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

June 11, 2019
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2740—Labor, Health and Human Services, Education, Defense, State, Foreign Operations, and Energy and Water Development Appropriations Act, 2020
(Rep. Lowey, D-NY)

The Administration opposes House passage of H.R. 2740, as amended by the House Committee on Rules, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the Department of Defense, for the Department of State, foreign operations, and related programs, and for energy and water development and related agencies for the fiscal year (FY) ending September 30, 2020 and for other purposes. The Administration is strongly opposed to the budgetary framework that underlies this and other appropriations bills being considered by the House of Representatives. This framework would raise the discretionary spending caps by more than $350 billion in fiscal years (FY) 2020 and 2021 and does not reflect either a House-passed budget resolution or a bipartisan, bicameral agreement. It would put the Federal Government on track to add nearly $2 trillion to deficits over 10 years, adding significantly to the national debt, which is already more than $22 trillion and rising.

In addition, the House Democrats' framework continues to adhere to the misguided and unfounded notion that increases to defense spending must be matched or exceeded by increases to non-defense spending. In fact, the appropriations bills under consideration would provide more than twice as much additional funding in FY 2020 for non-defense programs as for defense programs, relative to FY 2019 levels. Investing in our national security remains a key Administration priority, but strengthening our defense does not require additional non-defense discretionary spending.

Overall, according to the Congressional Budget Office, H.R. 2740 would spend $984.7 billion—$63.4 billion, or 6.9 percent, above the FY 2020 Budget request and $31.5 billion above the FY 2019 enacted level. In addition, this legislation includes a number of particularly problematic provisions implicating key Administration priorities, including provisions that would block implementation of new Title X and conscience protection rules at the Department of Health and Human Services, as well as restrict implementation of the Protecting Life in Global Health Assistance policy. The bill also includes problematic language that would prohibit the transfer and execution of funds to improve our Nation's border security, and that would otherwise impede immigration enforcement.

If H.R. 2740 were presented to the President in its current form, his advisors would recommend that he veto it.

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

Division A—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2020

Department of Labor

Apprenticeship. The Administration appreciates the bill's support for the expansion of apprenticeship model, but opposes its restriction that the funding only be spent on registered apprenticeships. This restriction limits the Department's ability to engage employers in adopting the apprenticeship model, particularly employers in industries in which apprenticeships are not already common.

Protecting Union Members. The Administration strongly objects to the bill's underfunding of the Office of Labor-Management Standards (OLMS). The increase requested in the FY 2020 Budget is necessary to restore OLMS's investigative workforce and strengthen protections for transparency for union members by supporting more audits and investigations to uncover flawed officer elections, fraud, and embezzlement.

Job Corps. The bill provides $1.9 billion for Job Corps, ensuring excessive funds would continue to be spent on low-performing centers that are failing students. The Administration continues to strongly support reforms to create a program to better prepare youth for jobs and keep them safe while doing so.

Department of Health and Human Services (HHS)

Unaccompanied Alien Children (UAC). While the Administration appreciates the funding that the bill provides for the UAC program, the level provided in the bill would be insufficient to meet current program needs, which are at crisis levels, as acknowledged in the recent humanitarian supplemental request. The Administration urges the Congress to include the $2 billion mandatory contingency fund proposed in the FY 2020 Budget request, which is the most effective way to manage the inherent uncertainty in this program. The Administration also opposes the numerous provisions that might impede HHS's ability to effectively operate the UAC program and to protect the safety of children in HHS's care, and provisions that would create additional barriers preventing the Government from enforcing the Nation's immigration laws.

Opioids. The Administration appreciates that the bill includes funding to fight the opioids epidemic, most notably the $1.5 billion provided for State grants to address opioid abuse including prevention, treatment, and recovery support services.

Ending HIV Epidemic Initiative. The Administration appreciates that the bill includes funding for the Centers for Disease Control and Prevention (CDC), Health Resources and Services Administration, and the National Institutes of Health (NIH) to undertake this priority initiative.

NIH. The Administration supports the inclusion of funding for high priority research areas identified in the FY 2020 Budget request, such as the Childhood Cancer Data Initiative. However, the bill also includes funding for NIH in excess of $7 billion above the FY 2020 Budget request. The Administration supports strategic funding to accelerate the development of treatments and strongly opposes across-the-board increases to the NIH topline that are unsustainable and redirect resources from the highest priority research. In addition, the Administration is disappointed that the bill does not consolidate the Agency for Healthcare Research and Quality activities in NIH, as requested in the FY 2020 Budget. The Administration strongly supports better coordination of health services research and the elimination of funding for potentially duplicative or lower priority activities.

Title X Family Planning. The Administration opposes language that would prevent implementation of the new rule that would ensure compliance with statutory Title X program integrity provisions among HHS programs, in particular the prohibition on funding of programs wherein abortion is a method of family planning. The new rule makes notable improvements designed to increase the number of patients served and to improve the quality of care they receive. In addition, the bill includes $114 million more than the FY 2020 Budget request for Title X Family Planning. The Administration is also disappointed that the bill does not contain language requested in the FY 2020 Budget that would prohibit Federal funding from being provided to certain providers of abortion services.

CDC, National Institute for Occupational Safety and Health (NIOSH). The Administration is disappointed that the bill provides unrequested funding for NIOSH activities, which is contributing to the overall excessive spending in the bill. The bill provides $346 million, which is $156 million more than requested in the FY 2020 Budget.

Teen Pregnancy Prevention (TPP) Program. The Administration opposes the bill's inclusion of $110 million in unrequested funds for the TPP program. The bill also requires that the Administration continue to fund through 2020 grants awarded for FYs 2015 through 2019. The TPP program began in FY 2010 to provide competitive grants to replicate successful TPP approaches, test new TPP approaches, and identify the effectiveness of these interventions. The TPP program serves less than one percent of teenagers in the United States. Although the teenage pregnancy rate has declined significantly, the evidence suggests that TPP has not been a major driver in that reduction.

Conscience Protection Rule Implementation Prohibition. The Administration strongly objects to the inclusion of section 240 of the bill, which prohibits the HHS Office for Civil Rights from using appropriated funds to finalize, implement, or enforce the newly published conscience protection final rule. This rule protects conscience rights for healthcare entities and professionals.

Reassignment of Medicaid Provider Claims. The Administration strongly objects to the bill's prohibition on the use of funds to implement the final rule to Protect Medicaid Provider Payments. This rule ensures that any diversions of Medicaid providers' payments are consistent with statute.

Medicaid Nonemergency Medical Transportation (NEMT). The Administration objects to the bill's prohibition on the use of funds to publish the forthcoming Centers for Medicare and Medicaid Services rule to provide States with greater flexibility regarding the provision of NEMT for Medicaid beneficiaries.

Firearm Injury and Mortality Prevention Research. The Administration is concerned that the bill requires the CDC and NIH to fund research on firearm injury and mortality prevention.

Indirect Costs. The Administration objects to the inclusion of section 224, which prohibits changes to the method that NIH uses to pay grantee institutions for facilities and administrative costs. The section also prohibits other Federal departments and agencies from developing or implementing modified indirect cost policies, which inhibits agency staff and stakeholders from developing strategies to maximize the effectiveness of Federal Government programs and reduce burden.

Syringe Services General Provision. The Administration notes that the bill does not continue the general provision in current law allowing the use of Federal funds to support elements of evidence-based syringe services programs, as requested in the FY 2020 Budget. The Administration looks forward to working with the Congress to ensure that these important services can continue to protect Americans from the infectious disease consequences of opioid and other drug use, improve rates of addiction treatment and recovery services, and improve public health, consistent with current law.

<u>Department of Education</u>

Unnecessary Department of Education Programs. The Administration is concerned that the bill funds 29 programs that the Administration has proposed for elimination in the FY 2020 Budget request. Eliminating these programs, which are either duplicative, narrowly focused, or unable to demonstrate effectiveness, would save $6.7 billion in FY 2020.

Charter Schools. The Administration is concerned that the bill reduces funding for charter schools by $40 million below the FY 2019 enacted level. The $500 million requested in the FY 2020 Budget for charter schools is critical to the Administration's efforts to provide more families with high-quality educational options. In addition, the bill does not provide the Department of Education with the flexibility needed to efficiently allocate funding to charter school programs based on applicant demand.

Expansion of Public Service Loan Forgiveness. The Administration opposes the wasteful $350 million funding level provided in the bill for a temporary benefit in the Federal Direct Student Loan program that expands Public Service Loan Forgiveness (PSLF) eligibility. The Administration's FY 2020 Budget request proposes to eliminate the PSLF program, which unfairly favors certain career choices over others, and instead focuses assistance on undergraduate student borrowers from all professions through a single income-based repayment plan.

<u>Other Independent Agencies</u>

Corporation for National and Community Service (CNCS). The Administration opposes the $1.1 billion funding level for CNCS. This funding is unnecessary and wasteful, as the Corporation's mission is not a core Government function.

Corporation for Public Broadcasting (CPB). The Administration proposes to eliminate Federal funding for CPB in the FY 2020 Budget request and opposes the $495 million funding level for FY 2022 provided for CPB through the two-year advance appropriation. CPB grants represent a small share of the total funding for the Public Broadcasting Service and National Public Radio and the Administration believes private donations would be sufficient to fund these operations.

Division B—Department of Defense Appropriations Act, 2020

Department of Defense (DOD)

Defense Base and Overseas Contingency Operations (OCO) Funding. The Administration strongly objects to the allocation in the bill between base defense funding and OCO funding. As outlined in the FY 2020 Budget request, the Administration prefers to limit base national defense funding to the current law discretionary cap, while using both OCO and emergency funding to provide the necessary resources to support the National Defense Strategy (NDS). This approach is vital to ensure that necessary funding to defend the Nation is not dependent on another budget agreement or legislation increasing the base budget defense cap in current law.

Transfer Authority. The Administration strongly objects to language in sections 8005 and 9002 of the bill that would significantly decrease DOD's general and special transfer authorities. Specifically, section 8005 of the bill would limit DOD's base budget general transfer authority to $1 billion in FY 2020, $4 billion below the FY 2020 Budget request. Section 9002 of the bill would limit OCO special transfer authority to $0.5 billion in FY 2020, $4 billion below the FY 2020 Budget request. Limiting DOD's transfer authorities would severely constrain the Department's ability to shift funds between accounts to meet unforeseen or emerging military requirements.

Border Funding. The Administration strongly objects to language in section 8127 of the bill that would prohibit the use of FY 2020 or prior-year defense appropriations to construct barriers or security infrastructure along the southern border. The Administration also objects to restrictions included in the bill that would prohibit DOD from augmenting counter-drug appropriations using transfer authority, or using counter-drug appropriations for the construction of fences under section 284 of Title 10, United States Code. The use of prior-year appropriations and transfer authority are critical to assist Department of Homeland Security (DHS) efforts to secure and manage the southern border. Physical barriers impede the flow of illegal crossings, drugs, and other contraband, and therefore make DHS efforts at the border more effective.

Space Force. While the Administration appreciates the Committee's recognition that space capabilities are an integral part of the Nation's security and economy, the bill only provides $15 million to study the establishment of the United States Space Force, which is $57 million below the FY 2020 Budget request. Over the last 20 years, various commissions authorized by the Congress and the Government Accountability Office have studied DOD's current organizational structure and have reached the same conclusion—DOD is not properly structured for the challenges the Nation faces in space. We look forward to working with the Congress to authorize and fully fund the Space Force. Insufficient resources could delay its establishment, putting at risk the Nation's ability to adapt to the rapidly changing warfighting domain of space.

Republic of Turkey. Section 8111 of the bill would prohibit the use of any funds to deliver F-35 aircraft or related equipment to the Republic of Turkey. The Administration shares the concerns reflected in the bill regarding the transfer of F-35s should Turkey purchase the S-400, which is incompatible with its continued participation in the F-35 program. However, section 8111 of the bill is unacceptable as currently written as it could prohibit delivery of F-35s even if Turkey foregoes the S-400 system. The Administration supports ongoing discussions between the United States and Turkey and seeks to retain Turkey in the F-35 program, as long as Turkey declines the S-400 system.

Removal of United States Armed Forces from Yemen. The Administration strongly objects to the language in section 10002 of the bill that would require the removal of United States Armed Forces from hostilities in or affecting the Republic of Yemen, except for operations directed at al Qaeda or associated forces. Removal of United States Armed Forces would harm bilateral relationships in the region, negatively affect the military's ability to prevent the spread of violent extremist organizations, and would establish a bad precedent for future legislation by defining "hostilities" to include defense cooperation activities such as aerial refueling. In addition, the Administration's continued cooperation with regional partner nations allows the United States to support diplomatic negotiations to end the conflict, promote humanitarian access, mitigate civilian casualties, and defeat terrorists who seek to harm the United States.

Authorization for Use of Military Force (AUMF). The Administration strongly objects to section 9025 of the bill, which would repeal the current AUMF. The 2001 and 2002 AUMFs grant the United States the legal authority to fight the counter-terrorism campaign against the Taliban, al Qaeda, and associated forces, including the Islamic State of Iraq and Syria. While DOD is not seeking a new or revised AUMF, the Department continues to participate in productive discussions with the Congress on the 2001 AUMF. Arbitrarily repealing the 2001 AUMF would risk the military's ability to pursue and defeat terrorists who seek to harm the United States and the Nation's interests at home and abroad.

Ground Based Strategic Deterrent (GBSD). The Administration strongly objects to the $108 million reduction in funding in the bill for the GBSD, the Minuteman III/Intercontinental Ballistic Missile (ICBM) replacement. Failure to provide the full funding requested in the FY 2020 Budget would lead to delays in planned contract awards, increase the risk of not meeting the Combatant Commander's timelines, and hinder the Department's effort to replace the aging ICBM fleet.

Intermediate Range Cruise Missile Capability. The Administration strongly objects to the elimination of research and development funding in the bill for Intermediate Range Cruise Missile capability. This elimination would disadvantage the United States in the event that Russia does not return to compliance with its obligations under the Intermediate-Range Nuclear

Forces Treaty (INF) by the August 2, 2019 deadline endorsed by the North Atlantic Treaty Organization. The reduction would leave the United States unprepared to respond to the post-INF military environment that will have been created by Russia.

Next Generation Air Dominance (NGAD). The Administration strongly objects to the $500 million reduction in funding in the bill for the NGAD program. This 50 percent funding reduction from the FY 2020 Budget request would have a severe impact on the ability of the program to field NGAD capabilities that will be needed in the 2030 timeframe to meet the growing challenges of peer adversaries. Full funding of NGAD is also critical for maintaining a strong United States industrial base capable of building the world's most advanced aircraft.

Research, Development, Test and Evaluation (RDT&E). The Administration objects to the reduced funding in the bill for RDT&E. The bill provides $101 billion for RDT&E—$3 billion below the FY 2020 Budget request. Underfunding RDT&E would constrain DOD's ability to make key investments in research, engineering, and prototyping to maintain the military's technological superiority.

Unmanned Surface Vessels. While the Administration applauds the Committee's recognition that Large Unmanned Surface Vessels will provide a more distributed, lethal, and survivable navy, the bill only provides $307 million for these systems, $200 million below the FY 2020 Budget request. These are critical experimentation vessels with modular payloads to reduce risk, conduct integration and testing of payloads, and develop Navy tactics and concepts of operations. The Administration urges the Congress to fully support this critical capability at the levels in the FY 2020 Budget request.

Next Generation Overhead Persistent Infrared (Next-Gen OPIR). The Administration strongly objects to the $202 million reduction, and the obligation and expenditure limitation, in the bill that would reduce and withhold funding for Next-Gen OPIR. The levels proposed in the FY 2020 Budget request are essential to hire personnel for design work and to purchase materials to meet the Department's fielding timeline. Strategic missile warning is a "no-fail" mission and without full funding, the program would be delayed by a minimum of one year.

Multiple Munitions Reductions. The Administration objects to the $562 million reduction in the bill for critical warfighter munitions, which would further reduce key weapons stores. The FY 2020 Budget request increases procurement of preferred and advanced munitions to build war reserves and successfully execute the NDS. Stable and consistent annual procurements are vital to increasing DOD's lethality and warfighting capability.

Unobligated Balance Reductions. The Administration objects to the $1.6 billion in reductions across Military Personnel and Operation and Maintenance (O&M) accounts. These reductions fail to account for actions already taken by the Armed Forces to reduce these balances. If enacted, the reductions to the Military Personnel accounts would be applied to military pay and allowance programs and would directly affect the Department's ability to fund full-spectrum readiness recovery efforts, including the Services' planned growth in forces. For O&M accounts, these reductions would negate the Committee's otherwise clear intent to support defense readiness, and would directly and negatively impact key readiness priorities including depot maintenance, base operations support, communications, and facilities sustainment, restoration, and modernization.

<u>Division C—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020</u>

<u>Department of State and Other International Programs</u>

International Affairs Topline. The Administration opposes the bill topline level, which far exceeds the amount requested in the FY 2020 Budget request. This is counter to Administration efforts to rein in non-defense discretionary funding and eliminate the use of OCO funding for Function 150 programs. For example, the Department of State and the U.S. Agency for International Development funding level is $12.4 billion, or 31 percent, above the FY 2020 Budget request.

U.S. Development Finance Corporation (DFC). The Administration appreciates the funding provided for DFC administrative expenses, but is concerned that the bill significantly underfunds the new Agency's programs. In particular, the bill provides $50 million for the DFC's new equity program, $100 million, or 67 percent, below the FY 2020 Budget request. This level undermines an Administration and congressional priority to provide the DFC with a tool that would catalyze additional investment for development and national security objectives by mobilizing the private sector.

Middle East Assistance. The Administration appreciates that the bill supports funding for key partners in the Middle East, including $3.3 billion in Foreign Military Financing for Israel in support of the 10-year Memorandum of Understanding, bilateral assistance to Jordan in support of the strong, strategic United States-Jordan relationship, and security and economic assistance to other key partners, including Egypt.

Economic and Development Assistance. The Administration opposes the high level of spending provided in the bill for economic and development assistance. The funding in the bill exceeds what is needed to support United States national security, promote United States prosperity and economic opportunities, and advance American interests and values around the world. The bill also does not consolidate this funding into one Economic Support and Development Fund appropriation, as was proposed in the FY 2020 Budget request, maintaining unnecessary accounts with specialized objectives and limiting flexibility.

International Organizations Contributions. The Administration opposes the significant increases for assessed and voluntary contributions to international organizations, including increased funding for the International Organizations and Programs account, which the FY 2020 Budget request proposed to eliminate. The funding provided in the bill is counter to the goals of the FY 2020 Budget request, which fully funds international organizations that are critical to national security, while also signaling America's commitment to greater accountability and transparency and more equitable cost-sharing among members. In addition, the Administration is concerned that the bill would waive the 25 percent statutory cap on United States peacekeeping assessments for prior years, and require use of taxpayer funds to pay assessments in excess of the statutory cap despite the failure of the United Nations to act on United States cost sharing proposals.

Global Fund for HIV/AIDS, Tuberculosis, and Malaria (Global Fund). The Administration is disappointed that the bill misses an opportunity to seek improved international burden sharing in support of the Global Fund. The bill provides more than $600 million above the FY 2020 Budget request. While the Administration supports the work of the Global Fund, the proposal in the FY 2020 Budget request would challenge other donors to do more, and use prior year funds that other donors have not matched, rather than increasing United States funding unilaterally. The bill instead would undermine the previous matching pledge and require the United States to play a larger role, even while the combination of United States bilateral and multilateral efforts already represent well above half of global funding to combat AIDS.

Program Eliminations and Reductions. The Administration is concerned that the bill increases or maintains funding that the Administration proposed to eliminate or substantially reduce in the FY 2020 Budget request. This includes: Educational and Cultural Exchanges; the African Development Foundation; the Inter-American Foundation; the Asia Foundation; the East-West Center; the International Fund for Agricultural Development; the U.S. Agency for Global Media; the U.S. Institute of Peace; and the U.S. Trade and Development Agency.

Mexico City Policy, Other Abortion Restrictions, and Family Planning. The Administration strongly opposes sections 7058(a) and 7064 of the bill that would effectively block the Administration's implementation of the Protecting Life in Global Health Assistance Policy, which prohibits the funding of foreign non-governmental organizations that promote or perform abortions. The Administration is also concerned that the bill restores unrequested funding for the United Nations Population Fund, an organization determined by the Secretary of State to support or participate in the management of a program of coercive abortion or involuntary sterilization.

Reduced Flexibility. The Administration strongly opposes provisions that would significantly reduce the Administration's flexibility to allocate funds to achieve foreign policy objectives. Section 7019 of the bill again requires that allocations for assistance accounts conform to numerous detailed congressional funding directives. However, this section goes significantly beyond restrictions in prior acts which have allowed the Administration to respond to changing conditions and apply exceptions on a case-by-case basis for urgent or unforeseen needs by both lowering the threshold for authorized deviations and—crucially—not allowing for exceptions previously permitted. In addition, the Administration opposes the revision of section 7011, which by limiting the amount of time funds are available for reprogramming, would significantly hamper the Administration's ability to ensure that tax payer resources are being used most effectively to support programmatic needs in response to evolving circumstances on the ground and foreign policy priorities.

Paris Agreement. The Administration strongly opposes section 7060 of the bill, which prevents funding from being used to notify withdrawal from the Paris Agreement. The provision is inconsistent with the President's announced intentions.

Venezuela Transition. The Administration is concerned that the bill fails to provide requested authority to flexibly respond to the crisis in Venezuela. Special transfer authority would enable the United States to initiate additional programming quickly to support a democratic transition and related needs. The Administration urges the Congress to provide such authority in a final bill to support the people of Venezuela in their fight against tyranny.

Foreign Military Financing (FMF) Loan Authority. The Administration is disappointed that the bill fails to include authority requested to provide FMF loans and guarantees, which the Administration views as an important tool for making United States defense equipment a more competitive and affordable option for partner countries.

Overseas Humanitarian Assistance Reorganization. The Administration is concerned that the bill excludes provisions proposed in the FY 2020 Budget request that would strengthen and improve outdated and fragmented overseas humanitarian assistance, including a new International Humanitarian Assistance account where spending could adjust flexibly to meet the needs of affected populations as crises drive populations back and forth across borders and within their own countries. In addition, section 7006 of the bill retains language enacted in the Consolidated Appropriations Act, 2019 that limits improvements to the United States humanitarian structure by unnecessarily micromanaging how bureaus are managed and funds are administered. The Administration believes that a stronger and seamlessly coherent Federal Government structure that elevates humanitarian assistance is needed to resolve conflicts underlying the largest crises while optimizing the outcomes for both beneficiaries and American taxpayers.

Secretary of State Travel Restriction. The Administration is concerned that the bill seeks to limit the Secretary of State's travel expenses unless certain timelines are met for submission of the Department's congressional budget justification materials and allocations of appropriated resources. Such action could adversely affect the ability of the Secretary to support United States national security objectives, and therefore should be deleted.

Central America Strategy. The Administration is concerned that sections 7045(a)(l)(A) and 7045(a)(l)(B) of the bill retroactively amend and make more restrictive language providing funding in support of the Central America Strategy. Such language would restrict the flexibility available to the President and Secretary of State to allocate foreign assistance funding in support of United States foreign policy objectives and further complicates compliance with numerous other congressional directives.

Saudi Arabia. The Administration opposes section 704l(i) of the bill, which purports to impose restrictions on funding related to how the Administration should approach civil nuclear cooperation with Saudi Arabia. The Administration opposes language that would in any way aim to restrict flexibility available to the Secretary of State pursuant to authorities under the Atomic Energy Act of 1954 (as amended). The language also weakens the Administration's ability to support the United States civil nuclear industry's pursuit of commercial opportunities internationally, at a time when the entire Federal Government should be instead redoubling efforts to counter Russian and Chinese influence in the civil nuclear market worldwide.

<u>Division D—Energy and Water Development and Related Agencies Appropriations Act, 2020</u>

<u>Corps of Engineers</u>

Infrastructure. The bill fails to extend section 1043 of the Water Resources Reform and Development Act of 2014, as amended, which authorizes non-Federal implementation of construction of Federal projects, an important tool for reforming and improving investment in water resources.

Transparency. The Administration is disappointed that the bill fails to revise appropriations language in five accounts as proposed in the FY 2020 Budget request to enable greater transparency in how funds are spent. Establishing separate appropriations accounts for the navigation trust funds would improve accountability, ensure appropriations are used in a manner consistent with statutory requirements, and increase transparency for the public, including the users that pay fees to finance some of these costs.

Southern Border Wall Construction. The Administration objects to the inclusion of section 108 in the bill which would preclude the use of funds provided by the bill, or any prior Act, for the Civil Works program, for use on the design or construction of any border security infrastructure along the southern border.

<u>Department of Energy</u>

Plutonium Sustainment. The Administration strongly objects to the bill's reduction of $220 million from the FY 2020 Budget request for Plutonium Sustainment within the National Nuclear Security Administration (NNSA). The requested level is necessary to meet the DOD requirement to produce no fewer than 80 pits per year by 2030. This 32 percent reduction would significantly delay the NNSA's efforts to improve safety and security features while modernizing the stockpile. In addition, delaying the program would force NNSA to further increase future pit production capacity to address plutonium aging, thereby requiring a larger and more costly pit manufacturing capability.

W87-1 Modification Program. The Administration strongly objects to the bill's reduction of $59 million from the FY 2020 Budget request for the W87-1 Modification Program. The W87-1 would provide enhanced safety and security compared to the legacy W78 that it is replacing. The 53 percent funding reduction would delay the program, increase its cost, and force it out of alignment with DOD's plans to deploy the next generation intercontinental ballistic missile, thereby adding risks and costs to maintain and qualify the existing warhead.

Nuclear Counterterrorism and Incident Response (NCTIR). The Administration objects to the bill's reduction of $32 million from the FY 2020 Budget request for the NCTIR program. This reduction would compromise DOE ability to execute an interagency effort to speed life-saving responses in the event of a nuclear incident in the United States. Under the Capability Forward model, DOE would provide enhanced training and equipment to regional Federal Bureau of Investigation (FBI) teams, enabling them to render safe a nuclear device. Given the interdependence of DOE and FBI in executing the Capability Forward initiative, if the agencies' budgets do not remain synchronized, the timeline for fielding enhanced capabilities to United States cities would be severely disrupted.

Nonproliferation Fuels Development. The Administration objects to the bill's inclusion of funding for development of high-density, low-enriched fuels that could replace highly enriched uranium for naval applications. In 2018, the Secretaries of Energy and the Navy jointly determined that the United States should not pursue research and development of an advanced naval nuclear fuel system based on low-enriched uranium since such a system would result in a reactor design that is inherently less capable, more expensive, and unlikely to support the significant cost savings associated with life-of-ship submarine reactors. To fully execute a development effort of this magnitude would also incur significant risk and compete for resources against other defense priorities.

Applied Energy Programs. The Administration believes the bill provides excessive funding for DOE's applied energy programs. The bill provides $5 billion for these programs, $3 billion more than the FY 2020 Budget request. The Administration urges the Congress to restrain funding levels in these programs and focus resources on early-stage research and development (R&D) across the applied energy technology spectrum rather than late-stage or near-commercial ready technology.

Loan Programs. The Administration is disappointed that the bill maintains the Title XVII Innovative Technology Loan Guarantee Program, the Advanced Technology Vehicle Manufacturing Loan Program, and the Tribal Energy Loan Guarantee Program. The FY 2020 Budget request proposed to eliminate these programs and fund only the minimum administrative expenses necessary to monitor the existing portfolio. The Administration urges the Congress to adopt the elimination proposal in order to recognize the private sector's primary role in taking risks to finance projects in the energy and automobile manufacturing sectors.

Advanced Research Projects Agency–Energy (ARPA-E). The Administration believes that the continued funding of ARPA-E makes little strategic sense given the existence of applied energy research elsewhere within the Department. The Administration urges the Congress to eliminate ARPA-E and incorporate its more successful elements, such as coordination with industry and cross-cutting research, into the Department's applied energy programs.

Petroleum Reserve Sales. The Administration is disappointed that the bill fails to include language implementing the liquidation and sale of the Northeast Home Heating Oil Reserve and Northeast Gasoline Supply Reserve. Both of these reserves are costly to maintain, operationally inefficient, and have never been used for their intended purpose.

Environmental Management. The Administration opposes the $706 million increase, $487 million of which is defense funding, for the Environmental Management program. The bill allocates more than half of this increase to the Hanford site in Washington State, where the Department's Inspector General recently compiled concerns regarding mismanagement, weak internal controls, and fraud. The Administration urges the Congress to reallocate these funds to higher national security priorities.

Office of Science. The Administration appreciates the Committee's support for basic R&D in the Office of Science. However, the bill provides $6.9 billion, $1.4 billion more than the FY 2020 Budget request. The Administration urges the Congress to use restraint in funding these programs.

Versatile Advanced Test Reactor. The Administration welcomes the Committee's support for the Versatile Advanced Test Reactor. However, the Administration believes that the bill is substantially underinvesting in this priority. While the Administration agrees that the most cost-effective approach should be used and mechanisms such as international cost-sharing should be considered, the insufficient funding provided in the bill would contribute to problematic delays and negative impacts on the project's ability to achieve its strategic goals.

Department of the Interior

Bureau of Reclamation. The bill provides $1.6 billion for the Bureau of Reclamation and the Central Utah Project (CUP), $528 million or 50 percent above the FY 2020 Budget request. The Administration appreciates the bill's investment in water resources through the Bureau of Reclamation and CUP, but believes funding should be limited to the amount in the FY 2020 Budget request and should be focused on the highest priority needs from a national perspective.

Constitutional Concerns

Certain provisions of the bill raise constitutional concerns. For instance, certain sections would interfere with the President's authority as Commander in Chief. Certain other provisions would contravene the constitutional separation of powers between the Executive Branch and the Congress. In particular, these provisions would require congressional committee approval of certain Executive actions, in violation of *INS v. Chadha*. The Administration looks forward to working with the Congress to address these concerns.

The Administration looks forward to working with the Congress as the FY 2020 appropriations process moves forward.

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