ONE HUNDRED EIGHTH CONGRESS

Congress of the United States

House of Representatives

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Views and Estimates on the Fiscal Year 2005 Budget of the United States

Adopted by Voice Vote in Committee on February 26, 2004

The Department of Homeland Security

The President has requested $40.2 billion for the Department of Homeland Security, which represents a 10 percent increase in funding over the comparable FY 2004 budget. As the Department approaches its one year anniversary on March 1, 2004, it continues to face a number of operational, transformation and management challenges, which this Committee will continue to monitor.

The Committee supports the President's request for $133.5 million for a new personnel system that will create a pay-for-performance system that will reward top performers in a fair and flexible manner, and allow the Department to manage and deploy its resources to best address homeland security threats. The Committee will conduct oversight over the President's request for $3.6 billion to support targeted first responder grants in areas facing greatest risk and vulnerability. The Committee will also continue to monitor the Department's efforts to increase aviation security, implement US VISIT, and develop CAPPS II. The Committee also supports the President's request for $5.3 billion for the Transportation Security Administration to strengthen our aviation security system. These funds will be used to continue to improve the screening operations, including the development of a system to ensure the security of all cargo transported aboard passenger aircraft.

Civil Service

The 2005 Budget proposes a 2 percent pay increase for federal civilian employees. To date, the objective of federal pay adjustment policy has been to keep pay in the federal government competitive with pay for similar work provided in the private sector, and it has failed to do so. Surveys conducted by the Bureau of Labor Statistics calculate the overall gap between base General Schedule average salaries and non-Federal average salaries at just over 32%.

The 2005 Budget also proposes $300 million for the Human Capital Performance Fund, authorized by Congress last year to reward the highest performing and most valuable employees in an agency. The Committee believes that annual pay adjustments should be viewed in light of the tradition of parity between the military and the civil service, as well as the large wage gap that still exists. The Committee remains open to initiatives that seek to find ways to more effectively and responsibly allocate our human capital expenditures, link pay with performance, and help ensure the Federal Government is able to attract, motivate and retain the individuals necessary to fulfill its duties to the American taxpayer.

Washington Metropolitan Area Transit Authority

The Washington Metropolitan Area Transit Authority (WMATA) was created in 1967 by an interstate compact that resulted from the enactment of identical legislation by Virginia, Maryland, and the District of Columbia, with the concurrence of the U.S. Congress. A renewed commitment of the federal, state and local jurisdictions that worked together for the creation of Metro in 1967 is needed to address the critical fiscal crisis Metro is facing. We must work together to protect, leverage and secure the more than $9.4 billion public investment in, and $24 billion value of, the Metrorail and Metrobus system.

WMATA is facing funding challenges caused by an aging infrastructure and growing ridership. The $1.5 billion need identified for fiscal years 2005-2010, an average annual increase of $250 million, represents the most urgent capital needs in the areas of rehabilitation, replacement and security to ensure the continued viability of one of the region's most important transportation assets.

To ensure Metro is able to sustain current service levels and system reliability, $516 million is needed for rehabilitation and replacement. The Metro system currently operates at a 98.3% level of service reliability, one of the most vital reasons for the system's popularity. Due to deferred rehabilitation and replacement cycles, many of the infrastructure assets of the system are becoming increasingly stressed. If the system does not maintain its service levels and reliability, which are vital to the existence of any mass transit system, people may look for alternative ways to travel, increasing the strain on our region's roads.

Last year, Metrorail ridership totaled over 184 million customers, nearly 4 million more than the previous year, and projections for population and job growth over the next quarter century highlight the crucial need for expanded public transportation to sustain the region's mobility, economic vitality and quality of life. WMATA requires 120 rail cars and support equipment and facilities to keep pace with growing demand for transit service in a region that is already the second most congested in the nation, trailing only Los Angeles. In order to relieve current overcrowding and to handle projected ridership increases, $625 million is needed to begin to equip the system with eight-car trains. The addition will increase capacity by nearly 30,000 additional passengers during peak periods and reduce the extreme levels of overcrowding during peak hours.

Additionally, $171 million is needed to purchase 185 additional buses to add to the 1,447 vehicle fleet, and a facility to house them. Funding would assist WMATA in sustaining minimum customer growth requirements by adding vehicles to existing markets to enhance efficiency, and by extending service to markets not currently served.

WMATA has been hailed by some as a "national security asset" both for it's efficient performance on 9/11 and for its role in serving the national capital region during major regional incident or emergency. As such, WMATA has taken numerous steps to reduce the vulnerability of the Metrorail and Metrobus system and to coordinate emergency response planning and capabilities in the region. To further this effort, $150 million in additional funding is needed to eliminate vulnerabilities as well as improve Metro's ability to respond and recover during a regional incident.

WMATA has established programs to address safety and security risks that affect its rail and bus systems. WMATA has invested in security upgrades by expanding the chemical sensor detection program, advancing a biological/sampler program, and partnering with private industry and federal agencies on a decontamination program. Additional equipment such as radiation pagers and portable chemical and bomb detection devices have been acquired in order to enhance counter-terrorism capabilities. WMATA has also entered into written agreements with local police, fire, and rescue departments to coordinate each organization's roles and responsibilities and define the procedures for responding to incidents.

A major project in this effort is the development of a back-up Operations Control Center. It will provide necessary computer, communications and fiber optic backup to run the trains, buses, assist transit police, redundant monitoring capability for chemical sensor detection program and linkage to DC, MD, and VA's monitoring system to enhance emergency evacuation procedures and coordination.

The National Capital Region (NCR) has many buildings that house the executive, legislative, and judicial branch of the government, and Metro was conceived to be the prime mover of the federal workforce. More than one-third of the 360,000 federal employees in the NCR are Metrorail and Metrobus customers; and during the rush hour, almost 50% of all Metrorail riders are federal employees. In addition, over 300 federal agencies and employment centers are currently located adjacent to Metro stations, and the General Services Administration requires that proximity to Metrorail be an evaluation factor in any action to relocate federal employees or office buildings in the area.

WMATA faces unique challenges because the jurisdictional boundaries that define the service area. Unlike other major urban transit system, WMATA does not have dedicated sources of tax revenues, such as local sales tax revenues, that are automatically directed to the transit authority. Instead, they depend on annual funding decisions by numerous state, local, and federal government sources.

Due to its service to the federal workforce and the Nation's Capital in general, the federal government has historically played a major role in the financing of the Metrorail and Metrobus systems since their inception, and it should continue to do so. The National Capital Transportation Amendments of 1979 authorized $1.7 billion in Federal Funds to support the construction of the system. It is vital for the federal government to continue to invest in WMATA to ensure a constant and secure means to address their capital needs.

Electronic Government Fund

Electronic government has the potential to save the government billions of dollars in administrative costs. The President's Budget reflects savings of $2.7 billion over 10 years for electronic government programs at the Office of Personnel Management alone.

The Administration plans to finance inter-agency electronic government initiatives and the implementation of the Government Paperwork Elimination Act through the E-Gov Fund. Business cases must still accompany requests for E-Gov funding. The Administration has asked for a $5 million appropriation for the E-Gov Fund.

Furthermore, the Administration proposes to transfer to the E-Gov Fund $40 million of surplus revenues from the agency fees paid to GSA for the procurement of goods and services.

Since the Administration has had nominal success convincing appropriators to support the E-Gov Fund in the past, the Administration's proposal reflects a creative alternative to obtain funding for programs that will in the long run save money. However, five percent of the surplus revenues must be used for acquisition training. How will this E-Gov funding proposal impact the acquisition training financing? The Committee should support this initiative with reservation. While this is an excellent way of financing an important program, we need to discuss this plan with the Administration to gain a better understanding of how it will be executed, whether it will affect existing obligations, and how the proposal would be scored by the Congressional Budget Office.

District of Columbia Courts

This year, the DC Courts will continue their capital improvements project to provide a permanent home for the DC Family Court. New design and renovation work on the H. Carl Moultrie Courthouse is part of this effort. The Administration is requesting a total of $228 million, of which $135 million will go to the DC Court of Appeals, DC Superior Court, and DC Court System operations and $93 million will cover the cost of capital improvements of court facilities. By contrast, the Courts will request a total of $272 million: $151 million for operations and $121 million for capital improvements. The chasm between the capital improvements figures from each budget is noteworthy given the importance of these improvements to the overall function of the Family Court. Later this month, representatives of the Courts will brief the Committee on their budget justification. At that time, an accurate assessment of each budget proposal can be made.

District of Columbia School Choice

The Committee strongly supports the provision that allocates $14 million for the D.C. school choice program, which will help improve education in the District of Columbia. The program offers new hope to both low-income families and public schools in our Nation's Capital. Of the $14 million, $13 million is provided for the D.C. school choice scholarship program, and $1 million will go toward administrative expenses. The D.C. choice scholarships would be available only to low-income students trapped in troubled public schools in the District. Students in the program could receive up to $7,500 to cover their tuition, fees, and any transportation expenses to attend a private elementary or high school in the District of Columbia.

The Committee also supports allocations to include $26 million for D.C. public schools and for D.C. charter schools. The appropriation would provide $13 million to support D.C. public schools for teacher training, teacher recruitment, and improving student achievement through supplemental educational services and public school choice. It would also provide $13 million is provided for charter schools in the District of Columbia, to support and expand the capacity of existing charter schools and create five new charter schools.

Postal Service Reform

This year, the Committee will continue its work on vitally important legislation to reform the U.S. Postal Service. The business model created by the Postal Reorganization Act (PRA) 34 years ago is increasingly disconnected from today's reality. It is outdated and inflexible. The PRA was predicated on the assumption that continually growing mail volume would result in continually increasing revenue. That revenue, in turn, would be sufficient to cover the costs of an ever-expanding service network. This is no longer the case.

Mail volume has declined in each of the last three fiscal years, dropping more than five billion pieces from its peak in 2000. For the first time in history, in 2003 First-Class Mail volume was less than half of the Postal Service's total mail volume. During the same three-year period, the number of addresses served by the Postal Service increased by 5.4 million. This combination of factors – declining mail volume contrasted with the costs of a still-growing service network – resulted in a net loss in three of the last four years.

Most of the budget issues the Committee anticipates as it proceeds with comprehensive postal reform are related to the Civil Service Retirement System (CSRS) Funding Reform Act of 2003, P.L. 108-18. Without enactment of this legislation, the Postal Service was on track to over-fund its CSRS obligation by an estimated $78 billion. P.L. 108-18 defined what would be done with the "savings" - the difference between the contributions that the Postal Service would have made for the fiscal year if this Act had not been enacted and the contributions actually made by the Postal Service in that fiscal year. Through FY2005, the funds are being used to pay down Postal Service debt and maintain current postage rates. Beginning in FY2006 and for all years after, P.L. 108-18 required that the Postal Service calculate, collect from ratepayers, and place the "savings" due to the act in an escrow account. That will require the Postal Service to raise rates roughly 5.4% (a two cent increase in the cost of a First-Class stamp) more than they otherwise would need in 2006.

In addition, in creating a new formula to determine the Postal Service's CSRS obligations, the statute transferred the responsibility for funding the cost of CSRS benefits earned by military service. This, in effect, transferred a $27 billion responsibility from the U.S. Treasury to Postal ratepayers. In response to concerns raised about this transfer, P.L. 108-18 required this issue to be re-visited. The Act also required the Postal Service to provide Congress with its proposed use of the "savings" after 2005.

The Postal Service has proposed abolishing the escrow requirement and returning the responsibility for the costs of funding CSRS benefits attributable to military service to the U.S. Treasury. Had P.L. 108-18 not attributed the costs of military service to the Postal Service, the Postal Service would have over-funded its CSRS obligations by $10 billion at the end of FY2002. The Postal Service proposes to leave that $10 billion, along with approximately $5.5 billion from FY 2003-05 CSRS payments, in the Civil Service Retirement and Disability Fund and designate a separate account for the Postal Service Retiree Health Benefits Fund. The Postal Service would then begin paying into this new Retiree Health Benefits Fund in FY2006, to allow it to pre-fund its retiree health benefits obligations.

This year, the Committee intends to include in postal reform legislation language canceling the escrow requirement. The Committee will also include language returning the responsibility for the cost of military service to the U.S. Treasury, and requiring the Postal Service to begin to prefund its retiree health benefits.

Unified Budget Effects

If the escrow is allowed to take effect, the Postal Service would be required to raise billions of dollars from ratepayers that it would be unable to spend, which inflates the baseline unified budget. Canceling the escrow will have the inverse effect. Using CBO's baseline estimate of the effect of the escrow, we estimate that canceling the escrow will cost the unified budget $12.5 billion through FY09 and $35.7 billion through FY14.

This would be offset by mandatory payments to the proposed Postal Service Retiree Health Benefits Fund, which would exceed the Postal Service's current payments to CSRS. The Postal Service estimates these payments (which would be calculated based on projected interest payments for the unfunded obligation) would increase the Postal Service's payments to CSRS overall by $1.1 to $1.3 billion annually. We expect that these two legislative changes would cost the unified budget $7.4 billion through FY09 and $24.7 billion through FY14.

The Committee is working with the Congressional Budget Office to determine whether changes to the Postal Service's ratemaking system, which will lie at the heart of any postal reform legislation, will affect the unified budget. One proposed reform – allowing the Postal Service to retain earnings, rather than requiring it to break even – might have an additional positive impact on the unified budget, albeit one that is difficult to project.

Table 1: Estimated Unified Budget Effects
(Budget Authority in millions of dollars)

	Elimination of Escrow	Additional prefunding	Total unified budget effect
FY04	0	0	0
FY05	0	0	0
FY06	2,800	-1,223	1,577
FY07	2,900	-1,341	1,559
FY08	3,300	-1,265	2,035
FY09	3,500	-1,295	2,205
FY10	3,900	-1,228	2,672
FY11	4,300	-1,200	3,100
FY12	4,600	-1,183	3,417
FY13	5,000	-1,156	3,844
FY14	5,400	-1,117	4,283
5-year	12,500	-5,124	7,376
10-year	35,700	-11,008	24,692

On-Budget Effects

By itself, the proposal to transfer responsibility for funding the military portion of postal CSRS retirement benefits would have a substantial, negative on-budget effect. However, the Postal Service's proposal to prefund retiree health care more than offsets the effect of the transfer, based on preliminary discussions with the Congressional Budget Office. Under the Postal Service's proposal, rather than making a $1-2 billion annual payment to the general CSRS Retirement and Disability Fund, the Postal Service would make a $2-3 billion payment to the Postal Retiree Health Benefits Fund. The Committee estimates that this would result in a net positive on-budget impact of $5.1 billion through FY09 and $11 billion through FY14.

Table 2: Estimated On-budget effects
(Budget Authority in millions of dollars)

	Current CSRS overfunding if military is transferred (includes FY03, 04 and 05 payments)	Credit to Postal Service Retiree Health Benefits Fund	Discontinued payments to CSRS	Payments to Postal Service Retiree Health Benefits Fund (in addition to premiums)	Total on-budget effect
FY04					
FY05					
FY06	15,500	-15,500	1,977	-3,200	-1,223
FY07			1,859	-3,200	-1,341
FY08			1,735	-3,000	-1,265
FY09			1,605	-2,900	-1,295
FY10			1,472	-2,700	-1,228
FY11			1,338	-2,538	-1,200
FY12			1,206	-2,389	-1,183
FY13			1,081	-2,237	-1,156
FY14			965	-2,082	-1,117
Five year	15,500	-15,500	7,176	-12,300	-5,124
Ten Year	15,500	-15,500	13,238	-24,246	-11,008

Subcommittee on Civil Service and Agency Organization

Office of Personnel Management

The Fiscal Year 2005 Budget furthers the President's goals for the strategic management of human capital across the federal government, which was set forth in the Strategic Plan issued in November 2002. The Office of Personnel Management has undergone an internal reorganization designed to help it assist federal agencies in reaching the President's management goals. The Committee will continue its work in collaborating with OPM to examine the possibility of adopting performance-based human resources management systems throughout the executive branch.

For the second consecutive year, the President has proposed a Human Capital Performance Fund to reward top-performing employees with bonuses as part of the Administration's efforts to "create performance-driven pay systems for employees and reinforce the value of employee management systems." This proposal would not alter the current General Schedule pay system. The President's budget includes $300 million for this fund – significantly less than the $500 million proposed in the President's FY 2004 budget, but a substantial increase over the $1 million allocated for the program by Congress in the actual FY 2004 budget. The Committee supports OPM's efforts to improve performance and accountability of both managers and employees and will continue to work with OPM on this proposal.

The President's Budget includes $849 million for OPM to conduct, through the use of private companies, background checks for federal agencies. This figure represents a 32 percent increase over the FY 2004 amount of $641 million – the increased allocation assumes the Defense Department will begin using OPM to manage its background checks, as authorized by the Defense Authorization Act of 2004. However, no final decision has been made as to whether these functions, in all or in part, will shift from Defense Security Service to OPM in either 2004 or 2005. The Committee will continue to monitor this situation.

The Fiscal Year 2005 Budget proposal reflects no change from FY 2004 funding of OPM's residential and nonresidential training for Federal executives and managers on conducting the government's business more efficiently. Additionally, the budget provides $136 million ($6 million more than FY 2004) for OPM to provide assistance to government agencies – particularly those involved with anti-terrorism, emergency preparedness and intelligence – to manage their short- and long-term staff development needs. The Committee may consider whether additional funding is warranted for these types of training.

The Office of Personnel Management plays a key role in six of the President's e-Government projects in the budget. They are: Recruitment One-Stop, to reduce the complexity of federal hiring; e-Training, to offer Web-based training; e-Clearance, to reduce the time required to process security clearances; e-Payroll, to consolidate civilian payroll processing; Enterprise Human Resource Integration, to improve federal human resource data; and e-Human Resource Information System, to establish modern, cost-effective and integrated human resource information systems across the federal government. OPM estimates these projects will save the government $2.742 billion over the next 10 years. The Committee supports the use of technology to streamline and improve government performance, and will work with OPM on these projects.

The Fiscal Year 2005 Budget proposes that the United States Patent & Trademark Office (PTO) fund the full cost for retirement pay for its employees covered under the Civil Service Retirement System, as well as fund the accruing costs associated with post-retirement life insurance and health benefits for all PTO employees. The Administration had previously proposed that all federal agencies be charged the full accounting cost of retirement and health benefits. The Committee will take a close look at these issues.

The Committee will also closely watch the Administration's efforts to coordinate the Medicare and Federal Employees Health Benefits programs, which jointly finance health insurance for about 2 million federal annuitants.

Office of Government Ethics

The Committee supports the President's funding of the Office of Government Ethics and its efforts to preserve and promote public confidence in the integrity of executive branch officials.

Merit Systems Protection Board

The President has proposed general and special funds for salaries to carry out the functions of the Merit Systems Protection Board. The Committee will examine funding of MSPB programs and the usefulness of the MSPB's reports and studies. The Committee will continue to be vigilant in its oversight of the MSPB, particularly as its mission may shrink due to personnel systems changes imminent at the Department of Defense

Office of Special Counsel

The Committee supports the President's funding of the Office of Special Counsel, noting that the resources requested for FY 2005 will enable OSC to hire additional staff needed to increase the case closure rate and help relieve the backlog of cases it investigates under the Whistleblower Protection Act, the Hatch Act and prohibited personnel practices.

Federal Retirement Thrift Investment Board

The Federal Retirement Thrift Investment Board is responsible for managing the Thrift Savings Plan, the 401(k)-style retirement system established by the Federal Employees Retirement System Act of 1986. After much delay, the board last year was able to accept daily transactions in the TSP, although computer glitches hampered the system for several weeks. The Committee intends to continue to monitor the situation.

National Aeronautics and Space Administration

The National Aeronautics and Space Administration is undergoing a reevaluation of its goals and ambitions. No space shuttle has been launched since the Columbia was destroyed in a reentry accident on Feb. 1, 2003. The President has since set NASA on a course to return to the Moon, establish a base there and use that base for a manned mission to Mars. The agency's budget begins to reflect some of these changes. NASA last year feared a "brain drain," as a growing number of scientists and engineers neared retirement – many of those concerns were addressed in H.R. 1085, which provides management and personnel flexibilities to the agency. The bill is awaiting final passage in the House. Additionally, the Committee would like to work with the Administration to adequately fund aeronautics programs within NASA. The United States' leadership in this field has eroded in the face of stiff competition from state-funded entities in Europe. Support of robust research and development by NASA is vital to American competitiveness in aeronautics.

Federal Labor Relations Authority

The Federal Labor Relations Authority is charged with providing leadership in Federal labor-management relations and with resolving disputes under, and ensuring compliance with, the Federal Service Labor-Management Relations Statute. The FLRA's current and future workloads could be impacted by imminent changes at the Homeland Security and Defense departments.

Agency Organization Initiatives

The Committee supports the budgetary initiatives in the President's budget proposal related to improving the effectiveness of Federal functions through organization and reorganization.

Subcommittee on Criminal Justice, Drug Policy, and Human Resources

National Drug Control Budget

The Committee supports the President's FY 2005 request for the overall National Drug Control Budget of $12.6 billion, an increase of $566.3 million over the FY 2004 enacted amount of $12.1 billion. The funding request supports the programs that serve as rings of protection around our families and communities from drug abuse: prevention, treatment, law enforcement and interdiction, and eradication.

Office of National Drug Control Policy ("ONDCP")

The office was originally created in 1988 and is the President's principal adviser with respect to drug control policy development and program oversight, and shoulders the responsibility to guide the Nation's efforts to both reduce the use, manufacturing, and trafficking of illicit drugs, and to reduce the associated crime, violence, and health consequences of illegal drug use.

The Committee is very concerned that the High Intensity Drug Trafficking Area (HIDTA) Program is being cut from $225 million to a requested level of $208.4 million.   The original authorizing legislation and subsequent reauthorizations did not specify how ONDCP was to allocate the funds appropriated for the program among the various HIDTAs; that determination was instead left to the discretion of the Director. Even as the program has grown from five HIDTAs to 28 HIDTAs, however, the discretion of the Director has seemingly shrunk. Appropriations acts have mandated that no HIDTA may be funded at a level below the previous fiscal year; the Director has thus retained discretion over only approximately $20,000,000 of the current budget allocation. In light of the decrease proposed by the Administration to this program, the Committee expects that the Executive Branch will work more vigorously to direct HIDTA resources to where they are needed most. Unless ONDCP exercises its authority to allocate resources, the program will not be an effective tool against the rapidly changing threat of narcotics traffic.

ONDCP's National Youth Anti-Drug Media Campaign is requested at the appropriated level of $145 million. The Media Campaign is an integrated effort that combines paid and donated advertising with public communications outreach. The Committee is pleased that the media campaign has gotten back on track in the last few years, but there is cause for concern in the media campaign's recent effort to discourage underage alcohol use and marijuana use in the same ad – which may serve to de-stigmatize marijuana use in some quarters.

The Drug-Free Communities Program, also administered by ONDCP, is proposed to increase by $10.4 million, which will add approximately 100 local community anti-drug coalitions working to prevent substance abuse among young people to this $80 million program.

Drug Treatment

The Committee strongly supports the President's initiative to increase and enhance the availability of drug treatment in the United States, as well as the focus of the initiative on using the results of treatment programs as a primary performance measure.   The Committee applauds the Administration's doubling of the Access to Recovery program to $200 million, administered by the Substance Abuse and Mental Health Services Administration (SAMHSA). This initiative will provide people seeking clinical treatment and/or recovery support services with vouchers to pay for the care they need. It also will allow assessment of need and will provide vouchers for clients who require clinical treatment and/or recovery support services but would not otherwise be able to access care. The Committee is pleased that the Administration has clarified that a broad range of eligible organizations, including those that are faith-based, will allow more flexible service delivery. Committee oversight activities have strongly suggested the need for development of a set of uniform and unambiguous standards for measuring the results and accountability of drug treatment programs, a goal that remains elusive even after federal support for intensive research into drug treatment. Further, because treatment programs account for 29 percent of the National Drug Control Budget, the Committee believes that adequate measures are essential to ensure the effectiveness and accountability of these programs as a whole, as well as to provide performance and outcome measures.

The Administration requests a $32 million increase in the Drug Courts Program, nearly doubling the budget to $70 million. The Committee believes this increase is merited. The Drug Courts program provides alternatives to incarceration through using the coercive power of the court to force abstinence and alter behavior with a combination of escalating sanctions, mandatory drug testing, treatment, and strong aftercare programs.

The Committee supports the $28.3 million increase in the budget of the National Institute on Drug Abuse (NIDA), which will ensure NIDA's continuing commitment to key research efforts, including basic research on the nature of addiction, development of science-based behavioral interventions, medications development, and the rapid translation of research findings into practice. The Committee commends NIDA's work in warning the public about the dangers of drug use with such research papers as "Cognitive Deficits in Marijuana Smokers Persist After Use Stops" and "Cocaine: Abuse and Addiction."

Criminal Justice and Law Enforcement

In the area of law enforcement, the Committee commends the additional resources being requested: an additional $34.7 million will strengthen the Drug Enforcement Administration's efforts toward disrupting or dismantling Priority Target Organizations, including those linked to organizations on the Consolidated Priority Organization Target (CPOT) list; an increase of $54.2 million for Customs and Border Protection will continue expansion of the Remote Video System (RVS) along the borders for enhanced detection and monitoring capability; a $28 million increase for Immigration and Customs Enforcement which will increase P-3 flight hours from 200 to 600 hours per month, a critical coverage improvement for detection and monitoring in the Source and Transit Zones, and for Airspace Security operations domestically; an increase of $26 million and $16 million for Firearms, and Arson and Explosives respectively for the Bureau of Alcohol, Tobacco, Firearms and Explosives.

The Committee is concerned, however, that the Department of Homeland Security has made no attempt to consolidate or synergize the operation, training, maintenance, or procurement its high-value/low-density law enforcement assets. For example, within the Border and Transportation Security Directorate, the Bureau of Customs and Border Protection requests funds for the operation and maintenance of aircraft and vessels and the acquisition of unmanned aerial vehicles. The Bureau of Immigration and Customs Enforcement also requests funds for these purposes. Both Bureaus have assets and personnel, and own or lease facilities, hangars, and or vessel slips in many of the same locations, yet no attempt has been made to save taxpayer money by reducing the cost of duplication.

The Committee has concerns about the proposed reduction in funds (administered by the Department of Justice's Office of Justice Programs) dedicated to law enforcement activities against methamphetamine trafficking. Methamphetamine abuse has ravaged communities across the United States, and put severe strains on State and local enforcement agencies forced to find clandestine drug labs, clean up the environmental damage they create, and arrest the drug trafficking rings that operate them. To assist these overburdened agencies, Congress approved $54,050,000 in fiscal year 2004 for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in "drug hot spots." The current proposal requests only $20,000,000 for fiscal year 2005, a cut of more than 60 percent. This would greatly reduce the ability of State and local law enforcement agencies to help their Federal partners in reducing methamphetamine abuse, particularly given the proposed overall reduction in State and local law enforcement assistance grants for fiscal year 2005. The Committee urges Congress and the Administration to work together in finding ways to address this issue.

The Committee also has concerns about the proposed elimination of funding for a prescription drug monitoring program. Prescription drug abuse is a serious and growing problem throughout the United States, as illustrated by the recent wave of OxyContin and other oxycodone-related overdoses. One major difficulty facing Federal, State and local law enforcement agencies in dealing with this threat is the lack of sufficient information about how these drugs are being diverted from their proper medical uses to illegal trafficking and abuse. In fiscal year 2004, Congress approved $7,000,000 to continue work on the establishment of a monitoring system that would track supplies of prescription drugs and give law enforcement officials more information about illegal diversion. The Committee believes that Congress and the Administration need to continue to address this information gap if law enforcement is going to be effective.

International Counternarcotics Programs

The Committee commends the Administration for its judicious use of resources to eradicate drug production at its source, with much of the financing being targeted to the Andean nations and Afghanistan.

The United States faces significant national defense challenges, both domestically and internationally, that call for careful prioritization. The Committee notes that approximately 20,000 Americans die each year of drug-related causes, far more lives than were lost during the terrorist attack of 2001 and the hostilities since then, combined. The Committee is seriously concerned that the Department of Defense's level of effort in critical counternarcotics missions has consistently fallen since the GAO report of January 27, 2000 entitled "DOD Allocates Fewer Assets to Drug Control Efforts," which covered 1992-1999. The appropriation of $909 million in FY 2004 is reduced to $853 million, a cut of 6.1 percent. While we support the efforts of the Department of Defense to focus its counternarcotics support more narrowly in areas that call uniquely for military support, the Department continues to be deemed "lead agency" in some very important areas and continues to have primary responsibility for critical detection and interdiction programs in areas where Federal law enforcement is not funded, ill-equipped, or incapable.

Afghanistan is one of many prime examples. The United Nations Office on Drugs and Crime (UNODC) has conducted annual opium poppy surveys in Afghanistan since 1994. The 2003 Survey shows that in 2003 Afghanistan again produced three-quarters of the world's illicit opium, resulting in income to Afghan opium farmers and traffickers on the order of $2.3 billion, a sum equivalent to half the legitimate GDP of the country. The UNODC concluded that "out of this drug chest, some provincial administrators and military commanders take a considerable share… Terrorists take a cut as well… the longer this happens, the greater the threat to security within the country and on its borders. There is a palpable risk that Afghanistan will again turn into a failed state, this time in the hands of drug cartels and narco-terrorists…" Our British allies have identified many Afghan opium-processing plants necessary to the heroin trade. Yet, despite the financing of terrorists and other destabilizing elements from the drug trade, the Department of Defense does not view these as military targets. The Committee urges in the strongest terms for the Department to reconsider, and will monitor this issue incident to its oversight activities on behalf of the public safety. Therefore, if the Department is unwilling or otherwise task-saturated and unable to fulfill its authorizations, the Committee would support the President's requested reduction with the proviso that the funds be redistributed to other agencies capable of filling the void.

The Administration is requesting $90 million for State Department's International Narcotics and Law Enforcement (INL) programs in Afghanistan. While this funding will be used to accelerate the development of police programs and to reduce opium poppy cultivation by providing a drug control capacity, the

Committee is concerned that an insufficient level of cooperation is taking place in Afghanistan among State, DEA, and CENTCOM elements to assure us that the request will be judiciously spent. The Committee is further concerned that at the crucial time when eradication programs and foreign law enforcement assistance and training efforts world-wide show a positive return on resources, the Administration requests to reduce INL's budget authority to $359 million from $410 million, a reduction of 12 percent.

The FY 2005 request for the Department of State's Andean Counterdrug Initiative of $731 million will fund projects needed to continue the enforcement, border control, crop reduction, alternative economic development, democratic institution building, and administration of justice and human rights programs in the region. The ACI budget provides support to Colombia, Peru, Bolivia, Ecuador, Brazil, Venezuela and Panama. The Committee is concerned that the 13 percent reduction between 2003 and the Administration's 2005 request for the initiative (from $841 million to $731 million) stifles the hard-earned successes that have recently become evident.

Of the $731 million requested, $463 million will be used to continue to support Colombia's unified campaign against drug trafficking and narco-terrorists. Funds will maintain support to the Colombian Army's aviation program and drug units, as well as the Colombian National Police in the areas of aviation, eradication and interdiction. The Committee has been impressed by programs in Colombia promoting alternative economic development, as well as by those initiatives that promote the rule of law and judicial reform, which strengthen the culture of lawfulness and democratic self-rule.

<u>Department of Education</u>

The President's budget proposal includes a record $57.3 billion for the Department of Education.

The budget includes $716 million for the Safe and Drug-Free Schools and Communities program, with $441 million designated for state grants and $275 million for national programs.

The program request includes $25 million for school-based drug testing programs for students. The Committee strongly supports this testing initiative. By addressing accountability, drug testing in schools has proven the single most effective drug-prevention program in the United States.

In addition, the Committee has addressed the Safe and Drug-Free Schools program in the report (H. Rept. 108-167) accompanying H.R. 2086, the bill to reauthorize the Office of National Drug Control Policy. The committee report urges that activities of the program "include a clear anti-drug message or purpose intended to reduce drug use." The report states:

> The Safe and Drug Free Schools program is one of the primary federal drug prevention programs. As with law enforcement programs, however, resources are being diverted away from that intended goal to several other purposes, such as violence prevention. Significant broadening of the program to other purposes creates a substantial risk of dilution not only of its effectiveness as a drug prevention program, but also as a whole... The Committee believes that the budget for the Safe and Drug Free Schools program cannot be deemed adequate unless each program activity includes a clear anti-drug message or purpose to reduce drug use . . . .

As part of the Administration's package for the Student Loan reauthorization, the Administration proposes to "clarify a provision under which student aid applicants who have been convicted of a drug-related offense are ineligible for Federal student aid." Under the proposal, the provision would be applied only to students who commit a drug-related offense while enrolled in higher education, not to those who committed an offense prior to enrollment.

As the Committee stated in H. Rept. 108-167, the provision "stands for an important principle—that students who ask for taxpayer assistance with their education should not be using or selling illegal drugs, which have a clear and proven detrimental impact on educational achievement." A significant problem arose in the Department of Education under the previous Administration, which erroneously misinterpreted the clear language of that statute to improperly deprive loans from students whose drug convictions predated their enrollment in school. The misinterpretation has continued during the current Administration.

This misinterpretation misconstrues the congressional intent of the provision. As the Committee explained in H. Rept. 108-167:

> The plain text of the statute in question clearly provides that the disqualification applies to "a student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance." The term "student" in every other instance in the Act clearly and logically may apply only to those currently enrolled; thus a person convicted of a drug offense prior to enrollment would not have been a "student" under the Act at the time of conviction and the provision would not apply to them in relation to such a conviction. Moreover, the Executive Branch interpretation is clearly at odds with the overall structure of the law, which unambiguously provides that individuals shall become ineligible for assistance "beginning on the date of such conviction." Again, the interpretation offered by the Department is obviously inconsistent with the plain meaning and structure of the statute. (To determine whether Congress has unambiguously expressed its intent, a court considers in part the language and design of the statute as whole. See, e.g., Alabama Power v. Environmental Protection Agency, 40 F.3rd 450, 454 (D.C. Cir. 1994)). The text clearly does not square with the Department's reading because an individual who is not enrolled when

convicted could not become ineligible at that time. He or she is not a "student" under the terms of the Act, and moreover is not receiving any assistance to be disqualified from at the time.

The Committee fully supports the proposed reform in the interpretation of the provision. By basing ineligibility for student aid, under the provision, on drug-related offenses committed during, but not prior to, enrollment in higher education, the reformed interpretation will more closely align with the congressional intent of the provision.

The Department of Education budget proposes $410 million in State Assessment Grants to assist states in developing the additional standards and assessments required under the No Child Left Behind Act. In addition to requiring reading and mathematics standards and assessments, the No Child Left Behind Act marks the first time states will be required by federal law to put in place statewide science education standards and assessments. The law requires states to develop and implement academic content standards for science by the 2005-2006 school year.

It is important that the science standards and assessments mandated by the Act not infringe on the academic freedom of teachers and students in studying controversial scientific topics, including biological evolution. Science standards should not censor students from learning different scientific arguments and viewpoints, nor should they punish the intellectual integrity of those who honestly question a prevailing scientific view on the basis of sound scientific evidence and research. Rather, science teachers should be encouraged to critically discuss these subjects with students. In doing so, they foster students' critical thinking skills and promote quality science education. To champion such academic freedom in the science classroom, Congress adopted language in the Act's conference report that supports teaching the "full range of scientific views" on controversial scientific topics. As Duke University Nan Keohane has said of the pursuit of a liberal education, "...people learn better when they are challenged by things that they don't expect, when they do not have all their prejudices and assumptions confirmed, but instead have some of their ideas shaken up as part of an education." The Committee will monitor the use of this language as science standards and assessments are developed under No Child Left Behind.

<u>National Park Service</u>

The President's budget request for the Department of the Interior proposes $2.4 billion for the National Park Service (NPS). The proposal includes increased funding for park operations and commitment to eliminating the backlog of park maintenance projects. The proposal also requests a $12.4 million increase for law enforcement and related protection needs, including the protection of border and icon parks. The Committee has seen the damage inflicted upon NPS lands along the Southwestern Border by drug and alien traffickers and by the cultivation of marijuana and poppy carved into National Parks and National Forests. The law enforcement increase is particularly important to detect and arrest the perpetrators and reclaim the land. NPS law enforcement officers have recently come under attack with alarming frequency and have been killed in the line of duty by drug smugglers. The Committee supports this funding to sustain the NPS mission of conservation and preservation of our heritage for future generations.

National Institutes of Health

Over a five year period, beginning in 1998 and completed in 2003, Congress doubled the National Institutes of Health (NIH) budget. NIH received $27.987 billion in FY 2004.

The intent of Congress in providing this dramatic commitment was to entrust NIH with the resources to make every effort to improve the health and well being of the American people.

Over the course of this doubling, scientists and researchers funded by NIH have made numerous notable discoveries towards treatments or cures to the diseases that plague our Nation and our world. In the 1990s, death rates from the four most common cancers -- lung, breast, prostate, and colorectal -- continued to decline. Among the many fruits of NIH research are: a promising drug that could slow the functional decline in Parkinson's disease; a new, quick, and accurate assessment of heart disease risk; a new tool to fight kidney disease in African Americans; and a safe and inexpensive treatment for blood clots. Four new antiretroviral drugs were licensed in 2003 by FDA, bringing new hope to individuals who may have exhausted other HIV/AIDS treatment options. The number of HIV vaccines in development and testing is greater than ever before. NIH is also funding important research to protect our Nation against bioterrorism, emerging diseases such as West Nile virus and drug abuse and addiction.

The Committee applauds the NIH and the individual researchers for these medical breakthroughs and scientific advances. The Committee will conduct oversight of NIH research funding to ensure that it is used to improve the health and lives of Americans.

Global HIV/AIDS

The President's 2005 budget proposal requests $2.8 billion for international HIV/AIDS, tuberculosis and malaria programs. This amount includes $1.45 billion for the new State Department Office of the Global AIDS Coordinator.

From 1993 to 2001 the total U.S. Government global AIDS budget was $1.9 billion. As part of the Emergency Plan for AIDS Relief, the President proposed $2.0 billion in 2004 as the first installment of a five-year, $15 billion initiative, surpassing nine years of funding in a single year. The President's Emergency Plan for AIDS Relief represents the single largest international public health initiative ever attempted to defeat a disease. The President's Plan targets an unprecedented level of assistance to 14 of the most afflicted countries in Africa and the Caribbean to defeat HIV/AIDS. In addition, programs will continue in 75 other countries.

The President's HIV/AIDS initiative focuses on preventing mother-to-child HIV transmission, behavioral change that emphasizes abstinence and being faithful and ensuring access, caring for AIDS orphans and providing access to AIDS treatment.

The Committee supports the President's initiative to combat HIV/AIDS and applauds his leadership.

<u>HIV/AIDS Treatment</u>

Domestically, the President's budget request includes a $35 million increase for the AIDS Drug Assistance Program (ADAP), bringing the program's total appropriation to $783 million for fiscal year 2005.

ADAP, funded under Title II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, is the final safety net for Americans who have no other means of accessing HIV medications and for low-income people with HIV/AIDS who are underinsured or lack adequate prescription coverage. Each year, 127,000 patients are served by ADAP. Many state ADAPs are facing financial constraints and are unable to meet the needs of those who depend on the program. Currently, 15 states are restricting access to treatment, and 791 patients are on ADAP waiting lists. California recently announced plans to restrict access to ADAP as well.

The Committee believes that outdated funding formulas are a significant factor in AIDS treatment funding disparities that are partially responsible for ADAP waiting lists. Current formulas award state and local grants based upon estimated living cases of AIDS, the end stage of HIV infection, rather than the number of patients infected with HIV and eligible for treatment in an area. In 2000, Congress reauthorized the Ryan White CARE Act and directed the Department of Health and Human Services to include all those diagnosed with HIV in CARE Act formulas no earlier than fiscal year 2005 or no later than fiscal year 2007. The Committee urges the inclusion of all those living with HIV in FY 2005 formulas to ensure more equitable funding.

The General Accounting Office (GAO), at the request of the Committee, is examining the Ryan White CARE Act program to identify strategies to more equitably distribute federal grants and to improve access to ADAP.

The Committee supports the President's request for increased funding for ADAP but is concerned that additional funding may be necessary to provide sufficient resources to ensure that all ADAP eligible clients have access to AIDS treatment.

A consultation on Maintaining and Improving Access to HIV-Related Drug Therapies was conducted by the George Washington University School of Public Health and Health Services on behalf of the Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau on January 23, 2003. The meeting was structured to identify options to improve access to AIDS treatment. The consultation's report suggested "reprioritization of funding to focus on a core or essential set of services," noting "one thing that was clear from the consultation was the increased willingness of grantees to recognize that some of the priorities for services adopted in the earlier years of the epidemic require reconsideration in light of the adoption and success of new treatment patterns."

The Committee supports this suggestion and recommends $131 million in reprioritized offsets be transferred to ADAP from the following sources:

National Institutes of Health.

The Committee supports research and development of improved AIDS treatments and HIV vaccines. The Committee has, however, identified several HIV vaccine related projects by the National Institutes for Health that would be better spent on ADAP. NIH is spending $119 million on an HIV vaccine study in Thailand that analyzes two components that have both failed to protect against HIV infection in previous studies. One of the components of the vaccine called gp120, which has completed phase III trials, "failed completely in providing any degree of protection to HIV infection," according to Dr. Robert W. Doms, chairman of the department of microbiology at the University of Pennsylvania. The other component, called ALVAC, has had unimpressive results in trials, he adds. "Combining something that's failed with something that has not been terribly impressive doesn't seem to provide a good rationale for proceeding with such a large and costly trial," Doms says. Twenty-two leading HIV researchers including Dr. Robert Gallo, the co-discoverer of the AIDS virus, wrote a letter published in the January 16 issue of Science that criticized the funding for this project. In addition, NIH spends more than $1 million every year promoting HIV vaccine "awareness," when no such vaccine even exists of which to be aware. The President's 2005 budget request, in fact, extends the goal of developing an HIV vaccine from 2007 to 2010 "to more realistically reflect the state of the science." The Committee recommends transferring $120 million from these NIH projects to ADAP.

Conferences.

The Department of Health and Human Services (HHS) spent $40 million to fund conferences in 2002. This includes $3.6 million for an AIDS conference held in Barcelona, Spain, to which 236 HHS employees traveled to attend. In September 2003, HHS provided over $300,000 for a single AIDS conference in New Orleans that was noted for its political rather than public health content. At a time of budget restraint in important health care programs, we do not have the luxury for excessive spending on conferences. The Committee recommends transferring $7 million from the conference budgets of HHS and its agencies to ADAP.

HUD AIDS Housing

The President's budget includes $294.8 million for the Housing Opportunities for Persons with AIDS (HOPWA) program administered by the Department of Housing and Urban Development (HUD). This amount represents a $62.8 million, or 27 percent, increase since Fiscal Year 2000 when the program was funded at $232 million. In addition to HOPWA, HUD has other programs that can be used to serve persons living with HIV/AIDS. HUD's Homeless Assistance Programs, Programs for Persons with Disabilities, and HOME Initiatives can be directed to persons living with HIV/AIDS and their families. AIDS housing is also provided under the Ryan White CARE Act. While HOPWA-- available only to patients in select areas-- is important to many living with HIV, it does not have the same impact as providing medication, which really does make the difference between life and death. The Committee recommends transferring $2 million from the HOPWA budget to ADAP.

The Committee believes that reprioritizing funding from these programs in addition to the $35 million increase requested by the President would achieve the goal of ensuring that all Americans living with HIV are guaranteed basic medical care and medication with little or no significant consequence to other programs. This reprioritization recognizes that of the $18 billion spent annually on HIV/AIDS, more funds should be targeted to those services most needed and/or under funded, which clearly is ADAP.

HIV Prevention

The President's budget request includes $1.143 billion for the CDC's National Center for HIV, STD, and TB Prevention, which is a $1.7 million increase over FY 2004. The President's proposal requests $696 million specifically for HIV/AIDS prevention programs.

Over the past decade, the CDC has spent more than $7.4 billion on HIV prevention programs alone. Despite these significant financial resources, the annual number of new infections did not decline once during this ten-year period. According to the CDC, 40,000 Americans were newly infected with HIV in each of the previous ten years for a grand total of 400,000 Americans newly infected with HIV.

Recognizing these obvious shortcomings of existing HIV prevention programs, the Administration is instituting greater accountability measures to ensure that federally funded HIV prevention programs are indeed preventing HIV. The Committee applauds this effort to increase effectiveness and accountability of HIV prevention programs.

In 2003, the Administration through the CDC launched a new initiative, "Advancing HIV Prevention: New Strategies for a Changing Epidemic." The Committee supports this effort aimed at reducing barriers to early diagnosis of HIV infection and increasing access to quality medical care, treatment, and ongoing prevention services. The HIV initiative emphasizes the use of proven public health approaches to reducing the incidence and spread of disease. As with other sexually transmitted diseases or any other public health problem, principles commonly applied to prevent disease and its spread will be used, including routine screening, identification of new cases, partner notification, further reductions in perinatal HIV transmission, sustained treatment and prevention services for those infected and availability of a simple, rapid HIV test in unconventional settings. Because this new initiative will most likely identify many more Americans with HIV, the Committee underscores the need to ensure that ADAP is sufficiently funded to ensure that those diagnosed are ensured access to both appropriate prevention and treatment services.

The President's request provides $270 million for federal abstinence program, which doubles the amount appropriated last year. The Committee applauds this proposal, noting that abstinence is an important element of the strategy to prevent HIV, STDs and unwanted pregnancy and that a report issued by the CDC in December found that a majority of high school teens are now practicing abstinence. The President's request provides additional support for this healthy choice.

The Committee applauds the Administration's leadership on domestic HIV prevention.

<u>Minority AIDS Initiative</u>

In 2002, African Americans accounted for over half of the new HIV diagnoses reported in the United States. Sixty-two percent of children born to HIV-infected mothers were African American.

The President's budget provides $52.8 million for the HIV/AIDS in Minority Communities Fund, located in the Public Health and Social Services Fund, which is one component of the Minority HIV/AIDS Initiative. This is an increase of $3.3 million from FY 2004. The HHS Budget in Brief FY2005 states that the money is intended "to support innovative approaches to HIV/AIDS prevention and treatment in communities heavily impacted by this disease."

Data from states with names-based HIV surveillance have indicated for well over a decade that African Americans were increasingly disproportionately impacted by HIV. This data empowered public health officials in these states and at the federal level to better respond with targeted HIV prevention and treatment. The CDC recommended in 1998 that all states conduct names-based HIV surveillance to improve prevention and treatment programs. While most states have followed CDC's recommendations, others have been reluctant to do so.

The Committee supports the President's efforts to combat HIV/AIDS in minority communities and encourages all states to conduct confidential HIV surveillance as recommended by CDC to ensure that prevention and treatment programs are equipped with the best data to respond to emerging HIV/AIDS trends, including within minority communities.

Breast and Cervical Cancer Screening and Treatment

Routine screening can prevent cervical cancer, and early detection of breast cancer increases the five-year survival rate to 97 percent. The CDC provides breast and cervical cancer screenings to underserved populations that are low-income, underinsured or uninsured. The President's budget proposes a $10 million increase to provide an additional 32,000 screenings. The Committee supports the Administration's goal of increased screening.

Human Papillomavirus (HPV)

Human Papillomavirus (HPV) infection is the cause of nearly all cases of cervical cancer. About 20 million Americans are currently infected with HPV and an estimated 5.5 million Americans become infected with HPV every year. Nearly 13,000 women develop invasive cervical cancer annually in the United States and over 4,000 women die of the disease every year. HPV infection is also associated with other cancers, more than one million pre-cancerous lesions, and genital warts.

In compliance with Public Law 106-554, the CDC delivered a report to Congress in January 2004 entitled "Prevention of Genital Human Papillomavirus." The report found:

> Because genital HPV infection is most common in men and women who have had multiple sex partners, abstaining from sexual activity (i.e. refraining from any genital contact with another individual) is the surest way to prevent infection. For those who choose to be sexually active, a monogamous relationship with an uninfected partner is the strategy most likely to prevent future genital HPV infections. For those who choose to be sexually active but who are not in a monogamous relationship, reducing the number of sexual partners and choosing a partner less likely to be infected may reduce the risk of genital HPV infection. . . . The available scientific evidence is not sufficient to recommend condoms as a primary prevention strategy for the prevention of genital HPV infection. There is evidence that indicates that the use of condoms may reduce the risk of cervical cancer.

The Committee encourages the CDC to educate the public and health care professionals about HPV by promoting the scientific findings and recommendations of this report. The Committee also encourages FDA to act on the release of CDC's HPV prevention report and determine whether relabeling condoms regarding their effectiveness at preventing HPV is appropriate as a result of the study, in compliance with Public Law 106-554.

The Committee supports continued research to develop a safe and effective HPV vaccine.

The Committee will hold a hearing in March 2004 regarding HPV and cervical cancer.

<u>Nonoxynol-9</u>

Nearly half -- 42 percent -- of condoms sold in the United States and many sexual lubricants are estimated to be lubricated with the spermicide nonoxynol 9 (N-9). Studies have suggested for 15 years that use of N-9 increases risk for HIV infection. In January 2003, FDA finally proposed labels for contraceptive products laced with N-9 warning that N-9 does not protect against infection from HIV or other sexually transmitted diseases. The proposed label warnings would also tell consumers that the use of N-9 may increase the risk of infection with HIV and other STDs. SSL International, the maker of Durex condoms, announced in January 2004 that it has stopped producing condoms containing N-9.

The Committee applauds the FDA for taking this action. The Committee, however, notes that the FDA's proposed warnings ignore the dangers of using products containing N-9 for non-vaginal sexual activity and urges the FDA to address these risks in labeling.

The GAO, at the request if the Committee, is conducting an investigation to determine the role of federal health agencies and condom companies in the promotion and use of N-9 in the U.S. and the impact N-9 use has had on HIV rates.

<u>"Medical" Marijuana</u>

The drug legalization movement has aggressively marketed and promoted smoked marijuana as a form of medicine. "Evaluation indicates that sound scientific studies supporting the claims of marijuana's usefulness as medication are lacking," according to a September 25, 2003 FDA letter to the Committee. The FDA letter further states "there is some concern that the use of smoked marijuana may be harmful to individuals suffering from the conditions for which it is touted as a safe and effective treatment" and that "botanical marijuana has not been approved by the Food and Drug Administration as a safe and effective drug." The Committee encourages the FDA to educate the public that marijuana has not been tested or approved as a safe or effective treatment for any medical condition and that its use poses serious health risks.

Subcommittee on Government Efficiency and Financial Management

The President's Management Agenda

The Committee is very interested in the progress of the President's Management Agenda as reported on throughout the President's Fiscal Year 2005 Budget. The President's Management Agenda or PMA, which President Bush initially issued in August of 2001, consists of 14 priority management-improvement initiatives. These 14 initiatives target core management and capacity problems that face the Federal government. Congressional committees, the General Accounting Office (GAO), and agency Inspectors General have repeatedly documented the seriousness and persistence of these problems. Five of the 14 initiatives address government-wide problems. The other nine initiatives address problems affecting specific agencies and programs. The five government-wide initiatives are: Strategic Management of Human Capital; Competitive Sourcing; Improved Financial Performance; Expanded Electronic Government; and Budget and Performance Integration. As a result of the PMA, the Federal government is better managed, achieving better results, controlling its finances and investments more efficiently, and overall, providing a higher quality of service to the American public. Over time these changes will continue to generate productivity increases in the Federal government that will have powerful cumulative effects. The Committee estimates that even a modest productivity increase of 3% on the approximately $800 billion in annual discretionary spending has the potential to yield $24 billion in savings each year.

Executive Branch Management Scorecard

The PMA uses an Executive Branch Management Scorecard to measure the overall status of 26 major departments and agencies towards achieving the goals of the PMA, as well as the quarterly progress of those agencies. The President's Fiscal Year 2005 Budget contains the latest evaluation of where Federal agencies stand on each of the five government-wide initiatives. Specific criteria for each of the five initiatives are used to determine a score for each agency. The results are illustrated using a "traffic light" scorecard: green for success, yellow for mixed results, and red for unsatisfactory. The most recent scorecard used to assess implementation of the PMA shows that agencies are making progress in implementing their goals. Overall, agencies have improved their performance in about half of the 130 management areas, up from only 15% in the President's Fiscal Year 2003 Budget. The Committee commends the Administration for their efforts to transform the Federal government into a performance driven organization.

Improved Financial Performance

The Committee is particularly interested in the initiative to improve financial performance, which includes accelerating financial reporting and reducing erroneous payments. In order for the performance of agencies to improve, Congress and Federal managers need timely, accurate, and reliable financial data so they can make informed funding and management decisions. The Office of Management and Budget (OMB), in conjunction with the Comptroller General, the Secretary of the Treasury, and the Director of the Office of Personnel Management, is leading the way on holding agencies to a higher standard for financial management. Most notably, OMB is challenging agencies to accelerate the filing of their audit reports of their year-end financial statements. The deadline moved from March 1 to January 30 for fiscal year 2002. For fiscal year 2004, agencies will file their financial statement by November 15, 2005, which is only 45 days after the end of the fiscal year and which represents a vast improvement over the five months that it used to take most agencies to close their books. For fiscal year 2003, eight of the 23 Chief Financial Officer Act agencies were able to produce reliable financial statements by the November 15 deadline, a full year ahead of schedule. The Committee is encouraged by this progress, however a great deal of work remains to be done.

The key to achieving financial management success is the implementation of reliable financial management systems that produce timely and accurate financial information. Since the inception of the requirement for the government's largest departments and agencies to obtain annual audits of their financial statements in fiscal year 1996, the number of clean audit opinions as well as the number of statements filed on time have both risen steadily. However, over the past two years, the number of clean opinions has started to level off. Upon deeper analysis of the agencies with clean opinions, the Committee has discovered that these clean opinions are rarely the result of consistent year round financial management founded on solid financial management systems. Rather, these clean opinions have more often been the result of year-end heroic efforts, which paralyze agencies as they shutdown to play catch up and recreate an entire year of financial transactions in just a few weeks. OMB is helping to end this cycle by requiring monthly and quarterly financial statements from agencies; however, many agencies still lack the financial management systems necessary to operate efficiently. The Committee will continue to monitor this situation and is interested in making certain that the Office of Federal Financial Management at OMB as well as the Offices of the Chief Financial Officers throughout the Federal government receive the funding necessary to make intelligent investments in financial management systems that will help them reach their peak financial performance. The potential savings that may be achieved are significant. Currently, the estimate of annual erroneous payments made by the Federal government is $35 billion. This estimate is based on spending of approximately $1 trillion dollars or half of the Federal budget. Of this $35 billion, about $30 billion is over payments and $5 billion is under payments. With the proper financial management systems and the appropriate financial management staff in place, erroneous payments could be reduced drastically and could result in between $25 and $50 billion in savings for the Federal government each year.

Budget and Performance Integration

A key facet of the PMA is the budget and performance integration initiative, which seeks to link budget decisions and program funding to performance results. As a result of this initiative, many agencies are now using program performance information to make better-informed budget and management decisions.

The Administration's efforts appear consistent with the Government Performance and Results. GPRA required the Federal government to become more accountable and to develop and operate by specific, performance-oriented "business plans." Through the budget and performance integration initiative of the President's Management Agenda, this Administration has placed an even greater emphasis on tying budget decisions to results. As part of this initiative, OMB has developed the Program Assessment Rating Tool (PART), which grades the performance of individual programs instead of agencies or departments.

The promise of the PART is not only to make better-informed budget-decisions, but also to improve the management of programs. PART reviews result in recommendations to agencies on how to improve the performance of their programs. The Administration is also using the PART to compare the performance and management of similar programs across government. This "crosscutting" analysis is an important step forward in making the information gleaned from the PART useful to decision-makers.

For the fiscal year 2004 budget, OMB used the PART to rate 234 Federal programs, representing over 20% of all Federal funding. Each program receives an overall PART rating of "Effective," "Moderately Effective," "Adequate," "Ineffective," or "Results Not Demonstrated," with an explanation of the assessment. In the fiscal year 2004 budget, approximately half (50.4%) of the 234 programs subject to PART evaluations were rated as "results not demonstrated," because of inadequate performance goals or the lack of data to provide evidence of results. Six percent of the programs reviewed were deemed "effective;" 24% were "moderately effective;" 14.5% were found "adequate;" and 5.1% were "ineffective." Few, if any, funding decisions can be directly tied to the fiscal year 2004 PART process.

An additional 20% of Federal spending, approximately 173 additional programs were evaluated via PART for the fiscal year 2005 budget. Also, approximately 80 programs that were evaluated for the fiscal year 2004 budget were re-evaluated for the fiscal year 2005 budget. With the release of the fiscal year 2005 budget, agencies in conjunction with OMB have now assessed the performance of approximately 400 Federal programs, representing more than $1 trillion in Federal spending. The latest PART results have shown significant improvement.

Of the 40% of programs that have now been reviewed: 37.1% or 152 programs were rated as “results not demonstrated;” 4.8% as “ineffective;” 20.5% as “adequate;” 26.3% as “moderately effective;” and 11.3% as “effective.” Unlike the PART evaluations included in the fiscal year 2004 budget, a number of funding decisions, including the termination of 15 Federal programs, totaling approximately $1.5 billion, can be directly tied to the PART information in the fiscal year 2005 budget. The Committee is very eager to see how the PART scores are used in the fiscal year 2005 budget and appropriations processes. The Committee also wants to make certain that OMB has the funding and staff necessary to follow up with the agencies on the program management recommendations made through the PART process.

Securities and Exchange Commission

As a result of recent high-profile corporate abuse scandals, the Congress, in passing the Sarbanes-Oxley Act, made the most significant changes to the Securities and Exchange Commission's (SEC) mission and mandate in 50 years. To remedy the problems repeatedly identified by the General Accounting Office and give the SEC the resources needed to administer Sarbanes-Oxley, the Administration and Congress have increased the SEC’s budget by 60% between fiscal years 2002 and 2004. The SEC has traditionally developed its annual budget request based on the previous year's appropriation and what it believed was the maximum budget authority OMB would provide, not on what was actually needed to fulfill its mission. The SEC has only recently begun a comprehensive strategic planning exercise to tie its resource needs to its ability to fulfill its mission. For fiscal year 2005, the Administration has proposed a funding level of $893 million for the SEC, which represents an $81 million increase over 2004. The Committee is encouraged to see that the Administration has continued its commitment to provide the SEC with the necessary funding it needs to hire additional accounting and examination staff. In an effort to help ensure that the SEC takes its new responsibilities under Sarbanes-Oxley seriously and to avoid a repeat of Enron, the Committee is closely monitoring the SEC’s use of its funding increases to implement its forthcoming strategic plan for protecting investors and the integrity of the financial markets.

Subcommittee on Human Rights & Wellness

The Department of Health and Human Services:

The U.S. Department of Health and Human Services is the largest department in the Federal Government. In FY 2005 budget estimates, HHS has requested a $31.469 Billion increase over FY 2004 ($543.245 Billion), resulting in a total outlay of $574.714 Billion in funding for HHS operations. The Committee recognizes the importance of a strong and well-funded National health agency, but would like to promote fiscal responsibility and sound financial oversight in all of the Department’s offices and initiatives.

Medicare & Prescription Drugs

On December 8, 2003, President Bush signed into law H.R. 2473, the 'Medicare Prescription Drug, Improvement, and Modernization Act of 2003' in an effort to provide seniors with access to affordable drug coverage, and improve medical benefits, as well as to improve and modernize the Medicare program. While the Committee appreciates the President's willingness to address the Medicare and prescription drug cost concerns articulated by our Nation's senior citizens, the Committee has ongoing reservations about the implementation and level of assistance that these initiatives provide.

According to the Administration's budget estimate, Medicare is now expected to spend approximately $534 Billion for prescription drugs under the new Part D program between 2004 and 2013. That represents a $139 Billion increase over the estimated cost of the program when the bill was passed just over two months ago. Independent estimates of the government's unfunded obligation for administering the new Medicare prescription drug benefit for the next several decades range from a low of $6 Trillion to a high of approximately $12 Trillion. Added to Medicare's already existing unfunded liability, currently estimated at $30 Trillion, the financial burden caused by the new Medicare Part D program is a cause of great concern for the Committee. Although the Committee does not deny the ever-increasing need to assist America's growing population of senior citizens with prescription drug costs, it believes that there are more fiscally responsible approaches to the problem that should continue to be explored by the Administration to ensure a fiscally sound system of health care for America's senior citizens.

One area the Committee strongly believes the Administration should investigate is the gross disparity in prescription drug costs between the United States and every other country in the world. While the Federal Government provides billions of dollars in direct funding, and through tax breaks and credits, every year to support pharmaceutical research and development, American citizens have been faced with the burden of paying the highest prescription drug prices in the world, compared to countries with similar Federal drug agencies, such as Canada. The Committee strongly encourages the Administration to allocate funds to the Food and Drug Administration (FDA) and other appropriate agencies towards the creation of a safe and cost-effective system to import less costly FDA-approved prescription drugs into the United States in order to lessen the financial burden of purchasing these life-saving medications.

National Institutes of Health

The Administration's FY 2005 budget proposal provides $28.607 Billion for the National Institutes of Health, an increase of $729 Million over the FY 2004 funding level. The Committee believes that it is an appropriate role of the Federal Government to invest in medical research to save lives and promote the Nation's health. To that end, the Committee believes it is very important to adequately fund scientific studies and advances in medical science in order to treat or cure diseases affecting millions of Americans and other citizens around the world. The Committee strongly supports the President's proposed increase for NIH. In addition, the Committee commends the Administration for their Roadmap for Medical Research initiative, designed to encourage innovative and unconventional research as a means of expediting the pace of scientific discovery.

The Committee is very pleased that the Budget allows for an additional $134 Million allotment to the National Cancer Institute, resulting in a FY 2005 budget of $4.870 Billion. Although some significant progress has been made in treatment and in the long search to find a cure for cancer, it continues to be a deadly killer. Currently, cancer is the Nation's second most common cause of death, killing approximately 556,000 Americans every year, which accounts for approximately 23 percent of all deaths in the United States. In addition, it is estimated that the cancer epidemic will afflict 1 out of every 2 American men, and 1 out of every 3 American women at some point in their lives, and is the only major cause of death that has continually increased in the last 50 years. The Committee commends the Administration for allocating increased funds to combat the deadly scourge of cancer.

The Committee is encouraged that the National Institute of Mental Health has begun to explore the causation and treatment of Autism and Autism Spectrum Disorders, but the Committee believes that more aggressive study of these mysterious neuro-developmental disorders is in order. Credible scientific estimates indicate that as many as1 in 250 children in this country are currently afflicted with an Autism Spectrum Disorder, and the problem is continuing to grow. Because autism is non life-threatening, the care of autistic individuals often becomes a great financial burden to American families, as well as governmental entities, health agencies and special education providers. It is the opinion of the Committee that further research into the treatment and prevention of autism is imperative in an attempt to decelerate the explosive occurrences and increased financial implication to families and the government of these devastating disorders.

Health Information

The Administration's FY 2005 budget proposal provides an increase of $22 Million, or 17 percent, for the National Center for Health Statistics for the purposes of strengthening the collection of health care data. The Committee supports this increase and agrees that there is a distinct need for reliable health statistics, as the information provided greatly assists policy-makers, health agencies, and the general public with making pivotal health care choices.

The Committee is particularly interested in utilizing the proposed Budget increase to further study the growing National epidemic of autism. Currently, Autism Spectrum Disorders afflict approximately 1.5 million individuals, and incidences are expected to increase to 4 million in less than 10 years. Because of the wide-spread health care and societal implications of these neuro-developmental disorders, the Committee strongly encourages the National Institute of Mental Health to devote appropriate resources to the study and collection of data on this problem.

Breast and Cervical Cancer Screening

Numerous government-sponsored and private research studies have concluded that early detection of breast and cervical cancers increase the five-year survival rate to 97% for those diseases. However, many low-income and underprivileged women are still unable to afford the costs associated with proper screening. The Administration has provided a $10 Million increase for breast and cervical cancer screening programs in its FY 2005 budget proposal in order to provide an additional 32,000 cancer screenings for America's underserved population. The Committee praises the Administration's efforts in regard to this critically important health care initiative.

State Children's Health Insurance Program

The State Children's Health Insurance Program (SCHIP) was established in 1997 to provide $40 Billion over ten years for health assistance for underprivileged children. Under this program, the Vaccines for Children Program (VFC) provides free vaccinations for economically disadvantaged youth based on the FDA's Advisory Committee on Immunization Practices. The Administration's FY 2005 budget proposal calls for the VFC to increase their operations and provide more children with immunizations. The Committee commends the Administration for their focus on children's health matters and urges the Administration to examine whether vaccinations provided under or purchased for the Vaccines for Children Program can be provided free of Thimerosal, a Mercury-based vaccine preservative. Witnesses testified before the Committee about the possible effects of Thimerosal in vaccines and the scientific community continues to conduct research to determine whether Thimerosal in vaccines is a contributing factor to neurodevelopmental disorders among children, such as autism, attention deficit hyperactivity disorder, and speech or language delay.

Mercury in Medicine

The Committee has conducted ongoing oversight into the possible detrimental health effects of the use of Mercury, a known neurotoxin, in medicine. In July 1999 the Public Health Service (PHS) agencies, the American Academy of Pediatrics (AAP), and vaccine manufacturers agreed that Thimerosal should be reduced or eliminated in children's vaccines as a precautionary measure. Routinely recommended licensed pediatric vaccines that are currently being manufactured for the U.S. market contain no Thimerosal or only trace amounts. The sole exception is one of two injectable available flu vaccines approved for pediatric use. The Committee urges United States Health Agencies to continue to examine the scientific evidence regarding Mercury to determine whether Mercury should be eliminated from all vaccines and dental amalgams.

The Department of State

The Committee welcomes the increase in foreign operations provided for by the President's FY 2005 budget request. The continuing threat of international terrorism, the humanitarian crises fostered by the growing trafficking in persons, and other international scourges warrant a substantial increase in U.S. assistance overseas. Overall, the Committee supports the 2005 budget proposal of $30.4 Billion for the Department of State (and related international affairs agencies) as an important foundation of our efforts to eradicate international terrorism, strengthen our national security, and promote United States foreign policy initiatives. The Committee also supports the President's commitment to securing all overseas embassies and posts to protect U.S. Government employees and their families.

Diplomatic and Consular Programs

The FY 2005 budget proposal provides for a $65 Million increase for Diplomatic and Consular Programs for a total of approximately $4.285 Billion. The Committee supports this increase in funding. In this post-September 11th world, U.S. diplomatic and consular operations around the world are on the front line in the battle to protect American citizens abroad and preserve international peace. It is critically important that they receive adequate funding to carry out their missions. However, the Committee trusts and expects that a portion of these funds will also go to directly assist in the safe return of American citizens illegally abducted from the United States to foreign nations.

Trafficking in Persons

The most up-to-date data suggests that approximately 27,000,000 men, women, and children are currently enslaved around the world, and estimates are that 800,000 to 900,000 individuals were trafficked across international borders last year alone. The Administration has proposed $5 Million to target anti-trafficking activities in Tier 2 and 3 Nations as identified by the Department of State's 2003 Trafficking in Persons Report. These funds will go to support victim protection initiatives, develop anti-trafficking legislation, strengthen law enforcement and civil society collaboration to combat trafficking, and support investigative and prosecutorial capacity-building. The Committee strongly supports these efforts, and would encourage increased funding of anti-trafficking initiatives in order to have a sustainable impact overseas.

Broadcasting Board of Governors

The Committee supports the United States' efforts to promote the open communication of democratic ideals and information worldwide. While the

Administration has reduced the budget estimates for this program from FY 2004 ($580.292 Million) to FY 2005 ($533.111 Million), the Committee applauds the increase in funding for U.S. broadcasts to Cuba totaling nearly $3 Million above the actual expenditures in FY 2003. The Committee strongly supports any initiative to promote democracy and freedom on the island-nation. The people of Cuba are a liberty and freedom-loving populace who have labored too long in fear under the totalitarian rule of Communist Dictator Fidel Castro. The Committee encourages the Administration to continue United States efforts to bring about a timely transition to democracy in Cuba, and strongly supports the President's comprehensive Cuba initiative.

National Endowment for Democracy

The Committee recognizes that freedom is a natural human aspiration and it supports efforts to promote freedom and democracy around the world. Nevertheless, the Committee is concerned about the dramatic increase in funding requested for the National Endowment for Democracy. The Committee is skeptical of the viability and effectiveness of this initiative to-date and does not believe the program warrants an increase in funding. The Committee believes that the proposed funding level for FY 2005, approximately $80 Million, is excessive as it nearly represents a doubling of the FY 2003 ($41.727 Million) and the FY 2004 ($39.579 Million) levels. The Committee would encourage the Administration to reconsider this priority funding level and the program's overall effectiveness.

The Department of Education:

The Department of Education budget requested by the President totals $57.339 Billion for FY 2005, an increase of $1.689 Billion from FY 2004. With the commitment of the Administration to "leave no child behind" academically by raising educational standards, holding low-performing schools accountable for advancing the needs of all students, and expanding parental choice, increased funds for these operations are entirely appropriate. The Committee generally approves of the President's request for more funding for educational initiatives to benefit America's children, and to properly educate and train the next generation of America's leaders.

Individuals with Disabilities Education Act

The Committee applauds the efforts of the Bush Administration with regard to the special education needs for students with disabilities. Envisioning many of the same principles as the 'No Child Left Behind Act', the 'Individuals with Disabilities Education Act (IDEA)' has committed the Department of Education to ensuring that the academic achievements of disabled students are maximized. Currently, over 6.5 million children are enrolled in special education programs and services, and the IDEA program has assisted in the assimilation of many of these students to regular classrooms (nearly 50% of special education students spend 80% of their school day in regular classrooms, and 96% of special education students now attend regular schools). Given the achievements of this program, and the regrettably ever-increasing population of special needs children, the Committee is favorably inclined to the $1 Billion increase allotted in the budget for IDEA, which totals $11.1 Billion for FY 2005.

School Choice

The 'No Child Left Behind Act' (NCLB) not only provided the framework for higher academic expectations for students, but also for academic institutions. Under NCLB, any student whose school fails to meet academic achievement goals during two consecutive years is allowed to transfer to a better school. The FY 2005 budget provides a $219 Million allotment for the establishment of Charter schools where low-performing schools are located in order to give students real choice in terms of their education. The Committee stands by the Administration's commitment to school choice, and agrees that American children should be afforded every opportunity to advance academically, regardless of income or socio-economic condition.

Subcommittee on National Security, Emerging Threats, and International Relations

Winning the War on Terrorism

The *Fiscal Year 2005 Budget of the United States Government* divides the war into three categories—"Taking the Fight to the Terrorists," "Spreading Freedom and Democracy," and "Making the Homeland More Secure." Despite creation of the Department of Homeland Security, many other US government agencies are still involved in winning this war, both overseas and here at home. It remains difficult to discern spending totals or trends in government-wide spending to combat terrorism because reorganization, changing terms of reference and "improved agency analyses" make year-to-year tracking all but impossible. Consequently, this massive infusion of money poses a substantial risk of fraud, waste and duplication, particularly in the areas of technology research and development.

To secure the homeland the Administration is requesting $40.2 billion for FY 2005. This is an increase of 10 percent above the comparable FY 2004 resource level. The budget substantially increases funding for DHS from 2003—the year that the Department was created—and continues the growth for agencies that are now a part of DHS. The President's budget as a whole demonstrates the continuing priority placed on homeland security in requesting new government-wide discretionary resources for FY 2005 of $30 billion. This is an increase of 9.7 percent above the comparable FY 2004 resource level.

The Department of Homeland Security budget for fiscal 2005 includes $46 million for port security grants designated specifically for area maritime vulnerability analysis and security plans. The Coast Guard will administer this grant under the Maritime Transportation Security Act. Based on oversight hearings on port security issues, this may be an insufficient commitment to meet an acknowledged threat.

The Department of Health and Human Services budget request includes $5 billion for State and local governments and hospitals to improve bioterrorism attack preparedness. As in the past, the Committee supports development and deployment of sensor and warning capabilities. However, the Committee is concerned by the appearance funding for these terrorism-specific surveillance systems comes at the expense of the broader public health infrastructure improvements effective against all threats, both natural and manmade. The choice between terrorism-specific and general purpose public health surveillance capacity is a false one, and the functions should be more effectively merged in budgeting and planning to avoid this needless conflict.

In order to make more informed budgeting decisions, support management, identify design problems, and promote performance measurement and accountability of government wide programs; the Administration is using the Program Assessment Rating Tool (PART).

The Committee welcomes use of the tool and encourages application of the assessment to a broader array of counter terrorism programs. For example, a DHS Office of Domestic Preparedness grant program received the rating "Results Not Demonstrated." Applying the PART to the full range of first responder grants would give a clear indication of effectiveness and support the call for rapid articulation of preparedness standards (rather than static population formulae) to guide future spending on these programs.

The Committee also recommends increased oversight of antiterrorism and counterterrorism spending throughout the federal government. Specifically, agency inspectors general should be given increased budget resources to reflect the increased need for audits and program review in this area.

Although the budget of the Intelligence Community remains for the most part classified, processes for the analysis and dissemination of sensitive information are at the core of efforts to enhance domestic security against foreign threats. According to the budget, allocations for intelligence and warning activities in support of homeland security missions will increase from $268.7 million to $474.1 million in FY05. However, fusion and analysis of "all source" intelligence still appears hampered by administrative and cultural legacies and bureaucratic stovepipes. The operational relationship between the Terrorist Threat Integration Center, housed within the CIA rather than DHS, the FBI Office of Intelligence and the Technical Support Center is far from clear. In addition, the Committee is concerned the Homeland Security Advisory System (of color coded threat levels) does not yet convey specific enough information to first responders or the public about the nature of the threat or steps that should be taken to mitigate risks.

DOD Chemical-Biological Defense Program (CBDP)

The Chemical and Biological Defense Program (CBDP) is responsible for research, development, acquisition and fielding of chemical, biological, radiological and nuclear defense equipment and medical countermeasures. The overall FY05 budget request for the Chemical-Biological Defense Program however is $638 million, but without a more specific breakdown within that program total it is not possible to determine if priorities match chemical and biological threats to U.S. forces.

CBDP has many chemical and biological defense contamination avoidance systems, individual and collective protection systems, and decontamination systems under various stages of development and assesses each program to determine how each system performs in comparison to stated program goals. The Chemical Biological Defense Program is required to develop requirements, and assess and evaluate CB defense equipment programs. DOD's chemical and biological defense research and testing efforts are not focused to resolve persistent problem areas evaluated at moderate or high risk in the Annual CBP Report to Congress. As a result, the Committee still has concerns regarding DOD's ability to operate effectively and safely in a chemically or biologically contaminated environment.

Specifically, questions remain whether budget requests are sufficient to support procurements at levels needed to meet established requirements for IPE (individual protection gear: suits, masks, filters, boot and gloves). Shortages of current-generation chem/bio protective suits and body armor reflect the apparent disconnect between projected requirements and on-hand inventories.

DOD Weapon System Acquisition

Fiscal year 2005 procurement of new weapon systems would shrink from $75.3 billion to $74.9. DOD is funding $4.7 billion for the F-22 Raptor and $4.6 billion for the F-35 Joint Strike Fighter (JSF) aircraft.

The two-decade old F-22 program for replacing the F-15 will cost an estimated $71 billion over the life of the program. Currently, the F-22 program is in the third year of its five-year Low Rate Initial Production phase. The program continues to run the risk of cost overruns due to development problems including avionics reliability. In FY04 the Air Force shifted $763 million from the F-22 procurement account for fixes, and reduced again the planned F-22 purchase from 339 to 276 aircraft.

The Joint Strike Fighter program is 10 years old and DOD's most expensive weapons program. The JSF program is envisioned to be a low-cost family of aircraft with about 80 percent common parts for the Air Force, Navy and Marine Corps variants. Currently, the program is at significant risk for weight growth for all three models and in particular the Marine Corps variant. Failure to control weight and configuration changes early in the program could mean stretching the development phase and eventually building fewer aircraft that are less capable and more expensive.

DOD-Missile Defense Agency

A number of countries hostile to the United States and its allies have or will soon have strategic or tactical missiles capable of delivering nuclear, biological, or chemical weapons. To counter this threat, the Missile Defense Agency (MDA) is developing a system to defeat ballistic missiles.

The DOD Missile Defense Agency budget request for FY 05 is $9.169 billion or a net increase of $1.522 billion over the FY 04 request. The Missile Defense Agency (MDA)'s mission is to develop, test and prepare for fielding a missile defense system.

MDA expects to spend $50 billion over the next 5 years to develop and field this system. A significant portion of these funds will be invested in the Ground-based Midcourse Defense (GMD) element. To field elements as soon as practicable, MDA has adopted an acquisition strategy whereby capabilities are upgraded as new technologies become available. Given the risks inherent to this strategy, if technologies do not achieve their objectives during testing, MDA may have to spend additional funds in an attempt to identify and correct problems or accept a less capable system.

DOD Financial Management

The Department of Defense (DOD) continues to make inadequate progress toward auditable financial statements. DOD's Financial Management Modernization program and the development of an enterprise architecture to streamline and consolidate approximately 2300 financial management information systems are efforts to implement a system of controls and procedures to properly prepare the departments consolidated financial records and produce auditable financial statements. DOD has targeted FY07 for achieving auditable financial statements.

DOD does not provide a detailed funding breakdown for the development and acquisition of information technology systems. Given that DOD has an enterprise architecture effort underway, the Committee recommends financial management IT projects under development be reviewed to determine if funding should continue and to ensure incompatible systems do not continue to proliferate. DOD estimates that elimination of redundant legacy systems and improvements to the Department's business operations could result in annual savings up to 5% of the annual budget, or more than $20 billion.

DOD Office of the Inspector General (OIG)

The DOD IG budget request for FY05 is $244 million or a net increase of $57.1 million over the FY04 request. A DOD priority goal is to produce clean and auditable consolidated financial statements by FY07. The responsibility to support and approve financial statements for the military services was transferred to the DOD IG in FY04. As a result, the DOD Inspector General now has the responsibility to support and approve all DOD financial statements. The $57.1 budget increase request for FY05 is to carry out these new program responsibilities and support the priority goal of auditable and clean financial statements for the Department of Defense by FY07.

DOE National Nuclear Security Administration (NNSA)

A mission of the NNSA is the physical protection of Special Nuclear Material and vital equipment, sensitive information, DOE property and unclassified facilities. Included are buildings, fences, barriers, lighting, sensors, surveillance devices, entry control devices, access control systems, explosive detection systems, power systems and other real property and hardware designed for, or affecting security. This hardware and equipment are operated to support the protection of the nuclear weapons complex. The Committee believes the NNSA physical security program is seriously under-funded and supports the Department's budget request of $81.032 million, or a 44% increase over the FY04 request.

However, NNSA has not been fully effective in managing its safeguards and security program in four key areas: 1) NNSA has not defined clear roles and responsibilities between NNSA headquarters and site offices. 2) NNSA cannot be assured that all facilities are subject to the comprehensive annual assessments required by DOE policy. 3) Contractors' corrective actions have not been adequately monitored. 4) NNSA has shortfalls at site offices in the total number of trained staff, which could make it more difficult to oversee security activities effectively.

Increased funding should be used by DOE to correct longstanding shortfalls in the safeguards and security program and to shorten considerably the timeline for facility compliance with the new, post-9/11 Design Basis Threat requirements.

DOD/DOE Cooperative Threat Reduction (CTR)

The Department of Defense (DOD) and the Department of Energy (DOE) have requested a total of $1.509 billion for FY05 for nonproliferation activities for facilitating the elimination, transportation and storage of material and weapons of mass destruction in the former Soviet Union (FSU).

The Committee recommends CTR program monitoring include the development of performance standards to meet national security objectives.

DOS Embassy Security and Construction

Last year, the Committee applauded the addition of funds to construct and upgrade secure diplomatic facilities. The Committee continues to support the budget request for new embassy security, construction, and maintenance, an increase of $118 million to $1,539 million, and applauds the high ratings the Department of State program continues to get from the Program Assessment Rating Tool (PART). The Committee also supports the creation of the new Capital Security Cost Sharing Program which promises to spread the real cost of doing business overseas among all agencies fairly. However, with a 2.8% cut of $18 million and 33.7% cut of $33 million to the U.S. Agency for International Development (USAID) operating expenses and capital investment fund, the Committee has serious concerns about the ability of USAID to support necessary security upgrades and construction. USAID is required to collocate new construction on new embassy compounds with the Department of State and other agencies. USAID currently lacks the funds to begin necessary construction at the same time as the Department of State. This lack of coordination invites waste and increases construction expenses. Further cuts will only exacerbate the cost to the U.S. taxpayer. Better coordination could save up to 20% of the USAID construction budget, or up to $50 million over four years. Moreover, USAID personal remain at risk as long as they remain in insecure facilities.

DOS Rightsizing the U.S. Presence Overseas

For the past three years the Committee has expressed concerns about the direction of rightsizing initiatives – the ability to place the right people with the right skills in the right jobs at the right times – first addressed by the Overseas Presence
Advisory Panel. The inclusion of rightsizing as part of the President's Management Agenda in 2001 was welcome. Nevertheless, following an extensive oversight investigation and adoption of a Committee Report, the Committee remains concerned about the commitment of the bureaucracy to rightsizing initiatives. For example, while the Committee supports the $44 million request for 183 additional staff positions, the Committee remains skeptical of the Department of State's ability to do a thorough analysis of all current staff positions and properly "rightsize."

DOS Public Diplomacy

Spreading freedom and democracy is one of the Administration's three pillars of the war on terrorism. Public diplomacy is one of the cornerstones of the U.S. ability to relay the benefits of freedom and democracy. Last year, the Committee expressed support for the creation of the Middle East Radio Network and Television Network, but concern about the lack of a strategic focus to public diplomacy efforts. The Committee reiterates these views, and adds additional concerns about turnover in leadership of public diplomacy efforts, an inability to staff senior posts that has further hampered U.S. initiatives, a lack of language skills, and an overall lack of progress in creating an effective public diplomacy strategy. Moreover, the Broadcasting Board of Governors (BBG) lacks useful performance measures and has only been rated as moderately effective by the Program Assessment Rating Tool (PART). A key player in public diplomacy, BBG should develop effective metrics. In addition, while it is difficult to assess the aggregate amount of diplomatic and consular program funding that will be spent on public diplomacy efforts, the Committee expects a meaningful portion of the $65.3 million increase in those accounts should be spent to enhance U.S. public diplomacy.

DOS Entry-Exit Programs

The Committee supports the emphasis on securing the immigration system, spending over $1 billion to support the new United States Visitor and Immigrant Status Indicator Technology (US VISIT) program, and the many strides that have been made by the Departments of Homeland Security and State. However, the Committee has serious concerns about the ability of both departments and the Federal Bureau of Investigation to properly coordinate border security initiatives. For example, months after bringing to light a potential loophole in the visa revocation system, the Committee has seen little effort from the agencies to coordinate and agree on a potential solution. The Committee is also concerned about the lack of enforcement agents to prioritize and find those who enter the country and break our immigration and entry laws, particularly those that may pose a terrorist threat. Despite a requested $1.2 billion increase for border and transportation security, there appears to be no effort to increase the number of agents to track potential threats already resident in the homeland.

VA Health Care Programs

Initiatives to build a workable crosswalk between DOD and VA health systems will be put to the test as Operation Iraqi Freedom veterans begin to attempt the trip. The Committee notes increased funding for this purpose and encourages sustained high level management attention in order to achieve measurable progress toward benchmarks and program goals.

The Committee commends the Administration and VA for taking steps to reduce waiting lists for veterans in need of medical care in 2004. However, the Committee continues to oppose the exclusion of Priority Level 8 veterans from enrolling if they have not been using VA medical care. As a short-term management tool, closing enrollment may easy some operational and budget pressures. But in a system moving toward facility funding based on patient loads and capitation formulas, use of the tool masks long-term trends and needlessly delays long-term solutions.

As in the past, the Committee applauds the VA initiative to focus on screening, testing and treatment of veterans exposed to the hepatitis C virus. Early detection and diagnosis of hepatitis C infection, which occurs at higher rates in the veteran population, is a prudent step in improving health and controlling demand for higher-cost approaches such as liver transplants.

VA/HHS Strategic National Stockpile

The Committee supports the proposal by the Administration to transfer funding for the National Pharmaceutical Stockpile to the Department of Health and Human Services (HHS). The Committee believes HHS has the expertise and experience needed to manage and maintain the stockpile effectively. The Committee also supports the plan by the Administration to increase the amount of antibiotics included in the stockpile for use in the event of anthrax exposures.

HHS Project BioShield

The Committee supports the Administrations commitment of $2.5 billion to develop next-generation biological warfare countermeasures, particularly modern vaccines against anthrax and smallpox. These vaccines should be safer, purer, and better able to provide protection against genetically modified organisms. However, the adequacy of this funding level, and the adequacy of the proposed BioShield mechanisms to allocate those funds against the most urgent threats, remains subject to question.

Procurement of countermeasures against top-level threats – botulinum toxin, ricin, radiation – appear to be foundering while development of therapies against far more esoteric agents, i.e. Ebola, seem to receive attention disproportionate to their threat profile. The Committee is also concerned that development of separate countermeasures for military force protection invites duplication and waste and risks using military service members as test subjects for unproven therapies without their informed consent in an inherently coercive setting.

Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs

Regulatory Accounting Statement and Associated Report.

Current law requires that the Office of Management and Budget (OMB) submit an annual regulatory accounting statement and associated report "with" the President's Budget (Section 624 of the Treasury and General Government Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-161). This report is required to present the costs and benefits of Federal rules and paperwork in the aggregate, by agency, and by agency program. Additionally, this report is required to present an analysis of the impacts of Federal regulation on small business, and on State and local governments. Congress established this simultaneous deadline so that Congress and the public could be provided an opportunity to simultaneously review both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public.

Last year, OMB published its report in the *Federal Register* on the same day as release of the President's Budget, which prevented a side-by-side comparison for analytic purposes of the on-budget and off-budget costs associated with each major regulatory agency and each of its regulatory programs. This year, OMB did not submit the required report on the same day as release of the President's Budget~~,~~ which prevents Congress from using it at this point to analyze the full impact of the President's Budget for the major regulatory agencies and their programs.

On June 11, 2003, the "Paperwork and Regulatory Improvements Act" (H.R. 2432) was introduced, a bi-partisan bill to increase the probability of results in paperwork reduction, assist Congress in its review of agency regulatory proposals, and improve regulatory accounting. It would require OMB to submit its annual report "as part of" the President's Budget.

<u>President's Six-Point Economic Growth Plan.</u>

The Committee is pleased that the President's six-point economic growth plan includes "4. Streamlining regulations and reporting requirements" (Budget, p. 10). The Budget accurately states, "Government regulations and reporting requirements, although in many cases providing important public benefits, also impose enormous costs on the economy. To an extent, those costs are unavoidable, but they cost jobs as well as money, and so Government has a responsibility to ensure that its regulatory actions are reasonable and affordable. Too often, government regulations and compliance burdens unnecessarily discourage, rather than promote, job creation" (Budget, p. 32).

The Tax Expenditures chapter in the Analytical Perspectives volume accurately states, "Regulations have more direct and immediate effects than outlay and tax-expenditure programs because regulations apply directly and immediately to the regulated party ... generally in the private sector. Regulations can also be fine-tuned more quickly than tax expenditures, because they can generally be changed by the executive branch without legislation" (p. 301). To meet the President's fourth Economic Growth Plan component, the Committee encourages the Administration to complete its previously-identified regulatory reviews and to continue to undertake additional regulatory streamlining initiatives.

The Budget indicates one savings of 61 million paperwork hours on a base of 8.2 billion hours (p. 32). In fact, paperwork has increased in each of the last seven years, with the largest increases in the last two years. Around tax time each year, the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs holds its annual paperwork reduction hearing. To date, the Administration has not yet identified specific initiatives to make a dent in the enormous paperwork base, and, until it has done so, the President's economic growth plan cannot be realized in this important area.

Office of Information and Regulatory Affairs (OIRA) in OMB.

In the Budget, the Administration requests a three-part financial restructuring of the budget accounts for the Executive Office of the President (EOP) (p. 351). The first part asks for consolidation of various budget accounts, not including OMB. The second part calls for a 10 percent transfer authority among various budget accounts, including OMB. The result could be a substantial increase or decrease in OMB's budget. The committee is concerned that such a change could undermine effective oversight of EOP agencies, including OMB generally and OIRA specifically.

This year's Appendix includes budget line items for each of OMB's statutory management offices, including OIRA (pp. 954-5). The Committee supports an increased budget for OIRA if the additional funds are specifically devoted to implementation of laws enacted by Congress, including: (1) the Paperwork Reduction Act (PRA) (which established OIRA in 1980, whose principal responsibility is paperwork reduction); (2) the 2000 Regulatory Right-to-Know Act (which requires an annual regulatory accounting statement and associated report on impacts to be submitted with the President's Budget); and (3) the 2002 Small Business Paperwork Relief Act (SBPRA) (which levied various requirements on OMB and the agencies, many of which have not been met).

As indicated above, current law requires that OMB's annual regulatory accounting statement and associated report be issued "with" the budget. The two-paragraph Regulation write-up in Analytical Perspectives Subchapter entitled "Non-Budgetary Activities" mentions the annual regulatory accounting report but does not mention this same-day publication requirement (p. 347).

During the last six years, the Committee has conducted substantial oversight on paperwork reduction, regulatory accounting, small business relief, and other regulatory issues. OMB's annual Information Collection Budget (ICB) reports have shown limited paperwork reduction accomplishments and plans. OMB's regulatory accounting reports are improving but still noncompliant with the law's specific requirements. For example, last year's report included no associated report on the impact of Federal rules and paperwork on small business and on State and local governments, and the report was not presented as an accounting statement, all of which is required by law.

Lastly, OMB's oversight of government-wide implementation of SBPRA needs improvement. A January 28, 2004 hearing revealed that 14 Federal agencies still do not have a single point of contact for small business (statutorily due June 28, 2003), OMB has still not indicated compliance assistance resources for regulatory and paperwork requirements for 18 agencies (statutorily due June

28th), and 42 of the 69 applicable agencies have not yet submitted their regulatory enforcement reports on penalties reduced or waived for regulatory or paperwork violations (statutorily due December 31st).

Moreover, despite the PRA goal of annual 10 percent or 5 percent reductions in the public's paperwork burden from 1996 to 2001 and the 1999 Treasury-Postal Appropriations Act requirement for OMB to identify specific paperwork reduction accomplishments expected in fiscal year (FY) 1999 and FY 2000, paperwork actually increased (versus decreased) in each of the last seven years. Since the Internal Revenue Service (IRS) accounts for over 80 percent of all paperwork burdens and since OIRA continues to devote only one employee part-time to IRS oversight, the Committee requested OMB to increase OIRA staffing devoted to IRS oversight. OMB has not done so. As a consequence, the July 2002 House Report 107-575, which accompanied the Treasury, Postal Service, and General Government Appropriations, 2003 bill, provided, "The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork." Nonetheless, OIRA continues to devote one employee part-time to IRS paperwork, and has provided no evidence of any IRS paperwork reduction results due to OIRA's staff.

The Committee applauds OMB's September 17, 2003 Circular A-4, "Regulatory Analysis," which should greatly improve the quality and consistency of agency cost-benefit analyses. The Committee is especially impressed by its discussion of alternative regulatory approaches, including: different choices defined by statute, different compliance dates, different enforcement methods, different degrees of stringency, different requirements for different sized firms, different requirements for different geographic regions, performance standards rather than design standards, market-oriented approaches rather than direct controls, and informational measures rather than regulation (pp. 7-9). In addition, the Committee continues to applaud the Administration's prompt and return letters, especially for agency regulatory proposals without consideration of a full range of alternatives or without a cost-benefit analysis that is consistent with the requirements in OMB's new Circular.

<u>Management Improvements.</u>

The Committee applauds the Administration's management improvement initiatives in the paperwork and regulatory areas, including: (a) the Small Business Administration's (SBA's) "BusinessLaw.gov" website that "[e]stablishes an online single-point-of-access to help businesses comply with Federal regulations" (Budget, p. 331); (b) SBA's E-Forms Portal project that "will be a single location where Government forms used by businesses and citizens can be found. The E-Forms Portal will also create a common Government-wide infrastructure for managing forms" (Budget, p. 336); and, (c) the Environmental

Protection Agency (EPA) created "Regulations.gov" website that "makes it easier for citizens and businesses to easily find, review, and submit comments on proposed rules in the Federal Register" (Analytical Perspectives, p. 162). During the Subcommittee's July 2003 and January 2004 joint hearings with Mr. Schrock's Small Business Subcommittee on SBPRA implementation, the subcommittees encouraged the Administration to do more to assist small businesses still without Internet access.

In addition, the Committee applauds the Administration's continuation of its Program Assessment Rating Tool (PART) to evaluate Federal programs, including their strengths, weaknesses, and actual results produced by individual programs. This vehicle greatly assists Congress in making decisions about the continued expenditure of taxpayer funds.

This year's Analytical Perspectives volume includes evaluations for an additional 20 percent of the Government's programs. OMB rated only 40 percent of the programs it reviewed as "effective" or "moderately effective" (p. 9). The Committee is pleased to see incremental progress from last year's ratings by OMB: effective (6 percent), moderately effective (24 percent), adequate (15 percent), ineffective (5 percent), and "results not demonstrated" (50 percent).

This year's PART reviewed 25 "regulatory based" programs, including 17 within the Subcommittee's jurisdiction. This includes five in the Department of Labor (DOL), three in the Department of Agriculture (USDA), two each in EPA and the Nuclear Regulatory Commission (NRC), and one each in the Department of Commerce's National Marine Fisheries Service (NMFS), the civilian side of the Department of Defense, the Department of the Interior (DOI), the Department of Transportation (DOT), and the Consumer Product Safety Commission (CPSC). OMB rated three of the 17 as "effective," three as "moderately effective," six as "adequate," and five as "results not demonstrated." This is not encouraging.

However, for the three regulatory programs rated "effective" – USDA's APHIS plant and animal health monitoring programs, NRC's fuel facilities licensing and inspection, and NRC's reactor inspection and performance assessment - the Committee supports the proposed Budget increases (50.9 percent, 62.5 percent, and 63.5 percent, respectively) for each of them. The range of proposed budgets for the other 14 rated regulatory programs was from a budget increase of 7.9 percent to a budget decrease of 7.7 percent.

With respect to other management areas, the President's "Executive Branch Management Scorecard" assigns failing grades in four of the five covered management areas to DOI and the Corps of Engineers (each up from five of five last year) and three of the five areas to USDA (up from four of five last year) (Budget, p. 51). The Committee is pleased with the progress but, overall, find this troubling.

Port Security

This year's Budget continues to inadequately fund port security enhancements, including needed infrastructure improvements at the nation's ports. The *Analytical Perspectives* volume summarizes that "[t]he 2005 Budget provides nearly $2 billion for port security, including $1.7 billion for Coast Guard activities … and nearly $50 million for port security grants. This includes over $100 million in new funding for the Coast Guard to develop and approve port security plans" (p. 29) (also see *Budget*, pp. 163 & 166-7 and *Appendix*, pp. 470 & 485).

On April 24, 2003, the Subcommittee held a hearing entitled "What Regulations are Needed to Ensure Port Security?" In follow-up to needs expressed during the hearing, on May 21st, Subcommittee Chairman Doug Ose introduced the bi-partisan "Port Security Improvements Act" (H.R. 2193). Section 3 of this bill provides that a portion of Custom duties collected at ports to be dedicated for five years to port security enhancements, including infrastructure improvements at the nation's ports. The bill's 5-year funding level of $3.3 billion was based on the Coast Guard's December 2002 10-year estimate of $6.0 billion. On October 22, 2003, the Coast Guard issued a revised 10-year estimate of $7.3 billion. Therefore, the bill's funding level should be adjusted upwards. Under the bill, funding to duty-collecting ports and their facilities and vessels will flow through the Department of Homeland Security, which by law must review and approve each Area Maritime Transportation Security Plan, Facility Security Plan, and Vessel Security Plan. The distribution within a port would be based on the approved Area Maritime Transportation Security Plan. On November 20th, the Transportation and Infrastructure Subcommittee on Water Resources and Environment considered H.R. 2193 during a hearing.

Agriculture

The Committee supports "more efficient project analysis under the Healthy Forests Initiative" and increased funding for USDA and DOI for fuels reduction and fire suppression management (Budget, p. 65). The Administration's commitment to "ensuring that fuels reduction activities are adequately targeted and efficiently managed" (Budget, p. 71) is encouraging, and is especially important given the recent devastating fires in the West. Also, the Committee applauds USDA's new procedures, which "focus on cost containment strategies in suppressing wildfires and eliminating unnecessary expenses; establishing clearer financial management accountability of personnel; and providing for improved controls and incentives for suppression costs" (Budget, p.72).

The Committee supports the goal of opening international markets for American farmers and producers (see Budget, p. 66); however, the Committee urges the Administration to negotiate sanitary and phytosanitary standards prior to finalizing any trade agreement. Failure to do so may hinder the ability of American producers, especially American specialty crop producers, to export their products to recently opened markets.

The Committee supports funding to enforce USDA and Food and Drug Administration (FDA) regulations designed to prevent the introduction or spread of mad cow disease (see Budget, p. 67). In regard to funding for the development of an animal identification system, it is important to set standards, rather than prescribe a system, in order to accommodate for future technology. In addition, The Committee supports increased funding to "enhance efforts to quickly respond to food contamination or plant and animal diseases and infestations" (Budget, p. 67).

The Committee supports the proposed decrease in funding for the Commodity Credit Corporation's Bioenergy program, given that "[o]ther efforts have a greater impact on stimulating increased ethanol production" (PART, p. 6). The majority of the funds, if not all of the funds, should be dedicated to promoting biodiesel production, rather than to promoting ethanol production.

In this year's PART, OMB rated the Rural Utilities Service's (RUS) Rural Utility Loans and Guarantees program as "results not demonstrated." OMB stated, "RUS electric loans are not provided in such a way that would focus the support to areas of greatest need and do not always go to rural areas" (PART, p. 27). As a consequence, the RUS Electric Loan Program is included as one of the major reductions in the 2005 Budget. The Committee agrees with this proposed reduction and do not support an increase in the RUS budget. Instead, the Committee supports USDA's plan to "complete an analysis of electric loans made in 2002 and 2003 to determine the characteristics of the communities to which the loans are going, who the loans are supporting, benefits derived from the loans by the communities, and how many loans and dollars are going to support poverty areas" (Appendix, p. 156). On June 16, 2003, the Committee requested that the General Accounting Office (GAO) conduct a study of RUS lending programs, which posed many of these same questions.

In this year's PART, OMB also rated three USDA regulatory programs. APHIS Plant and Animal Health Monitoring Programs was rated "effective" while both Animal Welfare and Food Safety and Inspection Service (FSIS) were rated only "adequate." For Animal Welfare, OMB states, "recent controversies have suggested that the [regulatory consultation] process is flawed" (PART, p. 20). For FSIS, OMB states, "further changes to modernize the inspection processes could result in lower overall costs with the same or improved food safety benefits" (PART, p. 131). Considering the new USDA rules governing mad cow disease, it is important for FSIS to improve its inspection processes.

Commerce/NMFS

In this year's PART, OMB rated the NMFS regulatory program as only "adequate." In its discussion of the agency's regulatory impact analyses (RIAs), OMB stated, "the quality and content of these analyses vary widely across NMFS Regions and offices. In addition, many of these analysis [sic] suffer from a lack of quality biological or economic data, and NMFS does not use risk assessments to address the uncertainties" (PART, p. 93). Also, OMB stated, "NMFS does not systematically review existing regulations across the entire country to ensure consistency" (PART, p. 93), "NMFS could do a better job of presenting incremental costs and benefits in a way that directly identifies the trade-offs between alternatives" (PART, p. 94), "data necessary to accurately evaluate the relative benefits of different alternatives are often lacking" (PART, p. 94), and "NMFS RIAs generally do not consider the cumulative impact of regulatory regimes, just the incremental" (PART, p. 94). The Committee is concerned with OMB's findings and agrees that improvements are needed.

DOD/Corps of Engineers

The Committee supports the Corps' approach to have a performance-based budget (Budget, p. 294). In this year's PART, OMB rated the U.S. Army Corps of Engineers (USACE) Regulatory Program as "moderately effective." The Committee does not agree. OMB states, "The program gets mixed reviews. It adds somewhat to the costs and uncertainty that developers face … It has performance standards but they need to be upgraded" (Budget, p. 298). On February 11, 2003, the Committee requested GAO to investigate the USACE's Clean Water Act Section 404 permit program. The report, expected to be issued in late February 2004, will reveal a lack of consistency in the USACE's district office evaluations of 404 permits. In addition, OMB found that the regulatory program does not prepare adequate RIAs (PART, p. 59) and that only 56 percent of permits were issued in 120 days or less (PART, pp. 63 & 64). The Committee believes that USACE needs to decrease the time needed to prepare 404 permit applications and evaluate permit applications consistently across its district offices.

Energy

In this year's PART, OMB rated two Department of Energy (DOE) programs as "ineffective": Natural Gas Technologies and Oil Technology. In addition, OMB rated two DOE programs as "results not demonstrated": Elimination of Weapons-Grade Plutonium Production Program and Nuclear Energy Research Initiative. This is disappointing. The budget, understandably, proposes reductions or level funding for all four programs. The PART usefully presents recommendations for improvements in these programs.

The Western Area Power Administration (WAPA) and the other Power Marketing Administrations (PMAs) should develop long-term goals and performance measures (see PART, pp. 66, 322, 333 & 370). During this period of market evolution in the western region and other parts of the country, it is imperative that the PMAs' provision of resource and transmission to customers be assessed thoroughly and in a competitive context. The Committee questions the phasing out of customer receipt financing for WAPA purchased power and wheeling

(Appendix, p. 409). Customer revenues, not appropriations, cover the costs of the Federal purchasing and wheeling power program.

Interior

In the area of rural water, the Committee supports the Administration's plan to "study areas of overlap among the 11 different Federal programs that address rural water infrastructure needs, looking for potential efficiencies that can be gained from streamlining and consolidating program operations in order to improve service in these communities" (Budget, p. 199).

The Committee is concerned that OMB rated Interior's Regulation of Surface Coal Mining Activities program as "results not determined." Of particular concern is that its outcome measures are still under development (PART, pp. 242 & 289).

Labor

The Committee supports the Administration's plan to "continue to update and improve regulations to reflect the modern workplace, make regulations more comprehensible to employers and workers, and reduce needless burden" (Budget, p. 229). The Committee is pleased that, "following the PART recommendation, OSHA will identify the monetary and net costs and benefits of its significant regulations and alternatives" (Budget, p. 231). The Appendix elaborates that, before any standard is proposed or promulgated, DOL will determine that "the standard is economically and technologically feasible when compared with alternative regulatory proposals providing equal levels of protection" (p. 726). This is encouraging. However, the Committee is disappointed in one of the program measurements - "Regulations promulgated" – highlighted for the MSHA program (Appendix, p. 728). Instead of this output performance measure, a more meaningful outcome measure should be used, such as number of accidents/injuries avoided or lives saved.

OMB rated three DOL regulatory programs last year: Occupational Safety and Health Administration (OSHA), Office of Federal Contract Compliance Programs (OFCCP), and Pension and Welfare Benefits Administration (PWBA). OMB's overall rating for OSHA was "adequate," while its overall rating for the other two were "results not determined." This year, OMB included ratings for five DOL regulatory programs, including updates on OSHA and OFCCP, and new ratings for Davis-Bacon Wage Determination Program, Employee Benefits Security Administration (EBSA), and Mine Safety and Health Administration (MSHA). OMB did not change its ratings for OSHA and OFCCP. And, it rated MSHA as "adequate" and the other two newly rated programs as "results not determined." Therefore, across two years, four of DOL's six rated regulatory programs were judged "results not determined." This is disturbing.

For the Davis-Bacon program, OMB concluded, "Measuring effectiveness or progress toward long-term goals is difficult. Performance indicators are still evolving and many lack numerical targets. The achievement … cannot be linked to program outcomes … the absence of specific performance measures and targets hampers managerial accountability. Program design flaws may undermine effectiveness and legislative intent" (PART, p. 268). In addition, the PART states, "The program does not systematically review existing regulations and conducts no look-back studies to better understand the impact of chosen alternatives" (p. 38) and points to "serious question of implementation" (p. 41). As a consequence, the Committee questions the level funding requested for this program.

For the EBSA program, OMB concluded, "The long-term performance goals are not as outcome-oriented as possible … cumulative burdens are not accounted for. Past regulations have rarely been updated" (PART, p. 270). In addition, the PART states, "[t]he program's impacts on protecting and fostering pension and health plans are generally unknown" (p. 58), "only rarely do the agency's rules and other regulatory actions indicate how they contribute to goal achievement" (p. 61), and "there is little evidence of attempts to minimize the CUMULATIVE burden" of its regulations (p. 64). The Committee strongly urges that DOL focus on improving this program.

For the MSHA program, OMB concluded, "The Mine Act limits MSHA's ability to target resources specifically to high-risk mines" (PART, p. 273). In addition, the PART states, "MSHA prepares Regulatory Impact Analyses (RIAs) … The RIAs do not include cost-benefit or cost-effectiveness analysis, do not present detailed analysis of alternative regulatory approaches and thus do not comport with OMB guidelines. MSHA believes that a Supreme Court decision on OSHA health standards bars them from doing cost-benefit analysis. The Court decision does not prohibit cost-effectiveness analysis or analysis of regulatory alternatives. The quality of MSHA regulations and the public's ability to assess regulatory proposals, could be improved by using these analytic tools to inform rulemaking decisions" (p. 98), "RIAs do not assess how each additional regulation adds to the cumulative effect of regulatory requirements on the mining industry" (p. 98), and "MSHA does not have data on the societal costs and benefits of its regulations" (p. 100).

In this year's updated rating for the OSHA program, OMB concluded, "Data on the effectiveness of compliance assistance and cooperative programs is limited … a lack of timely data continues to hinder timely performance assessments … OSHA does not perform cost-benefit comparisons in its Regulatory Impact Analyses for proposed regulations, nor evaluate regulatory alternatives" (PART, p. 274). In addition, the PART states, "Many OSHA regulations … are in need of updating/streamlining" (p. 106), cost-benefit "analyses would significantly improve the quality of OSHA's regulations" (p. 108), "OSHA standards could be designed to provide the same benefits in a less burdensome way" (p. 109), and "The use of alternative compliance methods should be increased" (p. 109). The bottom line is that there is much room for improvement in OSHA's regulations; thus, the Committee questions OMB's "adequate" rating.

In this year's updated rating for the OFCCP program, OMB concluded, "OFCCP cannot quantity the impact of its civil rights enforcement. No data is [sic] available on its contribution to the overall reduction of employment discrimination ... OFCCP does not conduct look-back studies and has not adequately established the practical utility of particular reporting requirements" (PART, p. 275). In addition, the PART states, that OFCCP "does not systematically review existing regulations. The program should consider initiating a review to update and simplify its regulations" and "OMB has concerns about the accuracy of its [cost-benefit] estimates. The practical utility of particular reporting requirements is uncertain" (p. 119). The Committee strongly urges that DOL focus on improving this program as well.

<u>Transportation</u>

Although DOT is one of the major regulatory agencies, last year, OMB rated none of its regulatory programs. This year, OMB rated only one of its regulatory programs: Railroad Safety Program. In its "moderately effective" rating, OMB presented various helpful outcome measures with yearly data, including rail-related fatalities per million train miles, rail-related injuries per million train miles, and train accidents per million train-miles. OMB summarized, "performance gains have tapered off because railroads have taken obvious steps to improve safety, indicating that future improvements will be harder to achieve" (PART, p. 317).

<u>EPA</u>

The Committee first wants to express its frustration with EPA's budget documents. EPA proposed a change in its detailed budget categories without providing a crosswalk to its former budget categories. Moreover, EPA's detailed budget document does not contain enacted 2004 figures. This creates an analytical difficulty.

The Budget states, "EPA is working to develop policies and regulations based on strong, peer-reviewed science, and to ensure that its activities are linked to public health and environmental outcomes" (p. 302). The Committee very much supports this direction. In budget and performance integration, EPA is improving its outcome performance measures but much work remains to be done. Only three of nine reviewed programs were able to demonstrate results this year (Budget, p. 310).

The Committee also supports EPA's compliance assistance efforts, including its compliance assistance centers. The Committee encourages EPA to continue working with small and medium-sized businesses to help them understand how to comply with Federal environmental laws and regulations. The Subcommittee held an October 14, 2003 hearing to examine EPA's compliance assurance results. The Committee supports EPA's use of "new and innovative approaches for compliance assistance and compliance incentives, as well as traditional enforcement activities" and "risk-based compliance and enforcement priorities" (Appendix, p. 939). The Committee also supports EPA's efforts to "strategically plan and target activities to address environmental problems associated with industry sectors and communities" (Appendix, p. 939). These efforts are consistent with a cooperative approach to compliance assurance that focuses on results rather than bean counting.

It is critical that all EPA regulations are based on credible science and the Committee supports the continued funding of science and technology as a basis for EPA's regulatory actions. The Committee understands the efforts taken to meet air quality standards; therefore, the Committee supports EPA's efforts to develop a scientific basis for national ambient air quality standards (see Appendix, p. 936). In the Healthy Communities and Ecosystems writeup for the Science and Technology account, the Appendix states that "[s]ound science provides the foundation for our actions and guides our decision making in all activities" (p. 937). This statement should apply to all EPA regulatory decisions.

In the Clean and Safe Water write-up for the Environmental Programs and Management account, the Appendix states, "EPA will promote water quality trading, water efficiency, and other market based approaches" (p. 938). The Committee believes that market-based approaches to resolve environmental challenges yield the greatest results for the least cost. The Committee also supports voluntary approaches to reducing harmful emissions. The Committee supports efforts to increase water quality monitoring to "accurately and consistently portray conditions and trends" (Appendix, p. 938). EPA cannot make regulatory decisions on water quality without accurate environmental data. EPA's June 2003 draft State of the Environment Report highlighted the total lack of water monitoring data.

Lastly, the Committee applauds EPA's efforts to decrease regulatory burdens and improve data quality. The Committee supports EPA's plans to "encourage the development of safer chemicals by minimizing or reducing regulatory burdens on new chemicals that replace more hazardous chemicals already in the marketplace" (Appendix, p. 939). The Committee also agrees with EPA's efforts to reduce reporting burden and improve data quality by increasing the use of Toxic Release Inventory (TRI) electronic reporting. EPA must continue its efforts to reduce burdens on small businesses.

Last year, OMB rated only one of EPA's many regulatory programs: Air Toxics. It rated this program as "results not determined." This year, OMB rated two more of EPA's regulatory programs: Acid Rain and RCRA Corrective Action. The former was deemed "moderately effective"; the latter was deemed "adequate." For Acid Rain, OMB found "[n]o efficiency measures are currently in use and no clear procedures exist whereby the cost-effectiveness/efficiency of the overall program is tracked and regularly evaluated" (PART, p. 8). Likewise, for RCRA Corrective Action, OMB found "The program's performance plans do not include efficiency measures and targets" (PART, p. 180). In addition, OMB stated that "past RIAs have not always been sufficient" (PART, p. 181).

CPSC

In this year's PART, OMB rated CPSC as "results not determined." OMB stated, "CPSC does not, however, conduct a regulatory analysis for all of its PPPA and Congressionally mandated rules ... CPSC is not prohibited by statute from doing cost/benefit analysis for PPPA rules" (p. 28). The Committee encourages CPSC to prepare cost/benefit analyses, consistent with OMB Circular A-4's requirements, if there is no statutory prohibition from doing so. The Committee applauds CPSC's January 28, 2004 notice, "Pilot Program for Systematic Review of Commission Regulations" (69 FR 4095).

FERC

The Committee believes that the most effective means to ensure a dependable, affordable energy supply for our nation is through a customer-focused, competitive wholesale power market. Fundamental to this establishment is the development of sound rules and adequate resources. The Committee supports the commitment demonstrated by the Federal Energy Regulatory Commission (FERC) to adapting its regulatory and oversight functions. Since it is especially important that FERC continue its focus on oversight and investigations and on promoting conditions that will ensure resource reliability, The Committee believes that the requested modest budget increase is justified (see Appendix, p. 400).

NRC

In this year's PART, OMB rated two NRC regulatory programs and both as "effective": Fuel Facilities Licensing and Inspection, and Reactor Inspection and Performance Assessment. For the former, OMB found that NRC conducts ongoing assessments of its current regulations and conducts RIAs to determine whether proposed changes maximize benefits (PART, p. 161). For the latter, OMB found that all of the programs regulations "are considered necessary to provide assurance that licensees operate their facilities in a safe manner" (PART, p. 172), that NRC "has undertaken various efforts to review its regulations to reduce unnecessary regulatory burden" (PART, p. 176), and that NRC conducts RIAs and look-back studies on the regulatory effectiveness of particular regulations.

Budgetary Impact of Legislation

The Committee anticipates further consideration of two bills introduced last year and considered by the Committee: H.R. 2432, discussed above, and H.R. 2138, elevating EPA to Department-level status. Both would have minimal budget impact.

Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census

E-Government

One of the Committee's priorities is oversight and facilitating smooth implementation of the President's E-Government agenda arising from selection of 24 cross-agency IT improvements known as the "Quicksilver" initiatives. Great progress was made in 2003 to implement the concepts of E-Government across the federal government in order to provide better services to the taxpayers as well as reducing the cost of providing government services. The E-Government Act of 2002 authorized $345 million for such interagency projects. Since passage of that Act, only $8 million has been appropriated, requiring the Administration to develop makeshift solutions in order to achieve milestones on schedule. Despite funding process hurdles and scant direct appropriations, substantial progress has been made.

The President's proposed FY05 budget suggests a new two-fold approach to financing these investments. First, the President proposes to utilize $40 million arising from surplus funds generated by the General Services Administration's GSA supply schedule service fees. Those funds would be transferred into the E-Government fund. Additionally, OMB directed agencies to include in their respective FY05 budget submissions the proportionate amount of the cost to participate in those E-Government initiatives of which they partner.

In addition to improving services internally and externally, the Committee discovered tremendous potential cost savings to taxpayers by investing in development and deployment of these enterprise-wide systems, standards, and processes. Billions of dollars a year in direct and indirect savings can ultimately be achieved by effectively implementing E-Government in such areas as travel, payroll, training, records management, rulemaking, federal grants management, and geospatial information purchasing.

The Committee encourages the House Budget and Appropriations Committees to provide either adequate appropriations consistent with the E-Government Act authorization to develop and deploy these investments, or provide adequate flexibility to the Administration to utilize internal working capital funds or transfers from surpluses to keep this very important E-Gov agenda moving forward.

Information Security

The President's Budget contains $1.6 billion for planned IT security spending. This allocation is for the improvement of identified deficiencies in agencies' current information security profile, as well as system modernization. The Committee supports this appropriation. Agencies must continue to invest in both infrastructure and personnel to eliminate security vulnerabilities that leave government systems vulnerable to attack, compromise and potential destruction. The funding contained in the President's Budget will allow agencies to progress with meeting the requirements of the Federal Information Security Management Act and the Federal Enterprise Architecture. These actions will ensure improvement in efforts to secure government computer systems and protect the information assets that they contain in order to fulfill the expectations and maintain the confidence of the American people.

With the recent advent of so many malicious worms and viruses, resulting in the mitigation and lost productivity costs soaring into the hundreds of millions of dollars with each new attack, the Federal government cannot afford to cut corners with its IT security. The Federal government must continue to endeavor to be the Nation's information security leader.

Federal IT Investment Strategy

One of the most significant findings by the Committee in 2003 was the critical importance of developing a sound IT roadmap, known as the Federal Enterprise Architecture, in which agencies (utilizing their own architecture) interface. The FY05 budget submission is the first ever received by Congress that utilized these planning concepts to ensure the best possible return on investment regardless of traditional departmental boundary lines. Developing and enhancing a common architecture will eliminate costly redundancies while eliminating the "stovepipe" philosophy of providing solutions or services. The Committee believes a solid and continually improving Federal Enterprise Architecture, in tandem with agencies submitting sound business cases for all major IT expenditures, will significantly reduce investment risk and encourage cross-agency, interoperable, and intergovernmental solutions.

The Committee is very impressed by the initial success of the Administration's use of the abovementioned strategy in order to discover unneeded waste from redundant or disparate systems. Known as savings derived from a review of agency "lines of business", the Administration will be integrating and consolidating a variety of common back-room systems that previously operated in a proprietary or disparate manner. High attention should be given to cost-saving IT consolidation of agency back-room (internal) systems in the areas of: human resources management, financial management, grants management, and health and case management. In addition to direct cost-savings from consolidations, the federal government will also potentially realize hundreds of millions of dollars (if not billions) annually in savings currently spent on systems integration services required to maintain and operate legacy systems.

Bureau of the Census

The President's 2005 Budget proposes $828 million for the Census Bureau. The Committee supports last year's elimination of the 2010 Census Long form and its current replacement the American Community Survey. The funding of $165 million for the ACS represents the first full year of funding and is fully supported. Furthermore the budget reflects a commitment to continue to reengineer the 2010 Census and modernize the Master Address File and geographic encoding system for accurately fixing addresses in their proper location. The MAF/TIGER is funded at $85 million

There are three components to a successfully reengineered 2010 Census:

1. Continuous American Community Survey operations to collect long form data on an ongoing basis rather than the once a decade long form. This will greatly improve data quality and simplify the 2010 Census by making it a "short form" only census.

2. Modernizing and enhancing the geographic database and address list system called "MAF/TIGER" – this will result in a more accurate and efficient census.

3. Establishment of an early design and planning process to test major elements of a simplified, streamlined "short form" only census. Testing of potential operational changes such as enumerating Americans abroad is critical to planning a successful 2010 Census.

Fiscal year 2005 is the last year in the six-year 2002 Economic Census funding cycle and the first year of the six-year 2007 Economic Census cycle. The FY 2005 request will provide for dissemination of all 1,207 census products; an accelerated release schedule to support the Bureau of Economic Analysis' plan to significantly improve the timeliness of the of their data releases as well as the activities for the design and content of forms for the 2007 Economic Census.

The $3.3 million increase for E-Government initiative will enable the Census Bureau to respond to business demands for e-government services by permitting businesses to file electronically in any one of almost 100 current economic surveys. The Census Bureau expects electronic reporting to increase response rates in our principal economic indicators and estimates that we can reduce the annual business-reporting burden by at least 5 percent or 50,000 hours starting in FY '06, with an additional 5 percent reduction through FY '08.

The President's 2005 budget at both the Census Bureau and GSA reflects the commitment set forth in the 106th Congress to build two new buildings to House the Census Bureau by 2007. The current facilities are dilapidated and pose a health risk to the employees. The buildings contain asbestos and the drinking water is contaminated requiring the import of bottled water. Any delay in the 2007 target completion date would be a severe impediment to the efficient preparation for the 2010 Census.

Bureau of Economic Analysis

The funding the Bureau of Economic Analysis (BEA) is a key factor in understanding the health of the Nation's economy. The President's FY '05 budget request of $82 million underscores the importance of this effort. $12.2 million is dedicated to new initiatives to improve the accuracy and timeliness of the Nation's economic statistics.

The FY '05 request will continue to accelerate the release of key economic statistics. For example, BEA made progress in FY 2003 toward improving the accuracy of its data with better measures of profits and stock options and with more timely and accurate estimates of industry production of its cost.
The FY '05 request include:

Accelerating the release of key economic statistics these six key areas:
- International trade in goods and services
- Gross state product
- Metropolitan personal income
- Country personal income
- U.S. personal income
- Gross domestic product

Improving accuracy of estimates by using real-time data: The U.S. economy is constantly changing, but often the federal statistical system cannot keep pace.

Continuing to meet the U.S. international commitments: The U.S. and the International Monetary Fund have stated past debt crisis may have intensified because timely and accurate data about worsening financial conditions were unavailable.

Developing current business investment data with employment and compensation impacts: This initiative would produce up-to-date, annual estimates on business investment spending by industry for equipment and other goods that indicate where high-tech and other investments are going and how they affect productivity in manufacturing and other industries.

National Institute of Standards and Technology

The president's Budget requests $57.9 million for the work of the Computer Science and Applied Mathematics Division of the National Institute of Standards and Technology. The Committee supports this request. The Information

Technology Laboratory at NIST does research in several areas critical to homeland security, including accuracy and efficiency of biometric systems, encryption testing and standards, and computer and network security technologies and standards. The laboratory is also responsible for developing and disseminating computer security guidelines for civilian agencies required under the Federal Information Security Management Act. The creation and dissemination of these standards are crucial to the effort to secure government computer systems against intrusion and damage.

The Committee also encourages the continued participation, and funding for the participation, of NIST, in the National Information Assurance Program. This partnership between NIST and the National Security Agency oversees software assurance testing of products for use in the federal government and participates in the international consortium that is developing worldwide assurance standards.

Although NIST is not part of the Department of Homeland Security its' role in the security of our Nation must not be underestimated. NIST's work in the cyber security arena, is critical in helping to protect our Nation from a cyber attack that could cause wide spread economic damages as well as loss of life. Already, malicious worms and viruses with relatively benign payloads have cost the Nation hundreds of millions of dollars in mitigation costs and lost productivity.

National Archives and Records Administration (NARA)

NARA is developing the ambitious Electronic Records Archives (ERA) program. The system is designed to preserve, store, search and retrieve electronic records. It will guarantee the persistence, accessibility and usability of digital information well into the future. The President's 2005 Budget proposes $304 million for NARA, $36 million of which is for the development of ERA. The Committee fully supports this IT initiative and the successful completion of electronic archival preservation of our Nation's permanently valuable records.