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U.S. House of Representatives
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March 4, 2010

The Honorable John M. Spratt, Jr.
Chair
Committee on the Budget
U.S. House of Representatives
207 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to transmit, pursuant to clause 4(f)(1) of House rule X, the views and estimates of the Committee on Rules, together with Minority Views, regarding the President's fiscal year 2011 budget. This submission was adopted on March 2, 2010 by the Committee on Rules by a non-record vote in an open meeting with a quorum being present.

Although the Committee on Rules does not have legislative jurisdiction over spending or revenues measures required for inclusion in a budget resolution, pursuant to clause 3(j) of rule X and section 301(a) of the Congressional Budget Act of 1974, the Committee does wish to comment on the President's budget reform proposals contained in the portion of the fiscal year 2011 budget entitled "Restoring Responsibility."

Restoring Responsibility

Restoring Honest Budgeting In his second budget request submission to Congress, the President has again presented a unified Federal budget that includes costs for the wars in Iraq and Afghanistan, something the previous administration failed to include in any of its recent budget requests. We are pleased that the President is committed to this more accurate format for budgeting that contains the projected cost to the Federal government for the wars in both Iraq and Afghanistan. While there are conflicting views on these military activities, we continue to believe that it serves no purpose to hide these costs from the American people and the Congress. So while these conflicts may be controversial in nature, failure to disclose the significant costs would

certainly appear to diminish the credibility of an otherwise reliable budget document or estimate. The cost of these wars continues to devour a considerable portion of our Federal budget and therefore must be disclosed up front for implementation of any realistic budget plan.

In seeking a more comprehensive budgetary planning process, the Administration is utilizing a spending plan that looks at a 10-year rather than 5-year window, something the House already does when projecting the long-term cost of programs and services. It also calls for a "line-by-line" review of the Federal budget for programs that are ineffective, duplicative, or obsolete. We fully support vigorous scrutiny of all programs and services to ensure that American taxpayers realize the best possible return on their hard-earned dollars.

Restoring Fiscal Discipline

Return to Pay-As-You-Go Budgeting As we stated in last year's views and estimates, we fully support the President's commitment to return to the practice of pay-as-you-go budgeting. On the opening day of the 110th Congress, the House of Representatives began its commitment to responsible spending through the implementation of clause 10 of rule XXI, which precludes any direct spending or revenues from increasing the deficit. PAYGO was and continues to be, the fiscal centerpiece of the reforms put forth by the 110th Congress and has expanded since that time. In the 111th Congress, the Leadership and the Rules Committee continue to strive for full compliance with the PAYGO rule and have required standing committees to include offsets for any new spending. Committees in turn have also complied with the new rule and have worked to ensure that legislation moving through their committees does not increase direct spending. While the rule has been waived for a limited number of urgent and emergency measures, it has been a successful tool that has imposed fiscal discipline on mandatory spending and revenues.

In addition, the Congress passed and the President, on February 12, 2010, signed into law the Statutory Pay-As-You-Go Act of 2010, which reestablishes a statutory procedure to enforce a rule of budget neutrality on new revenue and direct spending legislation. The previous statutory PAYGO law -- which helped us achieve the budget surpluses of the 1990s and early 2000s -- expired in 2002. Under the new law, when legislation is scored as changing direct spending or revenue levels, such budgetary effects are recorded by the Office of Management and Budget on 5- and 10-year scorecards. For any budget year, a net increase in direct spending on either scorecard must be eliminated through an across-the-board sequestration ordered by the President. We believe that this new statutory provision coupled with clause 10 of House rule XXI will further solidify our efforts to help rein in deficit spending by requiring offsets.

Increase Accountability for Earmarks and Reduce their Number The Committee is pleased that the President remains committed to earmark reform in his budget request and also recognizes the significant reforms that have already taken place.

We look forward to working with him to continue ongoing efforts to further strengthen and improve this process.

In the last three years, the House of Representatives has implemented the most comprehensive changes to the earmark process in history, with unprecedented reforms to ensure maximum transparency and to make certain that taxpayer dollars are used wisely for the highest quality programs and services. The opening day rules package for the 110th Congress included new rules that for the first time required Members of Congress who are requesting an earmark to disclose in writing the name and address of the intended recipient, the purpose of the earmark, and to certify the Member (as well as his or her spouse) had no financial interest in the request. It prohibited trading earmarks for votes. It also required that each bill be accompanied by a list identifying each earmark included and which Member requested it. The list must be available either in the accompanying committee report or printed in the *Congressional Record* and therefore available online prior to final passage of the underlying vehicle. The rule further provided that this provision cannot be waived. Because of that, noncompliance with the rule allows any Member to raise a point of order and demand a vote to try and block Floor consideration. The opening day rules package of the 111th Congress codified in clause 9 of rule XXI an order of the House from the 110th Congress which provided additional protections and votes for earmark disclosure of so-called “airdropped” earmarks in appropriations conference reports.

In addition, the Committee on Appropriations in the first session of the 111th Congress implemented a new committee practice to increase transparency and accountability even further. Members are required to post, at the time of their request, detailed information on all their appropriations earmark requests on their official House websites. Additionally, the Committee will make public earmark disclosure tables even earlier, on the same day the subcommittee reports the bill.

The Committee on Appropriations also implemented two additional reforms to provide for increased scrutiny of earmarks: 1) the Executive Branch will have the opportunity to review each earmark. After a Member submits a request for an earmark, the appropriate Executive Branch agency will be given 20 days to review the project to ensure that the earmark is eligible to receive funds and meets goals established in law; and 2) the Executive Branch will be required to ensure that any earmark request submitted for a for-profit entity must be awarded through a competitive bidding process.

Authorizing committees such as the Armed Services Committee and Transportation and Infrastructure Committee also have implemented similar internal requirements for increased transparency and accountability for their earmark requests. The Rules Committee is confident that these reforms will continue ongoing efforts designed to ensure that no earmarks can slip through the legislative process unnoticed or unscrutinized.

The Rules Committee intends to continue working closely with the Administration and the Budget Committee to ensure that the budget process now and in

future years results in a fiscally responsible and programmatically sound Federal budget that is responsive to the needs of the American people. Should you have any questions or concerns regarding this submission, please feel free to contact me or my staff at x5-9091.

Sincerely,



Louise M. Slaughter
Chair

cc: Hon. Paul Ryan
Hon. David Dreier

MINORITY VIEWS

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

The Majority has chosen to focus on 3 main topics: earmark reform; pay-as-you-go budgeting; and restoring honest budgeting. We are compelled to respond.

Earmark reform?

In the 109th Congress, Republicans initiated earmark reform to bring transparency and accountability to the earmark process with the adoption of H.Res. 1000. While the Democrats' reforms at the beginning of their Majority in 2007 optically appeared to build on the Republican reforms, they lacked one important element put in place by the Republican Majority: enforceability.

The procedure established in the 109th Congress made certain assumptions about the kinds of rules reported by the Rules Committee, namely that they almost always contained a waiver of all points of order. Under the 109th Congress, this automatically armed the earmark point of order against the rule, giving any Member an opportunity to bring the question of earmarks before the House prior to consideration of the bill.

The Democratic Majority argued that they did not like the optics of waiving the earmark rule against the bill, and so the waiver contained in virtually every rule reported by the Rules Committee waived all points of order except the earmark and PAYGO rules. Given that the present regime was built on the foundation established by House Republicans, the net effect of this exception from the waiver was to effectively turn off the ability of a member to debate the question of earmarks on a particular measure, rendering the improvements in the earmark rule worse than meaningless.

Furthermore the Majority's earmark rule still does not apply to the following instances in the legislative process:

- Amendments self-executed by the Rules Committee, which the current Majority has utilized at twice the rate of the previous majority;
- Any amendment made in order, but not offered first (i.e. not a "managers" amendment);
- Any amendment made in order to be offered first if not offered by a Member of a committee of jurisdiction; and,
- Amendments between the Houses (commonly referred to as "ping-pong"), which the Majority has chosen to utilize with increasing frequency due to the

procedures added benefit of prohibiting any Minority amendment, including a motion to recommit.

The fact is that the disclosure of earmarks required under clause 9(a) of rule XXI does not apply in any of those cases, leaving the door wide open to suspicion and criticism.

Rather than address the enforcement and applicability flaws in the earmark rule at the beginning of the 111th Congress, the Majority chose merely to codify H.Res. 491 from the previous Congress which was only adopted after the Minority brought the issue forward. If the Majority is serious about their pledge to bring more transparency to the earmarking process in the House, they should take steps to address the flaws in the rule and work with the Minority to restore the integrity of the institution. The Minority will continue to be ready to assist the Majority in perfecting earmark accountability.

Restoring Fiscal Discipline?

When the Majority came into power in 2007 they reinstated with great fanfare a new pay-as-you-go (pay-go) rule. Since that time the deficit has swollen from \$161 billion to \$1.6 trillion. Pay-go has been waived or circumvented for \$1.3 trillion in deficit increases; and when applied it has been used primarily to justify increasing spending with higher taxes.

The Minority believes that when there is a bipartisan agreement on spending and taxes, as with the Balanced Budget Act of 1997, pay-go can be a useful tool to enforce a deficit-reduction measure. But standing on its own, the Majority's version of pay-go is deeply flawed and vastly over-rated.

First, pay-go has become a distraction from the real problem: spending. Congress can pass any amount of entitlement spending increase without violating pay-go – as long as the spending is offset, and does not increase the deficit. This creates a great incentive for Congress to raise taxes to “pay for” popular spending proposals, and thereby appear fiscally “responsible.” Indeed, pay-go has become a means of justifying higher taxes to chase higher spending.

Second, pay-go does not reduce deficits -- it just maintains them at their current level. It does not apply to current law, so it will do nothing to address the unsustainable rate of spending growth in existing entitlement programs.

Third, it is rife with loopholes and has been circumvented through various gimmicks. Pay-go does not apply to annually appropriated discretionary spending, which represents more than \$1 trillion of the budget. For example in 2008, the war supplemental (H.R. 2542) included \$66 billion in mandatory spending, the subject matter of which was outside the jurisdiction of the Committee on Appropriations, that otherwise would have been subject to pay-go. If the Rules Committee Majority is sincere about their commitment to “enforce” pay-go, they may want to start with enforcing committee jurisdiction when it comes to massive increases in mandatory spending.

Unfortunately the recently enacted statutory pay-go does nothing, other than establishing a scorecard, to address any of the above flaws.

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

Restoring Honest Budgeting?

While the content of the President's budget specifically falls within the jurisdiction of the Committee on the Budget, we will nonetheless comment on the Majority's discussion of such matters.

We congratulate and support the President's inclusion of the costs of the military operations in Iraq and Afghanistan, something House Republicans have done in their past budget proposals. While the inclusion has helped estimate future spending, it has not alleviated the need for supplemental and emergency appropriations to fund those operations, one of the Majority's rationales for the practice. The Minority was never under such delusion, which is why, unlike the Majority, we have often included reserve funds for such matters in our budget proposals.

We also congratulate the President's continuation of the previous administration's commitment to continually root out waste, fraud, and abuse within Federal programs with his “line-by-line” review of the Federal budget. Something we would hope any administration would do regardless.

Other Matters

We would like to take this opportunity to briefly address one other issue which the President raises in regard to the consideration of rescission requests and, with the Majority's indulgence, the rescissions contained in the President's budget. We agree with the President that the process by which rescissions are considered could and should be enhanced to ensure each rescission receives “rapid” consideration and gets a clean “up-or-down vote.”


In his budget the President has proposed to rescind all funding for 47 discretionary programs and to reduce funding for an additional 26 programs, proposing a total of 73 rescissions. On February 4, 2010 the Minority leadership in the House

transmitted a letter to the President supporting his transmittal of all 73 proposals individually so that the House would have an opportunity to consider, debate, and vote on each proposal on its own merit. Should he choose to do so, each proposal would be subject to the meaningful yet weak rescission procedures provided by the Impoundment Control Act.

Our leadership took that important step even though we do not necessarily support each individual rescission. But the issue of spending is so important, we believe that the House should spend its time debating meaningful proposals to reduce government spending. Our Leadership has yet to receive a response from the President.

We hope the Majority takes this opportunity to review the rescission process provided by the Impoundment Control Act and take action to ensure that all Members have an opportunity to be heard and to vote on actual decreases in spending. During this time of economic uncertainty and given the Majority's newfound commitment to fiscal responsibility it would only seem appropriate. We stand ready to participate in such action, should the Majority choose to allow it.

In conclusion, we continually look forward to working with the Majority Members of the Rules Committee on any issues they do deem appropriate for the Committee on Rules to consider as well as those proposals espoused by the President in his Fiscal Year 2009 budget.



David Dreier



Lincoln Diaz-Balart



Pete Sessions



Virginia Foxx