



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 7, 2012
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5326 – Commerce, Justice, Science, and Related Agencies Appropriations Act, 2013

(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 5326, making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year (FY) ending September 30, 2013, and for other purposes.

Last summer, the Congress and the President came to a bipartisan agreement to put the Nation on a sustainable fiscal course in enacting the Budget Control Act of 2011 (BCA). The BCA created a framework for more than \$2 trillion in deficit reduction and provided tight spending caps that would bring discretionary spending to a minimum level needed to preserve critical national priorities. Departing from the bipartisan agreement reached in the BCA and departing from these caps, the House of Representatives put forward a topline discretionary funding level for FY 2013 that, for example, would cost jobs and hurt average Americans, especially seniors, veterans, and children – as well as degrade many of the basic Government services on which the American people rely such as air traffic control and law enforcement. In addition, these cuts were made in the context of a budget that fails the test of balance, fairness, and shared responsibility by giving millionaires and billionaires a tax cut and paying for it through deep cuts, including to discretionary programs.

Taking this into account, passing H.R. 5326 at its current funding level would mean that when the Congress constructs other appropriations bills, it would necessitate significant and harmful cuts to critical national priorities such as education, research and development, job training, and health care. Furthermore, the bill undermines key investments in resource management, export promotion, community safety, access to justice, and space flight. Investing in these areas is critical to the Nation's economic growth, security, and global competitiveness. The Administration also strongly objects to the inclusion of ideological and political provisions that are beyond the scope of funding legislation.

If the President were presented with H.R. 5326, his senior advisors would recommend that he veto the bill.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Department of Commerce

National Oceanic and Atmospheric Administration (NOAA). The Administration strongly opposes the \$93 million reduction in funding from the FY 2013 Budget request for NOAA. This cut would impact negatively NOAA's ability to support the Nation's fisheries and oceans stewardship programs such as protected species programs, which would be cut by \$16 million

below the FY 2013 Budget request and \$20 million below the FY 2012 enacted level. Decreased funding for Protected Species Research and Management could lead to delays in permitting or consultations and result in the development of less precise measures, which could have economic impacts on coastal industries such as fisheries, agriculture, oil and gas development, and coastal construction. The Administration appreciates the Committee's support for mission-critical satellite programs.

Census Bureau. The Administration opposes the \$92 million reduction from the FY 2013 Budget request. The cut below the FY 2012 enacted level threatens the Bureau's ability to implement Economic Census data collection activities that peak in FY 2013, hindering the successful development of critical benchmarks for Gross Domestic Product estimates. The bill also does not provide sufficient funding for 2020 Decennial Census Planning, adversely impacting Census research and testing activities that inform the development of an accurate and cost-efficient decennial census.

National Institute of Standards and Technology (NIST). The Administration opposes the decision to not include funding for the National Strategy for Trusted Identities in Cyberspace (NSTIC). The continued Government support of NSTIC pilot projects, as proposed in the President's FY 2013 Budget, is required to demonstrate new identity management solutions that will protect individuals, businesses, and agencies from cyber-crimes. The Administration appreciates the Committee's support for NIST intramural research and manufacturing initiatives.

International Trade Administration (ITA). The Administration urges the Congress to provide the requested funding level of \$517 million for ITA, which plays an important role in increasing U.S. exports. The Administration strongly encourages the full request be provided for the Interagency Trade Enforcement Center and SelectUSA initiatives, which will help protect against unfair trade practices and promote investment and jobs. Without the requested funding, ITA would have to dramatically scale back its export promotion and counseling efforts, both domestically and overseas. This would result in fewer additional American exports, particularly by small businesses, and fewer new American jobs.

Department of Justice

State and Local Assistance. The Administration strongly opposes the level of funding provided for the Community Oriented Policing Services Hiring Grants Program, which is \$217 million below the FY 2013 Budget request. This reduced funding level would result in the loss of approximately 1,200 police hires/rehires, including veterans. In addition, some communities seriously impacted by crime would not be able to support enough police officers to effectively respond. The Administration encourages the Congress to fund the Byrne Justice Assistance Grant program at the requested level of \$430 million, which will provide much-needed assistance to help State and local law enforcement address crime.

Executive Office of the President

Office of the U.S. Trade Representative (USTR). The Administration opposes the reduction from the FY 2013 Budget request for USTR. The bill does not fully fund the Interagency Trade Enforcement Center, a coordinated interagency approach to enhance trade enforcement which levels the playing field for U.S. workers and businesses.

Office of Science and Technology Policy (OSTP). The Administration appreciates the Committee's support for the FY 2013 Budget request of \$5.85 million. This funding enables OSTP to leverage its scientific and technical expertise to address the Nation's science and technology challenges.

National Aeronautics and Space Administration (NASA)

The Administration strongly opposes the level of funding provided for the commercial crew program, which is \$330 million below the FY 2013 Budget request, as well as restrictive report language that would eliminate competition in the program. This would increase the time the United States will be required to rely solely on foreign providers to transport American astronauts to and from the space station. While the Administration appreciates the overall funding level provided to NASA, the bill provides some NASA programs with unnecessary increases at the expense of other important initiatives.

National Science Foundation (NSF)

The Administration appreciates the funding level of \$7.3 billion provided for NSF, which is \$300 million above the FY 2012 enacted level. The funding would support over 400 additional research and education awards compared to FY 2012.

Equal Employment Opportunity Commission (EEOC)

The Administration is concerned about the Committee's funding level for EEOC, which is \$7 million less than the FY 2013 Budget request. Funding at this level would prevent EEOC from filling critical investigator positions lost through attrition, which would increase EEOC's backlog and weaken its ability to enforce Federal laws that protect individuals from discrimination based on their race, color, religion, sex, national origin, age, disability or genetic information.

Legal Services Corporation (LSC)

The Administration strongly opposes the level of funding provided in the bill for LSC, which is \$74 million below the FY 2013 Budget request. At this funding level, tens of thousands of low-income Americans, including many military families and veterans, would be denied assistance with civil legal problems, impacting their ability to receive fair treatment in the courts.

Riders

The Administration strongly opposes problematic policy and language riders that have no place in funding legislation, including, but not limited to, the following provisions in this bill:

Reasonable Factors Other Than Age Rule. Preventing the implementation of this Rule under the Age Discrimination in Employment Act would prevent the EEOC from bringing its regulations into line with Supreme Court decisions and perpetuate uncertainty surrounding the defenses to an age discrimination claim, resulting in inconsistent litigation outcomes for both individuals and employers.

Prohibition on Multiple Sales of Rifles Reporting Requirement. Preventing the Bureau of Alcohol, Tobacco, Firearms and Explosives from requiring licensed firearms dealers in four border States to report information on the sale of multiple rifles or shotguns to the same person would hamper efforts to address the problem of illegal gun trafficking along the Southwest Border and in Mexico.

Authority to Enforce the Americans with Disabilities Act. The Americans with Disabilities Act is crucial to protecting core civil rights principles and ensuring that people with disabilities have access to everyday activities and can participate in all aspects of society. Weakening civil rights enforcement under the Americans with Disabilities Act sets a dangerous precedent.

Constitutional Concerns

Several provisions in the bill, particularly sections 509, 520, and 534, could raise constitutional concerns in certain applications by intruding upon the President's constitutional authority over international diplomacy. The Administration looks forward to working with the Congress to address these concerns.

In addition, the Administration objects to and has constitutional concerns about section 529 of the bill. This provision's restrictions on the transfer of detainees to the United States in the context of an ongoing armed conflict may interfere with the Executive Branch's ability to determine the appropriate disposition of detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances such transfers should occur. Such restrictions or interferences would, in certain circumstances, violate constitutional separation of powers principles.

The Administration looks forward to working with the Congress as the FY 2013 appropriations process moves forward.

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