



FEDERAL

WAYS THE FEDERAL GOVERNMENT DROPPED THE BALL

FUMBLES

VOL. 4

US SENATOR JAMES LANKFORD

My Fellow Taxpayers:

I am excited to share the fourth edition of *Federal Fumbles* with you. You'll notice some pretty significant changes to the book this year. Since my first edition in 2015, *Federal Fumbles* has focused on government waste, which has generally meant a waste of your tax dollars. This year, we take a different approach to "waste." We focus not only on waste of your tax dollars but also on waste in good government policy that prevents the federal government from working for you—or more recently, from working at all due to the longest government shutdown in American history.

Our national debt continues to increase and our budget process remains broken. While the Trump Administration has accomplished work to help grow our economy, we still have work to do. We have officially reached a staggering \$22 trillion in national debt. Even with a booming economy, Congress cannot seem to curb annual deficits or fund our government on time. Highlighting issues in previous *Fumbles* volumes ("Doggy Hamlet," anyone?) only goes so far. This year I highlight substantial reforms to government programs that not only save tax dollars but provide more transparent and efficient programs for you and your family. We need relief from our national debt and clarity in other complex issues currently facing our nation, but we also need to promote big ideas for big solutions for big reform.

Too often, complicated issues like our federal budget process and immigration are clouded with misinformation, convoluted figures, and partisan angles. This year's edition of *Fumbles* works to break those big issues down for you. Every issue highlighted in this book comes with a solution. In order to fix many of government's fumbles, we must be transparent and real about facts instead of driving home a political agenda. These are exceptionally difficult times in government. Let's use *Fumbles* to help resolve some of the most pressing and costly problems facing our country while protecting your tax dollars.

Federal Fumbles is my to-do list. My goal for this book is to make it a resource for taxpayers and the entire federal government. Congress, federal agencies, and the White House should all take a look at the content covered in this book and the solutions I present.

Washington works for the American people and must be held accountable by the American people. *Fumbles* outlines a set of ideas about ways we can work together to make that happen.

I hope this book sparks conversations throughout our nation. Let's make it a tool we can utilize to help fight against the looming problem our country continually faces: our national debt and broken budget process.

In God We Trust,

A handwritten signature in black ink, appearing to read "James Lankford". The signature is fluid and cursive, with a large initial "J" and "L".

James Lankford
United States Senator for Oklahoma

ABBREVIATIONS

Alternatives to Detention (ATD)
Army Corps of Engineers (USACE)
Better Evaluation of Science and Technology (BEST) Act
Changes in Mandatory Program Spending (CHIMPS)
Children's Health Insurance Program (CHIP)
Connect America Fund (CAF)
Crime Victims Fund (CVF)
Deferred Action for Childhood Arrivals (DACA)
European Union (EU)
Executive Office for Immigration Review (EOIR)
Federal Assets Sale Transfer Act (FASTA)
Federal Real Property Profile Management System (FRPP MS)
Fiscal Year (FY)
General Schedule (GS)
Grant Reporting Efficiency and Agreements Transparency (GREAT) Act
Gross Domestic Product (GDP)
Harbor Maintenance Trust Fund (HMTF)
Highway Trust Fund (HTF)
Inland Waterways Trust Fund (IWTF)
Motion to Proceed (MTP)
Non-governmental Organizations (NGOs)
Pharmacy Benefit Manager (PBM)
Public Buildings Reform Board (PBRB)
Renewable Fuel Standard (RFS)
Southwest Power Pool (SPP)
State and Local Tax (SALT)
Supplemental Nutrition Assistance Program (SNAP)
Temporary Assistance for Needy Families (TANF)
Toxic Substances Control Act (TSCA)
Trans-Pacific Partnership (TPP)
Transition Assistance Program (TAP)
Unaccompanied Alien Children (UACs)
United Nations (UN)
United Nations Relief and Works Agency (UNRWA)
Universal Service Fund (USF)
Veterans Opportunity to Work (VOW) to Hire Heroes Act
Vocational Rehabilitation and Employment (VR&E)

LIST OF AGENCIES

Bureau of Indian Affairs (BIA) 36
Bureau of Land Management (BLM) 36, 43
Centers for Medicare and Medicaid Services (CMS) 49
Congressional Budget Office (CBO) 1, 4, 30
Department of Defense (DOD) 39, 53, 54
Department of Energy (DOE) 27, 33
Department of Homeland Security (DHS) 11, 13, 15, 16, 17, 44
Department of Housing and Urban Development (HUD) 33
Department of Justice (DOJ) 10, 34, 55, 56
Department of Labor (DOL) 17, 39, 51
Department of State 17, 33
Department of the Interior (DOI) 29, 51, 50, 55
Department of the Treasury (Treasury) 9, 50, 55
Department of Transportation (DOT) 28, 29
Department of Veterans Affairs (VA) 38, 39, 40, 41, 52
Environmental Protection Agency (EPA) 26, 36
Executive Office For Immigration Review (EOIR) 10, 16
Federal Communications Commission (FCC) 23, 24, 55
Federal Emergency Management Agency (FEMA) 54
Fish & Wildlife Service (FWS) 36, 43
General Services Administration (GSA) 47, 54
Government Accountability Office (GAO) 20, 23, 32, 34, 47, 51
Health and Human Services (HHS) 12, 21, 22, 33, 49
Immigration and Customs Enforcement (ICE) 14
Internal Revenue Service (IRS) 1, 19, 48, 52
National Endowment for the Arts (NEA) 22
National Endowment for the Humanities (NEH) 21
National Park Service (NPS) 43
Office of Information and Regulatory Affairs (OIRA) 36, 52
Office of Management and Budget (OMB) 21, 22, 28, 29, 36, 47
Office of Personnel Management (OPM) 31, 34
Public Building Reform Board (PBRB) 47
Transportation Security Administration (TSA) 1
UN Relief and Works Agency (UNRWA) 45
US Agency For International Development (USAID) 20
US Army Corps of Engineers (USACE) 28, 29, 30, 36
US Customs and Border Protection (CBP) 14
US Department of Agriculture (USDA) 33, 43, 46, 54
Veterans Benefits Administration (VBA) 38, 41

TABLE OF CONTENTS

Budget & Appropriations Reform	1
Let's Shut Down the Shutdowns.....	1
The President's Budget Is Always a Worthless Document #sad.....	3
Deficit Reduction	4
What Is a Budget Resolution?.....	5
Let's Make the Budget a Law	5
Budget Committee Structure	6
Funny Money (CHIMPS)	7
Senate Vote-a-Rama	8
Penalty: Too Little Budget Enforcement.....	8
The Debt Ceiling: A Ceiling Without a Roof	9
Immigration	10
Welcome to Immigration Court. While You Wait, Wander Wherever You Want.....	10
Roll Call? Never Mind.	11
Are Undocumented Children Really Placed with Undocumented Families?	12
Our Refugee Sponsorship System Needs a Tune-Up.....	13
Great People Doing a Great Job	14
Usually Kids Get the Discount, Not Adults.....	15
Nobody Likes Detention	16
H-2B Visas	17
Senate Rules	18
MTP Is Not the MVP.....	18
Make the Senate Work Again	19
Taxpayers Have the Right to Know	20
False Start: The Government Performance and Results Act Implementation	20
Defensive Holding.....	20
GREAT Act	21
From Russia with Wine	21
Mariachi Madness.....	22
Crafting Craze	22
Rural Connectivity and Telecom	23
Can You Hear Me Now from My Tractor?	23
Preparing for the Future: 5G	24
A Quick Warning on 5G.....	24

TABLE OF CONTENTS

Power Plays	25
RFS	25
Coal and Nuclear.....	27
Infrastructure	28
Building Highways with the Highway Trust Fund	28
The Battle Hymn of the Backlog.....	29
Federal Workforce	31
Delay of Game: Federal Hiring.....	31
Bench the Special Retirement Supplement for Federal Employees.....	31
Clock Violation: Change Automatic GS Step Increases to Merit and Performance.....	32
The Urge to Merge	33
AUTOREPLY: Out of the Office but Still Getting Paid.....	34
Regulatory Reform	35
Small Businesses, Big Problems.....	35
We Need the BEST Science	36
Streamline the Permitting Process	36
Make Regulatory Reform Great Again—Through Legislation	37
Veterans	38
Hurry Up and Wait.....	38
SOS: We Need Communication!.....	39
\$30 Million: Where'd IT Go?	40
Help Wanted!.....	41
Suicide Prevention Mechanisms	42
Penalty Flags	43
This Land (Backlog) Is Your Land (Backlog)	43
Election Drama.....	44
Call an Audible at the UN to Stop Using Palestinian Refugees as Pawns.....	45
Got Beef?	46
Uncle Sam, the Landlord.....	47
When SALT Gets Salty	48
Main Street Pharmacies.....	49
Touchdowns & Forward Progress	50
Touchdowns.....	50
Forward Progress.....	55

BUDGET & APPROPRIATIONS REFORM

Federal budgeting is needlessly complex, never done in a timely manner, lacks a shred of transparency, and ultimately has done absolutely nothing to promote fiscal responsibility. In a nutshell: it's broken and breaking our country.

Timeout: let's walk through this together. Since the modern foundation for our system of federal budgeting was established in 1974, our percentage of public debt to Gross Domestic Product (GDP) has increased from approximately 30 percent to today's unsustainable 78 percent.¹ In short, this is a comparison between our debt and our production, and it's not good news or getting better. The Congressional Budget Office (CBO) estimates that we could top 100 percent of debt to GDP by 2027 and exceed 150 percent by 2047.² That means all Americans could pay in taxes every cent they make for a year, and we would still not pay off our debt.

Our budget process was designed to spend, not save. So what good is our budgeting process doing us? The answer is: none. We have a debt crisis brewing in America, and the consequences of inaction threaten our nation's sustainability and standard of living. That is why fixing the way we budget is such a critical issue and why everyone should be talking about it.



LET'S SHUT DOWN THE SHUTDOWNS

Actions have consequences, and Americans from all walks of life just endured the consequences of Congress failing to fund our government. As you know, this resulted in the longest government shutdown ever, clocking in at 35 days. Unfortunately, government shutdowns have become almost commonplace in our country. Most of us have seen the *countdown to shutdown* clocks each year on cable news. They are hard to miss whenever Congress gets close to the end of a fiscal year without finishing its work for that year (spoiler alert: every year).

It is easy to cast the blame of a shutdown on one person or party, but that does not change the fact that many federal employees missed two paychecks. It does not change the fact that the Internal Revenue Service (IRS) experienced significant interruptions in service, which will potentially create a damaging ripple effect for taxpayers throughout the 2019 filing season.

It does not change the fact that TSA agents and air traffic controllers showed up to work every day without pay, putting their families at a loss and travelers at risk. It does not change the fact that while federal workers received back pay, many private contractors will never be repaid for their losses.

It does not change the fact that the shutdown cost the US economy an astronomical \$18 billion, resulting in an estimated \$11 billion loss of GDP.³ And ultimately it does not change the fact that Congress caused millions of American families to live in fear, confusion, and financial loss.

Actions speak louder than words. For years I have worked to put solutions forward that would put an end to all shutdowns once and for all. Americans have just experienced the real consequences of a shutdown. It's time for politicians to endure the consequences of their own inaction.

SOLUTION

I have offered a variety of solutions to this problem for years but most recently introduced the Prevent Government Shutdowns Act. The idea is simple: if Congress fails to get its work done by the end of the fiscal year, the government stays open and funded at the previous year's levels.

My proposal also takes away what Members of Congress often look forward to the most: hopping on a plane and travelling home at the end of the week. My plan would prevent any travel for Congress or the President's Cabinet until the funding conversation is complete.⁴

This plan would also automatically force government funding to continue at last year's levels while everyone stays in DC until the funding bills are passed. In addition, Members of Congress would not be able to adjourn for recess or consider any other legislative business that is unrelated to funding the federal government. The results of this proposal are two-fold: it funds the government while Washington works through disagreement to find compromise and puts the pressure on lawmakers to get it done quickly.

Ultimately, this protects all of our federal employees and their families from the painful consequences of another needless government shutdown. At the end of the day, this protects the American people from disruptions in critical services, holds federal employees harmless, and directly punishes the people who have not finished their work. It is simple: stay until the work is done.



If you're a Member of Congress or a congressional staff member reading this, let's talk. We owe it to the American people to put a stop to shutdowns once and for all.

THE PRESIDENT'S BUDGET IS ALWAYS A WORTHLESS DOCUMENT #SAD

Every year my fellow Oklahomans come to me with serious concerns over policy changes or spending cuts they heard were happening. They are worried about how those rumored changes and cuts might affect them. Nine times out of 10, it turns out that the worry stems from a largely worthless political document called the President's Budget Request. Much like the congressional budget resolution, the President's budget has sadly become yet another moment to score short-lived political points. Since the 1974 Budget Act, no president's budget has ever become law. Let's get the ideas from the White House, but stop pretending it's a budget.

In 1921 the President first started submitting a formal budget request to Congress.⁵ Among other things, the budget documents contain vast amounts of information on current spending rates and fiscal data. In addition, it includes a breakdown of the President's policy priorities,⁶ which is where politics usually come into play. Instead of simply sending Congress a complete breakdown of the federal government's spending picture, the majority of the focus seems to be on outlining the President's policy priorities, many of which can be controversial and partisan.

In addition to politics, the other problem with the President's budget is that it's the first step in kicking off the congressional budget process and it's usually late. The President's budget is due to Congress on or before the first Monday in February, but often it is released well after that day.⁷ Congress can't start its work on budgeting until the President's budget is in, which delays an already slow process. Why should Congress be forced to wait on the President to start the congressional budget process when Article I of the Constitution clearly grants the *power of the purse* to Congress?⁸

SOLUTION

Congress should remove the President's budget request from the beginning of the congressional budget timeline. The Executive Branch should still send current spending and fiscal data to Congress early in February as it does now, but there is no need to continue to produce the political priorities document that causes mass confusion throughout the nation and is disregarded almost immediately by everyone, including Congress.



DEFICIT REDUCTION

Let's start with the basics: when Washington spends more than it takes in, the federal government runs a budget deficit.⁹ Every time we run a deficit, we add to our ever-mounting national debt, which now stands at a staggering \$22 trillion. We have all heard the constant dire warnings about our federal government running deficits and about the massive debt that will burden our children and grandchildren. But what does that really mean?

The official scorekeeper of Congress, CBO, paints a severe picture. CBO says that if we maintain our current debt level until 2048, which is currently at its highest level since shortly after WWII, we would have to cut spending, increase taxes, or both by \$400 billion *every year* for the next 30 years.¹⁰ That should be a sobering fact for us all.

Unfortunately, our budget process does not have a built-in moment for lawmakers in Washington to address long-term debt and deficit issues. With more than two-thirds of our spending now on autopilot, Congress simply is not motivated to make tough decisions mainly because it doesn't have to. Every year Congress has to vote on spending, but Congress only occasionally votes on saving—when 218 people in the House, 60 people in the Senate, and the White House feel like it. Many people in Congress see the need for deficit reduction, but with no deadline and no requirement, neither party will take the political risk to reduce the debt—until one day we have to.

SOLUTION

My priority on the Joint Select Committee on Budget and Appropriations Process Reform was to create a consistent moment to reduce the deficit. My goal was to force Congress to face the realities of our fiscal challenges before it is too late. The debt problem has grown so large that it must be whittled down into smaller chunks, which is only possible if Congress has the mandate to regularly vote on deficit reduction every one or two years. The amendments I offered in the Joint Committee would have required a powerful tool called *reconciliation* to be deployed every time we pass a budget resolution. The important thing about reconciliation is that it puts in place a special process to instruct congressional committees to find savings and produce an actual spending reduction bill, which typically never happens. Those bills receive a fast-track pathway to the floor, and the great thing is they only need a simple majority in the Senate (51 votes) to pass, instead of the usual 60 votes.

However, our powerful budgeting tool is often abused. Both political parties have used reconciliation to actually *increase* the deficit, which is outside its intended use. My proposal would return reconciliation to its original purpose and limit its scope primarily to deficit reduction by forcing 80 percent of the reconciliation bill directly toward deficit reduction, which would force Congress to cut spending. The remaining 20 percent could be used for things like tax cuts or increased spending on entitlement programs.

Each Congress can decide how much or how little it wants to reduce the deficit, but this change would require every session of Congress to do something about the deficit, which is better than the status quo.

WHAT IS A BUDGET RESOLUTION?

A budget resolution is the document intended to set and project our total spending and revenue levels, lay out the priorities for that Congress, and set the deficit levels for the next year.¹¹ It can also contain broad policy reforms and reconciliation instructions to create deficit reduction targets for committees.¹² That all sounds pretty reasonable, right?

Unfortunately, as the years have gone by, it has become just another partisan, politicized document that contains very little in the way of actual substance for creating a budget pathway forward.¹³ Instead each budget is a vague document that really doesn't do much at all other than provide the majority party a chance to message on what its dream budget for the nation might look like, which typically has no basis in reality.

In addition the information currently required to be in the budget is largely out of date and unhelpful to nearly everyone—even to the number-crunchers in Washington.¹⁴

LET'S MAKE THE BUDGET A LAW

Not only does the Budget Committee not have the final spending decision-makers at the table, but the budget is not even a law when it passes.¹⁵ Since Congress ignores anything that isn't law, why not make the budget a law? Currently the budget is a non-binding document with little bearing on the real budget debates in Washington,¹⁶ which make it an increasingly ignored part of the process.

SOLUTION

The current non-binding budget document is known as a *concurrent resolution*, which makes it irrelevant because a concurrent resolution, even if passed by Congress, doesn't go to the President to be signed into law because it only supposedly binds Congress.¹⁷

Although the President submits a budget request to Congress for review, he does not have the constitutional power of the purse like congress does. Budget fights typically happen late in the fiscal year because that is the first opportunity for Congress to pass spending into law.

SOLUTION

The budget resolution should be rethought and reformed. The obsolete, unnecessary information should simply be eliminated completely. It should include only basic budgetary information like spending, revenue, and debt totals but should also be required to include a fully mapped-out fiscal path forward. This should come through establishing debt-to-GDP targets, which would also plot our long-term fiscal glideslope, showing all Americans the direction our leaders plan to take the nation financially. This plan would provide a level of transparency we've not seen in the budget to date and allow a chance for lawmakers to demonstrate exactly what they are doing and how they intend to do it. To back this up with real action, the budget should also include the reconciliation directives mentioned earlier to carry out the policy changes needed to hit the fiscal targets and ultimately keep us on course.

The lack of upfront buy-in is one of the main reasons for the many shutdown battles and countdown clocks that Americans get to see leading up to the end of the fiscal year (September 30).

A better way forward is to make the budget a law through a *joint resolution*,¹⁸ which would force agreement early in the year between Congress and the President on critical budgetary issues that would govern decisions made by both Branches later in the year.

Today's broken budget process creates few opportunities for real negotiations on long-term deficit reduction. Making the budget a law would not change our budget fight each year, but it would move the budget fight earlier—to May instead of September, for example—so we would not have the standoff, or likely the government shutdown, at the end of the fiscal year.

BUDGET COMMITTEE STRUCTURE

The 1974 Budget Act gave great power to the Senate Committee on the Budget in the form of authority over all spending and revenue, the debt limit, and general oversight responsibilities.¹⁹ Over the years its relevance has diminished, and it is now considered one of the most irrelevant committees in Congress. Sadly, it has almost no actual role in the spending decisions that Congress ultimately makes today.

SOLUTION

For many years several people have recommended we restructure Budget Committee membership and responsibilities to increase the effectiveness of the Committee. The idea is pretty simple: ensure Budget Committee membership consists of key leaders in Congress, including from critical committees like the Finance Committee in the Senate, the Ways & Means Committee in the House, and both House and Senate Appropriations Committees.

For the Committee to function, the right mix of key people needs to be assembled early in the process to negotiate broad budget agreements and bring those agreements to the American people and to other Members of Congress. An early budget agreement would provide transparency and focus for each Congress, and involving the right people from the beginning will help budget agreements gain traction, smooth the pathway for consideration, and limit the threats of government shutdowns.



FUNNY MONEY (CHIMPS)

There is an incredible lack of transparency in how we spend taxpayer dollars. The process of putting together spending bills is astoundingly complex and provides ample opportunity for gimmickry and abuse. Even when a budget is passed, financial gimmicks allow lawmakers to spend more than the law allows.

One of these gimmicks is a technical term known as Changes in Mandatory Program Spending, or CHIMPS as they are commonly known in Washington (not to be confused with the common chimpanzee). It's actually a fairly simple concept: the Appropriations Committee claims "savings" from cutting or delaying expected spending in future years to spend it today.²⁰ The problem is that 99 percent of the time, the money claimed in future savings was never going to be spent anyway, making it a fake offset that never actually happens.²¹ It has the effect of driving up spending beyond what would ordinarily be allowed.

CHIMPS is a dishonest accounting tactic used by Republicans and Democrats alike, and every American taxpayer should be alarmed that this is in the federal budget process. Unfortunately it's one of those boring, technical Washington gimmicks that goes unnoticed and keeps happening year after year without anyone so much as batting an eye. It's even more disturbing when you look at the two main programs that are abused: the Children's Health Insurance Program (CHIP) and the Crime Victims Fund (CVF).²² CHIP is a healthcare program that provides coverage for kids from lower-income families. CVF is a fund set aside to compensate victims of federal crimes. Congress routinely *withholds* money from these accounts to pay for other things, which drives up our overall spending beyond the agreed limits, pushes us deeper into a deficit hole, covers up the reality of Washington's addiction to spending beyond its means, and keeps money from getting to children's health or crime victims.²³



SOLUTION

During my service on the Senate Appropriations Committee, I have offered numerous amendments to end CHIMPS gimmicks in spending bills. We continue to make progress on this issue by gaining more votes each time, but the battle for transparency in spending continues. I remain committed to keeping this issue in the spotlight in the hope of real budget reform.

SENATE VOTE-A-RAMA

Each time the Senate considers a budget on the floor, it must go through an exhaustive, meaningless process known as the *vote-a-rama*. Most folks outside the Beltway probably haven't had a reason to run across this protracted and divisive theater, but it is one of the biggest reasons that Congress often avoids doing a budget. The vote-a-rama is a process (it actually comes from the 1974 Budget Act) in which senators vote on an unlimited number of amendments around the clock on highly partisan political amendments that have no lasting purpose.²⁴ They are purely statement votes. Both parties create "gotcha" amendments to make the other side look bad or their side look better.²⁵ But since the final budget is not law, whether an amendment passes or fails, it never becomes law.

The process only finishes when one side gets tired of beating up the other side and stops offering amendments. With so many huge issues facing our nation, it's a shame that Congress wastes time on things that will not result in real solutions for the American people.

PENALTY: TOO LITTLE BUDGET ENFORCEMENT

One of the biggest problems with getting Congress to draft a budget and fund the government on time is the fact that there are no consequences for failure. Almost all American workers face consequences for not doing their jobs; that is not so in Congress. Only four times in the last 44 years has Congress passed a budget by its statutory deadline (April 15).²⁶ In fact, the last time it passed a budget and all 12 of its funding bills on time was way back in 1997.²⁷ So a few of my reform-minded colleagues in the Senate are looking to change this sad reality.

SOLUTION

Senators Joni Ernst (IA), David Perdue (GA), and I have authored a proposal to create date-specific milestones (deadlines) for both passing a budget and the related funding bills that follow.²⁸ If Congress doesn't meet those new deadlines, certain penalties will be enforced on members of the House and Senate. These penalties will include things like keeping members in town and voting each day a budget is not passed,

A budget is divisive enough; why make it even worse each year with a meaningless vote-a-rama?

SOLUTION

My colleagues and I on the Joint Select Committee on Budget and Appropriations Process Reform proposed to eliminate the vote-a-rama entirely by putting a time limit on considering amendments while encouraging amendments to be considered at a faster pace during debate. In an attempt by some of my colleagues to protect this process so they could score political points down the road, the vote unfortunately failed. Although the solution failed this time, I am optimistic that we will get this fixed sooner rather than later. Americans are tired of meaningless bickering and division for the sake of division.

including on weekends. In addition members would not be allowed to adjourn for recess and go home. To keep Congress from just waiving the budget rules, we install a steep 67-vote threshold to make it harder to override the rule. Members could not use taxpayer funding to pay for official travel back to their states or districts or to take sponsored fact-finding congressional delegation trips known as CODELs. We want senators and representatives in town, voting, doing their jobs, and coming to agreement on a budget blueprint that gets our nation financially back on track. It's clear that Congress won't do much without incentives, so we provide the carrot and the stick.

Here is the other simple idea: provide more time to do the budget work by shifting the fiscal year (October-September) to a calendar year (January-December). Every new congress is automatically three months behind when they start because the fiscal year starts in October. But Congress begins in January. Let's change the budget year to the calendar year.

THE DEBT CEILING: A CEILING WITHOUT A ROOF

As mentioned earlier, we've racked up more than \$22 trillion in debt,²⁹ and it continues to increase every second. The only thing currently in place to hold back the growth in the debt is the debt limit, sometimes called the *debt ceiling*, which is the overall legal restraint on the total amount of debt the US is allowed to accumulate.

However, like other things in the budget process, the debt ceiling doesn't work. Case in point: according to the US Treasury, "Since 1960, Congress has acted 78 separate times to permanently raise, temporarily extend, or revise the definition of the debt limit—49 times under Republican presidents and 29 times under Democratic presidents."³⁰

Sweden is the only other country with anything like a debt limit, and Sweden has set its limit so high that it is never in danger of actually being reached. The debt limit vote provides drama each time, but it doesn't provide restraint. The question is, what would?

SOLUTION

We have many alternatives to limit and ultimately reduce debt. The goal of the debt limit is to control the debt. What if Congress had to debate and pass a debt limit each year unless the deficit was decreasing? If the deficit was declining, the Treasury could increase the debt limit. But if the deficit was growing, Congress would have to debate and vote on a deficit reduction package before it could increase the debt ceiling. This would encourage good policies at the start and create a legislative mechanism to work on the debt when other fiscal policies have failed.

The Swiss Debt Brake is another concept that limits spending to revenue but adjusts for economic downturns.³¹ Ultimately Congress is not forced to do anything about the debt, so it takes the path of least resistance every single time. The only real answer to \$22 trillion in debt is to make Congress start now on a bite-sized approach to cutting the deficit enough to be able to finally pay down the debt.

In each Congress, members should be forced to vote on a deficit-reduction package (as previously explained through reconciliation, see page 4). Lawmakers will be faced with a choice: vote to put the nation back on a path to fiscal sanity or vote against sanity. At the end of the day, with many tough choices, we have to work together to get a handle on such an overwhelming problem that truly threatens the standard of living for generations. We owe it to our children's children to act and act now. Debt limits don't work, but some of the ideas above might. Let's try them.



IMMIGRATION

No one should be shocked to read that the federal government has fumbled immigration. Each year more than 100 million foreign citizens legally enter or leave the US, either temporarily or permanently, for jobs or to relocate with their families.³² Unfortunately, hundreds of thousands of other individuals make the decision to enter or attempt to enter the US unlawfully.³³ We welcome more than a million people per year to legally become citizens of the US, and we also welcome millions more to work, go to school, or travel in and out of the US. But the legal process is lengthy and difficult.

WELCOME TO IMMIGRATION COURT. WHILE YOU WAIT, WANDER WHEREVER YOU WANT.



The year was 1981, and The Clash had just recorded the hit single, “Should I Stay or Should I Go?” Fast forward to 2019, and many illegal immigrants ask the same question once they arrive in the US because of the lack of immigration judges at the Department of Justice (DOJ).

With a relatively small staff and millions of people coming into the US each year, the DOJ’s Executive Office for Immigration Review (EOIR) is very behind schedule.³⁴ At the end of June 2018, EOIR had more than 730,000 backlogged cases.³⁵ As a result, hundreds of thousands of individuals and families have been left in legal limbo and allowed to remain in the US. In some cases it can take several years for an individual to be given his or her first hearing, and individuals who are detained must wait months for their first hearing.³⁶ While individuals wait for their cases to progress, they are allowed to freely move about the country, which can make it difficult to ensure they actually show up for their hearings.

EOIR is in desperate need of additional judges, support staff, and operational reform.³⁷ As of August 2018, there were 351 judges in place with plans to hire 75 more by year’s end,³⁸ which is just not enough to get the job done. During the last fiscal year, almost 100,000 people came to the US border and asked for asylum, most of them from Guatemala, Honduras and El Salvador.³⁹ Asylum requests have increased by more than 20,000 from the previous year.⁴⁰ This fiscal year we already have more than 100,000 people crossing our southern border, as individuals or family units, in only four months.

The word is out in Central America: if you can get to America and request asylum, you can get into the country and wander around for years while your court date is pending. If you do not show up for your court date, it is unlikely someone will come looking for you.

SOLUTION

Delayed justice encourages more people to illegally cross our border, and individuals who actually qualify for asylum do not receive due process in a reasonable time because the system is so backlogged. This is fixable. Hire more judges and get them to help resolve the backlog. We currently have about 420 immigration judges with 94 judges officially sworn in during 2018.⁴¹ Congress should continue to fund additional immigration judges and staff, and EOIR must quickly put judges in place to decrease the backlog and get due process to everyone waiting for justice.

ROLL CALL? NEVER MIND.

Remember back in elementary school when your teacher called the roll every morning to make sure all students were present? While your teacher could probably tell if a student was absent, the Department of Homeland Security (DHS) cannot do the same. In Fiscal Year 2017 (FY17) holders of student visas, which are issued for the length of time students are enrolled and which expire 60 days after they complete their studies,⁴² had the highest overstay rate of non-immigrants admitted to the US.⁴³ We seem to have forgotten already that the 9/11 terrorists were in the US on expired student visas.

No one really knows how many people are illegally present in the US today. Some estimate that number to be approximately 11 million. However, a recent study through Yale and MIT estimated that number to be between 16.7 and 22.1 million.⁴⁴ Many who are here illegally actually entered the country legally but failed to leave on the appropriate date.⁴⁵

When you apply for a visa, its expiration date is clear and obvious. Visa applicants are told how long they can legally stay before they enter the US. For instance, in 2017 6.2 million visitors who came to the US for work or vacations were given notice that their visas were only temporary and that they would need to leave the US as soon as their business or vacation concluded.⁴⁶ According to the DHS, more than 700,000 people who entered through air or sea ports overstayed their visas in FY17. As of May 2018, seven months after FY17 ended, the DHS believed more than 420,000 of those individuals were still in the country.⁴⁷ The DHS is not able to fully calculate the number of people who entered and exited the land ports of entry at the Canadian or Mexican borders.⁴⁸



SOLUTION

Certainly not every immigrant who overstays his or her visa is a bad person. Many simply want to remain with family or keep their jobs, but they have all broken the law by overstaying their visas. Congress has several options for reform, including implementing a workable biometric entry/exit method system, which will accurately track when people enter and exit the country. This solution was proposed by the 9/11 Commission, which was formed as a direct response to the 9/11 terror attacks to recommend safeguards against future attacks.

Individuals who are present in the US with an expired visa should face the consequence of having to leave the country in order to be eligible to reapply for a legal visa. Currently US law allows a person who comes in legally but overstays his or her visa for a few *years* to receive better treatment than a person who enters the country illegally for a few *months*. Both of those people have broken the law; that legal disparity should be addressed.

ARE UNDOCUMENTED CHILDREN REALLY PLACED WITH UNDOCUMENTED FAMILIES?

Tens of thousands of young children cross the US border without authorization each year.⁴⁹ These children come with human smugglers, adults who may or may not be their parents, or even alone. Because they do not cross with individuals who can be verified as either their parents or their guardians, the children are treated as unaccompanied and placed in the care of the Department of Health and Human Services (HHS).⁵⁰ In FY17 69 percent of unaccompanied alien children (UACs) were between the ages of 15 and 17, but some were infants.⁵¹ Once HHS has custody of the UACs, they can then be placed with sponsors, who are generally parents or other family members in the US, while the children await judicial proceedings to determine their status to remain in the country.⁵² Sadly, while they wait for court dates, some children are never seen again because they were placed with dangerous individuals like human traffickers.⁵³

Over the last few years, the number of UACs who failed to show up at their hearings and were given a court order for removal has greatly increased, from a total of 644 in FY09 to 6,934 in FY17,⁵⁴ which may be because many sponsors who receive UACs are also not in the country legally.⁵⁵ In fact, some HHS staff estimate that as many as 90 percent of UACs sponsors are not here legally.⁵⁶ HHS has enabled those without legal status to claim custody of UACs since 2005 when a memo was released saying that the Department's priority is to release custody of UACs as quickly as possible, even if the sponsor does not have legal status.⁵⁷ So a person here illegally is placed in the care of someone else who is here illegally, and we wonder why illegally present individuals never show up for court.

SOLUTION

While HHS should not attempt to hold UACs longer than necessary, the Department has an obligation to ensure the safety of UACs even after placement. In September 2017 a bipartisan group of senators introduced legislation to ensure HHS takes responsibility for the safety of UACs after placement. On top of those reforms, HHS should also ask for a sponsor's legal status and should only allow sponsors with legal status to take custody of UACs. If we want UACs to show up for their hearings, they need to be in the care of someone who is not afraid to show up at court. The US legal system would never place an American minor in foster care with someone who is not here legally, but sadly we do it thousands of times a year with non-citizens.



OUR REFUGEE SPONSORSHIP SYSTEM NEEDS A TUNE-UP

Americans from all walks of life can agree that our nation should welcome those who flee violence, religious persecution, and global socio-political turmoil. Colonists and settlers came to the US because of religious persecution, famine, and war. During the Reagan Administration, the US welcomed more than 750,000 refugees from around the world.⁵⁸ That number fell to approximately 600,000 during the Obama Administration and is on track to be much lower.⁵⁹

Refugees are generally admitted into the US after the UN recognizes them as refugees who meet every stipulation set by the US.⁶⁰ Refugees then go through a very thorough and lengthy (around 18 months) screening process by DHS before they are allowed to enter.⁶¹ Some groups have called on the US to limit refugee admissions because of its high cost to taxpayers,⁶² while other reports suggest the US may benefit from allowing refugee admissions.⁶³ Either way, our nation has millions of former refugees who fled oppression and found freedom and now live successful and integrated lives

We should continue accepting well vetted refugee families from all over the world so they can escape oppression and find hope for a better future.

SOLUTION

Our nation should welcome refugees as long as we are able to screen them and know who they are. But federal taxpayers should not have to carry the full cost of refugee admissions. Private citizens and groups should also have the option of welcoming properly screened refugees and providing care for them as they work through the process of becoming contributing members of society. I have worked with faith groups and others who serve refugees to develop legislation creating a private refugee sponsorship program, and I look forward to introducing it in the days ahead. Refugees have benefited our nation for generations.



GREAT PEOPLE DOING A GREAT JOB

Turning on the news and seeing people call for the elimination of Immigration and Customs Enforcement (ICE) is mind-boggling to me.⁶⁴ While some may disagree with ICE's mission, "to protect America from the cross-border crime and illegal immigration that threaten national security and public safety,"⁶⁵ the work of ICE agents and the agents of their sister agency, US Customs and Border Protection (CBP), is essential to keeping America safe.

In FY17 ICE agents obtained almost 60,000 convictions for crimes that involved dangerous drugs⁶⁶ and seized more than 2,370 pounds of fentanyl.⁶⁷ ICE obtained more than 30,000 convictions for assault and more than 3,000 for sexual assault⁶⁸ and conducted almost 5,000 arrests of known gang members.⁶⁹ On a typical day in FY17, CBP seized almost 6,000 pounds of drugs, arrested more than 800 people attempting to sneak into the country illegally, and processed more than 1 million people legally entering or leaving the country.⁷⁰

Most people trying to come into the US both legally and illegally just want to seek employment. But ICE agents can also tell you that some people illegally in the US came because they were wanted criminals in their countries or to participate in criminal activities in the more lucrative US economy.

SOLUTION

While there is no real legislative action to protect ICE, the least we can do is vocally support the essential work it provides to every American. ICE employees are federal law enforcement officers, and they work daily to keep us safe. Congress should work to ensure law enforcement agencies have the tools necessary to do their jobs. The solution is not to eliminate ICE; it is to ensure everyone in this country is here legally. Members of Congress should come together to enact meaningful immigration reform that includes securing our northern and southern borders.



USUALLY KIDS GET THE DISCOUNT, NOT ADULTS

There is a new trend in discount services in Central America: human smugglers will give a discount to individuals who bring a child with them when they cross the border. As a dad, I can tell you that it is significantly harder to travel with a child. So with the treacherous journey to our border and the otherwise high cost of immigration, you would only bring a child with you if you had to. But the discount loophole in American law actually encourages individuals to make that long journey to the US if they come as a “family unit.”

A November 2018 *Washington Post* article titled, “For Central Americans, Children Open a Path to the US and Bring a Discount,” details the terrifyingly real business of child smuggling from Central America to our southern border.⁷¹ The article cites that it will cost migrants \$10,000 if they travel to the US individually as adults, but if they bring a child with them, the adult and child can come for \$4,500. Essentially, it’s half price if you bring a kid because it is easier to get into the US if you bring a child with you—any child.

Families are so desperate in parts of Central America to get access to American jobs that adult males offer to take a neighbor’s child with them. They tell the child’s parent that they will get a discount, will send cash back to the family, and will try to enroll the child in an American school or find somebody to take care of him or her. As a result, our southern border has seen a dramatic increase in the number of adult males arriving with a child they’re not related to because they get a discount from their human smugglers and an expedited process to cross the border to request asylum even though they may not qualify for asylum.

Our broken immigration system now encourages the human trafficking of children from Central America. The *Washington Post* story highlighted that the process even has a nickname in Central America: “adoptions.” Desperation has caused these families to adopt out their children, send them on the dangerous road to our border with a human smuggler, and hope for the best for their children. This must stop. We cannot encourage human trafficking by incentivizing the smuggling of children because it is easier to get into the US if you come as a “family.”

SOLUTION

I remain very outspoken that family units should stay together whenever possible. We’re Americans, and we’re very passionate about families. If a family unit crosses the border illegally, we should keep that family unit together as much as possible, including family detention units. However, some courts have required the rapid release of minors but allowed the detention of their parents. Because of the court ruling in *Flores v. Reno*, children can only be held by DHS for up to 20 days.⁷² Due to the large backlog of cases and the lack of immigration judges, it usually takes approximately 40 days for immigration proceedings to take place.⁷³ At that point there are only two options: separate the families at the 20-day mark or release the whole family with a notice to appear in court for the adults without guarantee they will show up.

Since most Americans also want families to be together while they await trial, the families are released into the US with a notice to appear at a court dates in the distant future. Sadly, the unintended consequence of this loophole is that the US government is inadvertently encouraging human trafficking.



NOBODY LIKES DETENTION

When law enforcement encounters an individual who entered the country without documentation, the individual is either detained while he or she awaits immigration proceedings or is released and given a notice to appear at a future court date.

Some individuals who are not kept in custody are placed in Alternatives to Detention (ATD) programs that allow them to be released but under regular supervision. They can have unannounced visits, face-to-face meetings, GPS tracking, or telephonic monitoring.⁷⁴ ATD costs roughly \$10.50 per day, while detention costs upward of \$158 per day.⁷⁵ That's a huge difference.

However, there are several barriers to ATD's success. One barrier is the length of time it takes individuals on the non-detained docket to progress through immigration courts. Immigrants housed in detention and those released on ATD are processed through two separate immigration court dockets.⁷⁶

Understandably the EOIR, which oversees the immigration judges reviewing these dockets, prioritizes the detained docket over the non-detained docket, both because of the cost and the humanitarian concerns of keeping someone who has not yet been convicted of a crime in detention for an extended period of time.⁷⁷ A case takes about 41 days to get through the detained docket.⁷⁸

The lack of immigration judges, space for court proceedings, or video conferencing capabilities, combined with the huge volume of migrants being processed in immigration courts, creates a severe delay in processing the non-detained. An individual on the non-detained docket waits an average of 770 days before his or her case is fully resolved—more than two years.⁷⁹ After 435 days the cost to keep an individual on ATD surpasses the cost of detention because the length of processing time is so much greater.⁸⁰

The second issue with ATD is that not everyone released is on ATD during his or her full waiting time on the non-detained docket. In other words an individual may be fitted with a GPS tracking device when he or she is first placed in the ATD program but may have the GPS tracker removed before the court date. There are more than two million people on the non-detained docket, and not all of them are consistently monitored.⁸¹ In fact, some of the individuals on the non-detained docket have a valid deportation order but have not actually been deported because they disappeared after they were no longer tracked.⁸²

SOLUTION

The long-term solution continues to be the need for meaningful reforms to our nation's immigration system and border security. A porous border and an immigration court system that faces years of delays for even a preliminary hearing encourages people to continue to illegally cross the border or illegally remain in the US. In the short term, DHS should be given the tools necessary to revamp the ATD program and ensure there is adequate technology available to track everyone who has a pending immigration case.



H-2B VISAS

Over the past few years, our economy has strengthened, and our national unemployment rate has decreased.⁸³ While that is great news for families and businesses across our state and nation, it also means we have the potential of a labor shortage. This is especially the case when it comes to temporary or seasonal work since most Americans need a job every day, not just for a few months. Because of our demand for labor and the shortage of workers, years ago Congress created H-2B visas, which allow foreign workers to be temporarily admitted to the US to perform non-agricultural labor or services if it can be proven that unemployed American workers are not available.⁸⁴

The program currently has a statutory cap of 66,000 visas per year, half of which are reserved for the first six months of the year and for the last six months of the year.⁸⁵ But because American workers are not applying for temporary jobs at American companies, the demand for those visas has dramatically increased. Last year the pool of qualified applicants was so large that the Administration resorted to selecting companies to receive visas using a lottery system, regardless of the date or time stamp on the application. That means that even if a business in Oklahoma is first in line to submit its visa requests, it may lose out during a random selection. As a result, many small business owners in Oklahoma did not receive the visas and workers they needed. Keep in mind, these businesses employ American workers all year round and are simply looking for short-term, temporary workers during particularly busy seasons to keep up with demand.

It is not easy or cheap for a company to apply for an H-2B visa for a foreign worker it has chosen. Often attorneys or immigration experts are used to ensure the forms are filled out properly. Just to apply for a visa costs thousands of dollars, and applications must be sent to both the Department of Labor (DOL) and DHS for approval before the State Department can issue a visa. Unfortunately, the high cost of applying for the visa and the uncertainty of approval forces some business owners to decide between going out of business or hiring undocumented employees.



For the last two years, Congress sought to address the need for additional H-2B visas by allowing DHS to raise the cap by an amount the Department felt was necessary to meet the economic need.⁸⁶ Unfortunately, DHS slowed down the issuance of visas, and the cap was only raised slightly.

SOLUTION

Congress should enact long-term reforms to the H-2B program and set the visa cap based on economic need, not arbitrary numbers. Short-term legal workers who have come here for many years to do the same job and who have obeyed the rules should be allowed to continue coming here without a great deal of hassle. Inaction by Congress should not force businesses to decide between closing their doors or breaking the law. Businesses should always seek first to hire American workers, but if those workers are not available, businesses should be able to hire short-term legal workers from other countries.

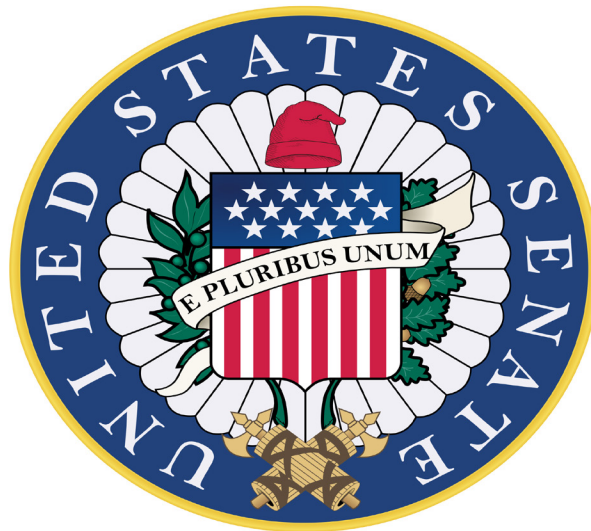
SENATE RULES

The US Senate's arcane procedures are the definition of waste and inefficiency. Martin Gold wrote in his book Senate Procedure and Practice that "the Senate is a twenty first century body operating on the foundation of eighteenth-century rules...expedite[d] business is essential to functioning in a modern Senate environment."⁸⁷ Business owners adapt over time, and so should our Congress.

First, let's have a quick tutorial on Senate rules. To pass a bill in the Senate, you must have unanimous consent (all 100 senators agree) or typically three votes:⁸⁸ The first vote, the Motion to Proceed (MTP), requires 60 votes to begin debate on a bill.

The second vote on cloture to end debate requires 60 votes. The third vote, final passage, requires a simple majority (50%+1) of senators voting. These three votes and the debate around them could take days or weeks.

Here are some ideas to move the ball down the field in the Senate.



MTP IS NOT THE MVP

The MTP, or the first vote to begin debate in the Senate, occurs when a bill can't be passed by unanimous consent. Currently 60 votes are needed to proceed to the consideration of a bill. In the past the minority party usually allowed the majority party to debate any issue, but in the past 20 years both sides have blocked the start of debate for the other side.

Elections have consequences, and the majority party should be able to at least debate the ideas it wants to advance.

SOLUTION

I propose we change the MTP vote requirement from 60 to a simple majority. Two votes are needed on most bills before a vote on final passage: one to open debate (the MTP) and one to end debate (cloture). Let's keep cloture at 60 votes to end debate but allow a simple majority to begin debate. This would allow the majority party to open debate while protecting the minority party through keeping the threshold to end debate at 60 votes.

This change does not strip any rights away from the minority party; it actually protects the minority while allowing the majority to still be the majority. The Senate is the most consequential legislative body in the world; let's act like it again.

MAKE THE SENATE WORK AGAIN

In our Constitution the President nominates Executive staff and judges, but the Senate must give advice and consent. Under current Senate precedent, Executive nominations only require a simple majority vote of 51 to provide consent. While this is an easier vote to achieve for the majority party, the time it takes to receive a final vote is ludicrous and does not serve our nation. The minority party can ask for an additional day plus 30 hours of debate for any of the more than 1,000 presidential nominees.⁸⁹ This 30 hours occurs after the nominee's background check, committee hearing, and favorable committee vote. At one point it would have taken President Trump 11 years to fill his Administration.⁹⁰

In one vacancy example, as the IRS works to help all Americans file their taxes, the Counsel for the IRS was delayed for months. He was fully confirmed 83-15 on February 27, 2019 after months of delay. He was initially nominated on March 6, 2018.

SOLUTION

One option to solve this issue is to pass my bill, S. Res. 50, which would reduce floor debate time for most Executive nominees from 30 hours to two hours or less and allow the Senate to debate and consider five or more nominees every week instead of one or two. The entire process can be faster while maintaining a strong consideration process.

Interestingly, a similar rule change was adopted for a short time by the Senate in 2013 under then-Majority Leader Harry Reid as part of a temporary agreement to fill nominations.⁹¹ It worked then, and it would work now. Making the Senate function should not be partisan.

Thankfully, the Senate Rules Committee marked up my bill on February 13, 2019, and passed it out of the Committee. I look forward to the full Senate voting on my bill in the days ahead.⁹²



TAXPAYERS HAVE THE RIGHT TO KNOW

With a national debt of more than \$22 trillion, Americans deserve to know how their tax dollars are spent. Even more, we ought to know how those programs perform. My bill, the Taxpayers Right-to-Know Act, would provide this information to the public by creating a complete online catalog of federal programs to track costs and performance.⁹³

When you look at your credit card statement each month, you are able to see how much money you spent and where you spent it. You are also able to view your credit score, which summarizes your financial performance. All this information helps you manage your personal budget. Sounds like a pretty solid plan. Why don't we do something similar to clearly understand how the federal government spends your tax dollars?

The Taxpayers Right-to-Know Act would create a report card for all federal programs with a budget of more than \$1 million,⁹⁴ which would make it easier for taxpayers and Congress to identify programs; compare their similarities, performance, and cost; and ultimately work to provide a better product for you, the taxpayer. For example, the Trump Administration recently classified the McGovern-Dole International Food for Education program as duplicative to the US Agency for International Development (USAID) program.⁹⁵ My bill would allow anyone to have the ability to look at every federal program and determine duplication and efficiency. There are many programs that work well, but to no one's surprise, there are also programs that do not. The Taxpayers Right-to-Know Act would give taxpayers transparency as to how our tax dollars are spent.

FALSE START: THE GOVERNMENT PERFORMANCE AND RESULTS ACT IMPLEMENTATION

Congress started on the goal of transparency in 2010 by passing the GPRA Modernization Act.⁹⁶ The law required federal agencies to describe the purposes of their federal programs. However, the ball was fumbled because agencies took different approaches to define their programs, which made it impossible to compare them. According to the Director of the Government Accountability Office (GAO), the inventory was useless because the agencies were given the flexibility to define their programs in different ways.⁹⁷

SOLUTION

The Taxpayers Right-To-Know Act clearly defines the term *program* for each agency so agencies cannot hide from oversight by just renaming their programs. Additionally, the report will include financial and performance data so American taxpayers can better understand and assess the programs they fund.⁹⁸

DEFENSIVE HOLDING

The Taxpayers Right-to-Know Act is such a common-sense bill that it passed unanimously through both the US House of Representatives and the Senate Homeland Security and Governmental Affairs Committee. But a few people are holding it up in the Senate. Last year I went to the Senate floor to request unanimous consent to bring up the bill for a vote, but it was blocked again.⁹⁹ The *public* reason stated for blocking the bill was that senators did not want a more transparent program inventory to become public.¹⁰⁰ That is mind-boggling. Americans deserve to see how their money is spent. It is time for the truth to come out.



GREAT ACT

In FY16 the federal government awarded more than \$660 billion in federal grants to state and local governments, agencies, and other organizations.¹⁰¹ The grants can assist a range of important missions including medical research, disaster mitigation, and job training. However, as outlined in previous editions of Federal Fumbles, some grants do not serve a direct national interest and have little to no oversight. The money goes out, but data seldom comes back.

When a federal agency spends hardworking taxpayers' money, everyone should know how and where that money is spent. One major barrier preventing that is the use of outdated, duplicative document-based forms for grant reporting.¹⁰²

The Digital Accountability and Transparency Act of 2014 required OMB and the HHS, currently the top awarder of federal grants, to conduct a pilot program to alleviate reporting burdens for grant recipients.¹⁰³ The pilot program found that grant recipients are often required to enter identical data multiple times and that there is no single repository for the data.¹⁰⁴ Put simply, the federal government uses reporting platforms from more than 444 post-award grant forms with no standard data entry.

Even more, the information is not easily searchable, creates heavy compliance burdens for grantees, and provides poor data tracking for transparency. Without clear and traceable information for grant reporting, we will never be able to exercise effective oversight.

Without an easily searchable database, Oklahoma grant-seekers cannot find the best grant for their research or task. Grants are not free federal money. Each grant should have a specific national focus or priority, but grants are hard to find and even harder to evaluate.

FROM RUSSIA WITH WINE

Russia is known for many things, including corruption, meddling, and vodka. However, a new breakthrough is in the works: a book that studies the Russian wine industry throughout the late eighteenth and early nineteenth centuries.

In FY17 the National Endowment for the Humanities (NEH) awarded a \$50,400 fellowship to a professor at Sonoma State University.¹⁰⁵ The finished product, *Whites and Reds: Wine in the Lands of Tsar and Commissar*, examines the ways Russia used its wine industry to befriend Europe during the Russian Empire and the Soviet eras.

Readers will be able to learn how “the cultural embrace of wine helped establish Russia’s civilizational pedigree—or their ‘Europeanness.’”¹⁰⁶

It makes sense that a professor at Sonoma State University is taking this on, given its location in the middle of California’s wine country. But why are more than \$50,000 of your tax dollars paying for a study of the Russian wine industry?



RURAL CONNECTIVITY AND TELECOM

If you live in rural America, you already know that your telephone and internet services have fallen behind. Swiftly advancing technology has made it difficult to keep rural America up to speed.

CAN YOU HEAR ME NOW FROM MY TRACTOR?

Have you ever felt like you were being ripped off? I'm sure rural Americans do if they paid for but did not receive better cell phone and internet service. The High Cost Fund, now transitioning to the Connect America Fund (CAF), was originally created as a program through the Universal Service Fund (USF) in 1996 to help build telecommunication infrastructure in poorly connected, mostly rural areas. Americans have paid billions into those funds through USF fees on their monthly phone bills, regardless of where they live. In 2017 the USF disbursed a total of \$8.8 billion.¹¹⁴

However, those dollars haven't always been spent on remote populations or in the rough terrain of rural areas because it is more expensive to expand or upgrade services in these areas. Because of the high costs, federal dollars are often spent to provide more options in currently served communities.

The federal government estimates that the average cost to make connections by laying fiber cable is \$27,000 per mile. The price increases exponentially in rural areas with rocky terrain and dense forests. Mobile broadband infrastructure is much more cost effective but can still prove difficult to deploy. Because of that, CAF dollars are focused on already served areas.

The program has also experienced management issues and has been reviewed by GAO.¹¹⁵ Since GAO's reviews, the FCC has increased oversight and streamlined its focus by transitioning to the CAF. However, the program still does not target areas that are truly underserved.

SOLUTION

The solution is pretty simple: the Federal Communications Commission (FCC) should target underserved areas and examine the requirements for what *served* means within its USF programs. Since 2016 the FCC has examined the issues within the USF and pushed orders to improve the program. However, action is still needed to ensure long-term certainty and fiscal sustainability of the USF. It is important that all stakeholders, including local carriers, consumers, state partners, and federal entities, work together to address the serious issues with this federal program.

The FCC is currently working on a USF budget reform order and making efforts to ensure greater financial certainty within the program. I am committed to working with the FCC on future reforms to best target funding. We cannot overlook new solutions like satellite broadband or large-scale rural Wi-Fi to also solve our national connectivity. We should not just assume fiber connectivity is the only way to connect America.



PREPARING FOR THE FUTURE: 5G

As the federal government continues to bring rural populations up to speed, work has already begun to prepare the nation for the next generation of connectivity: 5G. This new technology will potentially bring considerably faster mobile broadband speeds and a wave of technological advances. Every industry from communications, education, security, and health, to agriculture will benefit from greater speeds and capacity as 5G moves up the field. It will also make watching cat videos faster if you're into that sort of thing.

Federal, state, and local governments all have a role in regulating 5G for commercial purposes. In an effort to be forward thinking, the Oklahoma State Legislature recently passed a bill to prepare for the future of 5G.¹¹⁶ The state has set up processes for stakeholders to work together to put Oklahoma on a path for the next generation of connectivity. The mounting location of 5G hardware is exceptionally important for connection, private property rights, health, and security.

However, the federal government plays a different role. Whenever you turn on your radio or TV, you most likely don't think about the FCC's role in making that possible. Radio and TV rely on spectrum, which is measured in terms of *bands*, to operate. 5G requires much larger bands of spectrum than previously required. So the ball is punted to the FCC to create and regulate those new bands. DC's job is to regulate the different bands of spectrum for commercial use.

The FCC has actively worked on opening up and auctioning new bands of spectrum for stakeholders to license for 5G use.¹¹⁷ Additionally, on October 28, 2018, President Trump issued an executive memo directing federal stakeholders to examine ways to deploy more spectrum and accelerate the development of 5G.¹¹⁸



A QUICK WARNING ON 5G

If you don't want your calls to be intercepted, then we shouldn't fumble who provides the hardware and software for 5G. America has very strict laws on data and communications privacy, but if a foreign company or country owns or controls 5G deployment, they could access private data or conversations. Recently Americans have been reminded that sometimes the cheapest foreign vendor has a motive other than profit.

POWER PLAYS

Federal mandates are really just federal preferences. Sometimes the mandates are notable or scientific, but they are all just preferences.

RFS

The Renewable Fuel Standard (RFS) has remained on the bench of *Federal Fumbles* for several volumes, but it is still unresolved.

In 2005 Congress decided the US could not be energy independent in the future, and we needed a way to grow our own fuel. Congress also wanted to start using a fuel that would reduce greenhouse gas emissions. Corn-based ethanol was already blended into some gasoline in the Midwest to increase the octane level, so Congress determined that every state should now be required to use ethanol in its gasoline. The mandate for the amount of ethanol the US would use each year was estimated (read: guessed) in order to determine the amount of gas Americans would use in the future. Then Congress set a gallon total for ethanol that Americans should use based on their estimate—not percentage amount used but a set number of gallons of ethanol that must be used each year. This process gave confidence to ethanol producers that if they could make the ethanol, Congress would require that Americans buy it. The mandate required that corn ethanol would primarily be required for a decade, but after 10 years, more advanced fuel would be used derived from cellulose and less ethanol would be made from corn.

Starting in 2005, ethanol was required to be blended into the fuel supply all over the country. Initially 4 billion gallons were required in 2005, but by 2022 Congress required Americans to use 36 billion gallons of ethanol. But there was a problem. Ethanol damages pipelines, so it had to be trucked and blended closer to its location of use. New infrastructure like storage tanks and fuel pumps at every gas station would be required to support higher ethanol-blend fuels. To help with the transition, taxpayers footed the \$100 million bill for new blending-pump infrastructure all over the US.¹¹⁹

But it was all worth it because ethanol would help us be energy independent, right?

Well, not exactly. Within a few years, American geologists and engineers figured out how to produce oil from shale rock deep underground. That innovation suddenly created an enormous new source of energy for the US, and it moved the US from an energy importer to an energy exporter within 10 years. The US now produces nearly 12 million barrels of oil per day,¹²⁰ compared to approximately 5 million barrels per day in 2005.¹²¹

But ethanol reduces greenhouse gas emissions, right?

Well, not exactly. The 2005 law grandfathered all the existing ethanol facilities in the country. Every new facility producing ethanol has to reduce greenhouse gas emissions by at least 20 percent, but the existing facilities do not have to reduce greenhouse gases at all.¹²² That guaranteed existing producers would have little to no competition for years because it costs too much to build an ethanol facility that reduces emissions by 20 percent, and it would be almost impossible to compete with the existing grandfathered facilities. Over a decade later, the vast majority of ethanol is still produced only in the original grandfathered plants that do not have to reduce greenhouse gas emissions.¹²³ So the ethanol mandate accomplished little to nothing to reduce greenhouse gas emissions. Even worse, it has been discovered that using higher ethanol blends increases ground ozone levels, and corn-based ethanol uses a significant amount of water, which is also a precious natural resource.¹²⁴ Many environmental groups have moved from supporting ethanol years ago to strongly opposing it now.

But corn-based ethanol is on the decline because the law required that corn ethanol use decrease and advanced (cellulosic) ethanol increase over time, right?

Well, not exactly. Advanced ethanol by definition must reduce greenhouse gas emissions by 40 percent. After spending about \$1.1 billion in taxpayer money from 2013 through 2015,¹²⁵ which represent just three of the previous 13 years in advanced cellulosic ethanol research, we can produce small amounts, but it is not economically viable for mass production. Last year the US produced only 288 million gallons of cellulosic ethanol,¹²⁶ even though the law required that we use 7 billion gallons.¹²⁷ As time goes on, the volume of advanced fuels in the mandate grows relative to the volume of the mandate that may be met by corn ethanol, so it will only get harder to have reality match the greenhouse gas reductions envisioned by the statute.

But ethanol brings down the cost of fuel, right?

Well, not exactly. The EPA invented a new product to trade on the open market years ago: Renewable Identification Numbers (RINs). RINs are paper certificates that are created when you blend ethanol into gasoline. So if you are a blender of ethanol, you create a paper RIN when you mix ethanol with gasoline, but if you are a distributor of gasoline you have to buy the paper RIN to prove that America is selling the amount of ethanol that the EPA requires. It is a complicated system devised by Congress over a decade ago.

When the RFS program began in 2005, RINs cost only pennies each but over time the cost has risen significantly. Someone has to pay for the RINs with each gallon of gasoline. It is hard to track exactly how much of the cost of each gallon of gasoline we buy is attributable to compliance costs with the RFS, but there is no question that the consumer pays more at the pump because of this program. While we don't know the exact number, we do know that hundreds of millions of dollars were traded in the RIN market last year alone. This money changing hands does not add value for consumers but rather represents some of the cost to comply with a government program.

Ethanol is a good fuel for new cars and light trucks, especially for increasing octane. After billions of dollars in federal subsidies, it is firmly in the market, and there is no question that it will stay a strong part of our national fuel supply even without a mandate. But most lawn mowers, boats, RVs, and older vehicles



should not use it. It is not better for the environment, and it is not needed for energy independence. EPA also ignores the gallons-used mandate with waivers each year. You would think that Congress would just respond by admitting the mistake, fixing the broken law, and moving on. But you would be wrong. No one is willing to admit that the ethanol emperor has no clothes.

Dropping the mandate would mean new ethanol facilities could be built because they could compete with the grandfathered facilities. The cost of gas would decrease because blenders would no longer have to pay for the mandated RINs. They could just buy the ethanol without absorbing the additional cost in paperwork. Research dollars could continue until we find an economical way to produce advanced fuel, but there is no reason to force Americans to spend more on gasoline than we need.

SOLUTION

As mentioned above, I have suggested several solutions to reform the RFS in previous volumes of *Federal Fumbles*. The cost of the RIN certificates has increased because the EPA set the mandates too high. But the EPA feels it must set the mandates high because the law 13 years ago set the minimum gallons high. Congress should eliminate the mandate entirely. Congress should at least revisit the cellulosic and advanced fuel requirements in light of the fact that the fuel still does not exist anywhere close to the amounts required under the law. At a minimum the volumetric mandate (total gallons used) should be replaced with a percentage mandate. Every time you fill up your tank with gasoline, you pay more for a federal mandate. Ethanol is not the problem; the congressional mandate is the problem. This is a problem Congress created, and it is a problem only Congress can solve.

COAL AND NUCLEAR

The government should not pick winners and losers, just like a referee should not pick the winner based on his or her own preference. Regardless of political party, both sides are guilty of propping up certain industries. In June 2018 President Trump ordered the Department of Energy (DOE) to prevent more coal and nuclear plants from closing by propping up those two markets, citing a national security risk.¹²⁸ It is important for national security that consumers have a diverse fuel supply, but this seems like more federal engagement in our electrical grid. The previous Administration had its own power priorities, which it imposed by trying to orchestrate a top-down switch in the types of energy sources we use.¹²⁹ Now the Trump Administration holds the opposite view on electrical power. All this government market manipulation ignores our free-market system and the consumers who pay the bills.

An idea previously discussed by the President would compel grid operators to purchase electricity from nuclear and coal generators that are at risk of closure. Typically power purchases are made at the lowest cost to provide value for ratepayers.¹³⁰ For example, the Southwest Power Pool (SPP), Oklahoma's grid operator, draws from power plants throughout Oklahoma every day with two factors in mind: reliability and value for ratepayers. If the SPP was required to purchase power from coal and nuclear facilities, that could mean purchasing power from sources that provide a lesser value to consumers, especially in a time when natural gas is inexpensive and wind is incredibly competitive in certain markets. Don't misunderstand me. Coal and nuclear are great fuel sources, but the decision to use them should be based on the market, not the mandate.

For example, the Mustang Power Plant outside Oklahoma City provides innovative, affordable, and reliable power from primarily natural gas—and some solar—to ratepayers throughout our state.¹³¹ Mandating that coal and nuclear fuels be added to the power pool undermines this innovative facility which was driven by market forces to provide Oklahomans with clean, cheap, and reliable power.

SOLUTION

We should stop providing incentives and bailouts for select technologies. We should focus on increasing delegated authority directly to states in lieu of burdensome federal regulations. For example, Oklahoma thankfully was delegated authority under the Clean Air Act, which allows our state to receive thorough, responsible, and effective environmental reviews more quickly and efficiently. It's a no brainer that people on the ground in Oklahoma know our environment better than people in DC.

However, we could benefit from expanding this delegated authority to other federal environmental laws like the Endangered Species Act. For example, the American burying beetle's population has greatly expanded in Oklahoma, but because there are still rigid federal requirements in place, many projects are significantly delayed and have increased costs. Providing additional authority to the states would move them away from a one-size-fits-all strategy that cripples many energy development projects with costly delays.

Producing electrical power takes long-term planning. If the federal government could grant permits with timeliness and predictability in mind, we would have more—and less expensive—power.



INFRASTRUCTURE

In 2016 the Department of Transportation (DOT) reported that 9.1 percent of our nation's bridges were structurally deficient, which ultimately led to increased costs due to the need to divert freight from the bridges or separate loads into multiple trucks. The report on our highways is similar. The American Society of Civil Engineers gave our roadways a "D" and estimates nearly half a trillion in maintenance needs across our roadways.¹³² But our infrastructure is not limited to our roads. The Army Corps of Engineers' (USACE) inland waterways provide shipping opportunities for nearly \$600 billion in cargo each year.¹³³

BUILDING HIGHWAYS WITH THE HIGHWAY TRUST FUND

Federal highways are financed through a user fee (gas tax), which you pay every time you fill up your tank. It makes sense that the people who use the roads should pay for the roads when they buy gas. The federal Highway Trust Fund (HTF) is the collection of all the gas taxes paid across the country. In 2017 the HTF took in \$36 billion for the highway account.¹³⁴ That seems like a lot until you consider that we spent \$44 billion of the HTF in 2017 for transportation.¹³⁵

It wasn't always like that; the US used to have enough money in the HTF to take care of the roads. But since 2008 Congress started shifting money from the general fund to the HTF to cover the difference, which means there is less money in the general fund for other essential functions. Without additional transfers from the general fund, when the current authorization expires in 2020, the HTF will fall short by a projected \$85 billion between fiscal years 2021 and 2025.¹³⁶

Why is this happening? There are more vehicles on the road now, but vehicles have become more fuel-efficient. More vehicles cause more damage to the roads, but we have not been able to keep up with the cost of repairs. The user fee at the pump has not been modified since 1994, so just with inflation we fall more and more behind each year. We also see more electric cars on the road, which do not pay a gas tax, so they get to drive on the roads other people pay for. Those problems are compounded when you realize that more and more of the gas tax each year is diverted away from highways and spent on *enhancements* and *transportation alternatives*. Bike trails, roadside parks, beautification projects, and more are all nice additions, but the HTF is intended for highways. The cost of a federal highway project is also significantly higher than a state highway

project because of the multitude of federal regulations and permits required. We cause highway construction to cost more, and then we try to spread our dollars thinner with even fewer available. That formula does not work.

SOLUTION

All drivers need to pay for using our highways. Fuel efficiency is a good thing, but we have to look again at how the HTF keeps up with inflation. The HTF should only pay for federal projects, not local projects. Everyone wants someone else's money for construction, but if the project involves local beautification or only supports local transportation, it should be funded by the state, not the federal government. The I-44 corridor project in Tulsa is designed for interstate transportation, so it is paid primarily out of the HTF. But the streetcar project in Oklahoma City is for local traffic, so the people of Oklahoma City paid for their streetcar with local funds.¹³⁷

We must simplify the permitting process as well. Adding more money to the HTF does not help if the money is wasted in a bureaucratic permitting maze. Faster and simpler permitting is possible if the OMB will oversee permitting in the same way as regulatory oversight.

THE BATTLE HYMN OF THE BACKLOG

The USACE has a broad mission that spans from protecting life and property to providing recreation opportunities. The USACE manages more than 400 lake and river recreation sites for Americans to enjoy¹³⁸ and maintains thousands of miles of levees protecting communities. Waterways managed by USACE play a vital role in our economy. Specific to Oklahoma, both public and private ports, including the Port of Catoosa and Oakley's Port 33, play a major role in global commerce right outside Tulsa.

The problem is the USACE has a substantial backlog of authorized projects and necessary repairs. The USACE believes it has a \$96 billion backlog of construction projects that have already been authorized but not funded. It also estimates that its levee portfolio needs \$21 billion¹³⁹ to allow goods to get to market and protect people's homes and businesses from flooding.

Because of our waterway systems' needs, the decision of which projects to fund looms large. The process for selecting is opaque. The districts send their priorities to headquarters, which provides the list to OMB, which then provides the final work plan for the year. Unfortunately, there is little transparency as to which projects are local priorities that are overlooked at the national level and how much the project changes through review. Additional disclosure is needed to ensure that local communities are heard through this process.

On the recreation side of the USACE's mission, individuals frequently run into a cumbersome process when developing outdoor opportunities on USACE properties. While it is important to realize that the priority for most lakes is flood control or water storage, there is no reason why they can't also be developed for recreation. Fort Gibson Lake in Oklahoma is a great example. Not many people realize that the number-one priority of this lake is flood risk-management and hydroelectric power.¹⁴⁰ However, that doesn't mean it should be closed to boating and commercial development. We need the USACE, but we also need it to be efficient.

The USACE's vast array of current tasks calls into question whether its mission is simply too broad and some responsibilities would be better handled elsewhere. The federal government already has agencies that handle some of these tasks. For instance, the DOT could oversee our ports and waterways as it already does our highways, and the Department of the Interior (DOI) or individual state agencies could manage some of the recreation portion of the mission as they do for many of our parks.



SOLUTION

Throughout my time in Congress, I have promoted one simple thing the USACE can do: sell properties that do not advance its mission. I have previously highlighted Lake Optima in Oklahoma, a USACE project that never came to fruition. However, decades later the USACE still owns and maintains the land despite not performing its stated purpose. The USACE is working on identifying these properties across the country so we may begin to divest of those that deplete the USACE's maintenance funding.

While we can have a longer conversation about financing our ports and waterways, we can already look to the USACE's bank account. The account has two trust funds: the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund (HMTF), both of which are financed through user fees intended to be spent on this infrastructure. However, both have occasionally run significant surpluses over the years despite outstanding needs in the system. The HMTF currently has a surplus \$10 billion, and the CBO estimates that surplus could grow to about \$15 billion by 2029.¹⁴¹ Meanwhile, we spend about \$1.5 billion from the HMTF annually, falling short of spending the total revenues collected the previous year.¹⁴² It is hard to understand the USACE maintenance backlog when we refuse to spend the money it already has.

The USACE has many private partners, from waterway and port users to local municipalities. Some of these private entities have expressed interest in playing a larger role in the upkeep of shared assets. Congress has taken steps to allow partners to participate in the maintenance effort. The USACE should review its current authorities and provide additional information to Congress about which additional public partnerships could be utilized if it had the authority to do so.

Congress and the USACE must shift from thinking about assets in an emergency repair sense and focus on proactive budgeting in the long term. Requiring the USACE to provide Congress with its expected needs five or 10 years out would allow Congress to think through future needs when providing annual appropriations so that scarce taxpayer funds and user fees are more efficiently used. Restructuring the USACE and spreading its different missions among other existing agencies may enable more directed and efficient spending.

FEDERAL WORKFORCE

When businesses have open positions, they look for applicants online, conduct interviews, and quickly hire candidates they feel fit the positions. However, federal hiring is a particularly protracted process, and obtaining federal retirement benefits may be even worse.

DELAY OF GAME: FEDERAL HIRING

If going without a paycheck for almost three months seems like a good time, you might want to log onto www.USAJobs.gov and apply for federal employment. In 2017 the average time it took to hire a federal employee was 106 days—up from the 87-day average in 2012.¹⁴³ This excruciating waiting period makes it difficult for agencies to recruit and hire the necessary talent for agencies to implement their missions. Most qualified candidates do not have months to wait. Losing good talent because of delays is ultimately to the detriment of taxpayers and the citizens our government serves. According to a Glassdoor Data Research Report from June 2015, the average overall job interview process in the US takes just 23 days.¹⁴⁴ The report also said, “Government employers face strict legal and regulatory requirements on hiring processes that make them notoriously slow to hire.”¹⁴⁵

SOLUTION

Congress should allow agencies to directly hire proven interns or recent graduates with high GPAs. Giving agencies, HR departments, and managers more hands-on control to expedite the hiring process will allow the government to move forward with considering real talent and recruits in a timely manner, instead of getting pushed back by a delay of game. In addition, direct hiring authority allows agencies to appoint candidates directly to jobs for which the Office of Personnel Management (OPM) determines there is a severe shortage of candidates or to fill a critical need. If direct hiring authority was expanded, the federal government could become more competitive in its recruiting and hiring and begin to reverse the trend of losing the best and brightest to the private sector. We should not make it hard to serve.

BENCH THE SPECIAL RETIREMENT SUPPLEMENT FOR FEDERAL EMPLOYEES

Most Americans work hard throughout their lives in anticipation of retirement. However, federal employees have a unique opportunity for an early buyout in the form of an extra special retirement income supplement.

Here’s the scenario: federal employees who retire before age 62 can be eligible to receive a monthly pension. In addition to their monthly pension payment, the government also gives eligible federal retirees an additional early Social Security payment equal to the benefits earned as a federal employee.¹⁴⁶ This supplement is incredibly helpful to the career federal employee who is retiring early, but it will also cost \$18.7 billion over the next 10 years.¹⁴⁷

SOLUTION

Given that our national debt is more than \$22 trillion,¹⁴⁸ it is time to bench this supplement by eliminating it for all new hires and slowly phase the perk out. We have terrific federal employees serving all over the nation, but we also have a rising federal debt we must resolve.

CLOCK VIOLATION: CHANGE AUTOMATIC GS STEP INCREASES TO MERIT AND PERFORMANCE

Essentially every federal employee receives a pay increase at the end of every year when eligible. It is hard to imagine any company having 99 percent of its employees earning a raise.¹⁴⁹ Here's the fine print: for the most part, the federal employee wage scale is determined by something called the General Schedule (GS) grade,¹⁵⁰ which provides periodic increases in a federal employee's basic pay from one step to the next. Employees earn these increases after meeting several requirements, including having an acceptable level of competence and waiting the required period of time determined by law. According to a GAO report, 99 percent of non-management positions above the GS-15 level (a salary range between \$105,123 and \$136,659) that are not management positions were eligible for a pay increase.¹⁵¹

SOLUTION

Step increases should be merit-based and performance-focused with less emphasis on waiting periods. In the private sector, most pay raises and promotions are awarded based on productivity and performance. Focusing higher income step increases on merit as opposed to simply running out the clock will increase incentives for stronger performance and boost workplace morale among employees.



THE URGE TO MERGE

The federal government is enormous in both manpower and number of agencies. Today there are many agencies with overlapping jurisdictions and duplicative offices and functions. For example, DOE has an Office of International Affairs, while the Department of State has a Bureau of Energy Resources. In addition, the US Department of Agriculture (USDA) provides home loans. Doesn't it make more sense to have the Department of Housing and Urban Development (HUD) take care of that?

In June 2018 the Trump Administration released a comprehensive list of government-wide reorganization proposals.¹⁵² These proposals highlighted many ideas for reforming our government to make it more efficient and effective for taxpayers. Many of these proposals focused on merging certain agencies, eliminating duplication, and consolidating administrative functions.

Take for example the Trump Administration's proposal to move programs like the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp program, from USDA into HHS. This proposal will reduce administrative burdens and duplications of effort that currently exist for state and local governments.

Here is what a nonsensical federal burden looks like: when a person applies for services through the Temporary Assistance for Needy Families (TANF) program and for SNAP, he or she often goes to a single state agency office. Unfortunately, that single state agency must currently follow two separate sets of reporting, regulatory, and other requirements. One set is imposed by HHS for TANF, the other is imposed by USDA for SNAP. This split creates unnecessary administrative burden and potential duplication, which expends resources otherwise allocated to help lift families out of poverty. The goal of both programs is to help people, not build paperwork burdens.

SOLUTION

I have cosponsored the Reforming Government Act, which renews federal agency reorganization authority and gives the President the ability to submit reorganization proposals to Congress for a fast-track vote.¹⁵³ The bill passed in committee last year, and it should get another hearing and a vote on the Senate floor. If Congress passes the Reforming Government Act, the Administration will have the ability to submit detailed and in-depth reorganization plans based on many of the proposals already outlined, including merging certain agencies in an effort to eliminate duplication and consolidating certain offices and functions within the federal government. Merging certain agencies and consolidating particular agency functions would help make our government more efficient and effective for taxpayers. Eliminating duplication is not partisan; it is common sense.

AUTOREPLY: OUT OF THE OFFICE BUT STILL GETTING PAID

Paid time off is a perk of most jobs. However, federal agencies sometimes provide employees with some “bonus” leave time. When agencies place employees on long-term paid administrative leave, they not only cost taxpayers millions of dollars in salary, but taxpayers also lose out on valuable productivity.

Paid administrative leave is defined by the OPM as “an administratively authorized absence from duty without loss of pay or charge to leave.”¹⁵⁴ This means agencies have the ability to pay federal workers not to work. OPM should monitor this, but OPM acknowledges that it does not regulate the use of paid administrative leave. Ultimately, each agency has the authority to place employees on paid administrative leave for a variety of reasons.¹⁵⁵

In 2014 the GAO published a report that detailed problems and costs affiliated with this fumbled, somewhat undefined, and broad policy. Data from this report showed that from 2011 through 2013, 746 federal employees were placed on paid administrative leave for six to nine months, and 275 federal employees were placed on paid administrative leave for nine to 12 months. Additionally, 263 employees—at a salary cost of \$31 million to taxpayers—were placed on administrative leave for one to three years.¹⁵⁶

Even more, GAO found that when agencies used these large amounts of time for administrative leave, they were often for personnel matters such as investigations of performance or misconduct. For example, an Inspector General was placed on paid administrative leave for more than two years while an investigation took place into allegations that he had repeatedly made racist and sexually explicit remarks at work. During this almost two-year period of paid administrative leave, the Inspector General collected a full salary and benefits until he decided to retire.¹⁵⁷

In another example a Chief Deputy US Marshal was recently accused of serious misconduct that resulted in multiple investigations from the DOJ Office of Inspector General and from the US Office of Special Counsel. The Inspector General initially concluded that the Chief Deputy had indeed engaged in serious misconduct at work, including sexual harassment,

misusing his government cell phone, and handing out offensive awards of a sexual nature at work. Rather than removing the Chief Deputy after an initial 30-day paid administrative leave period, the US Marshal Service allowed him to remain on paid administrative leave with full salary and benefits for almost six months. At the end of the six-month paid leave period, the marshal used a combination of sick days, annual leave, and unpaid leave for an additional nine months to bridge the gap until retirement eligibility, at which point the marshal could retire with a full pension.

OPM’s lack of guidance and oversight in the area of paid administrative leave results in taxpayers being stuck signing the paychecks of federal employees who don’t work for months and sometimes years—often while being investigated for poor performance or credible allegations of serious misconduct.

SOLUTION

Short-term paid administrative leave can provide agencies with a way to address both routine and unforeseen circumstances that occur with employees throughout the duration of their employment. However, paid administrative leave should not be used as a long-term mechanism for agencies that are either reluctant to take timely investigative steps or unwilling to engage in adverse action toward an employee for poor performance or serious misconduct. Congress should find a legislative solution for improving this system with mechanisms that will prevent long-term administrative leave and ensure the integrity of the system. Managers need to manage, not just ignore problem cases on administrative leave.

REGULATORY REFORM

Federal regulations cost Americans \$1.9 trillion in compliance, which means nearly \$15,000 per US household.¹⁵⁸ Congress must take back its legislative authority by enacting commonsense laws that will increase transparency, prevent agencies from issuing overly burdensome regulations, and clearly explain those rules to the American people.

SMALL BUSINESSES, BIG PROBLEMS

In a hearing I chaired in 2015, a small business owner told me he received a \$15,000 fine because he forgot the third signature on a 20-page form.¹⁵⁹ He tried to create a 401(k) plan for his employees and had signed the form in other places, but he missed a line and received a \$15,000 reminder not to miss a signature in the future.

It is no secret that excessive and overly burdensome regulations have a particularly damaging effect on small businesses. According to an American Action Forum study, even a small increase in the number of regulations causes small businesses to close and jobs to be lost.¹⁶⁰ Although small businesses employ nearly 60 million Americans,¹⁶¹ no one who owns a small business gets up every day and reads the *Federal Register* for new regulations.

SOLUTION

To solve this problem, I introduced the Small Business Regulatory Flexibility Improvements Act, which requires agencies to review the impact their regulations will have on small businesses and provide forgiveness for first-time paperwork violations that do not impact health or safety.¹⁶² This bill was voted out of committee, but the Senate failed to vote on its passage. Put this in the no-brainer category.



WE NEED THE BEST SCIENCE

Americans don't do well with "trust me" from their government; they want proof. Many regulations issued by federal agencies like the EPA are based on scientific studies. However, those studies are often kept secret from the American people. When agencies use taxpayer money to create regulations that will bind taxpayers, they should not be allowed to keep that information secret in Washington.¹⁶³



SOLUTION

I introduced the Better Evaluation of Science and Technology Act (or BEST Act), which requires that when agencies use scientific information in rulemaking, they use only best practices with peer-reviewed, reproducible studies.¹⁶⁴ The scientific information should also be publicly available. In 2016 Congress overwhelmingly passed a bill to provide greater clarity for chemical production. That bill, called the Toxic Substances Control Act (TSCA), provided a new definition for "best science" but was limited to chemicals. Why not use this agreed-upon best science language for all science standards? The BEST Act requires that the TSCA definition be applied government-wide. If we overwhelmingly agreed one time, can we overwhelmingly agree again?

STREAMLINE THE PERMITTING PROCESS

Undertaking large projects is difficult for both businesses and local governments. For example, a project to improve water infrastructure can require approval from the EPA, USACE, BLM, FWS, and Bureau of Indian Affairs in addition to multiple state agencies. The process to obtain permits from all those agencies can take years or even decades.¹⁶⁵ Unfortunately, time and money are not the only obstacles for large projects such as improving roads or updating a local water system.



SOLUTION

In order to streamline the permitting process, OMB should create and empower an office to serve as a clearinghouse for all federal permits. A model for this already exists. The Office of Information and Regulatory Affairs (OIRA) conducts a review of all regulations issued by Executive Branch agencies to ensure they meet statutory requirements, avoid duplication, and do not create an unnecessary burden. A centralized permitting office located in OMB would operate the same way by ensuring permitting requirements meet statutory requirements, are not overly burdensome, and do not overlap with requirements from other federal or state agencies. Permitting could move much faster if the process could run concurrently and if data from one form could be automatically populated in other permitting forms. All that would require is someone to oversee the process and communication from one federal office to another. How many times has someone said, "Don't those people in Washington, DC, talk to each other?" The simple answer is no, but the real answer is they could and should.

MAKE REGULATORY REFORM GREAT AGAIN—THROUGH LEGISLATION

Not all regulations are bad. But regulatory uncertainty slows down investment. In FY18 the Trump Administration cut \$23 billion in regulatory costs by eliminating 176 regulatory actions.¹⁶⁶ These extraordinary steps to reduce the reach of the administrative state have helped create a booming economy and certainty for people trying to run businesses of any size. The GDP jumped to 4.2 percent during 2018; the unemployment rate fell to 3.7 percent late in 2018; and wages are rising. In a hearing I chaired on September 27, 2018, representatives from the business community explained that for the first time in decades, businesses are able to plan for the future because they know the Trump Administration will not surprise them with new regulatory requirements.¹⁶⁷

SOLUTION

In order to make these reforms permanent, Congress must act. Requiring the Administration to eliminate two old regulations for every one created has worked for the UK and Canada, and it could also work in the US. The Trump Administration has far exceeded one-in/two-out. But the next Administration may decide to create two new regulations for each one eliminated, so legislation is needed to at least maintain one-in/one-out requirements. Bills like the Small Business Regulatory Flexibility Improvement Act would require agencies to perform extra analyses to ensure regulations do not unnecessarily harm small businesses.¹⁶⁸ Senator Rob Portman's (OH) Regulatory Accountability Act requires agencies to perform basic economic analyses on all rules and allow the public to challenge the most costly regulations, which would provide lasting stability and transparency in the rulemaking process.¹⁶⁹ Why would there be a fight over government transparency?



VETERANS

Oklahoma service members returning home to transition back to civilian life deserve full and fair access to the resources offered them. We have many programs, job sites, and employment counseling services, but those programs do not always provide veterans with the unique and tailored assistance they need.

HURRY UP AND WAIT

In 2013 the backlog of disability compensation claims sitting at the Veterans Benefits Administration (VBA) peaked at approximately 611,000 claims sitting for longer than 125 days.¹⁷⁰ After undergoing appropriate scrutiny from Congress and the media, the VA made it a priority to tackle pending disability claims that exceeded 125 days to help bring down the backlog. To accomplish that, the VA hired additional claims workers and instituted mandatory overtime hours for other VBA staff to put a dent in the backlog. From the end of FY12 to the end of FY16, VBA reported a 55-percent decrease in pending claims.¹⁷¹

While these new resources did reduce the backlog, many of these claims were decided to the detriment of the veteran who filed the claim. This created an increase of veterans who are now appealing their decisions, which has resulted in a new backlog of appeals. Unfortunately, the VA did not provide additional resources to tackle the increase of appeals filed by veterans. According to a March 2018 report by the VA Office of Inspector General, the VBA's appeals inventory increased by more than 23 percent.¹⁷² Furthermore, in FY17 veterans waited an average of approximately three years for an appeal to be resolved by VBA and an average of seven years for their appeals to be decided at the Board of Veterans Appeals.

Let's put this in perspective: Oklahoma is home to more than 300,000 veterans, of whom more than 96,000 receive disability compensation payments,¹⁷³ meaning they all filed claims to receive benefits. Approximately 10 percent of all claims are appealed by veterans for further review.¹⁷⁴ If it takes an average of three years for an appeal to be decided at VBA, at the 10-percent appeal rate, there would be a combined waiting period of nearly 28,000 years just in the state of Oklahoma. Our veterans deserve better.

SOLUTION

Congress passed the Veterans Appeals Improvement and Modernization Act of 2017 with my support. This law aims to make the VA appeals system more efficient and cost-effective and decreases a veteran's wait for his or her appeal to be fully processed. Ultimately, the goal is to decrease the backlog of legacy appeals. However, according to VA officials, they are already delayed in updating their IT systems to implement this new system for next year. Oversight is needed to hold the departments accountable as VA implements this law and tackles the complex appeals system. Our VA needs our support, just like our veterans. There are many great people at the VA trying to help, but the system and structure slow them down.



SOS: WE NEED COMMUNICATION!

Quarterbacks need to communicate with running backs to avoid fumbles. Unfortunately, it seems football players do a better job of communicating plays than federal agencies do to one another. DOL, the VA, and the Department of Defense (DOD) could all learn a thing or two from watching the seamless communication between players on the field. These agencies often duplicate the same programs so they avoid communicating and coordinating with each other and other agencies.



For example, DOL and the VA both have employment counselors for veterans that provide the same services. Although DOL's old-fashioned process of providing job counseling is not aligned with how the average individual finds employment today, both departments do not need to provide the same functions to veteran job-seekers.

In addition, Congress passed the Veterans Opportunity to Work (VOW) to Hire Heroes Act in 2011, which made the Transition Assistance Program (TAP) mandatory for service members who are preparing to separate from the military. This program helps veterans find success in family, finances, and careers after their time in the military. While this program has improved over the years, there is still concern from service members and their families that they are not fully prepared for life after service and that trying to navigate a system that encompasses three massive departments and the various agencies within those departments is often daunting.

SOLUTION

The VA knows veterans and their unique needs better than DOL. Shifting job-seeking resources from DOL to the VA to eliminate an overlap in services would improve the seamless transition of a service member into his or her civilian life. In addition, the training provided in TAP and the programs that all three departments administer to service members and veterans need to be streamlined and condensed to make it easier on service members.

The DOD and the VA need to communicate prior to a service member's transition to provide a warm-hand-off for that individual that better walks him or her through pre-military separation plans that work for service members and their families. Congress included language in the FY19 National Defense Authorization Act to improve this pre-separation process at an earlier stage, but now we need to look at programs that are administered by all three departments and where things can be condensed into one.

\$30 MILLION: WHERE'D IT GO?

We've all been there, sitting at our computer screens, working on an important project, and all of a sudden "the blue screen of death" appears. My staff recently saw this firsthand when they toured the Muskogee VA Regional Processing Office, which is one of three offices that process and decide GI Bill claims nationwide. This office is considered the best in the country because of its timeliness and quality work force. However, its staff are constantly fighting against terrible IT systems that slow them down severely.

Employees constantly have to reload or repeatedly log into their computer systems to work around conflicting software, which turns what should be a five-minute task into a 45-minute ordeal. From April to September 2018, staff have written off 16,890 man-hours¹⁷⁵ that could have otherwise been used to process veterans' claims. And that is just at Muskogee alone!

Here's the fumble: Congress authorized \$30 million in the Forever GI Bill for necessary IT repair in September 2017, which was supposed to fix problems facing the Muskogee office and others. After my visit to the Muskogee office, my question is simple: what happened to the \$30 million?

This IT problem is not limited to the Muskogee office. The VA is experiencing a slew of IT delays when it processes GI Bill benefits for veterans and their dependents. Even more, the VA recently said it won't be in compliance with the Forever GI Bill until December 1, 2019.¹⁷⁶

Unfortunately, a year ago, the President signed the Forever GI Bill into law, and we still have catastrophic delays for individuals receiving their benefits, which are primarily the result of one thing: the VA's inadequate and antiquated IT systems for processing improved benefits.

The VA hired an additional 202 employees to tackle these delays, and they are being paid overtime to deal with the backlog. More than 80,000 veterans were still waiting for their housing payments as of November 8, 2018.¹⁷⁷

SOLUTION

The VA is well aware of the IT changes needed to be made in accordance with this legislation, yet it was not prioritized. Instead, man-hours and taxpayer dollars have been wasted for a system that is still failing our veterans. We are spending more than \$12 billion a year¹⁷⁸ on the Post 9/11 GI Bill, yet the VA's IT systems to process those benefits are broken, and the VA's process for developing those systems to keep them up to date is inadequate. Employees like those individuals at Muskogee cannot continue to do their mission for our veterans if we do not give them the tools they need. The VA must reform its IT development process.



Your PC ran into a problem and needs to restart. We're just collecting some error info, and then you can restart.

20% complete



For more information about this issue and possible fixes, visit <https://www.windows.com/stopcode>

If you call a support person, give them this info:
Stop code: SYSTEM_THREAD_EXCEPTION_NOT_HANDLED

HELP WANTED!

Congress continually and rightly emphasizes the need to take care of our nation's heroes. For instance, the Vocational Rehabilitation and Employment (VR&E) program administered by the VA is a retraining and employment program for disabled veterans to return to work.

In 2016 Congress passed legislation that included a provision recognizing the need to provide a sufficient number of counselors to meet our veterans' needs.¹⁷⁹ The law requires the VA Secretary to ensure the ratio of veterans to VR&E counselors does not exceed 125 veterans to each full-time counselor.

According to the Disabled American Veterans, in order to achieve this counselor-to-client ratio, the VR&E will need another 143 staff in FY19 to manage an active caseload and provide support services to almost 150,000 VR&E participants.¹⁸⁰ Unfortunately, for several years the staffing request from the VA has flatlined despite the continuous increase in participants.

In the release of the 2018 annual report for the VR&E longitudinal study, the VA found that veterans who have achieved rehabilitation through the VR&E program reported an annual income of at least \$18,000 higher for individuals and at least \$22,000 higher for households.¹⁸¹ Those who achieved rehabilitation through the program had an annual income almost 50 percent higher than non-VR&E participants.¹⁸² This study dramatically demonstrates successful outcomes for the veteran population VR&E serves.



SOLUTION

In 2018 Congress appropriated nearly \$3 billion for the general operating expenses of the VBA.¹⁸³ Included in that figure is an additional \$87 million for a variety of initiatives, one of which is increased staff at VR&E.¹⁸⁴ Congress should monitor the use of those funds by the VA to ensure an appropriate counselor-to-client ratio is achieved. Ultimately, Congress needs to consistently evaluate programs and priorities to make funding decisions based on their demonstrated outcomes.

SUICIDE PREVENTION MECHANISMS

Here is an issue that haunts many families and our entire nation. Between 2005 and 2016, adult veteran suicides increased by more than 25 percent.¹⁸⁵ Over that same time period, 127 pieces of legislation related to veteran suicide were introduced in Congress. However, an average of 20 veterans still commit suicide every day.¹⁸⁶ We are still fumbling this ball. Big time.

A recent analysis found that the veteran suicide rate in Oklahoma was significantly higher than the national veteran suicide rate. Twenty-one percent of all suicide deaths in Oklahoma are veterans, and among veterans aged 18-34, Oklahoma had the highest suicide rate in the nation.¹⁸⁷ These tragedies are unacceptable.

Why are we in a situation where our investments in suicide prevention mechanisms have failed to provide a successful remedy for this issue? As evidenced by the average of 10 bills per year that address veteran suicide, the desire among lawmakers to tackle this in a worthwhile way is real. But the answer obviously has not been implemented yet.

SOLUTION

If we can address the issues that leave some veterans vulnerable upon their return from duty, our chances of preventing suicide will increase. As previously mentioned, the TAP has improved in recent years, leading to smoother transitions for many veterans back to civilian life, particularly in the understanding of educational and employment benefits and ease of access to health care. Emphasizing the mental health services upon their return during TAP is key to ensure they are aware of what is available to them.

Veterans should be given a specialized rundown of the services and facilities near their homes that can meet their needs during the key 180-day period. The federal government should work with already established community programs to conduct a warm hand-off prior to the service member's transition. This will ensure that service members are aware of the resources available to them once they return home and allow the community programs to proactively contact the service member and his or her family prior to his or her return home after separating from the military.

We have intensive preparation for service but have failed to intensely prepare veterans for life after their service. We are grateful as a nation for each person who serves and each person who loves and cares for a returning veteran.



PENALTY FLAGS

Not all of this year's fumbles fit into nicely categorized topics, but the fouls should still be called out. Here are some more ways the government dropped the ball.

THIS LAND (BACKLOG) IS YOUR LAND (BACKLOG)

Remember when your mom said, “You can’t have a puppy because you won’t take care of it”? That same admonition should apply to federal land holdings.

The federal government controls about 28 percent of all the land in the US, primarily west of the Mississippi, through just four federal agencies: USDA, BLM, FWS, and the National Park Service (NPS). For example, a whopping 79 percent of land in Nevada is under federal control.¹⁸⁸ While the amount of federally owned land in Oklahoma is minimal, Oklahoma taxpayers are still on the hook for the upkeep of the 640 million acres of land throughout the US.¹⁸⁹

We constantly add to the problem by increasing the acreage of public lands but seldom setting aside money for maintenance of the land. The government often purchases properties with existing maintenance backlogs and that will have routine maintenance needs in the future.

Decades of adding to our federal land holdings have led to a maintenance backlog of \$18.6 billion across the four main landholding agencies,¹⁹⁰ which means families’ experiences at these sites will not live up to their full potential. Some sites lack basic features like

reliable drinking water, maintained trails, and road access. Our nation’s families deserve better than that. Land that is not maintained has a greater risk of fire, criminal activity, erosion, wildlife issues, and more.

SOLUTION

Currently, federal agencies use revenues deposited in the Land and Water Conservation Fund from offshore energy development on federal lands to fund the purchase of new properties. Instead of using those funds exclusively for new land acquisitions, we should allow them to fund land maintenance projects. For once, this is not a problem of insufficient funds. It is a problem of too little consideration of the long-term consequences of buying land and not caring for it.

We should also ensure that when we acquire new land, the existing maintenance needs are addressed immediately at the time of acquisition so the federal government does not end up with a long list of maintenance needs it cannot afford. If we don’t have the money to take care of it, why are we buying it in the first place?



ELECTION DRAMA

There is no question Russia tried to interfere in the 2016 presidential election. But Russian interference is nothing new for the Kremlin and its cronies, to which Europeans and others around the world can attest. Every single NATO country has dealt with Russian election interference. Although systems were not breached and votes were not changed in 2016,¹⁹¹ we are foolish if we do not take the threat of electoral hacking seriously. We will have more threats to our democracy, whether from Russia, another nation, or a domestic actor.

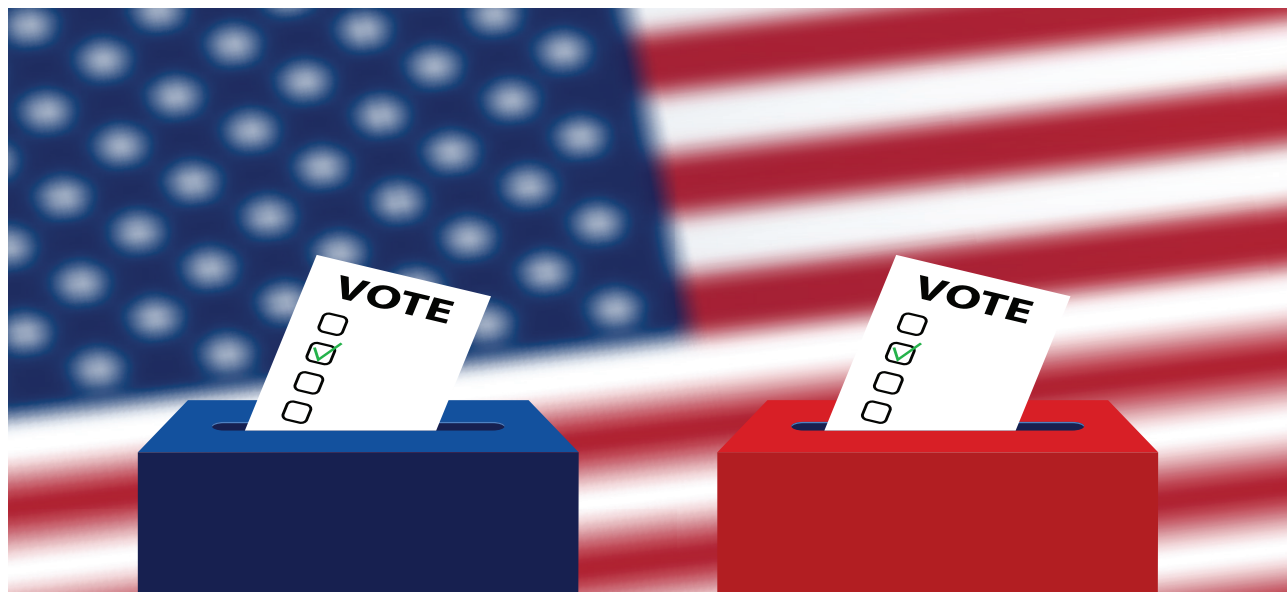
The failed attempt by Russia to tamper with our election in 2016 exposed several areas of vulnerability. Five states still cannot audit their statewide vote counts, and nine more states can only audit certain counties.¹⁹² In presidential elections one state's lack of election security is a threat to our country's national credibility. As we have seen recently, any county in America could suddenly be in the spotlight after an election. If one county cannot audit its election totals, no one in the country can have confidence in his or her vote.

SOLUTION

Elections are a state responsibility. The federal government does not and should not oversee the electoral process. Nevertheless, the federal government can play a role in equipping states to identify and deter threats to their election systems and ultimately secure their electoral process. Last year Congress allocated \$380 million to states to improve their election security. DHS did an excellent job during the 2018 election cycle assisting states with their cybersecurity. But we need to ensure we continue to make progress.

I have proposed the Secure Elections Act,¹⁹³ which streamlines federal government information-sharing of election cybersecurity threats with state election agencies and officials. The bill also provides security clearances to state officials who oversee the electoral process so we can have faster communication during a crisis.¹⁹⁴

Most states, including my state of Oklahoma, have established paper trails to enable auditing of their elections. All states can and should implement similar measures to ensure the integrity of their vote counts. The Secure Elections Act would ensure every state has the ability to audit its elections so voters can trust the final results. Americans may not like the result of each election, but we should be able to trust it.



CALL AN AUDIBLE AT THE UN TO STOP USING PALESTINIAN REFUGEES AS PAWNS

Your tax dollars are the largest contributors to the UN Relief and Works Agency's (UNRWA) budget, with the US government covering 36 percent of its bill. Since 1950 the US has contributed more than \$6 billion to UNRWA to sustain millions of Palestinian refugees.¹⁹⁵ However, UNRWA works to create a false narrative that Palestinians are suffering at the hands of Israel and the US, although both nations are working to improve the living conditions of Palestinians.

If you are born into a Palestinian refugee neighborhood, you cannot attend school, work, or get health-care like other Palestinians. You are trapped in the UN camps without hope because of your birthplace. This is because UNRWA, which is responsible for Palestinian refugees in the Near East (i.e., the West Bank, Gaza, Jordan, Syria, and Lebanon), has degenerated into a political arm of the anti-Israel movement.¹⁹⁶

Your tax dollars support the division of refugees, which has been harmful to the Middle East peace process. Contrary to the UN's Refugee Agency, US law, and international norms, UNRWA labels Palestinian refugees as the descendants of male Palestinians registered with UNRWA.

UNRWA *refugees* may even hold citizenship in other countries. For example, UNRWA considers more than two million citizens of Jordan, most of whom were born in Jordan and have lived in Jordan their entire lives, as Palestinian refugees. UNRWA also maintains refugee camps in the West Bank and Gaza, areas that are considered to be the location of a future Palestinian state.

The focus of UNRWA is to hold millions of people in separate refugee camps until Israel surrenders its sovereignty and any land it has held for the last 70 years so the descendants of refugees can take possession of the land and the government.

SOLUTION

The UN has the same definition of *refugee* for every country in the world except for Palestinians. Other wars and disputes have come and gone over the past seven decades, but the conflict over land in Israel remains. UNRWA must change its definition of *refugee* to conform to international standards for the definition or lose its funding from the US indefinitely.

If UNRWA will not change its definition of a refugee and allow Palestinians to become citizens of other nations, the US should provide assistance to Palestinians through more grassroots methods. The US has long stood by the Palestinian people, providing billions of taxpayer dollars in foreign assistance, and that should not change whether the refugee label is attached or not.

The UN prevents Palestinian refugees from accessing local education, healthcare, or employment. For 70 years refugees and their children, and now their children's children, have been held in camps without any hope, absent the abolition of Israel. It is time to use our foreign aid to help regional governments bring current UNRWA beneficiaries into their education systems and labor markets and provide grants to NGOs that provide essential humanitarian services to Palestinians. This is not about cutting off aid; it is about providing aid that helps give hope to their families and their future. I introduced the Palestinian Assistance Reform Act, which changes the way the international community provides assistance to the Palestinians so that international assistance to the Palestinians is no longer about politics but how to best improve the lives of Palestinians living in the region.



GOT BEEF?

We've got the supply, and we've got the demand, so what's the hold-up? Allowing American companies to export freely while making it easier for US consumers to purchase what they want is part of what makes the US economy the strongest in the world.

Unfortunately, the reality is that foreign competition is gaining greater access to overseas markets as our government delays efforts to expand US markets in foreign countries.

For example, Australia has negotiated a deal with Japan to significantly reduce tariffs on Australian beef imported into Japan.¹⁹⁷ This deal, known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, or TPP-11, is the remnant of the Trans-Pacific Partnership (TPP) and allows many Pacific nations' agricultural producers to gain greater access to the Japanese market, which is a highly coveted export destination for many American farmers and ranchers. The TPP would have increased US beef and pork exports to Japan. Now the US is left out, and Australia and ten other nations are taking advantage of increased access to the Japanese market.

As it stands, US beef faces a 28-percent tariff in Japan. If we continue to delay knocking down trade barriers for US exporters, our economy will suffer as other nations' exporters sweep in to fill the space and reap the economic windfall (e.g., the Australia-Japan trade relationship).

The EU has also been working to secure Japanese market access for European agriculture.¹⁹⁸ As part of the new EU-Japan Economic Partnership Agreement, Japan will remove tariffs on 90 percent of European agricultural exports.¹⁹⁹ This is not good news for our Oklahoma or American agricultural producers.

China, once one of the largest importers of US soybeans, has completely shut off buying soybeans from the US.²⁰⁰ Exporters from Brazil and elsewhere have eagerly taken advantage of the trade war with China and are now benefiting from increased exports there. It is imperative that we do not allow our "beef" with China's many trade malpractices to spill over into harming US workers who are supported by agricultural exports.



Looking ahead, the situation looks dire. The USDA estimates that our nation's agricultural exports will decline by \$1.9 billion in 2019.²⁰¹ And if other nations continue to chip away at US market shares in Japan, the EU, China, and other growing export markets, future generations will find they face an uphill battle to regain the benefits of trading openly and freely.

SOLUTION

US exporters, including many Oklahomans, would benefit from more market access to remain competitive around the globe and continue adding to our nation's overall economic growth. Unfortunately, the reality is that foreign competition is gaining greater access to overseas markets as our government delays efforts to expand US markets in foreign countries. We must act immediately and aggressively to grow foreign markets for US goods and services so our nation's economy—and Oklahoma's—can thrive.

UNCLE SAM, THE LANDLORD

Uncle Sam made a career change into the real estate market, and he isn't doing too hot. The federal government currently owns, leases, or manages 2.8 billion square feet of buildings and 496,000 structures,²⁰² which is almost the size of the entire state of Oklahoma. The annual cost to maintain these properties is \$11.5 billion.

Since 2003 federal real-property management has been on the GAO's "High-Risk List,"²⁰³ which means that for the past 15 years, the government itself has said its real-estate portfolio is of "national concern"²⁰⁴ regarding wasteful and unnecessary spending. How do we recover the ball? One way is to consider disposing of property by selling off buildings that are leased to other entities.

Oklahoma is home to 55.5 million square feet of this portfolio,²⁰⁵ including the Tulsa Federal Building at 2nd and Boulder. This five-story building is described as "the postal beauty of the southwest... a marble, bronze and granite memorial to its builders."²⁰⁶ The problem is that the building is nearly vacant but is meticulously maintained at taxpayers' expense. I know that because my Tulsa office was temporarily relocated to the building following the August 2017 tornado.

This is a commonsense proposal: sometimes it makes sense to sell a property if rent payments do not cover the cost. Most homeowners know there is a time to buy and a time to sell, but the federal government hasn't read that memo. For example, the General Services Administration (GSA), which is responsible for federal properties, manages a number of buildings whose leases are about to expire but whose rents do not cover costs.²⁰⁷

In 2016 Congress passed the Federal Assets Sale Transfer Act (FASTA). Among other things, FASTA made real property data from the GSA Federal Real Property Profile Management System accessible to the public.²⁰⁸ In 2016 the GSA reported that nearly 11,000 buildings are underutilized or unutilized.²⁰⁹

FASTA established a streamlined property disposal process that could benefit taxpayers by saving the government nearly \$8 billion.²¹⁰ That streamlined property disposal process features a Public Buildings Reform Board (PBRB), nominated by the President that will help identify high-value properties and make recommendations to the OMB. For this process to work, you need the board put into place. To date, the President hasn't nominated a chairman, and only four of the six board members have been appointed.²¹¹²¹² We can't reduce our empty space if we don't have the staff to do it.

SOLUTION

The Administration needs to nominate a chairman for the PBRB and appoint PBRB board members so FASTA's streamlined property disposal process can be implemented. Apart from FASTA, Congress must continue rigorous oversight to ensure that properties owned by the federal government are used efficiently and are not just wasting taxpayers' money. Empty space costs money to rent and money to maintain.

We made some progress in 2018 recovering this fumble. See page 52 for the details.



WHEN SALT GETS SALTY

We all want our kids to receive the best education, which is why I staunchly support parent-choice in education. However, a proposed regulation from the Internal Revenue Service (IRS) threatens to limit innovative state-run scholarship programs that successfully promote school choice.

Years ago, states created impressive and innovative scholarship programs, funded through tax credits that provide low-to-moderate-income families the opportunity to send their kids to other schools. There are nearly 272,000 low-to-moderate-income students across the country using these scholarships. The scholarship programs provide education opportunities that would not otherwise exist for these families.

Two of these programs exist in Oklahoma: the Lindsey Nicole Henry Scholarships for Students with Disabilities, which launched in 2010, and the Oklahoma Equal Opportunity Education Scholarships, which launched in 2013.

However, when Congress passed historic tax reform in 2017, state and local tax (SALT) deductions were limited to \$10,000, which hurt taxpayers in high-taxed states including California and New York because they could not deduct as much money from their federal taxes every year. As a result, some states created policies to go around the new SALT deduction limits.

The IRS quickly called a foul on that move because the states' solutions allowed taxpayers to double-dip on their deductions. However, the IRS approached this problem with a sledgehammer instead of a scalpel. Its solution was a proposed regulation issued in August 2018, "Guidance on Certain Payments Made in Exchange for State and Local Tax Credits."²¹³ While this rulemaking fixed the double-dipping problem, it also unfairly harmed the students who need these scholarships the most.

There are 24 tax-credit scholarship programs in 18 states. The average year they were enacted was 2010; the oldest was created in 1997. Only two were enacted since 2017 when the Tax Cuts and Jobs Act passed.



These scholarship programs were not created to get around the new SALT deduction limitation because they predate them. And because of that, the IRS should not target them.

SOLUTION

The proposed IRS regulation should only specifically target state innovations designed to evade federal taxes. The regulation can clearly be drawn in a way that preserves the state tax-credit scholarship programs, which are vital to ensuring that students with disabilities, in low-to-moderate-income households, students in failing districts, or others can obtain these necessary scholarships.

MAIN STREET PHARMACIES

Something I hear about often as I travel around Oklahoma is a drug-pricing issue, specifically the ways in which mom and pop pharmacies are being squeezed out of the market. As Oklahomans we like to run down to our local pharmacists to fill prescriptions and ask any questions we may have about our treatment plans. We like going local.

But in recent years, a new player has complicated the way drug pricing works and sometimes distorts the market so that traditional independent pharmacists are getting pushed out in favor of larger corporate-owned drugstores because these large pharmacy companies employ a Pharmacy Benefit Manager (PBM). The job of PBMs is to negotiate lower prices from drug makers to achieve cost savings for the customers who buy within their networks. They are the middlemen in the drug supply-chain.

Unfortunately, PBMs are often directly connected to large-box retail drug stores, so they have a financial incentive to drive customers to their own pharmacies, which in turn disadvantages the independent drug stores.

They accomplish that through a number of creative schemes designed to create an uneven playing field for traditional pharmacies. One of these creations is a technical-sounding term known as Direct and Indirect Remuneration (DIR) fees, which are essentially retroactive *claw-back* fees, that allow PBMs to come back weeks or months after a pharmacy counter transaction has occurred and take back a large portion of the sale without passing back the savings to consumers. This happens frequently without warning and without transparency in how the fees were calculated. Even more, there is no clear evidence that PBMs then pass back the savings to the consumer.

To be able to compete with big

retail pharmacies and the PBMs they own, independent pharmacies are essentially forced to sign contracts with PBMs to gain access to their massive networks. If the pharmacies don't, they could miss out on a huge amount of business.

SOLUTION

During an Appropriations hearing earlier this spring, HHS Secretary Alex Azar committed to me personally that he would look into this and subsequently requested that the Inspector General's office open an investigation into these practices.²¹⁴ This will pressure the PBM industry to change payment models and push HHS and the Centers for Medicare and Medicaid Services (CMS) to regulate the PBM practice of charging pharmacies after the point of sale with no transparency to show that consumers actually receive any savings. The Trump Administration has also made PBM management a priority in its American Patients First plan to alleviate the impact of the middleman between insurance providers and pharmaceutical companies and decrease prices for consumers.²¹⁵ PBMs and health insurance companies also push more expensive "branded" drugs rather than cheaper "biosimilars" because of their complicated rebate programs. There is no drug-pricing transparency for the patient or the local independent pharmacy. It is time to fix this issue for American consumers.



TOUCHDOWNS

It is easier to complain than to compliment sometimes. But there are many great public servants throughout our federal government that work each day to help our tax dollars to be spent wisely and efficiently. The fumbles are obvious but so are the touchdowns. This section recognizes progress that has been made in a number of policy areas to help the American people and make our government more efficient and effective. It is time to hear about some good news.



A Growing Economy – Our current economy deserves a shout out. The big touchdown here is our increasing gross domestic product (GDP) – the total amount of goods and services produced in the US. After years of stagnant growth (in 2016, GDP was 1.6 percent),²¹⁶ it increased 3.4 percent in the third quarter of 2018,²¹⁷ and a remarkable 4.2 percent in the second quarter.²¹⁸ An increasing GDP also means that incomes are increasing and jobs are being created. In 2018, the economy added 2.6 million jobs.²¹⁹ Wages also increased at the rate of 3.2 percent.²²⁰ These accomplishments are largely a result of the historic tax reform that was signed into law in late 2017, as well as the Administration’s deregulatory agenda. Our strong economy is good news for all of us.

Improved Transparency – Most Americans are right to assume bills are openly debated and amended in Congress. Unfortunately, that is often not the case, especially with appropriations bills to fund our government. However, I worked to change that last year in my Appropriations Subcommittee. The Financial Services and General Government (FSGG) subcommittee, which I chaired, funds the Department of Treasury, the Executive Office of the President, our federal courts, and more than two dozen independent agencies. Until last year, the FSGG spending bill had never been debated on the Senate floor with members allowed to offer amendments.²²¹ That is not how governing should work. My bill had an open amendment

process and a full debate on the Senate floor, which helped lead it toward wide bipartisan support.²²² I am glad my FSGG bill was included in the recent omnibus appropriations bill that was signed into law on February 15, 2019, which fully funds our government for FY19.

Native American Education – I have talked about the need to pass the Johnson O’Malley Supplemental Indian Education Program Modernization Act in the past two editions of *Fumbles*. I am thrilled that after two years it is now a touchdown after being signed into law in December 2018.²²³

Passing this legislation has been a work in progress since 2016, when Senators Heidi Heitkamp (ND), Steve Daines (MT), and I began work on legislation to address the outdated student participation count and funding formula for the Johnson-O’Malley (JOM) Program. The JOM Program provides funding to public schools to cover supplemental education programs for eligible American Indian and Alaska Native students. Program funding often applies to students from low-income families to assist with school supplies, tutoring, medical needs, and other assistance for students in Indian Country. However, DOI has not conducted an accurate count of JOM-eligible students since 1995.²²⁴ As a result, DOI has allocated funding based on data more than 20 years old.

The new law requires DOI to update the count of students eligible for participation in the JOM program.²²⁵ The program is also required to submit an annual report to Congress that reflects student participation from the previous year and budget recommendations for the next fiscal year. To ensure program oversight, GAO must also submit a report on accurate data collection and coordination. Because the program will now have accurate enrollment information, Congress will be able to gauge if the program is accurately meeting the needs of eligible students.

Fair Land Rules – In December 2018 the Oklahoma Congressional delegation passed legislation to fix inconsistent federal requirements on maintaining restricted land owned by members of the Five Tribes (Cherokee, Chickasaw, Choctaw, Seminole, and Muscogee Creek).²²⁶ The Stigler Act Amendments adjust the Stigler Act of 1947 to remove the “one-half degree” requirements on Native American blood for the Five Tribes and gives heirs an opportunity to have ownership and use of land while still maintaining the land’s restricted status.²²⁷ Previously, the Stigler Act of 1947 resulted in a significant loss of restricted land held by tribal members when ownership fell below a half blood quantum.

No other tribes in the country are subject to a federal blood quantum requirement to retain inherited restricted or trust land. Simply put, the Stigler Act Amendments give the Five Tribes the ability to retain their allotted land. This is a great win for tribal members in Oklahoma.

Opioid Addiction Treatment – Last year, Congress passed the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act.²²⁸ The bill authorized federal programs targeted at drug prevention, treatment, recovery, law enforcement, criminal justice reform, and overdose reversal. The SUPPORT for Patients and Communities Act also requires the Office of National Drug Control Policy to track federally funded grant programs targeted at the opioid epidemic. On average 130 Americans die every day from an opioid overdose.²²⁹ In 2016 alone there were 444 opioid-related deaths in Oklahoma.

²³⁰We owe it to all families suffering from this addiction to track successful treatment and recovery. Congress has appropriated more than \$6 billion to address the opioid epidemic since 2017.²³¹ President Trump has also declared the opioid crisis a national public health

emergency and established the President’s Commission on Combating Drug Addiction. Americans can continue to share their personal stories about the dangers of opioid addiction and its impact on individuals and families at www.crisisnextdoor.gov. Anything we can do to help people struggling with addiction is positive progress, but we still have a long road ahead to tackle this vicious disease.

Drug Pricing Options – Late last year, President Trump signed the Patient Right to Know Drug Prices Act into law.²³² While it is not the most high-profile health care legislation that Congress has considered over the last two years, it is a big win for patients. The bill eliminated a current practice called *gag clauses*, which were certain restrictions placed on pharmacies by insurers and PBMs.²³³ These restrictions effectively banned pharmacies from sharing information on drug pricing. For example, if pharmacists knew that a patients could buy drugs at a better price without going through their insurer’s drug plan, they couldn’t share that information. These gag clauses are now an illegal practice under the law. Pharmacists are now free to share information about drug prices that could be beneficial to patients and ultimately reduce out-of-pockets costs.

Less Expensive Health Insurance – In June of last year, DOL resurrected Association Health Plans (AHPs), which are an affordable coverage pathway for millions of Americans.²³⁴ The plans increase options in an insurance market with far too few choices thanks to the Affordable Care Act (ACA). Some background: AHPs used to insure thousands of people prior to Obamacare, but the ACA severely limited this type of coverage.²³⁵ The plans allowed small businesses and self-employed folks to band together in groups of 51 or greater to buy health insurance within or across state lines. However, Obamacare applied expensive and burdensome regulations to plans on the individual and small group markets.²³⁶

AHPs are often much cheaper and much more tailored to the unique situations and specific needs of policyholders and their families. Bringing back AHPs provides more options and affordable coverage for Americans.

Unused Federal Property – In the final seconds of December 2018, we reached the end zone with a game-winning drive on a few federal real-property initiatives. Two bills, S. 3675²³⁷ and S. 3678,²³⁸ which I introduced with Senator Gary Peters (MI), were signed into law. Two years ago, Congress approved a six-year pilot program to speed up the sale of unused or underused federal properties. The problem is that two years of authority for the pilot program have lapsed, leaving just four years to start the pilot program and use the disposal authority. We restarted the clock to ensure the pilot program could operate for six years. In another bill we gave agencies more flexibility to move out of their old spaces. The federal government has millions of square feet of unused or underused space. It is time to stop throwing tax dollars away on space we do not use. We finally helped agencies transition to smaller, cheaper spaces out of their current larger, more costly spaces.

IRS Oversight – Federal agencies are like football teams, they play to win and can sometimes be overly aggressive. When federal agencies issue regulations to advance an agenda they are double-checked by a small Executive office called OIRA, the federal regulatory referee created to serve as a neutral third party, to ensure agencies follow both legal requirements and Executive Branch regulatory procedures. However, for 35 years, IRS has been exempt from OIRA oversight, which in essence means they got to play the game without a referee.

That changed this year. On April 11, 2018, the night before a hearing I held on this issue, both OIRA and the IRS announced they were changing their prior agreement so that all major IRS rules would be reviewed by OIRA.²³⁹ This is a monumental step that is 35 years overdue.

Improve Veteran Care – In late 2018 the President signed the Veterans Benefits and Transition Act into law.²⁴⁰ I am proud that it included two of my bills that benefit veterans and their families. My provisions included a bill (S. 2622) I introduced with Senator Jim Inhofe (OK), which requires every VA medical center to create and submit a plan outlining how they will improve their facility and the care provided to our veterans so they can obtain a five-star rating.²⁴¹ All 146 VA hospitals are rated with 1 to 5 stars. This rating system provides transparency to veterans and the American taxpayer about the quality of our VA healthcare facilities. According to VA's data, only 18 of the 146 VA medical centers (that is only 12 percent of the hospitals) received a five-star rating for FY18.²⁴² This will be an added tool for the VA to put a plan into action so that the men and women who have raised their right hand for this country, receive the care they have earned.

The Veterans Benefits and Transition Act also included a bill I cosponsored with Senator John Boozman (AR) and Senator Elizabeth Warren (MA) that will prohibit any school from negatively impacting a GI Bill recipient if the VA is late in paying tuition and fees to the institution.²⁴³ This problem is a result of another example of the VA's failing IT systems – many veterans and their family members were not receiving their living stipends on time while attending school, so schools were not receiving the tuition on time. Because of that, some schools began to require GI Bill recipients to take out loans to cover the loss or dropped veterans from their classes. This is not what our veterans and their families deserve.

Unjust Detention of Americans – America’s interests were upheld this year in the international arena against Turkey. As a NATO ally, Turkey is involved in producing various parts for the F-35 Joint Strike Fighter. However, Pastor Andrew Brunson’s imprisonment in Turkey compelled Congress to rethink Turkey’s involvement in the production of our military aircraft.²⁴⁴ The Senate worked to cut off access to F-35 sales to Turkey and source Turkish-produced parts elsewhere. I worked with my colleagues on the Senate Appropriations Committee to author legislation that would have barred the transfer of the F-35 aircraft to Turkey, and sanctioned Turkish officials responsible for the prolonged and unjust detention of American citizens.²⁴⁵ Ultimately, Congress passed a provision in the FY19 National Defense Authorization Act (NDAA) that directs the DOD to submit a report outlining a plan to source F-35 parts from countries other than Turkey.²⁴⁶ The US will not tolerate arbitrary arrests and unjust imprisonment of its citizens.

UN Spending – UN peacekeeping missions are important tools we use in conflict areas around the world, while sharing the costs with other nations. However, the US has for too long been over-burdened with the enormous costs associated with maintaining peacekeeping missions that have no end in sight and at times fail to fulfill their mandates. For years the US has paid more into the UN peacekeeping budget than the other permanent five members of the UN Security Council combined. That means we pay more than all of the contributions from China and France, Russia, and the United Kingdom added together.²⁴⁷

In 1994 President Clinton signed a law that prohibits the US from funding more than 25 percent of the UN peacekeeping budget.²⁴⁸ Unfortunately, nearly every year since then Congress has authorized contributions greater than 25 percent.²⁴⁹

Which is why, for the past three years I have asked the Senate Appropriations Committee to abide by the 1994 law to keep the US contribution at or below 25 percent of the total peacekeeping budget. Fortunately, when Ambassador Nikki Haley arrived on the scene in the Trump Administration, I found a partner not only willing to work with me on that, but someone who shared the same passion for efficiency and routing out waste at the UN. I am proud to say that for FY17-18 we finally kept to the 25 percent cap and other nations are paying more for UN peacekeeping.²⁵⁰ That is a major win for US taxpayers.

Criminal Justice Reform – The major criminal justice reform law Congress passed in December, the First Step Act, included a provision modeled on a bill I introduced with Senator Cory Booker (NJ), the MERCY Act, which restricts solitary confinement for juveniles.²⁵¹ While temporary confinement will still be allowed when the safety of the juvenile, other inmates, or guards is at risk, children in federal custody will not be allowed to stay in solitary confinement for an extended period of time. This change does not eliminate the discretion of correction officers when it comes to addressing emergency situations, but it does prevent facilities from detaining juveniles in solitary confinement without justification, including using solitary confinement to retaliate against offenders. Allowing juveniles to be part of the general prison population allows them to access education and rehabilitative services and utilize other opportunities to make their transition back into society as smooth as possible. The First Step Act also allows more faith-based groups of all faiths to help federal prisoners connect with their families, learn job and social skills, and prepare for a life without crime. This is a significant help for many in our federal prisons.

Fair FEMA Treatment – A 2017 fumble was resolved to end a long-standing discriminatory rule that disallowed disaster relief aid to houses of worship. FEMA repeatedly praised houses of worship for their shelter, aid, and partnership in the aftermath of disasters but prevented them from receiving disaster aid grants like other non-profits including, museums, zoos, or even community centers. Three disaster-damaged houses of worship appealed all the way to the Supreme Court, which asked FEMA to explain its discrimination. FEMA quickly published a new policy ending its long-standing policy of religious discrimination.²⁵² FEMA also opened up a new application window for houses of worship previously denied aid under the old policy. Everyone should be treated equally and fairly.

Fighting Human Trafficking – A big problem highlighted in the 2017 *Fumbles* was the 7,500 instances of human trafficking in 2016 that were reported throughout the US, which represented a tragic increase of 74 percent from 2015. In 2018 Congress passed the Allow States and Victims to Fight Online Sex Trafficking Act to combat online sex trafficking.²⁵³ This bill will ensure justice for victims of online sex trafficking and ensure websites such as Backpage.com, which knowingly facilitate sex trafficking, are held liable and brought to justice. The National Center for Missing and Exploited Children reported an 846 percent increase in reports of suspected child sex trafficked from 2010 to 2015.²⁵⁴ This directly correlates to the increased use of the internet to see children for sexual purposes. With an estimated 14,000 sex- and labor-trafficking victims each year in America, the bill will save lives.

Foreign Technology – In the 2017 edition of *Fumbles*, I talked about the threat that the Russian Kaspersky software has on data security. Russia should not be allowed to access to our government computers at all and certainly not through antivirus software our agencies load on their computers. As of 2018, Kaspersky software has been kicked off all US government computers.

The same should be said for China, which remains on the US Trade Representative's (USTR's) Priority Watch List. What does that mean? It's pretty simple. American products ranging from sporting equipment


to medicine, aircraft equipment, and semiconductors are often counterfeited by China at the expense of the American economy and our innovative spirit. According to a 2017 report by the USTR, Chinese theft of intellectual property costs the US between \$225 and \$600 billion annually.²⁵⁵

Although most computer hardware used by our military and intelligence community is designed in the US, over 90 percent of our computers are manufactured in China.


Telecommunications Vulnerability – In 2018 the DOD stopped the purchase of ZTE and Huawei cell phones on US military bases because of the concerns that the Chinese manufactured them with technology to spy on users. At the end of 2018, the Senate approved a bill I introduced with former Senator Claire McCaskill (MO), the Federal Acquisition Supply Chain Security Act, which establishes a Federal Acquisition Security Council and provides our Executive agencies authority to mitigate supply-chain risks in the procurement of IT.²⁵⁶ The bill strengthens supply-chain risk management to address vulnerabilities in government IT acquisitions and puts the right information in the right people's hands at the right time to mitigate threats to our national security and the public interest.


Safer Driving – The 2017 volume of *Fumbles* highlighted an issue involving driving complaints at the USDA's Food Safety and Inspection Service (FSIS). Vehicles leased from GSA by FSIS accounted for 35 percent of all leased vehicles but accounted for 55 percent of all complaints involving driving.²⁵⁷ The IG reviewed these complaints and found that FSIS had not investigated or responded to any of the complaints. Since last year's report, FSIS revised its policies regarding driving complaints and now reviews all reports and assesses them for further investigation.²⁵⁸

FORWARD PROGRESS

 **100 Words or Less** – A recent DOI regulation used more than 2,500 words to say that the federal law for hunting on national park land in Alaska should be the same as the current state law.²⁵⁹ While the Trump Administration has issued significantly fewer regulations than the Obama Administration, the *Federal Register* still contains more than 61,000 confusing pages.²⁶⁰ Hard-working small business owners cannot read thousands of pages of legalese to find out what new requirement an agency in Washington has placed on them that day.


Help is now on the horizon. My bill, S. 395, the Providing Accountability Through Transparency Act, has bipartisan support and unanimously passed out of the Senate Homeland Security and Governmental Affairs Committee on February 13, 2019. This legislation would require all agencies to provide a plain-language summary of 100 words or fewer for each regulation so business owners can quickly understand what a new regulation will do and whether it affects them.²⁶¹ Wouldn't it be nice to be able to understand new regulations? By the way, this entry took fewer than 100 words to explain its recommendation.

 **“Free” Cell Phones** – In the first edition of *Fumbles* in 2015, I highlighted the FCC's Lifeline program, which subsidizes telecommunication services for low-income families. All Americans pay for the Lifeline program through the USF on our phone bills. However, Lifeline has expanded the program to benefit individuals who do not qualify for discounted service or has provided multiple phones to the same address. As a result my Subcommittee held hearings to urge FCC Chairman Ajit Pai to address the issues surrounding Lifeline.²⁶² The FCC then announced in November 2017 an action to reduce fraud and waste in the program by cracking down on “free” cell phones.²⁶³ The DC Court of Appeals sent it back to the FCC for a new rulemaking proceeding and open comment period. In the days ahead, I will continue to push for reforms to the Lifeline program to ensure it achieves its original intent.


 **Cleaner Affordable Energy** – I have been vocal about my opposition to the Clean Power Plan (CPP), which was highlighted in the 2015 edition of *Federal Fumbles*. The CPP created broad federal


overreach to force states to shut down critical power plants, resulting in significant job loss and decreased energy reliability. The CPP is a clear example of the federal government picking winners and losers instead of consumers. It costs American consumers an estimated \$8.4 billion.²⁶⁴

Thankfully, the Trump Administration unveiled its proposed replacement for the CPP, called the Affordable Clean Energy rule (ACE) in August 2018.²⁶⁵ ACE still calls on states to reduce greenhouse gas emissions, but it allows states to use various technologies and efficiency improvements to achieve their goals.²⁶⁶ This is a much better proposal than the CPP's one-size-fits-all approach. In the days ahead, ACE will work its way through the rulemaking process.

 **Sexual Assault Reduction and Accountability** – A 2017 *Federal Fumbles* entry talked about the difficult process at DOJ to report and investigate allegations of sexual assault and harassment in the workplace. Thanks to the courage of many victims, society has cast a spotlight on sexual harassment and assault in the workplace, Hollywood, the government, the military, the media, and many other areas of life. It is unacceptable that individuals, especially those in the workplace, are subjected to the physically, emotionally, and mentally damaging effects of unwarranted sexual advancements and aggression from neighbors, colleagues, or superiors.

While work remains to prevent abuse, protect victims, and hold abusers accountable, Congress took steps last year to lead by example and improve its own harassment and assault policies. The Congressional Accountability Act of 1995 Reform Act revises some of the once-misguided resolution procedures for sexual assault and harassment on Capitol Hill.²⁶⁷ In addition to reforms to the process for filing a claim and proceeding through mediation, current and former Members of Congress must reimburse the Treasury for settlements resulting from a member's act of discrimination or sexual abuse. The Senate also resolved to require comprehensive annual anti-harassment training for ALL Senate employees, including senators, their staffs, interns, fellows, and detailees to prevent instances of harassment and assault in the first place.

 **Guidance is Only Guidance** – Regulations are written in complicated bureaucratic language that requires further explanation. To help the public better understand federal regulations, agencies issue guidance that includes frequently asked questions, bulletins, and memos. These documents are supposed to be used to simply explain the regulations in everyday language. Prior administrations have taken advantage of guidance as a way of circumventing the regulatory process to create a new policy.²⁶⁸ The Trump Administration has taken significant steps to end this unlawful regulatory practice. Most notably, the DOJ has said it will not use these non-binding guidance documents as the bases for civil enforcement. In other words DOJ will not sue someone for violating a document that does not have the force of law.²⁶⁹ Other agencies are following suit. Recently, a host of financial regulators made public pronouncements that they will emphasize that their guidance is non-binding and that only actual regulations that go through the legal process will be enforceable.²⁷⁰ This is a benefit to all Americans—clear and simple is good.

 **Tulsa Levee** – Believe it or not, Tulsa’s flood control is currently managed with an old whiskey bottle tied to a string.²⁷¹ However, that won’t be the case for much longer. In July 2018 the USACE fully funded the feasibility study for the Tulsa-West Tulsa levees project in a disaster relief supplemental bill.²⁷² You might be thinking “great, another federal study for another project. Who cares?” What many do not realize are the nonsensical hurdles that had to be cleared to start the feasibility study for this critical water infrastructure repair. In 2016 Congress authorized the feasibility study along with six others, but the next year, only one project received the green light. Now that it is funded, Tulsa is one step closer to bringing its 1940s levee system into the 21st century. Once the study to determine how best to repair the system is completed, the levees will undergo critical improvements so they will reliably protect life and property. The USACE itself classified the Tulsa levees as “high risk.”²⁷³ They are right. Spending federal dollars now to protect life, property and more than \$2 billion of critical infrastructure, including refineries and chemical companies, is a smart use of our tax dollars. This is a huge win for the people of Tulsa and Sand Springs.

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