

# CORD

## Federal Fumbles Vol. 3

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# 100 WAYS THE GOVERNMENT DROPPED THE BALL VOL. 3

100 WAYS THE GOVERNMENT DROPPED THE BALL

VOL. 3

BY US SENATOR JAMES LANKFORD

My fellow taxpayers:

Over the last 11 months, Congress and the new Administration have worked to roll back many of the burdensome regulations put in place by the last Administration and highlighted in previous editions of *Federal Fumbles*. Using the Congressional Review Act, which was signed into law by President Clinton in 1996, Congress was able to repeal 14 overly burdensome or needless regulations put in place during the waning days of the Obama Administration.<sup>1</sup> As a result, the businesses or individuals affected by the regulations will save \$34.8 billion and more than 4.2 million hours of paperwork.<sup>2</sup>

As is custom for new Administrations, in January 2017 the President ordered a temporary freeze on the implementation of new regulations.<sup>3</sup> The Administration also reviewed existing regulations and found more than 850 regulatory actions that could be revoked or withdrawn.<sup>4</sup> In just the first half of 2017, federal agencies withdrew or rolled back 469 agency actions that had been announced in the fall of 2016 and cut in half the number of planned regulations that will have an impact of more than \$100 million a year on our economy.<sup>5</sup>

While we made tremendous progress in alleviating the regulatory burden on the American economy, we have work to do in reforming how the federal government utilizes your tax dollars. In FY16, the federal government collected \$3.267 trillion in taxes.<sup>6</sup> That includes income taxes, corporate taxes, Social Security, and unemployment. Unfortunately, it *spent* \$3.852 trillion, a deficit of \$584 billion.<sup>7</sup> Since FY09, the federal government spent \$7.2 trillion more than it has taken in.<sup>8</sup> Congress has yet to agree on how to stop overspending, which is why the federal government is almost \$20 trillion in debt today.<sup>9</sup>

As Congress and the Administration turn to a new year, it is incumbent upon both to display the courage and the willingness to make the difficult decisions that will rein in our out-of-control federal spending. It is unacceptable that a child born in the US today will become a citizen of a country in which his or her share of the national debt is more than \$165,000.<sup>10</sup> Without a major change in the way Congress operates, that amount will only go up in the years ahead.

Included in *Federal Fumbles* is just a sampling of instances where federal agencies or departments have wasted or inefficiently used billions of your dollars. The program and grant funding discussed in this book has already been allocated or spent and cannot be recovered. But highlighting it here provides lessons for agencies and hopefully encourages Congress to utilize its oversight and legislative authority to prevent future waste and misuse of federal tax dollars.

All Members of Congress and their staffs should be able to utilize this book as they consider budget requests, hold oversight hearings, and discuss reform legislation. As the people's representative and voice in Washington, it is our responsibility to provide a check against the spending and regulatory habits of federal agencies. For federal agencies, this book provides multiple opportunities to improve their operations. Many of the grants highlighted in this book are instances in which agencies have funded projects either outside their domain or without a direct national interest. Several of the entries in this book involve instances in which agencies have spent taxpayer dollars before engaging in effective planning to ensure the item or program is feasible, cost effective, or even possible. That can and should be easily fixed. It is appropriate for Congress to provide federal agencies with the necessary funds and tools to accomplish their mission and protect or serve our nation. However, it is essential for Congress to ensure those agencies are doing the right thing, the right way.

Americans rightly expect great things from their leaders in Washington. I offer this book as a guide for elected officials of both parties to identify areas of improvement so we may come together to do the work our constituents expect and our country deserves.

In God We Trust,



James Lankford  
United States Senator



# List of Acronyms

ARC	Appalachian Regional Commission
BLM	Bureau of Land Management
BOP	Bureau of Prisons
CBO	Congressional Budget Office
CBP	Customs and Border Patrol
CDC	Centers for Disease Control
CDFI	Community Development Financial Institutions
CFPB	Consumer Financial Protection Bureau
CMS	Centers for Medicare and Medicaid Services
CVF	Crime Victims Fund
DHS	Department of Homeland Security
DOD	Department of Defense
DOE	Department of Energy
DOJ	Department of Justice
DOL	Department of Labor
DOT	Department of Transportation
EAS	Essential Air Service
EITC	Earned-Income Tax Credit
EOIR	Executive Office for Immigration Review
FCC	Federal Communications Commission
FDA	Food and Drug Administration
FEMA	Federal Emergency Management Administration
FinCEN	Financial Crimes Enforcement Network
FSIS	Food Safety and Inspection Service
FTC	Federal Trade Commission
FY	Fiscal Year
GAO	Government Accountability Office
GSA	General Services Administration
HHS	Department of Health and Human Services
ICE	Immigration and Customs Enforcement
IG	Inspector General
IHS	Indian Health Service
IPERA	Improper Payments Elimination and Recovery Act



# List of Acronyms

IRS	Internal Revenue Service
ISIS	Islamic State of Iraq and the Levant
ITEF	Iraq Train and Equip Fund
NAHASDA	Native American Housing and Self-Determination Act
NASA	National Aeronautics and Space Administration
NCCC	National Center for Chimpanzee Care
NEA	National Endowment for the Arts
NED	National Endowment for Democracy
NEH	National Endowment for the Humanities
NIH	National Institutes of Health
NMTC	New Markets Tax Credit
NOAA	National Oceanic and Atmospheric Administration
NRCS	Natural Resources Conservation Service
NRP	National Research Program
NSF	National Science Foundation
OCO	Overseas Contingency Operations
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
OPM	Office of Personnel Management
OWCP	Office of Workers' Compensation Programs
PRA	Paperwork Reduction Act
SAVE	Systematic Alien Verification for Entitlements
SBA	Small Business Administration
SIGAR	Special Inspector General for Afghanistan Rehabilitation
SNAP	Supplemental Nutrition Assistance Program
SSA	Social Security Administration
SSI	Social Security Insurance
USCIS	US Citizenship and Immigration Services
USDA	US Department of Agriculture
USGS	US Geological Survey
USMS	US Marshals Service
USPS	US Postal Service
VA	Veterans Affairs Administration



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## Social Security for Chimpanzees

In 2012, the NIH announced that on the recommendation of an advisory council, it planned to “substantially reduce the use of chimpanzees” in research projects.<sup>11</sup> At the time, the NIH director stated that “new scientific methods and technologies have rendered their use in research largely unnecessary.”<sup>12</sup> The statement was followed by a 2015 announcement that the NIH would cease funding all biomedical research conducted on chimpanzees.<sup>13</sup>

Since 2000, the NIH has spent more than \$52 million to support the Chimpanzee Biomedical Research Resource, now called the National Center for Chimpanzee Care (NCCC).<sup>14</sup> The NCCC is now home to the NIH’s 139 chimpanzees that were previously used for biomedical research.<sup>15</sup> Despite the announcement that research would no longer be conducted, the NIH provided \$2.6 million in both 2015 and 2016 to operate the NCCC, which is more than the \$2.5 million provided in 2000.<sup>16</sup> The \$2.6 million annual funding for 139 chimpanzees translates to roughly \$18,700 per chimp per year,<sup>17</sup> meaning it would likely be cheaper to enroll all 139 chimpanzees in college since that amount would more than pay for tuition, room, and board in many state universities.



It is unclear why the NIH has continued to pay to keep, feed, and care for the 139 chimpanzees at the NCCC. The \$2 million or more spent on the chimpanzees annually would be better spent on actual medical research to benefit the American taxpayers who paid for it. The NIH should safely relinquish the chimpanzees to animal sanctuaries, zoos, or other groups who can use private dollars for their care.

## This Is Weird, Right?

As evidenced in previous editions of *Federal Fumbles*, the American public’s love for William Shakespeare has sometimes translated into unusual and unnecessary federal expenditures. For instance, tens of thousands were spent to support a production of *Silent Shakespeare* in 2015.<sup>18</sup> However, the strangeness of those fumbles pales in comparison to a \$30,000 NEA grant to support a production of *Doggie Hamlet*.<sup>19</sup>

*Doggie Hamlet* actually includes humans yelling or running toward very confused sheep and dogs.<sup>20</sup> The production, which does not include any actual lines from *Hamlet*, is conducted outdoors in a 30-by-50-foot field in New Hampshire.<sup>21</sup> The play is described as “a beautiful and dreamlike spectacle weaving instinct, mystery, and movement into an unusual performance event.”<sup>22</sup>



Many people view art subjectively, and there are likely many who would enjoy watching this play. However, with \$20 trillion in national debt, it is difficult to explain to taxpayers in Oklahoma or Montana—even the people who work with sheep daily—why \$30,000 was spent for a few people to run around a field yelling at sheep. The NEA should refocus its efforts and its support on grants that advance the arts and our national interests.





## You're Fired. Just Kidding.

A red stamp with a distressed, ink-like texture. The words "YOU'RE FIRED" are written in a bold, sans-serif font, stacked in two lines. The stamp has a slightly irregular, hand-stamped appearance.A green stamp with a distressed, ink-like texture. The words "YOU'RE HIRED" are written in a bold, sans-serif font, stacked in two lines. The stamp has a slightly irregular, hand-stamped appearance.

Few small business owners enjoy firing a bad employee. Even if the person has been a terrible worker, firing him or her is unpleasant and leads to the lengthy, expensive process of hiring and training a replacement. Perhaps wishing to avoid the challenge of finding new employees, the IRS has a long history of hiring employees who were previously fired by the IRS for bad conduct.<sup>23</sup>

A 2014 Treasury IG investigation discovered that from 2010 to 2013, the IRS hired 824 people who were previously terminated due to “prior conduct or performances issues.”<sup>24</sup> In fact, one fired employee was rehired even though his employee file had “DO NOT REHIRE” stamped on it.<sup>25</sup> Despite IG and congressional pressure to stop hiring fired employees, in July 2017 the IG released a new report showing more than 200 previously terminated employees were rehired between January 2015 and March 2016.<sup>26</sup> Reasons for their termination or suspension included not filing tax returns and improperly accessing taxpayer records.<sup>27</sup>

This is an issue Senator Richard Burr has long sought to resolve. Earlier this year, he introduced S. 1643, the Ensuring Integrity in the IRS Workforce Act.<sup>28</sup> This commonsense legislation will prevent the IRS from rehiring terminated employees.<sup>29</sup> All federal agencies, including the IRS, should hire the best and brightest for public service. An employee who was previously fired by a federal agency for bad behavior or performance should not be a top candidate for rehire.

## We'd Like to Offer You a Job—in a Year

Earlier this year, DHS announced plans to fulfill the President's order to hire 5,000 new CBP agents and 10,000 new ICE agents.<sup>30</sup> The intent of the new hires is to ensure both CBP and ICE have the ability to do their jobs, keep us safe, and enforce our immigration laws.<sup>31</sup> The only problem is that CBP and ICE may not be able to complete these hiring plans.

A recent IG investigation found that both CBP and ICE “are facing significant challenges in identifying, recruiting, hiring, and fielding the number of law enforcement officers” needed.<sup>32</sup> As also pointed out in a 2016 IG report, CBP and ICE have “significant delays in hiring,” with CBP at one point averaging 456 days to hire a single new agent.<sup>33</sup> That is primarily caused by lengthy background checks, an arduous polygraph test, and other steps taken before an applicant may become an agent.<sup>34</sup> For ICE, the slow hiring process is compounded by an “inadequate” process of using multiple systems to track and process an applicant.<sup>35</sup>

While the situation has improved, the IG stated last summer that “CBP will not be able to hire to its operational needs.”<sup>36</sup> As both agencies continue to work toward meeting their hiring goals, they should work with Congress to ensure there are no roadblocks to hiring quality agents in a reasonable amount of time. Last summer, Senators Flake, McCain, and Johnson introduced the Boots on the Border Act to help speed up the process of hiring CBP agents. That and similar legislation should be quickly enacted so CBP and ICE have the staff levels and tools necessary to keep our nation safe and enforce our immigration laws.



## I Want My Nickel Back

The stickleback is a fish with three spines found throughout the Northern Hemisphere in fresh or saltwater bodies.<sup>37</sup> Sticklebacks are known for a protective armor that defends against predators, though freshwater sticklebacks tend to have less armor than the saltwater variety.<sup>38</sup> Stickleback have also been the focus of multiple NSF research grants spread over eight years to determine how the fish adapt to different environments.

In 2003, the NSF provided \$154,000 to determine in part how the stickleback adapts to different ecological conditions.<sup>39</sup> This was followed in 2009 by two grants<sup>40,41</sup> totaling \$671,657 to determine how the stickleback changed and adapted after moving to a new area in Alaska. These grants have now been followed by three more grants<sup>42,43,44</sup> totaling \$1,836,132 to study how the stickleback adapts to murky water in Iceland. That brings the total to more than \$2.6 million just to study how the stickleback adapts to different environments.

While there may be some value in knowing how the stickleback adapts to different environments, it is unusual that the NSF would fund more than \$2.6 million on similar research and approve more than \$1.8 million in research in a different country. Congress and the NSF should ensure federal research dollars advance new and beneficial research that helps solve actual problems faced by Americans.



## Puppet Power



Generations of young people grew up watching *The Muppets* and *Sesame Street* with famous puppets like Kermit the Frog, Miss Piggy, and the indomitable Cookie Monster. These shows and puppets have shaped millions of lives throughout several generations. But does that influence translate into a federal obligation to spend taxpayer dollars to create 3-D, electronic versions of puppets so more people can play with them?

Earlier this year, the NEH provided \$74,851 for a university to utilize 3-D technology to create electronic versions of puppets so viewers can “manipulate and ‘play,’ through game-like technology, with a puppet or other performative object held in a digital archive.”<sup>45</sup> The funding will be used to scan up to 15 puppets into a system that will enable viewers to control puppet functions and facial expressions either on a desktop computer or virtual reality device.<sup>46</sup>

Virtual reality gaming is a multi-million-dollar industry that does not need federal funds to survive. It is difficult to discern why this project needs federal funds or in what way it advances our national interest. Taxpayers may enjoy watching or playing with puppets, but with a \$20 trillion national debt, it is likely not a major priority for many of them. As Congress works through the appropriations process for the NEH, it should require the agency to certify that grants issued will result in a national benefit directly related to the humanities.

## “The Freezer”

As of spring 2017, more than 5 million Syrians had sought refuge in countries around the world.<sup>47</sup> The US has accepted thousands of refugees since 2011, with most of the Syrian refugees remaining in Turkey, Lebanon, Jordan, and Iraq.<sup>48</sup> Though called “the freezer” by one refugee, Iceland has welcomed around 60 Syrian refugees since 2015.<sup>49</sup> For some reason though, their arrival has warranted an *American NSF* study.

Announced in summer 2016, the almost \$40,000 NSF-funded project seeks to determine the public services provided by the Icelandic government to refugees arriving in the country. The original project was requested by the Icelandic government,<sup>50</sup> which begs the question: why are *American* taxpayers paying for this study, instead of Iceland or even the UN.

While this grant may be smaller than others in *Federal Fumbles*, it is still important to note that almost \$40,000 of taxpayer funds were spent to help another country study how it provides services to refugees. There is no discernible reason why the NSF should view this project as a national priority. Congress should review the NSF’s priorities in determining which projects to fund and ensure limited federal dollars are used efficiently and effectively to benefit the *American* public.

## Senate Waiting Games

With each new administration comes the arduous task of filling thousands of open jobs throughout the Executive and Judicial Branches. From the Secretary of State to the Assistant Secretary of Energy for Fossil Energy, many of these positions require the US Senate to consider and confirm a nominee before the individual is allowed to officially begin work.<sup>51</sup> In fact, when President Trump took office in January 2017, he was given the responsibility of nominating more than 1,200 people to positions that require Senate confirmation.<sup>52</sup> Unfortunately, due to severe delays within the Senate, the President’s nominees have been confirmed at a much slower pace than previous presidents, and many positions still remain unconfirmed.



By the end of October of their respective first terms, President Bush had 375 of his nominees confirmed, and President Obama had 359 confirmed. By comparison, President Trump had 172 confirmed.<sup>53</sup> At this pace, the Senate will take 11 years to confirm all of the President’s nominees.<sup>54</sup> A major reason for the delay is the new practice of multiple Senators requiring the Senate to spend all or most of the allotted 30 hours of debate on each nominee, which has not traditionally been utilized.<sup>55</sup> Nominees before the full Senate have already testified at and been voted on by a Senate Committee, which would indicate that it is about *delay*, not debate. Many nominees are then confirmed on a bipartisan basis after the delay. For instance, after a 30-hour delay, the Senate confirmed now-District Judge David Nye in a unanimous vote.<sup>56</sup>

When Senate confirmation is delayed, federal agencies and departments lack the day-to-day management necessary to fulfill their missions. Because federal employees often cannot issue a final decision without the approval of a Senate-confirmed leader, business comes to a standstill until that leader is in place. Currently, Democrats are preventing a Republican president from establishing his or her staff. But sometime in the future, Republicans will likely reciprocate and prevent a Democrat president from seating his or her staff; gridlock then moves from Capitol Hill to all of Washington.

The solution to this problem is already in the hands of the Senate. In January 2013, the Senate agreed to a one-year standing rule for debate of presidential nominees: two hours for district court nominees and eight hours for all other nominees except cabinet members and appellate judges, whose nominations could be debated for 30 hours.<sup>57</sup> It would take 60 votes in the Senate to make this standing rule permanent, but there is likely bipartisan support for such a move (in 2013, the one-year rule passed the Senate by a vote of 78-16). In November 2013, the *Reid Rule* was implemented, changing the requirement for nominees to a simple majority vote and making final passage of most nominees almost certain following committee approval. The American people expect the Senate to debate legislation, which is not possible if the Senate calendar is filled with 30-hour debates on presidential nominees. It is time to get the Senate back to work.

## Disaster Recovery for All Unless...

Since 2000, FEMA has responded to more than 2,200 disaster declarations,<sup>58</sup> including earthquakes, tornadoes, ice storms, wildfires, and terrorist attacks. In the aftermath of a disaster, FEMA joins local charities, churches, and other groups that come together to help communities rebuild. Federal aid after a disaster is available for local and state governments, for-profit and non-profit businesses, and families.<sup>59</sup> Unfortunately, one group in the community is not allowed to receive federal disaster assistance, even though it is often one of the first to help others in times of need.



The 1988 Robert T. Stafford Disaster Relief and Emergency Assistance Act gives FEMA the authority to provide disaster assistance to non-profits including museums, public utility services, libraries, zoos, and *any* non-profit facility that provides health or safety services.<sup>60</sup> However, FEMA decided not to allow houses of worship, which often serve as a place of refuge for those in need after a disaster, to be included in FEMA's interpretation of the law.<sup>61</sup> That means that houses of worship, regardless of faith or denomination, may not receive any disaster recovery assistance even if their facilities are entirely destroyed by tornadoes or wildfires. FEMA assistance is designed to fill gaps in insurance or charitable assistance, not to cover total replacement cost.

The First Amendment prohibits the federal government from giving special preference or endorsing a certain religion. In early 2017, the Supreme Court determined that governments cannot discriminate against a church or faith-based entity simply because of its faith.<sup>62</sup> Government cannot tell a church that it may access benefits only if it is willing to give up its faith. The First Amendment should not be used to punish those who offer aid and comfort to communities in need. As requested in a June 2017 letter to then-DHS Secretary Kelly, Senator Lankford asked FEMA to revisit its interpretation of the rules and make houses of worship eligible for disaster assistance if they meet all the other requirements to receive assistance.

## Antivirus but Not Anti-Spy

With the spread of computer viruses, hacking, and other cyber threats, many entities around the globe turn to antivirus and security software to protect networks and safeguard personal and proprietary information. Unfortunately, one of those software companies may actually allow the Russian government to spy on other governments and citizens.



For years, many have suspected that the Russian government uses the popular antivirus company, Kaspersky, to spy on the American government through its installed software.<sup>63</sup> However, it took DHS several years to study the software before a determination was made that Kaspersky's software should be removed from federal agency computers.<sup>64</sup> That came more than a year after the FBI informed private companies of the threat from Kaspersky software and encouraged alternative software to secure networks and computers.<sup>65</sup>

The federal government knew or should have known of the potential threat from Kaspersky software for at least three years before the order for its removal from government computers. That means Russia had three additional years of access or potential access to highly sensitive federal records, plans, and information.

To keep our networks and computers safe from any type of cyber-attack, DHS and intelligence agencies should not take several years to study a potential problem before making a decision. Those who had knowledge of a problem with Kaspersky or good reason to believe there was a problem should have moved much more quickly to notify others and ensure the software was removed from computers. With the ongoing threat from Russian hackers, the American government should not use any software from Russian companies. Russia may always want to spy on the American government; we should not make their job easier.

## Mailing It In

The 2016 presidential race set records for citizen involvement during the campaign and on Election Day.<sup>66</sup> Americans gave their time, worked phone banks, walked through neighborhoods encouraging their neighbors to vote, or actively supported their preferred candidate or cause. That includes millions of federal employees. Unfortunately, some of the political activism of federal employees came at a steep cost to federal taxpayers.<sup>67</sup>

At the behest of Senator Ron Johnson, USPS's IG reviewed how USPS supervisors approved leave without pay for employees to engage in union political activities during the 2016 campaign.<sup>68</sup> The review found that 97 carriers were given between 4 and 50 days off, totaling 2,776 days, "to participate in activities on behalf of the union."<sup>69</sup> Almost all of the leave was granted at facilities located within six battleground states.<sup>70</sup> At just 22 of the 92 facilities where these carriers worked, the leave granted led to \$90,682 in overtime costs to pay others to cover the work of those off campaigning.<sup>71</sup> The IG also found that the USPS Labor Relations Manager "circumvented" policy by ordering the 92 carriers be granted leave and did not coordinate this leave to ensure alternative carriers were available at no extra cost.<sup>72</sup>

Congress should continue to investigate and ensure all federal agencies have policies in place that enable employees to be active in the political process on their personal time without costing taxpayers extra money or using federal employees to benefit a preferred candidate or party.

## Half a Billion Dollars Down the Drain



In 2007, the world welcomed the fifth Harry Potter movie and the iPhone and said goodbye to the great singer Luciano Pavarotti. At the same time, the US Air Force began a 10-year project to upgrade its Air Operations Center, a control hub where air, space, and cyberspace operations around the world are overseen by the Joint Forces Air Component Commander.<sup>73</sup> Unfortunately, delays and cost overruns led to the termination of the uncompleted project in 2017 after the Air Force estimated spending \$745 million.<sup>74</sup>

In 2013, the Air Force estimated to Congress that the upgraded Air Operations Center would be operational in 2016 at a total development cost of \$374 million.<sup>75</sup> Late in 2016, the Air Force updated its estimates and projected completion in 2019 at nearly *double* the original cost.<sup>76</sup> According to the DOD's IG, the cost and time delays occurred because "Air Force officials underestimated the complexity of the program" and the contractor did not have enough trained employees to do the job.<sup>77</sup> On top of that, the IG found the contractor made things worse by using "a time consuming, error-prone" method of building the necessary software manually, instead of using an automated system.<sup>78</sup>

Like many government problems, this sounds more complex than it really is. The Air Force needed to update a system, but due to its own poor planning and contractor mistakes, American taxpayers spent hundreds of millions on a system that was eventually scrapped. Before embarking on a project of this scale, the DOD should fully and adequately plan for a project's true costs and anticipated issues and set realistic expectations for contractors. The DOD should also ensure that those who failed to properly plan this project are demoted or fired to prevent the same mistake again.



## Manipulating People for Science

Each year, millions of Americans utilize federal, state, and local public housing options. Many individuals and families need temporary help to get back on their feet. However, it is not right to use federal tax dollars to conduct social experiments on those receiving housing assistance. As bizarre as it seems, that is exactly what the NIH did in the name of health research.

Since 2016, the NIH has spent \$1.1 million to assess the health impact on adults and children of various types of housing assistance.<sup>79</sup> While this sounds innocent enough, the research involves manipulating the quality of housing and financial assistance provided to see whether it impacts a recipient's well-being.<sup>80</sup> The study, which will last and be funded for three years, will compare the health impacts on those who have their assistance altered and those who do not in order to determine the way in which the offer of assistance "affects the biology and health" of recipients.<sup>81</sup>



While it is certainly right to review federal housing assistance to ensure taxpayer dollars effectively help people, it is troublesome that the NIH would manipulate the assistance given to those in need, especially children, to then determine how it impacts their health. American families do not work hard all year to pay taxes so the federal government can conduct social experiments on our citizens. The NIH should refocus its efforts on issues of national importance and ensure research is conducted in a way that does not have negative impacts on people.

## Do You Copy?

With the widespread prevalence of video cameras and cell phones with cameras, anyone who grew up in the 90s likely cannot go far without seeing childhood pictures and videos. From their first haircut, to riding their first bike, to going to prom, today's youth will certainly have a lot of material to use someday to embarrass their children and show off to their grandchildren. But what about the photos and videos taken during the decades before digital cameras and cell phones? How should we save those? Well, for the National Archives and a theater in New York, the answer is a \$100,000 taxpayer-funded grant.

In early 2017, the National Archives announced a \$100,000 grant to digitize 250 hours of video taken in the 1970s of 170 performances at a world-famous theater in New York.<sup>82</sup> To do the math for you, that comes out to \$400 for each hour digitized. The theater, which has been the launching point for countless world-famous actors, musicians, and playwrights, was founded in 1961, and currently counts among its many major donors the Coca-Cola Foundation, the Ford Foundation, the NEA, the City and State of New York, and countless others.<sup>83</sup>



It is within the national interest for the National Archives to preserve documents, photos, and videos of important national, historic events. However, with a national debt of \$20 trillion, it is beyond our national interest to spend federal tax dollars to preserve 250 hours of video at \$400 an hour from a New York theater, especially when the theater could very likely tap into its very large number of supporters to fund the project, instead of relying on hard-working American taxpayers. Also, for what it is worth, Costco says it could do the same project for about \$26,000.<sup>84</sup>

## Call 1-800-IGNORE-U

Anyone who has spent time driving on American roads has no doubt seen the sign “How’s my driving?” with a 1-800 number to register complaints (or compliments) to a company about the driving skills of its employees. What you may not know is that your government operates a similar system for its drivers. The GSA, which purchases items including vehicles for federal agencies and departments, also operates a “How’s My Driving?” program to allow citizens to call and comment on the driving skills of a person operating a federal vehicle.<sup>85</sup> However, it turns out that at least at one agency, no one is listening.

The Food Safety and Inspection Service (FSIS) within the USDA leases 2,245 vehicles from the GSA for its inspectors.<sup>86</sup> The vehicles make up 35% of all those leased by the USDA and over the course of three years made up 55% of public complaints received by the GSA about the USDA vehicles.<sup>87</sup> In March 2017, when the IG reviewed 43 of those complaints, it discovered that the Internal Controls office at FSIS had not actually looked at or responded to the complaints or put in place any procedures to track and respond to public comments.<sup>88</sup> The IG also found that some local supervisors investigated comments but did not use a uniform approach to resolve complaints or punish bad drivers.<sup>89</sup>



The federal government operates a program to ensure employees safely driving taxpayer-purchased vehicles but then ignores or does not respond to complaints about bad driving. The USDA should ensure that comments from taxpayers are acknowledged and addressed. No small business owner with a “How’s My Driving?” sticker on his or her car would ignore complaints from the public because it affects business.

## Multiple Connections

It is estimated that 90.1 million Americans own an iPhone,<sup>90</sup> and 207 million Americans own some other type of smartphone.<sup>91</sup> With so many people connected to the Internet via smartphones and countless others through home computers, it may seem surprising that there are still parts of the US with little to no access to broadband Internet. According to the FCC, at least 34 million Americans, 23 million of whom live in rural areas, lack access to basic Internet.<sup>92</sup> But do not despair, there are many different government programs designed just for those folks.



For instance, the National Telecommunications and Information Administration operates two programs to increase broadband access and manages about \$4 billion in projects.<sup>93</sup> To assist rural Americans, the USDA offered \$7.7 million in grants this fiscal year through Community Connect Grants.<sup>94</sup> For those living in Appalachia, the Appalachian Regional Commission allows its grant money (\$146 million in FY17) to be used for broadband expansion and access.<sup>95</sup> And the list goes on. It is unclear whether these programs coordinate their efforts to prevent duplication of programs and overlaps of funding.

In early 2017, the FCC rightly refocused on ensuring widespread access to broadband instead of promoting competition among multiple broadband providers in certain areas.<sup>96</sup> However, if the federal government is going to continue funding efforts to expand broadband, Congress must determine how to provide that service through only one agency and only one program. Duplicating efforts and costs is not an efficient use of American tax dollars. No small business owner would pay multiple people different amounts to do the exact same thing, and neither should the federal government.

## Dude, Where's My Truck?

The DOD's IG recently reported that the Department is unable to track more than \$1 billion in equipment, including small arms, mortars, and Humvees, that were purchased for Iraqi security forces with funds appropriated in FY15 and FY16.<sup>97</sup> The equipment, which was to be transferred through the Iraq Train and Equip Fund (ITEF) created in 2015, could not be tracked because the Army "did not have effective controls to maintain complete visibility and accountability of ITEF equipment in Kuwait and Iraq prior to transfer to the government of Iraq."<sup>98</sup> So while the DOD is able to show that the equipment made it to the region, it cannot show that it was actually transferred to Iraqi forces.<sup>99</sup>

It would be understandable if the DOD occasionally misplaced a Humvee tire or a toolbox. However, to not be able to fully account for more than \$1 billion in equipment that includes guns and entire Humvees is unacceptable and a national security risk. Before allocating funds in the future, Congress should work with the DOD to put in place a system to track equipment from purchase to transfer and every step in between. There should also be consequences for those who do not follow procedures, especially when the result is lost equipment valued at more than \$1 billion of your tax dollars.

## Federal Grants Aren't Blank Checks

Each year, the federal government gives out hundreds of millions of your tax dollars in federal grants. Those grants support medical research, assistance for the poor, job training, and countless other valuable missions. In many cases, grant recipients take the funding, do the work they were paid to do, and either return a product or create a community benefit that justifies the expenditure. However, as you read this book (or prior editions of *Federal Fumbles*), you will see that sometimes your government funds odd projects. In other cases, grants with the best intentions go awry due to lack of federal oversight and a lack of training on the part of the grant recipient.

Over the last several years, the DOJ's Office on Violence Against Women has provided \$2.3 million in grants to an organization in Connecticut to help female victims of assault and violence.<sup>100</sup> It is incumbent upon the DOJ to ensure that federal funding for this vulnerable group of women is used properly. Unfortunately, an IG inspection found that due to the grantee's poor training, the entire \$2.3 million could not be adequately tracked and was used for non-allowed expenditures. Additionally, the organization submitted inaccurate reports to the DOJ.<sup>101</sup>

Federal agencies should engage in more detailed communication with applicants to ensure they can comply with the high expectations associated with federal funds. When agencies like the DOJ provide multi-year grants, they should do more to ensure grantees have fully complied with the rules in one year before funding the next year of the grant.





# Timely Immigration

The list of adjectives that can be used to describe the American immigration system is lengthy but includes *broken*, *dysfunctional*, and *uncertain*. While immigration reform is regularly a major topic during presidential and congressional elections, very few reforms actually receive serious consideration by Congress, and even fewer actually get enacted into law. From dealing with those without documentation, to visas for foreign workers, to ensuring those who have earned US citizenship the right way are able to do so in a reasonable amount of time, there are many major areas in need of reform.

While officials of all political persuasions know these problems exist, unyielding partisan differences prevent real solutions from moving forward and leave in place a system that constantly fumbles the ball.



The following fumbles will address just a few of the issues facing our immigration system. One major problem in need of immediate congressional attention is the length of time it takes to adjudicate immigration cases. Within the DOJ is the Executive Office for Immigration Review (EOIR), which operates immigration courts and seeks to adjudicate “in a careful and timely manner” cases involving illegal immigrants, immigrants who have committed crimes and may be deported, and foreigners seeking asylum.<sup>102</sup> However, the GAO recently confirmed what many people already knew: *timely* is not an accurate description for our country’s immigration courts.

At the start of FY17, the EOIR had more than 500,000 backlogged cases, an increase of 58% from just FY12 and more than doubling since FY09.<sup>103</sup> Between 2011 and 2016, the DOJ attempted to hire additional judges, but the average time to hire a new judge was 742 days.<sup>104</sup> As a result of fewer judges, courts take more than a year to process cases, and some have scheduled hearings as far out as February 2022.<sup>105</sup>

The uncertainty and delays in hearing immigration cases are completely unacceptable. It should not take more than a year to determine whether someone is eligible for asylum or should be deported.<sup>106</sup> It certainly should not take more than two years to hire a new immigration judge.<sup>107</sup> The Administration has rightly requested funding to hire more judges to help speed up this process. Congress should work to ensure the DOJ has the ability to hire the necessary judges but is also able to hire them in a reasonable amount of time in order to bring down the total caseload and speed up the adjudication process. Both the American public and our immigrants deserve an efficient immigration court system.

## Caps on Caps

Those seeking to come to the United States to work generally have two visa options: a short-term H visa, which is usually tied to an employer, or a more flexible, long-term EB visa for highly educated and skilled people. It is also possible for a person to transfer from an H visa to an EB visa if he or she seeks longer-term employment in the US. Both visa options are subject to caps to protect American workers, prevent unlimited immigration to the US for employment, and to ensure only those most qualified or necessary are admitted for work. However, secondary caps within these visa programs prevent the US from focusing on admitting workers solely based on need and qualification.



On top of the total numerical caps on long-term employment visas, USCIS has also placed a cap on the number of people per country who may be admitted.<sup>108</sup> This 7% cap was intended to keep any single country from monopolizing visas each year. However, it has had the effect of chilling the admissions process and interfering with the businesses' ability to select employees based only on qualifications.<sup>109</sup> As of April 2017, there were more than 18,000 visa applications from prior to 2010 (including two from 1997) that were not fully processed as a result of the country cap.<sup>110</sup>

Earlier in 2017, former Rep. Jason Chaffetz introduced the Fairness for High-Skilled Immigrants Act. This bill, which has 234 bipartisan cosponsors, would remove the per-country cap for long-term worker visas and ensure that when American employers must turn to foreign workers, the federal government does not prevent them from hiring the most qualified applicant, regardless of country.

## Legal Work

Perhaps the largest issue in need of attention in the immigration reform debate is how to handle the 5% of the American workforce (either employed or looking for work) who illegally reside in the US because they either entered without permission or overstayed their visas.<sup>111</sup> Those 8 million people are primarily involved in the agriculture or construction industries.<sup>112</sup> The issue has gone fairly unaddressed by the federal government despite the development of the e-verify system in 1986.<sup>113</sup>

The e-verify system is designed to assist employers as they check the immigration status of employees or potential employees to prevent hiring people who are in the US illegally.<sup>114</sup> The program is free for employers to use, and currently 678,533 employers voluntarily participate throughout the country.<sup>115</sup> However, of the 5 million employers in our nation,<sup>116</sup> only about half use e-verify regularly.<sup>117</sup>

While we engage in a national conversation about how to handle individuals who are in the US without permission, Congress should take immediate action through Senator Chuck Grassley's Accountability Through Electronic Verification Act, introduced in early 2017.<sup>118</sup> The bill would ensure that only those here legally are able to find employment and provide a deterrent for breaking the rules and coming here illegally.

## Should I Stay or Should I Go?

In 2016, 11 million people were granted some type of immigrant or visitor visa to enter the US.<sup>119</sup> These individuals and families have come to the US to work, go to school, go to Disney World, or for many other purposes. Generally, those visitors leave the US when their visas expire. However, more than 50.4 million people legally entered our country using only their passports (known as the visa waiver program) and were scheduled to leave by the end of the year.<sup>120</sup> The problem is that some people who entered under the visa waiver program (1.25% or 628,799 in 2016)<sup>121</sup> did not leave when legally required, and we have no effective way of tracking those individuals.

A recent IG report found DHS's IT systems do "not effectively support ICE visa tracking operations."<sup>122</sup> While these issues have existed for some time, the IG faults prior leadership for not providing "the oversight and centralized management needed to address these issues."<sup>123</sup> As a result, the 628,799 people who overstayed their visas in 2016 may still be in the country, and unless they voluntarily report themselves or are arrested for some reason,

we have no definitive way to be sure.<sup>124</sup> According to one report, there have been more visa overstays than illegal border crossings each year since 2007, and at least 66% of people illegally here today entered legally then overstayed their visas.<sup>125</sup>



While DHS has worked since 9/11 on a biometric entry/exit program that can accurately determine when a person leaves the country, DHS is still at least a year from full implementation at our airports.<sup>126</sup> Congress must continue to push DHS to develop and implement the capability to track those who have overstayed their visas to ensure they follow the legal visa process and leave when required.

## Fit for Benefits

Over the last five years, various agencies have asked USCIS to verify that more than 89 million people are both in the US legally and are qualified for certain federal or state benefits and programs.<sup>127</sup> Those checks, conducted through the Systematic Alien Verification for Entitlements (SAVE) program, can be used to grant access to Medicaid, education programs, housing assistance, and even driver's licenses, which are only available to those who are in the US legally.<sup>128</sup> Surprisingly though, it seems agencies or departments that utilize this system do not actually follow through on the results they obtain.

A recent GAO investigation found that from 2012 to 2016 approximately 59% of agencies (or 487 out of 572) using the SAVE program received a prompt to follow-up with additional information to confirm the identity and status of an individual but did not actually conduct the follow up.<sup>129</sup> As a result, USCIS and GAO cannot guarantee that a person allowed to obtain a driver's license or Medicaid benefits actually has legal status.<sup>130</sup>

While USCIS provides training to agencies that use the SAVE program, GAO found that the training is often ineffective and advice to improve processes is ignored.<sup>131</sup> In addition to e-verify for employment, Congress should mandate full use of the SAVE program to ensure qualification for benefits.



## Decade-Long Download

USCIS has spent more than 10 years trying to update its inefficient IT system. As a result, the struggling agency has wasted billions of dollars, and millions of visa and citizenship applications were unnecessarily slowed.<sup>132</sup>

In 2006, USCIS began developing its Transformation Program to update how it decides cases and manages its casework and began to move from a paper-based to an electronic system with the goal of completing work in 2011.<sup>133</sup> However, USCIS announced it would actually finish at a total cost of \$3.1 billion in 2019<sup>134</sup>—eight years late. In 2016, GAO reported that multiple delays were driving up costs and made several recommendations for improvement.<sup>135</sup> At the time, GAO reported that USCIS was inconsistently meeting stated benchmarks for testing, “deploying software that had not been fully tested,” and not effectively setting requirements in contracts to be able to assess whether contractors were meeting requirements.<sup>136</sup>

As a result of the delays, USCIS has not only been forced to pay to continue operating a system that is more than 10 years old, it is also slowing down the completion of casework. To deter illegal immigration, we must have an efficient *legal* immigration system, which after a decade of work, we still do not have.



## Made in the USA

The federal government spends billions each year to acquire items such as food, clothing, vehicles, and military equipment. When an acquisitions office at an agency decides to purchase products, it is supposed to be guided by the requirements in the Buy American Act and the so-called Berry Amendment.<sup>137</sup> In general, the two rules state that agencies should purchase products made in the US and require contractors to assemble products from pieces made in the US.<sup>138</sup> Unfortunately, those rules are not always followed and at times are not even made known to acquisitions offices.

Over the summer, the DOD IG released a report detailing a random inspection of certain acquisition contracts at four different contracting offices.<sup>139</sup> Three of the four offices were found to not be in compliance with the rules

to give preference to American products for 19 of 32 contracts reviewed.<sup>140</sup> Those contracts totaled \$453.2 million and included items such as field jackets, food and beverage distribution, boots, and aircraft repair tools.<sup>141</sup> The IG found that in some cases, the officials “were unaware of the requirement” or “misinterpreted the Berry Amendment requirements.”<sup>142</sup>



It is unclear how much of the \$453.2 million would have been spent on American-made products if the Berry Amendment and Buy American Act requirements had been followed. The fumble here is a lack of training at DOD acquisition and contracting offices on federal spending requirements. The entire federal government should purchase American-made goods with American tax dollars. Agencies should put in place processes to follow those instructions and ensure staff are aware of and follow the rules.

## Now That's a Party!

John Adams (not *that* John Adams) is a famous American composer and conductor.<sup>143</sup> His musical talent was apparent at a young age, and after earning multiple degrees at Harvard, he went on to be associated with the Chicago Symphony and the Cleveland Orchestra. He held the composer's chair at Carnegie Hall in New York and has had a lengthy relationship with the San Francisco Symphony Orchestra.<sup>144</sup> John Adams has won multiple Grammy Awards; his compositions rank among the best and most performed; and earlier this year you, the American taxpayer, paid for him to have an \$85,000 birthday party in California.<sup>145</sup>

To celebrate his 70th birthday, the San Francisco Symphony was awarded \$85,000 from the NEA for a project featuring several of Adams's recent works with musical guests that included the San Francisco Symphony Chorus.<sup>146</sup> The three-week project featured Adams himself conducting some of his works and according to the *San Francisco Chronicle*, were "only part of [a] yearlong spasm of celebration that will hear his music played across the globe."<sup>147</sup>



While it is certainly important for us to recognize the contributions of our artists and composers, a birthday celebration that cost the equivalent of the federal tax payments from you, your neighbors, and *their* neighbors is bit excessive.<sup>148</sup> The NEA must work to ensure grants are awarded to projects of national importance when no private funding is available. The San Francisco Symphony boasts more than 10,000 donors and 150 partner institutions and likely could have obtained private funding.<sup>149</sup> This massive birthday party could have been held without asking taxpayers to foot the bill.

## If Everyone Is Special, No One Is Special

Each year, the USDA spends hundreds of millions of dollars to support the American agriculture industry. From helping people start a farm, to assisting farmers on marketing their products, to inspecting our food supply, the USDA contributes in many ways to the strength and security of our food sources. Unfortunately, Congress has sometimes led the USDA in the wrong direction, and it costs us millions.

One example is the Specialty Crop Research Initiative, which was created by Congress in 2014. The initiative provides federal research funds to find solutions to issues impacting production, processing, and sale of specialty crops.<sup>150</sup> That is great stuff until you look at the definition of *specialty crops*, which are defined as "fruits and vegetables, tree nuts, dried fruits, horticulture, and nursery crops (including floriculture)."<sup>151</sup> In other words, *specialty crops* covers anything that can be grown for food, medicine, or "aesthetic gratification."<sup>152</sup>

The USDA already provides agriculture and economic research assistance, a marketing service, and risk-management assistance and even operates a National Institute of Food and Agriculture to fund outside research on agriculture and agriculture-related needs.<sup>153</sup> So not only does the Specialty Crop Research Initiative have quite an expansive area of responsibility, it is also duplicative of many of the USDA's existing responsibilities.

In this case, it is Congress, not the USDA, that fumbled the ball by creating a separate initiative within the USDA that duplicates work done elsewhere in the agency and has redefined the word *specialty* to include everything grown in or on the ground, even if it is not grown for consumption. When our country is \$20 trillion dollars in debt, Congress should reexamine requirements to remove congressionally mandated duplication and waste.



## From Bear Bryant to Nick Saban

The State of Alabama joined the US in 1819, though it seceded in 1861 during the Civil War and rejoined in 1868.<sup>154</sup> Alabamians have selected the yellowhammer woodpecker as their state bird and the camellia as their state flower.<sup>155</sup> They have given us important figures from our history such as Coretta Scott King, Nat King Cole, and Hank Williams.<sup>156</sup> With such a storied and lengthy history, there is good reason for the state to spend time celebrating its heritage and history as it approaches its 200th birthday. It also makes sense that companies like Verizon, Airbus, Regions Bank, and Lamar Advertising would support these birthday festivities.<sup>157</sup> But why do American taxpayers also need to help pay for the birthday party?



Earlier in 2017, the National Archives announced a \$148,950 grant to the Alabama Bicentennial Commission Foundation for efforts connected to a “three-year commemoration of the bicentennial of the state of Alabama.”<sup>158</sup> The intent is to develop lesson plans for grade-school students on the history of the state “using existing digital collections”—not to preserve documents or create new collections.<sup>159</sup> Not included in the grant announcement was whether or not the funds would go to teaching Alabama students that their football teams have not beaten a team from Oklahoma in 55 years.<sup>160</sup>

While the State of Alabama certainly has a lot to celebrate, it is hard to justify to taxpayers in other states who had to work through the end of April to earn enough to pay their annual tax bills that they should foot the bill for Alabama’s party.<sup>161</sup> Federal grants should be awarded to projects of national importance. The National Archives should be focused on preserving our national documents and history and ensuring our collective national history is taught to younger generations.

## Art Camp for Adults

Each summer, countless young people throughout the nation will embark on what has become an American rite of passage: summer camp. These happy campers will learn leadership and life skills and hopefully have a lot of fun. Perhaps in an effort to extend these fun times to adults, the NEA funded a \$20,000 camp for “artists and scientists investigating the issues surrounding climate change.”<sup>162</sup>



Located in southern Oregon next to Summer Lake, the camp offers itself as a place for artists and scientists to “reflect and to engage their work through its residency program.”<sup>163</sup> In July 2017, attendees spent two weeks focused on climate-change communication, which was followed by a two-week session entitled “Art, Science, and the Cultural Terrain.”<sup>164</sup>

*Federal Fumbles* has previously identified duplicative housing grants provided by the National Endowment for the Arts and by making the obvious observation that housing issues are the purview of the Department of *Housing* and Urban Development.<sup>165</sup> The funding for this summer camp for artists and scientists was part of \$755,000 in

funding this year for artist housing. Congress should work with the NEA to refocus its funding and efforts on the *arts* and discontinue efforts to branch out into other agencies’ responsibilities.



# Fighting Over Who Gets to Help People

A recent study found that almost one in seven Americans relies on food pantries to ensure families have consistent access to healthy meals.<sup>166</sup> Millions of Americans give their time and resources to help the less fortunate. The federal government is also trying to help. Oddly enough, even DHS is trying to play a role.

In summer 2017, DHS, the department created after 9/11 with the mission of protecting the homeland, announced a \$120 million FEMA program to support local food banks and homeless shelters.<sup>167</sup> However, the program is specifically not for areas recovering from a disaster (FEMA's usual area of responsibility).<sup>168</sup> There are already multiple programs operated by HUD for housing assistance and the \$318 million Emergency Food Assistance Program at the USDA for food banks.<sup>169</sup> HHS also operates a \$713 million Community Development Block Grant that supports food pantries, homelessness, and other poverty-related issues.<sup>170</sup> So there are multiple, overlapping agencies, with multiple, overlapping administrative and operating costs, without any indication of coordination.

It is natural for Americans of different ideologies to disagree on whether the federal government or local communities and non-profits should be the primary care providers for the homeless. However, most should likely agree that FEMA is not the appropriate agency to provide non-emergency food assistance, especially when its efforts directly duplicate work done in another area of government that is a more logical fit for this type of assistance.

## Healthy Economic Development?

Which agency do you think of when you read this mission statement: "Community Economic Development is a federal grant program funding Community Development Corporations that address the economic needs of low-income individuals and families through the creation of sustainable business development and employment opportunities"?<sup>171</sup> It would make sense if you guessed HUD after reading that statement. But you would be wrong. It is actually a \$17.2 million project within HHS, the department that is supposed to focus primarily on physical and mental health. It turns out HHS also wants to focus on our economic health.

Earlier in 2017, HHS announced \$17.2 million in grant funding through the Community Economic Development program. Non-profit community development corporation grantees are expected to demonstrate their focus on business development, job creation, and job placement.<sup>172</sup> Once they have received the funds, grantees may then use them to purchase equipment or property, pay certain operating expenses, and make loan payments.<sup>173</sup> A success story shared by HHS is a manufacturing company in Wisconsin that received assistance through the program to purchase new equipment and expand its business.<sup>174</sup>

While this project may create local or even regional benefits that outweigh the initial investment, it is not the job of the federal government to conduct local economic development activities, and it is certainly not the responsibility of HHS to focus on economic development. SBA, Commerce, and other federal agencies have the primary responsibilities of business development and expansion. Congress should eliminate this duplicative service and ensure HHS remains focused only on its own responsibilities. This is yet another instance of duplication that can be exposed with the passage of the Taxpayer's Right to Know Act.



## Free Law Degree

The DOE offers its employees assistance to pay for higher education if they seek degrees that will contribute to their ability to do their jobs at the DOE.<sup>175</sup> In fact, department policy requires that the education be job-related and “increase individual performance” and that the employee sign an agreement to remain employed at the department after receiving the benefits.<sup>176</sup> However, according to a recent IG report, over the course of four years, DOE paid \$138,000 for an engineer to take coursework unrelated to his job while seeking to earn a law degree.<sup>177</sup> Immediately after receiving his degree, he left the department to practice law in the private sector.<sup>178</sup>

According to the IG, while the department within DOE in which the engineer worked had policies in place that should have prevented this, senior management, including the Principal Deputy Assistant Secretary, overruled them.<sup>179</sup> Though questions were raised about this on multiple occasions, the IG was able to find no documentation explaining why the decision was made.<sup>180</sup> The IG also found that there was no continuing service agreement in place, meaning the engineer-turned-attorney was not required to reimburse the federal government.<sup>181</sup>

There is a significant benefit to allowing agencies to provide additional training and education benefits to their employees. However, that education should be directly related to the work done by the employee, or work that *could* be done by the employee, and the employee should remain with the department long enough for the department to benefit from its investment. Congress should strengthen agency rules so that absent a very good and documented reason, management cannot waive requirements relating to the types of classes that may be paid for by the government or the requirement that employees remain with the agency after receiving the education.



## Army Albatross

The US Army has spent more than \$20 billion a year on efforts to develop and acquire new weapons systems over the last ten years.<sup>182</sup> This weaponry is intended to provide necessary tools to combat our enemies while also ensuring the protection of our nation’s warfighters. Unfortunately, due to poor planning, it seems the Army was forced to cancel many of these systems after making significant investments.<sup>183</sup>

For instance, in FY14 the Army canceled plans for the ground-combat vehicle after determining it would not meet Army needs—after spending \$1.4 billion on development and four years of reports stating the project was not feasible and had not been properly planned.<sup>184</sup> Poor planning also led to the joint air-to-ground missile being delayed for three years because it began “without sufficient analysis of the maturity of its designed technologies.”<sup>185</sup> While general issues with the Army’s procurement planning have been identified since at least 2011, the GAO reported in 2017 that of the acquisition programs it reviewed, the issues “continue to exist.”<sup>186</sup>

Obviously, the Army should have any tools and weapons necessary to ensure our soldiers have what they need to safely do their jobs. However, the Army owes it to those soldiers and hard-working taxpayers to ensure full and thorough planning goes into any new acquisition effort to ensure billions are not spent on projects that will never result in a new product or weapon. Congress should continue exercising oversight of the Army to require better and more efficient acquisition practices.





## Can You Hear Me Now?

Telework, or *working from home*, is considered a job perk for most employees in the US, and it even has the potential to increase national savings by \$700 billion per year.<sup>187</sup> However, those potential savings assume that employees who work from home do not sacrifice any productivity. Problems arise when employees abuse the system to engage in activities like over-reporting their hours.



According to the GAO, more than 427,000 federal employees participated in telework programs in 2015.<sup>188</sup> Recognizing both the potential advantages of telework and the need for accountability measures to prevent abuse and waste, Congress passed the Telework Enhancement Act in 2010. This law specifies the requirements for agency telework programs and outlines OPM's oversight role of agency telework programs.<sup>189</sup>

In one example, a senior executive from DOL's Office of Workers' Compensation Programs (OWCP) reported that employees frequently abuse the department's telework policy by over-reporting their telework hours. Notably, the GAO reported in February 2017 that DOL refused to accept its recommendation to better oversee and document employee telework agreements to ensure that such agreements accurately reflect telework participation.<sup>190</sup> According to OPM, 60% of OWCP's 1,549 employees reported working from home in 2014.<sup>191</sup> OWCP's primary job is to efficiently process federal employee worker compensation claims. With so many OWCP employees likely abusing DOL's telework program, it is no surprise that federal employees complain of severe backlogs regarding workers' compensation claims.

To fix the problem, DOL could start by simply agreeing to the GAO's recommendation to properly document and review its employee telework agreements. Moreover, Congress should work to ensure DOL revises its current telework program to make sure it is contributing to the agency's mission of efficiently processing workers' compensation claims while not wasting taxpayer dollars.

## Locked Up

According to one estimate, 15% to 30% of women in state or federal jails have a serious mental health condition.<sup>192</sup> Another estimate says that 45% of all people in federal prisons have some form of mental health condition including depression, PTSD, and personality disorders.<sup>193</sup> As a result, our prison system must be cognizant of the health needs of inmates and take them into account. Unfortunately, the BOP has not fully developed policies for housing inmates with mental illnesses.<sup>194</sup>

According to a recent IG investigation, "BOP policies do not adequately address the confinement of inmates with mental illness" and do not "sufficiently track or monitor such inmates."<sup>195</sup> Specifically, BOP does not limit how long inmates with mental illnesses are kept in single-cell, restricted housing units,<sup>196</sup> despite outside research and a BOP policy that confinement in these restricted housing units "can be particularly harmful for inmates with mental illness."<sup>197</sup> The IG identified one inmate with a serious mental condition who was kept in one of these units for 19 years.<sup>198</sup>



BOP's first job is to safely confine people convicted of crimes. However, as the IG pointed out, BOP can and should do more to ensure that the type of incarceration used does not needlessly harm the mental health of those with mental illnesses, especially since many of them will hopefully reenter society. In 2016, Congress enacted a law containing the Comprehensive Justice and Mental Health Act to help prisons address inmates' mental health issues.<sup>199</sup> Congress should continue to work with BOP to develop policies and facilities that will ensure BOP can do its job safely while also providing care for those with mental illnesses.

## Dropping Pounds of Dollars

The 2015 edition of *Federal Fumbles* highlighted the \$2.6 million study that texted weight-loss advice and support to truck drivers. It concluded that those who are educated on making healthy decisions tend to then make healthier decisions than those who are not educated on making healthy decisions.<sup>200</sup> Continuing this theme of spending federal research dollars to discover what is likely fairly obvious to the average American, over the last five years the NIH has spent \$1.6 million on research to discover that people paid to lose weight tend to lose more weight than those not paid to lose weight,<sup>201</sup> research they had already paid for and completed in years prior.



Specifically, the researchers divided participants into three groups to see which would lose more weight: a group given direct financial compensation, a group whose members were entered into a lottery to incentivize weight loss, and a group in which everyone was given daily encouragement but no compensation.<sup>202</sup> Though the project has been funded since 2012, no results have been published. Surprisingly, we should already be able to forecast the results since an almost identical trial was funded by the NIH through a grant to the same university and researcher in 2008. In that trial, the groups receiving the direct financial incentive and those in the lottery lost more weight than those without a financial incentive to lose weight.<sup>203</sup>

Why the NIH funded this research in the first place is unknown. The average American could have told them that financial incentives work. Why the NIH funded a duplicative research project is also unknown. As Congress appropriates funding to the NIH, additional controls should be put in place to ensure the NIH remains focused on issues of national importance and is not wasting generous but not unlimited funds on duplicative research.

## A Big Problem Dealing with a Big Problem

In 2016, 7,500 instances of human trafficking were reported throughout the US, an increase of 74% from 2015.<sup>204</sup> California, which had more than 1,300 reports and Texas, which had 670, led the nation in instances of human trafficking.<sup>205</sup> One area with incomplete statistics on instances of human trafficking is Indian Country. While one Tribal chairman states they are in “crisis mode” dealing with human trafficking, there are few Indian reservations with complete measurements on the number of instances occurring each year.<sup>206</sup> The federal government complicates the problem by operating dozens of human trafficking grant programs through different agencies to assist Tribes in dealing with human trafficking without coordination or requiring proper documentation.<sup>207</sup>

Indian Tribes can turn to DOJ, HHS, and DHS, which collectively offered 50 different grant programs from FY13 to FY16, for funding and assistance in preventing, prosecuting, and treating instances of human trafficking.<sup>208</sup> However, the GAO points out that not all of these agencies track instances of human trafficking, nor do they track whether the victim is Indian.<sup>209</sup> While half of the grant programs offered from FY13 to FY15 were to provide direct assistance to Indian victims of human trafficking, the agencies providing the funds cannot show how many victims were actually served.<sup>210</sup>

The federal government has an important role to play in preventing human trafficking in the US. But the government is trying to help people without developing the ability to actually ensure that help is reaching those in need. Congress should work with DOJ, HHS, and Interior to require the agencies to compile data showing the need for and impact of federal assistance, including instances of human trafficking in Indian Country. Agencies should also justify why more than 50 different grant programs are required to address this problem. Consolidating these programs could eliminate administrative costs and increase funding available to actually help people.

## One at a Time, Please

In 1965, Congress enacted the Appalachian Regional Development Act, which created the Appalachian Regional Commission (ARC).<sup>211</sup> The ARC is a regional federal agency that provides funding and support for the development of local economies, workforce, and infrastructure for the 13 states comprising Appalachia.<sup>212</sup> In FY17, the ARC's budget totaled \$146 million, most of which was then given as grants to local and regional projects.<sup>213</sup>

Projects funded this year by the ARC include \$150,000 for a farmers market,<sup>214</sup> \$25,000 to look at the “entrepreneurial impact of outdoor special events” in North Carolina,<sup>215</sup> and \$40,000 for “building the market through value-added production” in New York.<sup>216</sup> Hundreds of thousands of dollars are also used for Wi-Fi expansion, job training, and education programs.<sup>217</sup>



Last year, *Federal Fumbles* highlighted the Delta Regional Authority, which provides similar support for the Delta Region.<sup>218</sup> Interestingly, the State of Mississippi benefits from funding from both the ARC and the Delta Regional Authority. Between the two, the state received more than \$21.9 million<sup>219</sup> in investments last year. While local communities in those states may benefit from this federal investment, it is not the job of taxpayers in Oklahoma, Idaho, or South Dakota to fund these projects, nor is it the role of the federal government to set aside extra benefits for only certain regions. As Congress debates the continued existence of these projects, it should evaluate whether they are truly in the national interest. Also, Mississippi, which is home to exactly zero Appalachian Mountains,<sup>220</sup> should decide whether it is Delta or Appalachian and benefit from only one of the regional commissions.

## Night-Vision Goggles for All!

Each year, the DOD sells or gives away millions of dollars' worth of excess equipment and property to other federal agencies and state, local, and Tribal governments.<sup>221</sup> More than \$6 billion in equipment and property has been transferred since 1991, with between 4% and 7% of it being controlled property that is considered sensitive equipment and cannot be turned over to the general public.<sup>222</sup> Despite that rule, a recent investigation found that some of the sensitive equipment, which includes dangerous and explosive-related equipment, can easily end up in the public domain.<sup>223</sup>



The GAO recently audited the DOD's controls for transferring excess sensitive equipment by creating a fictitious federal agency and through the DOD's Law Enforcement Support Office program was able to gain access to “over 100 controlled items with an estimated value of \$1.2 million, including night-vision goggles, simulated rifles, and simulated pipe bombs.”<sup>224</sup> The GAO reports that all of these items, if modified with easily obtainable equipment, can be made dangerous or even deadly.<sup>225</sup> The investigation revealed that the DOD has inadequate systems in place to ensure only lawful agencies or personnel are able to obtain this sensitive equipment.<sup>226</sup> In fact, those picking up the equipment are not always required to show proof of identification, and

the DOD has never conducted a risk assessment of how it operates the program.<sup>227</sup>

There is nothing wrong with the DOD disposing of unnecessary equipment and property. In fact, *Federal Fumbles* first highlighted in 2015 that there is a major need for all federal agencies to do just that.<sup>228</sup> However, agencies need to do so in a safe way that does not allow potentially dangerous equipment to be available to the general public. The DOD should put in place clear standards for the disposal of excess property and then ensure those policies are actually followed.

## I Can't Understand

It is estimated that there are more than 150 native languages spoken by American Indians throughout the country.<sup>229</sup> Some of those languages have thousands of speakers while many have fewer than a dozen people who can speak them fluently.<sup>230</sup> Over the years many Tribal languages have simply died off as they were not passed down to future generations.<sup>231</sup> While the federal government, through HHS and NSF, does spend millions each year to preserve native languages, it seems some federal funds are also siphoned off to preserve languages in other countries.

Earlier in 2017, the NSF approved \$150,382 to document the Domaaki language of Northern Pakistan.<sup>232</sup> In March 2017, the NSF gave \$203,424 to study the grammar and tone of the Seenku language from the west African country of Burkina Faso.<sup>233</sup> In 2016, the NSF funded another project in northern Pakistan for researchers “to describe the sound system of [the language of] Kalasha.”<sup>234</sup> In 2015, the NSF provided \$347,466 to study four languages in New Guinea.<sup>235</sup> A four-year grant that concluded in 2016 spent \$408,520 to study the languages spoken in Nepal's Manang district.<sup>236</sup>

There is certainly justification for the federal government assisting American Indian Tribes to preserve their languages and document languages that may not be spoken anymore. Future generations of American Indians will benefit from having their languages preserved. With only 20 native languages expected to survive to 2050,<sup>237</sup> Congress and the NSF should prioritize Native American languages before investing in preserving languages in other countries.

## Help Me Help You

Most of the time, a federal agency or department is mentioned in this book because we know it has made some kind of fumble, and we have easily identified ways to help fix the problem. Congress has also enacted many different types of legislation that help agencies and Congress identify areas for improvement. When an agency or department fails to comply with those laws, it becomes very difficult for Congress to assist it in fixing problems, and it increases the likelihood that hard-working American families will see their tax dollars used inefficiently or even wasted.

In 2010, Congress enacted the Improper Payments Elimination and Recovery Act (IPERA) to help agencies like the DOD identify improper payments and help Congress find areas requiring additional oversight and possible reform legislation.<sup>238</sup> For the DOD, which reported almost \$1 billion in improper payments in FY16,<sup>239</sup> to be compliant, IPERA has six reporting and assessment requirements that must be met each year.<sup>240</sup> Unfortunately, in FY16 the DOD only met one of those requirements.<sup>241</sup> Critically, the DOD did not report how or when it will fix the problems causing improper payments in the first place.

A recent IG report found that many of the reasons the DOD failed to comply with IPERA is that it is not following department procedures.<sup>242</sup> It is incumbent upon all federal agencies to work to bring down improper payments, which is why Congress enacted IPERA. Agencies and departments like the DOD should find a way to comply with the law so they can work toward better stewardship of taxpayers' money.



# If at First You Don't Succeed, Try, Try Again for 30 Years

Every two years, the GAO puts out a list of programs operated by federal agencies that are considered high-risk or likely to operate in an inefficient or wasteful way.<sup>243</sup> In 2017, the GAO identified 34 federal programs that qualified for the list, though it stated that many of the 32 programs from the 2015 list had made "solid progress."<sup>244</sup> Unfortunately, some programs have been listed for more than 20 years.<sup>245</sup>

For instance, Medicare has been viewed as high-risk by the GAO since 1990 due to improper payments and mismanagement.<sup>246</sup> The DOD's supply-chain management and weapon-systems acquisition have both been on the list since 1990, with its contract management added in 1992 and financial management added in 1995.<sup>247</sup> Since 1997, the GAO has cited federal cybersecurity and the protection of personal information as being at high risk due to security concerns and the possibility of a successful hack.<sup>248</sup>

The GAO produces this list to give Congress and the agencies a guide to what needs to be fixed, why they need to be fixed, and how to fix them. Ignoring that list for 30 years or taking only minimal efforts to resolve issues means wasting billions of dollars from a generation of American taxpayers. Congress should require all programs on the list to report immediately which steps are taken to fix problems and if not completed by the next list, explain why changes have not been made. Congress should not reward inefficient and wasteful behavior by funding or increasing funding for agencies that cannot get their houses in order.

## Dear Colleague: Do What I Say, Please

In Congress, it is common practice for one Member to send a *Dear Colleague* letter to certain Members or all of their colleagues to encourage support for a legislative issue, inform them of ongoing investigations, or provide information on some important matter. Now, the NSF has spent more than \$300,000 to study their effect.<sup>249</sup>

Through two grants funded last year, the NSF hopes to uncover "new insights into the relationships between Members, with interest groups, and how they set priorities within the constraints of the contemporary legislature."<sup>250</sup>



While Dear Colleague letters are written by Members and not outside groups, the grantee believes they show the influence of interest groups and others on how Members of Congress vote and do their jobs.<sup>251</sup>

While this project may be of interest to collegiate researchers and political junkies of all stripes, it is not a matter of national concern worthy of more than \$300,000 in federal funds. The NSF should better prioritize the grants it approves. With all of our nation's needs, the average taxpayer would probably not view studying the effects of Dear Colleague letters as rising to the top.

## Drawn into Climate-Change Research

The EPA is responsible for climate change research. But you may also decide to look to the USDA to learn whether climate change might impact our food supply, to NOAA to assess the impact on oceans and water systems, to the NSF for scientific research, to the DOE for energy-related issues, to the NSGS for impacts below the surface, or to Interior for issues on federal lands. One agency you might not consider is the NEA. However, with a \$100,000 grant of your tax dollars, they too have jumped on the climate-change research bandwagon.

The grant, which went to the Artistic Practice Toward Urban Resilience, intends to “immerse artists in a multi-scale investigation of transportation systems, community, and governance related to the impacts of climate change in the San Francisco Bay Area.”<sup>252</sup> When finished, this project, which is undertaken in partnership with the University of California at Berkeley, will demonstrate how artists work to show the impact of climate change in the San Francisco Bay area and how works of art can “inform, inspire, and empower communities at risk.”<sup>253</sup>

It boggles the mind that this could be considered a project of national importance for the NEA, which should not fund projects focused on policy advocacy, regardless of the policy. While multiple private groups or even UC Berkeley on its own, may wish to use art to advocate for climate-change awareness, it is not the job of the NEA to promote climate-change work or policy advocacy.



## Name That Plant

The NSF funded a \$475,142 grant to create “an extensive digital database of recordings of native experts discussing traditional nomenclature and classification of local flora.”<sup>254</sup> Specifically, the grantees want to find out whether they are able to use indigenous languages in Mexico to identify changes over time in the location of plant life.<sup>255</sup>

The grantees hope to show that there is a connection between knowledge of the plant life and the migration of people throughout the region.<sup>256</sup> They believe that “accessing botanical information from endangered languages will help track changes in the ecology of the ancestral homelands of endangered language communities.”<sup>257</sup>

While this is possibly important to the indigenous peoples of Mexico and the Mexican government, it is not an important issue for most American taxpayers who struggle each day to make ends meet. Once again, the NSF should ensure that its limited federal funding goes to advance research projects that benefit the American people. There are far too many deserving scientific research areas for us to divert almost \$500,000 to this.

# What's in a Name?

"That which we call a rose, by any other name would smell as sweet."<sup>258</sup> Among high school English classes, countless movies, and the occasional Valentine's Day card, most Americans have probably heard those immortal words from Shakespeare's *Romeo and Juliet*. The name of something is not nearly as important the thing itself, except when it comes to NSF research funding.

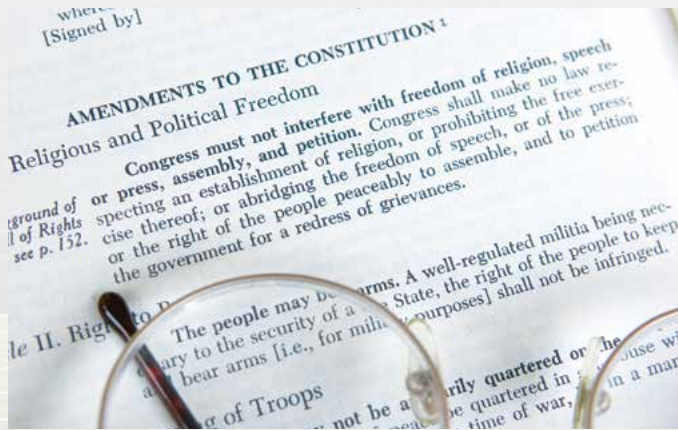
In a five-year, \$210,968 project running through the end of next year, the NSF is studying "how connections among people, words, and things collectively shape global trade in indigenous plants" from Mexico.<sup>259</sup> Since some of these plants have been banned in certain countries due to their uses and side effects, the researchers want to determine "how the different practices and discourses people use to interact with these plants saturate them with conflicting forms of value."

With frightening amounts of illegal drugs crossing the southern border from Mexico into the US, it is right for the federal government to focus on any project that will help bring down the illegal drug trade. However, it is challenging to find any connection between that justifiable national interest and studying the connection between plants and Mexican indigenous languages. Congress should work to ensure the NSF awards grants for projects that it can clearly demonstrate benefit the American public.

## Free Exercise of Religion (Some Conditions May Apply)

The Constitution protects the rights of US citizens to exercise a religion of their choice or exercise no religion at all.<sup>260</sup> Under the Religious Freedom Restoration Act of 1993, an individual's right to freely exercise his or her religious beliefs may only be burdened if the government demonstrates a compelling interest and the furtherance of that interest is done in the least restrictive means.<sup>261</sup> That allows people with different religious beliefs to enjoy the same protections. However, the statute does not predict each situation, and occasionally a court must hear claims on a case-by-case basis of those who have had their free exercise burdened.

In 2006, Interior executed "Operation Powwow," which was a raid of a family powwow to confiscate 50 tail feathers belonging to an ordained Native American pastor.<sup>262</sup> The feathers, some of which were from a federally protected eagle, had been given to or found by the pastor and were used for religious ceremonies.<sup>263</sup> After a decade of legal battles, the pastor was given back the feathers in summer 2017, but the federal rules that enabled Interior to conduct the raid remain in place.<sup>264</sup>



While there are exemptions from current law to allow members of federally recognized Tribes to possess feathers from protected birds, the exemptions did not apply to this pastor. Despite the exemption for most American Indians, it is wrong for the federal government to have rules in place that so obviously interfere with the ability of citizens to practice their sincerely held beliefs, and it should not have taken more than a decade for Interior to recognize that. Congress and federal agencies should do more to ensure that rules and laws do not place a burden on the ability of any American to engage in the practice of his or her faith.

## All Aboard for a One-Billion-Dollar Trolley Ride

Anyone who has spent time driving on American roads and bridges knows that we need a significant investment in our infrastructure. The American Society of Civil Engineers recently graded the US infrastructure a D+ and estimated that to modernize and maintain our roads, bridges, and other modes of transportation, all levels of government would need to invest \$3.32 trillion in infrastructure by 2025.<sup>265</sup> With a need for investment so high that it is nearly equal to annual federal spending,<sup>266</sup> it is good for the DOT to partner with and support local and state infrastructure projects.



But that also means we cannot afford to waste a single dollar. Late in 2016, the DOT announced a \$1.04 billion grant to expand the San Diego trolley service by 10.9 miles.<sup>267</sup> This project, coming in at just under \$100 million a mile, is expected to become operational in 2021.<sup>268</sup> By comparison, building a four-lane highway can cost between \$4 to \$10 million,<sup>269</sup> which means instead of a 10-mile trolley extension, this \$1 billion investment could have paid to put in 100 to 250 new miles of four-lane highways anywhere in America.

While the DOT estimates that 24,600 people might ride the extended trolley route each day,<sup>270</sup> millions more could have been served by an investment in our roads and bridges. The US should certainly continue investing in various types of infrastructure. However, with a \$20 trillion debt, we should make wise investments that reach the maximum number of people. The DOT should prioritize grants that help upgrade or construct new roads and bridges before spending billions on projects that serve a relatively small number of people.

## Welcome to Hotel Kabul

The Overseas Private Investment Corporation (OPIC) was created in 1971 to provide loans, loan guarantees, and insurance to private companies to encourage them to do business in developing markets throughout the world.<sup>271</sup> In the six years from FY08 to FY14, OPIC took on 718 commitments valued around \$20 billion.<sup>272</sup> Unfortunately, both the GAO and SIGAR have found major issues with OPIC's handling of loans, inspections of ongoing projects, and even oversight of its own employees.

For instance, a recent SIGAR report found that OPIC loaned \$85 million to construct a hotel and apartment in Kabul, Afghanistan, but failed to provide meaningful oversight, which enabled the contractor to accept loan disbursements without completing the job.<sup>273</sup> While the reasons for delays and suspension of the project were mostly outside the control of the contractor, news reports suggested that work had halted on the project a full month before the contractor submitted a progress report to OPIC that resulted in the final disbursement of funds to construct the hotel.<sup>274</sup> Inspections later found major structural and electrical defects in the building that suggest the builders were only putting superficial work into both buildings.<sup>275</sup> A recent GAO report suggests that the issues found by SIGAR in Kabul mirror issues faced throughout OPIC's \$20 billion portfolio of loans and loan guarantees.<sup>276</sup> The GAO found that OPIC inspects less than 10% of its funded projects and does not require employees conducting inspections to return them in a timely fashion (some were done years later).

Private funding opportunities have greatly expanded since 1971, and President Trump is right to ask whether or not this agency should be eliminated. If it is providing loan money or committing the US to backing loans, OPIC should put in place firm requirements to inspect all projects funded or guaranteed, ensure deficiencies are immediately fixed, and require inspection reports to be timely filed. It may not be possible to predict every bad loan, but OPIC can and should do more to minimize losses and preserve valuable resources.



## Ask the Expert, or Ignore the Expert

While Congress is primarily responsible for providing oversight to federal agencies, it has eyes and ears in 72 different agencies and departments via IGs, which perform regular check-ups on agency activities to identify opportunities to eliminate waste or duplication, improve operations, or generally help the agency better serve the public. In an ideal world, this system works when the agency responds to the IG recommendations and makes those improvements.

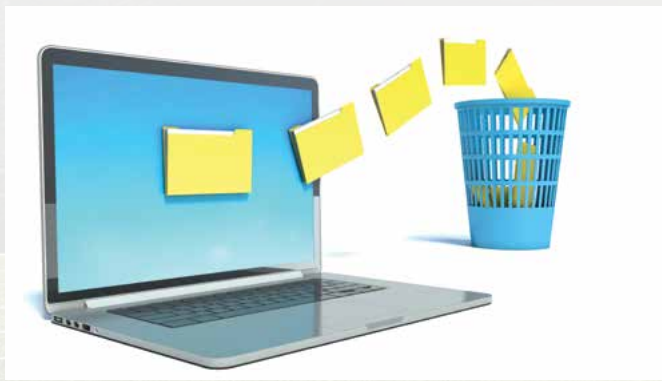
According to a recent joint report by the Senate Homeland Security and Governmental Affairs and Judiciary Committees, there are more than 15,000 open recommendations from IGs throughout the government with a potential savings of more than \$87 billion.<sup>277</sup> For example, the DOD's IG reports that if its recommendations were implemented, it could save that department \$33 billion.<sup>278</sup> HUD's IG reported that it had more than 2,000 of its recommendations still open, some of which had been open for more than 15 years.<sup>279</sup> Perhaps worse, many IGs reported that at times agencies refuse to cooperate with investigations by not responding to requests for information until, in one instance, they were threatened with or served with subpoenas.

Recommendations from an unbiased, impartial watchdog are intended to save taxpayer dollars and help make our government operate more efficiently. It is unacceptable that there are more than 15,000 open recommendations dating back to the early 2000s. Agencies should begin reporting to Congress annually on why they continue to waste taxpayer money by not implementing IG recommendations. Congress should use every tool available to it, including implementation of a budgetary penalty, for agencies that fail to implement IG recommendations without very good reasons.

## Lost IRS Emails (No, Not *Those* Emails)

Over the last few years, you may have heard a few news stories concerning the IRS, its email system, and missing emails. Perhaps recognizing a significant need to make improvements (or to comply with an OMB directive), the IRS spent \$12 million in 2014 to purchase a two-year subscription to a cloud-based email software it intended to use as a replacement for the IRS-managed email system that has been in place for many years.<sup>280</sup> Unfortunately, things did not go as planned.

A report released by Treasury's IG late in 2016 showed that the email system's software was never actually utilized or distributed to employees because the IRS failed to ensure it was compatible with IRS systems, would meet the agency's needs, or could meet security and portal bandwidth requirements.<sup>281</sup> As a result, the \$12 million software was completely unusable by the IRS, and the system the IRS sought to replace remains.<sup>282</sup>



This fumble was completely preventable. As the IG pointed out, the IRS failed to follow agency protocol for purchasing new software and violated federal acquisition regulations in purchasing the software without using the required open competition rules.<sup>283</sup> Before making multi-million-dollar purchases or spending any taxpayer dollars, agencies should ensure the purchase advances their missions, helps them better serve the public, and will actually be compatible with their existing technology.

## My Vest Doesn't Work

It is estimated that more than 3,000 law enforcement lives have been saved thanks to body armor and bullet-proof vests over the last few decades.<sup>284</sup> As the DOJ has pointed out, “body armor is critical safety equipment that law enforcement and corrections officers need for personal protection.”<sup>285</sup> With the importance of good body armor so widely recognized, it is all the more surprising that a key federal law enforcement agency would have thousands of its agents use expired or soon-to-be expired body armor.<sup>286</sup>

An investigation by Senator Chuck Grassley and the Senate Judiciary Committee found that the US Marshals Service (USMS) had 1,400 employees utilizing expired body armor kits at the end of June 2017.<sup>287</sup> On top of that, more than 2,000 of USMS's 3,900 operational employees will likely have expired armor by the end of 2017.<sup>288</sup> While USMS has taken steps to replace some elements in the body armor kit, such as some inserts and vests, most employees are still likely to have expired armor going into 2018.<sup>289</sup>



Using outdated body armor increases the likelihood that operational employees will be hurt or even killed in the line of duty. When USMS purchased the current armor in 2011 and 2012, it was known that it only had a five-year lifespan. Congress should work to determine why USMS did not plan for the expiration of its body armor and work to ensure no employees are placed in harm's way because of poor planning. All law enforcement should receive the protection necessary to do their jobs and keep us safe.

## What Difference Does It Make?

In 1994, Congress enacted the Riegle Community Development and Regulatory Improvement Act of 1994, which created the Community Development Financial Institutions (CDFI) Fund.<sup>290</sup> The CDFI receives federal support and tax credits in exchange for facilitating local economic growth.<sup>291</sup> In 2000, Congress added the New Markets Tax Credit (NMTC) as one method of funding local economic growth through the CDFI. Since then, Treasury has authorized more than \$50.5 billion in tax credits, including \$7 billion in 2016.<sup>292</sup>

Businesses and groups receive NMTCs in exchange for approved investments in job creation or related activities in low-income communities.<sup>293</sup> According to a recent GAO report, over the course of two years, “62% of NMTC projects received other federal, state, or local governmental assistance.”<sup>294</sup> As a result, the GAO reports that it is more difficult to ascertain the true impact of NMTC projects, and “it also raises questions about whether the subsidies are unnecessarily duplicative because they are receiving funds from multiple federal sources.”<sup>295</sup> In fact, Treasury does not even track the failure rate of NMTC projects or have a mechanism to gauge the long-term impact of funding.<sup>296</sup>

There are communities and Tribes who have benefited from NMTCs. However, the impact of the \$50.5 billion investment cannot be truly measured if Treasury allows it to be combined with other sources of federal funding and does not track the long-term impacts. Congress should require NMTCs not to be combined with federal grants or other direct funding and ensure that those receiving the assistance provide better documentation of the difference that investment makes.



## Do You Want It Fast or Right?

The Earned Income Tax Credit (EITC) had an error rate of more than \$17.7 billion in FY15.<sup>297</sup> Most of the credits improperly paid out occurred when tax filers entered inaccurate information on their tax returns and claimed benefits for which they are not qualified.<sup>298</sup>

But there are other problems as well. The Child Tax Credit and Additional Child Tax Credit accounted for \$55.1 billion in claimed tax credits in 2013, the most recent year for which information is available.<sup>299</sup> Of that, \$6.4 billion (or 11.6%) was paid to people who actually did not qualify for the tax credits.<sup>300</sup> The GAO points out that even though the IRS is working to develop a strategy to rein in improper payment of the EITC, the strategy will not address the Child Tax Credit or Additional Child Tax Credit.<sup>301</sup> As a result, the “IRS may be limited in its ability to assess and improve resource allocations.”<sup>302</sup>

The amount improperly paid out to the Child Tax Credit is equal to the tax payments of more than 320,000 American households.<sup>303</sup> Congress and the IRS should use every tool available, including not issuing a return until a W-2 is received, to help eliminate this massive waste of federal tax dollars. It is more important for the IRS to get its job done right than it is to get the job done quickly.

## Good Idea, Bad Implementation

In 2011, OMB and Treasury created the *Do Not Pay* system to provide agencies with a tool to prevent paying federal benefits to a person who is not qualified to receive those benefits.<sup>304</sup> The goal is to create a unified and comprehensive database so agencies can go to one place to check eligibility.<sup>305</sup> With more than \$100 billion in improper payments made each year by the federal government, this program should help agencies reduce the amount of federal tax dollars they lose each year. Unfortunately, it seems the program does not contain all necessary information and is not used effectively by all agencies.<sup>306</sup>

In 2012, Congress required the Do Not Pay system be a combination of six different federal databases with information on US citizens that can be used to decide eligibility to receive federal benefits. As of late 2016, the system did not have full access to three of the six federal databases, including SSA’s death files and prison records.<sup>307</sup> Additionally, the GAO found that “agencies may not effectively and efficiently use the system” because OMB has not “developed a strategy or communicated through guidance how it expects agencies to use” it.<sup>308</sup>



As a result, OMB and Treasury cannot accurately state that the Do Not Pay system is fully operational or that it has produced intended results. This program has the potential to help save billions, but OMB and Treasury must first work with Congress to ensure the program has access to all relevant federal data and provide needed guidance to federal agencies so that they know how and when to use the program. For now, the Do Not Pay list is a good idea with bad implementation.

## Young People Use Technology? That's Shocking.

There are more than 1 million people in the US with HIV. Worldwide, 36.7 million people have HIV, and around 40% of them do not know they have it.<sup>309</sup> While numbers in the US are on the decline, around 37,000 people were infected in 2014, the year with the most recent data available.<sup>310</sup> Tragically, more than 1 million people a year will die from HIV-related illnesses. With this obvious need, it is right for the NIH toward a cure and increase prevention awareness efforts. Unfortunately, a portion of that funding is instead being used to conduct research into what should be seen as common sense.

Over the last four years, the NIH has spent almost \$800,000 to find out how social media can be used to spread awareness of HIV/AIDS to groups that may be at the greatest risk.<sup>311</sup> A look at two papers produced by the research shows discoveries that should have been common sense. For instance, it was discovered that 87.3% of participants in one study involving young people owned a cell phone with Internet access and almost all of them used their phones to access social media.<sup>312</sup> Another paper offered by the researchers points out that young people are more likely than older people to be receptive to receiving health advice in a text message.<sup>313</sup>



The Office of AIDS Research at the NIH receives almost \$3 billion a year for research and treatment-related activities.<sup>314</sup> The fumble here is that the NIH has spent almost \$800,000 to tell us what we already know—that young people can be reached through social media. The NIH should focus its social media efforts on preventing the spread of HIV/AIDS, instead of researching what is already known.

## Did Your House Cost \$723,423?

Each year, American Indian Tribes throughout the country receive block grants from HUD through the Native American Housing and Self-Determination Act (NAHASDA) to construct needed housing for tribal members and citizens.<sup>315</sup> A recent study found that 34% of American Indian and Alaska Native households on tribal lands had some form of heating, electrical, or plumbing deficiency and/or were overcrowded,<sup>316</sup> compared to just 7% of all US households.<sup>317</sup> Obviously, the need is there, and due to the trust relationship between the federal government and Tribes, HUD plays an important role in solving these issues. Unfortunately, the best laid plans of government bureaucrats sometimes go awry.

Since NAHASDA was enacted in the 1990s, the Navajo Nation has received \$803 million in block grant funding from HUD.<sup>318</sup> Unfortunately, a report by Senator John McCain found that the Navajo Nation's Housing Authority "lacks both the plan and capacity" to properly utilize funding to fully meet the needs of its citizens.<sup>319</sup> In fact, over the course of the last 10 years, the \$803 million in funding has only built 1,110 new homes, which breaks down to \$723,423 *per home*.<sup>320</sup> Senator McCain's investigation found that mismanagement and poor planning led to more than \$125 million in delays for hundreds of homes and indicated there was "wasteful, fraudulent, and abusive use of housing funds."<sup>321</sup>

The US has an undeniable responsibility to American Indians. While we should always encourage Tribes to take charge in meeting needs such as housing, instead of relying directly on the federal government, we also have an obligation to ensure funds are spent wisely and have the biggest impact possible. Here, HUD should step in to ensure the millions going to the Navajo Housing Authority are spent only after proper planning and in a way that will actually meet the massive housing needs faced by the Navajo people.

## Don't Hack Me, Bro

A recurring theme in *Federal Fumbles* is the use of old and sometimes non-secure technology by federal agencies and departments. For example, a 2016 entry entitled “Floppy Nukes” discussed how the US spends more than \$55 billion a year to care for this legacy technology.<sup>322</sup>

Late in 2016, Treasury’s IG conducted a security review of servers used to operate publicly accessible webpages for the Bureau of Fiscal Service.<sup>323</sup> Disappointingly, the review found multiple areas of concern. For instance, security procedures were not written down, and some servers were operating 14-year-old software that had not been serviced by the developer for two years.<sup>324</sup> Though cybersecurity should be a concern for all federal agencies, the IG found the sites were vulnerable to simple cyber attacks and some website error messages provided the public with the server’s version number and operating system, an open invitation to hackers.<sup>325</sup>



It may be impossible to design a system that allows for easy access and use while also being impregnable to hackers. However, Treasury and all federal agencies are given billions of dollars each year for technology-related expenses, and they should at least ensure their websites are not open doors to those seeking to steal information or disrupt our systems.

## Get the Facts Straight

In January 2015, American military forces in Afghanistan shifted from combat operations to training and assisting Afghan forces as part of Operation Freedom’s Sentinel.<sup>326</sup> Funding for this mission comes from a pot of money created by Congress called overseas contingency operations (OCO). (For more information on OCO, see page 65 of the 2016 edition of *Federal Fumbles*.) Part of the DOD’s responsibilities under OCO is to provide Congress with information on spending obligations, which enables Congress to oversee DOD operations and ensures tax dollars are spent wisely. Unfortunately, it seems Congress has received some inaccurate information from the Navy.<sup>327</sup>

A recent IG investigation found “significant inaccuracies” with the report the Navy submitted to Congress for the first quarter of FY16.<sup>328</sup> The report included \$20.1 million in inaccurately reported obligations and \$85.4 million in inaccurately reported disbursements.<sup>329</sup> Due to poor recordkeeping, the Navy also could not fully justify \$866.3 million in obligations during that same quarter.<sup>330</sup> While the IG investigation was not able to review enough information to determine whether funds were misused, the report revealed what may be an even bigger problem: these mistakes make it impossible for Congress to fully and accurately oversee the expenditure of federal tax dollars.

Like a football player fumbling the ball right before he runs into the end zone untouched, this federal fumble is unnecessary and easily fixed with a little bit of practice. If it were a separate country, the DOD’s budget would be the 10th-largest in the world.<sup>331</sup> To be trusted with so much taxpayer money, the DOD must implement accounting policies that work and enable it to accurately report finances to Congress so that it may then exercise its constitutionally mandated oversight responsibilities.



## Duplicating Democracy

In 1982, President Ronald Reagan said democracy “needs cultivating. If the rest of this century is to witness the gradual growth of freedom and democratic ideals, we must take actions to assist the campaign for democracy.”<sup>332</sup> In an age where we must confront the nuclear threats of North Korea, the cyber threats of China and Russia, and the aggression of ISIS, it is more important than ever for the US to support the spread of peaceful, democratic governments around the world. However, those efforts should be organized and unified under the direction of the President and the Secretary of State.



The National Endowment for Democracy (NED) was created by Congress in 1983 and is “dedicated to the growth and strengthening of democratic institutions around the world.”<sup>333</sup> Each year, the NED provides millions of dollars (more than \$1 billion since 2010) to support efforts of non-governmental groups that advance democratic ideals and policies in other countries.<sup>334</sup>

The mission of the US State Department is to “create a more secure, democratic, and prosperous world for the benefit of the American people and the international community.”<sup>335</sup> Its mission encompasses the mission of the NED, but the NED is not part of the State Department. So while the work of the NED may be valuable, it is not under the supervision or control of the Secretary of State or the President, the two people who manage American foreign policy. If the State Department is not capable of doing the NED’s work, we should reform the State Department, not create and continue to fund a separate and independent federal agency for foreign policy. Congress should consider eliminating this agency and giving State any additional tools necessary to fulfill its own mission statement and continue the work of the NED. At the very least, Congress should put the NED under the authority of the Secretary of State.

## Self-Graded Contractors?

Each year, the DOD spends close to \$300 billion (more than all other federal agencies and departments combined<sup>336</sup>) to contract services, equipment, and other support for operations around the world.<sup>337</sup> As a result, it is important for the DOD to have in place clear standards for contractor performance and assessment so it can ensure timely performance and appropriate delivery of service and determine whether or not to sign additional contracts with the outside company. One of those DOD rules specifies that officials are to complete a performance assessment report on the quality of work and level of compliance by the contractor.<sup>338</sup> According to the DOD’s IG, officials have not complied with those rules.



In 2008, the IG reported that DOD officials were not complying with these rules, and in 2010, the Senate Armed Services Committee ordered more regular audits to determine compliance.<sup>339</sup> Earlier in 2017, the IG reported that the DOD was not in compliance between 2013 and 2016.<sup>340</sup> In fact, the IG found that the reports were often completed late, and 200 of the 238 reviewed were either incomplete or incorrect.<sup>341</sup> Common problems identified by the IG were that the officials did not fully explain why they gave a contractor a certain rating or provide justifications for the ratings.<sup>342</sup> The IG cited insufficient training and “a lack of internal controls” as causing most of the issues.<sup>343</sup>

Failure to comply with these rules can result in a poorly performing contractor slipping through the system and receiving another contract from federal officials who may have no way of knowing the contractor’s bad history. The DOD should ensure it can timely report on the performance of contractors to ensure our warfighters and tax dollars paid by hard-working American families are not put at risk.

## Listening Helps

Each year, business owners and employers pay trillions of dollars (\$2.28 trillion in 2016 to be exact) to the federal government in the form of taxes for income, unemployment insurance, Social Security, and Medicare.<sup>344</sup> To process those tax filings in a timely manner, the IRS is only able to examine a tiny fraction each year, a staggering 0.2% in 2016.<sup>345</sup> Since it closely examines so few filings, it is imperative that the IRS have in place functional processes that can help detect potential fraud and ensure questionable filings are reviewed. Unfortunately, it seems the IRS does not always do that.



Earlier in 2017, the GAO highlighted that while the IRS has a program called the National Research Program (NRP) to study tax filings to find new ways to detect compliance issues, it does not actually listen to the advice of the program.<sup>346</sup> For the first time in 30 years, the NRP analyzed business tax filings to find areas of non-compliance and found major issues in areas including employee classification and taxable wages and benefits.<sup>347</sup> However, according to the GAO, the IRS “has not developed formal plans to analyze the results” or use them to adjust current processes and procedures.<sup>348</sup>

It is estimated that in 2016 there was a \$458 billion difference between taxes that were actually owed and were actually paid,<sup>349</sup> which severely impacts our budget and our ability to pay down the national debt.

## You Are Not Authorized to Do That

In the complex world in which your federal government operates, departments, agencies, and even programs are supposed to be funded and operate because Congress has both authorized and actually funded their operations. From the Department of State to grants that support Tribally operated colleges and universities, agencies and programs should only receive funds if Congress has first passed a law that says they are authorized to operate and receive funding.

This is a wonky problem that has real-world implications for American taxpayers. For example, in late 2002, Congress enacted the Foreign Relations Authorization Act, which authorized operations of the Department of State for FY03.<sup>350</sup> This law was Congress’s way of setting into statute the policies and priorities for the Department of State until the end of FY03.<sup>351</sup> Congress would not pass another authorization bill for the Department of State until December 2016,<sup>352</sup> which means for 13 years Congress was funding the department (a total of \$313 billion)<sup>353</sup> but was failing to fully use its authority to set priorities for foreign policy. And this problem is not limited to just one department. According to the CBO, in FY17 Congress appropriated \$648 billion to programs with authorizations that were expired or would expire at the end of FY17.<sup>354</sup>

While this may not seem like a major issue, Congress is spending more than half-a-trillion of your tax dollars programs, for which it has not taken time to enact legislation to update priorities, rules, or expectations. While Congress may hold an oversight hearing or a Senator may send a letter to an agency head, only laws can require agencies and departments to make improvements or changes to their activities. Just as small business owners should review and possibly update their expectations and duties of employees from time to time, Congress should enact legislation to update the expectations and priorities for all agencies, departments, and programs that continue to receive appropriations.



# Holy Cow! Federal Grazing Programs' \$70.6 Million Deficit

Federal grazing (the practice of private ranchers paying to graze their cattle on federal lands) has been a common practice across the country since the early 20th century. In many western states, where the federal government owns and maintains vast tracts of land, rural communities depend on affordable and reliable access to federal lands to graze their livestock. Ranchers who graze their cattle on federal lands benefit from a spillover effect of the below-market rate charged by the federal government.<sup>355</sup> However, the federal government is losing money on the deal and so are American taxpayers.



For 2017, the nationwide federal grazing fee is set at \$1.87 per head of cattle.<sup>356</sup> By comparison, ranchers who choose to graze their livestock on state or private lands can expect to pay \$12.50 per head of cattle in places like Oklahoma or Texas or an estimated \$8 to \$23 for privately owned land.<sup>357</sup> While that certainly benefits ranchers, the government is paying more to operate the program than it collects in fees. For example, in FY15, the federal government spent at least \$91.6 million to administer the federal grazing program but only collected \$14.5 million in grazing fees—leaving taxpayers with a \$70.6 million bill.

Ranchers across the country deserve easy access to grazing lands. However, the federal government should not be in the business of unfairly passing on the costs of maintaining federal grazing lands to the American taxpayer. Though the federal grazing fee has been a contentious issue since its inception, something must be done to mitigate a federal practice that leads to wasteful spending and disproportionately harms non-western ranchers. Congress should revisit the statutory framework governing the grazing fee schedule to account for the cost of the program and the fair market value of the grazing land. At the very least, the program should break even.

## Artistic Fumble Pt. 2

In 2016, *Federal Fumbles* highlighted a \$35,000 grant the NEA gave to develop public housing options for artists.<sup>358</sup> In the entry, it was pointed out that the grant was beyond the mission of the NEA and duplicated work already done by both the local city and HUD.<sup>359</sup> Perhaps believing more work needed to be done to study housing needs, the NEA has now provided \$50,000 to the National Affordable Housing Design Leadership Institute.

This grant is intended to support the bringing together of “developers, design professionals, community members, and city agencies to address urgent community development needs in low and moderate income neighborhoods.”<sup>360</sup> That goal, which sounds similar to the mission statement of a certain federal department (HUD), is part of the National Affordable Housing Design Leadership Institute. This initiative is part of an organization that currently receives \$1 million or more in funding from nine different large corporations such as Goldman Sachs, Bank of America, and JPMorgan Chase and invested more than \$6 billion last year in affordable homes.<sup>361</sup>

It is unclear why organizations with assets in the hundreds of millions<sup>362</sup> would need assistance from the federal government, and it is even more unclear why that funding came from the NEA. Communities and non-profits in cooperation with HUD certainly have a great deal of work to do to assist the homeless. However, it is not the NEA's mission to do this work. Congress should put in place additional requirements to ensure the NEA remains focused on the arts, not working on issues unrelated to its mission.





## Do You Love Me? Check Yes or No

In an almost \$400,000 research grant, the NIH is seeking to replicate work done by marketing departments at stores and schools around the country to learn how consumers make decisions to date or buy a home. In a study conducted by the grantees, it was discovered that of those using online dating, men prefer women who are younger and thinner, women like taller men, and non-smokers do not want to date smokers.<sup>363</sup> Clearly, this is cutting-edge research with shocking results.

The NIH is and should always be a leader in scientific research to find cures and treatments for physical and mental illnesses that impact the lives of millions in the US and around the world. However, it is not the job of the NIH to find new ways to market products or conduct research on dating preferences that anyone walking down the street could have told them for free. The NIH should refocus its research on areas that produce a clear national benefit and are within the scope of its core mission.



## Does Not Share Well with Others

Every day, thousands of Americans will stop to pick up prescriptions at local pharmacies. When traveling, some Americans will purposely use national chains like Walgreens so they can visit a location most convenient to them when they need medication. This enables them to not be tied to one particular pharmacy but ensures their medical and prescription history will be known no matter which pharmacy they visit. For millions of retired service members though, this is not an option.

It seems that even though the VA relies on multiple IT systems to serve 6.7 million veterans and their families, these systems do not allow individual pharmacies to transfer prescriptions and do not allow pharmacists to “effectively view necessary patient data” from other VA locations.<sup>364</sup> Even though Congress required the VA’s system to be interoperable with the DOD in 2003, there is still an inefficient flow of information that prevents the VA from obtaining full information on patients.<sup>365</sup> Currently, the pharmacy system meets only half of industry-wide standards, with the VA not able to allow patients to order prescriptions electronically, compare patient prescriptions to ensure there will be no drug or allergy interaction issues, or track when controlled drugs are dispensed.<sup>366</sup>

As a result, the VA cannot provide an effective and complete service to patients who deserve the best care possible. In an age when it is possible to use a cell phone to start a car on the other side of the planet, it is unacceptable for the VA to not be able to transfer medical and prescription records from one facility to another electronically. Congress, the VA, and the DOD should work to ensure the VA is able to update its systems and become compliant with industry standards. The VA should be able to provide at least the same level of service as Walgreens.



## Not All Things Improve with Age

In 1978, when Jimmy Carter was President, there were only 222 million people in the country, a gallon of gas was \$0.63, and our national debt was a paltry \$776.6 billion.<sup>367</sup> That year was also the last time Congress updated the block grant program formula that provides funds to localities for low-income communities.<sup>368</sup> As a result, this \$3-billion-a-year program often directs funding to wealthy cities or localities instead of high-need areas.<sup>369</sup>

The grant's funding allocation is determined by looking at four categories: 1) lag in population growth compared to other cities, 2) the amount of pre-1940 housing, 3) overcrowding, and 4) poverty.<sup>370</sup> This results in cities receiving funds not necessarily based on their actual need but on how many old houses they may have or how quickly the city is growing. For instance, Allentown, PA, received less per-capita funding this year than San Francisco even though it has "twice the poverty and less than half of the median income."<sup>371</sup> Among many issues with the funding, the GAO has pointed out that although HUD counts the number of pre-1940 houses to determine grant funding, it does not look at the income level of the people living in the houses.<sup>372</sup> It also does not matter if housing is occupied.<sup>373</sup>

Congress and HUD owe it to low-income beneficiaries and to all taxpayers to ensure the block grant program's funding reaches the highest-need individuals as efficiently as possible. HUD should not be forced to rely on a 40-year-old grant formula.

## Whose Job Is It Anyway?

The 2008 Farm Bill included a provision authorizing the Energy Efficiency and Conservation Loan Program.<sup>374</sup> This program "provides loans to finance energy efficiency and conservation activities" for utility services.<sup>375</sup> Though it was authorized almost a decade ago, the USDA did not create the program until 2014 and since then has only completed three loans totaling \$56.6 million.<sup>376</sup> Despite the size of the loans and the length of time taken to set up the program, the USDA has not developed metrics to gauge the impact or success of the program or trained employees on the program's rules and regulations.<sup>377</sup>

One way the USDA allows funds to be spent through the program is to lend money to homeowners by their utility service to conduct efficiency improvement work at their homes or businesses.<sup>378</sup> These loans, which result in the same benefits as those offered through the DOE or state efficiency programs and, like DOE programs, are paid out to reimburse a homeowner for work already done at his or her home.<sup>379</sup> A recent IG report pointed out that even though required by law, the program has failed to develop oversight methods or metrics to assess performance.<sup>380</sup> One reason given by the USDA for this failure is that the original two loan applicants had such a close relationship with the USDA.<sup>381</sup>

While the USDA has long carved a niche in rural energy development, energy efficiency efforts have always been the purview of the DOE. Absent moving this program to the DOE, the USDA should at least put in place clear metrics and requirements so that program administrators know exactly what they are supposed to do and loan applicants know exactly what is required of them.



# My Fellow Americans

Presidents since George Washington have attempted to influence, cajole, or pressure Congress into passing certain pieces of legislation, provide funding for pet projects, or even affect congressional investigations. As a Senator and as President, LBJ was famous for invading the space of legislators to coerce them into doing as he wished.<sup>382</sup> President Reagan was known to use his bully pulpit to ask Americans to call their Members of Congress to support certain legislation, calls that would occasionally overwhelm the Capitol switchboard. The relationship between presidents and Congress is important and well documented in real time by the press and continuously discussed by historians. It is now also being studied by the NSF.<sup>383</sup>



Earlier this year, the NSF awarded \$376,702 for a university to determine “to what extent presidential requests serve to set Congress’ agenda.”<sup>384</sup> The project will study records at the OMB to see how regularly from 1979 to 2007 presidential legislative statements and requests to Congress were followed or impactful.<sup>385</sup>

While certainly interesting information, it is difficult to determine why this research, which utilizes publically available information provided for free, cost almost \$400,000 and is funded by the NSF. This project sounds more like the research that would be done for a doctoral dissertation in history or political science, not a federally funded grant. The NIH should utilize better priorities for approving grants and ensure that its grants truly advance a national interest.

## Parked Cars

Over the course of four years, the federal government spent \$1.6 billion to purchase around 64,500 passenger vehicles and trucks.<sup>386</sup> At an average cost of \$25,600, almost all of these vehicles were purchased by the DOD, DHS, USDA, DOJ, and Interior.<sup>387</sup> In just FY15, federal agencies also spent \$3.4 billion to maintain and operate the almost 450,000 vehicles already owned by the government.<sup>388</sup> In the GAO’s review of just three agency purchasing decisions conducted by the GAO, it found that there is no way to determine whether vehicles owned by agencies are actually utilized.<sup>389</sup>



The federal government may be purchasing vehicles it does not need and paying to retain vehicles that are not utilized. The GAO analyzed 2,300 of CBP’s vehicles and found that CBP “did not determine if 1,862 (81%)” were utilized in FY15.<sup>390</sup> Similarly, the USDA’s Natural Resources Conservation Service could not show that 579 of 6,223 vehicles inspected were utilized in FY15. As a result, both of these agencies spent more than \$13.5 million to maintain more than 2,000 vehicles they could not show had been used in more than a year.<sup>391</sup>

While CBP is working to install a device to track vehicle mileage, the GAO states it “lacks a specific plan for how to ensure these data will allow it to determine if vehicles are utilized.”<sup>392</sup> Agencies should obviously have access to vehicles necessary to do their jobs. The American people should not continue to spend billions to buy, operate, and maintain a massive fleet of vehicles if agencies cannot show they are actually being used.

## You Have to *Write Rules* to Get People to Follow Rules

A recent survey found that one in three women in the workplace between the ages of 18 and 34 have been sexually harassed.<sup>393</sup> Of those, only 29% reported the occurrence.<sup>394</sup> Another recent survey found that 67% of small businesses do not have sexual harassment policies.<sup>395</sup> Sexual harassment in any location is abhorrent and should not be tolerated. All workplaces should have a clear process for investigating any reported instances of harassment. Evidently, the DOJ, which ironically may assist in the prosecution of harassment in the workplace, is in need of updating its own sexual harassment policies.

A recent IG investigation found that there were “significant weaknesses in [DOJ’s] Civil Division’s tracking, reporting, and investigating” of sexual harassment allegations.<sup>396</sup> The IG found that the division does not have a set process for collecting and storing data relating to an investigation, which resulted in the IG’s inability to piece together a complete file on all reported instances of sexual harassment reported between 2011 and 2016.<sup>397</sup> In fact, most of the records for investigations were based only on the “recollection” of the HR officer.<sup>398</sup>

The top law enforcement agency in the country should be one of the first to develop a strong anti-sexual harassment policy and have clear mechanisms to report, investigate, and track any allegations. Congress and the DOJ should immediately develop those policies for all federal agencies and entities.

## When Essential Was Really Duplicative

Two years ago, *Federal Fumbles* highlighted the Essential Air Service (EAS).<sup>399</sup> This program uses hundreds of millions of dollars each year to subsidize mostly empty flights to rural or underserved airports.<sup>400</sup> It turns out though that the EAS is not the only federal program providing a lifeline to small and underserved airports.

The Small Community Air Service Development Program is “designed to help small communities address air service and airfare issues.”<sup>401</sup> As pointed out on their website, the grant program is often confused with the EAS, with the noted difference between the two being this program is “broader” and enables a grant recipient to “identify its air service deficiencies and propose an appropriate solution.”<sup>402</sup> Last year, the program provided nine grants ranging from \$200,000 to \$750,000 to guarantee revenue for the nine small airports, enable new flights to or from the airports, and to increase marketing to encourage airlines to utilize these small airports.<sup>403</sup>



While it is certainly advantageous for smaller communities to have their own airports, it should not fall to the federal government to encourage business or subsidize increased flights to the area. Airlines should make decisions on destinations based on passenger demand, not federal taxpayer subsidies. Congress should eliminate this program and stop using the federal government and federal tax dollars to provide an unfair advantage to select small airports.

## Must Be Present to Win

In 2016, 50 million Americans collected Social Security retirement checks.<sup>404</sup> An additional 10 million were received what is usually known as a disability check.<sup>405</sup> Both programs brought in \$957.5 billion and spent \$922.3 billion, an apparent surplus of \$35.2 billion.<sup>406</sup> While that sounds like the Social Security Trust Fund is earning money, it actually is not because when you remove interest earned on the trust fund assets, the fund actually lost \$53 billion last year.<sup>407</sup> This trend, which is projected to continue into the future, is one of many reasons why we need to reform our nation's Social Security system.

*Federal Fumbles* has identified multiple issues within the SSA. In 2015, SSA's \$5.7 billion fumble of a duplicative benefit program and SSA's failure to maintain an accurate death record file were both highlighted.<sup>408</sup> These highlights have shown that there is a great deal of work for SSA and Congress to do to ensure that the program operates in an efficient way, which also ensures the US keeps its promise to retirees. Several of the entries that follow throughout the book discuss just a few more problems with SSA.

For instance, SSA provides Supplemental Security Income (SSI) for low-income senior adults and disabled individuals.<sup>409</sup> For senior adults, these funds are on top of retirement benefits paid out to retirees by SSA.<sup>410</sup> By law, there are multiple requirements to obtain SSI, one of which is that the individual must live and be present inside the US to receive benefits.<sup>411</sup> However, it seems SSA treats that more as a suggestion than a requirement.

A recent IG investigation found that SSA provided SSI benefits to 1,196 people who received their benefits in banks outside the US. Over the course of three and a half years, SSA paid more than \$1 million in benefits to the same foreign bank for 246 recipients who resided outside the US. From May 2014 to April 2015, these beneficiaries received \$379,295, and according to the IG, SSA "will continue issuing improper payments without corrective action."

The IG found that the policies SSA has in place to ensure SSI benefits are not paid to recipients of other SSA programs who are known to be outside the US "were not always effective."<sup>412</sup> Since it is reasonable to expect that SSA beneficiaries may travel abroad, SSA should have in place firm controls to track when a beneficiary is abroad and ineligible for SSI. Certainly setting up direct deposit at a foreign bank is a decent clue. Congress should require SSA to implement stronger controls to prevent improper payments to ineligible beneficiaries and require those who have received these payments to repay them to Treasury.

## I've Got a Ticket to Work



In 1999, Congress enacted the Ticket to Work and Work Incentives Improvement Act, which required SSA to provide disability beneficiaries with a "ticket" that could be used to access free assistance from either a state vocational rehabilitation agency or an employment network.<sup>413</sup> These "ticket holders" can then obtain help or training needed to find a job.<sup>414</sup> While the bill was designed with grand goals, its impact was not so grand.

Even though SSA has realized "significant savings" when a person gained employment after using his or her ticket, the IG found "few beneficiaries used their tickets" and "SSA incurred significant costs to operate the ticket program."<sup>415</sup> In fact, in the first half of this decade, SSA never had more than 3.15% of eligible recipients per year either requesting a ticket or using a ticket.<sup>416</sup> Since 2000, SSA has spent more than \$234.5 million to operate the program.<sup>417</sup>

The IG cites an investigation that "failed to provide strong evidence of the [program's] impact on employment and concluded that many successful program participants might have been equally successful without SSA-financed services."<sup>418</sup> Congress should work with SSA to evaluate the continued viability of the program and determine whether it should be eliminated. Obviously, SSA should support able-bodied individuals seeking employment. However, the benefits of SSA's efforts should outweigh the costs of the program.

## Where's My Money?

In 2012, SSA began allowing recipients to use a website to set and change the bank accounts into which their monthly checks are deposited,<sup>419</sup> which enables recipients to decide how to receive their Social Security checks without traveling to an SSA office or filling out paperwork that may take time to process. At the same time, these bank changes open the door to cybersecurity issues and identity theft.

In August 2017, the SSA IG released a report showing that from 2014 to 2016, almost \$11 million in Social Security benefits were stolen from 7,200 beneficiaries by someone altering their direct deposit information on the SSA website.<sup>420</sup> While SSA has been able to recover about \$4.7 million of those funds, the IG pointed out that banks will only return the funds if they are still in the same bank account, which means to recover the funds, SSA must move very quickly.<sup>421</sup>



As most Americans who use technology or watch the news know, the risk of computer hacking or online identity theft is always present. Account users have a responsibility to ensure that their log-in information is secure, but agencies like SSA have a responsibility to ensure that bad actors cannot easily access beneficiaries' personal information or monthly income. SSA should work with Congress and cyber experts to develop tools to ensure only beneficiaries are able to receive their monthly checks and work to recapture any lost funds.

## Spending Someone Else's Money

Most small business owners can tell you how much money they spend each month, on what they are spending it, and to whom they are giving it. These business owners know they have to work hard to earn the money and want to ensure they spend it wisely. This is not always true in government.

The Department of Education gives billions in grants each year through 80 different grant programs to more than 7,000 grantees.<sup>422</sup> While the obvious goal of this funding is to contribute to a well educated society, the department does not effectively track how all of the funds are used.<sup>423</sup> A recent audit of 75 random grants given by the department found that all but two "were incomplete in terms of certain key documents" such as performance reports or post-award conference records.<sup>424</sup> There are even some areas of the department that give grants without having any written rules regarding the review of grant files.<sup>425</sup>

While the department has a \$700,000 program to monitor awarded grants, it is used "rarely."<sup>426</sup> The fumble here is not necessarily the funding spent but that the department requires grantees to fill out applications and provide information that it apparently does not need, review, or care about when absent. The department should always prioritize the efficient use of American tax dollars, but it should not overburden partner businesses and groups. The department should reevaluate the information requirements for grantees to ensure it requests the information necessary and then actually requires grantees to provide the information.

## This Might Make You Sick

Each year, the federal government through states pays tens of billions of dollars to local hospitals to cover the cost of care provided to uninsured individuals who do not already receive federal benefit that will pay for care.<sup>427</sup> These payments to cover uncompensated care defray the cost of assisting individuals who may not otherwise be able to obtain medical assistance.<sup>428</sup> Unfortunately, the GAO has found that those payments “are not well aligned” with the actual costs hospitals incur, and the federal government could be drastically overpaying.<sup>429</sup>

Specifically, the GAO found that CMS, which funds uncompensated care, provides funding “based on hospitals’ Medicaid workload” instead of the actual amount of uncompensated care provided.<sup>430</sup> Before funding uncompensated care through Medicare, CMS does not take into account that Medicaid may have already provided some of its uncompensated care funding to cover the cost.<sup>431</sup> In other words, hospitals could receive funding from CMS to cover uncompensated care that was already funded and receive funding that is greater than the actual cost they incurred.

It is a product of the federal government’s convoluted method for providing aid to low-income and elderly citizens that both Medicaid and Medicare provide funding to hospitals for uncompensated care. However, with both of these agencies operated by CMS, Congress should develop one method of providing this funding to compensate for the exact cost incurred. CMS should not utilize a program that it knows cannot operate effectively and efficiently with its federal tax dollars.

## Million-Dollar Monkeys



Technological advancements over the last decade have made it possible for the average American’s location to be tracked through cell phones, cars, computers, homes, and countless other means. Parents track the location of their children, and pet owners put tracking chips in their pets. Some even place tracking chips with their valuables in case they are stolen. With the ease of tracking people, animals, and items, it may surprise you to know that your federal government has spent more than \$1 million to develop a new way to track rhesus monkeys from Asia.

In an effort to learn more about monkey social habits, the NIH has funded a \$1.2 million project to develop “comfortable collars” with RFID tags for rhesus monkeys so that researchers can track their exact location within a half-acre living area.<sup>432</sup> The software the grantees plan to develop will assist them in using the collars to study “the social hierarchy of the group.”<sup>433</sup>

It is possible the American people may benefit from knowing the social habits of Asian monkeys. However, spending more than \$1 million to develop a product that is already on the market is certainly not in the interests of hard-working American taxpayers who worked one-quarter of the year just to pay their tax bills.<sup>434</sup>

## We Already Know This

A recent survey conducted by the CDC found that during the previous 30 days, 33% of high school students had consumed alcohol, and 18% of them had engaged in binge drinking.<sup>435</sup> Young people between the ages of 12 and 20 “drink 11% of all of the alcohol consumed in the United States.”<sup>436</sup> According to a 2006 NIH report, young people drink alcohol because they enjoy taking risks, in some ways they are more tolerant to alcohol than adults, and they may possess certain personality characteristics and hereditary factors.<sup>437</sup> Another NIH report in 2004 found that alcohol advertisements reached 89% of the youth viewing audience, that 90% of all youth like alcohol advertisements, and that young people who view alcohol ads “drink more frequently and in larger quantities than do other young people,” according to analysis of more than a dozen prior reports.<sup>438</sup>

With all of this research pointing to a connection between young people drinking and alcohol advertisement, it might surprise you to know that instead of building on these findings for new research, the NIH funded a project asking those same questions. Over the last four years, the NIH has spent more than \$500,000 annually (for a total of \$2.9 million) to fund another study on the connection between advertisements and underage drinking.<sup>439</sup> In fact, the goal of the research is to “answer whether there is a direct causal relation between exposure to alcohol marketing and alcohol attitudes/behaviors among youth.”<sup>440</sup>

When there are more than 4,300 young people dying each year due to alcohol-related issues, there is an obvious need for parents, communities, and even the government to come together to put an end to these tragedies. However, spending almost \$3 million to conduct duplicative research into a cause that is already known is not advancing a solution. The NIH should put in place better research parameters to ensure funded research finds solutions to problems, instead of looking into already-known causes.



## Oh, SNAP!

In 2016, *Federal Fumbles* highlighted issues with regulations concerning the Supplemental Nutrition Assistance Program (SNAP).<sup>441</sup> This program, also known as food stamps, provides around \$70 billion a year<sup>442</sup> in provide about 22 million low-income families for access to food.<sup>443</sup> Retailers accepting SNAP cards must submit purchase records to two USDA systems: one that collects data on transactions and retailers to evaluate the stores and one that is used to scan transaction data to detect fraud.<sup>444</sup> The problem is that the USDA does not engage in tracking to ensure retailers provide accurate data to the two systems, which may allow millions in fraudulent transactions each month.<sup>445</sup>

The USDA's IG recently reviewed 1.56 billion SNAP transactions, which totaled \$23 billion in purchases, and found multiple issues. First, it found almost 250 retailers that submitted \$3 million worth of different transaction totals to the two USDA systems.<sup>446</sup> Second, in reviewing just one-third of one year's transactions, the IG found 3,500 retailers that had registered using the personal data of dead people or minors. In other words, 3,400 retailers that claimed more than \$2.6 billion in purchases (just during the IG's study) were likely ineligible to participate in the program and could have committed fraud.<sup>447</sup>

As the IG pointed out, the USDA must put in place better controls to ensure only eligible retailers accept SNAP benefits. The USDA has made efforts to detect fraudulent transactions, but we must do more to ensure USDA has the proper tools to detect ineligible retailers.



## Promises Still Not Kept

Over the last three years, *Federal Fumbles* has repeatedly referenced issues with the way in which the federal government provides services and programs for the benefit of American Indians and Tribes in accordance with our trust responsibilities.<sup>448</sup> From health care, to education, to criminal justice issues, the federal government spends billions of dollars annually on these programs,<sup>449</sup> but we still regularly manage to fumble the ball.



The GAO recently placed Indian programs on its high-risk list by citing “serious problems in management and oversight by Interior and HHS.”<sup>450</sup> Specifically, the GAO identified significant problems with programs related to education, energy resource management, and health care.<sup>451</sup> (See page 41 of the 2015 edition of *Federal Fumbles* for more issues involving education and energy management.) For health care, the GAO points out that, especially in the Great Plains area, the Indian Health Service “provides inadequate oversight of its federally operated health facilities,” and the program refers patients to non-IHS facilities.<sup>452</sup> But patients referred to other facilities are either forced to pay for their own care and wait months to receive compensation or not pay and let the unpaid bill negatively impact their credit ratings.<sup>453</sup>

Tribes positively benefit when they are given the tools necessary to build their own success. However, when the federal government continues promising to provide a service or program and then does so terribly, it diminishes the potential of millions throughout Indian Country. Congress should work with Indian Country to conduct a holistic review of how the federal government interacts with Tribes and provides services to determine a better way to operate and ensure the federal government does not stand in the way of a better life for those living on Indian lands.

## Stay in Your Artistic Lane

Clearly, specifying the purpose of a grant and careful consideration by an agency before awarding a grant should assist an agency in only funding projects related to its priorities and mission. It would be unusual to see NASA fund a project related to homelessness or for the BLM to fund a project on business development. It should also be unusual for the NEA to fund a project on social policy awareness. But that is just what happened—to the tune of \$45,000.

In 2016, the NEA funded an organization in New York City that focuses on public policy awareness by putting out informational pamphlets on current policy issues facing the city or country.<sup>454</sup> These pamphlets then unfold to reveal a large poster with more information.<sup>455</sup> Pamphlets have included information on local zoning rules, healthcare rights, banking rights, and public assistance services in NYC.<sup>456</sup> The pamphlets occasionally contain a political tilt, such as advocating for automatic voting registration and a national popular vote and are supported by the State of New York and NYC.<sup>457</sup>

It is not the role of the National Endowment for the Arts to use your tax dollars to fund public policy awareness. Even though the pamphlets contain hand-drawn art, clearly their primary purpose is policy awareness and advocacy. The NEA should focus on arts-related projects of national importance without options of private funding.



## At Least Someone Got a Check

In 1935, Congress formed the Soil Conservation Service under the USDA to help with erosion issues that led to the Dust Bowl, which at the time was at its height.<sup>458</sup> Like many federal programs, it outlived the problem it was created to solve, and now, as the Natural Resources Conservation Service (NRCS), it has expanded to fund the conservation of all natural resources.<sup>459</sup> With an annual budget of more than \$1.2 billion,<sup>460</sup> the NRCS's Conservation Stewardship Program funds projects and programs to help improve, preserve, and rehabilitate land.<sup>461</sup> While these are important goals, the USDA's IG has stated the program has few processes in place to prevent waste, fraud, and abuse and is possibly duplicating work done elsewhere in the government.<sup>462</sup>



	75	0.00
	24378	1.00
	26952	0.00
	23386	46.00
	510515	0.00
	506781	0.00
	92001	0.00
	95001	0.00
	94011	0.00
	514278	0.00
	518003	99.00
	534941	0.00
	90010	20.00
	50100	0.00

The Conservation Stewardship Program, which represents about 25% of NRCS's annual budget,<sup>463</sup> was reviewed by the USDA's IG in 2009 and was found to not have "sufficient processes in place" to ensure it was not duplicating funding provided by other parts of the department.<sup>464</sup> A follow-up audit in 2016 found these same issues still plagued the program; in fact, the IG questioned half of the spending from the contracts it reviewed in the audit.<sup>465</sup> The IG blamed poor oversight, which allowed applicants to submit false information and manipulate the program to receive more than they should be eligible to receive.<sup>466</sup> As a result, the NRCS cannot guarantee that funds are spent appropriately or given to eligible landowners.<sup>467</sup>

There is an obvious national interest in ensuring our children and grandchildren inherit a country with preserved natural resources. However, it is remarkable that an IG audit would call into question more than half of the reviewed spending of any federal program. As Congress takes up the next Farm Bill, it is essential that it include provisions to reform conservation programs, ensure they maximize funds, and have in place clear mechanisms to prevent fraud.

## Hunting Down Our Debt



Earlier in 2017, the Department of State announced \$5 million in funds to protect wildlife in Africa by helping prevent wildlife trafficking.<sup>468</sup> Grantees are eligible for between \$300,000 and \$1.5 million to develop the law enforcement, legislative, and judicial capacity to go after those who hunt and/or traffic wildlife.<sup>469</sup> The department intends for grantees to divide the funding between the countries of Zambia, Namibia, Malawi, and Botswana.<sup>470</sup> It is unclear though how much of an impact the funding will have as its allocations include only \$700,000 for a country the size of Pennsylvania and \$1.5 million for a country larger than Texas.

It is hard to justify spending \$5 million to preserve wildlife in countries most Americans will never visit when we have more than half-a-million homeless people in the US;<sup>471</sup> 48.8 million Americans, including 13 million children, without access to nutritious food;<sup>472</sup> and a \$20 trillion national debt. The US should certainly ban the importation of protected wildlife to discourage our citizens from traveling to other countries to hunt endangered species but should not fund these efforts in other countries. We have a responsibility to first ensure our children and grandchildren inherit a country that is physically and financially secure.

## Escaping from a Bad Prison

In our multi-billion dollar effort to assist the Afghan people, we have even inadvertently assisted them in building or rebuilding prisons. American taxpayers paid \$11.3 million through the Department of State in 2010 and 2013 to build a prison in Afghanistan's Baghlan province to house 495 inmates.<sup>473</sup> Due to contractor error and lack of oversight, the prison is still not fully operational.<sup>474</sup>

After construction of the prison complex finished in November 2012, the soil under three of the buildings—the detention center, the men's barracks, and the maximum security barracks—began to settle, causing major structural issues.<sup>475</sup> By January 2014, conditions were so bad at the three buildings that the detention center had to be completely demolished.<sup>476</sup> A May 2014 SIGAR report made several recommendations for structural and safety improvements to prevent damage to additional buildings and to make the two remaining damaged buildings operational.<sup>477</sup> Unfortunately, three years after State was given recommendations to fix the prison facilities, SIGAR reports that not only has State not taken action to remedy the situation, it is also not taking steps to recover almost \$1 million paid to the contractor for incomplete work.<sup>478</sup>

It is understandable that there will be contracting issues in a warzone. However, that does not eliminate agency responsibility to inspect projects, recoup reimbursements for negligence or willful mistakes, and ensure repairs are made when contractors make a mistake. In fact, that duty to monitor increases in a country like Afghanistan where the needs are so high and Americans taxpayers have invested so much of our hard-earned money.

## Auntie Em, It's a Twister

Each year, FEMA provides millions in aid to states and Tribes through its Hazard Mitigation Grant Program.<sup>479</sup> In FY16 alone, \$615 million was allocated to this program.<sup>480</sup> One way this funding is utilized by some states is to provide a rebate to homeowners who install safe rooms or shelters to provide a safe place during a tornado.<sup>481</sup> While millions of Americans living in or around Tornado Alley fully understand the importance of installing a tornado shelter, not all can afford to do so.

Homeowners wishing to take advantage of the program must first pay to install the shelter, ensure the shelter meets FEMA specifications, and then seek a 75% reimbursement for the expense.<sup>482</sup> In Oklahoma, where the average monthly income is \$4,047,<sup>483</sup> the typical storm shelter costs \$2,409.50,<sup>484</sup> which means the average family would have to set aside half of its monthly income to purchase a shelter and then wait up to two months to be reimbursed.<sup>485</sup> This is just not feasible for many people.

If FEMA gave the 75% funding directly to homeowners before installation, it is very likely FEMA would end up listed again in this book since some homeowners might take the money and use it for other purposes. However, there is a middle ground. FEMA should alter the program to allow payments directly to the company installing the shelters. Homeowners can make a down payment (their required 25% of the total costs) and then the company could bill FEMA for the rest. This would allow universal access to a program that will save lives and help it operate fumble free.



## If You Exercise, You Can Lose Weight. Who Knew?



For a longer and healthier life, it is important for senior adults to remain active and exercise. In case that was not already known by all, the NIH has spent more than \$2.3 million over eight years to determine whether resistance training, aerobics, or a combination of the two causes the most weight loss for senior adults.<sup>486</sup>

While it is certainly important to know the best way for senior adults to remain healthy, a simple Google search for *senior adult exercise research* turns up more than 34 million results. Research and exercise information is currently offered by multiple universities, private companies, the CDC, the NIH, and countless others. In 2008, the year before the grant was

first awarded, HHS released a “Physical Activity Guidelines for Americans” document, which recommended senior adults do both resistance training and aerobics each week.<sup>487</sup>

The NIH should (and does) conduct multiple types of research to improve the health of senior adults in the US. However, that research should be new and groundbreaking, not replicating work done elsewhere or seeking to confirm what is already accepted knowledge. The NIH should require grant applicants to certify that their research is not already being conducted elsewhere and if it is, either deny the application or justify why the grant should be funded.

## I Don't Know Why the Public Is Angry at Us: The Saga of Federal Customer Service

After making an online purchase or taking a flight, many Americans receive a request to fill out a brief customer satisfaction survey. Private companies are able to use the simple customer feedback information they receive from these surveys to improve the services they provide customers. It makes sense that the government would also try to use these simple surveys to help improve federal programs and services. Perhaps predictably, these government surveys do not work as smoothly as they do for private companies.

A law, ironically called the Paperwork Reduction Act (PRA), requires federal agencies to go through an extensive bureaucratic approval process that can take more than six months before sending short feedback email surveys to customers. For example, if the IRS or SSA would like to simply ask for taxpayers' feedback regarding their customer service in a short email, they must jump through the required bureaucratic hoops to obtain approval. As a result, most federal agencies hesitate or fail to collect feedback from their customers. It is likely no surprise that in 2015 the American Customer Satisfaction Index gave the federal government its lowest score in nearly a decade.<sup>488</sup>



In exchange for our hard-earned tax dollars, Americans deserve a federal government that constantly works to improve the services it provides citizens. To fix that problem, in 2017 Senators James Lankford and Claire McCaskill introduced S. 1088 the Federal Agency Customer Experience Act, known as the FACE Act.<sup>489</sup> To improve customer service across the federal government, the bill requires agencies to publicly post their customer service feedback results online with descriptions of how the information will be used to improve services. The Senate passed the bill in November 2017, and hopefully, the House will quickly enact this legislation to help agencies save time and better communicate with citizens.

## A Streetcar Undesired

Streetcars are a century-old form of public transportation currently experiencing a massive revival. In 2014, there were an estimated 21 streetcar projects in the planning stages in the US.<sup>490</sup> Notwithstanding the revived popularity, streetcars are generally slower, more expensive, and less convenient than other forms of public transportation. For example, Washington, DC, has spent more than \$200 million to build a streetcar that travels along 2.4 miles already serviced by the DC bus system.

The streetcar's operating expenses eat up \$8 million in annual taxpayer funds, but the streetcar is nonetheless offered to riders free of charge.<sup>491</sup> In fact, there is not even a mechanism in place to collect fares if the District opts to charge passengers in the future. The District Department of Transportation recently revealed fears that charging even \$1 per ride would scare away its passengers.<sup>492</sup> Despite the fact that DC residents and policy experts alike view the streetcar as a failure, DC's Capital Improvements Plan for FY18-23 includes a \$91.9 million request for streetcar-related funds from the federal Highway Trust Fund.<sup>493</sup>

One simple solution is to prohibit the use of federal funds to support streetcars and similar urban vanity public transportation projects (Austin, TX, recently proposed a \$400-million gondola cable-car system).<sup>494</sup> Instead, federal funds could be directed to more practical and affordable public transportation such as buses, which cost half as much per mile and can move up to five-times as many people per hour as a streetcar.<sup>495</sup> Federal funding programs such as TIGER grants, New Starts and Small Starts Programs, and the federal Highway Trust Fund should be allocated to meet the essential needs of the people in the most efficient manner. If a local community wants to upgrade its transportation options, it should be willing to use local money.



## Help Me Help You Pt. 2

The DOD operates two types of IT systems. The first is for mission-critical systems that directly support war-fighting operations, and the second is for mission-essential systems that are needed to support the basic mission of the department or service branches.<sup>496</sup> To keep these systems organized, the DOD operates a repository of the more than 6,000 IT systems within the department and designate the type of system it is.<sup>497</sup> Or at least that is the goal.

A recent IG audit of the IT systems within the DOD's repository found major issues of incomplete and inaccurate information about its IT systems.<sup>498</sup> In fact, even though the DOD has spent more than \$30 million on the list over the last decade, almost half of all systems in the repository had incomplete data and in some cases were incorrectly classified as either mission-critical or mission-essential.<sup>499</sup> This is an issue because, as the IG pointed out, "unless data quality is improved, the DOD cannot effectively plan for continued operations of mission-critical and mission-essential IT systems."<sup>500</sup> In other words, if something goes wrong with an IT system and the DOD does not have the full information to plan ahead to deal with it, it could impact the safety of our warfighters or their ability to do their jobs.

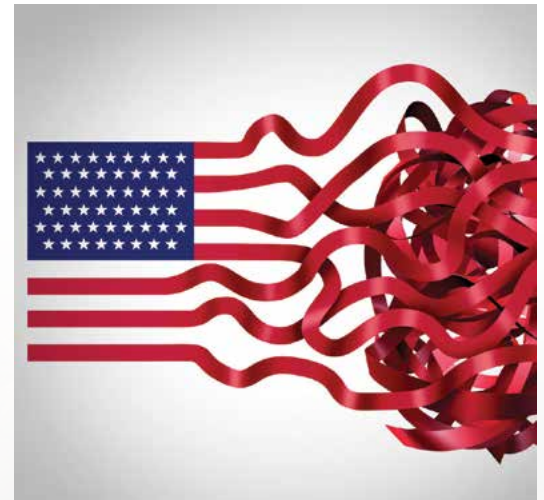
The DOD has a massive operation that stretches around the planet. In a time in which cybersecurity and hacking has almost become a way of life, it is imperative that the DOD has organized and secure IT systems. Congress should work with the DOD to update its repository and ensure the department is prepared to deal with an IT emergency. Our warfighters have enough to worry about as they work to keep us safe; they should not have to also worry about whether or not their IT system works.

# Knowing About a Problem Doesn't Equal Doing Something About It

In 1970, Congress enacted the Bank Secrecy Act to enlist the assistance of banks in tracking and stopping individuals and companies from laundering money<sup>501</sup> by tracking and recording all cash transactions greater than \$10,000 by an individual in one day.<sup>502</sup> Many banks have incorporated this requirement into their software, and when an individual crosses that daily limit, the bank teller is required to fill out a simple form. That form may then be turned over to Treasury's Financial Crimes Enforcement Network (FinCEN), which then investigates and prosecutes actual instances of money laundering.<sup>503</sup> However, it turns out that FinCEN is in such disarray that it may not actually provide the necessary follow-through to ensure banks actually comply with the law.

FinCEN does "not have procedures for determining penalty amounts in consideration of aggravating and mitigating factors" when a bank has violated the law, and FinCEN does not always track the reason its staff assigned a particular penalty.<sup>504</sup> On top of that, FinCEN adopted a new casework repository to track investigations even though it cannot actually open the case documents.<sup>505</sup> As a result, FinCEN was also no longer able to track open cases, and at least 20 cases where fines or prosecution may have been warranted had to be closed because the statute of limitations had passed.<sup>506</sup>

It is the ultimate federal fumble that an agency requires certain records, spends time auditing them, and then is not able to do anything with the findings because the office is inoperable. If an agency is unable to fully track enforcement and set uniform consequences for violation of a regulation, what is the purpose of the regulation?



## Spending Your Money How I Want

When the NSF awards a grant, the funding is usually divided into two segments: the direct and the indirect costs of the grant. The direct costs are *directly* related to the funded research. The indirect costs are only *associated* with the research, such as paying the electric bill at the facility housing the research. While it would be logical for the NSF to work with grantees to keep the indirect costs low to maximize funding for research, the GAO found that NSF grants average between 16% and 24% in indirect funding and that the NSF does not actually track how those dollars are used.<sup>507</sup>



The NSF states it does not track funding for indirect costs because "doing so would unnecessarily increase the reporting burden on awardees."<sup>508</sup> As a result, the NSF has no way of knowing that funds allocated for indirect costs are actually used for that purpose. While the NSF does have guidance for staff who approve, track, and review approved grants, the GAO found that that guidance was not "consistently" followed, lacked "specific procedures" for reviewing approval decisions, and has not been recently updated.<sup>509</sup>

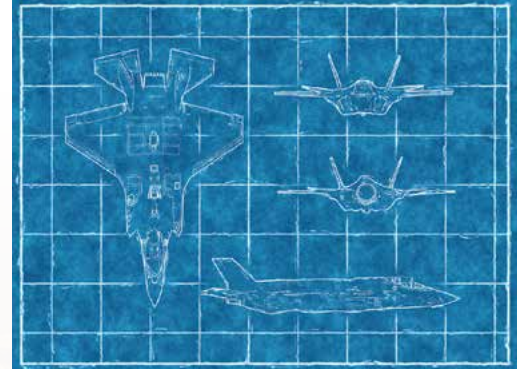
As far back as 2013, the GAO pointed out that average growth of indirect costs was higher than the growth for direct costs.<sup>510</sup> Earlier in 2017, Oklahoma Rep. Steve Russell identified multiple instances of schools in Iowa, Kansas, Texas, and Oklahoma incurring indirect cost rates of more than 50% and introduced legislation prohibiting universities from receiving indirect cost funds.<sup>511</sup> While there are circumstances in which the NSF should provide allowances for indirect costs to ensure research can actually be conducted, it should not be a money-making opportunity for schools or other grant recipients. At the very least, the NSF should implement indirect cost caps and conduct proper oversight of how the funds are used.

## Flying Right to the Bank

In 2001, the DOD began the process of acquiring the F-35 Joint Strike Fighter, and it quickly became the department's most expensive acquisition in its history (now estimated to be about \$400 billion).<sup>512</sup> Throughout its history, the F-35 has faced challenges to move toward production. As recently as 2010, the DOD was forced to restructure the program three times due to delays and cost overruns and has continued to push back the date when the aircraft will be ready for full production.<sup>513</sup> While the DOD should be given the support necessary to develop the tools that will protect our nation, it must do so in an efficient and cost-effective way.

The F-35 was originally expected to be in full-rate production by 2012. However, due to many delays, full-rate production is now slated for as late as 2019.<sup>514</sup> As recently as December 2016, the DOD announced a seven-month delay, which would cost taxpayers an additional \$500 million.<sup>515</sup> According to the GAO, that is the result of a delivery of software for the F-35 that arrived late and "experienced unanticipated problems."<sup>516</sup> Contrary to the DOD, the GAO estimates that the delay could last up to a year and cost almost \$1.7 billion.<sup>517</sup>

Nothing should stand in the way of our Armed Services having the best equipment possible to do their jobs. It is reasonable for the DOD to expect some measure of delay and cost overruns as it develops new aircraft. However, it is unacceptable for the DOD to allow one project to go hundreds of billions of dollars over budget and face multiple-year-long delays. The DOD must put in place a better procurement process that enables it to obtain the tools it needs while also protecting taxpayer dollars. Congress should also implement a more rigorous oversight of the DOD's budget to apply pressure for it to get the job done on time and at a reasonable price. If the project meets its current projected completion date, it will have been an 18-year process. Would anyone want to wait that long for something they ordered and paid for?



## I Can't Remember Who Decides What



In the federal government, it is common for the completion of one task or action to be the responsibility of multiple agencies. Multi-agency initiatives often result in unfinished products or duplication of efforts. Memory supplement pills require input from both the FDA and the FTC for advertising approval, but the lack of coordination between the two agencies has led to ineffective enforcement of the law and limited guidance for industry.

Despite the fact that there are no federal laws governing their sale, the FDA regulates memory supplement pills, and the FTC regulates their advertisement.<sup>518</sup> This arrangement requires the two agencies to work together to set standards for industry and to ensure those standards are met.<sup>519</sup> However, the GAO found that while the two will respond to rule violations, they are not effective at proactively informing the market and consumers which standards should be met.<sup>520</sup>

Sales of memory supplements reached \$643 million in 2015 and have doubled since 2006.<sup>521</sup> As this industry grows, it becomes more and more important for Congress, the FDA, and the FTC to ensure consumers are informed about the pills they purchase and that the industry is aware of expectations.<sup>522</sup> At the very least, the FDA and the FTC should work together to clarify each agency's responsibility.



## Going into the Red for Chinese Art

The Chinese government funds and helps operate Confucius Institutes at more than 100 American universities and more than 470 worldwide.<sup>523</sup> These institutes are centers of learning for those interested in Chinese culture, history, and language.<sup>524</sup> It seems though that the American government also wants to help educate American citizens about China's culture.

Late in 2016, the NEA announced \$100,000 in funds to "support the implementation of a program to present performing artists from China in communities across the United States."<sup>525</sup> In an attempt to expand US citizens' "understanding and appreciation" for Chinese arts, the funding brought groups from China to the US to give presentations or shows.<sup>526</sup>

As part of our \$20 trillion national debt, Americans currently owe more than \$1 trillion to the Chinese government,<sup>527</sup> second only to Japan.<sup>528</sup> It does not make sense for the US to borrow money from China so we can then spend money to bring their artists and performers to the US. Congress should work with the NEA to ensure it properly prioritizes projects within the US that showcase our rich American culture and history. China is certainly welcome to help educate the American public about its own culture and heritage, but China should also pay for it.



## It's Okay to Talk to Each Other

In 2016, *Federal Fumbles* highlighted that the DOJ spent \$70 million to build two Tribal prisons in Arizona that were twice the need of the community and more than the Tribe or the BIA were financially able to manage.<sup>529</sup> As a result, the prisons were not fully operational and likely will not be soon, and American taxpayers are stuck with the bill to operate and maintain a facility that cannot be fully used.<sup>530</sup> It now seems that this problem is more widespread than initially thought.

A recent investigation found that a lack of coordination between the DOJ, which funds the construction of Tribal prison facilities, and the BIA, which funds the operation of the facilities, results in serious delays for the completion of facilities and the ability to operate them. In addition to the instance in Arizona highlighted in 2016, the IG has now identified multiple instances in which this lack of coordination has resulted in millions of wasted tax dollars. For instance, three facilities built for a total of \$22 million were partially or completely inoperable for well over a decade.<sup>531</sup> In another case, the DOJ allowed \$11 million to be spent on a facility that did not even qualify for funding.<sup>532</sup>

As stated often in *Federal Fumbles*, the federal government has an undeniable responsibility to Tribes and American Indians. We should continue to assist Tribes with building up their own criminal justice programs. The DOJ and the BIA must start working together to ensure limited federal dollars are spent in a way that make the biggest difference in Indian Country and are used for the purposes intended.



## Researching the Researchers

In the first edition of *Federal Fumbles*, an entry discussed that the DOD spent \$25 million on breast cancer research.<sup>533</sup> While there is most definitely a national interest in finding a cure for this horrible and prevalent cancer, the point of that entry was that any medical research done by the DOD should be focused on injuries and illnesses related to the battlefield.<sup>534</sup>

In 2017, the DOD Autism Research Program will fund almost \$7 million for clinical trials and other research related to autism,<sup>535</sup> despite the NIH dedicating \$232 million to autism research in FY16 and more than half-a-billion dollars for autism research from FY13 to FY15.<sup>536</sup> In 2006, Congress enacted the Combating Autism Act, which has been continually renewed and funded and is projected to result in more than \$3 billion in autism research through the NIH by 2019.<sup>537</sup>

Since more than 3 million Americans have been diagnosed with autism, it is certainly in our national interest to find new methods of autism detection and treatment. However, those efforts should be centralized within the organization that is designed to conduct and fund medical research. Congress should remove the requirement that the DOD conduct autism research and refocus those efforts exclusively in the NIH. It is nonsensical for Congress to mandate duplicative work by two different federal departments, especially since there is no indication that the DOD and the NIH are or have been working together on this research to ensure there are no duplicative efforts.

## All About That PR

From radio and television, to YouTube and Snapchat, American consumers are inundated with advertisements on a daily basis. Businesses spend millions daily to sell us medication we did not know we needed, new types of makeup, and the latest in winter fashion. And if you thought the federal government would miss out on the action, think again.

Each year, the various agencies and departments that form the Executive Branch of your government spend about \$1 billion just on PR<sup>538</sup> and about \$500 million a year just to pay the employees who do that PR work.<sup>539</sup> Over the past 10 years, the DOD and HHS topped the list of average agency spending per year on PR with a combined average total of \$742.9 million per year.<sup>540</sup>

In 2016, *Federal Fumbles* highlighted the PR spending habits of the CFPB after it reportedly spent \$15 million in online ads to send people to its webpage.<sup>541</sup> Undeterred, CFPB has continued to utilize questionable PR tactics by having the IRS place promotional flyers in envelopes containing tax refunds sent to American taxpayers.<sup>542</sup> Those flyers have been mailed with tax refund checks for several years at taxpayer expense and “have solicited stories from taxpayers about money.”<sup>543</sup> In April 2017, a group of six Senators asked Treasury Secretary Mnuchin to require the IRS to stop including CFPB flyers in tax refund envelopes.<sup>544</sup>



On a broader scale, Congress should reevaluate whether it is appropriate for the US to spend more than \$1.5 billion a year for federal PR-related activities and should limit agency advertisements. There are some government activities for which advertisement is necessary like military recruitment or assistance for elderly and low-income individuals. However, when it takes the tax revenue of 75,000 American households<sup>545</sup> to fund advertisements, it is time to make major changes.



## It's Because I'm Pale

According to one estimate in early 2017, the US is home to as many as 18 million redheads.<sup>546</sup> These genetically blessed individuals are scientists, business leaders, actors, and two even serve in the US Congress—of course, all in positions that allow them to spend daylight hours indoors. That is because, as stated in a recent report, redheads “have two copies of a variant of the MC1R gene which affects the type of melanin pigment they produce,” which increases the chances they can get a sunburn.<sup>547</sup>

In a 2013 article, the NIH highlighted a study that delved into how the MC1R gene reacts differently to the sun and does not cause the skin to tan, which increases the damage done by the sun to the skin.<sup>548</sup> The article explains how this process works and how the knowledge helps with treatment. Instead of continuing down the process toward a cure for melanoma, the NIH has instead invested more than \$1.1 million over the last two years to repeat research into “why red-haired individuals are so prone to developing melanoma,”<sup>549</sup> a question the NIH has already answered, all 18 million redheads in the US already know the answer to, and which does not appear to bring scientists closer to curing a very aggressive form of cancer.

Almost 90,000 people in the US will be diagnosed with melanoma in 2017, and one person dies from it each hour.<sup>550</sup> There remains important work in determining how to prevent and cure this cancer, particularly for redheads who are especially prone to getting it. However, before approving research like this, the NIH should first ask if it is fundamental research or if it is duplicative. NIH research should seek new answers to questions, not to confirm answers already known to ensure the American people receive the greatest benefit from our research dollars.



# It's Not All Bad News

My staff and I believe it is important to ensure that we do not simply talk about a problem and wait on someone else to fix it. It is our job to identify issues and then actually do what is necessary to ensure the American people's tax dollars are used effectively and for the right reasons. Throughout the year, we utilize the examples of waste, duplication, or burdensome regulations included in *Federal Fumbles* as we work on legislation, hold committee hearings, and consider appropriations legislation. As we make progress on solving the problems we have identified, some are included in the pages that follow as either a Touchdown or Forward Progress.

To be listed as a Touchdown, an item included in a previous edition of *Federal Fumbles* must have been solved. Forward Progress signifies that progress has been made this year to solve the problem.

## Touchdowns

- A fumble that was included in the 2015 edition of *Federal Fumbles* and that has received widespread media attention is the rules the USDA put in place impacting public school lunches.<sup>551</sup> These rules set maximum calorie limits and restrictions on types of food available for students that were considered almost impossible to meet and left students hungry.<sup>552</sup> In May 2017, USDA Secretary Purdue announced that many of these requirements would be loosened so that local school districts have the necessary flexibility to ensure their students are given nutritious and filling meals.<sup>553</sup>
- In a major policy shift, the EPA announced in 2015 that it would exercise regulatory authority over small rivers, tributaries, and other small bodies of water that for more than 40 years were under the sole jurisdiction of state or Tribal governments.<sup>554</sup> The rule was such a drastic change that the Army Corps stated it “contradicts long-standing and well-established legal principles.”<sup>555</sup> In June 2017, the EPA announced plans to repeal the rule and return to the rules in place before the change.<sup>556</sup> That will enable the EPA to work with states and Tribal governments, as it had done for decades, to decide who has regulatory authority over waterways.<sup>557</sup>
- As mentioned earlier in the book, the incoming Trump Administration put an immediate freeze on new regulations and then required agencies to repeal two regulations for each new regulation put in place.<sup>558</sup> As a result, after its first six months in office, the Trump Administration had reduced the regulatory burden on the economy by \$22 billion and actually managed to eliminate 16 old regulations for each new one.<sup>559</sup> These burdensome regulations, highlighted regularly throughout the last two editions of *Federal Fumbles*, placed excessive costs on the economy and represented massive federal overreach.
- Using the Congressional Review Act, Congress repealed 14 rules this year that each had an economic impact of more than \$100 million.<sup>560</sup> These rules included regulations restricting teacher training, limiting coal production, and blacklisting federal contractors.<sup>561</sup> In total, congressional action reduced the regulatory burden by \$3.7 billion and saved American businesses and taxpayers more than 4.2 million hours completing paperwork.<sup>562</sup>
- A 2015 entry in *Federal Fumbles* discussed the difficulty imposed by the FCC on non-commercial education public channels to raise funds necessary for continued operations.<sup>563</sup> In the past, the FCC would not allow them to air advertisements, instead only allowing fundraisers on-air if regular programming was not interrupted.<sup>564</sup> Earlier in 2017, the FCC announced it would *relax* that rule and allow these stations to dedicate a percentage of their annual airtime to fundraising.<sup>565</sup>
- Over the last several years, when the DOJ reached a settlement with a defendant, it required the defendant to make a payment to a third party as part of the settlement agreement.<sup>566</sup> As pointed out in 2016's *Federal Fumbles*, the payments often went to groups that were “favored activist groups that would not otherwise receive federal money as the DOJ leadership would like.”<sup>567</sup> In summer 2017, the DOJ announced it would end this litigation slush fund and no longer enter into settlement agreements that require payments to “non-governmental, third parties that were not directly harmed by the conduct.”<sup>568</sup>

# Forward Progress

- Congress determined that it is wise for the US to invest in assisting Guatemala, Honduras, and El Salvador in building their own economies and stable governments to decrease the number of their citizens who attempt to illegally enter the US.<sup>569</sup> So in FY16, Congress allocated \$750 million for those countries on the condition that the Obama Administration present a plan for how that funding would be used.<sup>570</sup> Unfortunately, when the Administration presented its plan, Congress learned that the funding was actually going to be used for activities unrelated to the reasons the funding was approved,<sup>571</sup> which is why it ended up on page 17 of the 2016 edition of *Federal Fumbles*. In May 2017, the Senate Appropriations Committee's Subcommittee for State and Foreign Operation held a hearing that focused on the importance of continued investment in those countries while also ensuring the funds actually go toward strengthening Central American economies and governments.<sup>572</sup> Additionally, I worked with my Senate colleagues to ensure that the committee-passed FY18 State and Foreign Operations Bill includes necessary direction to our aid agencies to ensure that taxpayers receive a return on their investment in Central America.
- An unusual USDA rule that required convenience stores to offer items like tofu, shrimp, and goat's milk if they want to accept SNAP (or food stamps) benefits was highlighted on page 7 of 2016's *Federal Fumbles*.<sup>573</sup> The rule, which was intended to expand access to healthy food items for SNAP beneficiaries, would have forced stores to potentially invest thousands of dollars in extra food items with no guarantee that they would be purchased.<sup>574</sup> In summer 2017, the Senate Appropriations Committee passed the USDA's 2018 appropriations bill and included a requirement that the rule be reexamined and the list of acceptable food items be expanded.<sup>575</sup> That will alleviate the burden on convenience stores but will also accomplish the goal of ensuring SNAP beneficiaries have the option to purchase healthy food items.
- In 2016, *Federal Fumbles* included an entry discussing the 42 different transportation programs that are available to help low-income people travel to their doctors' offices or other medical facilities.<sup>576</sup> These programs cost more than \$1 billion a year, and though a Coordinating Council on Access and Mobility is responsible for coordinating these programs, it has not held a meeting or issued guidance on eliminating duplication since at least 2008.<sup>577</sup> In the Committee report for the FY18 Transportation, Housing and Urban Development, and Related Agencies appropriations bill, the Council is instructed to report to Congress within 180 days of enactment "on options to eliminate duplication, provide efficient services for people in need, and increase coordination between the various Federal departments" transportation programs for low-income people.<sup>578</sup>
- A major concern expressed in 2016's *Federal Fumbles* was the use of a taxpayer-funded account called the Judgment Fund to provide \$1.7 billion to the Iranian government as part of the Iran nuclear agreement, \$400 million of which was later identified as a ransom paid in exchange for the freedom of American prisoners held by the Iranian regime.<sup>579</sup> The money, which was paid in cash using US and foreign currency, was later transferred directly by the Iranian government to the Iranian military.<sup>580</sup> The Judgment Fund is normally used when the US is required by courts to pay money to a defendant after a lawsuit.<sup>581</sup> To help American taxpayers better track how and when our government pays money using this fund, I joined Senators Deb Fischer, Ted Cruz, and Jim Inhofe to introduce S. 386, the Judgment Fund Transparency and Terrorism Prevention Act of 2017.<sup>582</sup> This legislation will ensure that the American people and Congress provide oversight on who receives payments from the fund and prohibits future administrations from using the fund to give money to state sponsors of terrorism.<sup>583</sup>
- A recurring theme throughout the last two years has been duplicative grants or programs. For instance, the 2015 *Federal Fumbles* highlighted the two different DOJ grant programs that provide funding for law enforcement to purchase bullet-proof vests.<sup>584</sup> When agencies or departments operate multiple programs focused on the same mission, federal tax dollars are often wasted, and requesting organizations have to make multiple requests due to duplicative efforts and staffing. To promote better communication, I have begun introducing amendments to legislation involving grants to ensure grant programs include a requirement that before they offer a grant, agencies must compare it against existing grant programs. If the agency finds that its grant would duplicate an existing program, it must submit a report to Congress.

- The “Should You Drive Your Chevy to the Levee?” entry in 2016’s *Federal Fumbles* highlighted the Army Corps and FEMA’s lack of progress in developing a safety program for our nation’s levees.<sup>585</sup> In 2014, Congress gave these two agencies the responsibility of managing this safety program, but as of 2016, very little work was complete.<sup>586</sup> In S. 1609, this year’s Senate appropriations bill for Energy and Water Development and Related Agencies, the Appropriations Committee required the two agencies to “develop a plan of action within 90 days” and importantly included a provision mandating “tangible milestones” so Congress and the public can measure progress.<sup>587</sup>
- During the appropriations process, Congress often utilizes what are known as budget gimmicks to make it seem as if it is spending less money than it actually is. One of these methods was discussed in the 2015 edition of *Federal Fumbles* and involves the Crime Victims Fund (CVF) and a process called *changes in mandatory spending* or CHIMPS.<sup>588</sup> When a person is convicted of a federal crime, he or she is often required to pay a fine to the CVF, which then uses that money in the form of grants for programs to assist victims of crime.<sup>589</sup> The problem is that while there is more than \$15 billion in the fund, Congress only allows a fraction (\$3.64 billion was approved by the Senate Appropriations Committee in summer 2017<sup>590</sup>) to be spent. Congress then counts the remaining money in the fund as savings to offset money spent elsewhere in the government, *but* the remaining money in the fund is neither spent nor saved; it simply remains in the fund for future use. While the Senate Appropriations Committee debated the appropriations bill covering the CVF, I introduced an amendment prohibiting Congress from counting the unspent funds as savings. While it failed in a vote of 5 to 26 (which was an improvement on 2016’s vote), I hope that increased awareness by my colleagues in the House and Senate will eventually cause Congress to stop using this budgetary gimmick, which drives up the deficit.
- The Johnson-O’Malley program provides financial assistance to American Indian students attending public schools throughout the country. The funding is often necessary assistance to students from low-income families to ensure they have access to school supplies, tutoring, medical needs, and other assistance that ensures the student can succeed in school.<sup>591</sup> The funding for the program is allocated according to the number of Indian students attending each school. Unfortunately, Interior has not completed a count of those Indian students since 1995.<sup>592</sup> As a result, for more than 20 years, Interior has allocated funding based on an out-of-date and inaccurate count of students.<sup>593</sup> Earlier in 2017, Senators Heidi Heitkamp, Steve Daines, and I introduced reform legislation that would require Interior to conduct a new count and put in place a system to continue updating its count of students each year, which will ensure federal tax dollars for Indian students are spent efficiently and have the greatest impact possible. This legislation is on track to pass Congress next year.
- A 2015 *Federal Fumbles* entry discussed how Amtrak has struggled to rein in the costs of its food and beverage services.<sup>594</sup> From 2006 to 2012, Amtrak’s cost overruns exceeded more than half-a-billion dollars.<sup>595</sup> Though Congress previously set a deadline of 2020 for Amtrak to stop losing money on its food and beverage services, the Senate Appropriations Committee pushed Amtrak to speed up the process and take steps to get the food and beverage services balanced before 2020.<sup>596</sup>
- The DOD and the VA purchase prescription drugs separately instead of combining their purchasing power to buy drugs together at a lower rate.<sup>597</sup> The two agencies also purchased drugs at a higher cost than Medicare pays when it purchases the same prescriptions. As a result of those two issues, the DOD and the VA overpay on prescriptions by more than \$100 million a year.<sup>598</sup> In July 2017, the Senate Appropriations Committee addressed this 2015 fumble by requiring the DOD and the VA to work together to develop a process to purchase prescription drugs together and save taxpayer dollars.<sup>599</sup>

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**SENATOR JAMES LANKFORD**