



RECOMMENDATIONS TO THE JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

**Democratic Members
Committee on Oversight and Government Reform
U.S. House of Representatives**

Ranking Member Elijah E. Cummings

October 12, 2011

<http://democrats.oversight.house.gov/>

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October 12, 2011

Members of the Joint Select Committee on Deficit Reduction:

Pursuant to the Budget Control Act of 2011, attached is a report with recommendations to the Joint Select Committee on Deficit Reduction submitted on behalf of Democratic Members of the House Committee on Oversight and Government Reform.

The Oversight Committee has a unique perspective because of its broad jurisdiction over the entire federal government and private sector entities. This report provides recommendations based on work conducted by Democratic Committee Members over several Congresses while they served in both the majority and minority. In most cases, recommendations include specific information the Committee obtained during the course of its hearings, investigations, or legislative activities. These recommendations are not intended to be comprehensive, but to highlight key areas to which the Joint Select Committee should devote particular attention.

The report's key recommendations include investing in bipartisan job creation proposals to build the nation's infrastructure and help small businesses prosper, as well as adopting reforms to the tax code to ensure balance and fairness while reducing the deficit. The report also recommends preserving the core guarantees of Medicare and Medicaid and protecting against further cuts to federal employee compensation, benefits, or workforce size that will negatively impact recruitment and retention or substantially degrade agency performance. In addition, the report includes recommendations to save hundreds of billions of dollars by reducing prescription drug prices and by increasing oversight and efficiency in defense programs and making additional targeted defense reductions.

I would like to draw particular attention to the report's final recommendation to take immediate action to address the housing crisis. To date, neither Congress nor the Administration has done enough to address the housing crisis, which is one of the most significant challenges facing our nation's struggling economy. In testimony just last week before the Joint Economic Committee, Federal Reserve Board Chairman Ben Bernanke stated that "the recovery is close to faltering," and that housing is "a big part of the recovery process," but that "here it's just not doing anything." He added that "many people are underwater," and that "their loss of equity means that they are poorer, they are less willing to spend." He testified that "addressing the housing situation is very, very important." When I suggested that it would be "almost impossible to resolve our economic situation" without addressing this crisis, Chairman Bernanke

agreed.¹ We must address this crisis much more aggressively and comprehensively in order to hasten a true and lasting economic recovery.

Finally, the recommendations in this report are being submitted only by Democratic Members because the Committee as a whole failed to develop proposals, hold hearings, or adopt an official Committee report with recommendations to the Joint Select Committee. I personally requested that the Committee begin developing recommendations several weeks ago. At a hearing on September 14, 2011, I made this request to Committee Chairman Darrell Issa:

In my opinion, it is time to work together and take action on proposals we should all be able to support. Mr. Chairman, with this in mind, I want to ask if you and I can work together, and with other Members of the Committee, to develop a joint, bipartisan Committee report with recommendations to the Super Committee on reducing the debt and increasing jobs. As you know, the law that established the Super Committee gave each Committee the option of submitting such a report by October 14. I think we could make a much more positive contribution if we submit one together with recommendations on which we all agree. Would you agree to consider this approach?²

Despite my request, the Committee declined to follow this approach and failed to hold any business meetings at which Committee Members could consider proposals, debate amendments, or adopt recommendations to the Joint Select Committee pursuant to the Budget Control Act.

I also regret to report that our Chairman failed to respond to a letter I sent on September 9, 2011, proposing that our Committee hold a series of hearings focusing in detail on job creation programs proposed by the President in his address to a joint session of Congress.³ In my letter, I renewed a request I had made eight months earlier for the Committee to hold a hearing on bipartisan infrastructure proposals that have the support of both the AFL-CIO and the U.S. Chamber of Commerce.⁴ I also requested hearings on the President's proposals to help

¹ Joint Economic Committee, Testimony of Federal Reserve Board Chairman Ben Bernanke, *Hearing on the Economic Outlook* (Oct. 4, 2011).

² House Committee on Oversight and Government Reform, Statement of Ranking Member Elijah E. Cummings, *Hearing on How a Broken Process Leads to Flawed Regulations* (Sept. 14, 2011) (online at <http://democrats.oversight.house.gov/images/stories/cummingsopening91411.pdf>).

³ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Sept. 9, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&view=article&id=5404%3Acummings-calls-for-series-of-hearings-on-presidents-jobs-proposal-&catid=146%3Ademocratic-agenda&Itemid=49).

⁴ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Feb. 10, 2011) (online at http://democrats.oversight.house.gov/images/stories/EEC_to_Issa_02-10-11_Hrg_Req_on_Infrastructure.pdf).

American families avoid foreclosure, cut workers' payroll taxes, help the unemployed transition to the workplace, cut taxes to spur hiring by small business, and support veterans, teachers, police, and firefighters. The Chairman failed to respond to any of these requests.

In my opinion, this was a wasted opportunity for the Oversight Committee to offer constructive solutions to the Joint Select Committee and a dereliction of the Committee's responsibilities to the American taxpayers. Nevertheless, we hope the Democratic recommendations in this report contribute constructively to the Joint Select Committee's work, and we stand ready to provide further assistance if needed.

Sincerely,


Elijah E. Cummings
Ranking Member

cc: The Honorable Darrell E. Issa, Chairman
House Committee on Oversight and Government Reform

TABLE OF CONTENTS

Executive Summary	Page 1
Recommendations	Page 3
1. The Joint Select Committee should adopt the President’s proposals in the American Jobs Act that invest in bipartisan programs to enhance economic growth and create jobs while responsibly reducing the deficit.	Page 3
2. The Joint Select Committee should enact comprehensive tax reform or, if there is insufficient time, adopt targeted proposals to create a fairer tax system that helps reduce the deficit.	Page 5
3. The Joint Select Committee should protect and preserve the core guarantees of Medicare and Medicaid while implementing steps to make both programs more efficient and effective.	Page 9
4. The Joint Select Committee should avoid further cuts for federal employees given the significant cuts already imposed on them, and instead should reform compensation reimbursement for federal contractors.	Page 11
5. The Joint Select Committee should adopt several measures to substantially reduce prescription drug prices for the federal government and patients.	Page 13
6. The Joint Select Committee should adopt measures to increase oversight and efficiency in defense programs and contracts and make additional targeted defense reductions.	Page 14
7. The Joint Select Committee should amend the Statutory Pay-As-You-Go Act of 2010 to evaluate Postal Service legislation on a unified budget basis.	Page 18
8. The Joint Select Committee should expand dramatically efforts to address the housing crisis, which has been flagged as “ground zero for the economy’s problems, high unemployment and lost jobs.”	Page 20

EXECUTIVE SUMMARY

This report provides recommendations to the Joint Select Committee on Deficit Reduction (Joint Select Committee) on behalf of Democratic Members of the House Committee on Oversight and Government Reform.

The Budget Control Act of 2011 charged the Joint Select Committee with developing a proposal to reduce the deficit by at least \$1.5 trillion over the next ten years. It also provided that, by October 14, 2011, “each committee of the House of Representatives and the Senate may transmit to the joint committee its recommendations for changes in law to reduce the deficit consistent with the goal.”

The Oversight Committee has a unique perspective because of its broad jurisdiction over the entire federal government and private sector entities. This report provides recommendations based on work conducted by Democratic Committee Members over several Congresses in both the majority and minority. In most cases, recommendations include specific information the Committee obtained during the course of its hearings, investigations, or legislative activities. These recommendations are not intended to be comprehensive, but to highlight key areas on which the Joint Select Committee should devote particular attention.

The report’s primary recommendations are as follows:

Support bipartisan job creation proposals. The report recommends adopting the President’s proposals to invest in bipartisan programs to enhance economic growth, while responsibly reducing the deficit. These include infrastructure programs supported by both the AFL-CIO and the U.S. Chamber of Commerce, cuts to payroll taxes for small businesses and American workers, and efforts to support veterans, teachers, police, and firefighters. Mark Zandi, the Chief Economist at Moody’s Analytics, estimates that these programs will “increase real GDP growth in 2012 by 2 percentage points, add 1.9 million jobs, and reduce the unemployment rate by a full percentage point.”

Reform the tax code to ensure balance and fairness. The report recommends enacting comprehensive tax reform or, if there is insufficient time, adopting targeted proposals to create a fairer tax system that helps reduce the deficit. It recommends eliminating oil and gas industry tax preferences that are costly to American taxpayers and unnecessary given the industry’s record profits, increasing investments to narrow the \$290 billion tax gap, and allowing the Bush-era tax cuts to expire for the wealthiest taxpayers which, combined with the wars in Iraq and Afghanistan, “will account for \$7 trillion in deficits in 2009 through 2019,” according to the Center on Budget and Policy Priorities.

Preserve Medicare and Medicaid as we know it. The report recommends protecting and preserving the core guarantees of Medicare and Medicaid and rejecting broad efforts to shift costs onto the nation’s seniors. It also recommends adopting the President’s proposals to help ensure proper payments in these programs so funds are used for their intended purposes.

Defend against further cuts to the federal workforce. After a two-year pay freeze and deep cuts in agency budgets, the report warns against further cuts to federal employee compensation, benefits, or workforce size that will negatively impact recruitment and retention and substantially degrade agency performance. Instead, it recommends capping the amounts for which federal contractor employees may be reimbursed by the federal government at the same level as federal employees.

Generate billions in savings on prescription drugs. The report recommends measures to reduce drug prices for the federal government and patients, including allowing the Office of Personnel Management to combine the purchasing power of eight million Federal Employee Health Benefit Program enrollees, eliminating the prohibition against the Secretary of Health and Human Services negotiating prescription drug prices with drug manufacturers, restoring access to Medicaid rebates for people eligible for both Medicaid and Medicare, expanding the availability of Medicaid rebates to those who qualify for low-income subsidies, and ending anti-competitive agreements that delay access to new biologic medications and treatments.

Generate additional savings from defense programs. In addition to supporting the planned drawdown of troops in Afghanistan and the transition from a military to a civilian-led mission in Iraq, the report recommends measures to increase oversight and efficiency in defense programs and contracts and making additional targeted defense reductions.

Allow Postal Service legislation to be considered on a “unified budget” basis. The report recommends adopting a recommendation by the President that has been utilized by House Budget Committee Chairman Paul Ryan to allow legislation relating to the Postal Service to be scored on a unified basis so both on- and off-budget effects may be counted.

Take immediate action to address the housing crisis. One of the most crucial conclusions in the report is that neither Congress nor the Administration has done enough to address the housing crisis, which Mark Zandi of Moody’s Analytics has warned is “ground zero for the economy’s problems, high unemployment and lost jobs.” Based on multiple investigations by Committee Democrats over the past year, the report recommends a package of aggressive measures, including:

- helping responsible homeowners refinance at lower interest rates,
- extending the statutory deadlines for the Emergency Homeowners’ Loan Program (EHLPP) and the Homeowners Assistance Program (HAP),
- extending mortgage payment forbearance periods to 12 months,
- authorizing bankruptcy judges to implement principal paydown plans,
- cracking down on abusive and illegal actions by mortgage servicers,
- expanding rental option programs after foreclosure,
- supporting residential sell-back programs after foreclosure, and
- requiring servicers to engage in mediation prior to foreclosure.

Together, these measures will help stimulate the economy, create jobs, promote small business, protect benefits on which American families rely, broaden the tax base, and reduce the deficit in a fair manner that reflects the true priorities of the American people.

RECOMMENDATIONS

- 1. The Joint Select Committee should adopt the President's proposals in the American Jobs Act that invest in bipartisan programs to enhance economic growth and create jobs while responsibly reducing the deficit.**

The Budget Control Act of 2011 charged the Joint Select Committee with reducing the deficit by at least \$1.5 trillion between 2012 and 2021.¹ In his address to a joint session of Congress on September 8, 2011, the President urged the Joint Select Committee to stabilize our debt in the long run while also investing approximately \$447 billion in a number of bipartisan proposals to help grow the economy and create jobs.²

Committee Democrats strongly support the President's plan to significantly expand the economy, create jobs, and reduce the deficit. As Mark Zandi, the Chief Economist at Moody's Analytics, concluded in an analysis issued on September 9, 2011:

President Obama's much-anticipated jobs plan is a laudable effort to support the struggling economy. The plan would go a long way toward stabilizing confidence, forestalling another recession, and jump-starting a self-sustaining economic expansion. If fully implemented, the Obama jobs plan would increase real GDP growth in 2012 by 2 percentage points, add 1.9 million jobs, and reduce the unemployment rate by a full percentage point, compared with current fiscal policy.³

In order to further analyze the President's proposals, Ranking Member Cummings wrote to Chairman Issa on September 9, 2011, proposing that the Oversight Committee hold a series of hearings focusing in detail on the job creation programs proposed by the President in the American Jobs Act.⁴

In his letter, Ranking Member Cummings renewed a request he had made eight months earlier for the Committee to hold a hearing on bipartisan infrastructure proposals that have the

¹ Budget Control Act of 2011, Pub. L. No. 112-25.

² President Barack Obama, *Address by the President to a Joint Session of Congress* (Sept. 8, 2011) (online at www.whitehouse.gov/the-press-office/2011/09/08/address-president-joint-session-congress).

³ Mark Zandi, Moody's Analytics, *An Analysis of the Obama Jobs Plan* (Sept. 9, 2011) (online at www.economy.com/dismal/article_free.asp?cid=224641&tid=F0851CC1-F571-48DE-A136-B2F622EF6FA4&src=MZ).

⁴ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Sept. 9, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&view=article&id=5404%3Acummings-calls-for-series-of-hearings-on-presidents-jobs-proposal-&catid=146%3Ademocratic-agenda&Itemid=49).

support of both the AFL-CIO and the U.S. Chamber of Commerce.⁵ He also requested hearings on the following proposals in the President's plan:

- Helping American Families Avoid Foreclosure: This hearing would have focused on proposals to help families avoid foreclosures, including by allowing them to refinance their mortgages at historically low rates, thereby helping homeowners, investors, and communities across the country.
- Cutting Workers' Payroll Taxes: This hearing would have focused on the proposal to expand the payroll tax cut passed last year to cut workers' payroll taxes in half in 2012, providing a \$1,500 tax cut for typical American families.
- Helping the Unemployed Transition to the Workplace: This hearing would have focused on proposals to extend unemployment insurance; allow long-term unemployed workers to receive unemployment insurance while they obtain work-based training; provide tax credits for companies that hire workers who have been looking for jobs for more than six months; and support summer and year-round jobs for youth, subsidized employment opportunities for low-income individuals, and local work-based job and training initiatives.
- Cutting Taxes to Spur Hiring by Small Businesses: This hearing would have focused on proposals to cut payroll taxes in half for 98% of businesses; eliminate payroll taxes for companies that add workers or increase wages; extend 100% expensing into 2012; and help small businesses access capital.
- Supporting Veterans, Teachers, Police, and Firefighters: This hearing would have focused on a proposal for a Returning Heroes Tax Credit of up to \$5,600 for hiring unemployed veterans, as well as a proposal to invest \$35 billion to help states and localities prevent layoffs of up to 280,000 teachers and keep thousands of police officers and firefighters in their jobs.

Despite the bipartisan nature of many of these proposals, the Chairman failed to respond to any of these requests. This action contradicts the statements by House Speaker John Boehner and Majority Leader Eric Cantor in a letter to President Obama on September 6, 2011, in which they wrote: "While it is important that we continue to debate and discuss our different approaches to job creation, it is also critical that our differences not preclude us from taking action where there is common agreement."⁶

Rather than holding hearings on job creation proposals, the Oversight Committee has held more than 20 hearings to examine so-called "job-killing" regulations. Without exception,

⁵ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Feb. 10, 2011) (online at http://democrats.oversight.house.gov/images/stories/EEC_to_Issa_02-10-11_Hrg_Req_on_Infrastructure.pdf).

⁶ Letter from House Speaker John Boehner and Majority Leader Eric Cantor to President Barack Obama (Sept. 6, 2011).

these hearings have focused exclusively on the costs of regulations and failed to consider the substantial benefits to life, health, safety, and the economy that regulations may provide.⁷ This approach ignores the fact that benefits have far exceeded the costs for all major rules issued over the past ten years. In June, the Office of Management and Budget (OMB) reported that during fiscal year 2010, agencies promulgated 18 major rules in which both the benefits and costs were quantified. OMB estimated that the annual benefits of those 18 rules are between \$18.8 billion to \$86.1 billion, while the costs are between \$6.5 billion and \$12.5 billion. For each year from 2000 to 2010, the annual estimated benefits for the rules reviewed by OMB have far outweighed the costs—with benefits between \$132 billion and \$655 billion and costs between \$44 billion and \$62 billion.⁸

The Joint Select Committee should reject any proposal to repeal regulations that protect the health and safety of American families and workers unless it is based on a comprehensive analysis of both the costs and the benefits. In contrast to the Oversight Committee's one-sided approach, President Obama issued an executive order in January requiring agencies to examine both the costs and benefits of regulations to the overall economy, small businesses, and American workers and families. Executive Order 13563, "Improving Regulation and Regulatory Review," is designed to ensure that regulations "protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation."⁹ Democratic Members support the President pragmatic, evidence-based, and cost-effective approach.

2. The Joint Select Committee should enact comprehensive tax reform or, if there is insufficient time, adopt targeted proposals to create a fairer tax system that helps reduce the deficit.

The President has urged the Joint Select Committee to enact comprehensive tax reform to achieve greater fairness and efficiency for more Americans. As he stated in his address to Congress:

[H]ere is what every American knows: While most people in this country struggle to make ends meet, a few of the most affluent citizens and most profitable corporations enjoy tax breaks and loopholes that nobody else gets. Right now, Warren Buffett pays a

⁷ See, e.g., House Committee on Oversight and Government Reform, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, Testimony of EPA Assistant Administrator Gina McCarthy, *Hearing on Assessing the Impact of EPA Greenhouse Gas Regulations on Small Business* (Apr. 6, 2011).

⁸ Office of Management and Budget, *2011 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (June 2011) (online at www.whitehouse.gov/sites/default/files/omb/inforeg/2011_cb/2011_cba_report.pdf).

⁹ *Improving Regulation and Regulatory Review – Executive Order* (Jan. 18, 2011) (online at www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf). See also President Barack Obama, *Toward a 21st-Century Regulatory System*, Wall Street Journal (Jan. 18, 2011) (online at <http://online.wsj.com/article/SB10001424052748703396604576088272112103698.html>).

lower tax rate than his secretary -- an outrage he has asked us to fix. We need a tax code where everyone gets a fair shake and where everybody pays their fair share. And by the way, I believe the vast majority of wealthy Americans and CEOs are willing to do just that if it helps the economy grow and gets our fiscal house in order.¹⁰

In order to achieve this goal, broad tax reform should be built on the following objectives:

- First, reform should work for all Americans by seeking to simplify the tax code and by limiting or removing unfair or inefficient tax breaks that benefit some entities over others;
- Second, reform should generate additional revenues, but in a manner that ultimately creates jobs and helps grow the U.S. economy;
- Third, reform should be guided by the “Buffett” rule, as described by the President, under which no household making more than \$1 million annually should pay a lower percentage of its income than the average middle class family.

If comprehensive tax reform is not feasible in the limited time available, the Joint Select Committee should consider targeted efforts to raise additional revenue in a balanced way to ensure that tax obligations are more fair.

For example, the Joint Select Committee should eliminate oil and gas industry tax preferences that are costly to American taxpayers and unnecessary given the industry’s record profits. On May 23, 2011, Ranking Member Cummings issued a Democratic staff report entitled, “Real Help for American Consumers: Who’s Profiting at The Pump.” The report concluded:

Despite the worst economic crisis since the Great Depression, oil companies have continued to make the highest profits of any industry. The top five oil companies have enjoyed profits of nearly a trillion dollars over the past ten years. They reported profits of more than \$31 billion in the first quarter of FY 2011, more than 32% higher than in the first quarter of FY 2010. Yet oil companies continue to benefit from billions of dollars in tax subsidies, as well as special deals that allow them to drill on federal lands without paying royalties. The Office of Management and Budget estimates that eliminating unnecessary tax subsidies could save more than \$43 billion over the next ten years, and the Government Accountability Office reports that U.S. taxpayers may be foregoing up to \$53 billion in revenues from oil companies that drill in the Gulf without paying market-rate royalties.¹¹

¹⁰ President Barack Obama, *Address by the President to a Joint Session of Congress* (Sept. 8, 2011) (online at www.whitehouse.gov/the-press-office/2011/09/08/address-president-joint-session-congress).

¹¹ Democratic Staff, House Committee on Oversight and Government Reform, *Real Help for American Consumers: Who’s Profiting at The Pump* (May 23, 2011) (online at

The report also detailed how industry officials and their supporters in the House have expressed support for ending this preferential treatment:

- Former Shell CEO John Hofmeister said in February, “In the face of sustained high oil prices it was not an issue—for large companies—of needing the subsidies to entice us into looking for and producing more oil.”
- House Speaker John Boehner said in April, “I don’t think the—the big oil companies need to have the oil depletion allowances. ... We certainly oughta take a look at it. ... And they oughta be payin’ their fair share.”
- House Budget Committee Chairman Paul Ryan, when asked whether he supports ending tax subsidies for oil companies, said in April, “I agree. ... We also want to get rid of corporate welfare. And corporate welfare goes to agribusiness companies, energy companies, financial services companies. So we propose to repeal all that.”
- House Oversight Committee Chairman Darrell Issa, when asked whether he supports requiring oil companies to pay fair returns on oil leases in the Gulf, said in March, “there is bipartisan support, still, to try to fix that.”¹²

On May 5, 2011, the Office of Management and Budget (OMB) estimated the savings that would be generated by eliminating several tax provisions that result in preferential treatment for oil companies.¹³ OMB estimated that, from 2012 to 2021, eliminating these tax subsidies could save approximately \$43.6 billion.

<http://democrats.oversight.house.gov/images/stories/FULLCOM/524%20oil%20products/COOGR%20Democratic%20Oil%20Report%2005-23-11.pdf>).

¹² *Id.*

¹³ Office of Management and Budget, *Budget of the U.S. Government, Fiscal Year 2012, Terminations, Reductions and Savings* (online at www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/trs.pdf) (accessed May 20, 2011).

OMB Savings Estimate for Eliminating Oil and Gas Subsidies	
Proposed Action on Tax Provisions	Ten-Year Savings
Repeal expensing of intangible drilling costs.	\$12.4 billion
Repeal deduction for tertiary injectants.	\$92 million
Repeal exception to passive loss limitations for working interests in oil and natural gas properties.	\$203 million
Repeal percentage depletion for oil and natural gas wells.	\$11.2 billion
Repeal deduction manufacturing deduction for oil and natural gas companies.	\$18.3 billion
Increase geological and geophysical amortization period for independent producers to seven years.	\$1.4 billion
Total	\$43.6 billion

In May, the Congressional Joint Economic Committee issued a staff report calling for an end to tax subsidies for oil companies and finding that such action would not increase gas prices, as some have claimed. The report stated:

Eliminating these tax preferences, which subsidize fossil fuel production, will both reduce the federal deficit and expedite the transition to a cleaner-energy economy. Critics of repealing these subsidies argue that the targeted tax breaks spur production and lower energy prices. In reality, most of the so-called incentives have no impact on near-term production decisions, and thus repealing them would have no effect on consumer energy prices in the immediate future. Even in the longer term, the current proposed changes to these tax provisions would have little impact on global production and a negligible effect on consumer energy prices. More importantly, these subsidies failed to prevent spikes in the price of gasoline, such as the spike that occurred in 2007-08. At the same time, these tax breaks may have discouraged investment in other industries, including alternative energy sources or energy efficiency, by distorting the effective tax rate on investments in oil and natural gas.¹⁴

¹⁴ Staff Report, Senate Joint Economic Committee, *End Tax Breaks for Big Oil: Reduce the Federal Deficit Without Increasing Prices at the Pump* (May 2011) (online at http://jec.senate.gov/public/index.cfm?a=Files.Serve&File_id=def3390e-c933-4420-a076-19f786cd3af0) (internal footnotes omitted).

The Joint Select Committee also should increase investments to narrow the \$290 billion tax gap. The difference between the amount of taxes owed and collected is known as the “tax gap.” The Internal Revenue Service (IRS) estimates that over \$290 billion in annual taxes owed under existing law are never collected.¹⁵ According to the Congressional Research Service, this includes \$11 billion in unpaid taxes on capital gains; \$22 billion in unpaid taxes on individual income earned through partnerships, S corporations, estates and trusts; and \$68 billion in unpaid taxes on non-farm proprietor income.¹⁶ The Government Accountability Office has recommended a number of steps the IRS could take to make a meaningful reduction in the tax gap and has supported IRS funding requests to conduct additional compliance research.¹⁷

Finally, the Joint Select Committee should allow the Bush-era tax cuts to expire for the wealthiest taxpayers. According to the Center on Budget and Policy Priorities, these tax breaks, combined with the wars in Iraq and Afghanistan, have been the largest contributors to the deficit over the past decade and “will account for \$7 trillion in deficits in 2009 through 2019.”¹⁸ For this reason, former Federal Reserve Board Chairman Alan Greenspan, who once endorsed the Bush Administration tax cuts, concluded this year that they must be allowed to expire. He stated:

I think this crisis is so imminent and so difficult that I think we have to allow the so-called Bush tax cuts all to expire. That is a very big number. But having put the rates back to where they were in the Clinton administration, I would argue that everything else should be either cutting spending or taking out the subsidies which are in the tax expenditures.¹⁹

3. The Joint Select Committee should protect and preserve the core guarantees of Medicare and Medicaid while implementing steps to make both programs more efficient and effective.

¹⁵ Department of Treasury, *Update on Reducing the Federal Tax Gap and Improving Voluntary Compliance* (July 8, 2009) (online at www.irs.gov/pub/newsroom/tax_gap_report_-_final_version.pdf).

¹⁶ Congressional Research Service, *Tax Gap, Tax Enforcement, and Tax Compliance Proposals in the 112th Congress* (Jan. 11, 2011) (R41582).

¹⁷ Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, and International Security, Testimony of Michael Brostek, Government Accountability Office, *Hearings on Uncollected Taxes: Can We Reduce the \$300 Billion Tax Gap?*, 109th Cong. (Oct. 26, 2005) (S. Hrg. 109-697). See also Center on Budget Policy Priorities, *Closing the Tax Gap* (Apr. 10, 2006) (online at www.cbpp.org/cms/index.cfm?fa=view&id=136).

¹⁸ Center on Budget and Policy Priorities, *Economic Downturn and Bush Policies Continue to Drive Large Projected Deficits* (May 10, 2011) (online at www.cbpp.org/cms/index.cfm?fa=view&id=3490) (emphasis in original).

¹⁹ *Meet the Press*, NBC News (Apr. 17, 2011) (online at www.msnbc.msn.com/id/42612533/ns/meet_the_press-transcripts/t/meet-press-transcript-april/).

The Joint Select Committee should reject extreme proposals to end Medicare as we know it and instead protect and preserve the fundamental healthcare services the program has provided for decades. The Joint Select Committee also should reject broad efforts to shift costs onto the nation's seniors as ill-advised and ineffective. Research has shown that such measures may result in higher overall costs to taxpayers since seniors may skip or delay needed care and end up in the hospital needing more costly procedures.²⁰ In addition, most seniors are of modest means, already spend a significant portion of their household budgets on health expenses, and simply cannot afford additional costs.²¹

Similarly, 68 million Americans receive healthcare services through the Medicaid program, including 33 million children, 11 million people with disabilities, 17 million non-disabled adults, and 6 million seniors.²² Proposals to reduce federal spending for Medicaid will impact vulnerable populations that can least afford it. On September 21, 2011, the Subcommittee on Health Care, District of Columbia, Census, and the National Archives held a hearing debunking myths about wealthy individuals accessing the program and highlighting the necessity and value of Medicaid due to the inaccessibility and high cost of private long term care insurance, services, and supports.²³

While preserving the core guarantees of Medicare and Medicaid, the Joint Select Committee should adopt the President's proposals to help ensure proper payments in these programs so funds are used for their intended purpose—to serve and provide access to seniors, children, and other vulnerable populations. Due to their susceptibility to improper payments, the Government Accountability Office designated Medicare and Medicaid high-risk programs.²⁴ In

²⁰ Amal N. Trivedi, Husein Moloo, and Vincent Mor, *Increased Ambulatory Care Copayments and Hospitalizations Among the Elderly*, New England Journal of Medicine (Jan. 28, 2010) (online at www.nejm.org/doi/full/10.1056/NEJMsa0904533).

²¹ Kaiser Family Foundation, *Projecting Income and Assets: What Might the Future Hold for the Next Generation of Medicare Beneficiaries?* (June 2011) (online at www.kff.org/medicare/upload/8172.pdf); Kaiser Family Foundation, *Health Care on a Budget: The Financial Burden of Health Spending by Medicare Households: An Updated Analysis of Health Care Spending as a Share of Total Household Spending* (June 2011) (online at www.kff.org/medicare/upload/8171.pdf).

²² Medicaid and CHIP Payment and Access Commission, *Report to the Congress on Medicaid and CHIP* (Mar. 2011) (online at http://healthreform.kff.org/~media/Files/KHS/docfinder/MACPAC_March2011_web.pdf).

²³ House Oversight and Government Reform, Subcommittee on Health Care, District of Columbia, Census, and the National Archives, *Examining Abuses of Medicaid Eligibility Rules* (Sept. 21, 2011).

²⁴ Government Accountability Office, *High-Risk Series: An Update* (Feb. 2011) (online at www.gao.gov/new.items/d11278.pdf). See also Government Accounting Office, *Medicare and Medicaid Fraud, Waste, and Abuse: Effective Implementation of Recent Laws and Agency Actions Could Help Reduce Improper Payments* (Mar. 9, 2011) (online at www.gao.gov/products/GAO-11-409T); Government Accountability Office, *Medicare Recovery*

addition, during two recent subcommittee hearings, there was bipartisan support for reducing improper payments.²⁵ The Affordable Care Act included several provisions to address and eliminate waste, fraud, and abuse, such as enhanced screening tools for the Centers for Medicare and Medicaid Services to ensure that only legitimate providers are enrolled in Medicare. The Administration estimates that these reforms could save over \$5 billion over 10 years.²⁶

4. The Joint Select Committee should avoid further cuts for federal employees given the significant cuts already imposed on them, and instead should reform compensation reimbursement for federal contractors.

The Joint Select Committee should recognize that a two-year pay freeze has been imposed on federal employees, under which the Office of Management and Budget (OMB) estimates that federal employees will sacrifice approximately \$60 billion in compensation over the next ten years.²⁷ In addition, the Budget Control Act imposed deep cuts in agency budgets, and OMB has required agencies to identify options for cutting between 5% and 10% in discretionary spending in their fiscal year 2013 budget submissions.²⁸

Further cuts to federal employee compensation, benefits, or workforce size will negatively impact recruitment and retention and substantially degrade agency performance. The hardworking men and women in the federal workforce provide vital services to the nation, and it is critical to ensure their continued ability to provide these services in an effective and efficient manner.

Rather than imposing additional cuts to the federal workforce, the Joint Select Committee should reform compensation for federal contractors. The federal government spent about \$320 billion on service contracts in fiscal year 2010, which is about 40% more than the total

Audit Contracting: Lessons Learned to Address Improper Payments and Improve Contractor Coordination and Oversight (July 15, 2010) (online at www.gao.gov/products/GAO-10-864T).

²⁵ House Committee on Oversight and Government Reform, Subcommittee on Government Organization, Efficiency, and Financial Management, *Improper Medicare Payments: \$48 Billion in Waste?* (July 28, 2011) and *Improper Payments: Finding Solutions* (Apr. 15, 2011).

²⁶ Office of Management and Budget, *Living Within our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction* (Sept. 2011).

²⁷ White House, *Fact Sheet: Cutting the Deficit by Freezing Federal Employee Pay* (Nov. 29, 2011) (online at www.whitehouse.gov/the-press-office/2010/11/29/fact-sheet-cutting-deficit-freezing-federal-employee-pay); *Amid Deficit Fears, Obama Freezes Pay*, New York Times (Nov. 29, 2010) (online at www.nytimes.com/2010/11/30/us/politics/30freeze.html).

²⁸ Memorandum from Jacob J. Lew, Director of Office of Management and Budget, to Heads of Departments and Agencies on Fiscal Year 2013 Budget Guidance (Aug. 17, 2011) (online at www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-30.pdf). See also *Agencies Turn to Buyouts in Tough Budget Environment*, Government Executive (Aug. 16, 2011).

compensation paid to in-house federal civilian employees last year.²⁹ According to a recent survey by the Human Resource Association of the National Capital Area, government contractor executives are paid 64% more than their federal employee counterparts.³⁰ Under current law, federal contractors can charge taxpayers almost \$700,000 annually for the salary of each of its top five executives, while the federal government's most senior officials receive approximately \$200,000 per year pursuant to Executive Schedule, Level I.³¹

The President has proposed capping the amount contractor executives may be reimbursed by the federal government at Level I of the Executive Schedule.³² Although this is a good first step, the Joint Select Committee should expand the cap to all federal contractor employees since lower-level executives and non-executive employees of government contractors also receive reimbursements that exceed this level.³³ The Joint Select Committee should adopt H.R. 2980, The Stop Excessive Taxpayer Payments to Government Contractors Act of 2011, which was introduced by Rep. Paul Tonko and limits annual federal compensation reimbursement for all contractor employees on both civilian and defense contracts to the Executive Schedule, Level I salary.

The Joint Select Committee should not adopt a proposal by the President to establish a Commission on Federal Public Service Reform to study personnel policies and recommend changes to compensation, staff development and mobility, and personnel performance and motivation. The House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs have substantial expertise in federal personnel policies and already undertake this task as part of their normal oversight duties.

²⁹ *America's \$320 Billion Shadow Government*, Fiscal Times (Sept. 28, 2011) (online at www.thefiscaltimes.com/Articles/2011/09/28/Americas-320-Billion-Shadow-Government.aspx#page1); Government Accountability Office, *Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts* (Aug. 2011) (GAO-11-672) (online at www.gao.gov/new.items/d11672.pdf); Government Accountability Office, *Defense Acquisition Workforce: Better Identification, Development, and Oversight Needed for Personnel Involved in Acquiring Service* (Sept. 2011) (GAO-11-892) (online at www.gao.gov/new.items/d11892.pdf); Project on Government Oversight, *Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors* (Sept. 13, 2011) (online at www.pogo.org/pogo-files/reports/contract-oversight/bad-business/co-gp-20110913.html) (reporting that federal contractors were paid nearly twice as much as their federal employee counterparts in 33 of 35 occupational classifications reviewed).

³⁰ *Contractor Execs Paid 64% More Than Feds*, Federal Times (Oct. 2, 2011) (online at www.federaltimes.com/article/20111002/BENEFITS01/110020306/1001).

³¹ Office of Management and Budget, *Living Within Our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction* (Sept. 2011).

³² *Id.*

³³ House Committee on Armed Services, *Report on H.R. 1540*, 112th Cong. (H. Rept. 112-78) (online at www.gpo.gov/fdsys/pkg/CRPT-112hrpt78/pdf/CRPT-112hrpt78.pdf).

In addition, it makes little sense to create and fund another Commission that would be redundant of past and current efforts to reform federal personnel policies.³⁴

5. The Joint Select Committee should adopt several measures to substantially reduce prescription drug prices for the federal government and patients.

The Joint Select Committee should adopt the President's proposal to allow the Office of Personnel Management (OPM) to combine the purchasing power of all eight million Federal Employee Health Benefit (FEHB) Program enrollees to obtain lower drug prices on prescription drugs. The FEHB Program provides \$40 billion in health care benefits annually for about eight million employees, retirees, and their families, and drugs represent about 30% of the costs of the program.³⁵ Currently, more than 200 health plans participating in the FEHB Program contract individually with pharmacy benefits managers who negotiate prices with drug manufacturers and pharmacies on behalf of their enrollees.

The President has proposed eliminating this fragmented approach and allowing OPM to contract directly with pharmacy benefits managers to obtain lower drug prices. The Administration estimates that the proposal could save \$1.6 billion over 10 years.³⁶ This proposal is consistent with previous efforts by Democratic Members of the Oversight Committee. For example, on March 9, 2011, Rep. Stephen Lynch introduced, H.R. 979, The FEHBP Prescription Drug Integrity, Transparency, and Cost Savings Act, which requires pharmacy benefits managers to pass drug price savings they receive from manufacturers and pharmacies on to the health plans participating in the FEHB Program.

The Joint Select Committee should also eliminate the legislative prohibition that prevents the Secretary of Health and Human Services from negotiating prescription drug prices directly with drug manufacturers. A series of reports by the Oversight Committee identified the inability of the private Medicare Part D plans to negotiate for low drug prices and concluded that allowing

³⁴ See, e.g., *Homeland Security Scraps Plans for Personnel System*, Government Executive (Oct. 2, 2008) (online at www.govexec.com/dailyfed/1008/100208b1.htm); *Defense Authorization Bill Repeals NSPS*, Washington Post (Oct. 7, 2009) (online at http://voices.washingtonpost.com/federal-eye/2009/10/defense_authorization_bill_rep.html); *NSPS Repeal Could Lead to New Performance Management System, Observers Say*, Government Executive (Oct. 23, 2009) (online at www.govexec.com/dailyfed/1009/102309ar1.htm); Employee Performance Management Workgroup of the National Council on Federal Labor-Management Relations, *Draft Report to the National Council on Federal Labor-Management Relations on Employee Performance Management* (Sept. 2011) (describing efforts by National Council on Federal-Labor Relations to develop recommendations to improve federal employee performance management).

³⁵ Office of Management and Budget, *Living Within Our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction* (Sept. 2011).

³⁶ *Id.*

the Secretary to negotiate on behalf of tens of millions of Medicare enrollees could cut drug costs and save taxpayers billions of dollars.³⁷

In addition, the Joint Select Committee should adopt the President's proposal to restore access to Medicaid rebates for individuals who are eligible for both Medicaid and Medicare (known as "dual-eligibles") and expand the availability of Medicaid rebates to those who qualify for the low income subsidies. Prior to 2006, "dual-eligibles" benefitted from the same rebates that the Medicaid program received for prescription drugs. In 2006, the new Medicare Part D program ended the use of Medicaid rebates for dual-eligibles and instead required drugs to be purchased through the Medicare Part D program, which often has higher costs. The Oversight Committee previously concluded that taxpayers were paying billions of dollars in excess costs for Medicare Part D drugs for dual eligibles and low-income subsidy enrollees.³⁸ The Administration estimates that implementing these changes could save an estimated \$135 billion over 10 years.³⁹

The Joint Select Committee also should adopt the President's proposal to expand access to generic drugs by ending anti-competitive agreements that delay access and by reducing the exclusivity periods for new biologic medications and treatments. According to the Government Accountability Office, \$250 billion was spent on prescription drugs in 2009 in the United States, of which an estimated \$78 billion was spent by the federal government.⁴⁰ If the federal government can purchase more inexpensive generic drugs, costs to the federal government and patients would decrease dramatically. Access to low-cost generic drugs has been hampered, however, by anti-competitive agreements that delay access to generic versions of brand-name drugs and by laws that allow an exclusivity period of 12 years for brand-name biologic medications and treatments. The Administration estimates that ending agreements that delay generic drug access could save \$2.7 billion over 10 years and reducing the exclusivity period from 12 years to 7 years on biologics could save \$3.5 billion over 10 years.⁴¹

6. The Joint Select Committee should adopt measures to increase oversight and efficiency in defense programs and contracts and make additional targeted defense reductions.

³⁷ See, e.g., House Committee on Oversight and Government Reform, *Medicare Part D: Drug Pricing and Manufacturer Windfalls*, 110th Cong. (July 2008).

³⁸ *Id.* See also House Committee on Oversight and Government Reform, *Private Medicare Drug Plans: High Expenses and Low Rebates Increase the Costs of Medicare Drug Coverage*, 110th Cong. (Oct. 2007).

³⁹ Office of Management and Budget, *Living Within our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction* (Sept. 2011).

⁴⁰ Government Accountability Office, *Prescription Drugs: Trends in Usual and Customary Prices for Commonly Used Drugs* (Feb. 10, 2011) (online at www.gao.gov/new.items/d11306r.pdf).

⁴¹ Office of Management and Budget, *Living Within our Means and Investing in the Future: The President's Plan for Economic Growth and Deficit Reduction* (Sept. 2011).

The Joint Select Committee should fully support the President's planned drawdown of troops in Afghanistan and the transition from a military to a civilian led mission in Iraq. Achieving the Administration's estimated savings of \$1.1 trillion over the next 10 years will require strict adherence to the scheduled troop reductions previously announced by the President Obama.⁴²

The Joint Committee should adopt H.R. 2880, the Contingency Operation and Emergency Oversight Act of 2011. The Commission on Wartime Contracting identified between \$31 and \$60 billion in waste in U.S. contingency contracting in Iraq and Afghanistan. It found that agencies do not effectively promote competition or hold contractors accountable for poor performance or bad behavior. The Commission concluded that "No entity exists with sufficient resources, experience, and audit and investigative capabilities to transcend departmental and functional stovepipes."⁴³ On September 9, 2011, Rep. John F. Tierney, the Ranking Member of the Subcommittee on National Security, Homeland Defense, and Foreign Operations, introduced H.R. 2880 to implement the Commission's key recommendation to create a Special Inspector General for Overseas Contingency Operations. On October 4, 2011, Commissioners testified at a hearing before the Oversight Committee and unanimously endorsed Ranking Member Tierney's legislation.⁴⁴

The Joint Select Committee should consider a recommendation by the Sustainable Defense Task Force to reduce the U.S. nuclear weapon stockpile to 1,050 or even 500 deployed warheads. The U.S. currently possesses over 1,900 operationally deployed strategic nuclear warheads and over 5,000 active warheads. This far exceeds the level of nuclear force needed to deter a nuclear attack on the United States or its allies. Reducing the current nuclear arsenal to 500 operationally deployed warheads is more than sufficient to deter a future nuclear attack and could save over \$100 billion.⁴⁵

The Joint Select Committee should adopt a proposal by the U.S. Public Interest Research Groups (U.S. PIRG) to pass on to taxpayers the savings generated from efficiencies recommended by Defense Secretary Robert Gates. On January 6, 2011, Secretary Gates announced plans for the Pentagon to generate up to \$100 billion in "efficiencies" over the next five years, primarily by cutting redundant bureaucratic structures, consolidating administrative

⁴² *Id.*

⁴³ Commission on Wartime Contracting in Iraq and Afghanistan, *Transforming Wartime Contracting: Controlling Costs, Reducing Risks* (Aug. 2011) (online at www.wartimecontracting.gov/index.php/reports/204-finalreport).

⁴⁴ House Committee on Oversight and Government Reform, Democratic Staff, *Press Release: Commission on Wartime Contracting Endorses Tierney Bill to Prevent Waste in Contracting Overseas* (Oct. 4, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5448&Itemid=49).

⁴⁵ Sustainable Defense Task Force, *Debt, Deficits, & Defense: A Way Forward* (June 11, 2010) (online at www.comw.org/pda/fulltext/1006SDTFreport.pdf).

systems, and cutting civilian and contractor personnel.⁴⁶ Rather than reapportioning these funds to other Defense Department programs, as Secretary Gates proposed, the Joint Select Committee should dedicate these savings to deficit reduction.⁴⁷

The Joint Select Committee should consider eliminating the V-22 Osprey, as recommended by the Sustainable Defense Task Force, the National Commission on Fiscal Responsibility and Reform, the Third Way, and U.S. PIRG.⁴⁸ The Osprey is a tilt-rotor aircraft that takes off and lands vertically like a helicopter and flies forward like an airplane. The Defense Department planned to procure 458 Ospreys, but the aircraft has had a troubled history with developmental and maintenance problems. The Government Accountability Office reported that “costs have risen sharply above initial projections—1986 estimates (stated in fiscal year 2009 dollars) that the program would build nearly 1000 aircraft in ten years at \$37.7 million each have shifted to fewer than 500 aircraft at \$93.4 million each—a procurement unit cost increase of 148 percent.”⁴⁹ Ending this program could save between \$15 billion and \$59 billion over the next 10 years.⁵⁰

The Joint Select Committee should consider a proposal by U.S. PIRG to eliminate the Space Tracking and Surveillance System (STSS).⁵¹ This system, previously known as Space

⁴⁶ Department of Defense, Remarks by Secretary of Defense Robert Gates at the Pentagon (Jan. 6, 2011) (online at www.defense.gov/Speeches/Speech.aspx?SpeechID=1527).

⁴⁷ U.S. PIRG, *Toward Common Ground* (Sept. 15, 2011) (online at www.uspirg.org/home/reports/report-archives/tax--budget-policy/tax--budget-policy--reports/toward-common-ground2).

⁴⁸ Sustainable Defense Task Force, *Debt, Deficits, & Defense: A Way Forward* (June 11, 2010) (online at www.comw.org/pda/fulltext/1006SDTFreport.pdf); National Commission on Fiscal Responsibility and Reform, *\$200 Billion in Illustrative Savings* (Nov. 12, 2010) (online at www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/Illustrative_List_11.10.2010.pdf); Third Way, *Bipartisan Savings Package for the Joint Select Committee on Deficit Reduction* (Sept. 15, 2011) (online at http://content.thirdway.org/publications/442/Third_Way_Letter_-_Deficit_Reduction_Recommendations_to_Super_Committee_.pdf); U.S. PIRG, *Toward Common Ground* (Sept. 15, 2011) (online at www.uspirg.org/home/reports/report-archives/tax--budget-policy/tax--budget-policy--reports/toward-common-ground2).

⁴⁹ Government Accountability Office, *Defense Acquisitions: Assessments Needed to Address V-22 Aircraft Operational and Cost Concerns to Define Future Investments* (May 2009) (GAO-09-482) (online at www.gao.gov/new.items/d09482.pdf).

⁵⁰ Sustainable Defense Task Force, *Debt, Deficits, & Defense: A Way Forward* (June 11, 2010); Center for Strategic and Budgetary Assessments, *Analysis of the FY 2012 Defense Budget* (July 15, 2011) (online at www.comw.org/pda/fulltext/1006SDTFreport.pdf).

⁵¹ U.S. PIRG, *Toward Common Ground: Bridging the Political Divide to Reduce Spending* (Oct. 28, 2010) (online at www.uspirg.org/home/reports/report-archives/tax--budget-policy/tax--budget-policy--reports/toward-common-ground-bridging-the-political-divide-to-reduce-spending).

Based Infrared System (SBIRS)-Low, is designed to support missile defense by discriminating between warheads and decoys, transmitting data to other systems to cue radars and provide intercept handovers, and provide data for intercept hit/kill assessments.⁵² This program has been subject to poor performance, significant delays, and cost overruns. According to a House Appropriations Committee report, an internal Defense Department study “indicates that ground based radars not only provide a viable alternative to a space based system, but also provide this capability at significantly lower cost and risk.”⁵³ Eliminating this program could save an estimated \$253 million through 2016.⁵⁴

The Joint Select Committee should consider reducing funding for the Defense Weather Satellite System. This system is a constellation of weather satellites intended to replace those currently in orbit. Although originally conceived as an interagency program among the Defense Department, the National Oceanic and Atmospheric Agency (NOAA), and the National Aeronautics and Space Administration (NASA), disagreements over requirements and cost overruns led to splitting the program in 2010 into one administered by the Air Force and one administered by NOAA and NASA.⁵⁵ The program remains challenged by management issues, disagreements over intellectual property rights, and uncertain cost estimates.⁵⁶ The Senate Appropriations Committee has identified this program as a target for savings its FY 2012 Defense Department budget.⁵⁷

The Joint Select Committee should consider terminating the Joint Light Tactical Vehicle acquisition program. This vehicle is being developed by the Army and the Marine Corps as a successor to the High Mobility, Multi-Wheeled Vehicle that has been in service since 1985. The

⁵² Congressional Research Service, *Military Space Programs: Issues Concerning DOD’s SBIRS and STSS Programs* (Jan. 30, 2006) (online at www.fas.org/sgp/crs/weapons/RS21148.pdf).

⁵³ House Committee on Appropriations, *Department of Defense Appropriations Bill, 2002 and Supplemental Appropriations, 2002*, 107th Cong. (Nov. 19, 2001) (H. Rept. 107-298) (online at www.gpo.gov/fdsys/pkg/CRPT-107hrpt298/pdf/CRPT-107hrpt298.pdf).

⁵⁴ Department of Defense, *Fiscal Year (FY) 2012 Budget Estimates* (Feb. 2011) (online at http://comptroller.defense.gov/defbudget/fy2012/budget_justification/pdfs/03_RDT_and_E/MDA.pdf).

⁵⁵ Center for Strategic and Budgetary Assessments, *Analysis of the FY 2012 Defense Budget* (July 15, 2011) (online at www.csbaonline.org/wp-content/uploads/2011/07/2011.07.16-FY-2012-Defense-Budget.pdf); Senate Committee on Appropriations, *Department of Defense Appropriations Bill, 2012* (Sept. 15, 2011) (S. Rept. 112-77) (online at www.gpo.gov/fdsys/pkg/CRPT-112srpt77/pdf/CRPT-112srpt77.pdf).

⁵⁶ Senate Committee on Appropriations, *Department of Defense Appropriations Bill, 2012*, 112th Cong. (Sept. 15, 2011) (S. Rept. 112-77) (online at www.gpo.gov/fdsys/pkg/CRPT-112srpt77/pdf/CRPT-112srpt77.pdf).

⁵⁷ *Id.* See also Center for Strategic and Budgetary Assessments, *Analysis of the FY 2012 Defense Budget* (July 15, 2011) (online at www.csbaonline.org/wp-content/uploads/2011/07/2011.07.16-FY-2012-Defense-Budget.pdf).

House Armed Services Committee has expressed a number of concerns with the program, initial test results suggest that it may face a number of operational and technical challenges, and there have been considerable delays in the development of the program. The Congressional Research Service notes that costs have been projected to be at least \$320,000 per vehicle, significantly higher than the target cost of \$250,000 per vehicle.⁵⁸ The Senate Appropriations Committee is considering cutting the program's budget for FY 2012 by between \$10 and \$30 billion.⁵⁹

7. The Joint Select Committee should amend the Statutory Pay-As-You-Go Act of 2010 to evaluate Postal Service legislation on a unified budget basis.

As part of the Omnibus Budget Reconciliation Act of 1989, the majority of the Postal Service's finances, which are held in the Postal Service Fund, were placed in an "off-budget" status.⁶⁰ The rationale for this provision was that since the Postal Service's funds were derived primarily from rate payers rather than taxpayers, the Postal Service's operations and finances should not affect national budget considerations. On the other hand, several Postal Service accounts and funds continue to remain "on-budget," including the Postal Service's share of the Civil Service Disability and Retirement Fund and the Postal Service Retiree Health Benefits Fund.

This budget accounting mechanism created problems for the Postal Service after Congress enacted the Statutory Pay-As-You-Go Act of 2010, which requires on-budget legislative changes that impact federal spending to be offset by decreases in other on-budget accounts or programs.⁶¹ Statutory Pay-As-You-Go Act rules do not permit off-budget changes to balance out on-budget changes.

In 2009, the Postal Service Inspector General issued a report highlighting the complications caused by this anomalous budget treatment. The report stated that, "despite its off-budget status ... the Postal Service is still caught up in budget scoring decisions that erode its finances and obstruct its legislative program in Congress."⁶²

One example of these complications is the budget treatment of an estimated \$6.9 billion surplus the Postal Service has accumulated in its Federal Employee Retirement System (FERS)

⁵⁸ Congressional Research Service, *Joint Light Tactical Vehicle (JLTV): Background and Issues for Congress* (July 18, 2011) (online at http://assets.opencrs.com/rpts/RS22942_20110405.pdf).

⁵⁹ Senate Committee on Appropriations, *Department of Defense Appropriations Bill, 2012*, 112th Cong. (2011) (S. Rept. 112-77) (online at [www.gpo.gov/fdsys/pkg/CRPT-112srpt77.pdf](http://www.gpo.gov/fdsys/pkg/CRPT-112srpt77/pdf/CRPT-112srpt77.pdf)).

⁶⁰ Pub. L. No. 101-239 (1989).

⁶¹ Pub. L. No. 111-139 (2010).

⁶² United States Postal Service, Office of Inspector General, *Federal Budget Treatment of the Postal Service* (Aug. 27, 2009) (online at www.uspsoig.gov/FOIA_files/ESS-WP-09-001.pdf).

obligations.⁶³ Although there is agreement between the Postal Service and Office of Personnel Management (OPM) that the surplus funds should be returned to the Postal Service to improve its financial outlook, the transfer of funds from an on-budget account to an off-budget account would be viewed as increasing the federal deficit under the Statutory Pay-As-You-Go Act.

House Budget Committee Chairman Ryan expressed support for using a unified budget approach when he spoke about a provision in the Continuing Resolution (CR) for Fiscal Year 2012 to delay the Postal Service's \$5.5 billion retiree health benefits pre-payment. He stated:

The House Budget Committee scored this anomaly on a unified basis, so that both the on-budget and off-budget effects were counted together. As a result, the 2011 cost and the 2012 savings offset each other and produce a score of zero in the CR (P.L. 111-68). This decision has precedent. A similar provision was included in the FY 2010 short-term CR where the House scored that provision on a unified basis pursuant to section 426(b) of the 2010 budget resolution.⁶⁴

Given the bipartisan support for this proposal, the Joint Select Committee should amend the Statutory Pay-As-You-Go Act of 2010, as recommended by the Office of Management and Budget in its submission to the Joint Select Committee, as follows:

Section 3 of the Statutory Pay-As-You-Go Act of 2010, Public Law 111-139, is amended in paragraph (4)(B) –

- (1) by inserting “of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund” after “off-budget effects”; and
- (2) by inserting at the end of the following: “Notwithstanding Section 2009a of title 39, United States Code, for purpose of these definitions, off-budget effects of the Postal Service Fund shall be counted as budgetary effects.”⁶⁵

In order to improve the short-term solvency of the Postal Service, the Joint Select Committee also should adopt the Administration's proposal to restructure the Postal Service's Retiree Health Benefits prepayment schedule and refund the Postal Service's accumulated Federal Employee Retirement System (FERS) surplus of approximately \$6.9 billion. Replacing the current Retiree Health Benefits prepayment schedule with a more realistic longer-term prepayment schedule will significantly enhance the Postal Service's current liquidity and enable the Postal Service to right-size its workforce.

⁶³ United States Postal Service, Office of Inspector General, *Federal Employees Retirement System Overfunding* (Aug. 16, 2010) (online at www.uspsoig.gov/foia_files/FT-MA-10-001.pdf).

⁶⁴ Statement of Representative Paul Ryan, Congressional Record, E1718 (Sept. 23, 2011).

⁶⁵ Office of Management and Budget, *The President's Plan for Economic Growth and Deficit Reduction: Legislative Language and Analysis* (Sept. 23, 2011).

8. The Joint Select Committee should expand dramatically efforts to address the housing crisis, which has been flagged as “ground zero for the economy’s problems, high unemployment and lost jobs.”

To date, neither Congress nor the Administration has done enough to address the foreclosure crisis, one of the most significant challenges facing our nation’s struggling economy. According to Mark Zandi, the Chief Economist of Moody’s Analytics, “housing is ground zero for the economy’s problems, high unemployment and lost jobs.”⁶⁶

On October 4, 2011, Federal Reserve Board Chairman Ben Bernanke reiterated the massive scope of this problem in testimony before the Joint Economic Committee. He stated that “the recovery is close to faltering,” and that housing is “a big part of the recovery process,” but that “here it’s just not doing anything.” He added that “many people are underwater,” and that “their loss of equity means that they are poorer, they are less willing to spend.” He testified that “addressing the housing situation is very, very important.” When Representative Cummings suggested that it would be “almost impossible to resolve our economic situation” without addressing this crisis, Chairman Bernanke agreed.⁶⁷

The Joint Select Committee should take some or all of the steps outlined below to more comprehensively address this crisis and its ongoing effect on the nation’s entire economy.

The Joint Select Committee should implement the President’s proposal to help responsible American homeowners refinance at today’s historically low rates.

In his address to a joint session of Congress on September 8, 2011, the President stated that the Administration would work with housing regulators, such as the Federal Housing Finance Agency (FHFA), to help underwater borrowers refinance their mortgages at lower interest rates. This proposal has bipartisan support and will provide critical relief to middle-class American families. According to Bill Gross, the managing director and co-Chief Investment Officer of the world’s largest bond fund, PIMCO, removing barriers to refinancing under this type of proposal could provide an economic stimulus of up to \$50 billion or \$60 billion.⁶⁸ In addition, according to Mark Zandi:

⁶⁶ *Obama’s Re-Election Threat Spurs Search for New Ideas on Housing*, Bloomberg (Sept. 2, 2011) (online at www.bloomberg.com/news/2011-09-02/obama-re-election-threat-spurs-search-for-new-ideas-on-housing.html). See also Moody’s Analytics, *To Shore Up the Recovery, Help Housing* (May 25, 2011) (online at www.economy.com/mark-zandi/documents/To-Shore-Up-the-Recovery-Help-Housing.pdf) (reporting that U.S. homeowners have lost \$6.5 trillion in equity since the housing crash, reducing GDP by almost half a percentage point this year).

⁶⁷ Joint Economic Committee, Testimony of Federal Reserve Board Chairman Ben Bernanke, *Hearing on the Economic Outlook*, 112th Cong. (Oct. 4, 2011).

⁶⁸ *New Mega Mortgage Refinance Proposal Will Save Homeowners Billions*, Star Global Tribune (Aug. 20, 2011) (online at <http://starglobaltribune.com/2010/new-mega-mortgage-refinance-proposal-will-save-homeowners-billions-1036>). See also Congressional Budget Office, *An Evaluation of Large-Scale Mortgage Refinancing Programs* (Sept. 2011) (online at

The President did mention in his speech that he would be working with the FHFA (Fannie Mae's and Freddie Mac's regulator) to facilitate more mortgage refinancing; this would be a significant plus for housing and the broader economy if he is able to break the logjam in refinancing activity. With some 3.5 million first-mortgage loans in or near foreclosure and more house price declines likely, it is hard to be enthusiastic about the recovery's prospects. A house is most Americans' most important asset; many small-business owners use their homes as collateral for business credit, and local governments rely on property tax revenues tied to housing values.⁶⁹

Since the President made his proposal, however, it has become clear that direct action by Congress is necessary to implement the refinancing proposal and take additional steps to more fully address this crisis. On October 6, 2011, Ranking Member Cummings and several Oversight Committee Members met with Edward DeMarco, the Acting Director of FHFA, who informed Members that he did not yet have a plan to implement the President's proposal. After conceding that the existing Home Affordable Refinance Program (HARP) has not worked effectively to date, he said his agency must go beyond making "tweaks" to the program and ensure that it is "fixed." He stated that his agency is examining options to increase the program's loan-to-value ratio limit beyond 125%, which could enable up to 600,000 additional homeowners to qualify. He also said planned actions will "address" problems with refinancing fees, home appraisals, and representations and warranties, but he provided no details.

As a result, on October 7, 2011, Ranking Member Cummings joined 26 other Members in writing to President Obama, stating:

Our major concern is that even if Acting Director DeMarco implements all of the changes he referenced in the meeting, the program will reach only a few hundred thousand homeowners, while millions of families are struggling and the housing market continues to spiral downward, negatively affecting the entire economy. ... We believe more must be done.⁷⁰

www.cbo.gov/ftpdocs/124xx/doc12405/09-07-2011-Large-Scale_Refinancing_Program.pdf) (estimating that refinancing mortgage loans guaranteed by FHFA and FHA would result in 2.9 million more refinances and a savings of \$7.4 billion); and Alan Boyce, Glenn Hubbard, and Chris Mayer, *CBO Analysis Strengthens Case for Major Refinancing Program* (online at www4.gsb.columbia.edu/null/download?&exclusive=filemgr.download&file_id=7219077) (accessed Oct. 6, 2011) (estimating that refinancing for 18 million to 30 million borrowers would result in savings of between \$45 billion and \$70 billion).

⁶⁹ Moody's Analytics, *An Analysis of the Obama Jobs Plan* (Sept. 9, 2011) (online at www.economy.com).

⁷⁰ Letter from Ranking Member Elijah E. Cummings et al. to President Barack Obama (Oct. 7, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5453&Itemid=49).

For these reasons, the Joint Select Committee should implement the following legislative changes to eligibility requirements for HARP:

- (1) Expand the program to cover loans guaranteed by the Federal Housing Administration, the Department of Veterans Affairs, and the Department of Agriculture;
- (2) Eliminate add-on fees imposed on homeowners with high loan-to-value ratios, recognizing that credit risks are reduced by refinancing because borrower payments will be lower;
- (3) Prohibit Fannie Mae and Freddie Mac from purchasing new mortgages from lien holders if they refuse to re-subordinate second liens when borrowers refinance through HARP;
- (4) Waive appraisal requirements for refinancing since the parties acknowledge that their homes are worth less than the outstanding mortgage balance;
- (5) Consider requiring FHFA to amend the representations and warranties process by partnering with the insurance industry to construct an insurance product for lenders willing to participate in HARP; and
- (6) Ensure that the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and other prudential regulators are not implementing bank capital standards or other requirements in a manner that interferes with the implementation of HARP.

The Joint Select Committee should extend the Emergency Homeowners' Loan Program (EHLF).

The Dodd-Frank Wall Street Reform and Consumer Protection Act provided \$1 billion to the Department of Housing and Urban Development (HUD) to provide emergency loans to homeowners who are temporarily or involuntarily unemployed or underemployed due to the economy or a medical condition and are at risk of foreclosure.⁷¹ This program was based H.R. 3066, the Temporary Mortgage Assistance Loan Act, which was introduced by ranking Member Cummings. Under this program, eligible homeowners can receive no-interest loans to pay overdue mortgage payments and to pay a portion of new mortgage payments for up to 24 months, or up to \$50,000, whichever comes first.⁷² The loans can be forgiven if homeowners

⁷¹ NeighborWorks America, *What Do Homeowners Want to Know? Top Questions about EHLF* (online at http://nw.org/network/foreclosure/nfmcp/documents/EHLF_Homeowner_FAQs.pdf) (accessed Oct. 6, 2011).

⁷² House Financial Services Committee, *Emergency Mortgage Relief Program Termination Act. H.R. 836* (online at http://democrats.financialservices.house.gov/FinancialSvcsDemMedia/file/key_issues/Aid%20fo

remain in their homes and stay current on their loans for five years.⁷³ The statutory deadline for new EHLP applicants expired on September 30, 2011, leaving \$500 million of the original \$1 billion unspent.⁷⁴ To date, fewer than 15,000 households are expected to receive assistance through EHLP, a small fraction of the 100,000 who applied.⁷⁵ On September 23, 2011, Senator Bob Casey introduced S. 1623 to extend EHLP.⁷⁶

The Joint Select Committee should extend and fully fund the Defense Department's Homeowners Assistance Program (HAP).

Although originally intended for servicemembers forced to relocate by Base Realignment Assessment Closures, HAP was expanded by the American Recovery and Reinvestment Act of 2009, which provided \$555 million and broadened the program to cover “those who are wounded, injured, or become ill while deployed, the surviving spouses of military personnel and civilians who are killed in the line of duty, and service members who purchased property before July 1, 2006, and were required to permanently relocate between February 1, 2006, and September 30, 2010.”⁷⁷

HAP expired on September 28, 2011, with a projected \$400 million deficit expected to impact 3,000 beneficiaries. This deficit impacts servicemembers who receive Permanent Change of Station (PCS) orders, forcing them to relocate even though their homes are worth less than their current mortgages. On September 27, 2011, Ranking Member Cummings, Ranking Member Adam Smith of the House Armed Services Committee, Ranking Member Robert

r%20Foreclosure%20Victims/Fact_Sheets/Emergency%20Mortgage%20Relief%20Program%20Termination%20Act%20FSC%20Summary.pdf) (accessed Oct. 6, 2011).

⁷³ Department of Housing and Urban Development, *HUD and NeighborWorks America Accepting Additional Applications for Emergency Homeowners' Loan Program* (Aug. 29, 2011) (online at portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2011/HUDNo.11-177).

⁷⁴ *HUD, Senators Scramble as Program To Help Jobless Homeowners Expires*, Housing Wire (Sept. 26, 2011) (online at www.housingwire.com/tag/ehlp); *U.S. Mortgage-Aid Program is Shutting Down, With up to \$500 Million Unspent*, New York Times (Sept. 28, 2011) (online at www.nytimes.com/2011/09/29/nyregion/emergency-homeowners-aid-ending-with-up-to-500-million-unspent.html).

⁷⁵ *Federal Mortgage Program for Unemployed Will Only Give Out Half its Money*, Chicago Tribune (Oct. 3, 2011) (online at www.chicagotribune.com/business/breaking/chic-federal-mortgage-help-for-unemployed-will-only-give-out-half-its-money-20111003,0,6419101.story).

⁷⁶ Senator Bob Casey, *Casey Introduces Emergency Homeowners Loan Program Extension* (Sept. 26, 2011) (online at casey.senate.gov/newsroom/press/release/?id=d997bf80-3dc4-4cd9-80e5-bc773f70783a).

⁷⁷ House Armed Services Committee, Subcommittee on Readiness, *National Defense Authorization Act of FY2012* (online at <http://armedservices.house.gov/index.cfm/subcommittee-marks>).

Andrews of the Subcommittee on Health, Employment, Labor, and Pensions, and nine other Members wrote to federal housing regulators requesting a comprehensive review of the challenges faced by servicemembers forced to relocate due to PCS orders.⁷⁸ Holly Petraeus, the Director of the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, has also expressed concern about this problem.⁷⁹

The Joint Select Committee should extend to 12 months the forbearance period for unemployed homeowners with loans insured, guaranteed, or held by Fannie Mae and Freddie Mac.

On July 7, 2011, the Administration announced that the Federal Housing Administration (FHA) would require servicers of FHA-insured mortgages to extend to 12 months the forbearance period of eligible unemployed homeowners. According to HUD Secretary Shaun Donovan, the rationale for this extension was that “current unemployment forbearance programs have mandatory periods that are inadequate for the majority of unemployed borrowers,” and that “[p]roviding the option for a year of forbearance will give struggling homeowners a substantially greater chance of finding employment before they lose their home.”⁸⁰

Based on this rationale, on August 1, 2011, Ranking Member Cummings and 27 other Members wrote to the FHFA and other agencies urging them to adopt the same 12 month forbearance period at their agencies.⁸¹ Although FHA insures about 14% of the housing market, Fannie Mae and Freddie Mac own about 50% of existing mortgages.⁸² In response, FHFA announced on September 27, 2011, that it would extend to six months the forbearance period for

⁷⁸ Letter from Ranking Member Elijah E. Cummings et al. to Departments of Treasury, Housing and Urban Development, Securities and Exchange Commission, and Federal Housing Finance Agency (Sept. 27, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5442&Itemid=49).

⁷⁹ Office of Servicemember Affairs, Consumer Financial Protection Bureau, *Help for Struggling Military Homeowners* (Sept. 29, 2011) (online at www.consumerfinance.gov/help-for-struggling-military-homeowners/) (stating “I’ve heard too many distressing stories about servicemembers who are underwater on their mortgage and are faced with military permanent change of station (PCS) orders that require them to relocate at a time when their home is worth less than what they owe”).

⁸⁰ Department of the Treasury and Department of Housing and Urban Development, *Obama Administration Offers Additional Mortgage Relief to Unemployed Homeowners* (July 7, 2011) (online at http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2011/HUDNo.11-139).

⁸¹ Letter from Ranking Member Elijah E. Cummings et al. to Acting Director Edward DeMarco, Federal Housing Finance Agency, et al. (Aug. 1, 2011) (online at http://democrats.oversight.house.gov/images/stories/Letter_to_FHFA_DeMarco.pdf).

⁸² *New Housing Program is Aimed at the Unemployed*, New York Times (July 7, 2011) (online at www.nytimes.com/2011/07/08/business/new-housing-program-is-aimed-at-the-unemployed.html).

loans insured, guaranteed, or held by Fannie Mae and Freddie Mac.⁸³ In response, Ranking Member Cummings stated, “I continue to believe that the best option is a twelve month forbearance period, which has been put in place at other federal housing agencies.”⁸⁴

The Joint Select Committee should adopt a proposal by the National Association of Consumer Bankruptcy Attorneys (NACBA) to authorize bankruptcy judges to implement “Principal Paydown Plans” for homeowners whose homes are underwater.

NACBA, a national organization dedicated to protecting the rights of consumer debtors in bankruptcy, has proposed a plan to authorize judges adjudicating Chapter 13 bankruptcies to allow qualified homeowners up to five years to pay back creditors, during which mortgage interest rates would be reduced to 0% and payments would be paid against the principal. At the conclusion of the five year period, the remaining principal balance would be amortized over 25 years and mortgage interest would revert to market rates. To qualify, homeowners would need to be employed and approved for Chapter 13 bankruptcy.⁸⁵ Edward DeMarco, the Acting Director of FHFA, has stated that the “NACBA proposal has some attractive features and I have asked my legal department to study it further.”⁸⁶

The Joint Select Committee should require FHFA to adopt a Shared Appreciation Modification program for underwater borrowers whose home loans are insured, guaranteed, or owned by Fannie Mae and Freddie Mac.

In August 2010, Ocwen Financial Corporation initiated a Shared Appreciation Modification pilot program to reduce mortgage principal owed by underwater homeowners while requiring them to share any appreciation in the value of their homes when they sell or

⁸³ Letter from Acting Director Edward DeMarco, Federal Housing Finance Agency, to Ranking Member Elijah E. Cummings (Sept. 27, 2011).

⁸⁴ Democrats, House Committee on Oversight and Government Reform, *Cummings Lauds Extension in Freddie Mac Forbearance Period for Unemployed Homeowners* (Sept. 29, 2011) (online at http://democrats.oversight.house.gov/index.php?option=com_content&view=article&id=5443:cummings-lauds-extension-in-freddie-mac-forbearance-period-for-unemployed-homeowners&catid=3:press-releases&Itemid=49).

⁸⁵ National Association of Consumer Bankruptcy Attorneys, *Principal Paydown Plan for Undersecured Mortgages* (Apr. 2011) (online at www.nacba.org/portals/0/Documents/Members%20Articles/Detailed_Explanation_of_PPP.pdf) (accessed Oct. 6, 2011).

⁸⁶ Letter from Edward DeMarco, Acting Director, Federal Housing Finance Agency to Ranking Member John Conyers, House Committee on the Judiciary (Sept. 16, 2011). *See also* Administration Office of the U.S. Courts, *Family Farmer or Family Fisherman Bankruptcy* (accessed on Oct. 11, 2011) (online at www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter12.aspx) (noting that Congress created a similar program that authorized Chapter 12 bankruptcy for family farmers suffering from severe foreclosures).

refinance.⁸⁷ Under this program, loan principal is reduced to 95% of the current market value of the home, and the “written-down” portion is forgiven over three years if the homeowner remains current on his or her modified mortgages. When homes are sold or refinanced, lenders receive 25% of the appreciation. Based on initial success, Ocwen broadened its program to 33 states, and some other mortgage servicing companies are exploring this model.⁸⁸

The Joint Select Committee should adopt H.R. 1477, The Preserving Homes and Communities Act of 2011.

On April 12, 2011, Ranking Member Cummings introduced H.R. 1477 to stop mortgage servicer abuses that are harming America’s economic recovery. Forty-two Members of the House have cosponsored H.R. 1477, and 16 Senators have co-sponsored the companion bill introduced by Senator Jack Reed, S. 489. The bill requires lenders and servicers to evaluate homeowners for sustainable loan modifications prior to initiating foreclosures. It also eliminates “dual tracking,” where borrowers are evaluated for a loan modification while foreclosure proceedings are simultaneously advanced. It also requires servicers to demonstrate that they have legal authority to foreclose, limits the manner in which foreclosure-related fees can be charged, and directs the Secretary of HUD to establish a program to award competitive grants to states and local governments to establish mediation programs.

The Joint Select Committee should adopt a proposal by the Center for Economic and Policy Research to expand Real Estate Owned (REO) Rental Option Programs.

Freddie Mac and Fannie Mae currently offer rental initiatives in which qualified families living in recently foreclosed properties may lease their homes until their homes are sold or until they relocate. Fannie Mae allows qualified families to rent for up to 12 months.⁸⁹ Qualified families are required to pay market rent or may be eligible for relocation assistance if they cannot afford the new rent.⁹⁰ Freddie Mac’s program allows qualified families in recently foreclosed properties to remain in their homes on a month-to-month lease at market-rent levels until they

⁸⁷ Ocwen, *Ocwen Offering Mortgage Modifications That Restore Equity for Underwater Borrowers but let Loan Investors Share in Appreciation When Market Recovers* (July 26, 2011) (online at www.globenewswire.com/newsarchive/ocn/ocn_others.html?d=227495).

⁸⁸ See, e.g., *Big Banks Easing Terms on Loans Deemed as Risks*, New York Times (July 2, 2011) (online at www.nytimes.com/2011/07/03/business/03loans.html?_r=1&scp=1&sq=big%20banks&st=cse); *When Banks Voluntarily do Principal Reductions*, Reuters (July 11, 2011) (online at <http://blogs.reuters.com/felix-salmon/2011/07/11/when-banks-voluntarily-do-principal-reductions/>); *How Bank of America’s Mortgage Write-Down Program Works*, (Mar 24, 2010) (online at <http://blogs.wsj.com/developments/2010/03/24/how-bank-of-americas-mortgage-write-down-program-works/>).

⁸⁹ Fannie Mae, *Assistance for Renters* (online at www.fanniemae.com/portal/helping-homeowners-communities/renters.html?) (accessed Oct. 11, 2011).

⁹⁰ National Community Reinvestment Coalition, *Rebuilding Communities in Economic Distress: Local Strategies to Sustain Homeownership, Reclaim Vacant Properties, and Promote Community-Based Employment* (Oct. 2010).

can find a new place to live or the home is sold.⁹¹ The Center for Economic and Policy Research has proposed a “Right to Rent” plan that would allow homeowners facing foreclosure to rent their homes for five to ten years.⁹² Congressman Raúl M. Grijalva has introduced H.R. 1548, the Right to Rent Act of 2011, which would allow homeowners to rent their homes after foreclosure for up to five years.

The Joint Select Committee should authorize federal housing agencies to use unallocated funds in other housing programs to support residential sell-back programs.

Boston Community Capital is a community development financial institution that acquires foreclosed properties at market value and then sells them back to their original owners. Since 2009, it has helped families repurchase their homes after foreclosure at lower prices and with average monthly payments reduced from \$3,300 to \$1,700.⁹³ Homes are sold back to their original owners on average at prices 25% higher than the organization paid and at higher interest rates than the organization is paying on loans secured from foundations and donors. The sale proceeds and interest payments provide reserves to cover defaults and operating expenses.⁹⁴

During the Great Depression, sell-back programs were supported on a national scale through the Home Owners’ Loan Corporation, which was created in 1933 “as an agency of the Federal Home Loan Bank Board [and] was authorized for a period of three years to purchase and refinance delinquent home mortgages, including mortgages on properties that had recently been foreclosed on.” The Loan Corporation “was authorized to issue up to \$2 billion ... of bonds to purchase mortgages on 1- to 4-family properties that were in default or that had resulted in foreclosure during the previous 24 months.” Interest on securities issued by the Loan Corporation was “exempt from federal, state, and local income taxes, and the payment of interest was guaranteed by the federal government.” Between August 1933 and June 1936, the Loan Corporation issued over one million loans.⁹⁵

⁹¹ Freddie Mac, *REO Rental Initiative* (online at www.freddiemac.com/homeownership/after_foreclosure/reo_rental_options.html) (accessed Oct. 6, 2011).

⁹² Center for Economic and Policy Research, *The Right to Rent Plan* (June 2011) (online at www.cepr.net/documents/publications/right-to-rent-2009-07.pdf).

⁹³ Boston Community Capital, *Sun Initiative* (online at www.bostoncommunitycapital.org/what/sun-initiative) (accessed Oct. 6, 2011).

⁹⁴ National Community Reinvestment Coalition, *Rebuilding Communities in Economic Distress: Local Strategies to Sustain Homeownership, Reclaim Vacant Properties, and Promote Community-Based Employment* (Oct. 2010) (online at www.ncrc.org/resources/reports-and-research/item/512-rebuilding-communities-in-economic-distress-reo-report).

⁹⁵ David C. Wheelock, *The Federal Response to Home Mortgage Distress: Lessons from the Great Depression*, Federal Reserve Bank of St. Louis Review (May/June 2008) (online at <http://research.stlouisfed.org/publications/review/08/05/Wheelock.pdf>).

The Joint Select Committee should adopt a recommendation by the Center for American Progress to require that all mortgages backed by the U.S. government go through mediation prior to foreclosure.

In January 2011, the Center for American Progress issued a report proposing that Congress mandate “automatic foreclosure mediation in which an administrator automatically schedules mediation sessions for both parties rather than waiting for the homeowner to request it, radically increasing participation rates.” According to the report, “for every mortgage modified in mediation, the mortgage servicer cuts its losses by 60 percent.” As a result, the report states that Fannie Mae and Freddie Mac could achieve savings of over \$6 billion and more than 177,000 homeowners would remain in their homes. The report concludes: “The spillover effect on communities of all these homes would mean stronger local property tax bases and reduced strains on municipal services—gains that could account to billions of dollars more in savings.”⁹⁶

⁹⁶ Center for American Progress, *Talking It Up: How the Federal Government Can Implement Automatic Foreclosure Mediation to Help Homeowners, Lenders, Investors, and Taxpayers* (Jan. 2011) (www.americanprogress.org/issues/2011/01/talking_it_up.html).