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

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(Senate)

STATEMENT OF ADMINISTRATION POLICY

Substitute Amendment to H.R. 6147 — Interior, Environment, Financial Services, and General Government Appropriations Act, 2019
(Sen. Shelby, R-AL)

This Statement of Administration Policy (SAP) provides views on the Substitute Amendment to H.R. 6147, making appropriations for Interior, Environment, Financial Services and General Government, Agriculture, Rural Development, Food and Drug Administration, Transportation, Housing, and Urban Development for the fiscal year (FY) ending September 30, 2019.

This legislation includes important investments in our Nation's farmers, natural resources, Government operations, national infrastructure, and financial sector. The legislation supports implementation of the Tax Cuts and Jobs Act of 2017; provides funding for infrastructure through the Fixing America's Surface Transportation (FAST) Act, Department of Transportation General Fund, the Water Infrastructure Finance and Innovation Act credit program, and State Revolving Funds; supports responsible development of our Nation's energy resources through the Department of the Interior; addresses the National Park Service's maintenance backlog; and fully funds wildland fire management needs. The Administration also welcomes the Senate's timely consideration of appropriations legislation, and looks forward to working with the Congress well before the end of the fiscal year to enact individual bills that provide sufficient funding to essential programs without further jeopardizing the Nation's fiscal state.

The Administration is concerned, however, that this combined package is nearly $38 billion above the FY 2019 Budget request, includes certain objectionable policy provisions, and excludes important Administration policy priorities. Division D exceeds the Administration's request by $23.5 billion, division A exceeds the Administration's non-Defense request by $7.6 billion, and division C exceeds the Administration's request by $6.3 billion. The Administration recognizes that the problematic spending levels in the bills composing this package stem from the non-Defense discretionary cap set by the Bipartisan Budget Act of 2018 (BBA), about which the Administration has repeatedly registered concern in multiple Statements of Administration Policy and other communications to the Congress since the BBA's enactment.

In the FY 2019 Budget request, this SAP, and publicly available letters to the Senate Appropriations Committee expressing views on each division of this bill, the Administration has identified numerous reductions and reforms that, if adopted, would bring these bills in alignment with the President's policies. The Administration hopes the Congress will consider these suggestions and engage with the Administration to ensure that funding is eventually enacted for the truly essential programs supported by these bills. As the appropriations process continues, the Administration would like to work with the Congress to identify a path to ultimately enacting non-Defense discretionary spending for FY 2019 below the BBA cap of $597 billion.

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

Division A – Department of the Interior, Environment, and Related Agencies Appropriations Act, 2019

Department of the Interior (DOI)

DOI Topline. The Administration appreciates the support for priority DOI programs, but is concerned that the bill also provides funding in excess of the FY 2019 Budget request for a number of DOI programs. In total, the bill provides an estimated $13.1 billion for DOI, or $2.4 billion more than the FY 2019 Budget request.

Energy Development. The Administration applauds the Committee's commitment to energy development on public lands and in offshore waters, including additional resources for the Bureau of Land Management, Bureau of Ocean Energy Management, and Bureau of Safety and Environmental Enforcement.

National Park Service (NPS) Construction. The Administration appreciates the Committee's strong support for NPS construction, and looks forward to continuing to work with the Congress to address the NPS deferred maintenance backlog.

Office of Navajo and Hopi Indian Relocation (ONHIR) Closure. The Administration is disappointed that the bill does not support the FY 2019 Budget request to begin the process of closing ONHIR, which is on pace to complete relocation activities that began 44 years ago. It is time to start an orderly transition, which has bipartisan support, by transferring land management functions to DOI.

DOI and Department of Agriculture (USDA), Forest Service

Wildland Fire Management. The Administration appreciates the bill's $4.3 billion investment in wildland fire operations, fully funding the 10-year average for wildland fire suppression costs for both USDA's Forest Service and DOI. The Administration also appreciates the additional $900 million for suppression operations, $724 million for the Forest Service and $176 million for DOI, to cover suppression costs above the 10-year average, which would help in the year before wildfire cap adjustment funds become available.

Federal Land Acquisition. The Administration opposes funding provided in the bill for land acquisition, which is $172 million above the FY 2019 Budget request. The Departments currently manage roughly 700 million acres and have a deferred maintenance infrastructure backlog of over $16 billion. Acquiring new lands, however, is a low priority.

USDA, Forest Service

USDA, Forest Service Topline. The Administration is concerned that funding for non-fire programs is nearly $900 million above the FY 2019 Budget request, with large increases for facilities and roads, and for State and Private Forestry grants.

Environmental Protection Agency (EPA)

EPA Topline. The Administration is concerned that the bill would provide $8.8 billion for EPA, which is $2.7 billion above the FY 2019 Budget request, and includes funding for programs that are outside of the Agency's core responsibilities.

Funding for Water Infrastructure. The Administration appreciates the Committee's attention to critical water infrastructure needs through the robust funding provided to both the State Revolving Funds and the Water Infrastructure Finance and Innovation Act credit program. Combined, this funding could support several billion dollars in total water infrastructure investment for a wide variety of needs.

Superfund. The Administration appreciates the $1.1 billion included in the bill for the Hazardous Substance Superfund account, which would support infrastructure projects and ongoing cleanup of contaminated sites that are impacting the health and economic well-being of communities.

EPA Geographic Programs. The Administration is concerned that the bill provides $418 million above the FY 2019 Budget request for the Geographic Programs, which perform local ecosystem protection activities, much of which is more appropriately funded by State and local entities.

Categorical Grants. The Administration continues to recommend reductions to Categorical Grants, which the bill would fund at $496 million above the FY 2019 Budget request. Reductions to these grants would reduce Federal funding for State activities that go beyond statutory mandates, and would encourage a rebalancing of environmental program funding between Federal and State resources.

EPA's Science and Technology Account. The Administration continues to advocate for reductions in the Science and Technology account, which is funded at $706 million or $283 million above the FY 2019 Budget request. This account includes programs in research and development that are not necessary to implement core EPA responsibilities.

Diesel Emissions Reduction Act (DERA) Grant Program. The bill provides $50 million, or $40 million above the FY 2019 Budget request for the DERA grant program. While the Administration supports limited DERA funding for targeted high-priority projects, DERA projects overlap with other Federal and State programs, and have diminishing returns for older vehicles that would eventually be replaced regardless of DERA grant funding levels. States may also be able to use some of a $2.7 billion fund established through a settlement with Volkswagen to support very similar projects to those normally funded by the DERA program.

Other Independent Agencies

National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), and the Woodrow Wilson International Center for Scholars (Wilson Center). The Administration is disappointed that the bill does not eliminate Federal funding for NEA, NEH, and Wilson Center.

The Administration recognizes the positive effects the arts and humanities have on our communities; however, the FY 2019 Budget request proposed an orderly phase-out of Federal funding for these agencies, as the Administration does not consider their activities to be core Federal responsibilities.

Division B – Financial Services and General Government Appropriations Act, 2019

Department of the Treasury

Internal Revenue Service (IRS). The bill provides the IRS a total of $11.3 billion, $128 million above the FY 2019 Budget request. This amount includes $77 million in dedicated funding for tax reform implementation. The Administration appreciates the Committee's support for tax reform and the amounts provided in the bill fully fund the Administration's two-year proposal requested in FY 2018.

Office of Terrorism and Financial Intelligence (TFI). The bill provides TFI a total of $159 million, equal to the FY 2019 Budget request. The Administration appreciates the Committee's support for TFI to continue its critical work safeguarding the financial system from abuse and combatting other national security threats using non-kinetic economic tools.

Treasury Departmental Offices. The bill provides $209 million for Treasury's Departmental Offices, $7 million above the FY 2019 Budget request. These additional funds could be used to strengthen review of foreign investment in the United States and address other emerging priorities. The Administration looks forward to working with the Congress to provide adequate resources to support anticipated increases in the caseload for review by the Committee on Foreign Investment in the United States.

Bureau of Engraving and Printing (BEP). The bill includes a provision that would allow BEP to acquire land and construct a replacement for its currency production facility in the National Capital Region using its existing resources. The Administration appreciates the Committee's support for this proposal which would allow BEP to avoid a costly renovation of its current facility and ultimately lower the operating costs of producing the Nation's paper currency.

Community Development Financial Institutions (CDFI) Fund. The bill provides $250 million, $236 million above the FY 2019 Budget request, for the CDFI Fund. The Federal Government should not be allocating taxpayer funds to the mature CDFI industry, which should have ready access to private capital. The requested amount is sufficient to support ongoing CDFI Fund activities, including the New Markets Tax Credit and the zero-subsidy Bond Guarantee Program.

Executive Office of the President (EOP)

While the Administration appreciates the Committee's support for EOP, including an increase for the Office of Management and Budget (OMB), the bill does not adequately fund the Information Technology Oversight and Reform (ITOR) account. To maintain the OMB Office of the Federal Chief Information Officer's (OFCIO) ability to perform statutorily required IT oversight, policy development, and IT security functions and the U.S. Digital Service's ability to respond effectively to significant security breaches or recover failed systems, the Administration urges the Congress to fund ITOR at the level requested in the FY 2019 Budget and to support the requested funding necessary to transition certain OFCIO activities to the GSA Office of Government-wide Policy. The Administration shares the Committee's goal of ensuring that the Office of Information and Regulatory Affairs (OIRA) has sufficient resources to execute its duties, but is concerned that $2 million of OMB's appropriation is directed to OIRA in a way that is inconsistent with OMB's staffing plan for FY 2019 and impinges on the President's ability to prioritize the work of his staff.

General Services Administration (GSA)

Federal Buildings Fund. The Administration appreciates the Committee's support of the Department of Transportation Headquarters purchase and priority renovation projects, and encourages the Congress to fully fund the Federal Buildings Fund at the anticipated level of agency rent collections.

Federal Capital Revolving Fund. The Administration continues to support the establishment of a Federal Capital Revolving Fund (FCRF), a new budgetary mechanism for large civilian real property projects. The Administration recently transmitted legislative language and looks forward to working with the Congress to enact the FCRF proposal.

Federal Information Technology (IT) Modernization. The Administration appreciates the Committee's prior attention to modernizing vulnerable and inefficient legacy IT systems with initial funding provided to the Technology Modernization Fund (TMF) in FY 2018, and urges continued support for the TMF in FY 2019 as a means of addressing these pressing challenges. The bill provides no funding for the TMF, which would halt the Technology Modernization Board's ongoing work to tackle impactful, Government-wide IT modernization efforts. The Administration believes that any additional funding would be well-utilized and will continue working with the Congress to demonstrate the taxpayer value generated by the TMF.

Environmental Review Improvement Fund. The Administration is pleased that the Committee fully funds the FY 2019 Budget request for the Federal Permitting Improvement Steering Council, allowing the Council to create a more standardized, coordinated, and predictable permitting process that protects public health, safety, and the environment.

Workforce Fund. The Administration looks forward to working with the Congress to enact authorizing legislation to establish the President's Management Council Workforce Fund and urges the Congress to provide appropriations upon its enactment. The Administration believes it is essential to develop and fund innovative solutions aimed at recruiting, retaining, and rewarding high-performing Federal employees and those with critical skills sets.

Federal Civil Service

Pay Adjustment. The Administration is concerned that the bill provides an across-the-board pay increase for Federal employees in calendar year 2019. Across-the-board pay increases have long-term fixed costs, yet fail to address existing pay disparities, or target mission critical recruitment and retention goals. As proposed in the Administration's request for a Workforce Fund, the Administration continues to support performance-based pay that is strategically aligned toward recruiting, retaining, and retraining high performers and those in mission-critical areas.

Small Business Administration (SBA)

SBA Disaster Loans Program Account. The Administration is concerned that the bill provides no funding for SBA disaster loan administrative expenses, assuming instead that SBA will rely on balances from appropriations provided in the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123, division B, subdivision 1). These balances are necessary to administer loans to those affected by the major hurricanes that occurred in 2017, and may not be sufficient to allow SBA to continue to provide loans to disasters occurring in FY 2019. The Administration believes it makes sense both fiscally and programmatically to provide funds through the regular appropriations process and ensure that SBA will have the necessary resources to quickly assist homeowners and businesses in disaster recovery.

Other Independent Agencies

Commodity Futures Trading Commission (CFTC). The bill provides $282 million for the CFTC, consistent with the FY 2019 Budget request. The Administration appreciates the Committee's support, which would bolster the CFTC's examination and analysis capabilities and help to address financial technology innovation. The Administration also proposed legislation authorizing user fees to fund certain CFTC activities, in line with nearly all other Federal financial and banking regulators. The Administration urges the Congress to adopt this proposal.

Division C –Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2019

Department of Agriculture

U.S. Department of Agriculture (USDA) Topline. The Administration appreciates the Committee's support for select priority programs, but is concerned that the bill also provides funding well in excess of the FY 2019 Budget request. In total, the bill provides an estimated $20.3 billion for USDA programs funded in the bill, approximately $6.5 billion more than the FY 2019 Budget request. In addition, the Administration is also disappointed that the bill includes unrequested funding for the Economic Research Service, Foreign Agricultural Service, the Animal and Plant Health Inspection Service, and the Agricultural Marketing Service.

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The bill provides $6.1 billion for WIC and includes a $400 million rescission of unobligated balances. The Administration appreciates the funding level for the WIC program. This level is sufficient to serve all projected eligible participants.

Competitive Research Grants. The Administration appreciates that the bill provides $405 million for the Agriculture and Food Research Initiative, the Department of Agriculture's premier competitive research program.

National Bio- and Agro-Defense Facility. The Administration appreciates that the bill provides funding for the transfer of facility operations from the Department of Homeland Security to USDA, but requests that the special hiring authority provided in the bill include a salary cap.

Rural Business-Cooperative Service. The Administration is disappointed that the bill provides $105 million for grants and loan programs for the Rural Business-Cooperative Service. The FY 2019 Budget request proposes to eliminate these programs as they are duplicative of other Federal funding and have not been successful in improving economic outcomes in rural areas.

Rural Broadband Pilot Program. Advancing broadband deployment in unserved rural areas is a priority of the Administration. The Consolidated Appropriations Act, 2018 recently provided $600 million for this purpose, and USDA is actively implementing the program in conjunction with the private sector. An additional $425 million as provided in the bill for the same purpose as the $600 million the Congress already provided is premature at this time.

Foreign Agricultural Service. The Administration is disappointed that the bill provides $210 million in funding for the McGovern Dole International Food for Education program, which was proposed for elimination in the FY 2018 and FY 2019 Budget requests. McGovern-Dole has unaddressed oversight and performance monitoring challenges and is duplicative of U.S. Agency for International Development (USAID) programs.

<u>Department of Health and Human Services (HHS)</u>

Food and Drug Administration (FDA). The Administration appreciates additional funding provided in the bill to support the FDA's Oncology Center of Excellence, modernize the generic drug development review process, and advance drug development for rare diseases as requested in the FY 2019 Budget.

<u>Other Agencies</u>

P.L. 480 Title II Food Aid (Title II). The Administration opposes providing food aid funding through use of Title II and prefers that all food aid be provided through the International Disaster Assistance account within USAID. While the United States is the world's largest donor of food aid, taxpayers expect such aid to be provided in the most cost-effective manner possible. Unfortunately, Title II is cost-inefficient, slow, and limits USAID's ability to use the most appropriate food aid intervention for a particular crisis.

<u>Division D – Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2019</u>

<u>Department of Transportation (DOT)</u>

Infrastructure Investments. The Administration appreciates the bill's strong support for improving the Nation’s infrastructure, consistent with the Administration’s infrastructure priorities. The bill provides $57 billion in highway, highway safety, and transit formula funds, equal to the authorized fourth year of the Fixing America’s Surface Transportation Act (FAST Act). In addition, the Administration appreciates the additional $4.8 billion in General Fund budget authority provided for highway, transit, and airport formula programs. The Administration urges the Congress, however, to support the principles of the Infrastructure Initiative, which seek a more modern approach to investing in the Nation’s infrastructure, by strengthening partnerships between the Federal Government and non-Federal stakeholders, encouraging more non-Federal leadership, and removing barriers to allow non-Federal parties to move forward with projects that they deem priorities. The Administration believes the bill could do more to promote these principles and would like to work with the Congress to include provisions that support these goals.

Objectionable Competitive Grant Spending. The Administration opposes the excessive spending the bill allocates to a number of competitive grant programs. These programs disproportionately allocate funds to projects in States and regions that have the financial wherewithal to provide more support to projects that benefit those areas. Accordingly, the Administration does not support the bill’s funding levels for:

Capital Investment Grants (CIG). The bill provides $2.6 billion, $1.6 billion above the FY 2019 Budget request for CIG, which proposed to wind down the CIG program by not entering into any additional grant agreements. The Administration notes that the bill does not contain any authorizing language directing how projects should be evaluated as they move through the CIG statutory process, and the Administration would oppose any effort to insert such language in a final bill.

Rail Grant Programs. The bill provides $565 million for three discretionary grant programs administered by the Federal Railroad Administration, which were not requested in the FY 2019 Budget. The Administration does not support funding for these programs, which can be addressed with private sector, State, and local support. In particular, the State of Good Repair program is unnecessary as the main beneficiary of the program—the Northeast Corridor (NEC)—runs through some of the wealthiest states in the Nation that have the resources to invest in the NEC if they so choose.

The Administration appreciates that the bill includes no funding for the Gateway projects, about which it continues to have significant concerns.

Essential Air Service (EAS). The Administration is disappointed that the Committee did not include the Administration’s proposals to reform the EAS program. The EAS program is in dire need of reform, as total EAS spending has increased 600 percent since 1996, and its per-passenger subsidy costs are $238 on average, with a high of $778 per passenger. The Administration’s reform proposals would bring spiraling costs under control while ensuring that truly remote communities receive air service.

Amtrak. The Administration believes that there are real opportunities to make Amtrak a more efficient passenger rail provider, and is encouraged by the performance of Amtrak executive leadership in identifying efficiencies. The Administration encourages the Congress to support these efforts. The bill would continue the status quo, unfortunately, providing Amtrak funding equal to the FY 2018 enacted level for all its operations, including its highly inefficient long-distance trains.

BUILD Grants. While the Administration appreciates the Committee's support for the National Infrastructure Investments ("BUILD Grants") program, the Administration believes that overly prescriptive project selection requirements, such as the bill's requirement to award projects based solely on the selection criteria from the 2016 Notice of Funding Opportunity, dilute the DOT's ability to select the most meritorious grantees and would be particularly harmful and unfair to rural communities.

Pipeline and Hazardous Materials. The Administration objects to language in the bill that would reduce the operational expenses of the Pipeline and Hazardous Materials Safety Administration (PHMSA) by $100,000 per day if a certain hazardous materials regulation is not completed within 45 days of enactment. Such a provision will degrade the ability of PHMSA to carry out its mission of ensuring the safety of pipelines and the transport of hazardous materials.

Department of Housing and Urban Development (HUD)

Rental Assistance Programs. The Administration is disappointed that the bill provides $42.9 billion for HUD's rental assistance programs, which is $7.1 billion above the FY 2019 Budget request and does not reflect requested legislative reforms. In April 2018, the Administration released its Making Affordable Housing Work Act, which would give assisted families a simpler and more transparent set of rent structures to reduce administrative burden, incentivize work, and place HUD's rental assistance programs on a more fiscally sustainable path.

Proposed Grant Eliminations. The Administration urges the Congress to eliminate the Community Development Block Grant (CDBG), the HOME Investment Partnerships program, and the Choice Neighborhoods program, as proposed by the FY 2019 Budget request. The CDBG program is not well-targeted to the most distressed areas and has not demonstrated a measurable impact on communities. The Administration also believes that State and local governments are better positioned to comprehensively address community revitalization needs as well as the unique local market challenges and impediments that lead to housing affordability problems. In total, these eliminations would save $4.8 billion in FY 2019, which could be directed to higher priority needs.

Constitutional Concerns

Certain provisions of the bill raise constitutional concerns. Some provisions would contravene the separation of powers between the executive branch and the Congress. In particular, certain provisions—including one purporting to bar OMB from expending funds to alter the annual work plan of the Army Corps of Engineers—would interfere with the President's supervision of the executive branch. Others would require congressional committee approval of certain Executive actions, in violation of *INS v. Chadha*, or could infringe on the President's constitutional authority to control the disclosure of information that is subject to Executive privilege. The Administration looks forward to working with the Congress to address these concerns.

The Administration looks forward to working with the Congress as the FY 2019 appropriations process moves forward.

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