support the states in RCRA implementation."

Users of the e-manifest program rightfully expect that the money they pay to support the program will be used just for that purpose. Likewise, the American people expect the Administration to make every effort to cooperate with the States in a Federal-State partnership to protect the environment. Accordingly, the Committee does not agree with the Administration's resistance to targeting user-fee money to the purpose for which it is paid, nor with the Administration's diminished commitment to cooperate with the States, much less the linkage of the two.

Protecting America's Waters/Drinking Water Grants. The President requested $1.186

billion for the Drinking Water State Revolving Loan Fund (DWSRF) grants for FY 2016, pursuant to section 1452(m) of the Safe Drinking Water Act (SDWA).

The Committee appreciates that for FY 2016, the President "will work to target assistance to small and underserved communities" and is not suggesting that an automatic percentage of DWSRF funds be mandated for projects, or portions of projects, that include "green infrastructure." Community water system professionals have the judgment to weigh efficiency improvements against other cost-effective and urgent programmatic options for meeting the needs of their water customers.

The Committee seeks more information on the President's Water Infrastructure and Resiliency Finance Center, but is concerned about any effort that would detract from the need for and effectiveness of the DWSRF. The Committee also is trying to gauge the impact of efforts like the dedication of 20 to 30 percent of a State's DWSRF allocation to be used for debt forgiveness. While this tradeoff is well-intentioned, the Committee is interested in knowing how this need compares to other needs of the DWSRF.

The Committee notes that the President's budget contains a request for ongoing support of the Sustainable Water Infrastructure Policy to "develop sustainable systems that employ effective utility management practices to build and maintain the level of technical, financial, and managerial capacity necessary to ensure long-term sustainability." The Committee notes that the Safe Drinking Water Act's funding is meant to ensure compliance with the public health-based mandates of the law, not merely to build infrastructure. While the Committee appreciates the desire to provide technical assistance to drinking water systems, the Committee is concerned that this program could divert precious resources away from compliance and towards construction and management planning in certain communities across the country.

The President's budget also requests funding to carry out a national training program for water systems on the recently completed electronic deployment tool, the Water Quality and Surveillance and Response System and continued support of the Water Alliance for Threat Reduction, and cybersecurity work under Executive Order (EO) 13636. The Committee also notes the effort identified in the President's budget to have EPA build its capacity to identify and respond to threats to the nation's critical drinking water infrastructure, including support of the water sector through information-sharing tools and mechanisms that provide timely information on contaminant properties, water treatment effectiveness, detection technologies, analytical protocols, and laboratory capabilities for use in responding to a water contamination event. The Committee seeks clarification on these matters, as well as on the request for $12.9 million to support Climate Ready Water Utilities and cybersecurity activities within the water infrastructure sector.

Underground Storage Tanks. The President's 2016 budget proposes spending $95.3 million on leaking underground storage tanks (LUST). Though Congress, at the urging of the President's FY 2013 budget request, extended the LUST Trust Fund financing tax through September 30, 2016, the FY 2016 budget seeks to achieve 8,600 cleanups, the same as projected in the President's FY 2015 budget and a decrease from the 2014 cleanup numbers. In view of the fact that the President's request dwarfs the tax revenue routinely generated for LUST activities, and interest alone on the LUST Trust Fund balance is substantial, the Committee is hopeful that the Environmental Protection Agency can either out-perform the lower expectations

of the Administration over the next two years or not seek extension of this tax at the end of FY 2016.

Chemical Facility Safety. The President's proposed FY 2016 budget includes $27.8 million for the for the State and Local Prevention and Preparedness program, an increase of $11.5 million and an outgrowth of the Presidential Executive Order 13650. The Committee understands this increased budget request is built on the Agency's experience with a pilot project it operated in New York and New Jersey. While the Committee supports safe and secure use and storage of chemicals, the Committee would appreciate knowing the precise statutory authority for these new efforts, particularly since the EPA's proposed budget reduces funding for Homeland Security: Preparedness, Response, and Recovery.

Department of Homeland Security – Chemical Facilities Antiterrorism Standards.

The President requests $94 million for FY 2016 to carry out the Chemical Facilities Antiterrorism Standards (CFATS) program within the Department of Homeland Security. Notwithstanding the multi-year authorization of the CFATS program enacted in 2015, and the progress made over the past two years addressing program management shortcomings, the Committee remains concerned that the program still has not achieved its statutory objectives originally set out in 2006. Only by working with Congress and the regulated stakeholders, as well as working out the technical bugs that have bedeviled the program, will the Department be able to help CFATS-covered facilities achieve genuine and effective security. The Committee will continue its close oversight of this program.

Health Care

Health Care Law Implementation

The Committee remains very concerned about the damaging impact of continued implementation of the Patient Protection and Affordable Care Act (PPACA) on the American people. Of particular concern is the Federal funding allocated to failed State exchanges, such as Maryland, Massachusetts, and Oregon. Hundred of millions of Federal taxpayer dollars have been squandered on failed State exchange systems. Consumers in these States have faced heightened difficulties shopping and enrolling for qualified health plans under PPACA.

Nationally, many consumers have been left with limited and expensive coverage options in the wake of plan cancellations caused by PPACA. Plans in the exchanges are required to comply with new and expensive coverage requirements that drive up the cost of health coverage for the average American. Estimates show that some populations will face premium increases of 400 percent because of PPACA's requirements. A study by the actuarial firm Oliver Wyman suggests that premiums in the individual market will increase an average of 40 percent.

With nearly 1 trillion dollars estimated to be spent to offset the cost of exchange plans, these premium increases are further evidence of the glaring fiscal unsustainability of the health care law.

Medicare

The Medicare program was created in 1965 as the health care safety net for seniors aged 65 and older. Since its creation, Americans looking forward to enjoying retirement have come to expect that the program will be there for them.

According to the Congressional Budget Office (CBO), Medicare outlays are expected roughly to double in the next decade. Outlays for Medicare were projected to be $597 billion in 2014, according to CBO, but were actually $612 and will increase annually until reaching $1.051 trillion in 2024—or nearly $8 trillion in spending over a decade.

The Administration continues to ignore the unsustainable path of the Medicare program. According to the Department of Health and Human Services' (HHS) estimates, which have not yet been reviewed independently by CBO, the President's FY 2016 budget includes policies that would reduce Medicare outlays over the budget window by over $400 billion. However, most of the policies contained in the budget are not structural reforms designed to address questions related to the future solvency of the program, but rather, across-the-board provider reimbursement reductions or problematic drug pricing policies.

Every day, approximately 10,000 Americans become eligible for Medicare, helping to accelerate the growth in the program's cost to taxpayers. The number of Americans paying into the program, however, is at an all-time low. In 1965, there were, on average, 4.6 taxpayers per beneficiary; today, that number is down to 2.7. This decline has contributed to Medicare paying out more in claims than it receives through workers payroll taxes each month.

As a result of the structural pressures Medicare faces, the program pays out more from the Hospital Insurance Trust Fund than it takes in—a trend that CBO projects will continue every year in the future until the trust fund is eventually exhausted.

Many Americans are worried about the future of Medicare. An August 2012 survey of voters aged 50 and up found a high level of anxiety related to this issue and a desire for candidates to better explain their plans to save the Medicare program.

The Committee will continue working to raise awareness of the unsustainability of the program and its impact on every American. CBO has warned that, over the long-term, Medicare is one of the largest structural drivers of our deficit and one of our greatest budgetary threats, as an increasing share of the program is funded directly from general revenue. The Committee notes that PPACA reduced Medicare outlays by over $716 billion, but spent the money on new government programs not for seniors. According to the Actuary of the Medicare program, the across-the-board cuts to providers in the law could cause up to 15 percent of hospitals to close by 2019.

PPACA's cuts to Medicare also include more than $300 billion in reductions to the Medicare Advantage program. These changes will result in many seniors losing the plan they have or losing their current doctor. Many worry that the nature of these reductions may make it harder in the future to adopt bipartisan structural reforms that would save the program for current and future seniors.

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 certain eligibility criteria. Others receive Medicaid through waivers and amended State plans with higher income eligibility limits.

Originally created to serve low-income Americans and the indigent, Medicaid turns 50 years-old this year. Today, Medicaid is the world's largest health insurance program. Medicaid currently covers more than 66 million Americans—more than Medicare—and up to 72 million may be covered at any one point in a given year.[1] The Federal government currently spends more general tax revenue on Medicaid than it does on Medicare.

As with Medicare, the Administration continues to ignore the unsustainable path of the Medicaid program. According to CBO, the Federal share of Medicaid outlays are expected roughly to double over the coming decade, increasing from $299 billion in 2014, to more than $576 billion in 2024.[2] Over the next ten years, Medicaid will cost Federal taxpayers $4.8 trillion dollars according to CBO.[3] Based on current trends, by 2025, *each year* Medicaid will cost Federal and State taxpayers more than $1 trillion and will cover more than 90 million Americans.[4] CBO has warned repeatedly that the continued growth of our entitlements, including Medicaid, is the single largest structural driver of our debt and deficits.

The Committee remains concerned with the dramatic expansion of the program due to PPACA, given the program's need for serious reforms to ensure the program is more accountable to taxpayers and fairer for the patients who depend on it. In its FY 2016 budget, the Administration has failed to present meaningful, bipartisan cost-saving measures to ensure the program's sustainability and improve the level of access to quality care for Medicaid's enrollees.

The Committee remains concerned that States expanding Medicaid under Obamacare are agreeing to expand the program without full details from the Administration regarding necessary future Federal budgetary adjustments to Medicaid, which may reduce costs for the Federal government by merely shifting costs to States. Moreover, the Committee remains deeply concerned that under PPACA's Medicaid expansion, the Federal government is committing to fund a larger percentage of the cost of coverage for able bodied adults above poverty than it is for the aged, disabled, and truly indigent—which has been the historical focus of the program. At a time when Medicaid spending already consumes roughly one in four State dollars, the Committee remains concerned that the fiscal pressure faced by States and administrative flexibility necessary for those States to sustain responsible Medicaid programs are not properly addressed in the President's FY 2016 budget.

Food and Drug Administration

The President's FY 2016 budget request calls for $4.9 billion for the Food and Drug Administration (FDA). This amount constitutes a $425 million (9 percent) increase over the

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1 CMS's publicly reported number as of June 2014.
2 https://www.cbo.gov/sites/default/files/cbofiles/attachments/44204-2014-04-Medicaid.pdf
3 Based on data from the Congressional Budget Office's Medicaid baseline, https://www.cbo.gov/sites/default/files/cbofiles/attachments/44204-2014-04-Medicaid.pdf .
4 Spending estimates based on projections of National Health Expenditure data from CMS, http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html. Medicaid spending for 2024 and 2025 was further estimated assuming an annual rate of growth of 6.5 percent. Enrollment projection from CBO's Medicaid baseline, https://www.cbo.gov/sites/default/files/cbofiles/attachments/44204-2014-04-Medicaid.pdf

total FDA budget for FY 2015. The President's budget includes $277 million in new user fees and $148 million in new budget authority.

The President's FY 2016 budget request includes a total program level of $1.5 billion for food safety activities—a $301 million increase from FY 2015. This total would include $1.3 billion in budget authority and $206 million from new user fees related to food imports, facility registration, and inspection. These new user fees on food facilities are not supported by the Committee because they will increase food costs for consumers and several of the activities they would fund would have a questionable impact on enhancing food safety.

The FY 2016 budget request includes a total program level of $2.7 billion for medical product related approval and oversight activities—a $82 million increase from FY 2015. The budget request specifically includes $10 million to support a new FY 2016 Department cross-cutting Precision Medicine Initiative that will allow treatments to be personalized for patient needs.

The FY 2016 budget request includes $599 million in user fees for the Center for Tobacco Products, an increase of $33 million over FY 2014. The Committee has significant questions about how these user fees have been used to date.

Finally, the FY 2016 budget request again calls for reducing the exclusivity of biosimilar products from twelve to seven years and prohibiting reverse settlements between brand and generic drug manufacturers. The Committee has been opposed to these proposals due to the adverse impact they would have on innovation and patient access.

National Institutes of Health

The FY 2016 budget requests $31.3 billion for the National Institute of Health (NIH), which is an increase of $1 billion (3.3 percent) over the current level. The Committee believes that adequately funding the NIH is an important priority.

Centers for Disease Control and Prevention

The FY 2016 request for the Centers for Disease Control and Prevention (CDC) proposes a funding level of $7 billion, which is an increase of $110.7 million (1.6 percent). The U.S. response to the Ebola epidemic has been a priority for the CDC and Committee. CDC is working with other U.S. government agencies, the World Health Organization, and other domestic and international partners, and it has activated its Emergency Operations Center to help coordinate technical assistance and monitor activities with its partners. In FY 2015, CDC received $1,771 million in one-time emergency funding for the U.S. Government response to contain, treat, and prevent the spread of Ebola. In this year's budget, of the $448 million in Global Health, $30 million is budgeted for the Ebola response. Also, the budget for Emerging and Zoonotic Infectious Disease increased by $294 million, totaling $699 million overall.

Prevention and Public Health Fund

The Prevention and Public Health Fund was created by PPACA and eventually allows for $2 billion annual advanced appropriations to the HHS Secretary. The Committee continues to be

concerned about this fund, which provides the Secretary with the ability to finance programs beyond levels specified by Congress and with limited oversight. Since its inception, the Secretary has spent funds on dubious activities, such as dog neutering campaigns and programs like pickleball.

Communications and Technology

Federal Communications Commission

Pursuant to the 2015 Consolidated and Further Continuing Appropriations Act, the Federal Communications Commission (FCC) currently is operating under an annualized budget of approximately $456 million, with $339 million coming from regulatory fees and $112 million coming from spectrum auction proceeds.

For FY 2016, the Commission is requesting an increase of approximately $80 million to its budget. The increase is comprised of $48 million in new budget authority, a $25 million transfer from the Universal Service Fund to support oversight activities, and $9 million for auction expenses to be recovered from auction proceeds. Additionally, the Commission has made a number of one-time budget requests, including $45 million for moving expenses related to the expiration of the Commission's office lease and nearly $12 million for IT expenditures.

The Federal Communications Commission has not been reauthorized since the early 1990s. As a result, the Commission's budget has grown over time without the benefit of legislative reform informed by the Committee's oversight of the FCC. The Committee intends to examine the Commission's budget in detail over the next few months, including embarking on a reauthorization and a review of the Commission's expenditures.

National Telecommunications and Information Administration

Pursuant to the 2015 Consolidated and Further Continuing Appropriations Act, the National Telecommunications and Information Administration (NTIA) currently is operating under a budget of $38.2 million for the remainder of FY 2015. The Committee will consider the NTIA funding as part of the Committee's continuing oversight of the NTIA. Notably, NTIA is currently in the midst of a process to determine whether the U.S. government can transfer oversight of the Internet Assigned Numbers Authority. The Consolidated and Further Continuing Appropriations Act contained a funds limitation that prevents NTIA from transferring this oversight role through the end of FY 2015.

Additionally, NTIA is responsible for administering spectrum allocated for government use. Following the passage of the Middle Class Tax Relief and Job Creation Act of 2012, NTIA was tasked with working to facilitate the plans for relocating government incumbents from the 1.7 GHz band to make the spectrum available for commercial auction. With strong bipartisan participation, NTIA successfully coordinated the many government interests. This effort culminated in a record-setting FCC auction, which raised more than $44 billion — enough to fully fund FirstNet and the other obligations of the Public Safety Trust Fund. The Committee will continue to examine the role of NTIA in spectrum management with a focus on producing

continued results for both government users and the economy.

Universal Service Fund and Other Overlapping Subsidy Programs

The Universal Service Fund (USF or Fund) is an FCC administered program that historically has subsidized telephone service. The USF is paid for with surcharges on subscribers' phone bills. The USF currently costs telephone subscribers approximately $9 billion per year and consists of four programs. The high-cost program, which subsidizes parts of the country that are expensive to serve, costs approximately $4.6 billion per year. The schools and libraries program, also known as E-Rate, costs subscribers approximately $2.3 billion per year. This program is expected to increase by $1.5 billion following recent FCC action. The low-income program, designed to subsidize poorer households, costs approximately $2 billion per year. The rural healthcare program subsidizes tele-health programs and costs approximately $120 million per year. Carriers pay into the fund to cover its quarterly costs and then pass the amounts they pay on to their subscribers, currently in the amount of approximately 17 percent of subscribers' interstate long-distance bills.

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, adopted as part of the Consolidated and Further Continuing Appropriations Act, lasts until December 21, 2016. 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. The legislation also prohibits the FCC from implementing a recommendation by the Federal-State Joint Board that high-cost subsidies should be limited to a single line per household. The FCC should not be prohibited from implementing such a limitation if it believes such a limitation would advance good public policy and will help stem the growth of the Fund.

The Commission is expected to take action on February 26, 2015, to reclassify broadband Internet access services as telecommunications services, subject to utility-style regulation under Title II of the Communications Act of 1934. Because the text of the Commission's proposed rules is not yet available, the impact of this decision on Universal Service Fund is not clear. However, section 254 of the Communications Act, which governs universal service, requires every provider of interstate telecommunications services to contribute on an equitable and non-discriminatory basis to the fund. Previously, providers of broadband Internet access service were not required to contribute to the fund. According to the Progressive Policy Institute, these new charges could add as much as $11 billion to consumers' bills as a larger portion of wireline and wireless bills are assessed USF contributions, and cable subscribers are assessed for the first time ever.

Additionally, several programs overlap significantly with the USF. The Rural Utilities Service administers several programs that offer similar coverage to the Fund. 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 broadcast stations and other spectrum licensees could relinquish their licenses in exchange for a portion of auction proceeds. The Congressional Budget Office (CBO) projected that those provisions would generate $15 billion after paying licensees that exit the market, compensating broadcasters that relocate in the process, and contributing $7 billion toward construction of a nationwide public safety broadband network.

In late 2014 and early 2015, the FCC conducted one of the traditional auctions (non-incentive) called for in the Middle Class Tax Relief and Job Creation Act. The auction contained licenses for 50 MHz of paired spectrum and an additional 15 MHz of unpaired spectrum. This auction alone surpassed CBO's estimate for total auction revenues over the ten-year scoring window, producing gross bids of nearly $45 billion. Despite this success, CBO estimates that spectrum auctions will produce only an additional $18 billion in revenue during the remaining seven years of FCC auction authority. That figure includes projected revenue from the auction of highly sought-after low band spectrum in the broadcast television incentive auction. In light of recent auction successes, the Committee will work to review practices across the Federal government to accurately and consistently value spectrum and ensure that the benefit of its value is realized.

Additionally, the President's budget in the past has proposed assessing a spectrum license user fee. We agree that spectrum, as a valuable and scarce resource, should produce a return on investment for American taxpayers. However, imposing new spectrum fees poses significant challenges, especially since spectrum license holders already are charged license application fees and yearly regulatory fees.

Finally, 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.