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NOMINATION OF THE HONORABLE JACOB J. LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

HEARING & EXECUTIVE BUSINESS MEETING

BEFORE THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

September 16, 2010—HEARING ON THE NOMINATION OF THE HONORABLE JACOB J. LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

September 23, 2010—EXECUTIVE BUSINESS MEETING ON THE NOMINATION OF THE HONORABLE JACOB J. LEW TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Printed for use of the Senate Budget Committee

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NOMINATION OF THE HONORABLE JACOB J. LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

THURSDAY, SEPTEMBER 16, 2010

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to notice, at 9 a.m., in room SD–608, Dirksen Senate Office Building, Hon. Kent Conrad, Chairman of the Committee, presiding.

Present: Senators Conrad, Murray, Nelson, Cardin, Sanders, Whitehouse, Warner, Merkley, Begich, Gregg, Sessions, Crapo, Ensign, and Alexander.

Staff present: Mary Ann Naylor, Majority Staff Director; and Cheri Reidy, Minority Staff Director.

OPENING STATEMENT OF CHAIRMAN CONRAD

Chairman CONRAD. The hearing will come to order. I want to welcome everybody to the Senate Budget Committee today. We are considering President Obama's nomination of Jack Lew to be the next Director of the Office of Management and Budget.

I want to first welcome Jack back to the Committee. He is well known and well respected by the members of this Committee. I also want to welcome Jack's family who are with him today, including his wife, Ruth, and his daughter, Shoshana. We are pleased that they could be here as well. Welcome. We hope Jack will introduce them when he makes his opening statement. I am sure he will.

As everyone knows in public service, we could not do our jobs without the incredible support of our families, and we recognize and very much appreciate the sacrifice that the Lew family has made in the previous assignments Jack has had, including as head of the OMB.

I believe Jack is a superb choice for this position. When I was asked by the White House my reaction, I told them, "I do not think you could make a better choice than Jack Lew." Not only has he already served in this critical post and done so with real distinction, but he brings with him a wide range of public and private sector experience, including his current position as Deputy Secretary of State for Management and Resources, which in itself is a challenging posting.

Importantly, Jack knows how to make the touch choices that will be needed to put our country back on a sound fiscal course. When he completed his service at OMB, the country had a surplus of more than $200 billion. And Jack knows how to reach across the aisle to find bipartisan agreement. He was instrumental in putting together the 1997 bipartisan deficit reduction package that helped create those surpluses. And Jack has the highest integrity. Anyone who has worked closely with him over the years knows that. He has repeatedly proven himself to be an outstanding public servant.

So Jack Lew brings with him exactly the kind of knowledge, experience, bipartisan spirit, and integrity that we need at OMB right now. He is the ideal person to lead this critical agency.

The economic and budget challenges facing the Nation are great. In the near term, we need to strengthen the economic recovery and promote job creation; and at the same time, to address the Nation's long-term fiscal crisis, we must begin now to put in place a deficit reduction policy that will kick in after the economy is on stronger footing. That is why the work of the President's bipartisan Fiscal Commission is so important.

Combining these policies of short-term job creation and long-term deficit reduction is no easy task, but the fundamental economic security of the country depends on it. In these challenging times, it is imperative that we have strong leadership at OMB. I hope we can move quickly on this nomination. We cannot afford to leave this position vacant at such a critical time.

It is my hope to schedule a Committee vote on this nomination soon so that the full Senate has time to confirm the nominee before it adjourns for the election.

Before we swear in the witness and hear his testimony, we will turn first to Senator Gregg, the Ranking Member of this Committee, for his opening statement. I want to thank Senator Gregg for accommodating this change in the schedule because of votes that are to come in the Senate this morning. And I also want to express my very strong appreciation to Senator Gregg for the support that he has already shown for this nomination.

Senator GREGG.

OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Mr. Chairman, and let me associate myself with your comments relative to the nominee. I apologize that I will have to leave early.

There are people throughout our Government who make the Government work. I mean, a lot of people do not think it works, but large segments of our Government work well, and it is because of people who have dedicated themselves to public service and have gone the extra mile in that area. And certainly Jack Lew falls in that category.

I have had the great pleasure of knowing Jack for years. He probably did not know me when I was a junior Member of the House and he was working for Speaker O'Neill. But I know of Jack. And since then, I have watched him do many jobs, all of them very well and with great integrity and great forthrightness. He always give you the straight answer. It may not be one you agree with, but it is always a straight answer. And he is willing to make the tough

calls that have to be made at OMB. He has already done it once. The fact that he is willing to go back again may question his thought process.

[Laughter.]

Senator GREGG. But it is great that you are, and the Nation is fortunate to have you assume this position during this time when clearly, in my opinion, the biggest threat to this Nation after the potential of a terrorist using a weapon of mass destruction is our financial health. And we need leadership in the area of disciplining ourselves financially, and I look forward to working with you to accomplish that, and I thank you again for being willing to take on this job. I especially appreciate your wife's understanding in allowing you to take on this job.

Thank you, Jack.

Chairman CONRAD. Under the Committee rules, we are required to put the witness under oath, so we will do that. Will you please rise? Do you swear that the testimony that you are about to give will be the truth, the whole truth, and nothing but the truth?

Mr. LEW. Yes, sir.

Chairman CONRAD. If asked to do so and if given reasonable notice, will you agree to appear before this Committee and answer any questions that members of this Committee might have?

Mr. LEW. Yes, sir.

Chairman CONRAD. Please be seated. You may proceed with your testimony. I again want to thank Senator Gregg for changing his schedule to accommodate this early beginning because of votes that are to follow. We know that he has prescheduled—there are other things that he has to go to, but he will no doubt return.

Again, welcome to the Committee and please proceed.

TESTIMONY OF THE HONORABLE JACOB J. LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. LEW. Thank you very much, Mr. Chairman, and I thank Senator Gregg as well for the kind welcome and the very kind words of introduction. It has really been my honor to work with both of you for many years, and I think that it really is a testimony to the possibility of bipartisan cooperation. But I have known Senator Gregg for decades, and while we have not always agreed, we have always been able to work together in a constructive way, and we have reached good results.

I take great pride in my current and prior Government service, and it is really an honor to be considered today as the nominee to be Director of the Office of Management and Budget.

I am delighted that joining me today are my wife, Ruth, and my daughter, Shoshi. Together with my son, Danny, and my daughter-in-law, Zahava, who could not be here today—they are in New York—my family has supported me unfailingly and unconditionally during my career in public service—often through long hours, late nights, and, unfortunately, more than a few missed family events. Their daily sacrifices have made possible my public service, and for that I am very grateful.

I am also blessed to have had role models whose influence is always with me. My parents—Ruth and Irving Lew—taught me the

importance of being involved in the community and world around us. The late Speaker Thomas P. O'Neill, Jr., was not just my boss for 8 years early in my career, but he was a mentor who shared his wisdom about the legislative and the policymaking process and more generally about how to forge consensus.

It has been my honor and privilege to serve under President Clinton and, most recently, as a deputy to Secretary of State Clinton, and I am deeply grateful to both of them for the opportunity to serve and for their continuing friendship.

Finally, I am grateful to President Obama for nominating me to serve as the next Director of the Office of Management and Budget. I am humbled by the confidence he has shown in me as we face the enormous challenges that lie ahead.

This is neither my first time testifying before the Committee nor my first time testifying before the Committee about budget issues.

My familiarity with OMB gives me a knowledge of the institution's workings and gives me a respect for it that is deep and heartfelt. I appreciate the centrality of OMB to the efficient and effective operation of the Federal Government, and I have the greatest respect and admiration for the women and men who work there to fulfill this critical mission.

Since my previous service at OMB, I have worked in similar management and budget roles in large nonprofit and private sector organizations, and I have experienced firsthand that all large organizations wrestle with the same challenge of how to fulfill strategic core missions with scarce resources and competing demands.

Indeed, the process of forging consensus behind priorities, directing new resources where they are most critical, and finding internal savings to support these initiatives is an universal challenge.

In addition, in my current role at the State Department, I have now been on the front lines, not just setting policy but working to implement it—often to the very finest details and with the greatest of stakes: the safety of our brave men and women who volunteer to serve in dangerous assignments.

Together, these experiences from the past decade have broadened the perspective I would bring to the position for which you are considering me.

As we all know too well, President Obama has asked me to serve in this position at a time that is very different from when I last sat in the Director's office.

In the late 1990's, our challenge was how to maintain a prudent fiscal policy while transitioning into a world of budget surpluses and robust economic growth.

Today, a series of policy choices and the worst economic downturn since the Great Depression present us with very different challenges. With millions of Americans who are desperately looking for work and are still unable to find jobs, our first task is to sustain and deepen the economic recovery to spur new job creation in the face of unsustainable budget deficits. At the same time, we must put our Nation back on a sustainable fiscal course in the medium term while making investments critical to long-term economic growth; and we need to do this in a way that strengthens our fiscal position for decades to come.

Indeed, the coming months may be the most critical time in fiscal policy in recent memory.

As the President has said, it will take tough choices—and putting partisan differences aside—to do what is right for the country today, what is right for our children, and what is right for our grandchildren.

Throughout my career, I have tried to work collaboratively across partisan and ideological divides to cut through gridlock and to help solve what seem like intractable problems. If confirmed as OMB Director, I will work in that bipartisan fashion again—with the members of this Committee, the leadership of both chambers, and with all those committed to taking constructive steps to rejuvenating our Nation's economy and its fiscal standing.

And while we should aspire to never waste taxpayer dollars regardless of whether the budget is in surplus or deficit, the management of the Federal Government is particularly important during lean times. I look forward to working with this Committee, if confirmed, to make sure that every dollar we spend has the desired impact and makes a difference.

Getting our economy back on track and our fiscal house in order will take hard work. I am honored that the President has asked me to join him in this endeavor, and I am grateful to this Committee for its consideration of my nomination.

Thank you very much, and I look forward to answering any questions that you have.

[The prepared statement of Mr. Lew follows:]

STATEMENT OF JACOB J. LEW

Nominee to Serve As
Director of the Office of Management and Budget

UNITED STATES SENATE COMMTTEE ON THE BUDGET
September 16, 2010

Thank you, Mr. Chairman, Ranking Member Gregg, and Members of the Committee for welcoming me today. I take great pride in my current and prior government service, and it is an honor to be considered today as the nominee to be Director of the Office of Management and Budget.

Thanks also to Senator Schumer for his kind introduction. I am proud to come before this Committee as a New Yorker. While I have spent many years in Washington, DC, New York will always be home.

I am delighted that joining me today are my wife, Ruth, and my daughter, Shoshi. Together with my son, Danny, and daughter-in-law, Zahava, who could not be here today, my family has supported me unfailingly and unconditionally during my career in public service – often through long hours, late nights, and missed family events. Their daily sacrifices make possible my public service, and for that, I am very grateful.

I am also blessed to have had role models who, now, are only with me in spirit. My parents – Ruth and Irving Lew – taught me the importance of being involved in the community and world around us. And the late Speaker Thomas P. O'Neill, Jr. was not just my boss for eight years early in my career, but also a mentor who imparted to me wisdom about the legislative and policymaking process, and more generally about how to forge consensus.

It has been my honor and privilege to serve under President Clinton and, most recently, as a deputy to Secretary of State Clinton – and I am deeply grateful to both of them for the opportunity to serve and for their continuing friendship.

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Since my previous service at OMB, I have worked in similar management and budget roles in large non-profit and private sector organizations – and have experienced firsthand that all large organizations wrestle with the same challenge of how to fulfill strategic core missions with scarce resources and competing demands.

Indeed, the process of forging consensus behind priorities, directing new resources where they are most critical, and finding internal savings to support new initiatives, is an universal issue.

In addition, in my current role at the State department, I now have been on the frontlines – not just setting policy, but working to implement it – often to the very finest details and with the greatest of stakes: the safety of our brave men and women who volunteer to serve in dangerous assignments.

Together, these experiences from the past decade have broadened the perspective I would bring to this position for which you are considering me.

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In the late 1990's, our challenge was how to maintain a prudent fiscal policy while transitioning into a world of budget surpluses and robust economic growth.

Today, a series of policy choices and the worst economic downturn since the Great Depression present us with a very different set of challenges. With millions of Americans who desperately want to work still unable to find jobs, our first task is to sustain and deepen the economic recovery and spur new job creation in the face of unsustainable budget deficits. At the same time, we must put our nation back on a sustainable fiscal course in the medium-term while making investments critical to long-term economic growth; and how to shore up our fiscal position for decades to come.

Indeed, the coming months may be the most critical time in fiscal policy in recent memory.

As the President has said, it will take tough choices – and putting partisan differences aside – in order to do what is right for our country today and for our children and grandchildren in the years ahead.

Throughout my career, I have worked collaboratively across partisan and ideological divides to cut through gridlock and help solve seemingly intractable problems. If confirmed as OMB Director, I will work in that bipartisan fashion again – with the members of this Committee, the leadership of both chambers, and with all those committed to taking constructive steps to rejuvenating our nation's economy and its fiscal standing.

And while we should aspire not to waste taxpayer dollars regardless of whether the budget is in surplus or deficit, the management of the federal government is particularly important during lean times. I look forward to working with this Committee – if confirmed – to make sure every dollar we spend, has the desired impact and makes a difference.

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Chairman CONRAD. Thanks again, Jack. Thanks for your previous service, and thank you very much for being willing to step up to the plate once again at really a remarkably challenging time.

First of all, we faced the greatest economic downturn since the Great Depression. I will never forget in 2008 being called to an emergency meeting in the Majority Leader's office, arriving there at about 6 o'clock one evening, and there was the head of the Fed-

eral Reserve, the Secretary of the Treasury in the previous administration, all the leaders of Congress, Republicans and Democrats; and they were to tell us they were taking over AIG the next morning. And they told us very clearly they were not there to ask our approval, they were not there to seek our approval. They were there to tell us they had made the decision to do it, and they believed if they did not do it, there would be a financial collapse in days.

That is as sobering a news as anyone can receive, and they gave their rationale—the Chairman of the Federal Reserve, the Secretary of the Treasury—why they believed that would occur.

And so we confronted a circumstance that if the Government had not stepped forward and taken a series of very dramatic actions, we well could have faced another depression. In fact, we now have economic analysis from two very distinguished economists of differing philosophical backgrounds who tell us had these actions not been taken, we would currently have an unemployment rate of 16 percent, and we would still be in a very severe economic downturn.

While things remain difficult and challenging, unemployment stubbornly high and underemployment too high, nonetheless, we have been brought back from the brink. We were losing 800,000 jobs a month when President Obama took office. We are now seeing the creation of tens of thousands of jobs a month, although not nearly as much as what all of us would hope for.

Economic growth was a negative 6 percent in the first quarter the President was in office. It has now turned positive, although not as strongly positive as I think all of us would hope for.

So that is the circumstance that you inherit. You walk into a situation in which we have been brought back from the brink of what could have been a financial collapse—and, by the way, not just here but globally. And that meant the explosion of debt because the Government had to come in to prevent this collapse. That meant dramatically increased expenditures, dramatically reduced revenues, as we both cut taxes and spent money in order to prevent a collapse.

But all of that is unsustainable. Even before this downturn occurred, we were on a long-term path that was unsustainable. I have warned my colleagues many times that the debt is the threat. I believe that deeply.

So while we have had to see an increase in debt in the short term to avert a collapse, we now need to pivot and focus like a laser at bringing down this debt. What recommendations will you bring to the President for coping with this longer-term crisis?

Mr. LEW. Senator, I could not agree more that the situation that this administration inherited demanded immediate action. We were headed off the cliff in terms of where the economy might go. There was no obvious bottom, and the actions taken helped restore the ability for there to be a recovery. And we are seeing a recovery. None of us are satisfied with the rate of the recovery. None of us are satisfied with the sustained high levels of unemployment.

History tells the story of the path taken, not the path not taken. If we had not responded to the very, very severe economic crisis, we would indeed be seeing much worse economic circumstances with much higher rates of unemployment.

I think as we look ahead, it is a very, very significant challenge to simultaneously focus on the fact that we have to continue to encourage economic growth, we have to continue to encourage job creation; but we cannot put off for years worrying about the deficit. We have to be able to think about both in the same timeframe.

I think that the key challenge is for us to begin to take actions which will not have an effect today or tomorrow because I do not believe that putting the brakes on today or tomorrow is the right answer, but that we take actions that will send a signal of real confidence that right over the horizon we are putting in place the policies that will put us back on a path toward fiscal discipline.

I think it is possible to do that. I think it can only be done in a bipartisan way. I think that the President has appointed a Commission, which you serve on, which we are looking very, very hopefully for the results of as being a place where the beginning of a bipartisan consensus can begin to develop.

I do not think we have faced a more significant fiscal challenge in my lifetime, and we will be judged based on our ability to respond.

Chairman CONRAD. I think that is true.

Let me ask you this question: The President has put in place a Fiscal Commission. Senator Gregg and I tried to get that Commission authorized by law. Unfortunately, we fell somewhat short of the super majority required. We did have a majority vote in the U.S. Senate for that proposition. The President then went to his authority to name by Executive order a Commission, 18 members, a bipartisan Commission, with the requirement that if 14 of the 18 of us can agree on a plan—and both Senator Gregg and I serve on that Commission. If 14 of the 18 of us can agree—there will be a report on December 1st, and we have had a commitment from leadership in both the House and the Senate that if 14 of the 18 can agree, there will be a vote in Congress before the end of this year.

The circumstance we confront is very clear. Revenue is the lowest it has been as a share of our gross domestic product in 60 years. Spending is the highest it has been as a share of our gross domestic product in 60 years. Clearly we need to reduce spending as a share of the economy, and we need to raise revenue.

Let me just say my own belief is, before we raise taxes on anyone, we ought to collect the taxes that are already due from people who are not now paying what they owe. If we collected what was owed, we would not need any additional revenue increase by my calculation—if we just collected what is owed. Unfortunately, by my calculation we are only collecting about 80 percent of what is owed, partly because of the explosion of offshore tax havens, partly as a result of abusive tax shelters that have grown geometrically.

Let me just ask you: What is your view of the interaction between the Office of Management and Budget and the work of this Fiscal Commission leading up to a decision in December of what we will recommend?

Mr. LEW. Senator, let me begin by saying I think that the challenge we have is to leave things on the table because the answer will not be one or another thing. This will require many elements for us to make the kind of progress that needs to be made.

I think that the administration has taken, wisely, the view of not restricting the space in which the Commission can work. In an environment like this, I have watched commissions work really since 1983 with the Social Security Commission. It is a place where ideas can be safely pursued outside of the political spotlight, and when you look to a commission, I think what you can do from the point of view of either the Congress or the executive branch is to give it a little bit of room so that the exploration of ideas, whether they are ideas that you end up agreeing to or not, does not become in and of itself something that is too dangerous.

The political environment has made it very challenging to pursue ideas that might ultimately not be chosen because just the thought process of going through, looking at the options, becomes a liability.

So I think the administration has widely stepped back a little bit, giving the Commission room, and said that we are open to the Commission's recommendations, we look forward to being able to work with the Commission's recommendations; and I think most importantly, if there can be the beginning of a bipartisan process in the Commission, take that forward and use it as a basis to work together in the year to come.

As far as the process goes that you described, you know, I am aware of the commitments that have been made. That is really a set of congressional decisions, but the President remains committed to the idea, as I understand it, that if there is a positive recommendation, it should be brought forward for a vote.

Chairman CONRAD. I thank you. I think that is an excellent answer.

Let me just reserve at this point Senator Gregg's time and turn to Senator Sessions. We will do 5-minute rounds for the beginning, given the notice by leadership last night that we are going to have votes starting in the 10:30–10:45 time range. I just wanted to thank Senator Sessions and thank all of our colleagues for accommodating this last- minute change, moving up the schedule, because they gave us the indication that there are going to be votes on the floor at 10:30 to 10:45.

Senator SESSIONS.

Senator SESSIONS. Thank you, Mr. Chairman, and thank you for many of the comments that you have made in opening, because we are indeed facing a financial challenge of great import. I have a Judiciary hearing at 10, so I will have to be leaving, and I appreciate the opportunity to make a few comments and ask a few questions.

President Obama's budget outlines an appropriate transition from economic recovery to fiscal discipline. In your answers to questions in response to the Committee, you stated, "It lays out a path that brings deficits"—annual deficits, not debt—"as a share of the economy from 10 percent of GDP this year to 4 percent of GDP in 2013." That is a goal that can be achieved, I am confident probably more could be achieved, but, Mr. Lew, having been in this world before, you know it will not be easy. There will be a lot of people that feel they should not take any haircut, any trimming, any lack of growth in their budget because what they are doing is so important it just must be funded. And that is the psychology we are dealing with, and it is not an easy one.

But I have trouble accepting that as an example of real fiscal discipline. It plans to double the publicly held debt under the President's budget from $5.8 trillion to $11.6 trillion by 2012, and triple it in 10 years to $17.6 trillion by 2018. Those are the CBO numbers that we have seen. Interest payments skyrocket from $187 billion in 2009 to an annual interest payment of $916 billion in 2020, which I think will be significantly higher than any other Government expense at that time, or at least higher than the Defense Department budgets today, which are the highest. And that is a burden. There is no free lunch. To spend money today we do not have puts burdens that we carry forever unless we start paying down the debt.

The President's budget basically calls for a Fiscal Commission which we can hope is successful. It has got some good people on it. And I know you will work hard to support it. But the goal of this Commission, I have got to tell you, as stated by the President, is unacceptable. The goal of it is to stabilize the deficit at 3 percent of GDP, close quote. Three percent of GDP. Well, that would be an annual deficit in the year 2015 of $552 billion, which is higher than what President Bush's highest deficit was, and he had a growing number of deficits. It caused quite a bit of concern and criticism.

So you were OMB Director and rightly deserve credit for seeing the budget balanced—actually, it balanced not long after I came to the Senate. Do I get credit?

[Laughter.]

Chairman CONRAD. A little bit. A little bit.

Senator SESSIONS. But I would just suggest, in all honesty, that some of those 1994 Republicans who shut the Government down over spending deserve some credit for balancing that budget. And they stood up and made tough choices, resisted increased spending, resisted President Clinton's desire to spend more money year after year on various different things, and essentially all of you together worked and balanced the budget.

But the goal was to balance the budget, not to reach an area where we have got a 3-percent annual deficit as a percentage of GDP. Hopefully our economy will be growing in the future, and 3 percent would be above the $552 billion. Don't you think that is a fundamental flaw? Don't you think, Mr. Lew, that if we are going to ask the American people to stand up and put us on a sound financial footing, our goal within a foreseeable, reasonable period of time should be to reach balance?

Mr. LEW. Senator, I was very proud on my last day as OMB Director to sit in this chair and have a chart to my right which showed interest on the debt being eliminated if we stayed on the path that we were on at the time when I left the Office of Management and Budget. There is no doubt that we are in an unsustainable fiscal situation right now.

I think that if you look at the goal of the Fiscal Commission, it is not the final goal. It is the next goal. The President's budget had a plan to get the deficit down to 4 percent of GDP. The Commission was asked to bring it to 3 percent of GDP. We cannot get to balance until we stabilize the debt, until we stabilize the deficit and the debt that follows.

I think that the ultimate goal has to be to do more than that, but I do not think that given the forecasts that everyone is working from right now, given the options that it will take to get to 3 percent, that we should minimize how important it is to accomplish that goal of stabilizing the deficit.

I think if the Commission is able to help build a set of bipartisan options where we look at a range of mechanisms that will help us to bring the deficit to a level that is sustainable, we will then be sitting down and having the conversation about how to take the next step.

In terms of bipartisan cooperation, I think it is very important to remember that 1997 was a bipartisan balanced budget agreement. 1990 was a bipartisan balanced budget agreement. That is the right way to do it.

In 1993, it is also important to remember that there was extremely significant deficit reduction, and that was part of solving the problem, and that was not a bipartisan effort. I do not think that we should be looking at the 1993 model. We should be looking at 1990 and 1997. That is what is good for the country. That is where I think ultimately the answers lie.

I do not think that anyone in the administration is saying that 3 percent of GDP forever is where the deficit should be. But it would be a huge accomplishment to go from 10 percent to 3 percent.

Senator SESSIONS. Well, it would be progress. There is no doubt about that, Mr. Lew, and I believe you have much to offer, and I look forward to working with you in that effort. But I just do not think leadership is setting a goal to reach an annual deficit of $550 billion. I believe we have got to have more clarity and more commitment to go further than that. And we might surprise ourselves where we end up.

I would note you did not have a Deficit Commission in the 1990's. Basically it was battled out on the floor of the House and the Senate year after year, spending bill after spending bill, vetoes and so forth—oh, I am sorry, Mr. Chairman. Thank you.

Chairman CONRAD. Thank you. I would just say that the goal of the Commission—the 3 percent is an interim goal, but the charge to the Commission is much broader, and I think it would be a failure if that is all we accomplished.

I think what is absolutely essential is we put the country on a long-term, sustainable fiscal basis, and that is going to take—I would agree with the Senator. That is going to take a lot more than achieving the interim goal of 3 percent. In fact, my own belief is we have got to try to get the debt as a share of GDP—not just stabilize it. The first thing is to stabilize it. But then we have actually got to reduce it so we have room for things that might occur in the future, whether it is a natural disaster or whether it is a foreign attack or what other exigencies might occur.

Senator SESSIONS. Mr. Chairman, I would note that we have had some bipartisan effort. I appreciate Senator Begich and Senator Warner working with Senator McCaskill and myself to try to enforce the President's spending levels that he has proposed. If we could do that, that would be a small step but a significant one.

Thank you.

Chairman CONRAD. Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman.

Mr. Lew, welcome, and thank you to you and your family for your willingness to do this. I, too, appreciate your integrity and your dedication to public service and willingness to take on this position.

You are not new to this scene, and I, too, remember the meeting that Senator Conrad described in the office late at night, but the troubles of our economy started much longer before that, when we saw the Bush economic policies of paying for pretty much everything off budget, from wars to tax cuts. And I think we have learned some important lessons from that.

But I want to go back to the lessons that you might be able to share with us because when you came in under President Clinton, we were facing an annual budget deficit of about $300 million with no end in sight.

Mr. LEW. Billion.

Senator MURRAY. Three hundred billion. Sorry, $300 billion, with no end in sight. And we had to craft our way out of that to a point by the time that you left, we were looking at a surplus.

I wondered if you could share with us some of the policies that you implemented back in the 1990's to help us reduce that deficit, and can those lessons be applied today?

Mr. LEW. I think that it is very important to remember that in the 1990's we operated in an environment with rules that said that fiscal discipline is important. We had PAYGO rules, so you could not have tax cuts or spending increases without having offsets. I think it was incredibly important, and the fact that the PAYGO rules lapsed and we went through a long period of time where there was freedom to both reduce taxes and increase spending without regard to whether there was an offset was a very significant contributing factor.

No doubt the wars and the economic downturn contributed to building up the deficit and the debt that we are now dealing with, but an awful lot of it was a result of a lack of discipline and not paying for policy as it was being made.

Those rules actually preceded the administration that I served in. They were established in the previous budget agreement, but they were honored by the administration I served in. And that meant saying no to an awful lot of things that we would have liked to have done.

In 1993, there were very difficult measures taken both to reduce spending and to increase revenue. It was done in a balanced way that was meant to be fair, not impose a burden on working Americans where it could be avoided. And it showed a dedication to the principle that fiscal discipline matters.

I think it is incredibly important that from 1993 to 1997 there was a sustained focus on fiscal discipline, and it was very important that it was bipartisan after 1993. There were indeed members of the other party that were very vocal speaking about fiscal discipline. In 1997, we had a bipartisan agreement.

I think that the relationship between what we do in the Federal Government as a matter of fiscal policy and the larger economy is

one that it is hard to map in economic equations. I think it is as much psychology as it is math.

I think that the business community looks to what we are doing, and they ask, Are we confident that they are dedicated and heading in the right direction or not?

I think the fact that we are now in a place where the size of the deficit and the lack of a serious conversation about how to reduce it causes a great deal of unease and uncertainty, which I think is one of the reasons why businesses across the country are sitting on an awful lot of resources, cash, that could be invested in plant and equipment and hiring.

I think we need to come together not just about specific policies, but to show this kind of dedication that we are going to stay at it. There is not a silver bullet. It is not going to be solved with one or another individual policy. I think one of the most important things for us to remember is that it is going to take concerted effort with multiple elements and everybody finding room to compromise. And it will not probably be done all at once. We will make progress, and then we will have to make more progress.

I think in the 1990's the key was we stayed at it and we got the job done.

Senator MURRAY. Thoughtful, and I think something all of us need to really focus on as we move forward, so I appreciate that.

Now, I did want to also ask you about the Environmental Management (EM) program that we talked about when you came to my office. This is the program that is responsible for cleaning up our Federal Government's legal and moral obligation for nuclear waste across the country, like Hanford in my State, and it is extremely important. As you know, the EM mission is about 25 percent of DOE's budget, and I have been very clear with this administration. We have to be consistent with this funding and meet our legal and moral obligations. This administration has fallen short in meeting that, and that waste that remains in my State and across the country from the Manhattan Projects and cold war efforts were from a war effort, and now that we are hearing that we may be seeing a 5-percent cut in the EM budget. I want you to really think about the fact that this is defense spending, and it cannot be just defense when it suits the Government. And I want to talk with you about making sure that we have a robust annual budget for EM that will meet those legal obligations that we have to clean up Hanford and other sites around the country, and I also would like your commitment to that. And if you could give that to me today, I would appreciate it.

Mr. LEW. Senator, I understand the issue of dealing with these waste sights is a very important. It is critical not just at Hanford but in a number of parts of the country, and it is an important environmental and health and safety challenge that we have to address.

I, if confirmed, will work with the staff at OMB and the team at the Department of Energy to fully understand the issues, and I will work with you to try and see if we can come up with the best possible solution.

Senator MURRAY. OK. I assure you we will have many conversations, but this is extremely important, so thank you very much.

Chairman CONRAD. I would just like to on that point second what Senator Murray has said. I do not think I will ever forget being at a secure briefing—and I cannot discuss all of what was revealed there, but this issue is critically important. It is a national priority. Senator Murray able represents the State that is most involved or one of the most involved, but this really is a national priority, and it is clearly important that we address it in that way.

Next we will go to Senator Crapo. Senator Crapo, we had indicated earlier we are going to 5-minute rounds this morning because of the votes that have been announced on the floor.

I also want to say Senator Crapo is a valued member of the Fiscal Commission.

Senator CRAPO. Thank you very much, Senator Conrad, and, Mr. Lew, I appreciate you appearing here before us today. I would also like to join in support of the comments that were made by Senator Murray and Senator Conrad about the importance of our EM budget. It is critical that it receive the attention that it needs.

Following along that, I want to talk to you first about the DOE loan guarantees for nuclear power production in the United States. I am a very strong proponent of these loan guarantees, and this is a program that was authorized in 2005. It is critical, frankly, in my opinion, to the success of our movement into nuclear power as one of the more important parts of our National Energy Policy.

Unfortunately, we have faced, in my opinion, difficulty between DOE and OMB, and I am not quite sure why. But it appears to me that there is a problem with these two agencies working together effectively on this issue. We have had unnecessary bureaucratic hold-ups from what appears to be infighting between OMB and DOE. And I do not know if I have correctly described that, but something is wrong because we cannot seem to get proper and timely movement forward on the process.

As an example, I inquired about some specifics in late November of 2009 with several other Senators and did not even get a response after repeated attempts until just very recently.

And I want to be clear about this because it is so important that this program function effectively and is not undermined by bureaucratic delays.

OMB, in my opinion, must be a close and transparent partner with DOE in this process. And, in my opinion, from what I have observed, DOE is doing a good job and in my view trying to get these loans out the door and get the program implemented. But somewhere along the road there is a blockage of some sort. And I do not know exactly how to tell you what the problem is, but there is a problem, and I would just like to get your commitment that you will take a personal interest in this and try to see that whatever the issue is between OMB and DOE, that we resolve it and we get to a smooth operation in terms of implementing this program.

Mr. LEW. Senator, I must confess that I am not terribly familiar with the details of this. It was enacted while I was out of Government, and I have not been involved in it from my current vantage point at the State Department.

I do have a good relationship with Secretary Chu. I have a great deal of respect for him. I think that one of the important functions

that OMB should play is to focus on what issues need to be resolved and to run a process that permits the issues to be addressed so that Government can move forward effectively and smoothly. And, if confirmed, I would bring the appropriate people together so that I can get up to speed quickly on this issue.

Senator CRAPO. Well, I appreciate that, and I look forward to working with you on it, and hopefully we can resolve these problems.

One other thing I would like to get to before my time runs out, just changing subjects entirely, is the Secure Rural Schools and Communities Self-Determination Act. Are you familiar with it?

Mr. LEW. I am generally familiar with it. I would not pretend to be as familiar in the detail that you are.

Senator CRAPO. Sure. Well, I understand, and just as a quick summary, this is legislation, this is a program that is designed to help those communities and counties in the country where there is heavy Federal ownership of property and, therefore, lack of a property tax base in the county, to have the Federal Government pay its fair share of operations in the county. That is a very quick summary of it.

The problem we have is that we continue to have to fight cycle after cycle for reauthorization of the program, and we are coming up again in the near future with the need to reauthorize the program after the end of 2011 funding. And I would just like to be sure that the administration is aware of this need, that the administration puts the reauthorization in the budget and proposes to move it forward so that we do not have to have that fight yet once again here in Congress as we move forward to try to get this program reauthorized.

Mr. LEW. Senator, while I am not familiar with the details of that provision, I generally am familiar with the impact of the kinds of approaches, and I have always thought it is important to be careful as we look at programs like that to make sure that we are appropriately compensating for the impact and not creating much larger programs than we otherwise would and that they be targeted appropriately.

If confirmed, I would work with the OMB staff to make sure I understand that issue, and I would be happy to speak with you about it. I do not have the detailed knowledge to respond at a detailed level.

Senator CRAPO. All right. Well, I will followup with you then after you get fully engaged on this, but it is a critical program which has broad national support, and we just do not need to be going through this continuous cycle of trying to work it into the budget, and we would appreciate your help and support on that.

Mr. LEW. Thank you.

Senator CRAPO. Thank you.

Chairman CONRAD. Thank you, Senator Crapo.

Senator CARDIN.

Senator CARDIN. Thank you very much, Mr. Chairman.

Let me followup on Senator Crapo's point as it relates to these guarantees for nuclear power. We have the same concerns, and it seems that there is a disagreement between OMB and DOE as to how the cost is calculated under Title 17 of the Energy Policy Act,

that there is a disagreement as to whether to use a generic cost recovery, 55 percent, or whether it should be sensitive to the individual transaction.

We have a project moving forward at Calvert Cliffs in Maryland. This is thousands of jobs. It is ready. It is important for our energy policy in our country, and it has the strong support of our State and local communities. The bureaucracy is not working as effectively as it should. So I want you to know there is bipartisan interest to resolve this issue so we can move forward. We are concerned that investors are getting nervous because of the delays, and I would second Senator Crapo's point and ask you to give this your personal attention to resolve this so we can move forward with a policy that the Obama administration is supporting.

Mr. LEW. Right.

Senator CARDIN. And one which has support here in Congress.

Mr. LEW. Senator, at the risk of speculating about something that I have already said I do not start out with a detailed knowledge of, I suspect it is a credit budget scoring issue where we have one law that tells us how to score credit issues and we have another law that has designed a nuclear loan guarantee program, and the challenge is reconciling the two.

I understand that is an important function that OMB plays to be in the middle of that space and that coming to a resolution is important. I will have to go back and study the issue, if confirmed, to make sure I understand precisely what the resolution might look like.

Senator CARDIN. You are a quick study. We are very confident you will pick this up quickly and use your talent to resolve it so that we can move forward with a policy that we all agree is right for this country.

I want to take my time to first thank you for being willing to do this again and thank your family. You have had an incredible record of public service, and we thank you for your contributions to the Congress, to several administrations, and your work currently in the State Department, and now going back to OMB. We thank you for being willing to do this. This is tough work, and I think we all recognize that we have to get back to the fiscal discipline that we had in the 1990's.

I think the challenge is as we started the 21st century, that discipline was not there on tax cuts, it was not there on military spending; and most recently, with our major concern of getting out of a major economic recession and we had to figure out how to get our economy moving, fiscal discipline was not there either. We must restore fiscal discipline, and the good news is that we all understand it and the American public understands it, that we need to get this budget into balance. There is genuine concern that our economy cannot sustain the types of deficits that we are currently have and that we are projecting for the future.

I would underscore the lesson that you mentioned from the 1990's on fiscal discipline and PAYGO, and I say that because we are currently considering certain extensions of tax policies. I do not hear in Congress the type of discipline I would like to hear related to not only non-defense spending, but also revenues and military spending. Everything needs to be subject to the same type of dis-

cipline if we are going to have a plan that will meet the Chairman's expectations and the President's expectations of where we need to be for this Nation. Secretary Lew, I think you can be extremely helpful to us in this debate. Your credibility on this subject is well earned. You have accomplished a great deal. And I thank you for moving forward, and I ask that you be very open and frank with us in getting us to focus on this issue that is so critically important to America's future.

Mr. LEW. Thank you, Senator. I believe that as we go forward, it is critical that we ask ourselves every time how are we going to pay for the things that we want to do. But I also think it is important to distinguish the actions that were taken to respond to the fiscal crisis from normal spending. In order to create millions of jobs, in order to create economic growth where it did not existing, it was, I think, critically important at the beginning of this administration to actually increase the deficit. That was the exception to the rule. That was the way to stimulate the economy. It cannot become the normal rule. If it becomes the normal rule, we are on a path that goes nowhere good.

But I do not think that I would compare the actions taken on, say, Recovery Act to the actions taken on the other measures that you are describing.

Senator CARDIN. I totally agree with you. I was just trying to point out that we have got to work together on fiscal discipline.

Mr. LEW. Absolutely.

Senator CARDIN. There is no question that managing the debt and managing spending are critically important of economic activities you need to get out of a recession. To me, that is basic economics, and I fully supported those policies.

What I am suggesting, though, is that you cannot use this indefinitely, and you need to recognize that now the deficit is a drag on our economy, and that deficit reduction must be part of the equation as we develop the next round of fiscal policies.

Mr. LEW. And it is always hard to change gears.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

Chairman CONRAD. Thank you. And I thank the Senator for his strong statement as well.

Senator BEGICH.

Senator BEGICH. Thank you very much, and I want to echo thank you for your willingness to serve and go through these types of hearings. And I am sure once you are appointed that there will be plenty more that you will be subjected to and wonder why you decided to do this again. But thank you very much for your——

Mr. LEW. It is my honor.

Senator BEGICH. Thank you.

I want to followup on a couple commission people had, but before I do that, I want to talk about one specific Alaska program. It is called the Denali Commission. You may or may not be familiar with it. I am assuming if you have been around a while, you probably are familiar to some degree with it. You know, it is in the process of once again going through a reauthorization process. We have seen incredible success in Alaska with it where the overhead is less than 5 percent to administer incredible projects and develop

infrastructure, whether it be clinics or water and sewer projects in very rural areas. And OMB has always taken a view that—they have not been very kind to it, to be very frank with you. But I can name program after program in the Federal Government that is very inefficient compared to this one, which actually matches local dollars, Federal dollars, and talks about sustainability, kind of what I think you are talking about today, is how do you create these budgetary situations that create sustainability.

I am not asking you to make a comment on it right now. I would like to have further discussion. But in order to do that, to be very frank with you, you need to come to Alaska. I would be remiss if I did not invite you, but also, we have had seven Cabinet Secretaries up there over the last year and a half; we have had multiple Department heads. Once they see the living conditions in some of these areas and why the Commission is critical—and it is kind of a one-shot in, and then the local communities take it from there. There are no operating requirements afterwards by the Federal Government. I hope you would look kindly to that offer and opportunity.

Mr. LEW. Well, I thank you for the invitation. I actually had hoped at one point to go to Alaska and because of a family illness had to cancel the trip, and it has been something I have always meant to get back to. So I am familiar with the Denali Commission. The years when I was working on the budget, when Senator Stevens chaired the Appropriations Committee, I became very familiar with the geography of Alaska, and I would look forward to working with you on these issues.

Senator BEGICH. Great. And we recognize there are some issues within it that need to be resolved, and that is why in the reauthorization we hope to do that.

A couple things in a broader context, if I can. You know, over the last week here we have been struggling with resolving this 1099 issue and trying to find a proper pay-for. As you know, two amendments were up, both failed. We have introduced an amendment. I have put it on the table with Senator Ben Nelson from Nebraska as well as some other sponsors trying to resolve this issue. And I guess the question I have for you is: Now, that the President has also now said that that provision should be—he did not say repealed. I say repealed, because I think it is onerous, and I am probably one of the only people in the U.S. Senate who actually fills 1099s out as a small business owner.

Is OMB willing to step up to the plate and help us resolve this and get a good pay-for on this in very short order?

Mr. LEW. Senator, I am familiar with the provision, and I concur that it is important to find a way to make the provision not be as onerous, and that would require a pay-for.

Senator BEGICH. Correct.

Mr. LEW. I am not familiar with the conversations that have been going on so, if confirmed, I would become familiar with them at a detailed level. But I do concur that it is in our mutual interest to find a solution because it is a provision that is kind of—while it was a pay-for in the health reform bill, it is not central to it.

Senator BEGICH. Correct.

Mr. LEW. It was just a means of financing.

Senator BEGICH. Right.

Mr. LEW. And I am not sure, as I understand it, that it was well understood what the scope of the impact might have been at the time it was designed, and having filled out 1099s, I understand——

Senator BEGICH. You know exactly what I am talking about, and if you are small businessperson, it is a lot of additional paperwork, and on goods, it is even more cumbersome. And my issue was that the IRS never could tell you what the compliance rate was on the existing 1099 format they have for services, so how could they determine what their success rate would be on this? You know, I will not go into my rant about how CBO scores, because I do not get it, to be very frank with you, the way they do it. Things that should be scored they do not score. Things that do not make any sense, they score. But I will leave that for another discussion, because I do think after you are confirmed—and I am hoping you will be—one of the things I would like to find out over the longer term is how accurate these scores have been, because we spend so much time here debating the score, and then we move on to the next time. We never look back and see was it accurate or not. So that is, again, another discussion for another day, and I would be looking forward to that.

The last comment I guess I would like to—I have several other questions, but just one really quick, and that is on the tax policy for the country. As you know, we are tinkering with the Bush tax cuts and what is going to be, what is not going to be. We will spend our time, you know, a lot of work on it, and then we will come back a year from now or 2 years from now or 6 months from now. And I guess I would like OMB to take a serious look at a bill that I have now cosponsored, which is the Gregg-Wyden bill, which really gets rid of a lot of loopholes, flattens the tax rates out for individuals to three rates—15, 25, 35 rates; takes the corporate rate from 35 to 24, giving us a more competitive edge in the world market; keeps the hard-core issues that benefit middle class, help small business.

It seems like, you know, 2 years from now we will be back at this whole debate again about, you know, what special interest group is lobbying us for what special tax provision they want so they can go tell their client they have done a good job versus let us do something once and for all that is good for the American people, and also gives certainty to the business community. Because I think these tax policies we are going to be tinkering with will not give certainty to the business community to unleash those dollars you mentioned in your opening that are sitting idle. They are looking for long-term policy—I do not know if you have a quick comment on that. I am well over my time.

Mr. LEW. Yes, Senator, I think that it has been a long time since there has been a serious discussion about the kind of basic structure of the Tax Code. I think the general principle that loophole closing is an important thing, because if for no other reason it promotes trust in the tax system because it promotes a sense of fairness that people in comparable positions face comparable tax liabilities.

I am not familiar with all the pending proposals that are out there now. As you know, it is principally the Department of Treas-

ury that handles tax policy, but OMB is very much involved in matters of fiscal policy. And I would imagine, if confirmed, I will be engaged in those conversations.

Senator BEGICH. Great. Thank you very much.

Thank you, Mr. Chairman.

Chairman CONRAD. Thank you, Senator.

Senator Alexander, would you defer to Senator Whitehouse for 5 minutes? He has a Judiciary——

Senator ALEXANDER. I will be happy to.

Chairman CONRAD. I thank the gentleman for his courtesy. Senator Whitehouse.

Senator WHITEHOUSE. I thank the distinguished Senator from Tennessee, and I thank Mr. Lew for his willingness to serve and for his distinguished record of service to date.

My questions will relate to health care, and let me ask you first, as you look at the looming fiscal liabilities that our country faces, where in that array do you see our fiscal liability regarding health care?

Mr. LEW. I think that there is no way of denying that health care is an enormous part of our economy. It is roughly 18 percent of our total economy, and one can hardly talk about the——

Senator WHITEHOUSE. And the forward-looking liabilities eclipse all others, do they not?

Mr. LEW. It has been growing in the past, and I think one of the challenges is to put the kinds of reforms in place that begin to create some downward pressures on what the growth in health care costs are.

Senator WHITEHOUSE. Good. Let me ask you about that, with around 18 percent of GDP being spent on health care, when we compare that to our competitor nations around the globe, no one is even close to having to carry that kind of a fiscal burden for their health care program, are they?

Mr. LEW. It has for many years been the case that we have had the anomalous situation of devoting more of our GDP to health care while we have had less people with coverage than some of our competitors, which is one of the reasons health care reform was so important——

Senator WHITEHOUSE. And in addition, we have had——

Mr. LEW [continuing]. And we had to begin by closing the gaps.

Senator WHITEHOUSE. In addition, when we do international comparisons on health outcomes for the American people compared to others, it is patently clear that we are getting nowhere near our money's worth for this colossal expenditure of national wealth. Is that not also correct?

Mr. LEW. Well, I think that what is clear is that we need to have more knowledge about outcomes and policy needs to be informed by that. One of the things that the health reform bill does, it sets up mechanisms that will for the first time put in place those kinds of mechanisms.

Senator WHITEHOUSE. Let me duck into that, because that is exactly the place where I am going. The President's Council on Economic Advisers said not too long ago that it should be possible to cut total health expenditures about 30 percent without worsening

outcomes, which would suggest that savings on the order of 5 percent of GDP could be feasible.

Now, just to do the math quickly, something on the order of 5 percent of GDP is something on the order of $700 billion, is it not?

Mr. LEW. The simple arithmetic—I am not familiar with the report, but that is the arithmetic, yes.

Senator WHITEHOUSE. Yes. So I guess my point is there are very big stakes here, and everybody from your predecessor, Director Orszag, to Dr. Gawande, who is one of the more lucid writers on this issue, have pointed out that the way to get to that $700 billion is an iterative, dynamic path of what Dr. Gawande called experimentation and learning as we use the tools in the health reform bill and others to learn our way through how to improve outcomes while improving the quality of care.

The concern that I have is that for reasons of it being that kind of an iterative and dynamic process that needs to go forward, it exceeds the ability of CBO to score it. It exceeds the ability of OMB to score it. And my worry is that as we go into an environment in which we need to show progress on the deficit, this issue—reducing the cost of health care by improving the quality of care, by improving outcomes and lowering costs and getting as much of that $700 billion in savings as we can—will fade, not because it is not important, not because it is not the biggest number, not because it is not a win-win for the American people, but because there is not a hard score attached to it.

My primary question to you is: Are you willing to take off the goggles of scoring and look at the larger policy issues and the potentials, recognize the limitations of the scoring, and assure that, to the extent you can in this administration and as the Director of OMB, you give this issue of health care reform the full energy and attention and interest that it deserves?

Mr. LEW. Senator, one of the issues that I have worked most intently on in my 20 years in public service is health care, and it is an issue for which I have a great deal of passion and more than a little bit of experience.

I think that the Affordable Care Act was a historic piece of legislation that both created a path to coverage for millions of Americans and set in motion forces to lead to the kinds of reforms that you are describing.

I think the implementation of the Affordable Care Act is one of this administration's highest priorities. As OMB Director, the President made it clear to me that he expected me, if confirmed, to pay a great deal of attention to it. And it is something I look forward to participating in.

Senator WHITEHOUSE. Good. We will work well together, then. I appreciate your appreciation of this as a very significant priority. And I again the distinguished Senator from Tennessee for his courtesy to me. I appreciate it.

Chairman CONRAD. Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman.

Mr. Lew, welcome, and thank you for being willing to serve. If I am not mistaken, entitlement spending is about 56 percent of the budget. Is that about right?

Mr. LEW. More or less, yes.

Senator ALEXANDER. Would you think in this time of what I think is overspending, with an alarming deficit, it would be a good idea to not have new entitlement spending?

Mr. LEW. I think that the growth of entitlements is principally driven by health care and Social Security. And I think that——

Senator ALEXANDER. But I mean to authorize new entitlement spending. Don't you think it would be a good idea not to have any more new entitlement spending?

Mr. LEW. I think as we go forward, the challenge is, in an environment defined by PAYGO rules, to make sure that anything that we do in this area we pay for. I think that the challenge of finding savings is very real, and we have to begin by not creating new long-term expenditures without worrying about how we are paying for them.

Senator ALEXANDER. But don't you see a difference between entitlement and discretionary in the sense that if it is entitlement it is just on automatic pilot and we never get control of it; if it is discretionary, we have to approve it every year?

Mr. LEW. I think that, you know, the programs like Social Security, Medicare, and Medicaid that have been set up the way they are, are not outside of our purview. I know that in the case of Medicare and Medicaid, I have on many occasions participated in processes that have changed those programs.

Senator ALEXANDER. Hard to do, though, isn't it?

Mr. LEW. It is hard, but I would not—I do not think we should think of them as beyond our reach. We have to be careful about what we do because people have a right to the benefits that they paid for and expect to earn. But I do not agree with the notion that they are kind of on automatic pilot and outside of our control. In 1983, we proved to the contrary by having very significant Social Security reforms that created a generation of stability in the program.

Senator ALEXANDER. The Obama administration has proposed converting the entire Pell grant program to the mandatory side of the budget, then provide an annual increase of CPI plus 1 percent a year. This would shift about $300 billion over 10 years to the mandatory side of the budget, plus $118 billion to fund the maximum grant award, plus another $69 billion to increase and index the maximum award.

Now, that is a lot of money. I mean, Republicans on the Appropriations Committee have suggested that we spend about $300 billion over 10 years less than the President has asked for this year, and the Majority Leader has said he agrees with that. And we all think—that just affects 30 percent of the budget, not counting the emergency spending. And we are all proud of the fact that we may be able to save $300 billion right now, but here the administration is coming along and proposing erasing that effort and spending nearly a half trillion, moving from discretionary to mandatory. Isn't that an unwise thing to do in the middle of such spending problems?

Mr. LEW. Senator, I would begin by saying that, you know, the Pell grant program is an enormously important program. If we look to the future of this country, the education of the young men and women who go through the Pell grant program——

Senator ALEXANDER. Let us say you and I agree on that.

Mr. LEW. That is key to our future, both in terms of our economic growth and the fairness of this country.

I think that the proposal in the President's budget, as I understand it—and I was not at OMB designing it, so I have an outsider's knowledge of it. But my understanding of it, it was in the context of an overall budget that observed the PAYGO rules that would have paid for it.

So I think that it is important to ask the question not should we make that kind of a change in Pell, but are we truly in a position to pay for it.

Senator ALEXANDER. So if we can pay for it, you see no problem with adding a half trillion dollars, taking a half trillion from the discretionary side and putting it on automatic pilot?

Mr. LEW. I think that the bipartisan support for Pell grants over the 20-plus years I have worked on Pell grant funding suggests that there is going to be substantial funding for Pell grants, whichever side it is on.

I think that the proposal was not so much to increase the spending except on the margin, but it was——

Senator ALEXANDER. You are ducking my question. You are basically saying you think it is OK to add a half trillion dollars in mandatory spending at a time when the President's proposals would double the debt in 5 years and triple it in 10.

Mr. LEW. I am saying the question is: Are we paying for it?

Senator ALEXANDER. When you were OMB Director during the Clinton administration, you supported biennial budgeting. Do you still think that is a good idea?

Mr. LEW. You know, I testified several times before the Congress on it, and I observed at the time, as I believe now, that the annual budget process gives us precious little time to focus on program implementation, both in the executive branch and in the legislative branch.

I think there are many challenges to biennial budgeting. The systems of Congress are well established. Dealing with annual appropriations is more than a tradition. It is a deeply ingrained mode of thinking and functioning. It would require changing the way everyone thinks and acts in a dramatic way.

I think that the goal of creating a space to focus on program management and implementation is a worthy one. In the many years that it has been discussed, I have never seen the consensus form around it, but I think it is the kind of conversation that is very much worth pursuing because the effective implementation of programs is, I think, one of the challenges both at OMB and in the Congress that we all need to pay a great deal of attention to.

Senator ALEXANDER. Mr. Chairman, my time is up. Could I make an observation in response to that?

Chairman CONRAD. Yes, sir.

Senator ALEXANDER. Well, thank you, Mr. Lew, for that comment. I hope we can continue that conversation because that idea, the idea of a 2-year budget, has bipartisan roots, and it has more support today on the Republican side and among appropriators than it did 20 years ago or 10 years ago. And we feel, many of us on the Republican side—and I am sure my colleagues on the Demo-

crat side may feel the same way—we have done a poor job at oversight. And as you say, spending 1 year on appropriations and the next year on program implementation, repeal and review of excessive regulations would be a very healthy thing from a Government that has grown too complicated and too big. So maybe that is an area where we can have further discussion.

Mr. LEW. And I would just add that every proposal for a biennial budget has recognized the need for mid-course corrections because decisions that are made on a long-term basis undoubtedly would run into changed circumstances that would need to be addressed. So it is both the oversight but also the effective mechanism for mid-course corrections that would need to be worked through.

Senator ALEXANDER. Thank you, Mr. Chairman.

Chairman CONRAD. Thank you.

On this point, if I can just for a moment, I have been a long-time opponent of biennial budgeting. I do not know of any large institution that does not budget every year. But with that said, given what I have now seen over these last many years, in the election years it has now become the rule rather than the exception that we do not have a budget. That is not a healthy thing. And it may well require that we move to a form of biennial budgeting so that we can assure there is a budget blueprint in place.

The only time we have been able to break that in the last number of years was 2008. I was able to get a budget through in an election year. But if you go back, Republicans, Democrats in charge of the Senate, we are now falling into a pattern in which we do not do a budget in an election year.

And so I must say, my attitude is changing very dramatically on this issue, and I would be happy to work with the Senator and others to see if we cannot form a proposal that could get adopted and we would put in place an effective plan that would assure a budget blueprint.

Senator ALEXANDER. The State of Texas has a 2-year budget.

Chairman CONRAD. Well, I am not sure I want to be copying Texas.

[Laughter.]

Chairman CONRAD. Senator Nelson.

Senator NELSON. I understand the subject came up about the deficit reduction Commission. Would you offer some further comments, please?

Mr. LEW. Senator, I think that the deficit reduction Commission was given one of the most important challenges and assignments that we face as a country today: How do we get our fiscal house in order and get back on a path to having a sustainable level of debt and deficit?

It is a very hard challenge. Getting from 10 percent of GDP deficits to 3 percent of GDP deficits requires a broad array of difficult decisions and choices. One of the keys to the way the Commission was set up is it was set up on a bipartisan basis with people of integrity on both sides, and the call to come together and try and find areas where there could possibly be bipartisan consensus.

The administration has taken the view, I think correctly, that it should give some space to the Commission and let that work be done outside of the 24-hour news cycle, without the things being

taken off the table prematurely. And that does not mean embracing everything that might be discussed in the Commission.

Certainly there will be things that are discussed in the Commission that not everyone on the Commission will agree to and those outside of the Commission might have issue with. But I think it is very important that there be a space where the Commission can do its work and hopefully come back in early December with a report that has a bipartisan consensus.

Senator NELSON. You worked for Tip O'Neill, and if you will recall, one of the most successful acts in Government was a bipartisan Commission to save Social Security in 1983. I would like your opinion on the experience of that success compared to the present attempt, given the fact that you basically had two old Irishmen back then—one who was President and one who was Speaker—that basically threw their weight behind the bipartisan Commission and kept Social Security off the table as an election issue at the next election. That does not seem to be the case in this toxic, highly partisan atmosphere that we have now.

Your observations?

Mr. LEW. Senator, I was proud to be Speaker O'Neill's liaison to the 1983 Social Security Commission, and the successful work of that Commission is something that I am proud to have been associated with.

I think that the challenge at the time was to be in a political environment that was highly charged while not taking specific things off the table so that there was nothing to talk about in the Commission. And I know that my role working for the Speaker at the time was to help him think through how could he take a position that was very principled in terms of defending Social Security and standing up for a program that he and I both believe is one of the greatest things that we have done in this country while leaving open some space for people of good will to come to a set of recommendations that would solve a problem without which the American people would not have confidence in this great program.

There were a number of components of the Social Security Commission report that easily could have been taken off the table in a political season. The fact that they were not is one of the reasons that that Commission was able to succeed. And I think it was important that there was a discussion of those ideas taking place outside of the kind of heat of the political environment because at the time Social Security was, as it still is called, the third rail of American politics. I do not think that there is a soul alive who would question Speaker O'Neill's commitment to the Social Security program. I for one think that he showed the greatest respect and loyalty to that program by permitting that discussion to take place and then embracing it would President Reagan which, by the two of them coming forward, made it possible to take what was a historic and important action.

Senator NELSON. Can you imagine President Obama and Senator McConnell and Leader Boehner coming forward after this election and embracing a report of the deficit Commission that would be passed, has to be passed by 14 of the 18 members?

Mr. LEW. Look, I think it is highly premature to think about the outcomes, the specific outcomes of the Commission. One of the ele-

ments of giving it space is that we have not commented a lot on the specific work of the Commission, and I think that is appropriate.

One thing I will observe as a general principle is that we have almost always been surprised by unlikely allies coming together when there has been real bipartisan progress. People were surprised when President Reagan and Speaker O'Neill came together in 1983. People were surprised when Speaker Gingrich and President Clinton came together in 1997. So I do believe in the possibility of things that do not look the most likely from where we sit today.

Senator NELSON. I would just say in conclusion that one of the things I learned when I sat at the knee of Tip O'Neill was that he and President Reagan would fight like the dickens, but they would walk out the door at the end of the day as personal friends. And that personal relationship led to an atmosphere by which, when it was time to build a consensus, they could do it. I am fearful that those personal relationships do not exist today.

Chairman CONRAD. I thank the Senator. I would just say on this Committee they do. Senator Gregg and I fight mightily on issues of policy, but at the end of the day, we are personal friends, and I do think that helped us get a Commission formed. And I also want to acknowledge that in the negotiating of that Commission, Senator Nelson played a key role. And when I needed a strong ally to go to the Vice President's residence on a weekend, Senator Nelson volunteered for the effort and played a very constructive role.

Senator ENSIGN.

Senator ENSIGN. Thank you, Mr. Chairman. I think it is just because you and Senator Gregg have such sweet personalities.

[Laughter.]

Senator ENSIGN. Mr. Lew, thank you for volunteering at this really critical time in our country's history. We had a nice visit in my office yesterday, and I appreciated that time with you. And I know we have some philosophical differences, but I certainly respect the work and your intellect. You have a huge challenge ahead of us at this critical time.

I think what Senator Nelson said about us needing bipartisanship at this time, because this debt crisis that we have—I mean, just look at the chart displayed up there, that represents the interest that we are going to pay on our debt each year. And these are the President's numbers going in 2011 to over $200 billion, to over $900 billion by 2020. And we know those numbers are scary because we do not get anything for it. It is like a family that has a credit card. If you think about this as our national credit card, we do not get anything for the money that we pay on interest on our national credit card. It is just wasted money. We do not build any roads; we do not get any veterans' benefits for it; we do not get any Social Security benefits for it. been That is just money that goes out the door, and it is because we have overspending for too many years. And this debt Commission certainly is important if we have the potential courage to embrace its recommendations.

You know, I realize we have different philosophies about how to get the economy going. But certainly, getting the economy going is something we all can agree on. How to do it is difference. I believe

that we should be cutting taxes and cutting spending. Obviously the administration has a different philosophy on that. But, you know, once the economy is growing, we still have this massive spending that is going on here in Washington, D.C., to deal with. And it is not just from the stimulus bill. We have dramatically increased discretionary spending in all the appropriations, especially non-security appropriations, over the last couple of years. And everybody is talking about fiscal responsibility now, but when it comes to votes, we are not getting those kinds of votes. I am not sure exactly when that is going to happen, but we absolutely need it to happen.

If you could pull up the next slide, please? This is the debt held by the public as a percentage of GDP, and we can see what it has done historically. It has had its ups and downs, but it is not anything compared to what according to the President's budget is going to do over the next 10 years. I mean, these numbers are completely unsustainable.

If you go to the next slide, this shows what people have been talking about, about debt held by the public, that it doubles in 5 years and triples in 10 years.

You know, I just look at this from a simple perspective. A family, a business, State governments, local governments, Federal Governments, debt at a certain point causes collapse. Whether it is personal bankruptcy or whether it is a country's bankruptcy, debt becomes too big at some point. And we as a Nation we have a AAA rating on our debt right now. Well, that AAA rating is in trouble. I mean, you hear talks about it right now. And we do not know when the rating agencies are going to decide that America is maybe not the safest place and so it does not deserve that AAA rating. But if it does happen, we are in trouble. We are in absolute trouble. We know that that is a possibility.

What we saw happen in Greece on our television sets earlier this year, Greece needed the European Union to bail them out. We do not have anybody to bail us out. If the United States goes down, the rest of the world's economy comes down with us. And that is why I believe it is so critical for us at this juncture in history to join together as Republicans and Democrats, forget our party labels. This debt is such a serious problem.

I actually am one of those people who as far as the tax cuts are concerned, would rather see those tax cuts offset with spending cuts. If you are going to keep the tax rates the same, which I believe that they should be, I do believe in spending reductions to pay for that policy. I think that the more that we can hold down this deficit and this debt, the better that we are going to be long term as far as economic health for this country is concerned.

If given the choice whether to keep taxes where they are and not pay for them or to raise taxes, I would choose keeping taxes where they are and not pay for them. But my ideal situation would be keep taxes where they are and to cut spending so we are not increasing the deficit. I think it over history it has shown that that is the best way to go.

But my basic plea to you is—you are going to be our new OMB chairman upon your confirmation—that you do everything you can to encourage the administration to reach across the aisle. To join

those of us who are willing to join you and to attack this serious debt problem that we have in the United States, because it is absolutely, I believe, unsustainable and is going to threaten the very future of the United States economy. And when you threaten the future of the United States economy, you threaten the future of our very existence as a constitutional republic.

So, Mr. Chairman, I know I did not have any questions in there, but I think that this is important to talk about and so critical for us as Senators up here and the Members of the House, Senators, and the White House to be working together on this as we go forward.

Chairman CONRAD. I thank the Senator.

Senator SANDERS. Thank you very much, Mr. Chairman. And, Mr. Lew, thanks very much for joining us.

Let me just say to my good friend Mr. Ensign, I am very glad that our Republican friends are concerned about the debt and the deficit, but let me just remind them. Some of us voted for the war in Iraq, which will end up costing $3 trillion. It was not paid for. Not me. Not many others.

Some of us voted for huge tax breaks for the rich, many, many hundreds of billions of dollars, which added to part of the problem of how under Bush we almost doubled the national debt. Some of us voted for it. Some of us did not.

Some of us voted for the Medicare Part D prescription drug program written by the insurance companies that was not paid for. Some of us voted for it. Some of us did not——

Senator ENSIGN. No, some of us did not.

Senator SANDERS. OK. I was not talking about you in particular, but it did pass under Republican leadership.

Some of us voted for the Wall Street bailout. A lot of that money was repaid. Some of it was. Some of it was not. Some of us did not vote.

So before we talk about the seriousness of the debt—and I certainly agree with you, it is a serious issue—let us remember how we got there, who voted for these unpaid programs and who did not.

But, Mr. Lew, welcome and thank you very much for your service.

Senator Ensign and Senator Alexander and others are absolutely right. Debt is a very serious problem. We have to deal with it. But it is one of many problems. Among other things, the middle class in America is collapsing. Poverty reduction is increasing. When President Bush was President, the middle class saw a $2,000-a-year decline in median family income.

The issue I want to talk about, which I hear very little discussion about and I want your views on, is the fact that the United States today has the most unequal distribution of income and wealth of any major country on Earth. Sometimes we talk about the economy like we are all in this together. We clearly are not.

Now, I want your judgment and tell me what you think. In 2007, the wealthiest 1 percent earned 23.5 percent of all income in America. In the 1970's, that number was 8 percent. The top 1 percent in the 1970's earned 8 percent. The top 1 percent now is earning almost 24 percent of all income.

Do you think that that is OK? Do you think that that is an issue that the President should focus on? Do you think it is morally OK? Do you think it is economically OK?

Mr. LEW. You know, I think that the distribution of income is a challenge and a problem, and it is something that we need to focus on. I think as a matter of Federal policy, it is really one of the things that drives the debate on whether or not to extend the tax cuts for people earning over $250,000 a year. It would be the wrong thing to do at a time when we have the disparity of income distribution that you are describing.

I think that the real challenge we face is how to grow the economy, grow jobs, create the kinds of better income earning opportunities for more working Americans.

Senator SANDERS. We certainly agree, and that is what everybody says. But the reality is over the last 30 years almost all of the new income created has gone to the top 1 percent, and, in fact, today the top one-tenth of 1 percent earns 11 percent of the income. Do you think that that is morally acceptable?

Mr. LEW. I think that it is very important that we focus on what are the income levels of working Americans, middle-income Americans, and the decline of incomes is not a good thing.

Senator SANDERS. In your judgment—and certainly it was exacerbated during the Bush years, but it would be wrong to say it was only the Bush years—why has over the last 30 years the middle class collapsed or significantly declined, the rich become much richer, and poverty increased in America? In your judgment, why has that happened?

Mr. LEW. I think that there have been trends in our economy that have done tremendous damage to the manufacturing base of the economy. The loss of manufacturing jobs has had a lot to do with it. I think that we need to look at the kinds of trends that you are talking about and ask how do our policies affect that, if our policies affect that.

I know over the years I have worked hard on things like earned income tax credits to address issues like that. There are Federal responses that have been very effective, though not effective enough, because——

Senator SANDERS. If I can, I am sorry. Time is short. You touch on manufacturing. I think that is an extremely important point. I think you are right. I know in my State, which is not a major manufacturing State, we lost about 25 percent of our manufacturing jobs in the last 6 years. I think under Bush we lost over 4 million manufacturing jobs.

Many of us believe that one of the reasons—not the only reason—is a disastrous trade policy which has basically said to corporate America, Of course, you can throw American workers out on the street, hire people in China for 50 cents an hour, and bring your product back into this country. I myself voted against NAFTA, Permanent Normal Trade relations with China and so forth and so on.

What do you think about trade policies? Are they working or have they helped destroy manufacturing in America?

Mr. LEW. I think that it is important that we look at these issues for both the benefits that come from enhanced trade, free trade, and the potential costs.

Senator SANDERS. You think the benefits have outweighed the losses?

Mr. LEW. I think that the risk to the United States of closing off from the world——

Senator SANDERS. That was not the question.

Mr. LEW [continuing]. Are very great.

Senator SANDERS. Going back in history, do you think the unfettered free trade policies that have gone on from Reagan, under Republicans and Democrats, have benefited the American worker or hurt the American worker?

Mr. LEW. I think for a worker who has lost their job——

Senator SANDERS. That was not my question. Of course, for a worker——

Mr. LEW. I cannot speak to the statistical averages. I would have to go back and look at them. My understanding of the trade policies has been there have been many benefits as well as costs. I think the costs are things we have to focus on. We have to look at the reason. We have to ask the question: Is that because of unfair policies? Is that because of countries——

Senator SANDERS. I think the reason is not that complicated. When you can hire people for 30 cents an hour, that is a pretty good reason to go abroad, and that is what people——

Mr. LEW. Senator, I think it is very important as we look at trade agreements to ask whether the kinds of laws that protect worker rights, the kinds of laws that protect environmental standards are in effect.

Senator SANDERS. We heard that under President Clinton as well. He was wrong then, and I am afraid those who are touting that line are wrong today.

We are in the midst of a horrendous recession right now; 16 percent of our people are unemployed or underemployed. Clearly the immediate precipitating factor was the collapse on Wall Street. Do you believe that the deregulation of Wall Street pushed by people like Alan Greenspan and Robert Rubin contributed significantly to the disaster we saw on Wall Street several years ago?

Mr. LEW. Senator, when we discussed it, as I mentioned to you, I do not consider myself an expert in some of these aspects of the financial industry. My experience in the financial industry has been as a manager, not as an investment adviser.

My sense, as someone who has generally been familiar with these trends, is that the problems in the financial industry preceded deregulation. There was an increasing emphasis on highly abstract leveraged derivative products that got us to the point that in the period of time leading up to the financial crisis risks were taken. They were not fully embraced. They were not well understood.

I do not personally know the extent to which deregulation drove it, but I do not believe that deregulation was the proximate cause. I would defer to others who are more expert about the industry to try and parse it better than that.

Senator SANDERS. Thank you, Mr. Lew. And thank you for the extra time, Mr. Chairman.

Chairman CONRAD. Let me just say I think these are very important points. My own assessment of what led to the collapse was a combination, really a toxic brew of overly loose fiscal policy, an explosion of debt in the previous administration when times were good, an overly loose fiscal policy following 9/11, the Federal Reserve keeping interest rates abnormally low for an extended period of time, and the result being an overly loose fiscal policy and an overly loose monetary policy at the same time—something you rarely see in economic history—coupled with deregulation.

I think the Senator is entirely right. I think deregulation—part of that toxic brew—has a central responsibility in the near collapse. And I do not know how it can be otherwise.

We had trillions of dollars of derivatives, exotic insurance products that were deployed to try to defend against people taking outsize risks. Major financial houses that were not satisfied with 11:1 leverage wanted 30:1 leverage and got 30:1 leverage under the previous administration. Got 30:1 leverage. It works great when things are going up. It does not work so good when things are going down. And the previous administration looked the other way. They absolutely did. I think the economic history of it is clear.

I just read the book, by the way, "The Big Short." If you want an interesting education on what occurred, read that book, "The Big Short."

Senator MERKLEY.

Senator MERKLEY. Thank you very much, Mr. Chair. And Bear Stearns actually hit 40:1. In fact, went from 20:1 to 40:1 in a single year during that period. Just phenomenal.

Chairman CONRAD. The Senator is talking about leverage.

Senator MERKLEY. Yes. Yes, 40:1 leverage.

Chairman CONRAD. There were firms that were well over 40:1 leverage, which worked, which means if something you are betting on goes up a dollar, you make $40. It also means if it goes down a dollar, you lose $40.

Senator MERKLEY. It means you crash overnight when the market turns, and you melt down the entire economy, and that is where we are now.

I want to turn to a piece of the Oregon economy, which is an arrangement regarding our forests. In 1908, the Federal Government worked out a deal that said, hey, we are not—our forests take up big chunks of counties throughout Oregon, and in other States, and we are not paying any property taxes, and clearly you have to maintain the infrastructure, so we will have a 25-percent revenue-sharing arrangement for the timber cut.

Well, along comes this century and a variety of environmental overlays have proceeded to take land that was specifically set aside, the ONC lands, for the counties, and essentially timber cannot be cut on it.

And so a deal was worked in 2000 that extended until now in a few different iterations that said, We understand we are not allowing you to cut, we understand there is no revenue sharing, so we are going to now compensate by filling in that hole of those revenues that are needed for the infrastructure of the counties.

This is a century-plus deal between the Federal Government and the communities. Oregon is dramatically affected; so are many other States. And President Obama said during his campaign that he understood this and that he would bring people together, that he would forge a long-term solution, that he was supportive.

Well, this latest piece of this is expiring in 2011, and this contract needs to be honored between the Federal Government and the people of my State that have large tracts of forest.

Are you prepared to make that happen?

Mr. LEW. Senator, I am generally familiar with the issue and, if confirmed, I obviously would become much more familiar with the issue. In general, I know the question of what the impact of Federal policies are on districts is something that has been challenging to calculate what the right kind of compensation is. I would certainly commit to working through those issues, understanding them and working with you.

Senator MERKLEY. I must say that is not satisfactory. Our President made a commitment. This commitment is central to the economies of my State. The Secretary of Agriculture is working on it; the Secretary of the Interior is working on it. But getting this into the budget is essential—that is being put together right now. And I would like you to come up to speed on this topic and have your commitment that you are going to get this done before you are confirmed because this is the lifeblood—33 of my 36 counties are profoundly affected by this long-term contract with the Federal Government over the use of the forest lands. Now, they would much prefer to be able to log. That creates jobs. But as long as the Federal rules have turned back that possibility, at a minimum the revenues necessary to operate the infrastructure of the county or contribute to that effort needs to be sustained in this deal.

And so if you are not adequately familiar to make that commitment today, I am asking that you come up to speed on it. I certainly feel like it is essential that anyone heading up this position not only understand this historic structure, understand why it is essential, and plans to honor the contract that was developed between timber counties and the Federal Government.

Mr. LEW. Senator, I certainly agree in principle that commitments made should be honored, and I have to confess that there are a number of details of the Federal budget that I have not focused on in the last 10 years with the same detail that I did when I was at OMB the last time. I can make the commitment to come up to speed quickly, and I would be happy to have appropriate interaction with you on it.

Senator MERKLEY. I will look forward to that. Thank you.

Thank you, Mr. Chair.

Chairman CONRAD. Thank you, Senator Merkley.

Let me just say that I think Senator Merkley has expressed this very clearly and very forcefully to those of us on the Committee, and we understand the central importance this plays in the economy of his State, and I intend to be supportive of Senator Merkley on this issue. He has made very, very clear to the members of this Committee the importance of it to him and to his State. So I want to rivet the point.

Senator MERKLEY. Thank you very much, Mr. Chair, and I appreciated your support when we put a space holder for this program in our budget plan. That was very helpful, and it recognizes the fact that this needs to be a contract honored.

Chairman CONRAD. And I have committed to the Senator on this matter and intend to absolutely keep that commitment.

You know, there are these issues that are in each of our States that are critically important. I have an issue in my State that I want to raise as well, because we have a Federal working group that is considering options to dealing with the crisis in my State. The crisis is in the Devils Lake Basin. We have a lake that has gone up 30 feet in the last 17 years, and it is a lake that is three times the size of the District of Columbia. And there is nothing else like it anywhere in the country, to have a runaway lake that has gone from 49,000 acres to 180,000 acres. And it is now 6 feet from an uncontrolled release. This is after going up 30 feet in the last 17 years. It had gone up 3–1/5 feet last year, went up over 2 feet this year. We are now within 6 feet of having an uncontrolled release from this lake, which would create massive flooding problems not only in the Devils Lake Basin but for every city and town downstream, towns that have just had massive flooding 2 years ago. If this were an uncontrolled release of water, their flood stages would be 5 feet above what they experienced in 2008, and the water would stay high for 30 days. Now, this is almost Biblical in terms of the threat to the eastern part of my State.

I have had a series of hearings all across the State in every affected area. I have had a Flood Summit with every Federal agency that has a responsibility represented. We have asked the administration and they agreed to put together a Federal working group. OMB is a very important part of that working group. They are about to issue their report. I am extremely concerned about what I hear might be in that report. I have not seen anything in writing, but I can tell you that there are certain things that simply must be done. We must move additional water off that lake. We must change water quality provisions in order to do that. We must relax the water quality standards in order to be able to do that.

There is no serious option, because if we do not do that, if we do not move more water off the west side of the lake where the water quality is dramatically better than out of the east end of the lake where an uncontrolled release would occur. It is very hard for people to get their minds around it. The water quality out of the east end of the lake is 5 times worse than the water quality out of the west side of the lake. So if there is an uncontrolled release of water out of the east end, we will face extremely serious consequences downstream. So it just makes common sense to release more water. We are already releasing water out of the west end through a State-operated outlet. But we are constrained by water quality issues. That simply must be addressed. We also must construct a structure on the east end to prevent an uncontrolled release that would be an absolute catastrophe.

Now, some counsel, well, let us just have some more meetings and we will enter into more discussions. There is no time for that. We are now in a timeline—this next spring, the town of Minnewaukan, which is on the edge of the lake now—when all this

started, it was 8 miles from the lake. Now Minnewaukan is virtually in the lake.

So I now that you are not yet confirmed. You are not in a position to influence the outcome of this officially, this report. I would just say to you this to me is a matter of extraordinary importance to the people that I represent and to me.

Mr. LEW. Senator, I remember the issue well from when I was at OMB the last time, and I worked with you and the delegation on issues related to Devils Lake at the time. I know there is a commission working on it, but I have not been involved with the commission. So you may know more than I do about where the Commission is heading. But I would look forward to continuing the conversation with you.

Chairman CONRAD. They have committed to issuing a report by the 20th of this month, and it would be an extremely serious matter if that is not an aggressive approach to dealing with this problem, because we are past the point of more conversations. We need action and it is absolutely imperative that it be done in the interest of everyone, those in the basin, those downstream.

We had a meeting here with the mayors of all the affected communities, with the Governor of the State, and we were unanimous in our position. Unanimous. Very rare in today's political climate. Republicans, Democrats, local officials, county officials, State officials, the Federal delegation, absolutely unanimous with respect to what has to be done.

With that, I want to indicate to members that we would like all written questions to be submitted by the end of business today. It is my intention that we move this nomination as expeditiously as possible. We have a 48-hour notice requirement. I will be visiting with Senator Gregg about when we give that notice. But it is my intention that we will vote on this early next week.

I thank all the members for their attendance today, for their interest, for their courtesy. I thank Jack Lew for his willingness to serve. We certainly appreciate that, and for his family as well.

The hearing will be adjourned.

Mr. LEW. Thank you, Mr. Chairman.

[Whereupon, at 10:48 a.m., the Committee was adjourned.]

UNITED STATES SENATE

COMMITTEE ON THE BUDGET
ROOM SD-624
(202) 224-0642
WASHINGTON, DC 20510-6250

STATEMENT OF BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: Jacob Joseph Lew/Jack Lew

2. Position to which nominated: Director Office of Management and Budget

3. Date of nomination: August 5, 2010

4. Address: (REDACTED)

5. Date and place of birth: New York, NY; August 29, 1955

6. Martial status: Married to Ruth N. Schwartz

7. Names and ages of children: (REDACTED)

8. Education:

Carleton College 9/72 - 6/73
Harvard College 9/75 - 6/78 (AB, 1978)
Georgetown University Law Center 8/79 - 9/83 (JD, 1983)

9. Employment Record:

- City of Boston, Office of Management and Budget, Deputy Director of Program Analysis, 1978-1979 (Boston, MA)

-US House Democratic Steering and Policy Committee (Washington, DC)
Deputy Director, 1979-1985
Executive Director, 1985-1987

-Van Ness, Feldmen and Curtiss (Washington, DC)
Attorney, 1987
Partner, 1988-1991

-Democratic National Committee, Campaign '88 Issues Director, 1988 (Washington, DC)

-Center for Middle East Research, Executive Director, 1992-1993 (Washington, DC)

-White House, Special Assistant to the President, 1993-1994 (Washington, DC)

-Office of Management and Budget (Washington, DC)

Assistant Direct, 1994
Executive Associate Director, 1995

Deputy Director, 1995-1998
Director, 1998-2001

-Georgetown University Public Policy Institute, Research Professor, 2001 (Washington, DC)

-New York University, Executive Vice President and Clinical Professor of Public Policy, 2001-2006 (New York, NY)

-Citigroup (New York, NY)

Managing Director and Chief Operating Officer of Global Wealth Management division, 2006-2007
Managing Director and Chief Operating Office of Citi Alternative Investments division, 2008-2009

-Department of State, Deputy Secretary of State for Management and Resources, 2009-present (Washington, DC)

10. Government Experience:

White House Commission on Aviation Security, Member, 1997
Corporation for National and Community Service, Board Member, 2004-2008 (Washington, DC)

11. Business relationships:

Kaiser Family Foundation, Trustee (2007-2009)
College Board Task Force on Higher Education Reform (2006)
Center on Budget and Policy Priorities, Board Member (2008-2009)
Tobin Project Board Member (2006-2009)
Hamilton Project, Brookings Institution, Advisory Board Member (2006-2009)
City Year New York, Advisory Board Chair (2003-2009)
Institute for Policy Integrity, NYU Law, Advisory Board Member (2008-2009)
IDT Corporation, Board Member (2001-2003)
CVCI Private Equity Fund, Limited Partner (207-present)
Citigroup, Managing Director (2006-2009)

12. Memberships:

-Brookings Institution, Hamilton Project, Advisory Board Member (2006-2008
-Hebrew Institute of Riverdale, Member (2001-present)
-Council on Foreign Relations, Member (2006-2008)
-National Academy of Social Insurance, Member (2002-208)
-Council on Excellence in Government, Member (2001-2008)
-Beth Sholom Congregation and Talmud Torah (1992-present)

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you been a candidate.

Democratic National Committee, Campaign '88 Issues Director, 1988 (Washington, DC)

(b) List all memberships and offices hild in and services rendered to all political parties or election committees during the last 10 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

Jacob Lew:

-2/8/06-Friends of Hillary Clinton-$1000
-2/8/06-Judy Feder for Congress-$1000
-3/22/06-Joseph Courtney for Congress-$250
-7/26/06-Friends of Joseph Lieberman-$1000
-10/20/06-Judy Feder for Congress-$1000
-2/24/07-Rangel for Congress-$1000
-3/2/07-Hillary Clinton for President-$2300
-9/25/07-Judy Feder for Congress-$250
-2007-Citigroup PAC-$2080
-8/28/08-Friends of Hillary Clinton-$2300

-8/31/08-Obama for America-$2300
-10/24/08-Judy Feder for Congress-$250
-2008-Citigroup PAC-$4784

Ruth Schwartz:

-3/2/07-Hillary Clinton for President-$2300
-2/7/08-Hillary CLinton for President-$2300

14. Honors and awards:

Council on Foreign Relations (member)
National Academy of Social Insurance (member)
Council on Excellence in Government (member)

15. Published writings:

-US Department of State, *The Ambassador's Review: Positioning the State Department to Achieve the Obama Administration's Policy Goals* (Spring 2009)

-Center for American Progress, *Change for America*, Chapter: Ensuring Fiscal Responsibility and Government Accountability (with Sally Katzen) (2008)
-Center on Budget and Policy Priorities, *A Balanced Approach to Restoring Fiscal Responsibility* (with Henry Aaron, et al) (July 9, 2008)
-"A Budget That Doesn't Add Up," *The New York Times* (March 1, 2001)
-"Medicare: A Clinton Success," *The Washington Post (March 19, 1999)*
-"Using the Surplus to Invest in Our future," *The Hill (March 3, 1999)*
-"A Budget for America's Cities," *Nation's City Weekly* (Febrary 22, 1999)
-"Our Debt to the Future," *The Washington Post* (with Robert E. Rubin) (February 4, 1999)

16. Speeches:

August 5, 2010-Remarks at Center for Strategic and International Studies (CSIS) on "The Next Phase in America's Relationship with Iraq"
July 27, 2010-Press Conference with Admiral Michael Mullen, Iraq
July 23, 2010-Remarks-Iraq Transition Conference, National Defense University
June 2, 2010-Remarks at the Association for Safe International Road Travel (ASIRT) Dinner
April 21, 2010-Remarks at the First Annual U.S.-African Union High Level Bilateral Meetings
April 16, 2010-Special State Department Briefing, Subject: Jack Lew and Rajiv Shah's Trip to Afghanistan and Pakistan
March 25, 2010-Remarks at the Signing a Letter of Intent Regarding Cooperation in Construction of Priority Roads in Pakistan Ceremony
March 24, 2010-Plenary Remarks at the Opening Session of the U.S.-Pakistan Strategic Dialogue
March 18, 2010-Speech at the Center for Strategic and International Studies: Rollout of the Smart Global Health Policy's Final Report
March 4, 2010-Council on Foreign Relations, Closed Session
February 1, 2010-Remarks at DipCorps
February 1, 2010-Special State Department Briefing, Subject: 2011 State Department Budget
January 6, 2010-Remarks to National Institute of Health, "Plans for Research and Innovation in the Global Health Initiative"
December 9, 2009-Remarks to InterAction
December 1, 2009-Remarks at the World Bank, Subject: World Aids Day
November 19, 2009-Town Hall Meeting with Students, Staff and Trainers the Camp Atterbury-Muscatatuck Center for Complex Operations
November 9, 2009-Media Roundtable at Camp Atterbury-Muscatatuck Center for Complex Operations
October 26, 2009-Special State Department Briefing, Subject: State Department Assistance to Military Efforts in Afghanistan and Pakistan
October 14, 2009-Remarks to U.S. Global Leadership Coalition
October 8, 2009-Remarks at National Defense University Interagency Symposium
September 11, 2009-Special State Department Briefing, Subject: Recent Trip to South Asia (Iraq, India, Pakistan and Afghanistan)
September 4, 2009-Press Roundtable at The American Center, New Delhi, India
July 27, 2009-U/S China S&ED Pleanary Remarks
July 10, 2009-Regular State Department Briefing, Subject: Quadrennial Diplomacy and Development Review

June 24, 2009-Opening Remarks for Deputy Secretary Lew's Press Availability, OECD, Paris
June 4, 2009-Remarks at the Conference on the Future of Foreign Ministries, Panel 2: Aligning the Ministry with Government Priorities, Toronto, Canada
June 2, 2009-GACI Board of Directors Reception, World Bank
May 5, 2009-The White House Regular Briefing, Subject: Global Health Strategy
April 30, 2009-Press Conference, Subject: Swine Flu, or H1N1
March 4, 2009-Remarks at the Center for U.S. Global Engagement Meeting, Subject: Putting Smart Power to Work
December 9, 2009-Hearing of the Senate Foreign Relations Committee, Subject: The New Afghanistan Strategy
December 3, 2009-Hearing of the House Armed Services Committee, Subject: Afghanistan: The Results of the Strategic Review, Part I
May 13, 2009-Hearing of the House Foreign Affairs Committee, Subject: Building Capacity to Protect U.S. National Security: The Fiscal Year 2010 International Affairs Budget
April 22, 2010-Hearing of the Senate Foreign Relations Committee, Subject: Promoting Global Food Security: Next Steps for Congress and the Administration
January 22, 2009-Hearing of the Senate Foreign Relations Committee, Subject: Nominations of James Steinberg and Jacob Lew for Deputy Secretary of State

17. Selection:

(a) What do you believe in your background or employment experience affirmatively qualifies for this particular appointment?

I believe the sum of my experience, including prior service as OMB Director, make me well qualified for this nomination. If confirmed, I look forward to undertaking the responsibilities of this office.

(b) Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

(c) Have you made any commitment(s) with respect to the policies and principles you will attemt to implement in the position for which you have been nominated? If so, please identify such commitment(s) and all persons to whom such commitments have been made.

No.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

If confirmed, I will remain an employee of the US Government.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? If so, please identify such person(s) and commitment(s) and explain.

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, please explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aqare of any other potential conflicts of interest.

2. Identify and describe all investments, obligations, liabilities, business relationships, dealings, financial transactions, and other financial relationships which you currently have or have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aqare of any other potential conflicts of interest.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

Apart from my duties as a government official during the past 10 years, I have had minimal engagement in legislation and policy-making. While employed by New York University, I had occasional meetings with members of congress and local government officials on education policy.

4. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the Office of Management and Budget and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

5. Explain how you will resolve potential conflicts of interest, including any disclosed by your response to the above questions.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aqare of any other potential conflicts of interest.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendre) by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? If so, provide details.

As large institutions, Citigroup and New York University are routinely involved in litigation, and were during the periods I was working for them. However, to my knowledge, no suit involved allegations related to my own conduct, and I was not involved in any legal proceedings.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with our nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If confirmed, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If confirmed, are you willing to provide such information as may be requested by any committee of the Congress?

Yes.

F. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents.

1. Please provide personal financial information not already listed on the SF278 Financial Disclosure form that identifies and states the value of all:

(a) assets of $10,000 or more held directly or indirectly, including but not limited to bank accounts, securities, commodities futures, real estate, trusts (including the terms of any beneficial or blind trust of which you, your spouse, or any of your dependents may be a beneficiary), investments, and other personal property held in a trade or business or for investment other than household furnishings, personal effects, clothing, and automobiles; and
(REDACTED)

(b) liabilities of $10,000 or more including but not limited to debts, mortgages,loans, and other financial obligations for which you, your spouse, or your dependents have a direct or indirect liability or which may be guaranteed by you, your spouse, or your dependents; and for each such liability indicate the nature of the liability, the amount, the name of the creditor, the terms of payment, the security or collateral, and the current status of the debt repayment. If the aggregate of your consumer debts exceeds $10,000, please include the total as a liability. Please include additional information, as necessary, to assist the Committee in determining your financial solvency. The Committee reserves the right to request additional information if a solvency determination cannot be made definitively from the information provided.

(REDACTED)

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, executory contracts and other future benefits which you expect to derive from current or previous business relationships, professional services and firm memberships, employers, clients and customers. If dates or amounts are estimated, please so state. Please only include those items not listed on the SF 278 Financial Disclosure form.

(REDACTED)

3. Provide the identity of and a description of the nature of any interest in an option, registered copyright, or patent held during the past 12 months and indicate which, if any, from which you have divested and the date of divestment unless already indicated on the personal financial statement.

(REDACTED)

4. Provide a description of any power of attorney which you hold for or on behalf of any other person.

(REDACTED)

5. List sources and amounts of all gifts exceeding $500 in value received by you, your spouse, and your dependents during each of the last three years. Gifts received from members of your immediate family need not be listed.

(REDACTED)

6. Have you filed a Federal income tax return for each of the past 10 years? If not, please explain.

(REDACTED)

7. Have your taxes always been paid on time including taxes on behalf of any employees? If not, please explain.

(REDACTED)

8. Were all your taxes, Federal, State, and local, current (filed and paid) as of the date of your nomination? If not, please explain.

(REDACTED)

9. Has the Internal Revenue Service or any other state or local tax authority ever audited your Federal, State, local, or other tax return? If so, what resulted from the audit?

(REDACTED)

10. Have any tax liens, either Federal, State, or local, been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership? If so, please give the particulars, including the date(s) and the nature and amount of the lien. State the resolution of the matter.

(REDACTED)

11. Provide for the Committee copies of your Federal income tax returns for the past 3 years. These documents will be made available only to Senators and staff persons designated by the Chairman and Ranking Minority Member. They will not be available for public inspection.

These documents are provided to the committee.

12. Have you ever been late in paying court-ordered child support? If so, provide details.

(REDACTED)

13. Have you ever filed for bankruptcy or been a party to any bankruptcy proceeding? If so, provide details.

(REDACTED)

PRE-HEARING QUESTIONS FROM CHAIRMAN KENT CONRAD WITH ANSWERS BY JACOB J. LEW

Questions From Chairman Conrad for the Honorable Jacob "Jack" J. Lew
Nominee to be Director, Office of Management and Budget

1. What do you see as the biggest challenges facing the nation's budget over the next five to 10 years? Longer term? What kind of actions and policies do you think should be in place to address each of these challenges?

The Nation is on an unsustainable fiscal course. Deficits today stand at about 10 percent of GDP, due to the previous Administration's unpaid-for 2001 and 2003 tax cuts and prescription drug benefit, as well as the recession and the policy response required to prevent a second Great Depression.

President Obama's 2011 Budget proposes more than $1 trillion in deficit reduction—more deficit reduction than proposed in any Budget since I was OMB Director under President Clinton. This deficit reduction, in addition to economic recovery and the phase out of temporary job creation measures, will reduce deficits by the middle of the decade to 4 percent of GDP.

Yet more needs to be done to put the country on a sustainable fiscal trajectory. Even with the deficit reduction proposed in the Budget, at this rate, debt will continue to grow as a share of the economy. At the same time, rising health care costs and the aging of the population will drive up Federal spending on Medicare, Medicaid, and Social Security.

This is why the President created the bipartisan Commission on Fiscal Responsibility and Reform. This Commission will propose measures that will further reduce the deficit by 2015 from 4 percent to 3 percent of GDP, which is projected to stabilize the debt-to-GDP ratio. The Commission is also charged with proposing measures that will meaningfully improve our long-term fiscal outlook. The men and women serving on the Fiscal Commission take this task very seriously, and I look forward to their policy recommendations in December.

2. What do you think works well with the current budget process? What doesn't work well? Are there aspects of the existing budget process that you believe could be updated and improved?

The process of preparing a Presidential budget with accompanying detail and submitting it to Congress and the public has been refined over many decades and works well.

OMB, the Congressional Budget Office (CBO), and the Government Accountability Office (GAO) each prepare immediate, mid-term, and long-term budget projections, explain budgeting concepts and terminology, and relate them to legislation. Over recent decades, this has improved the budgetary sophistication of all parties involved.

Finally, the Administration and Congress work together closely as Congress considers Presidential budgets through its legislative process.

3. If confirmed, what actions would you take to foster an environment where bipartisan compromise could be reached to address the nation's long-term fiscal challenges?

Throughout my career, whether at OMB or as a staff member in the House of Representatives, I have prided myself on working in a bipartisan manner to find solutions to the pressing issues facing our country. I believe that if you listen respectfully to every individual and approach ideas on their own merit, you can help set a tone that makes bipartisan compromise more possible.

The President emphasized that we need a bipartisan process to bring deficits down further when he created the bipartisan Commission on Fiscal Responsibility and Reform. The Commission has members appointed by the President as well as by the leaders from both political parties in both houses of Congress. It is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook. To report out a recommendation, the Commission will need 14 out of 18 votes, ensuring that any report will have bipartisan support. As a staffer to Speaker O'Neill, I worked closely with the 1983 Greenspan Commission, and saw first-hand the importance of leaders from both sides of the aisle working closely to find bipartisan solutions to our Nation's greatest challenges. I hope that the Fiscal Commission, which is modeled on the Greenspan Commission, will be equally successful.

4. The President has proposed making the Pell grant program mandatory in each of his first two budgets. Congress has rejected that proposal, electing not to adopt it in the changes it made to higher education in the Health Care and Education Reconciliation Act of 2010. In the 2011 budget, the President also proposed a hard freeze for nonsecurity discretionary spending for each of the next three years. Given Congress's decision, if confirmed, would you recommend that the 2012 budget and future budgets maintain the base Pell grant program as discretionary? If so, would you also recommend that the nonsecurity freeze include funding for the Pell grant program, including the amount of any shortfalls?

Although I am aware of the President's proposals in the 2010 and 2011 Budgets, I have not been in discussions on these issues and do not want to prejudge the outcome of the 2012 Budget development process or future budget processes. If confirmed as OMB Director, I will work closely with the Department of Education and Congress on this issue.

5. **The President signed into law major health care reform legislation earlier this year. According to the Congressional Budget Office, the Patient Protection and Affordable Care Act (PPACA), combined with amendments included in the Health Care and Education Reconciliation Act of 2010, will reduce deficits by more than $100 billion over the next 10 years and by roughly one-half of one percent of GDP over the second 10 years (which comes out to roughly $1.3 trillion in savings under SBC staff calculations). While PPACA is an important and historic first step in addressing health care, much more will need to be done to control health care spending over the long term. Do you agree that growth in health care spending remains the number one budgetary challenge over the long term? If so, do you support taking additional steps, including additional legislative steps, over the next couple of years to further address these unsustainable costs? If so, in what areas should Congress and the administration focus its efforts over the next two years?**

I agree that rising health costs and federal spending on Medicare and Medicaid are the main drivers of our Nation's long-term fiscal challenges. The Affordable Care Act (ACA) took historic and significant steps towards putting our country back on a sustainable fiscal course while laying the foundation for a higher-quality, more efficient health care system.

By this Committee's own estimates, the ACA will save the country roughly $1.3 trillion over the next 20 years. At the same time, the new law includes the most promising ideas from economists and leaders across the political spectrum to bring long-term health costs under control. These include the excise tax on high-cost health insurance plans, the Independent Payment Advisory Board, and measures to curb waste and improper payments in the Medicare system.

As the Administration has noted, including these proposals in the legislation does not guarantee success. There is much work to be done to implement these proposals and keep them workable over time. If confirmed as Director of OMB, I look forward to working towards the effective implementation of the ACA.

6. **If confirmed, what, if any, reforms of the emergency-designation process would you recommend to Congress? Do you support codifying a definition of what is an emergency?**

Under the statutory PAYGO Act and under recent budget resolutions, the decision whether to designate a cost as an emergency is entirely up to Congress. As such, the Congressional process for making such decisions is an internal matter for the Senate and House of Representatives. For purposes of statutory PAYGO – but not for internal congressional purposes – the Administration initially proposed and would continue to support the approach to emergencies taken in the 1990s, in which emergency costs were

only exempt from the PAYGO discipline to the extent that the Congress designated emergencies by statute and the President independently agreed with the designation.

Notably, the Administration believes that predictable, repeated costs should be funded through the traditional budgetary process and not be designated as emergencies. If confirmed as OMB Director, I would welcome additional ideas from the Congress on reforms of the emergency designation process.

7. **Relative to the size of the economy, at what level of debt do you believe the government faces a significant risk of a fiscal crisis? Should the government set a target for stabilizing the debt? If so, at what level and by when?**

The Administration has set a goal of putting the budget in primary balance by 2015. This would stabilize the debt-to-GDP ratio at an acceptable level by the middle of the decade, which is a key measure of fiscal sustainability. The President has charged the Fiscal Commission with providing policy recommendations to enable us to reach this goal; the Commission is due to report those recommendations in December.

8. **The level of foreign holdings of U.S. debt grew dramatically under the prior administration. Do you view the increase in foreign-held debt to be a problem for the U.S.? Why or why not? Do you believe that the large amount of foreign holdings of U.S. debt leaves the U.S. vulnerable to the priorities of foreign creditors?**

Foreign credit holders want the same thing that American investors do: a safe means of investing their wealth. Foreign holdings of U.S. debt have not given foreign governments undue influence over U.S. policy.

As long as the United States is running a current account deficit, some of this will be financed by net acquisitions of Treasury debt by foreigners. To alleviate any concerns about overall debt levels, including concerns raised by foreign-held debt, we must bring the budget deficit to a more sustainable levels, as the Administration has outlined in the 2011 budget.

9. **A common criticism of the current budget process is that it does a poor job of providing information on the long term – both in the budget materials submitted by the President each year and in the Congressional budget process. Do you agree that this is a problem? If so, what ideas do you have for addressing this lack of longterm information both in the up-front planning each year and in the subsequent consideration of legislation by Congress?**

It is important to give decision makers long-run information so that their decisions can be better informed. OMB typically provides long-term projections of spending for all current programs in the *Analytical Perspectives* volume of the President's Budget. CBO provides similar projections. Together, these kinds of analyses give a helpful picture of the country's long-term fiscal outlook. If confirmed as Director of OMB, I will work to ensure that the budget process provides high-quality long-run information for policymakers.

10. What do you see as the federal government's number one management challenge over the next 10 years?

At the outset of his Administration, President Obama mandated a far-reaching effort to make government work better. This management agenda has focused on improving the delivery of government services, eliminating waste, reducing costs, and restoring the American people's faith in their government's ability to operate effectively, efficiently, and transparently.

OMB plays a lead role in these efforts, and has laid out an aggressive agenda. While it is hard to name the single most important challenge, some of the key priorities include: focusing agency leaders on priority performance goals, instituting an outcome-oriented performance measurement program, improving contract management practices to reduce costs and risks in government procurements, improving the government's implementation of technology solutions, reducing improper payments and strengthening financial management, reforming and re-energizing the Federal workforce, and improving transparency and accountability at all levels. If confirmed, I look forward to working with Jeffrey Zients, Deputy Director for Management and Chief Performance Officer, Members of Congress, OMB staff, and agency leaders on all aspects of this agenda.

11. Recent administrations have taken different approaches to reforming the operations and management practices of government. What is your assessment of these initiatives, from Reinventing Government in the Clinton administration to the Program Assessment and Rating Tool (PART) in the Bush administration to the focus on the high priority performance goals and other initiatives in the current administration? What lessons do you think can be drawn from these initiatives?

Each of the last few Administrations has used different strategies for improving the functioning of government. While all of those initiatives have strengths and weaknesses, one clear lesson presents itself: a process for measuring and improving government performance is only effective if it is used—whether to inform budget decisions or for day-to-day program management. When agencies set clear goals, assign lead officials responsibility for driving progress toward the goals, regularly review and discuss

progress toward the goals, and make results transparent, they are more likely to improve both performance and accountability to the public.

12. Given the fiscal challenges that the nation faces, there is an increased interest in identifying programs and services with duplicative goals and activities both within departments and across the government. In recent years, OMB has used duplication as one reason for including programs in its "Terminations, Reductions, and Savings" volume. If confirmed, what additional steps will you take as Director to identify duplication and overlap and use such information in assisting the President in developing his annual budget? What specific program and policy areas do you believe offer the largest opportunities for consolidating programs in a way that maximizes effectiveness and efficiency?

The Federal government must continually review all spending to make certain that every dollar addresses a clear need or problem. The $20 billion in terminations, reductions, and savings that the Administration identified in the 2010 and 2011 budgets are good examples of spending that should be cut. The Administration's 2012 budget guidance also provides a useful means for identifying wasteful, duplicative, or unnecessary spending. The guidance asks non-security agencies to submit budgets 5 percent below the freeze and also includes an exercise to identify the programs least critical to the agency mission. Finally, while there are some large programs whose termination can produce large savings (such as the F-22 program terminated last year), the Administration's SAVE Award—a process to get federal workers' ideas about how to save money—shows that there are savings of all sizes that can be realized across the federal government. If confirmed as Director of OMB, I will continue to work with agencies and Congress to identify specific areas of waste and duplication and cut unnecessary spending.

PRE-HEARING QUESTIONS FROM RANKING MEMBER JUDD GREGG WITH ANSWERS BY JACOB J. LEW

Questions from Ranking Member Gregg for the Honorable Jacob Lew
Nominee to be Director, Office of Management and Budget
August 16, 2010

Deficits/Debt

1. **Many economists have argued that it is acceptable to incur large deficits in the near-term to stimulate the economy during a severe downturn. Do you agree that such fiscal policy should not become permanent?**

In the long run, it is crucial that we take significant and concrete steps to bring down deficits and get our country back on a sustainable fiscal track. In the short term, however, the economic recovery is fragile, and unemployment remains persistently high. Under such circumstances, immediate deficit reduction would be counterproductive, and it is important to continue targeted initiatives that help to stimulate the economy.

The President's 2011 Budget outlines an appropriate transition from economic recovery to fiscal discipline. It lays out a path that brings deficits as a share of the economy from 10 percent of GDP this year to 4 percent of GDP in 2013. This happens as the economy recovers, stimulus measures like the Recovery Act rapidly phase out, and our deficit reduction measures phase in.

Recognizing that we need a bipartisan process to bring deficits down further, the President created the bipartisan Commission on Fiscal Responsibility and Reform, which is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook. The men and women serving on the Fiscal Commission take this task very seriously, and I look forward to their policy recommendations in December.

Long-term Budget

2. **If you are confirmed, what specific actions would you undertake to encourage an environment where a bipartisan compromise could be reached to address the nation's long-term fiscal challenges?**

Throughout my career, whether at OMB or as a staff member in the House of Representatives, I have prided myself on working in a bipartisan manner to find solutions to the pressing issues facing our country. I believe that if you listen respectfully to every individual and approach ideas on their own merit, you can help set a tone that makes bipartisan compromise more possible.

The President emphasized that we need a bipartisan process to bring deficits down further when he created the bipartisan Commission on Fiscal Responsibility and Reform. The Commission has members appointed by the President as well as by the leaders from both

political parties in both houses of Congress. It is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook. To report out a recommendation, the Commission will need 14 out of 18 votes, ensuring that any report will have bipartisan support. As a staffer to Speaker O'Neill, I worked closely with the 1983 Greenspan Commission, and saw first-hand the importance of leaders from both sides of the aisle working closely to find bipartisan solutions to our Nation's greatest challenges. I hope that the Fiscal Commission, which is modeled on the Greenspan Commission, will be equally successful.

3. If the President's Fiscal Commission fails to produce 14 votes for a package of recommendations or the Congress fails to enact recommendations that the President's Fiscal Commission reports to Congress, what do you think would be the result? How would capital markets react? What would be your "plan B" to convince global investors that this Administration has a plan to address the unsustainable debt and deficit levels in the near term?

I know Erskine Bowles and Alan Simpson, and I know how serious they and the other members of the Commission are about the work they are now doing. I have every confidence that the Fiscal Commission will produce recommendations to achieve medium-term fiscal sustainability and meaningfully improve the long-run fiscal outlook.

Discretionary Appropriations

4. What principles would you use to guide your decisions on whether to recommend to the President that he sign or veto an appropriations measure?

The President's veto pen is a powerful tool for enforcing fiscal responsibility, but also a blunt instrument that must be used with care. Since taking office, the President has indicated that he is willing to use this tool when appropriate, including to enforce the three-year freeze on non-security discretionary spending and to ensure that Congress cuts funding for high-priority terminations such as the Joint Strike Fighter Alternate Engine.

At the same time, discretionary spending is only one part of the Federal Budget and is an area in which the Administration works closely with Congress to reach compromises in funding key priorities and cutting low-priority programs. A veto might not be appropriate when certain specific provisions are problematic but the overall appropriations measure is in line with Administration priorities. This is one reason why the Administration has proposed expedited rescission authority, which would provide the Administration and Congress with an additional tool to address wasteful or unnecessary spending without relying on the blunt power of the veto pen.

5. **Separately, Chairman Conrad has asked you about Congress' failure to enacted the President's 2011 budget proposal to make all Pell grants mandatory and goes on to ask you, if you are confirmed, what your recommendations would be about whether the President's budgets for 2012 and subsequent years should continue the "base Pell grant program" on the discretionary side of the spending budget. My question is more fundamental and more immediate: what about 2011? As Chairman Conrad indicates, the Congress has rejected the President's proposal to make Pell mandatory, yet the Administration continues to insist that Congress provide all the Pell funding needed to provide the maximum Pell award for school year 2011-2012 as proposed in the President's 2011 budget. However, the President has not submitted a budget amendment that adjusts the President's discretionary request for 2011 to reflect that the President still wants all his other requests funded in his 2011 budget, with Pell grants on top of that (nor has the President submitted a budget amendment for LIHEAP, which has followed a similar course of events). The President's discretionary request still stands at $1.111 trillion (as reestimated by CBO). Does the President want his other requests for 2011 to be reduced by, say $23 billion (the discretionary cost for Pell grants) so that that full amount for Pell may be provided in the total amount of $1.111 trillion? Or does the President still maintain his initial request, plus additional amounts to fully fund Pell and LIHEAP as the President's initial 2011 budget contemplated? If the latter, will you commit that one of your first actions as OMB Director will be to submit an honest and transparent budget amendment that is consistent with the funding levels the Administration is asking the appropriations committees to provide for all programs in the 2011 bills?**

I have not been involved in these discussions and cannot comment on the details of the President's position. If confirmed as OMB Director, I will work closely with Congress to address all Administration priorities in the completion of the FY 2011 appropriations process. The first opportunity for me to review the treatment of Pell will be as part of the 2012 Budget process.

6. **One of the first things Congress will have to do upon its return in September is a continuing resolution (CR) to fund the operations of government until full-year appropriation bills for 2011 are enacted. To minimize disruption and uncertainty for agencies and their planning, what do you think the CR rate should be, how long do you think the CR should last, and what do you think the rule should be for any "anomalies" or exceptions to the generic CR rate?**

I know that the Administration is working with Congress on the details of the CR, but I am not part of the negotiations and therefore cannot comment on the question.

Budget Process

7. **How should the government budget for emergencies? Under current law, is there any reason for the President to designate any spending as an emergency? With regard to the appropriations for the Global War on Terrorism, Overseas Contingencies, or—simply—the wars in Iraq and Afghanistan, can you make a commitment that the budget requests you submit to Congress will not include emergency designations for these purposes?**

I support the Administration's efforts to provide a placeholder for future disaster costs in its budgeting. Unlike the budgets of the previous Administration, which almost always ignored the possibility of future emergencies, the current Administration's budgets include an allowance for spending on disasters in both the baseline projections and the budget. This placeholder reflects the recognition that disasters occur and attempts to account for the ensuing costs—even though these costs are highly unpredictable. By including a placeholder for future disasters, budgets and baselines produce deficits that are more realistic.

The Administration's budgets also reflect the full cost of the wars in Iraq and Afghanistan for the budget year, to the extent possible, which is in sharp contrast to the previous Administration. While these budget requests use the best estimates for Overseas Contingency Operations at the time, the Administration must work with Congress to meet funding needs that reflect evolving policy decisions and conditions on the ground.

8. **OMB and CBO both develop baselines to assess the current condition of the budget under existing laws and policies and to measure the impact of proposals to change those laws and policies. Do you believe these baselines are useful and reliable? How many years do you think a baseline should cover? Are there any changes you would recommend to the rules guiding how OMB and CBO develop baselines?**

While baselines are inherently subject to uncertainty, they are a useful yardstick for assessing proposed changes in budget policy. On the one hand, baselines need to extend far enough to eliminate the effects of the near-term economic cycle; on the other, the baseline is increasingly uncertain the farther it extends. The 10-year baselines currently published by OMB and CBO seem like a good compromise in this respect.

One area where today's baseline rules may not serve their purpose well is where current law calls for sharp changes from current policy. The Alternative Minimum Tax and Medicare physician payments are two prime examples, where current law has for years included large tax increases and spending cuts that have been repeatedly postponed by legislation. If confirmed, I would consider whether changes to baseline rules in this or other areas would make the baseline more useful as a fiscal yardstick.

Defense

9. This administration claims to have the most transparent, honest President's budgets ever. With that in mind, do you believe truth in budgeting is better served by projecting multiyear budgets for the Global War on Terror? If not, why do you think it is more truthful to do it on a year-by-year, ad hoc basis?

Unlike the budgets of the previous Administration, the 2011 Budget does not imply that the cost of military operations will simply disappear in subsequent years. Instead, the Budget includes a placeholder reflecting future spending on Overseas Contingency Operations and related efforts—the exact cost of which will depend on evolving conditions on the ground and future policy decisions. This placeholder underscores the Administration's commitment to transparent budgeting and its recognition that resources will continue to be needed to support U.S. engagements overseas.

Revenues

10. In your opinion, relative to the size of the economy, is there an optimal level of revenues? Please explain your answer with numeric examples.

Addressing our nation's long-term budget challenges by definition requires a mixture of increased revenues and decreased spending. The precise combination of the two—and therefore the resulting level in federal revenues—is a central question for the bipartisan Fiscal Commission. I know that the commission is currently considering policies to correct our Nation's medium- and long-term fiscal imbalance, and I look forward to their recommendations in December.

POST-HEARING QUESTIONS FROM RANKING MEMBER JUDD GREGG WITH ANSWERS BY JACOB J. LEW

Questions for the Record – Jacob J. Lew, nominee Director, Office of Management and Budget

United States Senate Committee on the Budget

Senator Judd Gregg

1. Over the past two years, Congress has transferred $35 billion in cash from the General Fund to the Highway Trust Fund (HTF) and, as recently as last week in his Labor Day speech, the President said that the HTF is nonetheless insolvent.

- **Is the HTF fiscally sustainable?**
- **Are there sufficient budgetary controls over the highway program?**
- **Would additional budgetary controls be desirable to prevent the highway program from spending more than it collects?**

The President's FY10 budget changed the classification of the highway program's budget authority from mandatory to discretionary.

Would you be receptive to working with Congress to simplifying the process for authorizing and appropriating funds for the highway program?

Answer:

The Highway Trust Fund is currently experiencing a structural deficit because it has been authorized to spend more than it collects at current user fee rates. The Administration is open to discussing any proposals to improve budgetary oversight of all surface transportation programs, including the Federal Highway Administration, in addition to proposals to improve budgetary accounting and oversight for surface transportation programs and to simplify the process where possible. The Administration is committed to working with Congress in the upcoming reauthorization to make certain transportation programs are paid for in a manner that is sustainable.

Senator Judd Gregg

2. In 2009, OMB tied with CBO as the third best place to work in the Federal government, among small agencies. In 2010, OMB's rating dropped to 25th place. Compared to 2009, not only did OMB's overall rating fall, but its score for every category also fell. In particular, OMB's effective leadership score fell by 17 percent - the biggest decrease government-wide in the effective leadership category.

As OMB Director, what actions will you take to restore OMB to the kind of workplace that we are used to seeing from OMB - a place where highly motivated career civil servants want to work and where their budget colleagues throughout the rest of the government know they can go to productively discuss budget and policy issues in a constructive manner?

Answer:

Having a fully engaged workforce is critical, and the recent workforce survey results at OMB are troubling and call for serious evaluation of what's driving employee concerns. I know it was an extremely busy two years for OMB staff with the Presidential transition, Recovery Act, and health care reform efforts creating extreme workload demands on top of the already demanding requirements of producing two budgets. That said, there are clearly things that need to be improved. I know the senior leadership team at OMB is taking the issue very seriously, and has already engaged with staff at every level, collecting feedback to identify root causes, and preparing new workplace initiatives that will be implemented right away to make improvements. As Director in the 1990's I considered the OMB career staff a valuable national asset, and if confirmed it will be a high priority of mine to restore OMB morale. If confirmed as OMB Director, I will work to continue those efforts to make sure we make progress and improve overall workplace satisfaction.

Senator Judd Gregg

3. One year ago this Administration had indicated that the President's budget request for FY 2011 would include a reform proposal for the housing GSEs, Fannie Mae and Freddie Mac. Instead, the FY 2011 budget indicated that the Administration was in the process of developing a plan to end federal conservatorship of the housing GSEs. I am aware that Treasury Secretary Geithner and Housing and Urban Development Secretary Donovan have had public meetings with various experts to debate the role of the federal government in housing finance.

- **Is it your expectation that the Administration will include its plan for the future of Fannie Mae and Freddie Mac with the FY 2012 budget submission?**
- **In the absence of a plan to remove Fannie and Freddie from federal control, would you support including the cost of all of the GSEs operations in the FY 2012 budget? (Currently, the OMB budget only includes the cash payments needed to keep Fannie and Freddie solvent rather than the expected losses from current business operations.)**

Answer:

The Administration has committed to delivering a comprehensive proposal for reform of Fannie Mae and Freddie Mac to Congress by January 2011, as called for under the Dodd-Frank Act. It is my expectation that OMB staff and policy officials will remain deeply involved in the development of this proposal and will work with all of the affected Federal agencies to incorporate the proposal into the FY 2012 Budget.

If confirmed, I will push for a full accounting of the Federal costs of supporting Fannie Mae and Freddie Mac in the Budget. While I have not had the opportunity to fully form my own opinion on this issue, I do not think that the current budgetary presentation is incomplete as all of the federal programs that provide direct support to Fannie Mae and Freddie Mac, including the Preferred Stock Purchase Agreements (PSPAs), are shown on-budget. I am cognizant of the fact that the current conservatorship the GSEs are under is intended to be temporary, and I expect the Administration's proposal would transition the GSEs out of this status. If for some reason the conservatorship was expected to become a more permanent status, I would look very closely at putting the GSEs on-budget.

Senator Judd Gregg

4. Prior to this hearing, both the Chairman and the ranking member of this committee asked you about the budgetary treatment of the Pell grant program.

As you know, for each of the last two years the President's Budget has requested making the entire Pell grant program mandatory. The Congress has rejected this proposal on both occasions, instead opting for a hybrid program based on discretionary spending, supplemented by mandatory add-ons, as was most recently reaffirmed in the Health Care and Education Reconciliation Act of 2010.

When the chairman of this committee asked you if you would recommend keeping the base Pell grant program on the discretionary side of the ledger, as supported by the actions of Congress, you stated that you had not had discussions on the matter and did not want to prejudge the 2012 budget development process.

When the ranking member of this committee asked you what is the President's current real request for discretionary appropriations for 2011, in light of Congress' rejection of the President's proposal to make all of Pell mandatory, you again balked and stated that the first opportunity you will have to "review the treatment of Pell will be as part of the 2012 Budget process." This is not credible since the question remains for the FY 2011 funding of Pell, a situation that you will face if you are confirmed as OMB Director before enactment of the full-year appropriation bills for 2011.

Assuming that is the case, would you recommend to the President that he take the most transparent and honest budgeting approach to the situation, and send a budget amendment to Congress for 2011?

If not, why not? If you continue to insist that you have no role in the issue until 2012, then are you promising here and now not to send to Congress, once you are OMB Director, any budget amendments or supplemental requests for any purpose for 2011?

Answer:

I understand that fully covering Pell Grant costs in 2011 is an important issue that needs to be addressed outside the 2012 Budget development process. If confirmed, I look forward to working with the appropriate committees to ensure that we address the costs of the Pell Grant program.

Senator Judd Gregg

5. As Deputy Secretary of the Department of State, you adopted a thoughtful approach towards the use of the reflows from phased-out Enterprise Funds to permit resulting Foundations to continue to foster the free enterprise and open-market goals of the American people.

As Director of OMB, how would you instruct OMB to handle the reflows of those Enterprise Funds that will be winding down?

Answer:

The Enterprise Funds in Eastern Europe and the former Soviet Union have been a largely successful program to promote free enterprise and democratic reforms while also earning a return on their investments in some cases. It is important that the U.S. taxpayer see some return on these original Enterprise Fund grants. But there are also circumstances in which it serves our national interest to promote ongoing interests in these areas. Some of the reflow proceeds from the Enterprise Funds should continue to be returned to the Treasury, while certain reflows may be reprogrammed to support U.S. legacy foundations that promote economic reform and sound policies to foster economic growth and stability. If confirmed, I would work to try to reconcile the views of our foreign policy and fiscal policy teams on this issue.

Senator Judd Gregg

6. The President's budget estimated that economic growth would be 3% in 2010 (fourth quarter to fourth quarter). The midsession review actually raised that GDP growth estimate. But now we find that the economy is growing slower and the job situation is worse.

1. **Has the slower economy and higher unemployment altered the regulatory burdens that OMB believes should be imposed on the economy?**
2. **Will OMB suspend proposed rules or revisions that are determined to have a significant cost until the economy recovers?**
3. **Will the OMB delay proposed rules or revisions that are simply nonbinding guidance until the economy recovers?**
4. **Should Federal agencies be required to estimate explicitly the Federal budget impact of their regulatory proposals on other agencies, like the Defense Department, NASA or the Department of Energy?**

Answer:

These are important issues and I look forward to exploring them. Executive Order 12866 directs OMB to review significant regulatory actions to determine whether their benefits justify their costs, including costs on the private sector and on the Federal government. An analysis of last year's significant regulations shows that on net, there have been more benefits than costs, something that the last two administrations did not achieve in their first year. OMB has been working closely with agencies to eliminate unjustified costs and to reduce regulatory burdens. If confirmed, I look forward to working with the OIRA Administrator on these issues.

Senator Judd Gregg

7. State and local governments resemble the federal government in that they have their own severe funding constraints. To protect state and local governments from excessive federal burdens and mandates, we used to have a Senate budget rule that required 60 votes to impose any unfunded mandate (in excess of a statutory limit) on state and local governments, but that supermajority requirement was repealed back in 2007.

I understand the OMB has a similar state and local mandate enforcement review and I wanted to know how that was working.

1. **Of the 113 regulatory actions currently before the OMB, how many rules have had full review for their impact on state and local budgets?**
2. **Have any of them had state and local or private sector jobs impact analysis?**
3. **Have mayors or governors come to OMB expressing concerns on these new regulations, and what has been the outcome of those discussions?**

Answer:

OMB's review of significant regulatory actions under Executive Order 12866 considers the effects, including costs and other burdens, on State, local, and tribal governments. Specifically, OMB considers whether the agencies have complied with the requirements of Executive Order 13132 (Federalism), Executive Order 13175 (Tribal Consultation), and, for certain qualifying rules, the Unfunded Mandates Reform Act (UMRA). Where rules clearly affect State, local, and tribal governments, it is my understanding that OIRA also ensures that the White House Office of Intergovernmental Affairs is involved in the review.

With respect to your last question, I do not have specific information on the extent of mayors and governors' interaction on rules that have been reviewed by OMB. I do know, however, that OMB meets with any member of the public that requests a meeting during the course of its rule reviews, and that each meeting, the participants, and any written materials provided are posted publicly on OIRA's website.

POST-HEARING QUESTIONS FROM BUDGET COMMITTEE MEMBERS WITH ANSWERS BY JACOB J. LEW

Senator Patty Murray

1. Mr. Lew, to follow up on our discussion this morning on the Department of Energy's Environmental Management (EM) program and Hanford — I appreciate your commitment to work with me on this critical issue.

I will continue to be clear with you, as I have been with this Administration, that the federal government has a legal and moral obligation to clean up this waste and that the Administration must put forward consistent funding for EM to meet its legal compliance requirements for Hanford and other sites around the country.

Do you agree that EM is a legal obligation of the federal government?

Answer:

As I stated in my testimony, I agree that this is an important issue, and if confirmed, I will consult with appropriate Government counsels to understand this issue better from a legal perspective in order to achieve the best possible outcome for Hanford and other sites.

Senator Patty Murray

2. Mr. Lew, we spoke about this briefly in the hearing, but I remain concerned that EM may be subjected to an additional five percent cut in the fiscal year 2012 budget request. As you know, the President called for this additional five percent cut earlier this year.

I agree that we have to take a hard look at our spending given our fiscal situation. But the waste that remains at Hanford and across the country from the Manhattan Project and Cold War efforts is defense-related and I expect this Administration to treat it as such in its fiscal year 2012 budget request. I understand the President is not subjecting defense-related programs to the additional five percent cut and therefore all defense-related EM cleanup programs should be exempt from this cut.

- **What do you plan to do to ensure that the five percent cut for fiscal year 2012 does not apply to defense-related EM cleanup programs?**

Answer:

I certainly am concerned about the waste that remains at Hanford and across the country from the Cold War efforts. As I stated in my testimony, the EM program is an important health and safety challenge. If confirmed, I will work with my staff at OMB and the team at the Department of Energy to fully understand the issues, and I will work with you to come up with the best possible solutions.

Senator Patty Murray

3. Mr. Lew, I'm sure we can agree that our national forests are a public treasure for our country, and we must continue our conservation efforts. But we also need to recognize the very real economic burden that these public lands place on our rural counties by reducing tax revenues that fund public schools, public safety efforts, and essential infrastructure like roads.

That is why in 1908, Congress approved a revenue sharing plan with rural forest counties which specified that 25 percent of all revenues from national forests would be returned to these counties. While this law worked well for nearly a century, by the late 1980s national policies and court rulings substantially diminished revenue-generating activities on our national forests.

Continuing its commitment to rural America, Congress passed and President Clinton signed into law the Secure Rural Schools and Community Self-Determination Act of 2000. The Act provided six years of funding for rural forest counties, which is used primarily to directly fund jobs for teachers, public works and public safety efforts. These essential services also provide family-wage jobs in our rural counties. In 2007 Congress extended the Act for one year, and in 2008, Congress provided a four-year extension of the Act.

Because timber harvests have not rebounded and with the looming expiration of the Secure Rural Schools Act, our rural forest counties continue to face an uncertain future. President Obama has stated his support to continuing this federal commitment, calling the Act "an obligation we have to meet."

My colleagues and I have called on President Obama to include a full reauthorization of the Secure Rural Schools and Community Self-Determination Act, along with the funding needed, in the fiscal year 2012 budget request.

- **Can I count on your support for this effort?**

Answer:

I agree that our National Forests are a public treasure and that rural areas depend on them. While I have an understanding of grants-in-aid programs generally, I am not fully versed in the particulars of the county payments legislation. If confirmed, I am certainly committed to working with you and your colleagues on a bipartisan and equitable long-term solution that is consistent with the President's commitment to overall fiscal discipline.

Senator Patty Murray

4. Mr. Lew, this Administration has professed great interest in infrastructure. And while the Recovery Act gave our surface transportation and water and sewer infrastructure a much needed shot-in-the-arm, the Administration requested nothing in the Recovery Act for the water resources infrastructure of the Army Corps of Engineers and the Bureau of Reclamation. Congress had to force the issue to ensure inclusion in the Recovery Act for these important agencies. Additionally, the budget requests for both agencies peaked with the first budget of this Administration and are now on a declining path, given the fiscal year 2011 budget request and if the rumblings that we are hearing regarding fiscal year 2012 turn out to be correct.

The Army Corps of Engineers and Bureau of Reclamation play an important role in our nation's economic development, moving people and goods, and providing water and power. This infrastructure also creates good paying jobs, provides Federal and local taxes and helps our keep our economy moving. Continued undercapitalization of our water resources infrastructure will negatively impact our national economy.

- **Do you believe that this downward trend of investment in our water resources infrastructure is appropriate given the benefits that this infrastructure provides to our citizens and our national economy?**
- **If not, as OMB Director, what steps will you propose to reverse this trend to ensure that the Army Corps of Engineers and Bureau of Reclamation receive the budget resources necessary to maintain and improve our nation's water infrastructure?**

Answer:

I agree that investments in water resources can provide important benefits to our Nation's citizens and the economy. If confirmed, I would examine the trends in water resources funding and the investment needs going forward, and would work with the Congress to ensure that the Nation makes sound investments in the Army Corps of Engineers and the Bureau of Reclamation that promote economic growth and assure the safe and reliable operation and maintenance of key facilities.

Senator Patty Murray

5. Amtrak's railcars and locomotives are out of date, and they need to be replaced. In fact, the condition of its fleet prevents Amtrak from delivering the kind of rail service we should be supporting in this country. But modernizing the fleet will require a significant investment. Amtrak has identified several options for financing the replacement of its railcars and locomotives. One of those options is to apply for credit assistance offered through the Department of Transportation, and I understand that Amtrak has been discussing this option with the Administration.

Using the DOT program would soften the impact of Federal contributions to Amtrak's fleet plan, spreading the cost of Federal assistance over the life of the equipment. It would also provide the Administration with an opportunity to oversee Amtrak's implementation of its fleet plan.

I am a full supporter of utilizing DOT's program to support rail corridors across the entire country, including the Pacific Northwest.

- **As OMB Director, would you support exploring alternative financing options such as DOT credit assistance in order to modernize Amtrak's fleet and improve passenger rail throughout the country?**

Answer:

The Administration believes passenger rail is an important component of the Nation's transportation system and is committed to improving intercity passenger rail service. The President's recent proposal for a new $50 billion investment in infrastructure reaffirmed support for rail, including support for funds to begin modernizing Amtrak's fleet. Federal credit assistance can be a useful and appropriate tool for activities like railcar fleet modernizations.

Senator Patty Murray

6. As you know, there is currently a very challenging $5.7 billion funding shortfall for the Pell Grant program. I worked hard to increase the authorization for the Pell award in the recent higher education reconciliation bill, but with the shortfall, it looks like we might be unable to live up to this promise we made to our students.

- **As the current demand for higher education won't be going away any time soon, what are your plans for ensuring the Pell grant program does not encounter shortfalls in the future?**

Answer:

The Pell Grant program is a top priority of the President. While the Administration is proud of the expansion in student aid over the last two years, the growth in the program has also created budgetary challenges. In addition, the Pell Grant program does not function like a typical discretionary program, awarding funds based on the number of qualified applicants rather than on pre-determined levels. Therefore our challenge is to address the program in a way that meets the needs of students in a fiscally responsible way. If confirmed, I look forward to working with you to address those challenges, including the shortfalls you describe.

Senator Patty Murray

7. Mr. Lew, much of the conversation on the deficit and debt—especially in the press—has been about the discretionary part of the budget. And I think it is absolutely critical that we get a handle on this.

As you know, however, the times at which our country has come together to tackle the deficit have been times when we have not only focused on discretionary spending—but also on mandatory spending and revenues.

- **Can you give us your perspective on this, especially in light of the work being done by deficit commission and the growing support for meaningful action on the deficit and debt?**

Answer:

As a participant in many rounds of bi-partisan budget negotiations, including the historic 1997 Balanced Budget Agreement, I believe that taking a comprehensive approach is key to success. Addressing our Nation's long-term budget challenges will require a mixture of revenue and spending measures that address both discretionary spending and entitlements. That is why the Administration has so firmly emphasized that all options should remain on the table as the Fiscal Commission proceeds with its work.

Another critical element of successful deficit reduction efforts is that they take place jointly between both parties, and involve both Congress and the White House. As a staffer to Speaker O'Neill, I worked closely with the 1983 Greenspan Commission, and saw first-hand the importance of leaders from both sides of the aisle working closely to find bipartisan solutions to our Nation's greatest challenges. I know Erskine Bowles and the other members of the Fiscal Commission very well, and I am certain that they are very serious about the work they are now doing. I have every confidence that the Commission will produce recommendations to achieve medium-term fiscal sustainability and meaningfully improve the long-run fiscal outlook.

Senator Patty Murray

8. I strongly support workforce training and development programs at the Department of Labor and in other departments and agencies. And I strongly support the administration's goal of increasing the number of people with a post-secondary degree or credential.

I also know that there are many ways to attain that goal, and with a very diverse population of workers requiring retraining, further education, and up-skilling, we need a full array of promising and proven practices to be deployed around the country. This recession has clearly exposed the tremendous skills gaps that has existed in our country for a long time.

With so many workers unemployed and underemployed, with a growing number of adults experiencing unemployment for extended periods of time, and with so many fundamental changes occurring in our economy, we have to recommit to strengthening and growing our nation's workforce development programs.

- **What assurances can you provide that Department of Labor programs—especially those under the Workforce Investment Act—and other workforce development programs in other agencies, will receive the attention and resources they need in future budgets and within the administration?**

Answer:

Workforce training programs are critical to help America's workers get the education and training needed to succeed in a knowledge-based economy. I am pleased that the Administration and Congress have begun working together on the reauthorization of the Workforce Investment Act. I am committed to supporting this work and to improving the effectiveness and coordination of job training programs throughout the Federal government through the budget and legislative process.

Senator Ron Wyden

1. You say in response to one of the chairman's questions that the nation is on an unsustainable fiscal course and that's due in part to the 2001 and 2003 tax cuts. Given that, won't locking in those 2001 and 2003 tax cuts make it harder for us to get on a sustainable course?

- **If that approach didn't work for the last eight years, shouldn't we try some different policies, including reform of the tax code?**
- **From both an economic policy and a budget standpoint, don't you agree that Congress needs to take a hard look at the $1 trillion of special interest tax breaks — the tax expenditures — that now clutter up the tax Code?**

Answer:

The President proposes extending the 2001 and 2003 tax cuts for the first $250,000 of a family's income. This proposal will reduce the deficit by about $700 billion compared to the cost of extending the tax cuts for the richest Americans. This proposal strikes the right balance between addressing the deficit and sustaining the recovery.

The President's Budget proposes reforms that reduce tax expenditures over the long-term. The proposals include a number of corporate loophole closers, such as eliminating oil and gas tax preferences, and tax reforms for corporations with foreign income. These proposals are designed to reform and simplify the tax code and will promote trust and fairness in the tax system. The Department of the Treasury takes the lead on tax policy within the Administration. If confirmed I will work with Treasury and other members of the economic team to identify and assess further reforms.

Senator Ron Wyden

2. You were a principal domestic policy advisor to House Speaker Tip O'Neill from 1979 to 1987. You served as assistant director and then executive director of the House Democratic Steering and Policy Committee, where you were responsible for domestic and economic issues, including budget, trade, appropriations and tax. You were in those roles when Congress passed the 1986 Tax Reform Act.

- **Wasn't it a basic theory of the 1986 Act that lower marginal income tax rates — the tax rate at the last dollar of income — do much more to encourage business and individuals to invest in the economy than tax preferences — the mass of deductions, exemptions and credits that currently litter the code?**
- **Assuming that the deficit can only be fixed with a robust economy -- where businesses are expanding, people have jobs, and tax revenues are rising — wouldn't any effort to tackle the deficit be advanced by tax reform that encourages economic growth? And wasn't the experience of the 1986 tax reform that broadening the base, eliminating preferences, and holding down marginal income tax rates increased economic growth?**
- **Wouldn't you agree that the approach of the 1986 Tax Reform Act remains a sensible approach to tax reform?**

Answer:

I agree that lower tax rates can promote economic growth in the right circumstances, which is why it is important to extend the 2001 and 2003 tax cuts for family income up to $250,000. The 1986 Tax Reform did lower marginal taxes and broaden the tax base, improving the efficiency of the tax system. If we follow the design of the 1986 reform, which was revenue neutral, tax reform would need to be combined with other measures to address our long-term deficit problems. But as a general matter, reforms that instill a sense of trust and confidence in the tax system and that promote economic growth are something we should be considering. The President's Budget incorporates such tax reforms, for example closing corporate loopholes as part of a broader set of proposals that address the Nation's long-term fiscal challenge. If confirmed, I would look forward to participating in discussions of how to make the system simpler and more fair.

Senator Ron Wyden

3. Defense Secretary Gates has been working to reduce wasteful DoD spending. He has cut wasteful and inefficient programs and asked all of the services tighten their belts. I believe his goal is to cut about $100 billion.

I have been pleased with Secretary Gate's efforts so far. He has managed to maintain America's military strength while eliminating wasteful DoD spending. My concern, however, is that he still has a ways to go. Our military is still paying to expand overseas bases it doesn't need and fund programs that don't make fiscal sense.

- **Do you agree that we can maintain our national security while making even more reductions in the Pentagon's budget?**

Answer:

The President and Secretary of Defense Robert Gates deserve enormous credit for the Defense Department's efforts to terminate programs that are no longer needed or that are not working, and efforts to identify savings from overhead efficiencies. I look forward to working with the Secretary in putting together the FY 2012 - FY 2016 budget plan for the Department of Defense so that we can fund the highest priorities needed to maintain our national security in the context of our challenging fiscal situation. In fact, all elements of the Budget will be subject to scrutiny as we work to restore fiscal discipline. In addition, agencies are asked to identify their bottom 5 percent lowest priority programs in preparation for the 2012 Budget, helping to ensure that every taxpayer dollar is spent wisely.

Senator Ron Wyden

4. I am sure you are well aware of the struggles that our nation is having in establishing a robust national renewable energy program while maintaining our ability to protect our homeland. Oregon has been at the forefront of this discussion as renewable energy solutions in the Columbia River Gorge face stiff resistance from the Defense Department.

The combination of antiquated radar equipment and an increasing number of wind turbines, threatens to effectively halt most investments in Oregon wind farms. The Defense Department has said that they will establish a central clearing house to address wind farm conflicts with national defense needs. This is welcome progress, but I think more needs to be done.

- **What is your opinion on establishing an executive level renewable energy clearinghouse that would address the needs and concerns of all executive stakeholders when conflicts with our national renewable energy program appear?**

Answer:

The responsible development of domestic renewable energy resources can help enhance our national security. To this end, I have been told that the offices in the Executive Office of the President, including OMB, have been working with the Department of Defense, the Federal Aviation Administration, and other relevant agencies to identify and help address the concerns of agency stakeholders with respect to the development of renewable energy. I look forward to working to strengthen this coordination as needed.

Senator Ron Wyden

5. The county payments program, which was originally enacted through legislation that I authored in 1999, is set to expire in FY 2011. Rural counties across America that rely on this critical funding — more than $500 million in the FY2009 payment — will be in a desperate situation if we do not reauthorize this funding.

I recently led a bi-partisan letter to the President signed by 29 Senators seeking support in the budget for funding a reauthorization of this program. A similar letter was sent by the House of Representatives. A copy of this letter has been provided to OMB.

In response to our letter, Secretary Vilsack, writing on behalf of the President, said he was committing to working with Congress to find a bipartisan, long-term solution.

- **Will you provide the same commitment today that Secretary Vilsack made on behalf of the Obama Administration to support extending this successful program and, if confirmed as OMB Director, what will you do to assist in efforts to reauthorize and fund this program?**
- **As you may imagine, finding offsets to help fund the reauthorization of this program is also going to be important. Will you commit to work with USDA and Interior to help find the funding to pay for this program which is so critical to the economic survival of rural counties?**

Answer:

While I have an understanding of grants-in-aid programs generally, I am not fully versed in the particulars of the county payments legislation. I have not been to date engaged in discussions within the Administration concerning the FY 2012 Budget and am not yet aware of funding details regarding this program. If confirmed, I will work with leadership at USDA and Interior to gather insights on an equitable long-term solution that is consistent with the President's commitment to overall fiscal discipline. I am committed to working with you and your colleagues on this program and bipartisan policies to generate more economic growth in these communities.

Senator Ron Wyden

6. Over the past year I have been working to advance legislation that embodies an historic agreement between timber companies and conservation groups in eastern Oregon for undertaking forest restoration projects and protecting old growth and watersheds -- the very goals the Administration has called for.

A large majority of the timber industry and the environmental community supports this agreement. To make this work a reality, the Forest Service is going to need additional dollars for critical forest management projects that need to ramp up. I will be working with my colleagues in the Congress to secure additional funding for the Forest Service to plan and prepare projects but we also need this Administration to put additional funds in the budget request for forest restoration projects.

Federal forests are at great risk of uncharacteristic catastrophic wildfire, which eat up more than half the agency's budget, due to overstocked stands, insects and disease infestations. At the same time, Oregon has lost thousands of jobs in the area over the last several years as mills have closed. Oregon is on the brink of losing the remaining mills. The loss of any of these mills would have a serious effect on the economics of forest restoration and rural communities.

I simply can't stand by and watch this happen.

- **Will you support additional forestry funding to tackle the severe forest health challenges in the Northwest while we still have mills in operation?**

Answer:

I am aware of your efforts to protect the health and ecological values so important to the long-term sustainability of our vital National Forests, and commend you for your outstanding leadership in advancing legislative solutions. I understand the Administration included in its FY 2011 Budget a proposal to enable high priority restoration work to occur on our National Forests. If confirmed, I look forward to working with you and your colleagues on solutions that not only mitigate threats to ecosystem sustainability and resiliency posed by climate change, increased wildfires, and disease and insect infestations, but that also provide a foundation of economic growth, especially in rural areas.

Senator Debbie Stabenow

1. The Recovery Act expanded the Department of Energy loan guarantee program known as "the 1703 program" to help accelerate the domestic commercialization and manufacturing of renewable energy technologies. The expanded program is known as "the 1705 program", and was designed to stimulate investments for rapid deployment of these technologies - however to date, the award and use of these loan guarantees has not come close to fulfilling Recovery Act objectives. What changes do you intend to make at OMB to work with DOE to make its loan guarantee programs more effective, timely, and market based?

Answer:

Although I am not familiar with the details of the loan guarantee program, I agree that any program intended to stimulate investment needs to be timely, targeted, and implemented effectively with proper oversight. If confirmed, I plan to work with the teams at OMB and DOE overseeing the Loan Guarantee Program to understand the execution challenges and determine what changes can be made to streamline loan processing consistent with fulfilling our statutory and oversight responsibilities.

Senator Debbie Stabenow

2. Specifically, my state government, through the Michigan Economic Development Corporation (MEDC), has worked directly with DOE over the past 18 months and actively pursued 1705 loan guarantees to help companies with solid renewable manufacturing plans begin operations, hire green technology workers, and build renewable energy markets and supply chains here in the United States. Together with its partners, the Great Lakes Capital Fund and the Detroit/Wayne County Port Authority, MEDC is an approved participant in the DOE's Financial Institution Partnership, or "FIPP" Program, which DOE promoted to accelerate loan guarantee awareness, processing, and successful closing of loan guarantees.

While these Michigan partners have used this designation to assist companies with projects and inform the DOE of program issues, they have been prevented from maximizing the FIPP designation due to a long delay in issuing a solicitation allowing manufacturers to apply for 1705 loan guarantees. When this solicitation was issued a few weeks ago on August 10, it contained requirements that will prevent most projects from receiving loan guarantee awards, and may likely deter qualified companies from applying at all. For example, applicants are required to secure a credit rating equivalent of 'BB' or better from a national rating agency. The manufacturing industry has been battered and cannot secure credit to finance established operations, let alone expansions into a new and somewhat risky market. This is a very high hurdle--companies who can get this rating can get financing elsewhere. We were led to believe that this guarantee program would be used to mitigate market risk.

In summary, Michigan has worked hand-in-hand with DOE on the FIPP designation to help the federal government fulfill the Recovery Act goals, rapidly invest these critical dollars to grow America's renewable energy manufacturing base, and create jobs; however the loan guarantee rules are creating a timing, eligibility and utility crunch that threatens to derail these goals. How will you help accelerate the successful deployment of 1705 program goals, and make the program relevant to the current market and need?

Answer:

Although I am not familiar with the details of the loan guarantee program, I agree that programs need to be timely, targeted, and implemented effectively with proper oversight. If confirmed, I plan to work with the teams at OMB and DOE overseeing the Loan Guarantee Program to accelerate successful deployment of the 1705 program consistent with fulfilling our statutory and oversight responsibilities, and review what actions might be taken to ensure the program is helping address market failures and increasing the production of clean energy as effectively as possible.

Senator Bernie Sanders

1. I am concerned about OMB's processing of applications for loan guarantees under the Department of Energy's renewable energy loan guarantee program, as established by the American Recovery and Reinvestment Act. Timely review and decisions on renewable energy loan guarantee applications is even more critical because the Treasury Departments' Renewable Energy Grant Program, also established in the Recovery Act, requires that projects break ground by the end of 2010 in order to qualify for vital incentives. The loan guarantee program, which initially included $6 billion in funding to support up to $60 billion in project financing, has also twice seen funding rescinded so that there are now concerns that the available funding may not be adequate to even support the pending applications. We do not want to miss the opportunity for America to create green jobs and become a leader in renewable energy generation and manufacturing because of bureaucratic delays.

a. How long does it currently take OMB to process a renewable energy loan guarantee application?

b. In your view, how many days should it take for OMB to process these applications?

c. Would you support a 30 day time requirement for OMB to process these applications?

d. How do you intend to work with Secretary Chu to ensure that OMB and the Department coordinate closely to move these applications forward?

e. Will you do everything in your power to process these renewable energy loan guarantees in a timely fashion?

f. If it is necessary to hire additional staff or reassign staff to process these loan guarantee applications, are you willing to make such changes?

g. Do you support fully restoring funding to the Recovery Act loan guarantee program, making it whole following the decision to rescind funding?

h. Would you support an extension of the Treasury Department Renewable Energy Grant Program to continue to provide upfront incentives to promote renewable energy, given the continued difficulty in obtaining tax equity financing for renewable energy?

Answer:

I am not familiar with the timeline for OMB review of these applications. However, I understand the importance of timely and effective review processing by OMB and the Department of Energy of these renewable energy loan applications and can assure you that, if confirmed, I will look

into the time it takes DOE and OMB to process applications under this program and determine what changes can be made to streamline loan processing consistent with fulfilling our statutory and oversight responsibilities for this program. As I mentioned in the hearing, I have a good working relationship with Secretary Chu, and, if confirmed, I will work with him on implementation of the loan guarantee program to identify opportunities to streamline loan processing consistent with fulfilling our statutory and oversight responsibilities for this program, including ensuring that OMB allocates the resources needed to process these loan applications in a timely manner.

The Administration continues to support the loan guarantee program in its 2011 Budget, and has included non-Recovery Act funding for nuclear energy and renewable energy projects in the program. If confirmed, I will examine the funding issues with this program to ensure that we have the most effective tools at work in transforming to a clean energy economy, including working with the Department of Treasury to assess the credit difficulties facing the renewable energy sector and to determine the most appropriate policy tools to address these difficulties.

Senator Bernie Sanders

2. I am also concerned about the loan guarantees the federal government is providing to nuclear energy projects. During the first round of nuclear plant construction in this country, 100 plants, roughly half of all plants ordered, were cancelled due to cost overruns in what Forbes called "the worst managerial disaster in business history." There is a reason the private sector is not willing to finance new nuclear plants, and history is now repeating itself with delays and cost overruns at new nuclear plants around the world.

a. Is it your view that the non-partisan Congressional Budget Office estimate of the default risk of building new nuclear power plants in the United States, which CBO estimated is 50 percent, is correct?

b. How will you ensure that OMB accounts for the risk of default for a new nuclear plant in the United States prior to the federal government committing funding to any project?

c. If the risk of default is as high as 50 percent, what should the upfront subsidy risk fee be for new nuclear projects, to guarantee that taxpayers will not bear an undue risk for covering billions in default costs if nuclear projects fail?

Answer:

I am not familiar with CBO's analysis of the default risk of building new nuclear power plants. However, if confirmed, I will work with the Department of Energy to ensure that all relevant information is considered when assessing the default risk for loan guarantees for new nuclear power plants and for all other projects supported by this program.

Senator Jeff Merkley

1. When the National Forest system was created, Congress approved a revenue sharing program specifying that 25 percent of timber revenues from National Forests go to counties to contribute to local infrastructure and services. Several decades later Congress established a similar arrangement for the O&C Lands managed by the Bureau of Land Management. For decades, this law ensured that local communities received some benefit from timber removed from Federal lands in their counties. However, by the late 1980's, national policies, court rulings, and economic factors substantially diminished revenue-generating activity in our national forests. By 1998, revenues for national forest counties had declined by over 70 percent, having a devastating impact on 780 counties nationwide and over nine million school children.

Because changes in Federal forest management practices led to the significant decline in county timber revenues, the Federal government has provided direct revenues over the last 10 years to hold up its side of the social contract between the Federal government and Federal forest counties. The current statutory program upholding this bedrock Federal responsibility expires in FY11. Will you, if confirmed as the OMB Director, uphold the Federal government's commitment by including funding in the FY12 budget for the Secure our Rural Schools Act? If you will uphold this responsibility, at what level will you propose funding? If not, how do you justify failure to uphold this responsibility?

Answer:

While I have an understanding of grants-in-aid programs generally, I am not fully versed in the particulars of the county payments legislation. If confirmed, I will engage with knowledgeable staff to learn more details and am certainly committed to working with you and your colleagues on a bipartisan and equitable long-term solution that is consistent with the President's commitment to overall fiscal discipline.

Senator Jeff Merkley

2. During his campaign, President Obama pledged to work with Congress to find a way to help counties that have a large proportion of Federal lands in their county. He said in an interview with a Portland newspaper, "I think it's important for us to have a policy on county payments that is consistent and that allows for long-term planning for local communities, so that they're not scrambling to figure out do they have to lay off deputies from the county or do they have to close libraries." Failure to include funding in the FY12 President's budget would directly violate this commitment, eviscerating county budgets for public safety, libraries, and other services. Will you uphold the President's promise by including Secure Rural Schools funding in the President's FY12 budget?

Answer:

I have not been to date engaged in discussions within the Administration concerning the FY 2012 Budget and am not yet aware of funding details regarding this program. If confirmed, I will work with leadership and staff at USDA and Interior to gather insights on an equitable long-term solution that is consistent with the President's commitment to overall fiscal discipline. I am committed to working with you and your colleagues to meet the President's commitment to negotiating with counties to address local concerns in a way that recognizes that the best way to handle this issue over the long term is to generate more economic growth in these communities.

Senator Jeff Merkley

3. County payments in these forested counties constitute major portions of counties' revenue, in some cases the majority of their revenue. As we know from the last time payments nearly expired, the loss of revenue would mean major cuts in basic county services from basic public safety and law enforcement to libraries to health services. The loss of these services would certainly result in additional costs elsewhere, including to the Federal government. Has OMB done or will OMB do any analysis of the costs to states, communities, and the Federal government resulting from lost tax revenues, additional Medicaid and welfare costs, potential increases in crime and drug abuse, and other effects of slashing services?

Answer:

I am not currently aware of recent OMB analyses on this matter. However, from my previous experience as OMB Director I am aware that OMB routinely conducts a wide range of analyses, many of which are issue-specific. I am confident that such activities would continue upon my confirmation.

Senator Mark Begich

1. In August, OMB was rated rather poorly by its employees as a good place to work-How do you intend to improve morale at the agency so that we get the very best out of the public servants under your charge?

Answer:

Having a fully engaged workforce is critical, and the recent workforce survey results at OMB are troubling and call for serious evaluation of what's driving employee concerns. I know the senior leadership team at OMB is taking the issue very seriously and has already engaged with staff at every level, collecting feedback to identify root-causes, and preparing new workplace initiatives that will be implemented right away to make improvements. As Director in the 1990's I considered the OMB career staff a valuable national asset, and if confirmed it will be a high priority of mine to restore OMB morale. If confirmed as OMB Director, I will work to continue those efforts to make sure we make progress and improve overall workplace satisfaction.

Senator Chuck Grassley

1. It's been reported that you received a bonus payment of about $1 million from Citigroup one day before the government announced a $301 billion taxpayer guarantee of its troubled mortgage backed securities portfolio.

The Treasury Department put out a report on Executive Compensation at institutions who received taxpayer support, analyzing whether the payments were contrary to the public interest, but your payment was not among those analyzed. So, on July 30th, I wrote to Secretary Geithner and asked whether the $1 million payment to you was in the public interest, and if so why? [I'd like to place a copy of my letter and the reply into the record.]

The reply doesn't answer my question. Instead it just says that you weren't in the top 25 most highly compensated executives at Citigroup, and thus, Treasury wasn't required to analyze the circumstances of your bonus payment. However, if the Treasury Department wanted to examine your bonus payment, it likely has the necessary authority. Since the Secretary won't answer my question, I'll ask you.

(a) How is it in the public's interest for you to receive a $1 million bonus on the eve of a massive $301 billion commitment to rescue Citigroup?

My position at Citi was a management position. I was not an investment advisor. My compensation was in line with other management executives at the firm and in similarly complex operations.

(b) If you weren't in the top 25 highest compensated executives, were you in the top 100?

I do not know.

(c) Shouldn't bonuses to the top 100 most highly paid executives at bailed-out banks be scrutinized, given the taxpayer subsidies, to see if they were appropriate? If not, why not?

Congress and the Administration have taken action to limit excessive executive compensation at firms that received exceptional taxpayer assistance, including the creation of the Office of the Special Master and the appointment of Kenneth Feinberg. I did not have any personal role in those efforts, however, so I cannot comment on the various policy and legal decisions made by the Treasury Department or by Mr. Feinberg.

Senator Michael Enzi

1. The Pension Benefit Guaranty Corporation (PBGC) has consistently been on the Government Accountability Office's "High Risk" watch list. Earlier this year, the PBGC's deficit for FY2009 was nearly $22 billion and that number is expected to grow in the coming years. In addition, the agency just announced that the projected deficit for its multiemployer trust fund could reach $4 billion. It is clear that the PBGC's overall deficit cannot be ignored. What are your plans to reduce the PBGC deficit?

Answer:

PBGC solvency is a major concern. If confirmed as Director of OMB, I am committed to working with Congress to identify balanced solutions that protect the solvency of PBGC while also encouraging employers to preserve their pension plans that provide valuable benefits to millions of workers and retirees.

Senator Michael Enzi

2. Is the PBGC backed by the full faith and credit of the federal government?

Answer:

Under current law, the PBGC is not backed by the full faith and credit of the Federal Government.

Senator Michael Enzi

3. Legislation has been introduced in 111th Congress that would force the PBGC to accept the partition of certain multiemployer plans (a mechanism to place "orphan" plan participants with the PBGC). What are the budgetary implications if Congress seeks to partition certain multiemployer plans such as the Central States and United Mine Workers multiemployer pension plans?

Answer:

Generally speaking, these proposals would add to PBGC's deficit by transferring responsibility to the PBGC for paying benefits to partitioned plan participants. The Administration is sympathetic to financial problems facing multiemployer plans, and if confirmed, I plan to make certain that any proposed solutions protect the retirement security of workers and retirees as well as secure the PBGC's ability to continue to pay guaranteed benefits to all of the workers and retirees whose retirement plans it insures.

Senator Michael Enzi

4. State and local pension plans covering state and local government workers are not covered under ERISA or backed by PBGC. However, in light of a number of states and local governments running deficits it is clear that they may not be able to keep the pension promises made to their employees. Earlier this year, Austan Goolsbee, now Chair of the President's Council of Economic Advisers, asked the academic community for federal solutions to the public pension plan situation. Should the federal government step in regarding the broken pension promises of state and local governments?

Answer:

State and local governments established these pension plans for their workers, and they are responsible for paying benefits under the law. At the same time, the challenges facing these plans are an undeniable concern. If confirmed, I will monitor the situation closely.

Senator Michael Enzi

5. Do current budget laws/rules accurately reflect the future liabilities of the federal government with respect to federal pension and retiree health care obligations?

Answer:

The Government's financial statements reflect the current liabilities of the Government for accrued pension and retiree health obligations for civilian Federal employees and for uniformed servicemembers. The budget, by comparison, is primarily concerned with annual flows, not with stocks such as assets and liabilities. Annual agency budgets are charged with the accruing costs of future employee pension obligations, which ensure that these costs are taken into account in the budget process. Agency budgets are not charged for retiree health care obligations.

Senator Michael Enzi

6. As part of the President's retirement savings proposals, the President announced support for the creation of U.S. Department of Treasury Retirement Savings Bonds. With respect to traditional U.S. Savings Bonds, the proceeds of the sale of the bonds are used to pay for the U.S. government's borrowing needs. What should the proceeds of the sale of the Retirement Savings Bonds be used for?

Answer:

The President's support for Retirement Savings Bonds indicates that they could be a useful tool in helping individuals to save for retirement. With respect to the proceeds of the Retirement Savings Bonds, if confirmed, I would consult with the Department of the Treasury on the best use for those proceeds, as Treasury is the steward of the Government's cash and debt management operations and operates as efficiently as possible in the best interests of the U.S. taxpayer.

Senator Michael Enzi

7. Over the past few years, Congress has enacted changes to defined contribution pension plans to allow for conversions to Roth Individual Retirement Accounts. Conversions to Roth IRA's was made possible because taxes are paid upfront and thereby creating revenue within the 10 year federal budget window. However, legislative changes to traditional defined contribution plans (401(K) and Individual Retirement Accounts) are more difficult to achieve because they defer tax liabilities well beyond the 10 year budget window. Are there better ways to calculate tax deferred income with respect to defined contribution plans for federal budgetary purposes?

Answer:

The traditional scoring rules have served us well in ensuring that mandatory and tax policies are paid for; however, there are some cases - such as the two that you mention - where the rules capture deficit increases or decreases within the 10-year budget window that are offset outside the 10-year scoring window. If confirmed, I would examine the cases in which this occurs and consider ways in which the scoring rules could be improved.

Senator Michael Enzi

8. The Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act were enacted by Congress to assist small business to participate in the federal rulemaking process. What are your views on both of these laws? What else can be done to help small business with regulatory burdens and to ensure that small businesses are not disproportionately affected by final regulations adopted by federal agencies?

Answer:

I believe that the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act (SBREFA) are important tools for improving regulation and considering issues relevant to small business in the regulatory process. OMB participates in the SBREFA process and OMB representatives act as SBREFA panel members; this is an important responsibility. With respect to your question about what else can be done to help small business with regulatory burdens: If confirmed, I look forward to working with the OIRA Administrator and agency heads to ensure meaningful consideration of how to minimize burdens on small business and I would welcome your continued input and advice on this issue.

Senator Jeff Sessions

1. As you know, I have a proposal, the Sessions-McCaskill Amendment, to implement 3-year spending caps based on the budget approved by Congress last year. That proposal is inspired by what a bipartisan consensus achieved in the 1990s, and it has the most bipartisan support of any budget proposal since you were last at OMB in the 1990s. Are you willing to support the Sessions-McCaskill Amendment as a first step to balancing the budget?

Answer:

I certainly agree that the bipartisan budget consensus reached in the 1990's was helpful in bringing the budget into balance. Discretionary caps were a major component of that consensus, along with bipartisan agreement on mandatory spending restraints and revenues to combat the deficit. I think discretionary caps can be an important tool, but they are only one component of reducing the deficit as a whole.

I also believe that current mechanisms in Congress for holding funding to desired levels—in particular, the 302(a) and 302(b) allocations as set under the Congressional Budget Act—should not be overlooked as means to restrain funding growth. If confirmed, I will examine your proposal in greater detail and I look forward to discussing it with you.

Senator Jeff Sessions

2. As you probably know, your predecessor Peter Orszag has recently called for extending all of the so-called "Bush tax cuts" for 2 years, including those for small businesses. Do you agree with him? As economists Kevin Hassett and Alan Viard wrote recently in the Wall Street Journal, the top 3% of small businesses account for 50% of all small business income. Data from the National Federation of Independent Business and the U.S. Census demonstrate that those businesses employ 25% of all Americans. Treasury Secretary Geithner has admitted that allowing the top rates to expire would raise taxes by $700 billion over 10 years. What do you think would he the impact of a $700 billion tax increase on small businesses in the middle of a recession? Do you think that that would outweigh the benefits of the Administration's much-touted $30 billion small business lending fund? According to an NFIB survey, small businesses ranked taxes as the most important problem they faced, after weak sales. To add insult to injury, Treasury Secretary Geithner has already said in a speech to the Center for American Progress that the revenue from increased taxes would be used for more stimulus, not paying down the debt.

When looking at how the President's Budget levels of taxes and spending as a percent of GDP compare to their 50 year averages, spending skyrockets way beyond the average, but taxes also increase above the average. What level of taxation do you think is appropriate? At what level should the budget achieve balance?

Answer:

The President supports extending the 2001 and 2003 tax cuts for all American families earning less than $250,000 a year. The overwhelming number of American families – around 98 percent – fall under this threshold. Extending these tax cuts will help to sustain the economic recovery and to spur new job creation.

We can also promote economic growth by enacting measures that put us on a path towards fiscal sustainability. Reducing the deficit in the medium-to-long term will bolster confidence in the economy, promoting economic growth through new investment and economic activity today. Given the fiscal situation, a continued tax cut for the wealthiest 2 percent of American families, which according to the Congressional Budget Office is among the least effective methods for reviving the economy, is something we cannot afford at this time.

According to the IRS, among individuals with small business income, only 3 percent earn more than $250,000 a year. I have heard the figures like those cited by Kevin Hassett and Alan Viard, but they mask the nature of the small businesses in that category. Businesses that earn more than $250,000 include individual partners in major corporate law firms and hedge fund managers. More than 50 percent of the top 400 taxpayers with the highest adjusted gross income are counted as small businesses. These are not your typical start-ups or mom and pop stores.

Extending the upper-income tax cuts is a very blunt tool for assisting small businesses. There are better-targeted measures that can be taken. The President has been committed to providing tax relief for small businesses and has already signed into law eight separate small business tax cuts, including bonus depreciation tax incentives to support new investment, five-year carryback of net operating losses, and a new tax credit for hiring unemployed workers. These tax cuts have benefited millions of small businesses.

In response to your last question, in 2009, Federal tax receipts as a percentage of GDP were the lowest they have been since 1950, and tax receipts are expected to be even lower this year. The latest budget projections show a gradual rise in tax receipts as the economy recovers, eventually returning to the levels reached in the late 1990s, which was a period of unparalleled economic prosperity for average Americans. It is not possible to determine in isolation the appropriate level of Federal receipts, which depends on numerous interacting economic and budgetary factors and decisions.

What is needed is a comprehensive fiscal plan that spells out spending, receipts, and the deficit while achieving a sustainable level of Federal debt. The Administration has tasked the President's Fiscal Commission with coming up with such a plan, and, if confirmed, I will seriously consider its recommendations. Additionally, if confirmed I will be working with the President's economic team and Cabinet secretaries to identify cost savings and other opportunities to reduce the deficit and restore fiscal discipline.

Senator Jeff Sessions

3. In your written responses to the Committee, you stated "Immediate deficit reduction would be counterproductive, and it is important to continue targeted initiatives that help to stimulate the economy."

In my opinion, there are both strong theoretical and practical arguments for putting an end to stimulus spending. On the theoretical side, economists have argued that there is not a single example in history of stimulus being effective. During the New Deal, the economy sputtered under a combination of higher taxes and higher spending. Even World War II did little to create sustainable growth as the economy began to slide back into recession shortly after it ended. The stimulus of the 1970s produced stagflation, and in 1976 Milton Friedman won the Nobel Prize in Economics for exposing the fallacies of Keynesian stimulus. When the Obama Administration proposed its $800 billion stimulus package in January 2009, 300 economists took ads out in Capitol Hill newspapers opposing it, and another Nobel Prize winning economist, Gary Becker, predicted how ineffective it would be in an op-ed in the Wall Street Journal in February 2009.

Now that the stimulus has been in effect for a year and a half, we can see how ineffective it was in practice. Although White House economists confidently predicted unemployment would never exceed 8% if the stimulus passed, it has averaged about 9.5% since then, and shows no sign of going down anytime soon. Although the White House promised that the funding would be spent quickly on "shovel-ready" projects, only 5% went to highways and bridges and only 30% of that money has been spent so far. Of the $92 billion in the stimulus for "green projects," only $20 billion has been spent. The economy has meanwhile lost 2.5 million jobs since the stimulus passed. This shouldn't be surprising however, since stimulus spending does not create any incentives to work or invest.

The White House seemed to acknowledge how ineffective and unpopular the stimulus was when last week White House Press Secretary Robert Gibbs denied that the Administration's latest $50 billion stimulus proposal is a stimulus package. As reported last week in the Washington Post, many in the President's own party quickly distanced themselves from the latest stimulus proposal.

Given all of the theoretical and practice arguments against stimulus spending, how can you support more of it?

Answer:

When the Administration took office in January 2009 it confronted an unfolding economic catastrophe. In the first quarter of 2009 job losses were averaging 750,000 per month. This freefall was worse than anyone realized at the time because early measures of GDP and employment were subsequently revised further downward. The Administration's immediate

response to this emergency was the Recovery Act of 2009, which was passed less than a month after President Obama took office. A wide range of estimates from respected authorities in and out of Government show that the Recovery Act was effective in saving jobs and promoting economic growth.

The economy has been growing since the summer of 2009, and the private sector has added jobs every month so far this year. The Recovery Act has been successful, but it was never intended as an end-point. The Administration continues to support targeted policies aimed at creating jobs and promoting economic growth. The President's latest proposals were announced earlier this month. He has proposed to expand, simplify, and permanently extend the Research and Experimentation Tax Credit in order to help companies create good jobs in America now while increasing future productivity and growth. The President has also proposed allowing businesses to write off all the investment they do in 2011. This will help small businesses upgrade their plants and equipment, and will encourage large corporations to get off the sidelines and start putting their profits to work, as the President explained in a recent speech. Finally, the President is proposing a new plan for renewing and expanding our transportation infrastructure that combines a long-term vision for the future with new investments. A significant portion of the new investments would be front-loaded in the first year. Such measures, if adopted, would sustain and strengthen the recovery.

Since January 2009, the President has continuously sought to promote measures that would spur long-term growth and increase employment and he will continue to pursue such policies for the remainder of this term. At OMB, if confirmed, I will work to support these efforts.

Senator Jeff Sessions

4. We understand that the focus of the Administration is all on jobs and the economy. But if you are a business that creates jobs, all you see coming from the government is higher taxes today and tomorrow, deferred taxes in coming years from record debt, and the hidden tax of government mandates and commandments. I want to focus on the new rules and regulations are about to come forth from OMB. According to the OMB website, you have 113 new actions under review at OMB. I understand that only 19 of these rules have had full review under Executive Order 12866 for cost-benefit analysis. Does the Executive Order include job creation or losses as part of their cost benefit analysis (there have been many conflicting opinions on this)? Can OMB use its power under E.O. 12866 to limit or ease the regulatory burden on the private sector? The former OMB Director indicated that EO 12866 would be applied by OIRA not only to agency rules and regulations but also significant agency guidance documents. Is that your understanding and do you intend to apply EO 12866 to significant guidance documents as well?

Answer:

It is my understanding that Executive Order 12866 does not explicitly require an analysis of job creation or losses, it does require that agencies assess the costs and benefits of regulations, and would take into account known job loss information, such as plant closings.

With respect to regulatory burden on the private sector, the Executive Order directs OMB to review significant regulatory actions to determine whether their benefits justify their costs, including those imposed on the private sector. Finally, it is my understanding that the purpose of the March 4, 2009 memorandum provided by former OMB Director Orszag was to clarify the status of OMB review of agency actions, including guidance documents. That memorandum remains in effect. I have not studied the memorandum closely but look forward to learning more about the issue, if confirmed.

Senator Jeff Sessions

5. Congress charged OMB with ensuring federal agency compliance with the Information Quality Act. The IQA was designed to ensure the quality of information EPA uses in making its decisions, and to provide for correction of info that does not comply with IQA quality standards. OMB has cautioned agencies that IQA guidelines are binding. Various press reports indicate that a good number of IQA petitions for correction have been filed recently that relate to, among many other things, the use of science by the US Environmental Protection Agency. Could you please explain how OMB ensures the quality of information used for regulation? What is OMB doing with respect to overseeing agency compliance with the IQA, and what changes, if any, will you make to that oversight? What do you view as the OMB's role if it receives complaints from the public of agency non-compliance with the IQA? How do you put "teeth" into these binding requirements?

Answer:

My understanding is that OIRA works with Federal agencies to ensure that the information that they disseminate, particularly in the context of rulemakings, is consistent with OMB's and the agency's Information Quality Guidelines. If confirmed, I would be in a better position to determine the extent to which OMB is assuring that agencies respond to requests for correction in a timely manner, and how to help ensure that agency releases are of the highest quality.

Senator Jeff Sessions

6. Recently states have criticized the EPA for using "interim" guidance rather than final actions. They say EPA uses interim guidance but then enforce them as final action. They don't call them final action so as to avoid legal challenges and regulatory requirements. A recent DC Circuit court decision (Appalachia Power Company v. EPA) was strongly critical of this guidance loophole. Will you force agencies to treat "interim" guidance as "final agency action?"

Answer:

Although I am not familiar with the specifics in this question, I do believe that guidance is a useful tool that agencies can use when they see a need to clarify or elaborate on their policies. Guidance by its nature, however, is not a substitute for any law, regulation, or any other legally binding requirement, and is not legally enforceable. It is also true that the Administrative Procedure Act imposes limits on certain uses of "guidance," interim or otherwise. If confirmed, I will review the issue that raises the concerns.

Senator Jeff Sessions

7. Firms involved with Federal contracting based in Alabama, and especially small businesses, are being hit hard by Federal insourcing policy. Their contracts are being cancelled, and their employees are converted or "insourced" into Federal employees. Two weeks ago, the American Legion criticized this Federal insourcing originating out of the White House and OMB. Their reason- veteran-owned small businesses are the low hanging fruit for Federal insourcing, and some of these businesses are being shut down as a result. So you see in this downturn in our economy, OMB is pressing policy that damages the private sector, and especially small businesses in my state, while at the same time adding additional Federal employees to perform activities that are commercial in nature and thus competing unfairly with the private sector. Americans for Tax Reform (ATR) concluded that the average cost for each new Federal employee is $4.27 million. The Heritage Foundation reported that Federal employees are compensated as much as $47 billion more annually for comparable positions found in the private sector. I have with me a letter, dated August 19, to the president signed by 36 business associations and free-market organizations advocating for an immediate halt and moratorium to Federal insourcing policy due to the lack of savings Secretary Gates declared last month and the damaging effects this policy is causing in the private sector and to taxpayers. Do you support placing a moratorium on Federal insourcing to help protect taxpayers and small businesses?

Answer:

Agencies must have the tools necessary to strike the right balance of Federal employees and contractors to both protect the public's interest and serve the American people in a cost-effective manner. A moratorium on in-sourcing would be problematic, as agencies must have the ability to bring any inherently governmental functions back in-house and to ensure they have the internal capacity to maintain control of their missions and operations. Further, neither quotas nor other artificial constraints should restrict an agency's ability to consider in-house performance by federal employees, if it could save the agency money or bring higher quality performance. That said, consideration of in-sourcing to save money should be based on a careful analysis of the full cost of performance by both sectors. That said, in-sourcing should never be based on quotas, and consideration of in-sourcing to save money should be based on a careful analysis of the full cost of performance by both sectors. In addition, agencies should also be mindful of the potential impact on small business contractors. I am hopeful that the Administration's ongoing efforts to increase opportunities for small business contractors will generally help to offset any displacements that may occur from any justified in-sourcing.

Senator Jeff Sessions

8. I have cosponsored S. 1167, the Freedom from Government Competition Act, introduced last year by my colleague Sen. Thune. This legislation would allow for cost comparisons to occur for the 850,000 Federal employees that are commercial in nature. These 850,000, or nearly half of all Federal employees, are in positions and activities that you can find in the "Yellow Pages" — these are activities that compete and duplicate with the private sector, especially firms you can find on Main Street or in the Yellow Pages, including small businesses in Alabama. The Heritage Foundation has reported that if each of the 850,000 Federal positions were studied or competed with a private sector entity, taxpayers would be saved on average 30% in efficiencies, regardless if the work stayed in-house or was contracted out to the private sector. Those savings equate to $27-28 Billion per year. Unfortunately, those studies are not ongoing, and those savings are not being realized. In your previous term as OMB Director in the Clinton Administration, you advocated the downsizing or "reinventing" government through competitive sourcing and contracting out initiatives. Will you support reversing the current trend of "insourcing" commercial work into the government?

Answer:

As noted in the prior response, agencies must have the tools necessary to strike the right balance of Federal employees and contractors to both protect the public's interest and serve the American people in a cost-effective manner. Achieving this balance requires the application of a variety of tools and recognition of the proper role for each sector so agencies may draw on their skills appropriately. While rebalancing will involve in-sourcing in some cases, such as where a contractor is performing inherently governmental work, these efforts do not change our commitment to always be looking at ways of achieving greater cost effectiveness in meeting mission needs. It is my understanding that policies proposed by OMB to help agencies address rebalancing are not designed to lead to a widespread shift away from contractors, but where the pendulum has shifted too far towards contractors, it should be corrected. I expect contractors to continue playing a significant role in offering expertise, innovation, and cost-effective performance to support a wide range of services that agencies provide to our citizens.

Senator Jim Bunning

1. Section 1017 (a)(4)(E) of the Dodd-Frank Financial Regulatory Reform Act explicitly exempts the new Consumer Financial Protection Bureau from having to consult with or obtain the consent or approval of OMB with respects to the CFPB's operations. The CFPB's budget is also not subject to the Congressional appropriations process. Thus, the CFPB is not accountable to OMB, or any other body, including Congress. The budget of the CFPB is determined solely by the director of the CFPB.

Funding for the CFPB comes from the Federal Reserve and is capped at 12 percent of the Fed's operating budget (which would have yielded a maximum budget of $646 million in 2009). All funds transferred to the CFPB would have otherwise been returned to the general treasury by the Fed.

How is the OMB supposed to impose any discipline on our ballooning Federal finances when the Administration creates huge new bureaucracies that are exempted from the OMB's purview?

Answer:

I understand that the Administration proposed a Consumer Financial Protection (CFPB) that would have been funded through an annual discretionary appropriation, fully offset by user fees and subject to apportionment, but the final Dodd-Frank Act is different, as you describe. As enacted, the Act funds the CFPB in two ways: (1) an annual transfer from the Federal Reserve, and (2) authority to request an additional annual discretionary appropriation if the Fed transfer is viewed as insufficient.

While it is true that Congress has exempted this annual Federal Reserve transfer to the CFPB from some of OMB's most effective oversight mechanisms – the annual budget process and apportionment of resources – I understand the CFPB is still required to provide OMB with its annual financial operating plans and forecasts, and copies of its quarterly financial statements. As it currently does with the banking regulators and other independent agencies, OMB will closely review these and other materials that the CFPB may share or publish, and make such recommendations on funding and oversight as may be warranted in the President's Budget. The President retains the authority to propose to the Congress legislation to alter the CFPB's budget, as it does for other independent entities, such as the FDIC.

Senator Mike Crapo

Since this is going to be the primary issue we are going to be dealing with here in Congress over the next few months, I would like to have a discussion with you about the 2001 and 2003 tax relief, and the interrelated effects with the budget, and the economy, and the job sector. Clearly, all of those issues are related, and I would like to see if we are on the same page as to those relationships.

1. First, while total revenues to the Treasury have annually averaged about 18.2 percent of GDP since World War II, the drop in income tax revenue has been a major contributor to the fact that total revenue to the Treasury has dropped from 18.5% of GDP in 2007 to just 14.8% of GDP in 2009. Is that correct?

Answer:

Yes, individual and corporation income tax revenues combined were 11.0 percent of GDP in 2007 and 7.4 percent of GDP in 2009. This accounts for nearly all of the reduction in revenues since 2007.

Senator Mike Crapo

2. At the same time, federal spending has increased from 19.6% of GDP in 2007 to 24.7% of GDP in 2009 (and projected to be 25.4% of GDP in 2010). Is this also correct?

And it has been this historic gap between revenues and spending that has led to this explosion in our national debt.

Answer:

Yes, Federal spending increased from 19.6 percent of GDP in 2007 to 24.7 percent of GDP in 2009, an increase driven by the unprecedented economic downturn and the policy response necessary to prevent a second Great Depression. In the Mid-Session Review released this past July, the Administration projected total spending of 24.6 percent of GDP in 2010.

I should emphasize that our medium-term deficits are driven by the failure of the previous Administration to pay for two key policies—the 2001 and 2003 tax cuts and the Medicare prescription drug expansion. If these policies had been paid for, deficits by the middle of the decade would be sustainable, standing at about 2 percent of GDP.

Senator Mike Crapo

3. Now, back to the drop in income tax revenues. In 2007, individual income tax revenue was $1.16 trillion. But in 2009, individual income tax revenue was only $915 billion. Now, that drop in revenue during that period could not have been caused by any new tax cuts, because the income tax rates in 2007 were exactly the same as they were in 2009. The drop in income tax revenue can more likely be attributed to the fact that the unemployment rate has surged, and far fewer people are employed and earning income in 2009 than in 2007. And with far fewer people working and earning income, there are far fewer people paying income taxes. Far fewer people paying income taxes means far less income tax revenue to the Treasury. And far less income tax revenue to the Treasury means far higher debt. Are we in agreement on all of that?

Answer:

The sharp drop in income taxes between 2007 and 2009 was mostly related to the recession, as you suggest, because people have lower incomes or became unemployed. However, the recession's impact on tax revenue was not limited to the unemployed. The recession also greatly lowered revenues paid on investment returns, such as capital gains and dividends. At the same time, the American Recovery and Reinvestment Act included a number of tax breaks, including the Making Work Pay credit, which cut taxes for 95 percent of working families. While the drop in tax receipts contributed to the large increase in the deficit after 2007, this was desirable as part of the automatic stabilizers that responded to the largest economic downturn since the Great Depression. As the recovery continues and incomes and employment across the economy increase, tax receipts will rise as well.

Senator Mike Crapo

4. And, while raising tax rates on a portion of those Americans who are still employed and part of the base of income tax payers may make some difference at the margins as far as income tax revenue to the Treasury, we are not really going to be able to return to our historic level of revenues to the Treasury until we return to our historic levels of employment and historic base level of income taxpayers, correct?

Answer:

As the economy continues to recover, jobs will increase, unemployment will decline, and tax receipts will continue to rebound. The rebound in the financial markets will also boost receipts. The Mid-Session Review of the Budget projects that receipts will increase from a low of 14.5 percent in FY2010 to 19.2 percent by FY2016, which is slightly above the level in FY2007. By 2016, the Administration's Mid-Session Review projects that we will be back to normal levels of employment, further increasing earnings and restoring the tax base.

Senator Mike Crapo

5. So the question now turns to how do we put people back to work and return to our historic levels of employment. Mr. Lew, it is my understanding that it is pretty accepted among economists that our economy would need to average about 5% economic growth, sustained for an entire year, to reduce the unemployment rate by just 1 percent. Do you accept those numbers?

Answer:

While economists generally agree that reductions in unemployment require a faster than normal rate of economic growth, this is not an exact relationship. It is certainly possible for unemployment to fall by 1 percentage point or more without economic growth reaching 5 percent. The latest Blue Chip consensus (an average forecast of 50 leading private forecasts) has unemployment falling by nearly a percentage point between the end of 2010 and the end of 2011, while the expected rate of growth over those four quarters is expected to be just over 3 percent. Regardless of the exact relationship, the Administration must continue to make targeted investments to strengthen job growth and reduce unemployment as the Nation continues to recover from the worst economic downturn since the Great Depression.

Senator Mike Crapo

6. So, what we are looking at needing for our country is a surge in economic growth, far higher than what is projected under current law and the President's budget, in order to just lower the unemployment rate by just 1 percent from its current 9.6% level. Current projections from OMB and CBO and private economists project our economic growth to be much less than 5% next year, correct?

Answer:

The Administration's economic forecast projects growth to average around 3.6 percent per year from 2011 through 2017. Based on the historical relationship between real growth and unemployment, and consistent with independent and private-sector forecasts, that is sufficient to lower the unemployment rate gradually to around 5 percent. These forecasts are similar to those of the Congressional Budget Office, which also projects unemployment to fall to 5 percent. A more rapid surge in economic growth could bring down the unemployment rate even faster, but growth does not have to exceed 5 percent to achieve a reduction in the unemployment rate.

Senator Mike Crapo

7. With that being the case, it means we have two goals. One, we need policies in place that will lead to higher economic growth than currently projected. And, two we need to avoid enacting any policies that would cause any drag on economic growth, because we have no surplus growth to spare. Would you agree with that?

Answer:

The President has proposed numerous measures that are intended to promote higher economic growth, most recently to permanently extend the Research and Experimentation Tax Credit and to allow businesses to write off investments in 2011. While the Administration must continue to make targeted investments to promote the economic recovery, the President has been clear that such policies must balance the need for growth in the short term with fiscal discipline in the medium and long term.

Senator Mike Crapo

8. Now, I think we all have seen articles and studies from economic experts on all sides of the political spectrum on the relationship of tax increases to economic growth. A report from the President's outgoing chairwoman of the Council of Economic Advisors, Christina Roemer said that a tax increase of 1 percent of GDP would reduce output over the next three years by nearly 3 percent, and that "The effect is highly statistically significant." Other reports have suggested that if Congress fails to extend the 2001 and 2003 tax rates, that GDP in 2011 would be somewhere between 1.1 and 1.5% less than it would be if the tax rates were extended. Do you agree with your colleagues that an increase in taxes right now would cause a drag on economic growth in 2011, even if there is a dispute over the exact amount of a drag?

Answer:

The President has made clear that extending tax cuts for households up to $250,000 is a priority along with a number of tax credits for businesses and individuals. The overall effect of these policies will be to enhance economic growth. Extending the high-income tax cuts would do very little to promote job creation in 2011. There is widespread agreement that the short-run economic benefits of high-income tax cuts are small. The Congressional Budget Office lists a tax cut for high-income earners as a particularly ineffective job creation measure. Christina Romer has said that her study did not distinguish among tax cuts for different groups and did not focus on high earners. Thus, it provides no basis for doubting the compelling evidence that tax cuts for high-income earners are less effective than broad-based tax cuts focused on the middle class.

Senator Mike Crapo

9. Finally, let me see if we can put all of these pieces together. First, our country is facing historic levels of debt. While the major cause of the debt explosion is a massive increase in spending, that debt is also caused in part by a drop in income tax revenue to the Treasury, caused not by reduction in tax rates, but caused by a drop in the base of income tax payers, as a result of the surge in unemployment. We know that, to just start reducing that level of unemployment and rebuild the base of income tax payers, we need sustained economic growth of at least 5 percent for an entire year. Further, we know that current projections, based on current law and the President's budget, show economic growth far below 5 percent for the next year and beyond, and we know that raising taxes right now will cause a further drag on that already insufficient level of projected economic growth. Am I wrong about any of that?

Answer:

While growing the economy and reducing unemployment is our urgent priority, it is not necessary to achieve a growth rate as rapid as 5 percent per year to lower the unemployment rate. Historical examples show that the unemployment rate has fallen with growth rates lower than 5 percent. For example, between the end of 1993 and 1994, the unemployment rate fell by a percentage point while GDP increased by just over 4 percent over the same span. Most forecasters expect both relatively slow growth over the next several years as the economy recovers from the financial crisis, and they also expect a gradual decline in the unemployment rate. The latest forecasts from OMB and CBO reflect this broad consensus. The Administration expects sufficient growth over the next several years to bring down the unemployment rate in the medium-term while seeing revenues rise and the deficit decline. High unemployment continues to be an enormous challenge facing the Nation. The Administration has proposed policies to further reduce unemployment and promote growth without jeopardizing the long-term budgetary outlook. The process of returning the budget to fiscal sustainability can be accomplished while reducing the unemployment rate.

Senator John Cornyn

1. In August 2009, the President said, "You don't raise taxes in a recession." At the time the unemployment was 9.7 percent; it is now 9.6 percent. In addition, GDP growth was 1.6 percent in the third quarter of 2009, while in the most recent quarter of 2010, the economy grew by 1.6 percent as well.

Furthermore, a new survey of private economists by Bloomberg News showed that many experts have lowered their previous forecasts for economic growth in the U.S. and those surveyed expect the unemployment rate to remain above 9 percent in 2011.

Do you agree with the President that it is a bad idea to raise taxes in a recession?

Answer:

The President has proposed that every American household receive a continued tax cut on the first $250,000 of their income. That translates to a continued reduction in taxes for 98 percent of families. I agree that raising taxes for middle-class households, who are likely to spend the money, would be a bad idea. The President has repeatedly emphasized that he will not accept tax increases for those families earning less than $250,000, which represents the vast majority of American households. In fact, working together the Congress and the President have cut taxes for 95 percent of working families through the Making Work Pay credit.

Senator John Cornyn

2. I understand that the focus of the Administration is all on jobs and the economy. But if you are a small business that creates jobs, all you see coming from the federal government are higher taxes today and tomorrow, as well as more government mandates and red-tape. I want to focus on the hidden tax imposed by the new rules and regulations are about to come forth from OMB.

- **According to the OMB website, there are 113 new actions under review. I understand that only 19 of these rules have had full review under Executive Order 12866 for cost-benefit analysis. Does this Executive Order include job creation or losses as part of their cost benefit analysis?**
- **Can OMB use its power under this Executive Order to limit or ease the regulatory burden on the private sector?**
- **The former OMB Director indicated this Executive Order would be applied by the Office of Information and Regulatory Affairs not only to agency rules and regulations but also significant agency guidance documents. Is that your understanding and do you intend to apply EO 12866 to significant guidance documents as well?**

Answer:

Although Executive Order 12866 does not explicitly require an analysis of job creation or losses, it does require that agencies assess the costs and benefits of regulations, and would take into account known job loss information, such as plant closings. If confirmed, I will look at the specific powers and limitations of Executive Order 12866.

Senator John Cornyn

3. The President's budget estimated that economic growth will be 2.7% in 2010. The midsession review actually raised GDP estimates for 2010. But now we find that the economy is growing slower, the job situation remains bleak for millions of Americans, and the "summer of recovery" didn't happen.

- **Do you believe the slower economy and higher unemployment should alter at all the regulatory burdens that the OMB should impose or should they going ahead as if the economy has fully recovered?**
- **Until the economy recovers, do you think the OMB should require more stringent economy analysis of any such proposed rules or revisions that are determined to have a significant cost?**
- **Until the economy recovers, will you consider freezing issuing additional rules or revisions that are simply non-binding guidance?**
- **With growing regulatory mandates and massive Federal budget deficits, should Federal agencies be required to estimate explicitly the Federal budget impact of their regulatory proposals on other agencies, like the Defense Department, NASA, or the Department of Energy?**

Answer:

Executive Order 12866 directs OMB to review significant regulatory actions to determine whether their benefits justify their costs, including costs on the private sector. The same Executive Order also includes a number of provisions designed to eliminate unjustified regulatory burdens. If confirmed, I look forward to learning more about the application of the Executive Order and working with the OIRA Administrator on this issue.

Senator John Cornyn

4. As you may know, the Administration's NASA budget proposal has been soundly rejected by a bipartisan consensus in Congress.

- **How do you view NASA's budget priorities to ensure America's leadership in space exploration?**

Answer:

The Administration's proposals seek a robust and balanced civilian space program that will inspire the world through human and robotic exploration. If confirmed, I would continue the Administration's work with the Congress to set a direction for the Nation's spaceflight program that is inspirational, sustainable, and fiscally responsible.

EXECUTIVE BUSINESS MEETING ON THE NOMINATION OF THE HONORABLE JACOB J. LEW TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

THURSDAY, SEPTEMBER 23, 2010

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to notice, at 12:44 p.m. in Room S–219, The Capitol, Hon. Kent Conrad Chairman of the Committee presiding.

Present: Senators Conrad, Murray, Wyden, Feingold, Stabenow, Cardin, Sanders, Whitehouse, Warner, Merkley, Begich, Goodwin, Gregg, Enzi, Sessions, Bunning, Ensign, and Alexander.

Also present: Ronald Storhaug, Clerk.

Chairman CONRAD. The meeting of the committee will come to order. We're meeting to vote on the nomination of Jack Lew to be next Director of the Office of Management and Budget. We will withhold statements at this time. I do intend to support the nomination. I hope others will as well. Unless Senator Gregg has something to add, we'll move directly to a vote on the nomination.

Senator GREGG. I suggest we vote. I intend to vote for him.

Chairman CONRAD. The Clerk will call the roll.

The Clerk: Mrs. Murray.

Senator MURRAY. Aye.

The Clerk: Mr. Wyden.

Senator WYDEN. Aye.

The Clerk: Mr. Feingold.

Chairman CONRAD. Aye by proxy.

The Clerk: Mr. Nelson.

[No response.]

The Clerk: Ms. Stabenow.

Senator STABENOW. Aye.

The Clerk: Mr. Cardin.

Senator CARDIN. Aye.

The Clerk: Mr. Sanders.

Senator SANDERS. No.

The Clerk: Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The Clerk: Mr. Warner.

Senator WARNER. Aye.

The Clerk: Mr. Merkley.

Senator MERKLEY. Aye.

The Clerk: Mr. Begich.
Senator BEGICH. Aye.
The Clerk: Mr. Goodwin.
[No response.]
The Clerk: Mr. Gregg.
Senator GREGG. Aye.
The Clerk: Mr. Grassley.
[No response.]
The Clerk: Mr. Enzi.
Senator GREGG. Aye by proxy.
The Clerk: Mr. Sessions.
Senator SESSIONS. Aye.
The Clerk: Mr. Bunning.
Senator BUNNING. Aye.
The Clerk: Mr. Crapo.
Senator GREGG. Aye by proxy.
The Clerk: Mr. Ensign.
Senator ENSIGN. Aye.
The Clerk: Mr. Cornyn.
Senator GREGG. Aye by proxy.
The Clerk: Mr. Graham.
Senator GREGG. Aye by proxy.
The Clerk: Mr. Alexander.
Senator ALEXANDER. Aye.
The Clerk: Mr. Chairman.
Chairman CONRAD. Aye.

Senator GREGG. Would the Clerk note that Mr. Grassley votes aye by proxy.

Chairman CONRAD. And we will leave the vote open for the next 15 minutes to allow other members to cast their vote.

Thank you all.
[Pause.]
Senator FEINGOLD. Aye.
[Pause.]
Senator GOODWIN. Aye.
Chairman CONRAD. Senator Nelson votes aye by proxy.
The vote is?
The Clerk: 22 to 1.
[Whereupon, at 12:58 p.m., the meeting was adjourned.]

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