TO: House Republican Members
FR: Speaker Boehner, Leader Cantor, Whip McCarthy, Chairman Hensarling
DT: April 25, 2012
RE: Reconciliation

<u>NOTE:</u> *This memo has been updated since it was first issued on April 18 to include the reconciliation proposals being recommended by the Energy & Commerce and Oversight & Government Reform Committees.*

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The Need for Reconciliation

From day one, House Republicans have been focused on job creation. We understand that the debt and deficit have placed a massive burden on our economy and American families. Testimony before Congress and even the President's own Bowles-Simpson Commission demonstrates that the debt has slowed our economy by about one percentage point, which translates into approximately one million unrealized American jobs. If we do not get the nation's debt under control, our economy and our families will continue to suffer.

That is why one of the many reforms included in the House-passed Budget Resolution is the initiation of a "reconciliation" process, whereby certain House Committees would propose changes to current mandatory spending programs in order to generate a specified amount of savings. The savings generated from these reforms to mandatory programs would first be used to offset the cost (approximately $78 billion)[1] of replacing the automatic across-the-board discretionary spending cuts that are scheduled to occur on January 2, 2013, under what is known as sequestration. The additional savings achieved through reconciliation beyond the $78 billion (over $180 billion in the next ten years) would further reduce the deficit.

The six House Committees that received reconciliation instruction under the House-passed Budget Resolution are currently beginning the process of marking up their reconciliation packages which the House will take up as one bill in early May.

This memo will provide you with information on the necessity of replacing sequestration and a summary of the specific savings proposals that we anticipate being part of the final reconciliation bill.

Why it is Necessary to Replace the Sequester

As a result of political posturing by the Democrats, the "Super Committee" failed to report and Congress failed to enact $1.2 trillion in deficit reduction last December. Thus, current law requires that there be across-the-board cuts, known as a

[1] $78 billion reflects the remainder of the FY 2013 discretionary sequester after accounting for lowering the FY 2013 discretionary cap from $1047 to $1028 as provided for in the House-passed budget Resolution.

"sequester," imposed on January 2, 2013. The sequester will result in a 10% reduction in Department of Defense programs and an 8% reduction in certain domestic programs, such as the National Institutes of Health (NIH) and border security.

Intended as a mechanism to force action, there is bipartisan agreement that the sequester going into place would undercut key responsibilities of the federal government.

As the Administration makes clear in their own Budget, "By design, the sequester is not good policy and is meant to force Congress to take action: it would lead to significant cuts to critical domestic programs such as education and research and cuts to defense programs that could undermine our national security. … [C]uts of this magnitude done in an across-the-board fashion would be devastating both to defense and non-defense programs." [The Budget of the United States Government, Fiscal Year 2013, p. 24, February 13, 2012]

Of particular concern is the impact sequestration, if allowed to occur, would have on our national security.

The sequestration cuts would be on top of the savings in discretionary defense spending that were already implemented as part of the debt limit agreement last August.

The House Armed Services Committee has analyzed the impact of the sequestration, and found that if left in place, sequestration would cut the military to its smallest size since before the Second World War – all while we are still a nation at war in Afghanistan, facing increased threats from Iran and North Korea, unrest in the Middle East, and a rising China.

Major consequences include:

- 200,000 soldiers and Marines separated from service, bringing our force well below our pre-9/11 levels;
- Ability to respond to contingencies in North Korea or Iran at jeopardy;
- The smallest ground force since 1940;
- A fleet of fewer than 230 ships, the smallest level since 1915;
- The smallest tactical fighter force in the history of the Air Force;
- Our nuclear triad that has kept the US and 30 of our allies safe for decades will be in jeopardy;
- Reductions of 20 percent in defense civilian personnel; and
- Two BRAC rounds of base closings.

[House Armed Services Committee Memo "Assessment of Impacts of Budget Cuts", 9/22/2011]

Secretary Panetta and the professional military leadership have also looked at the impact of sequestration and reached similar conclusions:

Secretary Panetta stated, "If the maximum sequestration is triggered, the total cut will rise to about $1 trillion compared with the FY 2012 plan. The impacts of these cuts would be devastating for the Department... Facing such large reductions, we would have to reduce the size of the military sharply. Rough estimates suggest after ten years of these cuts, we would have the smallest ground force since 1940, the smallest number of ships since 1915, and the smallest Air Force in its history." [Secretary Panetta, Letter to Senator John McCain, 11/14/2011]

General Dempsey, Chairman of the Joint Chiefs of Staff, stated, "[S]equestration leaves me three places to go to find the additional money: operations, maintenance, and training. That's the definition of a hollow force."

The individual branch service chiefs echoed General Dempsey:

- "Cuts of this magnitude would be catastrophic to the military...My assessment is that the nation would incur an unacceptable level of strategic and operational risk." – General Ray T. Odierno, Chief Of Staff, United States Army
- "A severe and irreversible impact on the Navy's future," – Admiral Jonathan W. Greenert, Chief of Naval Operations
- "A Marine Corps below the end strength that's necessary to support even one major contingency," – General James F. Amos, Commandant of the Marine Corps
- "Even the most thoroughly deliberated strategy may not be able to overcome dire consequences," – General Norton A. Schwartz, Chief of Staff, United States Air Force

[Testimony of Service Chief before House Armed Services Committee, 11/2/2011]

Armed Services Ranking Member Adam Smith recently gave a speech about the need to reverse sequestration. During a question and answer period after the speech, he stated, "What I am saying is, we are going to have to re-write the sequestration law before January 1, one way or another, in order to make sure i[t] makes sense and can fit. I believe that between now and then we will find $1.2 trillion in deficit reduction somewhere, somehow, and avoid the immediate sequestration. But as the gentleman asked, the problem is now. If we wait until September we will have done great harm to the economy."

According to an analysis by the House Appropriations Committee, the sequester will also have a significant impact on non-defense discretionary programs, including:

- Automatically reducing Head Start by $650 million, resulting in 75,000 fewer slots for children in the program;
- Automatically reducing the National Institutes of Health (NIH) by $2.4 billion, an amount equal to nearly half of total NIH spending on cancer this year; and
- A reduction of approximately 1,870 Border Patrol Agents (a reduction of nearly 9% of the total number of agents).

Democrats Have Failed to Offer a Credible Solution

While both Republicans and Democrats have warned of the consequences from both immediate sequestration cuts and the looming debt crisis, the President and leading Senate Democrats *refuse* to advance credible solutions:

- The President insists on taking more money from hardworking families and small businesses, a policy that will only exacerbate our current economic problems.
- Just as bad, Senate Democrats have failed to pass a budget in more than 1,000 days, and have chosen to give up on budgeting again this year.

Common-Sense Republican Reforms

Pursuant to the Budget Resolution, the House will advance a series of reforms that replace across-the-board cuts scheduled in law with common-sense reforms that take steps to address government's autopilot spending.

Six House Committees will advance legislation that will:

- Stop Fraud, by Ensuring that Individuals are Actually Eligible for the Taxpayer Benefits They Receive;
- Eliminate Government Slush Funds and Stop Bailouts;
- Control Runaway, Unchecked Spending;
- Restrain Spending on Government Bureaucracies; and
- Reduce Waste and Duplicative Programs.

The savings from these reforms will *replace* the arbitrary discretionary sequester cuts and lay the groundwork for further efforts to avert the spending-driven economic crisis before us.

Below is an outline of the reforms being advanced by the six committees (Agriculture, Energy & Commerce, Financial Services, Judiciary, Oversight & Government Reform, and Ways and Means) that received reconciliation instructions under the Budget Resolution.

Stop Fraud by Ensuring that Individuals are Actually Eligible for the Taxpayer Benefits They Receive

Restricting Categorical Eligibility under the SNAP (Food Stamp) Program: Under current law, an individual can automatically qualify for SNAP based on receipt of benefits through other low-income assistance programs, including the Temporary Assistance for Needy Families (TANF) block grant, Supplemental Security Income (SSI), or state-run General Assistance (GA) programs.

The Obama Administration has actively encouraged states to implement a policy called "broad-based categorical eligibility," which means states are conveying SNAP eligibility based upon a household receiving a TANF-funded brochure or access to an "800" number hotline.

As of January, there are now 43 jurisdictions – 40 States, the District of Columbia, Guam, and the Virgin Islands – implementing this policy. Of the 43 jurisdictions using broad-based categorical eligibility, 39 currently have no asset test and 27 have a gross income limit above 130% of the federal poverty guidelines.

The proposal from the House Agriculture Committee would restrict categorical eligibility to only those households receiving cash assistance from SSI, TANF, or a state-run General Assistance program. Receiving a TANF-funded brochure or a referral to an "800" number telephone hotline would no longer automatically make a household SNAP eligible. According to CBO, this proposal would save $11.7 billion over ten years.

Note: While this change would render some households no longer eligible for SNAP, any household that meets the eligibility requirements in SNAP law will continue receiving its SNAP benefits. This policy change would only affect those who are not truly eligible for the program under SNAP law.

Eliminating the SNAP "Heat and Eat" Loophole: Under current law, low-income households receiving any Low Income Home Energy Assistance Program (LIHEAP) payments also qualify for the SNAP Standard Utility Allowance (SUA) which automatically increases their SNAP benefits. Approximately 16 states and DC are abusing this interaction (often at the behest of advocacy groups) by sending $1 or $5 LIHEAP checks to low-income households so they may automatically take advantage of the SUA. In practice, if a participant receives $1 in LIHEAP, they can automatically deduct the SUA from their income, so their net income goes down and they receive more SNAP benefits. For example, this can trigger as much as $130 in additional SNAP benefits per month.

The proposal from the Agriculture Committee would change current law so that a LIHEAP payment no longer automatically triggers the SUA deduction, closing this loophole. This provision in no way prevents those households who are paying their utility bills out-of-pocket from receiving the SNAP SUA. Any household paying their

utility bills can still receive this deduction. According to CBO, this proposal would save $14.3 billion over ten years.

Preventing Abuse in the Refundable Child Tax Credit: Current law provides for a child tax credit in the amount of $1,000 per child under the age of 17 ($500 per child beginning in 2013). This credit is partially refundable, meaning that taxpayers may, depending on their income and other tax obligations, receive a government check as a result of this credit. Such checks are considered spending for budget purposes. Under the rules in effect through 2012, the refundable portion of the child tax credit – sometimes referred to as the additional child tax credit (ACTC) – is capped at 15 percent of the taxpayer's earned income above $3,000.

Also under current law, individuals who are ineligible to work in the United States – and are thus ineligible for a Social Security Number (SSN) – can obtain an Individual Taxpayer Identification Number (ITIN) for tax purposes. In 1996, Congress enacted legislation making those without SSNs ineligible to receive the Earned Income Tax Credit (EITC), a similar refundable tax credit. However, when the refundable portion of the child tax credit was subsequently enacted in 1997, Congress included no similar limitation, and the Treasury Department has taken the position that it lacks the statutory authority to limit the ACTC to those with an SSN. Thus, the refundable portion of the child tax credit currently remains available to individuals who are unable to obtain an SSN because they are ineligible to work in the United States.

The proposal from the House Ways and Means Committee would close this loophole and individuals (or at least one spouse in the case of a joint return) would be required to include their SSN on their tax return in order to claim the refundable portion of the child tax credit. According to the Joint Committee on Taxation, this proposal would save $7.6 billion over ten years.

Fully Recapturing Exchange Subsidy Overpayments: The Democrats' health care law fails to adequately protect taxpayers from overpayments of health insurance Exchange subsidies, even in the case of fraud. Exchange subsidy eligibility is based on two-year old income tax return data. Because income can change (new job, promotion, spouse returns to the workforce, etc.), the government will conduct an annual review to determine if someone received more taxpayer-funded subsidies than he/she was entitled to.

If an overpayment was made, the recipient is required to repay some or all of the overpayment, subject to certain limits described below. Originally, under the health care law, the maximum amount a subsidy recipient was required to repay was $250 for an individual or $400 for a family, even if he/she/they received thousands of dollars in subsidy overpayments. Since the health care law's enactment, two laws have increased the maximum amount of improper Exchange subsidy payments the government can recoup, but in some instances still fails to require full repayment.

The proposal from the Ways and Means Committee would require those who receive Exchange subsidies to which they are not entitled to repay the full amount of overpayments. Individuals and families would still be allowed to keep the subsidies they are entitled to receive under the law. The Joint Committee on Taxation and CBO estimate this provision would reduce the deficit by $43.9 billion over ten years.

Eliminate Government Slush Funds and Stop Bailouts

Protecting Taxpayers by Eliminating the Dodd-Frank Bailout Fund: The Dodd-Frank Act granted the FDIC "Orderly Liquidation Authority" that gives government bureaucrats the authority to use taxpayer dollars to bail out the creditors of "too big to fail" institutions and treat similarly situated creditors differently. The Democrats have claimed that they created this new resolution authority to prevent a replay of the 2008 bailouts of Bear Stearns, AIG, Fannie Mae, Freddie Mac, Citigroup, Bank of America, GM and Chrysler. But in reality, Dodd-Frank's Orderly Liquidation Authority mechanism just perpetuates the very taxpayer-funded bailout regime it claims it to abolish.

The proposal from the House Financial Services Committee would end "too big to fail" by repealing this Dodd-Frank fund that paves the way for future bailouts. Eliminating the bailout fund will, according to CBO, save $22 billion over ten years for deficit reduction.

Terminating Ineffective Housing Bailouts: The Obama Administration claimed HAMP, its signature foreclosure prevention initiative, would help up to 4 million struggling homeowners. Instead, HAMP has resulted in only 763,000 loans being permanently modified and has been the target of widespread and bipartisan criticism. Of the $30 billion in TARP funds set aside for HAMP, $2.54 billion has actually been disbursed. The Special Inspector General for TARP (SIGTARP), the Congressional Oversight Panel, the Government Accountability Office and even *New York Times* editorial page have all reported on the ineffectiveness of HAMP and highlighted how this program has hurt, rather than helped, many struggling homeowners.

The Financial Services Committee approved H.R. 839, the HAMP Termination Act, on March 9, 2011, and the House voted to pass the bill 252-170 on March 29, 2011, but the Senate has yet to act. Terminating this costly and ineffective program as part of reconciliation will, according to CBO, result in deficit reduction of $2.8 billion over ten years.

Reforming the National Flood Insurance Program: The National Flood Insurance Act of 1968 established the National Flood Insurance Program (NFIP) to minimize the economic impact of floods and to provide flood insurance to individuals and businesses. Congress last enacted a long-term NFIP reauthorization and reform bill in 2004. H.R. 1309, the Flood Insurance Reform Act sponsored by Rep. Judy Biggert, includes a five-year reauthorization of the NFIP and will reform the program by

encouraging broader participation, increasing financial accountability and eliminating unnecessary rate subsidies. The NFIP has historically failed to charge sufficient rates to cover its risk. H.R. 1309 eliminates unnecessary rate subsidies by including a phase-in of full-risk, actuarial rates for new and certain existing areas designated as "Special Flood Hazard." This will improve the NFIP's financial health.

The Financial Services Committee passed H.R. 1309 by a 54-0 vote on May 12, 2011 and the House approved the bill 406-22 on July 12, 2011, but the Senate has yet to act. Reforming this program as part of reconciliation will, according to CBO, result in $4.9 billion in savings over ten years.

Eliminating Prevention and Public Health Slush Fund: Obamacare created a new "Prevention and Public Health Fund" controlled by the Secretary of HHS designed to supplement spending on public health programs (all programs within the Public Health Service Act are eligible for funding). The law created an advanced appropriation of $16 billion for the first ten years of the program and a permanent $2 billion annual appropriation for the fund in perpetuity.

The proposal from the Energy and Commerce Committee would repeal the fund. An identical proposal introduced by Rep. Pitts passed the House 236-183. While some of the funds were used as an offset for the physician payment fix earlier this Congress, CBO estimates that this proposal will save approximately $11.9 billion over ten years.

Control Runaway, Unchecked Spending

Eliminating the Indexing on SNAP Nutrition Education: Under current law, states have the option of providing nutrition education to SNAP recipients as part of their program operations; such education is 100% funded by the federal government. Funding for the SNAP nutrition education program is capped at $375 million but is indexed for inflation so that the amount spent increases each year.

The proposal from the Agriculture Committee eliminates the automatic annual spending increase and, according to CBO, saves $546 million over ten years.

Terminating the SNAP Increase from the Stimulus: The American Recovery and Reinvestment Act of 2009 (ARRA) included an across-the-board increase in SNAP benefits effective in April 2009. The ARRA effectively replaced the increase in SNAP benefits that occurs under the Food and Nutrition Act, which is normally based on annual food-price inflation indexing. The ARRA increase was to stay in place until food-price inflation "caught up" so that families did not see a decrease in their monthly SNAP benefit allotment. Therefore, the ARRA benefit increase was originally expected to terminate after FY 2018, when food-price inflation was estimated to "catch up" with the ARRA increase.

Last Congress, when the Democrat majority needed to pay for their other "priorities," including a teacher's union bailout and increasing school meal standards, the ARRA SNAP increase was used *twice* to offset other laws. They achieved their savings by moving up the ARRA termination date to October 31, 2013. This proposal from the Agriculture Committee terminates the ARRA increase on July 1, 2012 and would save, according to CBO, $5.9 billion over ten years.

Repealing Unlimited Obamacare State Exchange Grants: Obamacare provided the Secretary of HHS a direct appropriation of "such sums as necessary" for grants to states to facilitate the purchase of qualified health plans in newly created exchanges. The Secretary can determine the amount of spending and spend the funds without further Congressional action – an unprecedented authority that gives an executive branch official an unlimited tap into the federal Treasury.

The Energy and Commerce proposes to strike the unlimited direct appropriation and rescind any unobligated funds. Chairman Upton introduced an identical proposal that passed the House last year 238-183. CBO estimates that this proposal will save approximately $14.5 billion over ten years.

Defunding of the CO-OP Program: Obamacare created the "Consumer Operated and Oriented Plan" (CO-OP) program to provide government-subsidized loans to qualified non-profit health insurance plans. The law appropriated $6 billion for such loans (H.R. 1473, the continuing resolution for FY 2011, reduced this amount to $3.8 billion). OMB has warned of potential taxpayer losses and awards given to potentially unqualified entities have raised serious concerns about CO-OPs. In the proposed rule for CO-OPs, OMB estimated that up to "50 percent of all loans" will not be repaid – jeopardizing hundreds of millions of taxpayer dollars. Union entities, some of which appear to fail to meet basic statutory criteria for program eligibility, have been the primary recipients of awards under the CO-OP program.

The Energy and Commerce Committee proposes to rescind all unobligated funds made available to the CO-OP program in Obamacare, saving approximately $872 million over ten years according to CBO.

Rebasing the Disproportionate Share Hospital (DSH) Allotments in Fiscal Year 2022: Obamacare includes annual aggregate DSH reductions for FY 2014 through FY 2020, but allotments revert to levels prior to the Affordable Care Act in FY 2021. The reductions were included to reflect a projected increase in insured Americans and a declining need for uncompensated care funding. The Middle Class Tax Relief and Job Creation Act of 2012, which was enacted on February 22, 2012, included a rebasing of DSH payments for FY 2021.

The Energy and Commerce Committee proposal would rebase the FY 2022 allotments to maintain the FY 2021 level of reductions. This policy was included in the President's Budget Proposal for FY 2013 and has been estimated by CBO to save $4.2 billion over ten years.

Repealing the Medicaid Maintenance of Effort (MOE) Requirement Imposed on States: Under current law, there is a Maintenance of Effort requirement (MOE) in place whereby a state is prohibited from having eligibility standards, methodologies, or procedures under its state Medicaid or Children's Health Insurance Program (CHIP) plans that are more restrictive than those in effect on March 23, 2010, the date of enactment of Obamacare. This MOE is a significant barrier for states trying to better manage their Medicaid and CHIP programs -- especially for those states wanting to implement program integrity measures that would ensure proper eligibility verification. In 2011, for example, inadequate eligibility review cost the taxpayers approximately $15 billion in improper payments under the Medicaid program.

This proposal by the Energy & Commerce Committee would repeal the maintenance of effort on states for Medicaid and the Children's Health Insurance Program (CHIP) as mandated by Obamacare. The repeal of the MOE merely allows states the same operational flexibility they have exercised since the beginnings of the Medicaid and CHIP programs. CBO has estimated that this proposal would save approximately $600 million over ten years.

Repealing the Increased Federal Medicaid Funding Cap and Match Rate for Territories: Obamacare increased the federal Medicaid match rate for the territories from 50 percent to 55 percent beginning in FY 2011. Additionally, the law increased the cap on federal Medicaid spending directed to the territories by $6.3 billion over 10 years.

This proposal from the Energy & Commerce Committee reverses both the increased Medicaid federal match and cap for the territories as provided under Obamacare. CBO has estimated that this policy would save $6.3 billion over ten years.

Restrain Spending on Government Bureaucracies

Eliminating Automatic Funding of the New Bureaucracies: The centerpiece of the Dodd-Frank Act is the Consumer Financial Protection Bureau (CFPB), a large and powerful Federal agency that is – by design – accountable to neither the executive branch nor Congress. Its Director has the unprecedented and sole authority to decide which financial products Americans can and cannot use. In addition, the Dodd-Frank Act authorizes the CFPB to fund itself by drawing money directly from the Federal Reserve to whatever extent the CFPB Director deems "necessary" up to $548 million in FY 2012, $598 million in FY 2013 and 12 percent of the Fed's operating expenses each fiscal year thereafter. Not Congress, not the President, not even the Federal Reserve which provides its funding can oversee how the CFPB Director spends these hundreds of millions of dollars.
To correct this glaring lack of accountability, the Financial Services Committee proposes to make the CFPB subject to the ordinary congressional appropriations process and authorize the appropriation of $200 million to the agency for FY 2012

and FY 2013. This will ensure proper oversight and accountability, and according to CBO achieve savings of $5.4 billion over ten years.

Requiring Federal Employees to More Equitably Share in the Cost of Their Retirement Benefits: Federal employees benefit from one of the most generous pension programs in the country. In addition to having both a defined contribution and defined benefit plan, federal employees pay a relatively modest amount towards their defined benefit retirement. While in the private sector the cost of retirement benefits are split relatively evenly between the employer and the employee, under the defined benefit portion of the Federal Employee Retirement System, federal employees receive a lopsided 15-to-1 match for their pension. In other words, for every $1 that a federal employee contributes towards the cost of their defined benefit pension, the taxpayer is on the hook for $15.

The proposal from the Oversight and Government Reform Committee increases pension contributions by 5 percent of salary over five years for current federal employees. Members of Congress will pay an additional 8.5 percent of salary. These increases bring the employee contribution to approximately 50 percent of the normal pension cost and according to CBO will save taxpayers approximately $80 billion.

Eliminating the Early Retirement Social Security Equivalent Benefit for Federal Employees: Under current law federal employees receive a special benefit not available to those in the private sector. Federal employees who voluntarily early retire before age 62 receive a special benefit on top of their retirement until they reach age 62. Essentially, the current pension system pays workers more if they retire before reaching Social Security retirement age.

The proposal from the Oversight and Government Reform Committee eliminates this special benefit for new hires. The proposal permits individuals who are subject to mandatory early retirement (such as law enforcement and air traffic control officers) to continue to be eligible.

Reduce Waste and Duplicative Programs

Repealing the Social Services Block Grant: The Social Services Block Grant (SSBG) is a flexible source of Federal funds that states use for a wide variety of social services. Begun in 1956 as a way to match State spending on services to help families leave welfare, the SSBG is now a 100 percent Federal funding stream that can be used to provide almost any service to anyone regardless of their income. Many of the services funded by SSBG are duplicative of other federal programs including the Community Services Block Grant, Head Start, Foster Care and Adoption Assistance, Promoting Safe and Stable Families, the Child Care and Development Block Grant, Child Welfare Services, Chafee Foster Care Independence Program, and Temporary Assistance for Needy Families, among many others.

Because there are so few strings attached, some of the most common services supported by SSBG funds are:

- Information and Referral Services: The most common service supported with SSBG funds is information and referral to other social welfare programs. In other words, a significant amount of SSBG is spent not to provide services, but to provide people with information about and referrals to other services.
- Case Management Services: States also use the SSBG to pay for "the arrangement, coordination, and monitoring of services." In other words, SSBG may be used for administrative costs.
- Other Services: Even with a flexible, unaccountable program like SSBG, States frequently report spending on "other" activities and services.

The proposal from the Ways and Means Committee would eliminate the SSBG program saving taxpayers almost $17 billion over 10 years, according to CBO.

Eliminating the 50/50 Cost Share for the SNAP Employment and Training (E&T) Program: Each fiscal year, USDA provides federal formula grants to state agencies for states to operate a SNAP Employment and Training (E&T) program. In addition to this funding, states have the option of providing more funding towards their state E&T program, which USDA is required to match. According to GAO, there are 47 federal employment training programs and almost all federal employment and training programs overlap with at least one other program in that they provide similar services to similar populations.

The proposal from the Agriculture Committee would maintain the federal formula grants for employment training, but eliminate the 50/50 cost share thus resulting in savings for federal taxpayers and, according to CBO, save $3.1 billion over ten years.

Eliminating State Performance Bonuses Under SNAP: States are responsible for administering the SNAP program and it is their duty to process applications in a timely manner, ensure households receive the accurate amount of SNAP benefits, and make certain the program is administered in the most effective and efficient manner. Under current law, states can receive a bonus for doing a good job. Annually, these bonuses total $48 million.

The proposal by the Agriculture Committee eliminates the bonuses that are given to states for essentially doing their job and would, according to CBO, save $480 million over ten years.

Reforming the Medical Liability System: Many state supreme courts have judicially nullified reasonable litigation management provisions enacted by state legislatures, many of which sought to address the crisis in medical professional liability that reduces patients' access to health care and increases overall health care costs. Consequently, in such states, passage of federal legislation by Congress may be the

only means of addressing the state's current crisis in medical professional liability, restoring patients' access to health care, and controlling unnecessary costs.

To address these issues, the House Judiciary Committee has proposed the HEALTH Act, modeled after California's decades-old and highly successful health care litigation reforms. This reform addresses the current crisis in health care by reigning in unlimited lawsuits and thereby making health care delivery more accessible and cost-effective in the United States. California's Medical Injury Compensation Reform Act ("MICRA"), which was signed into law by Governor Jerry Brown in 1976, has proved immensely successful in increasing access to affordable medical care.

MICRA's reforms, which are included in the HEALTH Act, include:

- A $250,000 cap on noneconomic damages;
- Limits on the contingency fees lawyers can charge;
- Provisions creating a "fair share" rule, by which damages are allocated fairly, in direct proportion to fault;
- Reasonable guidelines – but not caps – on the award of punitive damages; and
- A safe harbor from punitive damages for products that meet applicable FDA safety requirements.

The HEALTH Act will accomplish reform without in any way limiting compensation for 100% of plaintiffs' economic losses (anything to which a receipt can be attached), including their medical costs, their lost wages, their future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as the result of a health care injury. The HEALTH Act also does not preempt any state law that otherwise caps damages.

According to CBO, "under [the HEALTH Act], premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law." Lower health care lawsuit liability premiums would reduce health care costs for everyone and increase the supply of vital doctors by allowing more doctors to continue practicing, including in higher-risk medical fields.

Further, abusive state tort laws drive what is known as "defensive medicine," which occurs when doctors are forced by the threat of lawsuits to conduct tests and prescribe drugs that are not medically required, simply to avoid liability exposure. Defensive medicine practiced in a variety of federal health care programs costs federal taxpayers billions of dollars. CBO pronounced that the legal reforms contained in the HEALTH Act would reduce the federal budget deficit by an estimated $40 billion over the next ten years.

Because of shared jurisdiction, the Energy and Commerce Committee will also report medical liability reform. As a result of certain changes to collateral source rules, the Energy and Commerce proposal will achieve savings of approximately $64 billion. The differences between the Energy and Commerce and Judiciary versions of medical liability reform will be resolved as the bill comes to the floor.

Reduce the Medicaid Provider Tax Threshold to 5.5 Percent: States are able to use revenues from health care provider taxes to help finance the state share of Medicaid expenditures and receive federal matching funds even in instances where the taxes are largely rebated to the health care provider. Under current law, states are limited to a provider tax threshold of no higher than 6 percent of the net patient service revenues. The provider tax threshold was 5.5 percent up until October 1, 2011.

This proposal by the Energy and Commerce Committee would reduce the provider tax threshold back to 5.5 percent beginning in FY2013. A significantly more restrictive policy was included in the President's Budget Proposal for FY 2013 which would have phased down the provider tax threshold to 3.5 percent. This proposal saves approximately $11.25 billion over ten years according to CBO.

Repeal of Bonus Payments for States for Increasing Their Medicaid Enrollment: The Children's Health Insurance Reauthorization Act of 2009 (CHIPRA) authorized "bonus" payments to states that increase their Medicaid enrollment above a defined baseline from the prior year. This provision violates the standards for program integrity in the Medicaid program by providing bonus payments to states that implement oversimplified eligibility review procedures such as express lane eligibility and continuous eligibility periods. While on one hand, states have been prohibited from implementing more aggressive eligibility review procedures due to the Maintenance of Effort, states are receiving hundreds of millions to implement much less restrictive eligibility review methods through the CHIP bonus payment funding stream. CMS has noted that in FY2011, Medicaid cost the American taxpayers more than $15 billion in federal overpayments due to poor eligibility review.

The Energy and Commerce committee proposes to repeal these bonus payments savings taxpayers approximately $400 million over ten years according to CBO.