AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2026

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

DAVID P. JOYCE, Ohio, *Chairman*

STEVE WOMACK, Arkansas
MARK E. AMODEI, Nevada
ASHLEY HINSON, Iowa
MICHAEL CLOUD, Texas
CHUCK EDWARDS, North Carolina
MARK ALFORD, Missouri
NICK LALOTA, New York,
Vice Chair

STENY H. HOYER, Maryland
MARK POCAN, Wisconsin
MARIE GLUESENKAMP PEREZ,
Washington
GLENN IVEY, Maryland
SANFORD D. BISHOP, JR., Georgia

NOTE: Under committee rules, Mr. Cole, as chairman of the full committee, and Ms. DeLauro, as ranking minority member of the full committee, are authorized to sit as members of all subcommittees.

KIMBERLY BETZ, JAMES GALKOWSKI,
ALEX YOST, and MIKE PATTERSON
Subcommittee Staff

PART 3

	Page
U.S. Securities and Exchange Commission	**1**
Federal Communications Commission	**39**
Office Management and Budget (OMB)	**89**

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PUBLISHING OFFICE

62–244 WASHINGTON : 2026

HOUSE COMMITTEE ON APPROPRIATIONS

TOM COLE, Oklahoma, *Chairman*

HAROLD ROGERS, Kentucky,
Chairman Emeritus
ROBERT B. ADERHOLT, Alabama
MICHAEL K. SIMPSON, Idaho
JOHN R. CARTER, Texas
KEN CALVERT, California
MARIO DIAZ-BALART, Florida
STEVE WOMACK, Arkansas
CHARLES J. "CHUCK" FLEISCHMANN,
Tennessee
DAVID P. JOYCE, Ohio
ANDY HARRIS, Maryland
MARK E. AMODEI, Nevada
DAVID G. VALADAO, California
DAN NEWHOUSE, Washington
JOHN R. MOOLENAAR, Michigan
JOHN H. RUTHERFORD, Florida
BEN CLINE, Virginia
GUY RESCHENTHALER, Pennsylvania
ASHLEY HINSON, Iowa
TONY GONZALES, Texas
JULIA LETLOW, Louisiana
MICHAEL CLOUD, Texas
MICHAEL GUEST, Mississippi
RYAN K. ZINKE, Montana
ANDREW S. CLYDE, Georgia
STEPHANIE I. BICE, Oklahoma
SCOTT FRANKLIN, Florida
JAKE ELLZEY, Texas
JUAN CISCOMANI, Arizona
CHUCK EDWARDS, North Carolina
MARK ALFORD, Missouri
NICK LALOTA, New York
DALE W. STRONG, Alabama
CELESTE MALOY, Utah
RILEY M. MOORE, West Virginia

ROSA L. DELAURO, Connecticut,
Ranking Member
STENY H. HOYER, Maryland
MARCY KAPTUR, Ohio
JAMES E. CLYBURN, South Carolina
SANFORD D. BISHOP, JR., Georgia
BETTY MCCOLLUM, Minnesota
DEBBIE WASSERMAN SCHULTZ, Florida
HENRY CUELLAR, Texas
CHELLIE PINGREE, Maine
MIKE QUIGLEY, Illinois
GRACE MENG, New York
MARK POCAN, Wisconsin
PETE AGUILAR, California
LOIS FRANKEL, Florida
BONNIE WATSON COLEMAN, New Jersey
NORMA J. TORRES, California
ED CASE, Hawaii
ADRIANO ESPAILLAT, New York
JOSH HARDER, California
LAUREN UNDERWOOD, Illinois
SUSIE LEE, Nevada
JOSEPH D. MORELLE, New York
MIKE LEVIN, California
MADELEINE DEAN, Pennsylvania
VERONICA ESCOBAR, Texas
FRANK J. MRVAN, Indiana
MARIE GLUESENKAMP PEREZ,
Washington
GLENN IVEY, Maryland

SUSAN ROSS, *Chief Clerk and Staff Director*

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2026

TUESDAY, MAY 20, 2025.

U.S. SECURITIES AND EXCHANGE COMMISSION

WITNESS

PAUL ATKINS, CHAIRMAN, U.S. SECURITIES AND EXCHANGE COMMISSION

Mr. JOYCE. The Subcommittee on Financial Services and General Government will come to order. This hearing is entitled Oversight of the United States Securities and Exchange Commission. Members will have five legislative days within which to revise and extend their remarks and insert extraneous material into the record.

I now recognize myself for an opening statement. I would like to thank Chairman Atkins for being here today and for his leadership at the SEC. Established in 1934, the Securities and Exchange Commission is a primary federal regulatory agency responsible for enforcing U.S. security laws. The Commission has a three-part mission: protect investors; maintaining fair, orderly and efficient markets; and facilitating capital formation. The SEC has played a critical role in helping American capital markets become the most robust and attractive of any in the entire world.

If our capital markets are to remain the envy of the world, we need to encourage capital formation and ease regulatory burdens that make it too difficult for businesses to grow. Too often, past leadership at the SEC has implemented sweeping regulations without considering public feedback or carefully weighing the costs and benefits.

I am glad to see the Commission has already taken steps to roll back some of these regulations that would have made American companies less competitive in an ever changing global economy. In addition, advancements in blockchain technologies and digital assets also present an incredible opportunity for American entrepreneurs, businesses, and our economy. If we don't take the lead in making the United States a hub for digital asset innovation, our global competitors will.

Markets thrive the most when they can rely on regulatory fairness and certainty. Regulation by enforcement is not just unfair, it is counter productive. It also ignores Congress and the legal limits it places on regulatory bodies. As lawmakers continue bipartisan conversations around the market structure frameworks and digital assets more broadly, the SEC and other regulators should work to provide as much clarity to market participants as soon as possible.

To that end, the newly created crypto task force at the SEC has provided a forum for regulators, innovators, and market participants to collaborate and provide recommendations on the regulatory framework for the digital asset ecosystem. I am looking forward to hearing more about the task force's progress and how we appropriators can support their continued work.

Chairman Atkins, thank you for your willingness to serve. Your decades of experience both at the SEC and the private sector make you the right person to lead the SEC at this important time. I look forward to hearing from you about your vision for the SEC and the Commission's budget priorities as we look forward to FY2026.

I now recognize the Ranking Member, Mr. Hoyer, for his opening statement.

Mr. HOYER. Thank you very much, Mr. Chairman, and welcome Mr. Atkins, Commissioner Atkins, to the hearing, and thank you very much for taking the time to stop by my office. In a subsequent conversation, I talked to Gary Gensler, whom you know and who had high remarks for you. It did not mean, obviously, as you well know, that he agrees with your propositions any more than you agreed with his propositions, but he believes that—I asked him what he thought and his father was a good friend and he is from Maryland and I have known for a long period of time. So I thank you for being here and I thank you, as the chairman did, for agreeing to pursue—even though we may disagree, the fact that you are highly perceived by your colleagues is, I think, important.

Today's hearing on the Securities and Exchange Commission comes amid circumstances somewhat reminiscent of the time of the agency's founding, but not as dire as the Great Depression. There is a significant volatility and lack of competence in our markets right now. The Trump administration's tariffs shocked the stock market and rattled U.S. bonds. The value of the dollar is down around the world. It could be good or bad in some instances.

The past quarter our economy shrank for the first since the COVID–19 crisis. In April, consumer sentiment slid to its second lowest reading on record with Americans rightfully fearing what rising costs from tariffs will mean for their finances and their families. Trump's trade agenda fared with Republicans' efforts to expose the national debt by passing massive tax cuts for the wealthiest among us and let America lose its last perfect credit rating just last weekend.

There are also growing concerns of market manipulation and insider trading related to Trump's tariff pause announcement when he said it was a good time to buy. It turned out to be a good time to buy, as he announced just hours later he was going to change his trade policy.

Today's circumstances may be similar as the SEC's funding, but I feel the agency's response may not be. The SEC ought to address the current mistrust and fraud in our markets by better protecting investors and improving enforcement.

I had the opportunity to read your testimony and I thought it was comprehensive and good. On page three, you said policymaking will be done through notice and comment rulemaking, not through regulation by enforcement. I think I understand what you mean by

that, but I also am concerned as to the reduction that we have seen in enforcement monies. I will ask you questions about that.

The SEC, in my view, ought to address the mistrust and fraud in our markets by better protecting investors and improving enforcement, not reducing it. I am concerned about the reports that the SEC has lost between 15 percent and 19 percent of its staff, including large reductions to its legal affairs, investment management, and trading and market divisions because of DOGE purge. Those cuts don't save the taxpayer any money since SEC is entirely fee funded, although as I understand your testimony and you may clarify that we are now down to zero per million because the budget is already paid for in the first five months. Is that what I read correctly in your statement?

These reductions will, however, make it harder for the SEC to enforce laws and regulations that keep our markets fair, orderly, and efficient, and absolutely an essential part of your work. Since Trump took office, the SEC has sought to dismiss numerous enforcement actions including many with direct or indirect implications for Trump's families or his own best financial interest.

Chairman Atkins, I understand that many of these changes were put into motion before you started your role a few weeks ago, although you were complimentary of those efforts in your statement. Many Americans share my concern that this overhaul weakens the SEC by extension of our markets. We need to ensure, as you have said, you want to do and as I believe you do want to do, SEC can do the job it was created to do to restore confidence in our markets, to go after insider trading and corruption, and to protect American investors.

I look forward to working together with you to accomplish those objectives on behalf of the American people and our economy.

Thank you, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Hoyer. Today, we welcome testimony of the Honorable Paul Atkins, chairman of the United States Securities and Exchange Commission. Chairman Atkins, without objection, your full, written testimony will be entered into the record. With that in mind, we ask you to summarize your opening statement in five minutes.

STATEMENT OF PAUL ATKINS

Mr. ATKINS. Thank you very much, Chairman Joyce, Ranking Member Hoyer, and members of the subcommittee. Thank you very much for inviting me to testify today.

So this testimony I have to hasten to say reflects my individual views as chairman of the Commission and do not necessarily reflect the views of the Commission or my fellow Commissioners.

I am grateful for the opportunity to discuss the SEC including our important mission on behalf of our fellow citizens, investors, and taxpayers, and to speak to some of my priorities as chairman. As I testify before you, this is my 20th working day as chairman back at the SEC, so first and foremost, I want to say that it is a new day at the SEC. I am determined that we return to our core mission that Congress set for us more than 90 years ago. The SEC's three-part mission as the chairman stated earlier, was enunciated by Congress in the Exchange Act and that is investor protec-

tion which is vital to our mission, holding accountable those who lie, cheat, and steal.

Capital formation is also at the root of what we do, fostering a direct, economical route for investors' capital to find its way to entrepreneurs and industry to create products and services. And a third core part of our mission is maintaining fair, orderly, and efficient markets. Congress calls on the Commission to ensure that our regulations balance costs and benefits, that they do not become too burdensome by adding needless friction to the marketplace, thereby undermining the capital formation that yields so much benefit.

My time in public service and in the private sector has allowed me to see first hand how regulations affect markets and investors. They can stoke innovation, facilitate investment goals, and create opportunities or burdens on businesses' ability to compete and to serve their customers. How we implement regulations at the SEC is crucial. It is one thing to write a regulation, quite another for it to achieve its intended goal. Regulation should be smart, effective, and appropriately tailored within the confines of our statutory authority.

A key priority of my chairmanship will be to develop a rational, regulatory framework for crypto asset markets that establishes clear rules of the road for the issuance, custody, and trading of crypto assets while continuing to discourage bad actors from violating the law. Clear rules of the road are necessary for investor protection against fraud.

Policymaking will be done through notice and comment rulemaking, not through regulation by enforcement. The Commission will utilize its existing authorities to set fit for purpose standards for market participants. The Commission's enforcement approach will return to Congress' original intent which is to police violations of these established obligations, particularly as they relate to fraud and manipulation. The SEC is returning rulemaking to regular order. Our comment periods will not be artificially short and the public will have ample time to provide feedback.

The SEC will also be sure to take into consideration how rules overlap and how regulatory burdens build in keeping with our obligation to consider their costs and their benefits. There will be targeted, common sense reorganizations to come at the SEC. To start, I am seeking approval from Congress to disband what is known as Finnhub. Its innovation should be ingrained into the culture SEC-wide and not limited to a relatively small office. We have begun our process to review our technology infrastructure in our contractual obligations.

So to close, we will work with our colleagues in the administration, especially other financial services regulators and with Congress to bolster the economy and build on U.S. leadership of the global markets. This SEC will take every effort to ensure that the United States is the best and the most secure place in the world to invest in new business. So thank you all very much.

Mr. JOYCE. Thank you, Chairman Atkins. I now recognize myself for questions.

Chairman Atkins, for the past several years, the SEC has prioritized a more partisan rulemaking agenda rather than fulfilling the Commission's primary mission. Are there any rules that

former Chair Gensler proposed or finalized that you are focused on rescinding and are there any rules that Congress should defund?

Mr. ATKINS. Well, thank you, Chairman Joyce. Again, being at the SEC now, this is my 20th day, so it is being like drinking from a fire hose to get up to speed. So we are reviewing what went on. Obviously, things happened before I was there between inauguration and then the 21st of April when I got to the SEC. So I am reviewing what is going on and then obviously, I will be talking to my colleagues about—and the staff about working forward on that.

Mr. JOYCE. I tried to put you on the spot, sir. I appreciate that. Do you intend to take a different approach to rulemaking than your predecessor did and how so?

Mr. ATKINS. Well, as I mentioned, I do think that the notice-and-comment process called for by the Administrative Procedure Act is really essential. That is a way for a regulator to make informed decisions and even getting feedback from other agencies of the Government to make sure that we are not traipsing beyond our remit and affecting what other agencies and departments are trying to do. So that is a vital aspect of it that I take seriously. And so we will definitely work towards that.

And then, with respect to regulation through enforcement, I think that is one thing that we need to have clear rules and to try to do it in kind of a scattershot way is not the way to be done, I think.

Mr. JOYCE. You said that one of your top priorities is to develop a rational, regulatory framework for crypto asset markets that establishes clear rules of the road. What does a regulatory framework look like to you? And what type of clarity is needed for market participants?

Mr. ATKINS. Well, that is a very good question and I could answer that. It would take a long time to do it, but let's suffice it to say——

Mr. JOYCE. I hold myself to the same rule, so you have 2 minutes and 40 seconds.

Mr. ATKINS. Okay, yes. Well, suffice it to say that the—I think the problem is right now that there is a lot of uncertainty in the market place as to what is a security, what is not. And so that affects innovation. And so it goes beyond crypto assets. It goes to the blockchain and the potential ramifications for efficiency and safety in the marketplace is that blockchain and distributed ledger technology can do. But if lawyers cannot even write opinions for their clients as to what is a security and what is not which is the situation right now, that just inhibits everything because capital doesn't flow to where it might be needed and be soundly fostered for capital formation in new products. It just inhibits everything. So that is what I mean by trying to get a rational framework.

I think we have the authority at the SEC under the various securities acts and I intend to work with Congress and with my colleagues in that vein. Thank you.

Mr. JOYCE. What tools do the SEC currently have to develop a regulatory framework for digital assets and what additional resources do you believe might be needed from this Committee?

Mr. ATKINS. Well, we have—biggest rule, we have a lot of good, historic folks at the SEC in many of the offices and divisions, so

that is—you know, we will definitely use that number one resource, will also be through roundtables and as I mentioned as we do concept releases and proposals, we will be taking in comments from those outside of the SEC. So those are the main tools. The Exchange Act and the Securities Act and the 240 Acts give us a pretty broad exemptive authority and authority within the public interest to make changes to our forums and to accommodate this new technology which the SEC has done in the past, not for crypto, but for other aspects.

Mr. JOYCE. Thank you, sir. The chair now recognizes the Ranking Member, Mr. Hoyer, for any questions he may have.

Mr. HOYER. Thank you very much, Mr. Chairman. Let me return to what—there has been some discussion here. I am very concerned about the fact that we are reducing enforcement in many agencies, in yours, and particularly in the IRS where my opinion enforcement is being devastated. We know, as human beings, that if we don't think there is a cop on the beat, we may go 55 miles an hour rather than 50 miles an hour. That is human nature. We all experience it. So I am very concerned about the fact that the reductions in personnel at your agency prior to your beginning this iteration of your career there were pretty substantial. Most of the reductions were in your enforcement areas.

Am I correct that since you left the first time when you said there were 3600 folks there, FTEs, and I forget how many, I think 2,000 on the contract side, very substantial increase in your workload?

Mr. ATKINS. Well, so, I should first of all say that in our Enforcement Division, the head count is down 15 percent and that is not as high as, for example, in the General Counsel's office or Investment Management or in Trading and Markets. So the Enforcement Division is at the average of overall——

Mr. HOYER. Can I ask a question as you answer that? Were those DOGE inspired or internally? Did the SEC and/or Commissioners make that determination or did DOGE implement those reductions?

Mr. ATKINS. No, actually, the employees themselves made it because these are all voluntary retirements and some people took buyouts and what not. And a number of my friends that I have known for years were the ones who took some of these retirements and obviously, we will miss their expertise and their participation, but some of them wanted to move away, some of them decided that this is now the time to retire because they lived farther, or whatever the decisions might be. So I think all that is good, but——

Mr. HOYER. Because our time is limited, let me follow up on that question. So these were made by the employees themselves, not a management decision as to what was needed and what was not?

Mr. ATKINS. Exactly. These are all voluntary——

Mr. HOYER. That concerns me because, of course, two million people were sent the opportunity to retire, two million, all of the people. Had they all walked off, Government would have stopped and the American people would have noticed it within 24 hours.

So I am very concerned about the fact that these opportunities were given, in my view, without a rationale articulated at least that I have been able to see, of why X, Y, and Z employees were

no longer needed to accomplish the objectives Congress had set forth. Would that be an accurate observation?

Mr. ATKINS. No, actually I look at it another way. These are free people who are deciding that they want to retire and that leaves room for, we have a lot of very competent people who are younger and as they—this gives them room to grow and so part of what I would like to accomplish is to help break down silos at the SEC because too often, young people come in, full of vim and vigor, but then are kind of stopped in their progress as professionals to develop and to move around the agency. So I view this as a normal thing. There were 600 and some odd people who left out of—so that is the 15 percent.

I think we miss, obviously, their expertise, but I think that we have plenty of good expertise there at the Commission and I intend to tap into that.

Mr. HOYER. Okay, let me go back to my question. Has your workload increased since you left?

Mr. ATKINS. Well, sir, I don't know the precise answer to that, but we are getting the job done. The requests that I have been making to the staff have been answered with alacrity and so I feel confident that we are able to handle it. And I definitely share your concerns to make sure that we fill the spots that are needed, but I think it is good to every once in a while have a housecleaning and have a reorganization and to look at what is going on.

Mr. HOYER. My last nine seconds, prior to rules, do you have to discuss them with either the Secretary or the administration?

Mr. ATKINS. Prior to?

Mr. HOYER. Prior to your issuing rules or enforcement actions or some actions, do you have to check with the Secretary of the Treasury or the White House?

Mr. ATKINS. No, we file with OIRA which is part of Office of Management and Budget and SEC has done that in the past, so that is part of the process.

Mr. HOYER. Thank you.

Mr. JOYCE. Thank you, the chair now recognizes the gentleman from Wisconsin, Mr. Pocan, for five minutes for questions.

Mr. POCAN. Thank you. Thank you, Mr. Chairman, and thank you, Mr. Atkins for being here. Let me just do one followup from what Steny asked just to make sure I understand. So there were no staff reductions at all by firings. They only were by people leaving early out of the SEC?

Mr. ATKINS. From what I understand, this is all voluntary retirements that people took through various programs, deferred resignation, and those sorts of things.

Mr. POCAN. Okay. I just wanted a clarification for myself more than anything.

So I appreciated how you talked about one of the three priorities is investor protection, going after those who lie, cheat, and steal. I think that is really important for the market, so people have confidence in it.

One of the concerns I have is that since COVID, the market has been doing really well until very recently with some of the talk about tariffs being on again and off again and on again and off again. The market has had some real volatility particularly on

April 9th when at 9:37 in the morning, the President put out on his social media this is a great time to buy and initialed it, so then that came from him. And then later that day, the announcement of tariff pauses came up 4 hours later at 1:18.

Since then there was—just today, Secretary Duffy supposedly that morning traded in 34 companies, including companies affected by tariffs like John Deere and Shopify. Attorney General Bondi also did some trading that morning. Marjorie Taylor Greene, those are just the ones we know of right now. So clearly, this would be a concern if someone had a huge signal releasing information, public information ahead of time about something that could affect stock trades.

So I guess my question is specifically, what are you doing there to look into this particular incident that happened where the signal sort of was given and how are you looking to see who might have unfairly taken advantage of this? I know there was another trade there who ten minutes before the Post put out a massive call option to have benefitted greatly on this. So this is the kind of manipulation of the market I think that hurts the confidence that you are trying to restore to the market.

So what specifically are you doing around this?

Mr. ATKINS. Well, Congressman, I can't really talk about any investigations current or potential or past.

Mr. POCAN. How about just philosophically? If someone did what happened, philosophically, is this market manipulation?

Mr. ATKINS. Well, around that particular incident, I obviously can't speak to it, but in general, the rules around trading and what not have to do with material nonpublic information and a duty. And so all those elements need to be met.

Mr. POCAN. So wouldn't material, non-public information because I am one of the people that thinks members of Congress shouldn't be able to trade stock because I think we get a lot of insider information. So for that material, non-public information, if someone indicates something prior to something significant happening that is going to affect market, would that be in the category of manipulation in your philosophical sense?

Mr. ATKINS. I think it all depends on the facts and I think if you—once it is public, it is open to everybody to obviously to see the facts so—once an announcement is made. So I think it all depends on the circumstances and——

Mr. POCAN. So philosophically, if I know a company in my district is about to get approved by CMS for Medicare, that means their stock is likely to go up. If I put that information out before anything was announced, would that be, in your philosophical view, market manipulation?

Mr. ATKINS. It just depends. I think if the person isn't trading himself, I don't really see that as manipulation. I just—I think it just depends on what the circumstances are.

Mr. POCAN. But if my husband and my brother and my neighbors all traded at that point, not me, would that be market manipulation potentially under your philosophical viewpoint?

Mr. ATKINS. Well, the problem with this whole area is that it is all very, very circumstantial, you know, built on circumstantial evidence. But I share concern about any kind of untoward activity in

the marketplace that goes against the law and SEC rules. So I assure you that we will——

Mr. POCAN. But just generally, the 23 seconds I have left, do you think my example I just gave, would that be worthy of looking closer at?

Mr. ATKINS. We have a lot of smart people and very ambitious people in our Enforcement Division who read the papers and look at things and they are quick to go to the plant their flag to launch investigations. So you know, I have confidence in our guys being able to do that.

Mr. POCAN. I yield back. Thank you.

Mr. JOYCE. Thank you very much. The chair now recognizes the gentleman from Maryland, Mr. Ivey, for five minutes.

Mr. IVEY. Thank you, Mr. Chairman, and good morning, Mr. Chairman and welcome.

Mr. ATKINS. Good morning.

Mr. IVEY. Just to follow up on Mr. Pocan's last question, so in this hypothetical, this would be something that would be—if it were to be investigated, it would be investigated by the Enforcement Division?

Mr. ATKINS. This being?

Mr. IVEY. The insider trader scenarios you guys just walked through.

Mr. ATKINS. Yes, and usually someone, enforcement lawyers would identify something potential that they would pick up from a tip. We have a very robust tip line that comes in. We have whistleblowers, that and all that.

Mr. IVEY. Okay. I have got a separate line for you and this involves Justin Sun who is—had a case the SEC brought charges against him in March of 2023. The charges were fraud and other securities law violation. The case moved forward and was continuing to move forward. President Trump was elected in November of 2024 and as you may know, the Trump family has begun memecoin investments of some kind, the WLFI coin in particular. Mr. Sun bought $300 million in that coin on November 25th, 2024. On January 17th, 2025, Mr. Trump posted a Tweet and launches the Trump coin, the dollar sign with Trump after it all in quotes or caps. On January 19, Sun bought another $45 million of the WLFI coin. Just so we are clear, the WLFI piece is sort of I guess the umbrella group and he has got these other memecoins underneath of Trump, Melania and the like.

January 20th, which is Inauguration Day, after he is sworn in and after he does the parade, he then does a Tweet between the January 17th post that launches the Trump coin and on February 26, the SEC filed a stay, it is a joint stay motion. It was joint between the plaintiffs and the defendants. But SEC joined in this to stay the case against Mr. Sun's businesses. You assumed office after all this happened, so that is April 21st. April 23rd, Mr. Trump announces a dinner for top investors in the Trump coin and then WLFI on May 1 announces a new coin, USDi-1 which the Trump family also benefits from. And this is being used by an Abu Dhabi investment firm for its $2 billion investment and crypto exchange with Binance.

I will skip ahead, I am running out of time. May 20th, Mr. Sun Tweets that he is the top holder in the Trump coin so in the bidding process he ends up coming out on top and I guess this morning he announced this on Twitter and then the dinner that they are going to have for the highest bidders is two days from now. So from my perspective, these are concerning things. I didn't really get to the $320 million in trading fees that the Trump family has accrued since he launched these memecoins in January.

Along the lines of what Mr. Pocan was asking, because this frankly, to me, smells very bad and my hope would be that the SEC would be investigating that piece. But it is especially problematic here because it is intertwined, apparently, at least chronologically, with the decision that the SEC made jointly with the defendants to pause that civil case. So I was wondering if you could share any information with us about the status of that decision and where things are going from your perspective with respect to the SEC.

Mr. ATKINS. Well, thank you, Congressman. Well, first of all, I don't know anything about that case, so I can't speak to it and probably it is an active case anyway. But as far as the more general proposition of these memecoins and what not, they are collectibles. Before I got to the SEC, the staff of Corporation Finance came out with a guidance and basically saying that memecoins are collectibles and not securities, so——

Mr. IVEY. Well, two quick points. One is you got a letter pending from Senator Warren and Representative Waters. This was sent to your predecessor, the acting chair, but it goes to these issues. And it has got information that requests for you all to respond to it would address these issues. So if you are not aware of the issues, just take a look, and send a response.

There is another letter that goes to the insider trading piece that Mr. Pocan was referencing. That is dated April 10th, and it goes directly to you. So I appreciate the chair, but I would ask that these letters be made part of the record and we look forward to hearing from you in response to both of those letters. Thank you.

[This information follows:]

Congress of the United States

Washington, DC 20515

April 2, 2025

The Honorable Mark T. Uyeda
Acting Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Acting Chair Uyeda:

We write to you in our capacities as Ranking Member of the Senate Committee on Banking, Housing, and Urban Affairs, and Ranking Member of the House Committee on Financial Services today to ask you and the U.S. Securities and Exchange Commission (SEC) to preserve all records and communications regarding World Liberty Financial, Inc., the cryptocurrency company owned by President Trump's family.[1] In addition, we request information from you and the Commission to enable Congress to fulfill its Constitutional oversight responsibilities and help us better understand the extent to which the Trump family's financial interest in World Liberty Financial may be influencing your and the Commission's activities, and whether this conflict of interest may be interfering with its mission to protect investors and maintain fair and orderly markets.

World Liberty Financial is a cryptocurrency company directly tied to President Trump and his family, and is co-run by the family of his close business associate and negotiator Steve Witkoff. The company describes itself as "inspired by Donald J. Trump" and includes a portrait of President Trump on the homepage of its website.[2] An SEC filing from October 2024 lists President Trump, Donald Trump Jr., and Eric Trump as affiliated with the company, along with DT Marks DEFI LLC, an "entity affiliated with Donald J. Trump and certain of his family members."[3] Last month, the company reported over $500 million in exempt securities sales of its governance token, $WLFI, and announced its plans to launch a stablecoin called USD1.[4] President Trump's family "has a claim on 75% of net revenues from token sales and 60% from World Liberty operations once the core business gets going"—meaning that the Trump family "is currently entitled to about $400 million in fees" from the company.[5]

[1] Reuters, "How the Trump family took over a crypto firm as it raised hundreds of millions," Tom Wilson, Tom Bergin, Lawrence Delevingne, and Michelle Conlin, March 31, 2025, https://www.reuters.com/business/finance/how-trump-family-took-over-world-liberty-financial-it-raised-hundreds-millions-2025-03-31/.

[2] World Liberty Financial, https://www.worldlibertyfinancial.com/ (accessed March 31, 2025).

[3] U.S. Securities and Exchange Commission, World Liberty Financial, Inc., Form D: Notice of Exempt Offering of Securities, October 20, 2024, https://www.sec.gov/Archives/edgar/data/2043140/000204314024000002/xslFormDX01/primary_doc.xml; World Liberty Financial, https://www.worldlibertyfinancial.com/ (accessed March 31, 2025).

[4] New York Times, "Trump's Crypto Venture Introduces New Digital Currency," David Yaffe-Bellany, March 25, 2025, https://www.nytimes.com/2025/03/25/technology/trump-crypto-stablecoin.html; Reuters, "How the Trump family took over a crypto firm as it raised hundreds of millions," Tom Wilson, Tom Bergin, Lawrence Delevingne, and Michelle Conlin, March 31, 2025, https://www.reuters.com/business/finance/how-trump-family-took-over-world-liberty-financial-it-raised-hundreds-millions-2025-03-31/.

[5] Reuters, "How the Trump family took over a crypto firm as it raised hundreds of millions," Tom Wilson, Tom Bergin, Lawrence Delevingne, and Michelle Conlin, March 31, 2025,

The Trump family's financial stake in World Liberty Financial represents an unprecedented conflict of interest with the potential to influence the Trump Administration's oversight—or lack thereof—of the cryptocurrency industry, creating an obvious incentive for the Trump Administration to direct federal agencies, including the SEC, to take positions favorable to cryptocurrency interests that directly benefit the President's family. Indeed, recent reports suggest that World Liberty Financial backers may have received preferential treatment at the SEC. Specifically, in March 2023, the SEC charged "crypto asset entrepreneur Justin Sun and three of his wholly owned companies" with "the unregistered offer and sale of crypto asset securities, Tronix (TRX) and BitTorrent (BTT)," "fraudulently manipulating the secondary market for TRX through extensive wash trading," and "orchestrating a scheme to pay celebrities to tout TRX an BTT without disclosing their compensation."[6] Wash trading is a type of market manipulation in which an entity buys and sells a financial instrument in offsetting transactions to give the fraudulent appearance of trading activity to lure people into the market or artificially alter the price of the asset. In November 2024, Mr. Sun announced that he had bought $30 million in $WLFI—later increasing his investment to $75 million in 2025.[7] And by late February 2025, the SEC had paused its case against him.[8]

The SEC's statutory mission to protect investors, maintain fair and orderly markets, and facilitate capital formation requires independence from political interference and conflicts of interest. When the President and his immediate family stand to gain hundreds of millions of dollars from an industry the SEC regulates, the American people deserve transparency about how the Commission is maintaining its independence and fulfilling its obligations to the public, not the President's personal financial interests. The federal government should work for the American public—not for President Trump's bottom line.

To help us better understand the extent to which the SEC's decision making has been guided by the Trump family's crypto investments, we request the following no later than April 14, 2025:

1. Please preserve and provide copies of all records and communications regarding World Liberty Financial, Inc., at the SEC from October 15, 2024 (the date of the company's first sale) to present. Please include any records and communications related to individuals and companies affiliated with World Liberty Financial, including but not limited to:
    a. President Donald Trump
    b. Donald Trump Jr.
    c. Eric Trump
    d. Barron Trump

---

https://www.reuters.com/business/finance/how-trump-family-took-over-world-liberty-financial-it-raised-hundreds-millions-2025-03-31/.

[6] U.S. Securities and Exchange Commission, "SEC Charges Crypto Entrepreneur Justin Sun and His Companies for Fraud and Other Securities Law Violations," March 22, 2023, press release, https://www.sec.gov/newsroom/press-releases/2023-59.

[7] Reuters, "How the Trump family took over a crypto firm as it raised hundreds of millions," Tom Wilson, Tom Bergin, Lawrence Delevingne, and Michelle Conlin, March 31, 2025, https://www.reuters.com/business/finance/how-trump-family-took-over-world-liberty-financial-it-raised-hundreds-millions-2025-03-31/.

[8] *Id.*

e. Zachary Folkman
f. Chase Herro
g. Steven Witkoff
h. Zachary Witkoff
i. Axiom Management Group LLC
j. WC DigitalFi LLC
k. DT Marks DEFI, LLC

2. Please preserve and provide copies of all records and communications regarding the SEC's decision to pause its case against Justin Sun and his affiliated companies.

3. All internal memoranda justifying the initial enforcement decision regarding Justin Sun and his affiliated companies, including:
   a. All communications between SEC officials and representatives of Justin Sun or his affiliated entities;
   b. Meeting records, calendar entries, and notes from any discussions where this case was addressed;
   c. Documentation of the formal process through which this enforcement decision was reached.

4. What communications, suggestions, or directives, if any, has the White House or any member of the President's family provided the SEC regarding World Liberty Financial Inc. or any of its owners and affiliates? Please provide copies of such communications and directives and preserve all records.

5. All internal assessments, memoranda, or analyses regarding World Liberty Financial's token offerings, registration status, marketing practices, or compliance with federal securities laws.

6. All communications between SEC officials and representatives of World Liberty Financial or its affiliated entities. All communications between SEC officials and White House staff regarding cryptocurrency regulation generally and World Liberty Financial specifically.

7. The communications, suggestions, or directives, the White House or any member of the President's family provided the SEC regarding Justin Sun, his companies, and the SEC's pending case against him? Please provide copies of such communications and directives and preserve all records.

8. The communications or directives, if any, the SEC solicited from the Office of Government Ethics or the SEC's Designated Agency Ethics Official regarding the Trump family's financial investments in World Liberty Financial Inc., $WLFI, or the proposed USD1 stablecoin. Please provide copies of such communications and directives and preserve all records.

9. What procedures, if any, are at place to prevent the Trump family's unprecedented financial ties to the crypto industry from influencing or guiding the SEC's decisions

surrounding crypto policies, rules, and guidance? Please provide copies of any written procedures or policies.

The American people deserve to know whether their financial markets are being regulated impartially or whether regulatory decisions are being made to benefit the President's family financial interests. We look forward to your prompt response.

Sincerely,

Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs

Maxine Waters
Ranking Member, Committee
on Financial Services

cc:
Commissioner Hester M. Peirce
Commissioner Caroline A. Crenshaw

FRENCH HILL, AR
CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MAXINE WATERS, CA
RANKING MEMBER

April 10, 2025

The Honorable Paul Atkins
Chairman
Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Ms. Deborah J. Jeffrey
Inspector General
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Mr. Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Atkins, Ms. Jeffrey and Mr. Dodaro,

We write to request an immediate investigation into possible insider trading and market manipulation violations that took place between Sunday, April 6, 2025, when U.S. Treasury Secretary Scott Bessent visited President Trump at his Florida resort, and Wednesday, April 9, 2025, when the President announced the pausing of the tariffs—and whether such unlawful activities are ongoing. Given the uncertainty of when the President privately decided to pause the tariffs, and the fact he convened several meetings during that timeframe (including with Members of Congress), there is an open question as to who had access to this material, nonpublic, and market-moving information.

One such trading activity occurred approximately ten minutes prior to the President's TruthSocial post announcing that most of his previously announced tariffs were being delayed by 90 days.[1] Trading records show a precipitous spike in purchases of call options, which allow an investor to place a bet that the price of a stock will increase, during the ten-minute window leading up to the announcement.[2] No rational investor would have purchased these options unless they had prior knowledge of the President's impending reversal on tariff policy, as the volume in calls at that time showed the vast majority of bets were in the opposite direction. Following the announcement, the S&P 500 index soared 9.5%—its biggest single-day gain since 2008—and the Nasdaq composite rose a staggering 12.2%, which was its second biggest gain in over two decades.[3] Additionally, shares

[1] TruthSocial user Donald J. Trump (@realDonaldTrump), "Based on the lack of respect that China has shown to the World's Markets, I am hereby raising the Tariff charged to China by the United States of America to 125%, effective immediately. At some point, hopefully in the near future, China will realize that the days of ripping off the U.S.A., and other Countries, is no longer sustainable or acceptable. Conversely, and based on the fact that more than 75 Countries have called Representatives of the United States, including the Departments of Commerce, Treasury, and the USTR, to negotiate a solution to the subjects being discussed relative to Trade, Trade Barriers, Tariffs, Currency Manipulation, and Non Monetary Tariffs, and that these Countries have not, at my strong suggestion, retaliated in any way, shape, or form against the United States, I have authorized a 90 day PAUSE, and a substantially lowered Reciprocal Tariff during this period, of 10%, also effective immediately. Thank you for your attention to this matter!" (posted Apr. 9, 2025 at 1:18 PM).

[2] X user Drew Pavlou (@DrewPavlou), "NASDAQ call volumes and S&P500 SPY calls both spiked ten minutes prior to Trump announcing a 90 day tariff pause." (posted Apr. 9, 2025) (with link to chart posted by X user @unusualwhales showing the spike in Nasdaq and S&P call volume).

[3] YahooFinance, S&P 500 Has Best Day Since 2008 as Trump Pauses Tariffs (Apr. 9, 2025).

of the President's family's company, Trump Media & Technology Group, which has the stock symbol "DJT", rose 21% following a post in which the President instructed his followers "THIS IS A GREAT TIME TO BUY!!! DJT".[4] These incidents occurred after a chaotic week of volatile market swings and a more than 10% drop in the S&P 500 index—the largest three day drop since World War II—all apparently caused by the President's April 2, 2025, implementation of sweeping across-the-board tariffs.[5]

The timing and scale of the call option purchases would suggest that an official of the Administration, or perhaps the President himself, provided friends or associates with a heads up that the announcement was happening—thereby allowing them a perfect opportunity to front the announcement and make a fortune on the anticipated spike it would surely (and eventually did) cause. The President, in an apparent attempt to brag about the money his associates made, was even overheard saying in an Oval Office meeting following the spike, "[h]e made $2.5 million today and he made $900 million—that's not bad!".[6] From an initial standpoint, these activities and statements appear to be a blatant violation of insider trading and market manipulation laws aimed at preventing government officials and corporate insiders from profiting off material non-public information in the stock market.

The aforementioned call option purchases and Oval Office statements are not the only suspicious activity that happened on April 9. Earlier in the trading day, President Trump—in an apparent attempt to pump stock in his family's company—posted:



As mentioned above, "DJT", while being the President's initials, is also the stock ticker for Trump Media & Technology Group. As also previously indicated, DJT shares finished the session up 21% for the day, its second biggest increase of the year.[7] We note that the President, like those who purchased call options prior to the announcement, is not immune from federal securities laws. A federal official encouraging the public to buy stock in a specific company would appear to be a clear attempt to manipulate the market or influence stock prices in violation of Section 10(b) and Rule 10b-5 of the Securities Exchange Act (the "Exchange Act").[8] These provisions prohibit fraudulent or deceptive practices in connection with the purchase or sale of securities.

And finally, as you know, under the STOCK Act of 2012, Section 21A of the Exchange Act[9] was amended to explicitly prohibit Members of Congress and their immediate families from trading securities based on material, nonpublic information derived from a Member's position or gained from the performance of such person's official responsibilities. STOCK Act violations are top of mind given President Trump invited nearly two dozen Members of Congress to meet him at the White House on April 8, 2025—just a day prior to his tariff walk-back announcement.[10]

In light of the above and your purview over matters related to the securities markets, as well as ethics and government accountability, we ask you do the following:

- commence an immediate investigation into the identity of individuals—including Members of Congress and friends and associates of the Administration—or entities (whether registered with the SEC or not), who may have engaged in market manipulation (including making suspicious public

[4] CNBC, "Trump's morning 'buy' call nets huge returns for those who listened" (Apr. 9, 2025).
[5] YahooFinance, S&P 500's 3-day drop was one of the worst sell-offs since WWII (Apr. 8, 2025).
[6] X user OutspokenTM (@Out5p0ken), "'He made 2.5 million today and he made $900 million. That's not bad.' Sounds like market manipulation to me. That's bad.'" (posted Apr. 10, 2025 at 2:36 AM).
[7] CNBC, "Trump's morning 'buy' call nets huge returns for those who listened" (Apr. 9, 2025).
[8] *See* 15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5.
[9] 15 U.S.C. § 78u–1.
[10] *See* Politico, "Trump assures GOP budget holdouts on spending cuts" (Apr. 8, 2025).

statements), and possible insider trading in the days following Secretary Bessent's weekend visit to Mar-a-Lago on Sunday, April 6, 2025, the scope of which should include, but not be limited to:

- the purchases of Nasdaq and S&P call options in the minutes leading up to the President's tariff walk-back announcement, as well as their connection to and communications with members of the Administration,
- the President's TruthSocial post that it was a good time to buy "DJT" prior to this announcement,
- any other anomalous or unusual market activity made in that period, and
- whether such manipulation or insider trading is ongoing;

- report your preliminary findings of the investigation to Congress no later than Friday, April 18, 2025;
- indicate your willingness to testify before Congress or brief Members and their staff to regarding the nature of any uncovered violations; and
- report whether any staff at the SEC that you will not retaliate in any way against SEC and GAO staff that are involved in this investigation.

Should your offices uncover evidence of crimes of this nature, we finally urge you to refer the matter to the Department of Justice for prosecution to the fullest extent of the law. Insider trading by federal officials and their friends or family is not only a breach of trust of the American people, but erodes the integrity of government institutions and raises concerns about corruption and fairness in the political system. There should be zero tolerance for this kind of corruption in our society, let alone from those we entrust to lead us in the public sphere. Thank you for your prompt attention to this matter.

Sincerely,

Maxine Waters
Ranking Member
Committee on Financial Services

Nydia M. Velázquez
Member of Congress

Brad Sherman
Member of Congress
Ranking Member, Subcommittee on Capital Markets

Gregory W. Meeks
Member of Congress

Stephen F. Lynch
Member of Congress

Al Green
Member of Congress
Ranking Member, Subcommittee
on Oversight and Investigations

Emanuel Cleaver, II
Member of Congress

Bill Foster
Member of Congress

Joyce Beatty
Member of Congress

Juan Vargas
Member of Congress

Sean Casten
Member of Congress

Rashida Tlaib
Member of Congress

Ritchie Torres
Member of Congress

Sylvia R. Garcia
Member of Congress

Nikema Williams
Member of Congress

Brittany Pettersen
Member of Congress

Cleo Fields
Member of Congress

Janelle S. Bynum
Member of Congress

Sam T. Liccardo
Member of Congress

Mr. ATKINS. Sure.

Mr. IVEY. Thank you.

Mr. JOYCE. Without objection. The chair now recognizes the gentleman from Georgia, Mr. Bishop, for five minutes of questions.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Welcome, Chairman Atkins.

Investor advocacy legal clinics assist predominantly elderly investors who have been wrong by their broker or their advisor, often involving their retirement savings. And those clinics also provide investor education and fraud awareness by meeting with investors in our local communities to advance financial literacy and ensure that the investors understand what their rights are.

Unfortunately, today there are only ten investor protection clinics across the country, and most of them are concentrated in the New York area. That is down from 24 clinics that were operating a decade ago.

I understand this is because the funds that subsidize those clinics, for example from FINRA and state regulators, have been exhausted. What can the SEC do to prevent or discourage the closure of additional clinics, and how are you promoting these and other resources to at-risk populations?

Mr. ATKINS. Well, thank you, Congressman. That is very interesting in that it is down the road of what I really want to achieve while I am Chairman.

Back in the mid-90s, I was a counselor to Arthur Levitt, who was the Chairman of the SEC, and so he had me set up what we call the Consumer Advisory Committee, Consumer Investor Advisory Committee I believe it was called. And then Arthur went out on the road to do town halls around the country for senior citizens and elsewhere.

So I intend to rejuvenate that effort. I didn't realize that data you just talked about. But I do intend to focus on, you know, senior fraud, on military folks. When I was a commissioner I went around the country as well to military bases and to universities and old folks' homes and things like that to talk to people about these issues.

So I think Arthur Levitt had a great idea that he set up back then. It has kind of fallen away over the years, but I intend to rejuvenate that, and I will look into these clinics that you mentioned.

Mr. BISHOP. With reductions in staff, that is going to make it a little bit challenging for you, so I was wondering how you were going to navigate the challenges.

Mr. ATKINS. Well, I will definitely look at that. And obviously you mentioned FINRA and other industry groups. I know SIFMA, the Securities Industry and Financial Markets Association, also sponsors things for schools, you know, the stock market game and things like that to try to teach about investing and savings.

So those are all issues that I think are very good. We have an investor advisory committee at the SEC, plus also investor education committee headed by Lori Schock, whom I have known for decades. So I, you know, look forward to working with them on that.

Mr. BISHOP. Thank you. I have watched with interest, Mr. Chairman, the evolving landscape of cryptocurrency. I understand that

you are interested in loosening restrictions on crypto in the exchanges through the rulemaking process.

What do you see as SEC's role in regulating crypto currency, and what aspects of cryptocurrency do you think are the most important to address to cut down on the prevalence of fraud and what are effectively useless and valueless coins?

Mr. ATKINS. Well, I share your concern about fraud in any market, and but we have a lot of fraud in the traditional financial markets as well. And I think in many respects, you know, on the digital asset side and the blockchain side, there is more transparency, frankly, than, for example, over cash and other sorts of things. So that is one important thing.

Innovation is another, that, you know, we need to foster. But the real rub right now is that there really are no rules that are tailored for this part of the market, which has grown and burgeoned. And if we don't have firm rules, that invites fraud, because investors can't tell the wheat from the chaff as things go.

So what I think we have to have is firm rules that give people direction and lanes to stay in and outlines our jurisdiction as well, and that then we can, you know, take action against fraudsters and others who are trying to scam people. So I share that concern and I want to address it.

Mr. BISHOP. Thank you. My time has expired.

Mr. JOYCE. Thank you, sir. The chair now recognizes the gentlewoman from Washington, Ms. Gluesenkamp Perez.

Ms. PEREZ. Thank you, Chairman.

And thank you, Chairman Atkins, for being here today.

Just following up on what my colleague Mr. Ivey was saying, so I heard you say that memecoins are essentially collectibles. So would you say it is the opinion of the SEC that these memecoins are equivalent to like Beanie Babies?

Mr. ATKINS. That is essentially what the Corporation Finance staff came out in their guidance back in I believe January. And so collectibles come in all sorts of things. I mean, memecoins are not aimed at being sort of like bitcoin or something like that.

And so people collect all sorts of things, and you know, it is a new obviously collectible type of genre. But I, you know, it is—if it doesn't have the attributes of the securities, as our staff has outlined.

So that is one thing that, you know, I want to explore as we go forward, you know, with respect to trying to carve out, you know, clear, as I talked about, clear rules of the road that will help guide this and govern this digital asset space.

So working with the CFTC, for example, where they might have jurisdiction over digital assets that are commodities and not securities. So it is this whole welter of, you know, potential rules and uncertainty out there between what people as they try to parse Supreme Court rulings, like the 80-year-old Howey test and others that are not really tailored to the twenty-first century.

And so we need to, I think that is what we can do at the SEC to provide certainty.

Ms. PEREZ. Thank you. Interesting, and perhaps troubling. I wanted to ask you another issue that is close to home for us. I rep-

resent southwest Washington in Congress, a lot of timberland. Most of my family has worked in timber, loggers, fellers.

And we are seeing a shift in the way that property is being held from local families towards real estate investment trusts. And often with that shift we are losing public access, places, watering hole, like we used to go to, places that recreate. We are losing that.

And I wanted to ask, can you tell me about what kind of information this publicly traded timber REITs should disclose to the SEC, and how that information helps your commission determine whether this is a fair and orderly process?

Mr. ATKINS. That is a great question. And so I have to say I will have to look into that. I am not a former REIT lawyer or whatnot, so that area is not, you know, part of my expertise.

But I know there are a lot of people at the SEC who have-obviously focus on REITs, and we have had over the past, you know, three decades rules have come out to focus on, you know, those sorts of asset-backed securities that are listed. So, happy to look into that and discuss further and put you into contact with our staff.

Ms. PEREZ. Do you have a perspective as to whether or not people who are considering buying shares of REIT should have information regarding foreign ownership of that land, farmland, timberland, whatever it is?

Mr. ATKINS. I would have to really look into, you know, what is already required. And then, but it is, all those sorts of things I can, you know, put you in touch with people who know about that.

Ms. PEREZ. Okay. Thank you so much.

I yield back.

Mr. JOYCE. Thank you very much. Second round of questions? It is unfair, me fighting all of you. I will get with it. I will give my best shot.

Chairman Atkins, the crypto task force was created earlier this year to provide regulatory clarity and develop potential frameworks to regulate digital assets. Would you describe the task force work up to date and the lessons learned, if any?

Is the task force working with the CFTC? And if not, do you anticipate working with them in the future?

Mr. ATKINS. Thank you for that question. So after inauguration, Acting Chairman Uyeda named Commissioner Pierce to be head of that crypto task force. I think she is, you know, super qualified to do that. And so she has formed a team and they have gone after this to explore and prepare for, you know, potential rulemaking in this area.

And so they have done a lot of work. I am not completely familiar with it just now, but——

Mr. JOYCE. You have 20 days' worth.

Mr. ATKINS. Yeah, right, 20 days' worth. But have been seeing their handiwork that they have produced. And I think, you know, they are a group of smart people and I think that is very valuable what they are doing.

And so I look forward to working with the task force for the round tables that they have done so far. I think that has produced a lot of good testimony from people, you know, outside of the building.

We definitely will work with the CFTC, and I am looking forward to Brian Quintenz's becoming chairman if the Senate confirms him. And so I think he is very qualified for the job, I have known him for a while. So I think we can work really well together.

And so it is good to have the SEC and the CFTC kind of working cheek to jowl with respect to these issues so that nothing falls through the cracks as far as whatever the framework that we come up with to make sure that spot market is looked at and the securities side and commodities side.

Mr. JOYCE. Cheek to jowl, that is a new one for me. Do you plan to create a new division or office within the SEC dedicated specifically to digital assets?

Mr. ATKINS. Well, at this time, no, I think that, you know, digital assets are another part of the financial marketplace in this. So they should fit in, you know, with the current divisions that we have. And that is one reason when I mentioned about Finnhub.

You know, this, the focus on innovation and new technologies should be dispersed throughout the agency so every part of the agency is focused on things.

The agency is organized pretty much by statute now, which is a bit antiquated, because in the old days brokers were brokers and investment advisors were investment advisors and whatnot. Now there is a lot of fluidity between that, just the way the market has evolved.

So when the questions come up about potential reorganization, who knows. But I think, I look forward more with my colleagues. I want to optimize the efficiency and the focus of the agency so that we can catch criminals and deal with them and make referrals to the Department of Justice where necessary and to the states.

And then to have good, efficient rules that provide people certainty about how they can run their business and develop new products.

Mr. JOYCE. In preparation for today, have you given any thought to what resources would be required to fund the crypto task force for 2026?

Mr. ATKINS. Not in specifics. So we, but you know, we still, the 2026 budget is under, you know, study and development I guess at the administration. And so looking forward to working with them and discussing, you know, with them what our needs are.

Mr. JOYCE. It is tough to fund what we don't know, so we just want to make sure that we give you the adequate resources so you can properly do your job, sir.

The chair now recognizes the ranking member for his round of questions.

Mr. HOYER. Thank you. Now I am on. I may be off but on.

Mr. Chairman, let me say something kindly. You have indicated you have only been there 20 days. Rarely has somebody gone on the SEC with the kind of experience and inside information about how the SEC works than yourself, with all due respect. You are not a new person on the block to this agency.

Let me—I want to go to one of the chairman's questions. You are organized by statute. Do you believe you can effect a reorganization on your own, or would you have to come to Congress to do that?

Mr. ATKINS. Well, I, we are, for example, with Finnhub, we are coming to Congress to ask for reprogramming of, you know, of our allocations and our budget. So it depends.

You know, I have to learn the ins and outs of the budget process as a commissioner. You know, that is, the budget process is vested in the Chairman. And so I really didn't have any insight to that. And the budget experience I have goes all the way back to the early nineties, so I am sure that things have changed here.

And so with respect to the SEC, you know, the 15 years that, you know, since I was last there, Dodd-Frank came out, and so huge amounts of processes within the walls of SEC have changed. The whistleblower system, you know, is very robust, and so that is completely new to me.

So there are a lot of aspects to the job that, you know, is just fascinating, and I am having fun diving into it. But I really look forward.

Mr. HOYER. Well, I appreciate your recognizing that the Congress of the United States has the authority under Article 1 to set up agencies, approve their reorganizations, and even by rescission any cuts that might be made to the budget that is passed by the Congress. The budget is after all not an advisory instrument, it is a mandatory instrument for the agency.

So I want to—when you were in my office, and I thank you again for visiting with my office, you mentioned you are conducting a staffing review. I asked you something about staffing at the beginning, what levels of staff in the SEC needs to do in its mission.

As I implied in my question, I don't think DOGE had any idea what you needed. I think they had an idea they wanted to produce x numbers from the Federal Government, just as Musk wanted to cut $2 trillion, which of course he didn't.

And I understand from my colleague that he has now decided he is going to return to the private sector and not even contribute money to campaigns any more. I think he has been burned by what he did. But I don't want the American people burned by what he did.

So how long do you think it will take for you to do the study as to what is needed to accomplish your current objectives?

Mr. ATKINS. Well, we are working on it starting. And so I don't have any idea. But it is, I don't—I think here in the next few months as the budget rolls out we will be prepared to do it.

I think, from what I understand from our major divisions, that, you know, they have the people necessary to do what, you know, to accomplish what they need to do, and so. But I intend to look into that.

Mr. HOYER. Chair Atkins, I think I recall in reading your testimony that you indicated part of that is to decide whether or not people were let go whose services you needed and either to hire them back or to hire somebody to do those services. Is that accurate?

Mr. ATKINS. Or promote people from within. Because there is a lot of good people at the SEC, and for them to be promoted and to be recognized for their expertise I think is great. It is a great way of, you know, rejuvenating an agency. So I think it is a positive.

Mr. HOYER. In your study, I would appreciate it if you would include whether not people were removed who in retrospect should not have been removed because their services were critically important. And when you say, with all due respect, Mr. Chairman, I don't think much of this was voluntary.

I have 77,000 federal employees who work for the Federal Government who live in my district, the largest in the country. The overwhelming majority of them thought there was-they had options. They were either going to take the deal, they were going to get RIFed, or they were going to get fired.

And that kind of alternative, to perceive that as voluntary I think frankly is somewhat Pollyannaish, with all due respect. And I think your employees and the employees of the Federal Government have been treated very, very poorly. Very inhumanely, causing great trauma. Which, by the way, Mr. Vought said he wanted to do. He is quoted as saying, "I want to——."

Mr. Chairman, if you would just give me a little leeway.

Mr. JOYCE. We had a second round and five minutes. This isn't a question, this is sort of a lecture. The poor man has been there for 20 years, with all due respect to my dear friend.

Mr. HOYER. Continuing for just a minute, I hope you will bring to leadership as Chairman a sensitivity which Mr. Musk and his minions did not bring to their role. They fired people to get numbers, not to get efficiency.

Mr. ATKINS. Well, thank you, Mr. Ranking Member. I share your concern about the, you know, the motivations and the staff working, all the value that they do add, that we can't run the place without them.

And so I, among the 600 people who left the SEC, as I mentioned, I know, you know, many of them. And not, you know, not a huge percentage obviously. But the ones I know took a voluntary. They didn't feel coerced into doing it. But anyway, I am sure there are other tales as well.

Mr. HOYER. Thank you.

Mr. JOYCE. Thank you very much. The chair now recognizes the gentleman from Wisconsin, Mr. Pocan, for any questions he may have.

Mr. POCAN. Yeah, thank you, Mr. Chairman.

Mr. JOYCE. For five minutes.

Mr. POCAN. So I just want a clarification because I think I am a little confused. So none of the positions at SEC were let go, they all were voluntary by taking early retirement. Is that correct?

Mr. ATKINS. That is what I understand.

Mr. POCAN. Do you want to look behind you and check? Because I know you said you were only there 20 days. Okay, just verifying.

Mr. ATKINS. Yes.

Mr. POCAN. Okay, did DOGE meet with your agency at all?

Mr. ATKINS. Well, I have met with a couple of people, if not—over the phone and in person. They were focused on investment technology, and so they have been looking at our contracts. As I mentioned, we had like 2,000 contractors on top of 5100 at the end of last year.

And so, you know, I would have had to hire contractors to look at what contractors are doing to make sure that is what they are

doing. So through this process, we have been able to rationalize some of the contracting so far to the tune of $90 million. So I think that is not chicken feed, and I think that is really valuable to have us look like that.

Mr. POCAN. Well, the good news is you don't got to hire people back if they got fired, right? That is like looking at the silver lining, right, with DOGE not coming and directly firing people, you don't have to worry about bringing people back like almost every other agency, so that is good, right.

Clarification also. You said you couldn't talk directly about this tweet that said, "It is a great time to buy." Does that mean there is currently an investigation going on?

Mr. ATKINS. No, I have no clue actually if there is or is not. I mean, but——

Mr. POCAN. There is not an investigation.

Mr. ATKINS. Well, I don't know and I couldn't really say.

Mr. POCAN. Want to turn around and ask? Because I know, 20 days, I am not trying to hold you to anything. Is there an investigation going on right now?

Mr. ATKINS. You know, the—I can't really, I cannot confirm or deny. I mean, under the rules of, you know, FOIA and the Exchange Act and all of that. So as I said, there are a lot of very smart and ambitious folks in the——

Mr. POCAN. How would one get initiated if there is or is not one, how would one get initiated, again, just so I understand that process?

Mr. ATKINS. Well, there is a process of, where it is an automated process. At least it was back 15 years ago, and I understand it is still basically the same way where somebody can enter what is called a matter under investigation to initiate that, and that——

Mr. POCAN. Somebody on staff.

Mr. ATKINS. Somebody on the staff or in the regions, at headquarters, in the regions. And then you know, then that starts the process of, you know, putting people on that particular investigation and seeing if there is anything that is worthwhile looking at.

If it develops more then they could come to the Commission to ask for a formal order of investigation and for subpoenas and all of that.

Mr. POCAN. All right, thank you. One last question. Just this is more your philosophy again. You have previously, you have been opposed at the SEC to increasing penalties on large corporations.

You even co-authored a law article with the Attorney General's brother, Brad Bondi, saying that these penalties don't deter wrongdoing and suggested that individuals should be held responsible.

I am intrigued by that, what that means exactly. Are you suggesting that rather than lobbing hefty fines are corporations who lie, cheat, or steal, that you would go directly after individual members of corporations and prosecute them criminally? Or what is your philosophy on this?

Mr. ATKINS. Well, first I would refer you to, there was a bipartisan unanimous statement by the Commission back in 2006 when I was a commissioner regarding corporate penalties.

Basically what we were looking at is oftentimes penalties that are assessed against corporations are because of issues that basi-

cally harm the shareholders themselves. So whether that resulted in, say, financial fraud or something like that of the company. And so it seems, you know, unfair to impose on a penalty on the very shareholders who, of the company, who were ripped off.

Other times where a company has, and the shareholders have gained because of, you know, some, you know, financial misdeeds of the company, then it would be, you know, I think fine and good to then fine the company itself, because the shareholders and the company have benefitted from that, so.

Mr. POCAN. Would you look at going after individuals at the corporations?

Mr. ATKINS. And that is part of it, yes. So especially where the shareholders have been harmed by corporate insiders who have either lined their own pockets or whatever, that is absolutely where, you know, we need to look at remedies against individuals.

Mr. POCAN. Appreciate that, thank you.

Mr. JOYCE. The chair now recognizes the gentlewoman from Iowa, Mrs. Hinson, for any questions she may have for five minutes.

Mrs. HINSON. Thank you, Mr. Chairman, and Ranking Member, for holding this hearing today.

And Chairman Atkins, thank you so much for appearing before our committee today.

We know your predecessor, Chairman Gensler, really weaponized the position he was in to go after Iowa farmers, businesses, and workers by pushing a climate agenda that I think reached far beyond the jurisdiction of the Commission and the SEC. Just one example of rogue actions under the previous administration.

So in March of this year I was very pleased to see the Commission vote to stop defending that controversial climate disclosure rule. So thank you for helping to protect hardworking Americans against an egregious now outrageous rule.

What is the status of the rule now and what does the Commission plan to do in terms of formally rescinding that rule?

Mr. ATKINS. Well, so thank you for the question, Congresswoman. That rule was adopted I think in March of last year by the Commission. And so, but then quickly there were lawsuits filed in various jurisdictions. And so the Commission at the time basically put it on ice voluntarily.

So that is the status of it now. There is still, the lawsuits are being consolidated in the Eighth Circuit based in St. Louis. And so we are actively studying, you know, what to do with respect to the rule.

The Eighth Circuit posed some questions to us, and we need to answer those here in the coming weeks. And so we are thus actively working with my colleagues and the staff to figure out the next steps.

Mrs. HINSON. Well, I distinctly remember my line of questioning in this hearing room last time. And I asked Chairman Gensler if he could find anywhere in the code where the authorization existed at the SEC to go in this direction, and he could not defend that. And I think that this is probably what the outcome will be.

And again, it is about reversing regulations and over-burdensome rules. And the U.S. Chamber actually came out in January and

made clear the urgent need to roll back the worst of the regulatory onslaught from the past four years. This is about creating an environment for our small businesses and our workers to actually be able to thrive, and I agree.

So what is your status of review of burdensome and unnecessary regulations at the SEC, and what does that process look like?

Mr. ATKINS. Well, the thing about burdensome and unnecessary regulations is that it raises costs for everybody and it inhibits innovation in the marketplace because of the uncertainty of those rules. And you know, especially if they, you know, if they create impediments that don't necessarily balance the costs and benefits, you know, for those rules.

So that is part of the essential part of rulemaking. And then reviewing rules to make sure that with changes in technology and in the marketplace, that we stay up to speed as far as, you know, making sure that the rules are fit for purpose. And then to pair back or to add, depending on, you know, what is needed.

Mrs. HINSON. Yeah, at the FTC, we had a commissioner in last week and they have a portal online to take feedback and kind of tips on what could be rolled back or maybe seen as anti-competitive. Are you anticipating doing something similar where people can flag for you rules that you can review?

Mr. ATKINS. In fact, I was just talking about that yesterday, that that was probably a good idea. We will enter into roundtables, like on the crypto side. We have done that and have I think one or two more left to do that the task force is planning.

But more generally, you know, to have like a suggestion box, let's say, you know, is not a bad idea for, to address anomalies that the staff or the SEC, not being active practitioners outside, you know, may not be aware of. So it is important.

Mrs. HINSON. Well, I certainly bet some of my constituents have some strong feedback as to some of those ideas, and we could probably get that list started for you. What would you say are your top three goals with deregulating at the SEC?

Mr. ATKINS. Well, you know, I don't know about deregulating, but maybe just focusing on what the, you know, the real issues are that, where again, there are impediments that are throw up.

The securities laws have been around now 90 years, 90-some years. And so, you know, anything needs to be—everything needs to be looked at in the spring cleaning, if you will, because things build up over time, and people don't have time to address, you know, things that might have become problematic.

So I do think that it is incumbent on us to make sure that we are as efficient as possible and that we have well-tailored rules that are not creating, you know, work-arounds or things where people can take advantage of the rules.

Mrs. HINSON. Certainly. Thank you, Chairman.

Thank you, Mr. Chairman, I yield back.

Mr. JOYCE. Thank you very much. The chair now recognizes the gentleman from—Mr. Ivey. You can let the people who haven't had a chance——

Mr. JOYCE. So you're waiving your time?

Mr. IVEY. I would like to have it, but I know they haven't had a chance to go. It is a good try.

Mr. JOYCE. The chair now recognizes the gentleman from North Carolina, Mr. Edwards, for five minutes.

Mr. EDWARDS. Thank you, Mr. Chair.

Mr. Atkins, thanks for being with us this afternoon. In the fiscal year 2025, the Securities Exchange salaries and expenses account was appropriated $2—let's call it $1 billion.

And in your written testimony you stated at your height a year ago, you had approximately 5,000 employees plus 2,000 contractors. And that today you are at approximate 4,200 employees and 1700 contractors. That is a reduction of about 15%.

Do you expect that the SEC's fiscal year 2026 request for salaries and expenses will be lower than that $2.1 billion?

Mr. ATKINS. Well, thank you very much, Congressman, for that question. You know, the process, yeah, I was saying earlier that the budget process is new to me, and so we will be working with the, you know, assessing internally what we need and working with, you know, with you all in Congress and the administration to right-size, you know, what we need.

And that may be more. There are a number of things that are in the offing with respect to the, for example, the Public Company Accounting Oversight Board, whatever may happen there. But, you know, so it is a lot of things are I think left up in the air, so I can't really speak to the 2026 budget.

Mr. EDWARDS. When do you think we will know the detail of that request?

Mr. ATKINS. Well, I don't know exactly, you know, the process just yet. But as we work through it, you know, I assume this summer. I am not sure what the timing is.

Mr. EDWARDS. How many SEC employees chose to partake in the Trump administration's deferred resignation voluntary early retirement or voluntary separation incentive payment programs?

Mr. ATKINS. Well, we had about 600-some odd people that took part in those voluntary retirements, and so it is about 15% of the headcount.

Mr. EDWARDS. So the reduction that you saw was a result of the voluntary separations is what I am hearing you say.

Mr. ATKINS. Yes, sir.

Mr. EDWARDS. Was there a common denominator in the folks that chose to take that voluntary separation?

Mr. ATKINS. I don't know about that. I am not sure that we have gone to that detail or I haven't seen it. But you know, people retire for all sorts of reasons, and some of the people who have retired I know. And so some are living away from the Washington area and, you know, want to continue to do that.

Other people, you know, felt that—I mean, we have—the longevity of SEC is up there. I mean, the retention by this agency is, you know, higher than most. And so the way I look at a lot of this is, you know, people in it retire and that provides a lot of opportunity for younger folks to then move up in the ranks and get more experience and cut their teeth that way.

Mr. EDWARDS. Do you expect to look a bit deeper into that to find what the common denominators were? For example, you mentioned people that might live away from D.C., folks that were approaching retirement anyway. Folks that may be—have been under a per-

formance improvement program? Is that worthy to look at to see where the separations are coming from?

Mr. ATKINS. Oh, I think so. But I would think you would have to do a survey or something obviously, or——

Mr. EDWARDS. That was my question: are you intending to look into those separations with that level of depth?

Mr. ATKINS. Well, I think that would be interesting, I think. And to do a sounding on that and to—because we do surveys of employees annually, whether it is done by us or other, you know, private sector folks who rank the various agencies as to employee morale and whatnot.

Mr. EDWARDS. Final question in this round: what percentage of SEC office space is being utilized now that was not being utilized under the maximum telework period under the Biden administration?

Mr. ATKINS. So I don't have that figure, I can get back to you on that one. I know that, you know, everybody is, we are back to work in general, which it is good to have people in the building. I am not sure what it was like beforehand obviously. It must have been very lonely there within that massive building.

But anyway, so I am glad to have people back, and, but I can get back to you on the space usage.

Mr. EDWARDS. All right.

Thank you, Mr. Chairman, I yield.

Mr. JOYCE. Hey, Mr. Edwards, Mr. Ivey is still feeling generous, so we will now recognize the gentleman from Missouri, Mr. Alford, for any questions he has.

Mr. ALFORD. Thank you, Chair, Ranking Member, and thank you, Mr. Ivey, appreciate that.

Thank you, Chairman Atkins for being here today. This disastrous SEC climate disclosure rule propagated by former Chair Gensler would have required public companies to disclose climate-related information and registration statements in annual reports.

The initial rule would have required companies to not only disclose their direct and indirect emissions from purchased energy, but also all indirect emissions occurring throughout an organization's value chain, also known as Scope 3 emissions.

This reckless rule falls far outside the boundaries of the Commission's statutory authority. The SEC is a market regulator, as you know, not a climate regulator.

So Chair Atkins, the SEC has recently stated it is ending defense of the rule. If you are no longer defending this rule in court, would you consider fully repealing it? Why or why not?

Mr. ATKINS. Well, thank you, Congressman. Well, I think, you know, everything is, you know, under review in that respect. And the Eighth Circuit, where there is the—these various lawsuits are being consolidated, has posed some questions to us, you know, with respect to what our plans are.

So we will be coming out. I am actively talking to the staff and to my colleagues about, you know, the way forward.

And one thing I do, you know, want to hasten to add is that, you know, the climate rule that was promulgated by the SEC last year is just one thing that affects American companies.

You should just do not lose sight of the fact that in Europe, there is the Corporate Sustainability Due Diligence Directive and other aspects that will affect the extraterritorial effect that will affect American companies. And that is hotly under debate in Europe right now, and I am concerned about that as well.

So please keep that on your radar. But yesterday I think Friedrich Merz in Germany came out with, you know, some statements about the dangers of that CSDDD.

Mr. ALFORD. But in general, do you support the SEC climate disclosure rule?

Mr. ATKINS. You know, I have been, before I got there, been publicly critical of it. So you know, I share your concern about everything that you and Congresswoman Hinson were talking about, so.

Mr. ALFORD. The House Financial Services Committee's portion of the One Big Beautiful Bill contains a provision that would transfer the Public Company Accounting Oversight Board's authority directly to the SEC.

This follows the Biden administration's blatant politicalization of the PCAOB by voting along partisan lines to remove former Chair Duhnke and filling all five board seats with hand-picked Democrat cronies.

How would moving the PCAOB directly into the SEC make them more accountable to us in Congress and prevent a future politicization of the board's authority?

Mr. ATKINS. Well, thank you, Congressman. Well, obviously that is up to you all in Congress to decide what to do with the Public Company Accounting Oversight Board. It is a creature of Dodd-Frank.

And so I, you know, will obviously accommodate whatever you all decide. As I mentioned earlier, I think, you know, we are fully capable of taking on those duties that the PCAOB does, and obviously we would need resources to do that. But you know, the-we will be looking obviously at all of this as time goes on this administration.

Mr. ALFORD. The Consolidated Audit Trail or CAT requirements to submit investors' personally identifiable information is pretty concerning. We all know our federal financial regulators' abysmal record of protecting Americans' sensitive information. Last year, a rogue CFPB employee made an unauthorized transfer of sensitive records.

Will you commit to reviewing whether continued investment in the CAT is justified, given what has been going on?

Mr. ATKINS. Absolutely. I share your concern on those various points. And so we will review where we stand with Consolidated Audit Trail, its costs, and the vulnerabilities.

Mr. ALFORD. Well, thank you, Chair, for being here, and I yield back.

Mr. JOYCE. Thank you, sir. And with that, we are out of time. Just kidding, Mr. Ivey. Calm down. The chair now recognizes the gentleman from Maryland.

Mr. IVEY. He did it with a straight face too, he had me fooled there. So thank you, Mr. Chairman.

I did want to follow up on a couple of the answers that you gave a few minutes ago with respect to, I guess it is the division of labor

jurisdiction with respect to the SEC and the CFTC and also the collectibles comment.

With respect to some of the memecoin issues that we asked about, that I asked about a moment ago, my understanding is that the Trump meme website says that they are not intended to be or to be subject of an investment opportunity, investment contract, or security of any type.

And so it sounds like they are talking about this in terms of it being a gift. It appears the Trump group is not soliciting money in exchange for an investment or tangible product, but soliciting money in exchange for nothing, that is, asking for a gift that will benefit for them personally.

And that would raise Emoluments Clause issues potentially, especially since it appears that many of the investors in these vehicles are foreign investors.

I wanted to see if you could clarify for me what you meant by the collectibles comment and whether you think, if it is a collectible, does that mean SEC has the jurisdiction over it, CFTC, or some other entity? Who is guarding the henhouse right now, basically?

And then the other part two is, is it a gift, or is it something else?

Mr. ATKINS. Well, thank you for the question. I don't really know, other than what I have read in the paper, about, you know, this particular coin or you know, what its, you know, the attributes are to it.

But I can say in general is what I was talking about before, that you know, these sorts of issuances are for, you know, it is a collectible like a baseball card or whatever. And the Congresswoman mentioned Beanie Babies.

But so the people buy all sorts of things for collectability. And that is kind of, you know, obviously the way of the world there.

But you know, as far as the other attributes, if it fits within—and this is why I think we need clear rules of the road. Right now, what really governs is this 1946 decision regarding orange groves that the Supreme Court came down with called Howey v. SEC. And so it sets out, you know, various, you know, attributes for a investment contract.

Mr. IVEY. Before the chairman cuts me off from a time standpoint, just to follow up. I will get the Steny treatment, I guess, I get a little extra time. While this determination is being made, these are tens of millions of dollars, hundreds of millions of dollars that are floating around.

And it is especially concerning for two reasons. One is the overlap with Mr. Sun's case that is before the SEC. It is on pause right now but it is still pending.

And the other is because, you know, the President and his family are getting hundreds of millions of dollars apparently through these vehicles. It seems to me somebody needs to be taking a look at this now.

Now, you have said that you can't talk about whether you have an open investigation or not. And you did talk about how investigations can be triggered, I guess through some sort of internal box.

Can it be triggered by a request from Congress to conduct an investigation on these issues? Because you got at least one letter with respect to the insider trading piece. You got another letter that raises these transactions with respect to the memecoins. Are those sufficient to generate or initiate an investigation at the SEC on these matters?

Mr. ATKINS. Well, first of all, we take very seriously letters from Congress and, you know, I commit—so, unlike what I understand in the past, I commit that we will respond to letters from Congress. And but, you know, with respect to this particular issue, again, there are a lot of very ambitious and smart people in the Enforcement Division and so I, you know——

Mr. IVEY. I do appreciate that, but it doesn't get much bigger than this. If it is a constitutional violation with respect to the Emoluments Clause, somebody needs to be looking at this now. And I don't know if that is you, I don't know if this is the CFTC, although you said the two of you meet, and to make sure "nothing falls between the cracks."

We can't let this fall through the cracks, and we can't let it drag out. You all need to make a determination soon, I think, and start looking at this if you haven't already just to make sure we are moving in the right direction and to restore the public confidence that we talked about earlier.

And with that, Mr. Chairman, I thank you.

Mr. JOYCE. Thank you very much. The chair now recognizes the gentlelady from Iowa for any questions she may have in the second round.

Mrs. HINSON. Thank you, just a few more, Mr. Chairman. Thank you again for being here.

Last week, the SEC announced that certain confidential information filed by investment managers on Form N–PORT was accidentally made public. In 2022, SEC enforcement staff inappropriately accessed documents in administrative law cases being considered by the SEC.

And then in 2016, a foreign hacker gained access to the SEC database. And we know that they were able to result in $4.1 million in illegal profits as a result of that hack.

So these are just a couple of the examples, certainly where that trust for American investors is put at risk and violated.

So how will you plan to address some of those concerns about the retention of data, some of these bigger cybersecurity vulnerabilities? We know we have many adversaries who are looking to exploit those weaknesses. And then the potential misuse of sensitive investor information as a result of that.

Mr. ATKINS. Well, thank you, Congresswoman. I completely share your concern. And you know, this is, it dumbfounds me that this sort of thing happens. And so we at the SEC take very, very seriously the information and the obligations we have to disseminate information, the information that we collect, and the confidentiality of what supposedly is confidential.

So we are looking into that, and that is one reason why I really, you know, am happy for the help to look at our information technology system. It is time for a good scrubbing and spring cleaning

to see, you know, where the gaps are, how we can, you know, undergird and you know, make it better.

Because I have, you know, the SEC's database was, for personnel information, was hacked by I think the Chinese, something probably about 20 years ago, 15 years ago, something like that. So my own information is out there.

So with that in mind, I, you know, I feel that obviously we need to come to a good understanding of how we can improve. And we will be discussing with you and the administration about, you know, what may be necessary to do that.

Mrs. HINSON. Yeah, it is certainly alarming when your own information is compromised, right. Obviously as a member of Congress ours was compromised in the D.C. Health Link hack a few years ago too, so I certainly feel that on a personal level.

Just want to zoom in a little bit on the Consolidated Audit Trail, CAT, the largest repository of investor information that has literally ever been created and likely also one of the least secure.

And as you are aware, the CAT did collect a lot of sensitive information, personally identifiable information on every single American investor, making that information particularly vulnerable to cyber criminals who then want to steal identities.

Or as you mentioned, China hacking many of our foreign adversaries who will seek to potentially even blackmail Americans with that data, manipulate our markets. I mean, this could be really, really egregious for the American economy.

So you know, you talk a little bit about some of the IT improvements that you might need. But what steps are you taking to really protect American investors and our markets from some of these vulnerabilities presented by CAT right now?

Mr. ATKINS. Well, we are, as I mentioned before, we are reviewing, plan to review the Consolidated Audit Trail for, you know, for its benefits and the costs and then the potential vulnerabilities. So all that is under, will be under consideration.

But again, as far as shoring up the defenses and the integrity of our systems, that is incredibly critical, obviously, especially with all the information that the SEC handles. And so that is, I pledge to really focus on that and get the best minds to work on how we can do it and how to maybe restructure things around that.

Mrs. HINSON. Do you think DOGE could be helpful in that case? I know they have been coming in and finding in many cases there is duplicative technologies. Again, a need for investment in specific places. Have you been able to work with them and their team on some suggestions maybe for what might be improved?

Mr. ATKINS. They already have been inside the network, and so now as they have looked at overlapping contracts and inefficiencies, I think the savings is up to $90 million of, that they have identified. So that is a great start, and they are not finished yet.

Mrs. HINSON. Let's redirect that 90 million to better IT practices. I think that is a good approach. Thank you, Mr.——

Mr. ATKINS. Amen.

Mrs. HINSON. I yield back.

Mr. ATKINS. Thank you.

Mr. JOYCE. Thank you. Now recognize the gentleman from North Carolina, Mr. Edwards, for any second-round questions he may have.

Mr. EDWARDS. Thank you, Mr. Chair, I get another chance.

Chairman Atkins, earlier this month you stated that a key priority of your chairmanship would be to develop a rational regulatory framework for crypto assets that establishes clear rules of the road for the issuance, custody, and trading of crypto assets while continuing to discourage those bad actors from violating the law.

In order to fulfill that mission, former Acting Chairman Mark Uyeda established a crypto task force on January 21. How much funding will that task force require?

Mr. ATKINS. Well, I am not sure exactly. It is staffed by current employees and Commissioner Pierce is leading it. So it is not taking any additional funding. These people have been, you know, parts of, you know, the workforce now for a while, they are experienced.

Mr. EDWARDS. Despite the task force only being assembled a few months ago in January, have there been any notable findings thus far that you can report?

Mr. ATKINS. Well, it is still under development. They are engaging in round tables, and we have had I believe three or so of them so far. And so with another couple to come. And then, you know, we will be huddling internally to, you know, figure out steps forward after that. But this is part of an ongoing process.

But I really salute Commissioner Pierce for, and her team, for focusing on this. It is way overdue, and I think we will be able to make progress. And then whatever happens in Congress, you know, that will help undergird what we do. And we are, you know, ready, willing, and able to work with you all.

Mr. EDWARDS. When do you expect the first report from that task force?

Mr. ATKINS. I don't know, I would have to talk to Commissioner Pierce about that, but our steps forward. But you know, we should be having something I think here in the next few months and with proposed steps forward.

Mr. EDWARDS. Thank you, Mr. Chairman. I will yield.

Mr. JOYCE. With that, our time is concluded. I would like to thank Chairman Atkins again for being here today. There may be some members who didn't appear today, tied up in other committees, I am sure that they wanted to be here. But they would like to submit questions for the record.

Please submit any questions for the record to the subcommittee staff within seven days. With that, the subcommittee stands adjourned.

[Whereupon, at 11:31 a.m., the committee was adjourned.]

Questions for the Record
House Appropriations, Subcommittee on Financial Services and General Government
Oversight Hearing of the U.S. Securities and Exchange Commission
May 20, 2025

Questions from Chairman David Joyce

The Committee remains interested in the federal government's approach to digital asset oversight and enforcement. The interagency "Crypto Task Force" was established to provide guidance to the public, coordinate digital asset investigations, and create a forum for public input on emerging policy issues.

1. Does the SEC intend to continue operating the Crypto Task Force over the next several years? If so, please describe its scope, priorities, planned activities, and how it will continue to engage with the public. If not, how will the Commission continue providing coordinated guidance and opportunities for stakeholder input on digital assets?

The SEC-established Crypto Task Force is dedicated to developing a comprehensive and clear regulatory framework for crypto assets. Prior to the creation of the Task Force, the SEC first pursued what I call the "head-in-the-sand" approach — perhaps hoping that crypto would go away. Then, it pivoted and pursued an approach of regulation through enforcement. The "just come in to visit" entreaty often meant coming home to a subpoena. This environment did not create trust. The SEC's claim at the time that it was willing to talk to prospective registrants proved ephemeral at best because the SEC made no adaptations to registration forms or other regulatory requirements to accommodate this new technology. I have been told that market participants would in good faith enter what they thought were policy meetings with Commission staff only to receive enforcement inquiries shortly after their meeting. If that culture were not bad enough, SEC leadership for too long prevented staff from communicating with market participants when complicated legal questions arose.

Now, it is a new day at the SEC. Policymaking will be done through rulemaking not through regulation by enforcement. My intent is that the Commission will utilize its existing rulemaking, interpretive, and exemptive authorities to set fit-for-purpose standards for market participants. This undertaking requires coordination across multiple offices and divisions within the Commission, which is why I am pleased with the ongoing work of the Crypto Task Force. The Task Force is a focused effort now, but in the not-too-distant future, it will be integrated into various divisions, as appropriate. The Crypto Task Force exemplifies how our policy divisions can come together to expeditiously provide long-needed clarity and certainty to the American public. Innovation, including a sensible approach to crypto assets, should be ingrained in the culture SEC-wide.

***

Several weeks ago the SEC announced that certain confidential information filed by investment managers on Form N-PORT was accidentally made public, an incident that compelled the SEC to

issue a statement explaining what happened. This is the latest occurrence of the SEC failing to protect confidential and sometimes market-moving information. Other examples include hackers gaining access to the SEC's EDGAR database, and the inappropriate accessing of documents by SEC enforcement staff in administrative law cases being considered by the SEC.

As you are aware, the CAT started collecting the personally identifiable information of every single American investor– making the information vulnerable to cybercriminals who can steal someone's identify or to nation states who will seek to blackmail Americans, manipulate our market or trade of nonpublic information.

In March, the SEC Inspector General issued a report finding that the "unauthorized disclosure and misuse of CAT data were elevated" and recommended the SEC take further steps to protect investors from a cyberbreach.

2. Is the SEC taking further action to eliminate all past, current, and future collection of personally identifiable information under the CAT?

3. What specific steps do you think the SEC should be taking to protect American investors and our markets from the vulnerabilities that the CAT presents?

ANSWER TO 2 and 3:

The Commission has already taken significant steps to minimize PII from the CAT. In 2020, the Commission issued relief that exempts the national securities exchanges and FINRA (collectively, the "SROs") from collecting or retaining certain PII: (1) social security numbers and individual taxpayer identification numbers, (2) dates of birth, and (3) account numbers. More recently, on February 10, 2025, the Commission issued additional relief that exempts the SROs from collecting the names, addresses, and years of birth for U.S. natural persons. This exemptive relief was designed to strike an appropriate balance between enabling regulators to efficiently identify market participants engaged in illegal trading activity and mitigating potential security risks to the PII of American investors.

Recently, the SROs have filed a proposed amendment to the national market system plan governing the CAT (the "CAT NMS Plan") that would codify and expand the exemptive relief already granted by the Commission. The Commission is considering this proposal and, pursuant to Rule 608(b)(2)(i), will need to approve or disapprove this proposed amendment, or institute proceedings to determine whether this proposed amendment should be disapproved, by June 17, 2025.

In addition, the Commission has already taken action to address the recommendations made in the Office of Inspector General's (OIG)report. The OIG found that the risks of unauthorized disclosure and misuse of CAT data were elevated during the audit period, recent agency action has reduced these risks. As reflected in the Office of the Chief Data Officer's response to the report,

CAT Data was, at all times of the applicable review period, protected by a wide range of safeguards meeting the requirements of the industry security standard for federal systems, NIST SP 800-53, and a system of internal controls meeting the U.S. Government Accountability office's Standards for Internal Control in the Federal Government. Automated zero-trust controls were further rolled out in September 2024, after the OIG's review period, and the report confirms that these controls strengthened the agency's protection of CAT Data.

Finally, I have recently instructed the staff to undertake a comprehensive review of the CAT and expect that these issues will be considered further in that review.

***

In the 118th Congress, HR 9148 was proposed that would adjust Dodd-Frank reporting compliance requirements for licensed private fund investment advisors having fewer assets under management than $5 billion, and whose clientele is limited to "qualified purchasers," as defined by the Investment Company Act of 1940 and "accredited investors," as defined by 230.501(c) of Title 17 of the Code of Federal Regulations. The theory of that legislation was that a fund of that size and a clientele so defined, working with a licensed advisor, did not present the kind of systemic risk that generated the comprehensive compliance requirements in the first place.

4. Do you agree with that analysis, and do you believe that a similar adjustment could be achieved administratively?

I agree that size-based differentiated federal registration requirements are a longtime and beneficial feature of the investment adviser regulatory regime, including for private fund advisers. Today, section 203(m)(1) of the Investment Advisers Act of 1940 exempts from registration any investment adviser that acts solely as an adviser to private funds and has assets under management in the United States of less than $150,000,000. Because this threshold was established by statute, there may be limits on the Commission's ability to revise the threshold using its existing rulemaking or exemptive authority. However, I am committed to expeditiously implementing any legislative changes to the Investment Advisers Act in this area.

Questions from Representative Ashley Hinson

1. In order to support President Trump's efforts to make our financial system more efficient and inclusive, I think it would be beneficial to consider eliminating the need to send lengthy paper disclosure documents that can be received electronically. I believe this would help the SEC not only speed up information delivery for investors but also achieve investor savings and cut down on waste.

In your role as Chairman, will you consider taking steps to require e-delivery, assuming that you will make allowances for consumers who do not have e-mail addresses to continue to receive their documents through the mail?

I agree that evolving technology provides opportunities to improve the Commission's disclosure framework, while maintaining investor protection. We are aware that, especially post-pandemic, Americans' engagement with electronic methods of accessing information continues to increase. The Commission has taken various steps over the years to move towards a modernized, layered disclosure framework that promotes the use of interactive, user-friendly design features to present certain information electronically. However, we have not comprehensively updated our guidance on use of electronic delivery in over 20 years, and I have asked staff to develop recommendations for the Commission to consider regarding our electronic delivery approach. Opportunities that electronic delivery could provide for increased efficiency, with appropriate safeguards to ensure investor protection, will be important issues as we consider ways to modernize our approach to disclosure.

WEDNESDAY, MAY 21, 2025.

FEDERAL COMMUNICATIONS COMMISSION

WITNESS

BRENDAN CARR, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. JOYCE. The Subcommittee on Financial Services and General Government will come to order. This hearing is titled the Federal—Oversight of the Federal Communications Commission. Members will have five legislative days within which to revise and extend their remarks and insert extraneous material into the record.

I now recognize myself for an opening statement.

I would like to thank Chairman Carr for being here today and for his leadership at the FCC. The Federal Communications Commission was created for the purpose of expanding access to radio, television, and other communication services for all Americans. Methods of communication have changed a lot since the FCC was founded more than 90 years ago. Decades of technological advancements have made long-distance communications much more affordable.

In 2023 the total number of wireless connections within the United States reached almost 558 million, or more than 1.6 connections per American. The FCC continues to play an important role in expanding access to new technologies and making communication services more affordable for all Americans.

Since fiscal year 2023 the FCC has received flat funding of $390.2 million. Each year the Commission's appropriation is fully offset by the collection of regulatory fees paid by license holders. Not only is the FCC's appropriation fully offset, but the Commission routinely transfers any excess revenue to the Treasury for deficit reduction.

The FCC has become a leader in securing our nation's telecommunications infrastructure from national security threats.

The Rip and Replace Program has provided essential funding to help service providers replace equipment manufactured by companies under the influence of Chinese Communist Party. Congress has authorized close to $5 billion for these efforts. I look forward to hearing more about that important program and the progress that continues to be made.

I am also encouraged by Chairman Carr's efforts to identify and remove unnecessary regulations that inhibit innovation and economic growth. Since March of this year the FCC has been collecting feedback from the public on regulatory changes that will facilitate and encourage investment in modernizing networks, developing infrastructure, and promoting competition.

In addition to its deregulation efforts the FCC is taking concrete steps to streamline agency processes and eliminate wasteful spending. Just last week the Commission announced more than $567 million in expected savings from reduced contract spending.

I am interested to learn more about these efforts, the steps Chairman Carr, you are going to take to improve the agency's fiscal health, and your priorities more generally to the Federal Communications Commission and how this committee can assist in achieving those goals.

I now recognize the ranking member for his opening remarks.

Mr. HOYER. Thank you very much. A timely appearance apparently.

Mr. JOYCE. Yes. [Laughter.]

Mr. WOMACK. Need a microphone. There you go. You are on now.

Mr. HOYER. Thank you very much. Thank you, Mr. Carr, for being with us. We had a good conversation in my office. This probably won't be as cordial as we were, but I am very concerned.

When Donald Trump spoke before the Congress in March, he said this: "I've stopped all government censorship and brought back free speech in America." "It's back," he said. Now he had also said during the campaign to his supporters, "I am your retribution." You may remember that quote. That rang in my ears and gave me great concern.

The FCC's actions the past few months make it clear just how relevant those comments were. What was once an independent impartial agency—not always—devoted to keeping Americans connected has become in my view to some degree the speech police, another cudgel in the President's culture war.

Since Trump took office the FCC has gone after private corporations over their DEI practices. Very frankly in my view that is—that may be a practice that he can impose on the Federal Government, but is not a practice that he can impose, nor should he impose on the private sector, whatever the views we may hold.

The agency in my opinion has also targeted NPR, PBS, NBC, ABC, and CBS, and other networks apparently who are perceived unfavorably to the President and to his policies. The First Amendment of course is not intended to protect the President from the press. It is intended to protect the President—excuse me, the press against the government. Nor was the FCC established to act in the President's interest, but rather in the public's interest.

Now more than ever the American people are counting on the FCC to focus on its mission under law.

Something we discussed in my office however was when he removed FCC commissioners he did it because, quoting or trying to quote that the actions of those commissioners were incompatible with the priorities of the administration.

Communications technologies that fall under the FCC's purview are fundamental to everything in modern life. They shape our commerce, our education, our national security, our health care, and our elections. In an increasingly digital world the FCC needs to ensure that we don't leave that behind. That means expanding—boy, this is inconvenient—that means expanding affordable reliable access to the internet and other crucial technology in both rural and urban areas. I represent urban and rural areas.

We made a lot of progress toward closing the digital divide when the Affordable Connectivity Program funded by the bipartisan infrastructure law—legislation I was proud to put on the floor as majority leader. I heard directly from my constituents, Republicans and Democrats and Republican officials. I live in a county with five Republican county commissioners. They all urged me to continue that because of the very positive impact it had on my district and in that rural county in which I live.

Regrettably my colleagues across the aisle allowed that program to expire last year raising interest costs for the 23 million households that are enrolled. I still haven't seen any plan on how we fill that void. Worse, I have heard rumors that the FCC's spectrum policy involves auctioning off or reducing bands including the Citizens Broadband Radio Service, which could make it even harder for Americans to get connected. The FCC has a responsibility not only to help Americans access these opportunities, but also to protect them from potential perils.

Every day Americans experience robocalls and internet scam attempts that become more and more sophisticated. Their personal data falls prey to hackers and scammers. Americans need strong and savvy cops on the beat committed to cybersecurity and privacy. In my view that is the role of the FCC.

Chairman Carr, I thank you for coming in today, as I said, but I want to be clear that I am worried that the FCC and so many other elements of government that ought to be independent are, in the President's words, not referring to anything that I have referred to—but weaponizing government. The FCC's attacks on the press and the First Amendment are troubling. So I look forward to hearing your testimony. I will honor the chairman's gavel, but it requires a lot of time to make sure the FCC is doing what the American people expect it to do.

Thank you, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Hoyer.

Today we welcome the testimony of the Honorable Brendan Carr, Chairman of the Federal Communications Commission.

Chairman Carr, without objection your full written testimony will be entered into the record.

Mr. JOYCE. With that in mind, we would ask that you please summarize your opening statement in five minutes.

STATEMENT OF BRENDAN CARR

Mr. CARR. Chairman Joyce, Ranking Member Hoyer, distinguished members of the subcommittee, thank you for the invitation to testify, and I want to start as someone from Virginia that recognizes the life and legacy of service of Gerry Connolly today. I grew up not far from his district, so I wanted to recognize him at the outset.

Since joining the FCC I have had the privilege of testifying before Congress a number of times including in front of this subcommittee just last year, but this is my first time appearing before Congress as Chairman of the FCC. And there are some new subcommittee members here so I want to start with brief a introduction.

I first joined the FCC as a staffer back in 2012 and I have had the privilege of serving in a number of different roles since then, from an attorney in the Office of the General Counsel to a legal advisor for a commissioner, and general counsel of the FCC before President Trump nominated me to serve as a commissioner in 2017.

Over these past dozen years, I have had the honor of working alongside some of the most talented public servants in the Federal Government. I am proud of the work they get done for the American people.

And speaking of getting things done, it has been a particularly busy time at the FCC. We have hit the ground running and I would like to highlight some of the Commission's critical work under my leadership so far.

To start, we have taken quick action on spectrum. This is important work because getting additional airwaves into the commercial marketplace drives down prices for consumers, increases competition, and advances America's national security.

To that end, we launched a new proceeding that looks at freeing up more mid-band spectrum in what is known as the C-band. We started a proceeding to explore creative ways to use the 37 gigahertz band and we are voting tomorrow on ideas for more intensive use of multiple gigahertz of spectrum in other bands.

Earlier this year, we also kicked off the process for auctioning AWS–3 licenses. The proceeds of this auction will be used to help facilitate the Rip and Replace National Security Program. More broadly, though, it is important that Congress restore the FCC's general spectrum auction authority. U.S. leadership in wireless is about more than connectivity. It is part and parcel of America's geopolitical leadership in national security.

Auctioning spectrum is also good for the Treasury, as spectrum auctions raise hundreds of billions of dollars in revenue. Restoring FCC auction authority via a robust pipeline of mid-band spectrum, as President Trump called for just yesterday as part of reconciliation, is one of the most important steps Congress can take to support telecommunications in the near term.

Apart from spectrum, the FCC's been busy on other fronts, too. We are working to unleash new high-speed infrastructure bills focusing on boosting America's space economy, and launching a massive deregulatory effort in closing dormant proceedings.

In parallel with all of this, we are working to protect consumers. This includes expanding the agency's work to combat illegal robocalls and bolstering our call blocking rules. The FCC is also taking steps to enhance our national security and public safety.

At the beginning of my time as chairman, I created a new Council on National Security within the FCC that leverages all of the agency's authorities and relevant work streams to counter the threats posed by foreign adversaries. The council is already hard at work, including an ongoing investigation into the U.S. operations of businesses that were previously placed on the FCC's covered list due to national security risks.

At the same time, the FCC is focused on delivering efficient results. With respect to our current budget, the FCC is operating successfully under a CR of just over $390 million in addition to addi-

tional funding for our spectrum auction program. On the workforce front, the FCC employed 1,461 full-time employees at the beginning of fiscal year 2025 and as of the end of last month the FCC employed 1,383 outside of our Inspector General operations.

As President Trump and Congress finalize the FCC's fee-funded budget for next year, the agency will keep delivering great and efficient results for the American people. We are going to do so by accelerating infrastructure bills, promoting U.S. leadership in wireless, expanding our space economy, eliminating needless regulations, protecting consumers including additional work on robocalls, and promoting our national security and public safety.

While we make progress on these, the FCC is also going to be eliminating waste. We have already started this process and so far found more than $6.7 million in savings for the remainder of fiscal year 2025. We have reduced the FCC's authorized contract spend by over a half a billion dollars. And a lot of the savings come from looking at bloated and duplicative IT contracts. These savings have had real results for the FCC and the agency is on sustainable financial footing.

In closing, I want to thank you again for the opportunity to testify. I look forward to your questions.

[The information follows:]

TESTIMONY OF BRENDAN CARR
CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

BEFORE THE
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS

"Oversight Hearing of the Federal Communications Commission"

May 21, 2025

Chairman Joyce, Ranking Member Hoyer, and distinguished Members of the Subcommittee, it is an honor to appear before you today. Since joining the FCC, I have had the privilege of testifying before a number of House and Senate Committees, including in front of this Subcommittee last year. But this is my first time appearing before Congress as the Chairman of the FCC. So, I want to thank you for the invitation to testify. I look forward to sharing with you the priorities we have been advancing at the FCC since January, updating you on our budgetary actions, and discussing the priorities I would like to pursue in Fiscal Year 2026.

Since this is my first time testifying as Chairman and there are new members of the Subcommittee this Congress, I want to start with a brief introduction. I first joined the FCC as a staffer back in 2012, and I have had the privilege of serving in a number of different roles at the agency—from an attorney in the agency's Office of General Counsel to a legal advisor for a Commissioner and then General Counsel of the FCC before being nominated to serve as Commissioner in 2017. Over these past dozen years, I have had the honor of working alongside some of the most talented public servants in the federal government. I am proud of the work they get done for the American people.

It has been a particularly busy time at the FCC since Inauguration Day, when President Trump designated me as Chairman of the agency. We have hit the ground running, and I'd like to highlight some of the Commission's critical work under my leadership thus far.

To start, we have already taken steps to unleash new high-speed infrastructure builds. We have done so by making it easier for providers to retire aging, copper-line networks and invest resources into fast, modern ones instead. We also clarified that tower construction projects could proceed without going through additional and onerous review processes. We streamlined other procedures as well.

During the first few months, the FCC has also taken steps to restore America's leadership in wireless and free up more spectrum up for consumer use. This is important because getting more spectrum into the commercial marketplace drives down prices for the American people, increases competition, and advances America's national security interests. To that end, we launched a new proceeding that looks at freeing up a large swath of prime, mid-band spectrum in the C-Band. We also started a proceeding to explore new and creative ways that we could allow more intensive use of spectrum in the 37 GHz band.

Beyond studying spectrum, we also kicked off the process of auctioning AWS-3 licenses

after Congress authorized the FCC to conduct the auction. The proceeds of this auction will be used to help facilitate the "Rip-and-Replace" program, which removes dangerous and insecure Huawei and ZTE gear from our nation's critical telecommunications infrastructure. This is a win-win: the FCC is making more prime, mid-band spectrum available, and we are moving the ball forward on a longstanding, bipartisan national security priority.

More broadly, though, it is important that Congress restore the FCC's spectrum auction authority. As I wrote in a letter to Congressional leaders earlier this year,[1] U.S. leadership in wireless is about more than connectivity. It is part and parcel of America's geopolitical leadership and national security. When we free up spectrum, the world takes notice. It puts the wind at the backs of those working to advance our values. It ensures that next-generation wireless services develop in ways that will benefit our innovators and interests—rather than regimes that seek to diminish America's standing in the world. It lets America drive the important standard-setting process, rather than taking the results that our adversaries would dish out. And it ensures that Huawei and ZTE do not dominate the development of vital, next-generation services.

Auctioning spectrum is also good for the U.S. Treasury and our national funding priorities. Indeed, the FCC has held 100 auctions over the years and raised more than $233 billion in revenues. In fact, FCC spectrum auctions consistently exceed revenue estimates—by multiples in many cases. So, restoring FCC auction authority via a robust pipeline of mid-band spectrum is one of the most important steps that Congress can take in the near term.

Shifting from spectrum, the FCC has also focused on boosting America's space economy. This is an area where the FCC must continue to move faster and with greater efficiency. The agency must match the pace and cadence of America's leading satellite, rocket, and space companies. Since becoming Chairman, we have taken steps designed to do just that. For instance, we streamlined the FCC approval process for earth station siting requests to reduce burdens on satellite companies and ensure the agency can move faster as more of these requests come in. These changes allowed us to process 85 space station and 904 earth station applications in just the first 100 days alone. We also took action to enable faster and more robust direct-to-cell service by allowing providers to operate on spectrum at higher power levels. And we approved a breakthrough demonstration of live video calls between mobile devices using a satellite network.

Consistent with my goals as Chairman to encourage innovation and deliver efficient results, the FCC launched a massive deregulatory effort titled, "In Re: Delete, Delete, Delete." Right now, the FCC is doing a top to bottom review of every rule, regulation, and guidance document for the purpose of eliminating unnecessary regulatory burdens. We received great feedback from a range of stakeholders already and plan on eliminating onerous, antiquated, and unlawful requirements across the board.

In parallel with our aggressive economic agenda, the FCC has also taken important steps to

---

[1] *See* Letter from Brendan Carr, Chairman, FCC to Ted Cruz, Chair, Committee on Commerce, Science, and Transportation, United States Senate, Brett Guthrie, Chair, Committee on Energy and Commerce, United States House of Representatives, Maria Cantwell, Ranking Member, Committee on Commerce, Science, and Transportation, United States Senate, and Frank Pallone, Ranking Member, Committee on Energy and Commerce, United States House of Representatives (Mar 12, 2025), http://docs.fcc.gov/public/attachments/DOC-410265A1.pdf.

protect consumers. Since I became Chairman, the FCC has expanded its work to combat illegal robocalls and bolster our call blocking rules. We have also proposed a new framework that can ensure caller ID authentication solutions are extended to calls transmitted over non-IP networks. And we have proposed rules to protect consumers from excessively loud commercials. Consumer protection will continue to be a pillar of the FCC's work under my leadership.

The FCC is also taking steps to enhance our national security and public safety. At the beginning of my time as Chairman, I created a new Council on National Security within the FCC to leverage all of the agency's authorities and relevant work streams to counter the threats posed by foreign adversaries. The Council is already hard at work investigating the ongoing U.S. operations of businesses that were previously placed on the FCC's Covered List due to their national security risks. We are also looking to address other significant vulnerabilities. For instance, we are looking at backups or alternatives to our GPS system to enhance national security and economic resilience. And we are promoting America's public safety systems by ensuring that emerging, Next Gen 911 networks are reliable and interoperable and by improving wireless 911 location accuracy rules.

While this is not an exhaustive list of the FCC's work over these past few months, it does demonstrate the important work that the FCC's talented staff have been accomplishing.

And we have been delivering these results with a focus on efficiency. At the beginning of Fiscal Year 2025, the FCC employed 1,461 full-time employees. As of April 28, 2025, the FCC employed 1,383 full-time employees. The difference over the last six months can be attributed to many factors, including FCC employees who took advantage of the early retirement window opened by my predecessor, the deferred resignation program offered by President Trump, and natural turnover. The agency is well positioned to continue carrying out its statutory mission for the remainder of Fiscal Year 2025 and beyond.

With respect to our current budget, the FCC is operating successfully under the Continuing Resolution's Fiscal Year 2024 S&E level of $390,192,000. As President Trump and Congress finalize the FCC's fee-funded Fiscal Year 2026 budget, the agency will keep delivering great and efficient results for the American public by accelerating infrastructure builds, promoting America's wireless leadership, expanding our space economy, eliminating needless regulations, protecting consumers, and promoting national security and public safety.

While making progress on those priorities, the FCC will also find opportunities to eliminate waste and improve efficiency. We have already started this process, and, so far, found more than $6.7 million in savings for the remainder of Fiscal Year 2025. We have also reduced the FCC's authorized contract spending ceiling amount by more than $567 million. A lot of our savings have come from reviewing and modifying bloated and duplicative IT contracts. These savings have had real results for the FCC, and the agency is on sustainable financial footing.

We have also improved efficiency inside the FCC. I have touched on streamlining processes, but another big efficiency driver was simply returning the talented FCC staff back to the office. When I started as Chairman, we estimate that 98 percent of covered FCC employees still routinely teleworked using COVID-era policies—including showing up in person just one

day a week or less. Now, that number is nearly inverted: over 92 percent of staff are required to be back to full-time work in the office. I try to walk two floors of the FCC building every day to hear directly from our talented teams and get ideas that we can act on. When I started this initiative, before everyone returned to the office, the floors were mostly empty. Now, the floors are full and our hardworking staff professionals are driving the agency's agenda forward. I have heard on these walks that people feel more collaborative and productive now that their colleagues are only a few steps away. Silos that can develop in fully remote environments are not constraining our teams in the same ways. And the agency's longstanding culture of teamwork and collaboration is getting even stronger.

I very much look forward to the great results that this FCC team will deliver over the coming months and years.

* * *

In closing, Chairman Joyce, Ranking Member Hoyer, and distinguished Members of the Subcommittee, thank you again for the opportunity to testify. I look forward to answering your questions.

Mr. JOYCE. Thank you, Chairman Carr.

I now recognize myself for questions.

Following up on the last paragraph or so of your statement, you announced last week that you reduced the authorized contract spending by more than $567 million. Can you explain which type of contracts were reduced or eliminated and how these potential savings were identified and if at all DOGE had played any role in that?

Mr. CARR. Thank you, chairman, for the question. Two things there: One, we stood up our own internal DOGE group at the FCC. And one of the things that I tasked them to do was a top to bottom review of every single contract the FCC has. And this initial decision of reducing contract ceilings as well as other savings was a product of that. We have also worked in coordination with the official DOGE group as well.

The main portion of those savings again was IT contracts where we had licenses for services that we didn't need. We cut duplicative services. And so that was the main focus of that initial review, but we continue to work on this effort.

Mr. JOYCE. Of that 567 million in cost savings only 27.8 million will be realized over the next two years. When do you expect to realize the remaining $539 million in savings?

Mr. CARR. Yes, two things are going on here. One, we are realizing savings; as you noted the $20 million. We have additional projections for next year as well. The contract ceiling number is just how much we were authorized to spend on different contracts over a number of years into the future and we brought those contract ceilings down to make sure that we are not overspending down the road.

Mr. JOYCE. Well, that outside of contracting service have you identified any other opportunities for the FCC for significant cost savings?

Mr. CARR. Yes, there is a lot that we are doing. One, we are taking a look at dormant dockets. So the FCC for instance has over 2,000 proceedings that we are looking at closing that ultimately can save staff time by not having to monitor those dockets. We have closed advisory committees that we don't think are either aligned with our statutory mission or otherwise not critical to our core mission. That has also resulted in savings as well. And principally, we are just refocused on the agency's core mission, and that is connecting more Americans through work on spectrum, on infrastructure, and on national security. We think that is going to pay dividends as well.

Mr. JOYCE. Since the creation of the Rip and Replace Program Congress has appropriated $1.9 billion to remove these telecommunication equipment that pose serious threats to our national security. However, due to higher than expected costs, program costs, Congress authorized the FCC to borrow an additional $3 billion to cover this shortfall. Can you describe the terms of the FCC's loan from the Treasury and how the Commission plans to make the required loan payments?

Mr. CARR. Yes, so, with respect to Rip and Replace, this is a very significant and important effort. This process is the way that we are getting Huawei and ZTE and similar insecure gear out of our

networks that have infiltrated them throughout the country. Congress initially appropriated an initial sum of roughly $3 billion. The FCC had about a $3 billion shortfall after that. Congress has closed that gap. We have now borrowed funding from the Treasury to complete that process. We will repay Treasury with proceeds from that AWS–3 spectrum auction.

In a nutshell, at the end of last year we were roughly 28 percent complete with the Rip and Replace Program and we expect to be either complete or essentially fully complete about a year from now. The work should be completed on time.

Mr. JOYCE. Is the FCC required to make interest payments as part of the borrowing agreement? Will that further constrain your ability to meet the program's objectives?

Mr. CARR. When Congress passed the legislation last year authorizing us to borrow that additional money, the view of Treasury and their interpretation of the language was that we have to use a portion of that money to pay interest for the borrowed money. So that has resulted in a shortfall that impacts one provider that has recently been added into the program.

Mr. JOYCE. Do you expect the Treasury loan to cover the remaining Rip and Replace funding needs or will Congress need to provide additional resources?

Mr. CARR. For everybody except for that one entity they are now fully provided for by the legislation from Congress. We just have a shortfall now with one particular provider.

Mr. JOYCE. I now recognize the ranking member, Mr. Hoyer, for any questions he may have.

Mr. HOYER. Thank you very much.

Let me just pursue the chairman's opening question on the 567 million. As I understand that, what you are saying essentially is $510 million of that is prospective and speculative, speculative in the sense that it has not been spent or obligated at this point in time. Is that accurate?

Mr. CARR. Yes, two things are going on: We have reduced contracts. So let's say we had a contract that authorized a million dollars. We could reduce that to $500,000 at some point down the road. In addition to that, we have other sort, of hard savings as well including, as we indicated in a press release, $6.7 million for the remainder of fiscal year 2025 and anticipating $21 million in 2026.

Mr. HOYER. That is the 27?

Mr. CARR. Yes.

Mr. HOYER. Which is approximately 5 percent of the savings that you are claiming may occur?

Mr. CARR. Yes, I mean, to be clear, I don't mean to be misleading on the numbers. The numbers speak for themselves. There is a contract ceiling number, and people can debate the significance of that, but that is fine. But we think it is a number that we have shrunk as we have put that data out there in addition to other data as well. But we are going to continue the process and look for additional savings.

Mr. HOYER. I appreciate that. The point is you can point to 27.8 million in actual cuts at this point in time?

Mr. CARR. Right.

Mr. HOYER. Thank you.

Mr. CARR. Yes.

Mr. HOYER. You make the statement on the first page, which I appreciate because I represent a lot of federal employees, as this committee knows. I have had the honor of working alongside some of the most talented public servants in the Federal Government. I appreciate that statement. I think the public does not recognize the talent that you have working for you, and that is unfortunate.

Let me ask you something: Of the 78 spots that have been reduced since January; that is, from going from the 1,461 down to 1,383, how many of those were reduced as a result of the offer of early retirement? All of them?

Mr. CARR. Well, let me just walk through that. So the 1,461 number was at the start of fiscal year 2025. On January 20, the number was 1,448. As of the end of last month it was 1,383, but you have to add into that number the Inspector General's Office, which is roughly 40. So as of the end of last month we were roughly at 1,426 FTEs. That delta is explained by natural attrition. Some were taking voluntary early retirement under programs opened by my predecessor. Some were the fork in the road.

I can provide more details for you on this. The fork in the road in particular had 67 employees. We had 26 employees who took advantage of that early retirement window that was opened by my predecessor. And then separately we had 21 people that took normal retirement. Obviously there was some onboarding as well during that process.

Mr. HOYER. And that would imply that there are more people—57, 26, 21, is greater than the 78 that I was referring to from the prior number to the January 20 number, the 1,461. So have you hired back some people?

Mr. CARR. There has been some hiring for instance in the Office of the Chairman. We have staffed up in the Chairman's Office. There has been some hiring. I can get you the hiring numbers as well if that is helpful.

Mr. HOYER. That would be helpful. Appreciate your submitting those. In response to Mr. Hoyer's request for all additional hiring numbers from January 21, 2025 through the hearing date (May 21, 2025), that number was 16.

With respect to the employees I want to read you something. Let me tell you your response. "We want the bureaucrats to be traumatically affected. When they wake up in the morning we want them not to want to go to work because they are increasingly viewed as the villains. We want to put them in trauma." Do you perceive any of your employees as the villains?

Mr. CARR. Well, congressman, look, I was attracted and drawn to work for the FCC in 2012. It was my hope to join the FCC's talented workforce. I have worked alongside of these people. They have been my mentors. They have been carrying out the FCC's mission, not just since I have been chair, but before that. I think it is an honor and privilege to work alongside them.

I know that when Chairman Ferguson testified a week ago, he said he would put his FTC staff up against any other agency. I think I would take him up on that offer. I think the FCC's career staff is talented.

One thing we have done though is we have returned to the office, and that has been a big shift and a big transition. And we have tried to work with the staff as we do that. But when I became chair we still had roughly 98 percent of the relevant covered employees working under COVID-era telework, which in some cases was just return to the office a couple days a pay period. And so we have tried to flip those numbers a little bit.

Mr. HOYER. I have just 11 seconds left to go. Would I conclude that you think that that statement does not reflect a positive personnel policy?

Mr. CARR. I am saying that is not a statement that I had made. I don't know exactly the source of it, but——

Mr. HOYER. Mr. Vought made it.

Mr. CARR. But like I said, the FCC's workforce from my own personal experience is incredibly talented. I know they are the reason why we have had a very productive first 100 days at the agency.

Mr. HOYER. Thank you. I will take that as a no.

Mr. JOYCE. Thank you, Mr. Hoyer.

The chair now recognizes the gentleman from Arkansas, Mr. Womack for his questions.

Mr. WOMACK. I thank the chairman.

And welcome, Mr. Carr, again to the subcommittee. And you and I are going to carry on a conversation that we started last year. If you recall last year, I was discussing the fact that my father, who had been in broadcasting for over 70 years, was in the process of winding things down and retiring. He is now 90 sitting at home watching a lot of television and calling me. [Laughter.]

Mr. WOMACK. He retired, but he also took his stations completely off the air. And there are reasons for that I won't go into here. But it just reminds me of just how important local broadcast stations are. And I can probably speak for everybody on this panel. We all have them. And they perform a valuable service that far too often we are losing today, the coverage of local news, weather, sports, those kinds of things. We have had communities hard hit by major disasters where people would normally tune to their local station to gather vital information and the like.

Now that you are chairman—and I recall what you said last year, that if we care about these broadcast operations, we should care about the regulatory environment. Now that you are chairman what can you say about the FCC's approach to making sure that our local industry is healthy and prosperous and worth of investment?

Mr. CARR. Yes, thank you, congressman, for the question. I think the best way to describe my approach to media regulation is to empower the type of local broadcasters that you and your father epitomize. I think there is a lot of concern in the country right now, which we can talk about, concerning legacy national news media. And there is a lot of distrust there, but there is a tremendous amount of trust when it comes to the local broadcasters. That is what we need to empower. And I am very open-minded to that at the FCC and there are ways forward that we can do that.

I am reminded of a story. I was in a small town, Cody, Wyoming. I visited a local radio station. They had real journalists, real reporters there providing local news, and local information. And a

few miles down the road in Powell, Wyoming there was a broadcast station that didn't have the opportunity or the scale to do that. And so they had a Dell laptop effectively pumping in music from Chicago.

And we have rules at the FCC that said the Cody, Wyoming operation could not expand and bring localism to Powell, Wyoming because of these outdated FCC media ownership rules. So that is one thing that I am very open-minded on, and I would like to take it on in my time as chair to reform the FCC's media ownership rules.

Mr. WOMACK. I think that is an effort well-spent.

Let's talk about budget for just a minute. We got the skinny budget. I didn't see anything from the FCC in there. We have already talked about the buyout options and the projections of whatever percentage of the workforce is going to go away. And let me just say for the record I agree with the President's approach in trying to reign in the massive spending that happens in a place like this. But when are we going to see a number and what can you live with if you are free to tell us here this morning?

Mr. CARR. Well, thank you. I have no news to break on the timing. Again, currently we are operating under a $390 million CR plus additional funding for our auctions program. And we are on a very stable, comfortable, financial footing. Again, we have had a reduction in FCC FTEs, but that has not held us back at all. We have had a very, very busy 100 days and I am very comfortable with wherever the number lands. That is between the President and you here in Congress. We will be able to deliver on the FCC's mission.

Mr. WOMACK. And then finally you mentioned robocalls. I guess everybody up here has been the recipient of a number of constituent calls regarding robocalls.

Mr. CARR. Yes.

Mr. WOMACK. Why is it so difficult for us to be able to deal with this nuisance that continues to plague our country?

Mr. CARR. Yes, this is exceptionally frustrating. This is probably the number one issue that I hear about. We have a very significant workstream at the FCC. And as you heard from Chairman Ferguson of the FTC last week, they are also working on it. We are going to continue to deepen that relationship with them.

It is a challenging technical issue. Once you solve one issue in terms of how these calls are coming in, it pops up in another way. So we have been doing a bit of whack-a-mole, but we are also putting in place a better technological system across the board. It is called STIR/SHAKEN. It is a call authentication framework.

There are some gaps because if you are not on a modern network, that authentication system doesn't work. But we have just sought comment on how do we deal with that for when calls traverse old networks as well. And so we are both doing a whack-a-mole approach, but also trying to put in a system-level way of addressing it. And we hear loud and clear that this is what people want us focused on.

Mr. WOMACK. Yes, the challenge we have now is that these operators are using local numbers——

Mr. CARR. Yes.

Mr. WOMACK [continuing]. So when they show up on caller ID it looks like a local call. And so the predisposition of the constituent is they are going to answer that because it is coming from a local number. But, boy, they have figured out ways around our regulatory process. And I know it is a work in progress, but I thank you for being here today and for your testimony.

Mr. CARR. No, thank you. We will keep at it.

Mr. WOMACK. Yes.

Mr. JOYCE. Thank you, Mr. Womack.

The chair now recognizes the gentlelady from Washington, Mrs. Gluesesenkamp Perez.

Ms. GLUESENKAMP PEREZ. Thank you, chairman.

And thank you, Chairman Carr, for being here today. We were speaking earlier. I know you have young kids.

Just curious, how many people in this committee room have a child under three years old?

A child. A child under three?

This is not a representative body, but I will tell you that that is—there is a TV channel. We have talked a lot—people talk a lot about Joe Rogan, his shows. Like, he has 19.8 million followers, or subscribers, on YouTube. Coco Melon has 193 million. So let's think about that scale. And these shows—there is very good data that the attention span, the self-regulation of a child after watching and spending time watching these programs is devastated. This is like—teachers are saying that children are coming in less and less able to pay attention and to learn.

We have had a lot of conversations about what is or isn't disinformation, but like at its core the question is like can you pay attention to something? Can you follow a thread? Can you learn something worth having? And these shows are profoundly detrimental to our national health and the long-term independence of our country.

And so I worry about the regulatory environment and the imbalance between the media that we see online and the media that you would see in public broadcasting, and the disadvantage and how do we get our way out of this? What are we going to do here?

Mr. CARR. Yes, thank you, Congresswoman, for the question.

As a parent myself of three relatively young kids—11, 8, and 5—this is an issue that I have been very concerned about as a parent and very focused on the screentime issues and what it does to attention spans.

In terms of the FCC's own regulatory authority, there is a little bit less that we can do there. But one issue that we have focused on is we have a program that funds connectivity and tablets in many cases for schools. And there may be steps that the FCC can take there to make sure that there are appropriate procedures being put in place by the recipients of that funding.

Ms. GLUESENKAMP PEREZ. And the way that we rate, like, movies or appropriateness, what is considered appropriate and marketable, is there anything we can do there on what is marketable to children?

Mr. CARR. I think that is a good question. You know, one issue that Congress is actively debating is updates to child online safety measures. And when you look at, you know, apps, in particular,

how do we put better protections in place? And that is an active debate in Congress, and I have seen a number of bills on that that I would be happy to support and happy to sort of work on the issue with you on.

Ms. GLUESENKAMP PEREZ. I think it is the question of, what is worth having at the end of the day? Children who can learn——

Mr. CARR. Right.

Ms. GLUESENKAMP PEREZ [continuing]. What they choose to learn and not what is fed to them.

So, I wanted to touch, also, on an issue, rural broadband access. I get my internet from a radio tower at home. A lot of people where I live do. A lot of communities are underserved. I happen to like that we have a good thing going with the local provider.

But how do we more effectively deploy these dollars? What is the FCC doing to ensure these processes to build are simplified and accessible to smaller and local providers?

Mr. CARR. Thank you for the questions. There are a couple of things we need to do.

One is we continue to streamline our permitting and licensing process, including at the local level, where things can slow down. The federal government has its role to do as well. It is very difficult to build, particularly on federal lands, but permitting reform is something that I want to work on at the FCC.

Also, just bring up more spectrum. As I indicated, our ability to free up spectrum for next-generation 5G and 6G has lapsed at the FCC. But when you can introduce new spectrum, people can get—and this may be what you are getting at—fixed wireless. So, rather than having to have a cable or a fiber provider come to your house, you can get it wirelessly directly from a nearby tower. We have got over 10 million households that are now on the internet that way. And when you get fixed wireless introduced into a community that, for instance, just had cable before, we see something in excess of a 30 percent reduction in price. So, getting more spectrum out there is important. The permitting reform is important.

But we also need to be technology-neutral. There is a very strong preference in some cases for fiber builds. I think fiber is a fantastic technology. I have been in the field. I have spliced fiber myself. I think maybe the lion's share of connections should be fiber.

But we need to be open-minded to this next generation of lower earth orbit satellites to fixed wireless, to 5G. I think when we make sure that all of those tools are available, we can bridge the digital divide faster, and in a more cost-effective way.

Ms. GLUESENKAMP PEREZ. And what is your view on—you know, when we have these public resources, things that are supposed to be owned and in-service to the public, how do we ensure in the long run that these systems can be owned and operated locally?

Mr. CARR. Well, ultimately, part of this debate is there is broad agreement on the importance and value of an internet connection. To some extent, then, the debate breaks two ways.

On the one hand, you can say it is so important that we have to regulate it like a utility, because we want to have it. The challenge with that is, when it comes to something like the internet that is so dynamic, where we need billions and billions of dollars being invested repeatedly on quick cycles, utility-style regulation is

the wrong direction for that in my view. So, we need to have this light regulatory framework that incentivizes billions and billions of dollars to go into it.

Ms. GLUESENKAMP PEREZ. Thank you. My time has expired.

Mr. JOYCE. Very kind of you. And I want to apologize on the record because, in the efforts not to mispronounce your name, I screwed up the order. It is my fault. [Laughter.]

Mr. JOYCE. And next we have the gentlelady from Iowa, Mrs. Hinson, for questions.

Mrs. HINSON. Thank you, Mr. Chairman.

Thank you, Chairman Carr, for coming to testify before our committee, and I am really impressed with the work you have already managed to do in the first 100-plus days, and real excited about what is to come.

And I just want to start off by following up on some of my chairman's questions on the Rip-and-Replace Program, obviously, fully funded last December. And I understand that those funds kind of began flowing at the end of April. Obviously, this is really, really important for national security. When you talk about the risks that the CCP poses, they are already in our networks and we know that.

You talked about Huawei and ZTE and these threats facing many of our small telecoms. And you mentioned 28 percent, I think is the number you said, done here and you expect to be done about a year from now.

Can you just give me kind of an assessment in terms of what you are seeing in securing our networks there? Are there any practical barriers with providers that you are encountering when it comes to implementation here?

Mr. CARR. Yes, the largest challenge we had for the longest period of time was the funding shortfall. And since Congress was able to close that, we have moved very quickly to allocate that funding, and at this point I feel like we are on track now to meet all those marks.

But your point, more broadly, the threat posed by foreign adversaries, and the CCP in particular, is multifaceted. They don't just come in our country through one particular technology vector. And that is why we stood up a new Council on National Security at the FCC. We can see it through providers that we have kicked out of the networks before, like China Mobile and China Telecom. We see the device layer, as you noted as well——

Mrs. HINSON. Yes.

Mr. CARR [continuing]. As well as hacking instances. There has been wide reporting on the Salt Typhoon cyber intrusion. I think the public reporting has linked that back to China. And so, we need to be exceptionally vigilant across every single technology vector right now.

Mrs. HINSON. Right. So, you mentioned those operations by the CCP, and obviously, you know, they are in our equipment, which poses a serious espionage and cybersecurity threat to our networks.

So, what are you doing to strengthen the communications infrastructure outside of Rip-and-Replace, right? So, that is one tactic here, but, obviously, there needs to be more that we are doing to ensure that our communications are safe and secure.

Mr. CARR. Yes. One of the actions we are taking, that we have actually teed-up to vote at the Commission level tomorrow morning, is there is no piece of electronics that can come into this country without going through the FCC's equipment authorization process. And up until now, that process has been limited to technical reviews: what spectrum does the device operate on? What is its power level?

But increasingly, to your point, we are asking for national security checks as part of the devices that are coming in here. We have never actually determined whether individual labs that perform these checks for the United States for any device are themselves trustworthy. And so, we are adopting a new standard in a vote tomorrow that is going to make sure the labs that do the testing for the devices are not themselves beholden to some sort of foreign adversary. So, that is another sort of check that we are taking, and there are additional actions that we can continue to take, including adding new entities to our covered list that we are looking at taking.

Mrs. HINSON. What are some of the standards? You mentioned that kind of new approach to accreditation, so to speak. What are some of the questions that you are asking of them to certify that they are not beholden to someone else and are safe to be issuing these clarifications for you?

Mr. CARR. Yes. Step one is adopt that standard, that they be trustworthy actors not beholden to a foreign adversary. And the different ways that could play out in applications, we have already seen one. So, for instance, when we started this process, we found that Huawei was operating a lab. And so, we took action to make sure that Huawei labs are no longer part of the FCC-approved equipment authorization process. So, if there are entities like a Huawei lab that we determine has sufficient ties to the PLA or the CCP that are risky connections, then we'll now, for the first time, have the ability to take action.

Mrs. HINSON. Is there a master list. I mean, are you compiling with, working with DOD on this? I mean, obviously, they have their black list of companies and entities that are directly tied to the CCP. Are you reconciling with them to do that?

Mr. CARR. That is actually a good question because it ties into another item that we are voting on tomorrow morning, which is, effectively, similar to a House bill called the FACT Act. And this would bring greater transparency. So, it would take every single entity that has an FCC authorization or a license or approval, that has sufficiently concerning ties back to China—or to a foreign adversary—and it would publicize that list. And so, hopefully, if we get that item across the finish line, we will bring more transparency. We will publicize that list, tracking the approach that Congress here has taken in the FACT Act legislation. And that will shine a spotlight on some of these operations.

Mrs. HINSON. Yes. Well, certainly, we want to make sure that the congruency is there between agencies. If the black list at DOD has a company on it, you certainly should be equally wary as they are.

Mr. CARR. Right.

Mrs. HINSON. But I appreciate the work you are doing.

Thank you so much, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you. Thank you, Mrs. Hinson.

The chair now recognizes the gentleman from Georgia, Mr. Bishop, for 5 minutes.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Welcome, Chairman Carr, in your first appearance as chair.

Let me ask you, if approvals and enforcement actions have been conditioned on private companies' DEI practices, the public deserves to know how much of the agency's time and taxpayer funding is being spent on investigating and challenging these practices. Because this means deprioritizing other critical objectives, like broadband affordability, travel broadband, and efficient use of the spectrum. So, can you quantify the staff and legal resources of the funds that you have allocated towards investigating and engaging companies on their use DEI policies? Can you quantify that?

Mr. CARR. Yes. Thank you, Congressman, for the question. I can work with the team and see if we have any data available for you.

What I can assure you, though, is over these first 100 days, there has been no tradeoffs in terms of pursuing one issue set like this versus rural broadband or other issues.

Mr. BISHOP. Would you provide us with that information?

Mr. CARR. I will work with the team and see what data we have available.

In response to Mr. Bishop's request that the witness quantify staff and legal resources allocated toward investigating and engaging companies on their use of DEI policies, Chairman Carr responds that with few *de minimis* exceptions, these efforts have utilized no dedicated FTE hours outside of routine interactions with licensees. The clarity of Chairman Carr's intention to properly apply and enforce the Commission's rules has yielded positive outcomes and obviated that need for any extensive enforcement actions at this juncture.

Mr. BISHOP. Okay. Secondly, let me go back. You have been a consistent supporter of the Universal Service Fund throughout your time at FCC, and you know as well as anyone how important the USF is to keep America connected. When it comes to rural areas, like the ones that I represent, USF is critical to help make the business case for rural broadband investment and to sustain ongoing operations, and to keep the rates for rural Americans more affordable.

In your statement, with the FCC's Report on the Future of the Universal Service Fund, you noted the importance of congressional guidance, and even additional authority in certain cases, with respect to the possible use of USF reform. We now have a Supreme Court case pending that could have significant implications for these programs, and committees in Congress have been considering possible reforms through individual bills and a broader working group.

Consistent with your prior assessment, do you plan to defer making any material changes to the administration of the USF until Congress provides you with direct guidance on reforms to both the contribution mechanism and the distribution programs, and until Congress also gives the FCC additional authority, where needed?

Mr. CARR. Thank you, Congressman, for the question.

As you indicated, I have had the chance to travel all across the country, including to Georgia, to Alaska, to everywhere in between. I have seen the great work that America broadband providers do with the aid of the Universal Service Program.

To your point, that program right now has a fundamental challenge to it. That is before the Supreme Court. In the main, we are waiting to see how that Supreme Court case plays out, and if there is a potential after that, that there may be a need for additional congressional legislation, then we will come to Congress to address that issue.

Mr. BISHOP. Okay. Thank you for that.

The USF is increasingly under strain with the contribution factor nearing 37 percent, and the cost burden is mostly shouldered by elderly Americans. What steps is the FCC taking to ensure the long-term financial sustainability of the USF-supported program, like E–Rate and Lifeline, especially in light of increased demand and a narrowing contribution base? Or if the FCC is not planning on taking action on this, how should we in Congress reform USF to achieve the imperative?

Mr. CARR. This is a really important question that I think a lot of people don't understand, which is to say, we have all these Universal Service programs that we run out of the FCC. It is, roughly, $9 billion a year. But the way that $9 billion is funded is by a line item that is added to the monthly traditional telephone bill. And as you indicated, that can skew different directions in terms of the constituents that bear the brunt of that cost. And that number has now spiked to in excess of 30 percent and it is really stuck in a death spiral.

So, I do think we need to take some sort of fundamental action to address that spiking level of USF. One option is we are, obviously, increasingly getting more and more additional technologies that are filtering into the broadband ecosystem. And if we proceed in a technology-neutral way—now, that doesn't mean that we don't have speed and latency thresholds that we set—but a technology-neutral way above and beyond that, that could in the long term help drive some savings, at least around the edges.

Mr. BISHOP. Okay. Let me quickly—I just have a few seconds—when you used taxpayer dollars to travel to Virginia State University in April of 2023 and Jackson State in February of 2018, two prominent HBCUs, you gave speeches highlighting the need for workforce policies that would, quote, "help ensure that all Americans have an opportunity to develop the skills needed to participate in a digital economy." End of quote.

Would you consider that the use of taxpayer dollars to promote DEI efforts? And, of course, your term, your usage of the term DEI is intentionally vague. So, it can be applied selectively, based on what is personally or politically expedient.

Mr. CARR. No, Congressman, I would not define those visits as constituting any form of invidious DEI discrimination.

Mr. BISHOP. I didn't say discrimination. I said efforts.

Mr. JOYCE. The chair now recognizes Mr. Edwards for his 5 minutes of questions.

Mr. EDWARDS. Thank you. Thank you, Mr. Chair.

Mr. Carr, thanks for being with us this morning.

I went back and looked. There is an Inspector General's report that was published in March of 2024 and it offers an in-depth analysis of whether the FCC had implemented effective privacy and basic data protection policies and procedures, in accordance with federal laws, regulations, and policies, with a focus on the FCC's implementation of requirements identified in the U.S. Code section on privacy and data protection policies and procedures.

The scope of this privacy and data protection inspection was from fiscal year 2021. The investigation found that the FCC had not implemented technologies to ensure that data privacy protections relating to the use, collection, and disclosure of information were sustained. These privacy data protections should have included activities related to cloud computing, wireless access, public key infrastructure, cryptography, mobile and voice-over IP devices.

Personnel from the FCC Office of the Chief Information Officer stated that they had not implemented the use of technologies specific to privacy protection due to higher priorities—higher priorities, imagine that—and new agency initiatives that have taken precedence, and a lack of expertise in this area.

And as a result of those findings, the FCC Inspector General made only two recommendations.

One, retain knowledgeable expertise in the FCC IT and privacy staff that would assist in implementing and sustaining the usage of required privacy protections.

And then, secondly, to implement a baseline of technologies that sustain and do not erode privacy protections relating to the use, collection, and disclosure of information.

I know the folks that I represent make it a very high priority that their information be protected, especially in the dangerous world that we live in right now—not only domestically, but internationally.

And so, I'm just curious, would you even be aware of this study and what actions has or will the FCC take to deliver on these recommendations to improve data privacy, as outlined in the IG's report?

Mr. CARR. Yes, thank you, Congressman, for the question. Two main points on that.

One is a threshold matter. Really, a top-to-bottom review of the FCC's approach to IT has been one of the very first things that we have been doing at the agency. Part of it goes to the contract review, but, more generally, we are looking to revamp the agency's approach there.

Second, one of the things that we have done right off the bat is to take up some backlog recommendations, including from the Inspector General's Office, and start to knock out those. I know we have made significant progress on a number of them. I want to go back and make certain that one of the ones we made progress on is the one that you have flagged, and if not, we are going to put the resources towards it to doing it expeditiously.

Mr. EDWARDS. And so, I'm really disappointed to see the previous FCC had said that there were higher priorities. Can you tell me what I can tell my folks back at home in terms of how the FCC is prioritizing their personal data today? Is this a higher priority today than it was back in this inspection?

Mr. CARR. Yes, I can assure you that this is a top priority for us, both in terms of the data privacy issues that you raised, but also in terms of the agency's own performance. We need to have the best IT systems. We need to make sure that they are looking to the future and not based on bespoke, siloed technologies. And this is a very, very important workstream for us at the agency right now.

Mr. EDWARDS. How many people does the FCC Office of the Chief Information Officer employ?

Mr. CARR. I will have to get back to you with the specific number on that.

In response to Mr. Edward's request that the Commission provide the number of employees in the employ of the Chief Information Officer, Chairman Carr responds that 51 employees were assigned to the CIO as of the date of the hearing (May 21, 2025). Chairman Carr notes that the FCC's CIO reports to the Managing Director and has access to additional resources as necessary within the Office of Managing Director.

Mr. EDWARDS. And would you know if that number has changed as a result of the Trump administration's workforce reduction program?

Mr. CARR. I don't anticipate there has been any significant change in that particular office, but, again, we can get you more of the specifics on it.

Mr. EDWARDS. And in your written testimony, you mentioned that the FCC's mission to eliminate waste and improve efficiency, many of the savings have come from reviewing and modifying bloated and duplicative IT contracts. What steps did the FCC take to ensure that such changes to IT systems would not result in the compromise of sensitive personal information?

Mr. CARR. Yes, we stood up an entire working group in the FCC that pulled from various technical experts. We have also worked in conjunction with the official DOGE group on some of these efforts. And that is exactly our guide star, is to look at, where do we have two contracts that are duplicative? Can we consolidate work under one? But there is, obviously, a baseline level of security and performance that we are not going to compromise on when we are making those types of decisions.

Mr. EDWARDS. Thank you. Mr. Chair, I will yield.

Mr. JOYCE. Thank you, Mr. Edwards.

The chair now recognizes the gentleman from Maryland, Mr. Ivey, for 5 minutes of questions.

Mr. IVEY. Thank you, Mr. Chairman. Good morning.

Thank you, Chairman Carr. Good morning. I appreciate your being here.

I did want to follow up on some of the DEI questions that Congressman Bishop had raised. You were sworn-in on—was it January 20th you were sworn-in?

Mr. CARR. Designated.

Mr. IVEY. Designated? Okay. And did you begin working at the FCC on that date?

Mr. CARR. I have been there, actually, believe it or not, since 2012 straight with no break.

Mr. IVEY. Okay. And then, on February 27th, you sent to a letter to Verizon, essentially, accusing them of invidious discrimination. Do you recall doing that?

Mr. CARR. Yes.

Mr. IVEY. Okay. And then, you got a letter back from Verizon, dated May 15, from their EVP Chief Legal Officer that didn't acknowledge or admit invidious discrimination, but said that it had made some changes to its DEI policies. Do you recall that?

Mr. CARR. Yes.

Mr. IVEY. Okay. And that was May 15th. Then, May 16th, you issued a press release with respect to the Verizon-Frontier merger. Do you recall that?

[No audible response.]

Mr. IVEY. All right. That is a yes——

Mr. CARR. Yes.

Mr. IVEY [continuing]. For the record?

Mr. CARR. Yes.

Mr. IVEY. Okay. And then, the memorandum, order, and opinion was released that same day. And that day was when the FCC approved the request with respect to the merger that, I guess, had been held up in part during your determination with respect to the DEI issue. Is that right?

Mr. CARR. Well, Congressman, with regard to this transaction, all transactions, we run a normal process at the FCC and we specifically have rules on our books that deal with EEO, that deal with non-discrimination.

Mr. IVEY. I will come to that in a second. But the day after you received the letter back from Verizon, the FCC approved the request, right?

Mr. CARR. Correct, yes.

Mr. IVEY. All right. And in the order that you issued—well, first of all, in the letter that you sent, you didn't—well, let me ask it this way: before you sent that letter, essentially, alleging invidious discrimination committed by Verizon, had the FCC done any kind of investigation with respect to any complaints of discrimination at Verizon that led you to write that letter?

Mr. CARR. Well, as a general matter, two things have taken place.

Mr. IVEY. Not a general matter. Did you review any particular allegations against Verizon before you sent this letter?

Mr. CARR. Again, Congressman, there's two things that we are doing. One is, when I started as chair, what we did is we ended the FCC's own promotion of DEI.

Mr. IVEY. No. No, no, no, no, no. I'm asking if there's a factual basis for the letter that you sent, and if so, was it investigations with respect to complaints against Verizon? Were there any complaints that you reviewed that had been filed with the EEOC alleging discrimination against Verizon? Were there any court cases that you reviewed alleging discrimination against Verizon?

Mr. CARR. Well——

Mr. IVEY. Any of those?

Mr. CARR. One of the things that we have been very clear about——

Mr. IVEY. Sir——

Mr. CARR [continuing]. Is that——

Mr. IVEY [continuing]. I only have 5 minutes. Did you do any of that before you issued this letter?

Mr. CARR. What I'm saying is we have a standard of nondiscrimination.

Mr. IVEY. That is not what I'm asking.

Mr. CARR. And what I have made clear to everybody——

Mr. IVEY. I'm asking if you had a factual basis for—and the reason I'm asking is because, when you allege invidious discrimination, and the cases you cite are Supreme Court cases, they say that you have to have a factual basis to support the claim. And they are very specific about what those factual bases are.

For example, suspect classification. Did you have anybody alleging racial discrimination or religious discrimination, that you reviewed those matters before you issued this letter?

Mr. CARR. Those limitations that you are speaking about apply in the context of those types of cases, but that is not the rule that applies at the FCC.

Mr. IVEY. I'm going to——

Mr. CARR. Yes, we have nondiscrimination rules on——

Mr. IVEY. I'm just asking you, I'm just asking if you reviewed anything before you sent this letter.

Mr. CARR. If you look at the letter——

Mr. IVEY. I did.

Mr. CARR [continuing]. From Verizon, it walks through a number of practices, including practices that I was aware of when I sent that letter.

Mr. IVEY. But none of those actually admit, as you just acknowledged, invidious discrimination, right? In fact, none of them actually deal with any of the suspect classifications, like race, for example, that would be the basis for a finding of invidious discrimination.

Let me move on. Real quick, in the order that you issued, in paragraph 33, which is the only one that deals with the DEI issue, it references the letter that you got back from Verizon, but it doesn't state anything about any kind of factual basis that the FCC developed to support the original allegation that you made of invidious discrimination. If you had had any evidence to that effect, would you have put it in the order?

Mr. CARR. Well, Congressman, again, I think what you are raising are factual points that are relevant to, like a, 1983 act——

Mr. IVEY. Well, will you at least acknowledge——

Mr. JOYCE. Let the gentleman answer.

Mr. IVEY. Well, if I get additional time, I'd be happy to.

Mr. CARR. You are asking us if we followed——

Mr. JOYCE. Let him answer.

Mr. CARR [continuing]. A process and a standard that doesn't apply in the context of the FCC. We followed the FCC's processes. The FCC has nondiscrimination rules on the books——

Mr. IVEY. That are not based on—you can make——

Mr. CARR [continuing]. Also nondiscrimination——

Mr. IVEY. You can make an allegation of invidious discrimination without having any facts to support the claim?

Mr. CARR. Yes.

Mr. IVEY. Under the FCC? That is not true.

Mr. JOYCE. The chair——

Mr. IVEY. Okay. One more——

Mr. JOYCE. The chair recognizes the gentleman from Missouri, Mr. Alford, for his questions.

There might be a second round of questions and you can advance your questions at that time.

Mr. IVEY. I appreciate that, Mr. Chair. Thank you.

Mr. ALFORD. Thank you, Chairman.

Chairman CARR, thank you for being here today. I applaud your efforts to hold the media companies that use our public airwaves accountable to the public law, the Communications Act of 1934, in particular.

The concern that you have raised with CBS's deceptive editing in their interview with Kamala Harris echo what I have seen in my 35 years in the news media—using public airwaves to, basically, promote an agenda.

Companies using public airwaves should be held to the highest standard of journalism and not radical, left-wing agendas or play politics. The Communications Act of 1934 is very clear on this: broadcast entities must operate in the public interest, and it is not in the public interest to try to skew an election.

I understand the investigation into CBS is ongoing. What can you say about the responsibility, though, in general, of media companies that have a license? What is their responsibility to operate with truth and balance and objectivity?

Mr. CARR. Yes, thank you, Congressman, for the question.

I think it is important to remember there's a number of different types of speakers out there—when you have someone that is, you know, exercising free speech rights on the internet, when you have someone on a cable channel, but when it comes to licensed airwaves, to your point, they are differently situated. And the reason why is because, when they are authorized to operate in the public's airwaves, that necessarily is a decision to exclude others from being able to speak and use those airwaves.

So, Congress has decided that they have an obligation to operate in the public interest. And I think, over the years, the FCC has walked away from enforcing the public interest obligation.

I think one of the key features of public interest that the FCC has articulated over the years is localism. And that gets us back to the conversation of, how do we empower local broadcasters to be responsive to the needs of their communities? And there's a lot of controls that the national news media have been imposing on local broadcasters that are concerning to me. So, I think that is where we ultimately need to go, is enforce the public interest standard and make sure that local broadcasters are serving the needs of their communities.

Mr. ALFORD. How do you that? Because there is an imbalance in a lot of newsrooms in America. Managers like to recruit people from diverse backgrounds—economically, gender, race. They don't do that when it comes to diversity in thought, and that is part of the problem, where you have kind of a rarefied process where it is really driving an agenda from those in leadership at many of these stations.

There's also not a clear delineation in many products, including cable, what is editorial content and what is news content. How do we get—I know there are First Amendment protections at play. That is first and foremost. But, also, by using the public airwaves, which we own, there is a responsibility there to operate in the public interest with truth and objectivity. How do we get that back on the right track?

Mr. CARR. Yes, one of the things that I have seen is, thinking of these national news programmers, principally, ABC, NBC, and CBS, over the years, at that national level, they have been exercising greater and greater control over the content that those local broadcasters disseminate.

And so, I think one of the most important things that we can do is re-empower those local broadcasters; make them feel like they have the freedom to respond to the needs of their communities. And there's lots of ways the FCC can do that. Media ownership reform may be a part and parcel of it, but I think we need to have those local broadcasters feel more empowered.

Mr. ALFORD. Let's talk about the media partnership, the reforms that you feel need to be made in ownership that local media companies have, their availability to expand. Walk us through that. Where are we on that?

Mr. CARR. You know, the FCC's regulations, when it comes to the media space, are decades and decades old. And they may have made sense in a world in which Americans got their news in two ways: once when the newspaper clunked on the front doorstep in the morning and once at night when you tuned to the rabbit ears.

When you look at the information ecosystem that is out there today, I think it makes sense to take a look at allowing local broadcasters to compete on the same scale and scope that their big-tech competitors compete on. And that is one of the issues that we are looking at.

Another issue has to do with these affiliation agreements where the national networks affiliate with local stations. There's been all sorts of controls that are imposed on local operations through those agreements, and that can raise concerns, including, you know, technically, what we call an attribution concern. But these are some of the issues that we need to look at.

Because here's the bottom line: we don't want America's local broadcasters to go the way of newspapers. Newspapers shuttered by the dozens all across America, and we need trusted sources of local news and information. And if we don't get our regulatory structure right, there's a chance that a significant portion of broadcasters could go the way of newspapers.

Mr. ALFORD. You have hit on an important part—trust. Trust comes from truth, and truth is the only thing that matters.

Thank you, sir.

And I yield back.

Mr. JOYCE. Thank you, Mr. Alford. And I must admit the chairman made me chuckle when he talked about rabbit ears. That brings me back as a kid standing in my backyard trying to catch——

Mr. CARR. Yeah, your dad yelling at you to try to move the rabbit ears around.

Mr. JOYCE [continuing]. Trying to catch the rabbit ears so you can catch the Browns game from Erie, Pennsylvania.

Mr. CARR. Yeah.

Mr. JOYCE. Anyhow, the chair would like to recognize the vice chair of the committee, Mr. LaLota, for his five minutes of questions.

Mr. LALOTA. Thank you, Chairman. I appreciate the time.

Chairman Carr, you're the head of the Federal Communications Commission?

Mr. CARR. Yes, sir.

Mr. LALOTA. And you've been at the FCC since about 2017?

Mr. CARR. Commissioner since 2017. I started as a staffer back in 2012.

Mr. LALOTA. Did I read that you were nominated by presidents of both parties?

Mr. CARR. Well, it was President Trump and President Biden. Right.

Mr. LALOTA. And the FCC's jurisdiction covers wireless and wired communications, both including landlines and cellular phones?

Mr. CARR. Yes, sir.

Mr. LALOTA. And scam calls, fraudulent calls made with the intent to steal money, personal information, or both are under your purview, sir?

Mr. CARR. That is right. We have a significant workstream going, including that we are always looking to expand, that deals with robocalls—illegal robocalls, other types of spam. Other agencies, FTC, as well, have a role here. But this is a big piece of what we do at the agency.

Mr. LALOTA. I do want to talk about robocalls, but I first want to talk about AI-generated impersonation scams, which are becoming increasingly effective. My staff's research says that many of those scams result in the loss of about $6,000 on average, where the traditional scam calls are about $539 on average. Chairman, what types of AI scams are you seeing most commonly right now?

Mr. CARR. So AI scams come in two forms. One, AI as a technology can be used for actually generating these robocalls. Second, we are seeing AI used as the content on the robocall itself. The FCC at this point has made clear that the content of the robocall itself is not necessarily relevant to our determination. But the use of AI does constitute an artificial or prerecorded voice, which is the regulation that allows us to regulate it as a robocall.

Mr. LALOTA. Okay. What is the typical demographic targeted by these scam calls, and specifically the AI-generated calls? Do they skew older, younger, geographically? How would you describe the demographics of those who are targeted by these calls?

Mr. CARR. Yes, I can get specifics on that. As a general matter, you know, our sense is that the net is cast very, very widely. It may snag different people in different ways, but we can look more closely at some of that data.

Mr. LALOTA. So my research, anecdotal and some more deeper, suggests that seniors are the ones being targeted more often. Do you agree with that instinct, at least?

Mr. CARR. Yes. That would not surprise me at all.

Mr. LALOTA. And what is the FCC doing about these AI-generated calls?

Mr. CARR. Yes. A couple things. One, we are always looking to strengthen our call blocking and our call authentication measures. We are working with the FTC. State attorney generals have also been involved, and we are issuing consumer advisories. When we see particular schemes that arise, we will warn the relevant community about the contours of that scheme.

Mr. LALOTA. Is the FCC equipped with the tools, the authorities it needs to properly combat this developing scam?

Mr. CARR. Yes. I am comfortable right now in terms of where we are. I think we need to ramp our efforts up, but I don't think that is going to require significant new expenditures at this point.

Mr. LALOTA. What can the committee and/or Congress do to help you in this effort, Chairman?

Mr. CARR. We are right now doing a top-to-bottom review, and we will come back to you if there are any gaps in our authorities that we need filled. Congress has been a great partner when there have been issues that arise where we need additional authority.

One issue that we have always sort of looked at is, on the enforcement side, the FCC doesn't have independent authority, necessarily, to go to court to block some of this. So let me take a look at that and see whether there are some fixes we might need there.

Mr. LALOTA. Should you have that authority?

Mr. CARR. Let me look and see now much of a block that has been and then come back to you on that, and we will get back to you on any broader reforms that we need as well.

Mr. LALOTA. Okay. Switching from the AI-generated calls to the robocalls, which are highly annoying to many of my constituents, how is the FCC working with telecom providers and law enforcement to stop robocallers at the source, especially those operating overseas?

Mr. CARR. Yes. One thing that we have done is we are continuing to grant carriers greater and greater leeway to block calls at the source, to block calls when they start. We are also bringing technology across the board called the STIR/SHAKEN authentication framework to try to identify the callers—we have a trace-back consortium, so when we get a number, we now have the capacity to trace that number back to its origin.

We have also been standing up a new process over these recent years where we are effectively forcing providers that are onboarding illegal robocalls to kick them off their network a lot faster. If they are not taking actions, despite not being the provider itself, even though they are not a robocaller, they have enabled the robocalls. We are able to take action on them quickly as well. So we have just got to continue to ramp these efforts up.

Mr. LALOTA. The FCC is inherently a domestic agency?

Mr. CARR. Principally, but we do have to, look at international communications as well. And a lot of robocalls are coming from overseas, and there have been some challenges where we are upgrading our networks and our standards, but you can lose some of the identifying information when there is a hand-off from abroad to the U.S. But we do work with our international counterparts on these issues.

Mr. LALOTA. Generally speaking, Chairman, from where overseas are a lot of these scam calls coming?

Mr. CARR. They come from all over the place. India is one that originates a lot of these, but it can bounce around—Eastern Europe as well. There are multiple sources of these calls.

Mr. LALOTA. Thanks, Chairman. I hope we can stay in touch, and you let us know how this committee and Congress as a whole can help you with the tools, the authorities, the budget you need to help you do your job.

Mr. CARR. Thank you so much.

Mr. LALOTA. Thanks.

I yield.

Mr. JOYCE. Thank you, Mr. LaLota.

The chair now recognizes Mr. Pocan for five minutes of questions.

Mr. POCAN. Thank you, Mr. Chairman.

And thank you, Chairman Carr. We have another hearing next door. Some of us are bouncing back and forth. So apologies for not being around earlier. I would like to just echo the importance of the CBRS spectrum that my colleague from Maryland highlighted. That is currently used throughout my state of Wisconsin, and specifically in my district by the University of Wisconsin's manufacturing research facility. So it is crucial that we protect it. So I just wanted to add that to the comments.

I am just a little more curious about the direction of the agency. And specifically, if I understand it right, you were the person who wrote the chapter in Project 2025 that kind of directed the conversation about FCC; is that correct?

Mr. CARR. I did. I should clarify that that was done in my personal capacity, so I don't want to mix it in too much. But yes, that——

Mr. POCAN. Yeah. Previously.

Mr. CARR. That was the same person as me. Yes.

Mr. POCAN. Yep. Okay. And did others help you with that, or was that predominantly your project for the section on FCC?

Mr. CARR. I believe there was a group. I think there was a footnote early on that I think mentions some of the group that was involved in that. But I don't remember specifically the names right now.

Mr. POCAN. Have you read it in Project 2025?

Mr. CARR. Read it——

Mr. POCAN. The section on FCC in Project 2025.

Mr. CARR. Yes.

Mr. POCAN. Okay. So, from reading it, what percentage of it is yours versus others"?

Mr. CARR. I think, ultimately, as the main author, I'm responsible for the content of it.

Mr. POCAN. Okay.

Mr. CARR. But there are, I think, a couple places in there where it notes there wasn't unanimity in the group. But as a general matter, I am familiar with it.

Mr. POCAN. Sure. And were you compensated at all for that?

Mr. CARR. No.

Mr. POCAN. No. Okay. Just curious. So what was your expectation of that project when it happened? Because I think, you know, a lot of us talked about Project 2025 last year. A lot of people didn't pay attention to it. Now, suddenly, we are seeing it very much as a living document in what is happening. What was your expectation of that project? Since you did it not getting compensated for it, I am assuming you were hoping it would have high value. Did it meet your expectations?

Mr. CARR. Well, look. I think chronology on this one is important. I think I started this either in the summer or the fall of 2022.

Mr. POCAN. Okay.

Mr. CARR. And so I understand that in the summer and fall of 2024, it took on meaning and significance that, you know, sitting there in the fall of 2022 was not something that I could have predicted or thought about. My understanding at the time was this was a document that was put together every four years. I collected various policy ideas that people could take or leave, and I put together some ideas there.

In fact, one thing I was pleased by—some of the ideas that were included in that chapter were ones that Congress ended up passing and President Biden ended up signing. So I think it has been characterized as one thing, but there's a lot of good, common-sense ideas in there, again, including ones that President Biden got across the finish line.

Mr. POCAN. Yeah. Would it be fair to say that if we are wondering what the Department might be doing, looking at that plan is probably a pretty good road map for what we might expect from the FCC?

Mr. CARR. Well, I don't know. I mean, look. At the end of the day, you know, the FCC is a multi-member Commission.

Mr. POCAN. Sure.

Mr. CARR. And the product of what the FCC does, at least at the Commission level, has to have the votes and represent the views of at least three members of the Commission. And so, you know, that is ultimately what the work product of the agency is going to be, is the consensus of those three.

Mr. POCAN. And as the lead, do you intend to try to guide it, basically, along the principles of what's in Project 2025?

Mr. CARR. I don't know about that. What I——

Mr. POCAN. Those are your words. You said "largely." And so I am just kind of asking if that is a——

Mr. CARR. Well, what I laid out, particularly since being chair, is the agenda that I want to run.

Mr. POCAN. Sure.

Mr. CARR. And I think that is the best evidence of what I am going to do. And so what I want to do is restore U.S. leadership in wireless. I want to make it easier still——

Mr. POCAN. Does anything divert from what you wrote in Project 2025 that you are leading in?

Mr. CARR. It may be easier just for me to walk through it. I don't know. I haven't——

Mr. POCAN. I don't want to be duplicative. I guess, if you wrote it, was there anything that you—because it was written previously,

something that's different from what you wrote for Project 2025 we should expect?

Mr. CARR. It has been years since I read that document.

Mr. POCAN. Okay.

Mr. CARR. So I guess, to some extent, that's not the guiding document for me. The guiding document for me is the agenda that I have laid out.

Mr. POCAN. Okay.

Mr. CARR. So U.S. leadership in wireless, make it easier to unleash high-speed infrastructure bills, boosting the space economy, and I have acted consistent with that. I was down in Louisiana visiting Globalstar satellite company. I was in Midland, Texas, visiting AST SpaceMobile.

So securing U.S. leadership in space is important. National security, consumer protection—those are the key pieces of the agenda that I have articulated that I want to run at the agency.

Mr. POCAN. Sure. And I will just end with, you know, I was one of the founders of our Rural Broadband Caucus, and obviously that is still a huge concern for—in a very bipartisan way. We had so many people, we had to stop at three co-chairs from each political party because people kept wanting to be co-chairs of it.

So anything that we can do on that front to help—there are laws, like in my state, that honestly make it harder because where I live—I live in a rural town of 830 people. Unless the one company that had jurisdiction wanted to expand, we couldn't go to the neighboring community. And that was at the detriment of people who live in rural areas like mine in Wisconsin. So, you know, if you can keep that in mind as you're moving forward.

[Simultaneous speaking.]

Mr. CARR [continuing]. More progress on this, and yes, I would welcome a chance to work with you on it.

Mr. POCAN. Great. Appreciate it. Thank you.

Mr. CARR. Thanks.

Mr. JOYCE. Thank you, sir.

I know there will be great objection from the other side if we went for a second round.

Mr. HOYER. If you have to do it.

Mr. JOYCE. If we have to do it? I will recognize myself.

Chairman Carr, as I mentioned in my opening, FCC plays a critical role in expanding access to technologies and making services more affordable. Would you talk about how to build agenda and how you are working to modernize our communication infrastructure?

Mr. CARR. Yes. I will give you one very concrete example that I think is going to be really important, and I think it's going to bring in billions of dollars of new investments. So the FCC has rules in the books that force providers to continue to invest in and maintain these old copper line networks that maybe were the best thing out there in the DSL days, but now they want to shift resources to investing in new high-speed infrastructure regardless of the technology. We had rules on the books that forced them to prolong those copper lines.

So we are pursuing an agenda right now that is going to allow them to retire those copper networks, replace them with new high-

speed infrastructure. That is going to be one of the pieces that we do.

Obviously, we have talked about spectrum. President Trump just spoke yesterday on the vital need to maintain U.S. leadership in wireless through budget reconciliation that looks to free up at least 600 megahertz of spectrum. That is going to be a key piece of getting us building again, so when you get these airways out there, you know, new antennas are going to go out. New infrastructure is going to go out.

And then, of course, we talked about the space economy so that we can continue to build there. Those are some of the key features of the build economic agenda that we want to run.

Mr. JOYCE. As the Commission works to understand the current U.S. GPS system and promote resiliency, how does the FCC review its potential changes in spectrum policy that may affect incoming commercial operations, particularly those due to supply chains, logistics, and retail systems? Can you provide any update on the status of any related petitions filed under FCC consideration?

Mr. CARR. Well, one issue here that touches on GPS is GPS is vital to this country for our economic security, for our national security. It provides what we call PNT, precision timing. And right now, it is the right system, but it is vulnerable because it is a single point of failure.

So one of the things that we did early on was we are looking to stand up alternatives to GPS. And there are a lot of different options around the table. It may ultimately be a system of systems. But that is one of the more important things that we can do for our economic and national security.

Mr. JOYCE. Thank you. Moving on a little bit, can you discuss your approach to this new initiative of yours, Delete, Delete, Delete, and potentially the impact on promoting economic growth and reducing government spending?

Mr. CARR. Yes. If you step back and look at the FCC's rules and regulations, it is codified in the Code of Federal Regulations. It is a set of books about this big. And there is actually a lot of dead wood in there, including rules that were overturned by courts a long time ago, rules that regulate technologies, like the telegraph, in some instances, that are not in use anymore.

And so we have launched this massive deregulatory initiative called Delete, Delete, Delete. The idea is, from an engineering concept, that the best part sometimes is no part. And we are looking at cutting back on the regulations that aren't needed. We have already started that process internally, having staff take a look at rules that we can get rid of, and we sought public comment as well.

I think this is going to be significant because not only does it save staff resources administering these rules, but it is easier for providers to enter and compete when the regulatory system is less complex.

Mr. JOYCE. Thank you.

The chair will now recognize the ranking member, Mr. Hoyer, for his second round of five minutes.

Mr. HOYER. Thank you very much.

I want to pursue, a little bit, what Mr. Ivey apparently questioned you about. I wasn't here, but I had in mind pursuing the

Frontier merger and how that happened. First of all, what was the factual basis? And I think Mr. Ivey started to answer this and didn't have time to finish it. What was the factual basis on which you were talking to Verizon re their policies?

Mr. CARR. Well, the letter that we wrote to Verizon itself lists some of the evidence that was available at the time, including referencing and linking to whistleblower documents. And more broadly, though, again, the FCC has a mandate to ensure in the first section of the Communications Act that these services are provided without discrimination.

Similarly, the FCC has EEO rules on our books that talk about nondiscrimination. And so all of that together was the basis initially. But again, when I said across the——

Mr. HOYER. What I asked you—I understand that language. What were the facts? Something motivated this, and that motivation went away as soon as Verizon settled with you on the DEI. Is that correct? Within three hours, the decision was made that the merger is okay. You apparently said it went through the regular process, but there was no vote in the FCC on that issue, was there?

Mr. CARR. There was not a Commission-level vote, but the FCC has lots of precedents where we approved deals like this——

Mr. HOYER. I understand that. But there was no vote. There was no regular process in terms of the voting to approve a merger, a relatively large merger, 206——

Mr. CARR. Right. I mean, I would say that it—it was not a vote, so I don't mean to dispute that at the Commission level. But obviously, it was regular process. We have lots of precedents, including under Democrat leadership. We have large deals, including Altice/Cablevision, which was a $17 billion deal done at the Bureau level. In fact, one of the prior Verizon/Frontier deals——

[Simultaneous speaking.]

Mr. HOYER [continuing]. Three hours between the time that Verizon decided to settle and the decision being made by you, was there any discussion with non-majority members of the Commission?

Mr. CARR. The process was fairly standard. You will get these letters that come in. They get incorporated into the decision relatively quickly, and then it goes out the door. All that was fairly standard practice.

Mr. HOYER. Is it standard practice to go—first of all, I don't think you have told me the factual basis of your actions that were purportedly directed at Verizon for their practices on DEI. Is that correct or incorrect?

Mr. CARR. Well, I would say——

Mr. HOYER. I know you told me the language about not discriminating.

Mr. CARR. Right.

Mr. HOYER. But very frankly, DEI is all about not discriminating because, historically, DEI was based upon—and I am not defending every decision under DEI, but it is based upon inclusion and equity. Now, apparently, equity is a bad word in this town now. And it somehow implies that you are fair to everybody, even if they are women or they are blacks or something like that. You are fair to

them. And you want to make sure that we include America in our processes.

That did not happen for a very long time in this country, period. This administration is doing everything it possibly can not only in the government side but on the private sector side of telling what they ought to do, telling them that they are not to have the program making sure they have diversity and therefore representation of all segments of the community—or equity. Apparently they don't have to be fair.

And certainly, inclusion—that is terrible. One nation indivisible—that is about inclusion. So what I am asking you—why should the government, through the FCC, pressure Verizon to do away with a policy they may well think is its best interest and its customers' best interests?

Mr. CARR. Well, I think when you look at the——

Mr. HOYER. Do you see my point?

Mr. CARR. I hear you. Whether you look at the Communications Act or the EEO rules, they speak in terms of nondiscrimination. And if you look back at one of the last deals the FCC did—or one of the first deals the last FCC did under Democrat administration was a Verizon deal. And in that decisional document that the Democrat Commission voted on, Democrat-led Commission voted on, they specifically obtained commitments from Verizon to extend and expand DEI.

And so the concept of looking at these issues in the context of an FCC is not new to this decision—again, the Democrat FCC included conditions they obtained expanding DEI. And what we are doing is making sure that going forward, we don't have discrimination so that, to your point, we can have equal opportunity; we can have nondiscrimination.

Again, there are lots of definitional issues out there about how you define DEI. Maybe there has been some concern raised about the specific terms that I have used in concerning invidious forms of DEI discrimination. Well, what I am focused on is if you are intentionally discriminating against people based on race, based on gender, based on protected characteristics, that is a problem. It is a problem under civil rights law. The Supreme Court has increasingly been making that clear. And it is a problem under the Communications Act and the FCC's rules as well.

And so that is what I am targeting. If there are other nondiscrimination practices that people are putting under umbrella terms, okay, that is fine. But what we are focused on is intentional discrimination based on race and gender or protected characteristics.

Mr. HOYER. Well——

Mr. JOYCE. I am sure——

Mr. HOYER. I am sorry. Am I done?

Mr. JOYCE. Yeah. I am sure Mr. Ivey will follow up——

Mr. HOYER. Okay.

Mr. JOYCE [continuing]. Because he has been chomping at the bit to get back——

Mr. HOYER. All right. Well, I am glad to yield to Mr. Ivey——

Mr. IVEY. Thank you, Mr. Hoyer.

Mr. HOYER [continuing]. With no time.

[Simultaneous speaking.]

Mr. JOYCE. The chair now recognizes the gentlelady from Iowa, Mrs. Hinson, for any further questions she may have.

Mrs. HINSON. Thank you, Mr. Chairman.

And I think it is also fun to be up here on the dais and have fellow broadcasters up here talking to the FCC Chairman. So thank you again for being here today. I want to talk a little bit about—we had the FTC chairman in last week, Chairman Ferguson, talking about their process of going through and kind of vetting regulations that are considered anti-competitive.

And I think that is exactly what we should be doing, is reexamining any regulations that really hinders domestic competition and especially those that might be enabling businesses that are maybe subsidized by the CCP. And that is why I am encouraged to hear about your working with other agencies to kind of go through that list.

But can you describe to me the process that you go through at the Commission for reviewing existing regulations for the anti-competitive nature, public comments, that whole process, in response to you seeking comment about the deregulatory initiatives that you are taking?

Mr. CARR. Yes. Thank you, Congresswoman. The deregulatory work that we are doing right now, I think, is going to be one of the most significant steps that we take. We have this overregulation from Washington that just raises the costs, makes it more and more difficult for people to compete. A lot of people focus, in the broadband area, on the biggest providers that are out there.

But the reality is we have hundreds and hundreds of effectively mom and pop/brother and sister operations that are trying to bridge the digital divide in rural America. And there has just been this regulatory onslaught.

So what we are doing is a couple-fold. One, we set up an entire internal group that pools resources from effectively every bureau and office, has them go through their component of that Code of Federal Regulations, and start categorizing rules that we need to get rid of, that maybe need some changes, or ones that look fine.

In addition, we are seeking public comment, as well, and ultimately we are going to merge those work streams and make some significant progress getting rid of the dead wood that is on the books.

Mrs. HINSON. So I mean, obviously, in my district, I have got a small radio ownership group, Coloff Media, versus a big guy like iHeart, right? They are both broadcasting in my district. What is the process for them coming to you and saying, hey, this would make our job easier to, again, provide that service in rural America, for example?

Mr. CARR. Yes. We are very open-minded. We want to hear from everybody. We have got some sense on the media areas where we need to do some reforms, but we would welcome the chance to hear directly from your constituents on these issues.

Mrs. HINSON. Yeah. One of the things that we talked with the FTC Chairman about was just having a website available for people to submit that, and then they can go through. Is there some

sort of similar platform for them to flag specific regulations that they want you to take a look at?

Mr. CARR. Yes. We have a website. We have a comment area where they can contribute. We can make sure that we publicize that even more and work with your team on that. And as you indicated and as Chairman Ferguson testified last year, when you have these regulations, if you are a big enough provider, that can be a moat that can protect you from competition. So maybe there are regulations that are fine for someone like an iHeart but can be the difference between whether a small broadcaster can stay in business. And we need to be sensitive to that.

Mrs. HINSON. Right. So you talk about the one-size-fits-all model versus being targeted and making sure those regulations hit where they need to. I think we can all agree that there are some frameworks that need to exist to, again, protect some folks. But I think there are some that are clearly ill intended, anti-competitive, and then create those unnecessary barriers.

So what I am hearing you say is that you are going to take that feedback and not only maybe look at what you can take off the books but also maybe incorporate that into how you are making future decisions as far as regulation goes?

Mr. CARR. Yes. That is exactly right. I mean, we are doing two things. We need to make sure that we have the right regulations in place, including on national security matters, on public safety matters. At the same time, we need to deregulate, particularly where it is impacting competition issues.

Mrs. HINSON. Thank you, Mr. Chairman. I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson.

The chair now recognizes—wait. The chair——

Mr. IVEY. Vroom, vroom.

Mr. JOYCE. I am sorry. The chair now recognizes the gentleman who has been waiting down there with bated breath for his second round of questions, Mr. Ivey from Maryland.

Mr. IVEY. Thank you, Mr. Chairman.

I did want to follow up with you, Chairman Carr. You mentioned a moment ago that there—I guess you call them Democratic FCC previous agreements where these issues have been raised. One of the things I was kind of curious about—and I don't know specifically what matter you are referencing there, but when I was asking you if you had looked back, for example, on court cases, there are court cases against Verizon alleging racial discrimination.

Some were settlements. One is pending right now in the Western District of North Carolina where racial and national origin discrimination issues are pending. And there was a big 2011 case against Verizon that they settled for, I think, $20 million of racial discrimination.

And so, when I was asking you about your challenges to the DEI program that Verizon has put in place, I was kind of curious as to whether or not you had looked to see if any of that was based on the settlement or court requirements from some of those pending cases and settlements.

Mr. CARR. Yes. I think the basis for the letter is laid out there. I believe there are some citations in the footnotes there——

Mr. IVEY. Well, in the letter, you cite—you just mentioned a moment ago that you had some whistleblower documents that you relied on, but those only went to—I guess it was a training class, so—and the remedies that you talk about and that Verizon conceded went way beyond that. They went to hiring, supplier diversity, corporate sponsorship and membership, public messaging, internal messaging, scholarships.

So the one point that you referenced—and that could just be a single document, for all I can tell from your letter—didn't go way into the scope of the remedies that you ended up extracting from Verizon in exchange for—was it a $20 billion or a $10 billion deal?

Mr. CARR. Yes. There has been dispute about this, and there is equity and debt. It is described——

Mr. IVEY. Well, let's go with 10 billion.

Mr. CARR. Okay.

Mr. IVEY. That is big enough, I think, for most people, that is real money. So, when you allege invidious discrimination based only on that one training class and use it in a way to leverage or essentially block a $10 billion transaction that the FCC ultimately held was in the best interest of the American people for a variety of reasons, that is a big step.

And that is why I was asking whether there was any factual basis beyond this one whistleblower page that justified the FCC using that level of its influence to block that transaction. And so far, you haven't given me anything other than that. Is there anything else you want to add to it at this point?

Mr. CARR. Well, Congressman, with respect, I think the points that you are making make a lot of sense in the context of judicial litigation of bringing a 1983 claim, and there is a prima facie case, and there is burden-shifting. But the dynamic at the FCC is different when we are——

Mr. IVEY. I get it because I actually ran a small—I ran a state version of you guys.

Mr. CARR. Yes. No, I am aware. I am aware.

Mr. IVEY. So I get it. But you are citing——

[Simultaneous speaking.]

Mr. IVEY. You didn't cite FCC cases. You cited the Supreme Court of the United States——

Mr. CARR. Yes.

Mr. IVEY [continuing]. And the cases that use that case law, like the Civil Rights Act, that now you are trying to step back away from. And when you use that kind of language, it—everybody would assume—I certainly did—that the constitutional standards you are citing are the ones that you are following and accusing Verizon of violating.

Let me ask quick—because I am running out of time again, and I know I am not going to get a third round. The Comcast case—so, on the Comcast—you reference in the letter to Verizon that you had already sent a letter to Comcast, which I guess raised the same kind of allegations. And that was in the context of, I guess, blocking a deal that they were trying to move forward with as well.

You raised the issue of invidious discrimination and demanded that they eliminate DEI programs. Did you do any kind of investigation with respect to the Comcast application with respect to

DEI? Did you check to see if there had been any complaints of racial discrimination or any other type of discrimination, whether it was with the EEOC or with court, internally? They have an HR process where internal complaints can be raised? Did you guys look at any of that sort of thing before you issued that letter?

Mr. CARR. Well, again, Congressman, I think the points that you are raising go to pleading standards and elements of claims that apply in a court case——

[Simultaneous speaking.]

Mr. IVEY. I disagree.

Mr. CARR [continuing]. It is actually different.

Mr. IVEY. And the reason I disagree is because you used those standards to justify blocking the deal until you extracted the remedies that you wanted from it and granted the deal based on that. You didn't say in those letters, or in the order for that matter, hey, we are just saying this is based on the FCC Act.

You said Shaw v. Reno. You said Adirondack. You said Supreme Court case law that references the civil rights and goes to the Constitution. Last question, I promise——

Mr. JOYCE. No, no, no, no. You get to answer that one——

[Simultaneous speaking.]

Mr. IVEY. Okay. I am sorry. Go ahead.

Mr. CARR. Again, there are universal points in those Supreme Court cases. Do not discriminate against people based on protected characteristics. That is a universal thing that is untied to——

Mr. IVEY. Equal protection.

Mr. CARR [continuing]. The specific——

Mr. IVEY. Yeah.

Mr. CARR [continuing]. Pleading standards. And this concept of nondiscrimination is in the Communications Act. It is in the FCC Rules and Regulations. I think it is important that anybody that is a regulated entity at the FCC not be discriminating based on those characteristics. And that is the goal.

Mr. IVEY. I agree, but that is why I was asking if you had specific instances of them committing discriminatory acts.

Mr. JOYCE. The chair now recognizes the gentleman from North Carolina, Mr. Edwards, for his second line of questioning.

Mr. EDWARDS. Thank you, Mr. Chairman.

The other Mr. Chair, the Secure and Trusted Communications Network Reimbursement Program, also known as the Rip and Replace Program, removes dangerous and insecure Chinese-made equipment from our nation's critical telecommunications infrastructure.

In your written testimony, you mentioned that the FCC plans to use the proceeds from auctioning off AWS–3 licenses to facilitate the continuation of the Rip and Replace Program. Can you provide an update on the status of funding for the Rip and Replace Program and the steps the FCC is taking to secure the necessary funding to continue its implementation?

Mr. CARR. Thank you, Congressman, for the question. The Fiscal Year 2025 NDAA gave the FCC a little over $3 billion in effort to cover the shortfall that we had in the Rip and Replace Program. In terms of current status, the Commission has now gone to the

U.S. Treasury, and we borrowed that authorized funding. And we have allocated and made commitments to providers.

As of December, we had roughly, I believe, 28 percent of the Rip and Replace work that was done. Again, that was before the shortfall was covered. Now that the shortfall is covered, work is underway again, and we expect that within a year from now, essentially all of that work will be complete. All of, the priority 1 providers that had been in the program are fully compensated. We have one carrier left that currently doesn't have full funding.

Mr. EDWARDS. So which is that area that doesn't have full funding, and what do you expect the request will be?

Mr. CARR. Well, right now there is not an additional request that is pending. So Congress allocated $3 billion. We had to borrow that money from Treasury. There is interest that is charged on that borrowing, and because of the interest that we have to pay to the Treasury, there is a slight shortfall that impacts one provider. But every other provider that is in the program—in fact, all the providers that historically have been in the program are now fully taken care of. And we are going to continue to work with that one provider and see what the options are.

Mr. EDWARDS. Do you expect that the FCC's fiscal year 2026 budget request will include any more funding for the Rip and Replace program?

Mr. CARR. Ultimately, I—you know, we will wait and see where the President's budget comes out and the decisions that Congress has made. Again, all providers after that one would not need additional funding at this point.

Mr. EDWARDS. And in your written testimony, you stated that when you began your tenure as the chairman in January this year, 98 percent of FCC employees still routinely teleworked using COVID-era policies. As a result of President Trump's return to work policies, this number has drastically corrected itself to 92 percent of all FCC employees back to work full time at the office.

Who are the other eight percent of FCC employees that are not yet required to be full time back at the office?

Mr. CARR. There is some subset of people that were hired specifically in remote positions, and that have stayed; they were never brought in to be D.C.-based workers. There is some other percentage, I believe, that have reasonable accommodations. But we are continuing to work through all that and work on the numbers.

When I started as chair on January 20th, I tried to walk—the FCC is ten stories. I tried to walk two floors a day, and when I started, it was like tumbleweeds going through that place. And today I can report that it is a very, very different dynamic. And what we are hearing from people is that being back in person—yes, there is a challenge with commutes and commuting hours getting worse in D.C.; I get that, but that there is a collaboration that there was missing, that there were things that you wouldn't necessarily raise to a coworker through an email or a phone call, but when you bump into in the hall and do it, that there were these siloed teams that we have had where maybe you work only with your direct reports, and that is breaking down as well.

So I think the collaboration that we are starting to see, the culture at the agency and, I think, ultimately the productivity is going

to be much better from having returned people back into the building.

Mr. EDWARDS. I appreciate you calling that out to this group. This has been a debate for the time I have been here in Congress, and that is one part of the argument that typically does not make it on the floor. So thank you for that.

Mr. Chair, I yield.

Mr. JOYCE. Thank you very much, Mr. Edwards.

And the chair now recognizes the gentleman from Missouri, Mr. Alford, for any further questions he may have.

Mr. ALFORD. All right. Batting cleanup. Thank you so much.

The Commission has in front of it a petition that, if passed, would allow television broadcasters to finally upgrade from the current high-def standard to a new, better standard Advanced Television System Committee next-gen TV. Right now, basically, I can shoot 4K video on my iPhone. If I try to put it on broadcast TV, the highest it can go out is 1080p.

This would change that. It would give an immersive sound as well. It would also allow for broadcast spectrum to provide downlink data services to the other—over their current spectrum. And it would also allow for the Broadcast Positioning System to operate on thousands of TV signals across the country and provide a needed backup for GPS for financial sector, the energy grid, and a host of other technologies.

My question is, do you expect the Commission to act soon on the broadcasters' ATSC 3.0 petition?

Mr. CARR. Thanks so much for the question. I think this technology, ATSC 3.0—it's had different brandings over the year, next-gen TV, datacasting—is really important. It is part of that broader effort of empowering local broadcasters because if we can let them innovate, if we can let them obtain new revenue streams, then maybe they are less beholden to some of the national news media that is out there.

So I am very open-minded on this issue. I know a petition recently came in from a group looking to do this. I believe we put that out for comment, but I can make sure that we have done that. And ultimately, we do need to get to a relatively quick transition so that we can have this 3.0 standard because, to your point, this will open up business models for broadcasters, including, for instance, datacasting.

Let's say you have got connected vehicles that are out there. You want to quickly and efficiently upgrade the maps that they use. Well, maybe using those broadcast towers might be the most cost-effective way to do it. So I think it is an important piece of the future of local broadcasters, and it is something that I do want to prioritize.

Mr. ALFORD. I know public broadcasting falls under the appropriations auspices of Labor H next door, but you previously stated that you don't see a reason Congress should continue spending taxpayer dollars to fund NPR and PBS. I know the President has an executive order pretty much cutting the funding. A proposed recision package is coming.

How do you propose the FCC address the issues—what are the issues with PBS and NPR and public broadcasting as you see them, and how do we move forward?

Mr. CARR. For the FCC's part in particular—here is the issue. So you have got these 1,500 NPR and PBS member stations. They are licensed by the FCC. So, as a threshold matter, they are in that bucket that we talked about earlier of being licensed by the FCC and having public interest obligations. But importantly, these member stations are considered noncommercial under our rules——

Mr. ALFORD. Supposed to be.

Mr. CARR. Supposed to be, which gives them additional protections and benefits to noncommercial status. But concerns have been raised that in fact, these stations are running commercials. And obviously, by definition, if you are noncommercial, you can't run advertisements. And there is a line there where you can do sponsorship identification and other sorts of similar types of things.

But the question that is before the FCC is, have they crossed a line into running commercials? And ultimately, I think that does tie a little bit into the broader debate in Congress, which is a debate for Congress about funding NPR, but if they are able to run and are running commercials, if that is what the FCC investigation turns up, that does raise additional questions about funding from Congress. But right now, we are focused on that question about whether they are running prohibited advertisements or not.

Mr. ALFORD. Well, it used to be, growing up, you would see Masterpiece Theater underwritten by X company. Now it is a full-blown commercial. If you are going to compete in the public marketplace with commercials, then compete in the public marketplace and compete for those advertising dollars.

Last question, sir. It has to do with AM radio. H.R.979—I am an original cosponsor of the AM radio and American-made cars. I wrote American AM Radio for Every Vehicle Act. I am proud to say the F–150, built in Kansas City, still has an AM radio in it. It is very important, especially in our rural areas. What steps should the FCC take to ensure AM radio remains accessible in vehicles, particularly in our rural communities?

Mr. CARR. Thanks, Congressman, for your leadership on this. I think AM is a vital communications technology. There had been concerns about EV makers dropping it based on concerns of whether the EV motors would interfere with it, but our understanding is that there is relatively inexpensive shielding that you can do that would solve that.

And so I have been a big supporter of the legislation that you have been championing. I think it will be important to get that across the finish line and into law.

Mr. ALFORD. Thank you so much for being here. I am excited about what you are doing on the FCC, and I look forward to getting truth back in journalism and really turning things around when it comes to the information systems we use on a daily basis.

And with that, I yield back.

Mr. JOYCE. The last question sounded like a little bit of an advertisement for your bill, if I am not mistaken.

Mr. ALFORD. Yes, sir.

Mr. JOYCE. It is a good bill.

Mr. ALFORD. I would appreciate your signing on to it.

You, too, Glen.

Mr. IVEY. I will underwrite it.

Mr. ALFORD. All right. Good deal.

Mr. JOYCE. All right. All good things must come to an end, Chairman.

With that, our time is concluded. I want to thank you again for being here today. There may be some members who would like to submit questions for the record. Please submit any questions for the record with subcommittee staff within seven days.

The subcommittee stands adjourned.

[Whereupon, at 11:47 a.m., the subcommittee was adjourned.]

QUESTIONS FOR THE RECORD

MAY 21, 2025 OVERSIGHT HEARING OF THE FEDERAL COMMUNICATIONS COMMISSION
FCC

CHAIRMAN BRENDAN CARR RESPONSES

Questions from Ranking Member Hoyer

Broadband Affordability

Under the now expired Affordable Connectivity Program 23 million Americans received assistance to access broadband service. ACP paid providers $30 per household to connect low - income Americans who used the service to look for jobs, complete schoolwork, participate in telehealth visits and stay connected to friends and family.

Now that ACP is no longer available there is only one other federal program where low-income Americans can get help to afford telephone and broadband service – through the Lifeline Program. Lifeline began under President Reagan and was expanded to include mobile service under President Bush.

The Lifeline benefit is $9.25 per month is simply inadequate to meet the connectivity needs of low-income households or to attract a mix of fixed and mobile service providers competing for these subscribers as we saw with the $30 ACP benefit. Post-ACP affordability remains the biggest barrier to closing the digital divide.

1. How can the FCC meet the needs of the people who can't maintain consistent access to broadband because they can't afford it every month?

   Response: The FCC should ensure that every American has a fair shot at accessing next-gen connectivity. One way the FCC can do that is by driving down the cost of delivering high-speed Internet service. On this score, I am advancing an FCC agenda that can do just that by freeing up more spectrum for consumer use, deleting unnecessary regulations, accelerating new infrastructure builds, and promoting the delivery of new and affordable connections.

Telehealth Utilization

A recent economic study commissioned by Reconnect, the largest Lifeline provider, "Paying for Itself: How the Affordable Connectivity Program Delivers More Than It Costs", estimates that the federal government can save over $20 Billion annually in Medicaid costs if low-income Americans have access to broadband and can utilize telehealth for physician office visits and avoid costly trips to the emergency room.

2. Do you support updating and modernizing the Lifeline Program to ensure it provides a sufficient level of service so that Veterans and other low-income consumers can use and rely on telehealth services?

   Response: During my time at the FCC, I have prioritized the expansion of telehealth programs. In 2018, for instance, I spearheaded the FCC's creation of the Connected Care Pilot Program, which supported telehealth for low-income Americans, particularly veterans.

Workforce Gains
A recent economic study commissioned by Reconnect, the largest Lifeline provider, "Paying for Itself: How the Affordable Connectivity Program Delivers More Than It Costs", estimated that economic gains from increased labor participation, especially from women, would be $2.1-$4.3 Billion annually if the ACP was continued. That is a strong justification to invest in broadband affordability. Yet, the current Lifeline Program hasn't been updated in a decade.

3. Will you work with Congress to make the Lifeline Program work for low-income Americans and telecommunications providers willing to compete for their business?

   Response: I understand that the Congressional USF working group was recently reconstituted. I would welcome the opportunity to work with Congress on its efforts to modernize and update USF programs.

Educational Benefits
A recent economic study, "Paying for Itself: How the Affordable Connectivity Program Delivers More Than It Costs" builds on previous reports showing the improved educational outcomes for students with access to broadband in the home – higher GPA's and better SAT scores to name just a few. Improved educational outcomes and future income benefits the US economy – not just individual students – in the form of higher lifetime earnings.

In the National Lifeline Association's annual consumer survey ACP recipients reported 75% of participants used the broadband connection to complete schoolwork.

4. Will you commit to work with Congress to address broadband affordability issues by modernizing and updating the Lifeline Program?

   Response: I understand that the Congressional USF working group was recently reconstituted. I would welcome the opportunity to work with Congress on its efforts to modernize and update USF programs.

Contract Savings
The FCC recently posted a graphic that lists $567 million in contract savings. The notice also mentions contract ceiling savings.

5. What does that mean? Is that the actual price of the contract or just the upper limit on what FCC could theoretically spend?

   Response: A press release provides information about the FCC's reduction in total contract ceiling values as well as savings that have been generated by eliminating or modifying contracts. That release is available here: https://docs.fcc.gov/public/attachments/DOC-411428A1.pdf

   With respect to the former, the contract ceiling reduction figure represents a cumulative dollar amount reduction in spending authorization under numerous

contracts over multiple years.

6. Can you provide the Committee with a list of all the contracts that were cancelled or modified?

   Response: While the FCC's contract review is ongoing, a press release describing the effort is available here: https://docs.fcc.gov/public/attachments/DOC-411428A1.pdf So far, the FCC's contract review includes the cancellation or modification of contracts that cut across a wide range of agency work. Specifically, the review resulted in savings and efficiencies from the elimination or reduction of contracts for redundant or duplicative IT services, lightly used periodicals and press, unnecessary property maintenance services, tasks more efficiently done in-house, IT licenses exceeding the number of active users, and projects completed ahead of schedule or without exhausting the planned budget, among other circumstances. Additional information about FCC contracts is available on the Federal Procurement Data System website.

7. What potential liabilities does the FCC incur for canceling these contracts, can the contractor file lawsuits for damages?

   Response: In undertaking the FCC's contract review, the agency has worked in close collaboration with various components of the agency's staff, including the Office of Managing Director and the Office of General Counsel. The FCC has been taking appropriate steps to mitigate or eliminate the risks associated with contract changes—all with an eye towards saving scarce taxpayer dollars.

988 Suicide and Crisis Hotline

"988" is the emergency phone number that connects directly to the 988 Suicide and Crisis Lifeline**.** When calling or texting 988, you would be connected with mental health professionals with the lifeline.

I'm concerned about the ability to locate individuals who are going through crisis. As of now, if someone with a Maryland cell phone number dials the hotline from California where they are located, that call gets sent to the crisis center serving Maryland. In September 2024, routing cellular phone calls to 988 crisis centers based on the caller's approximate location began. At the October 2024 FCC meeting, the Commission adopted rules that will require all U.S. carrier to meet a deadline of Jan. 13th.

8. Have carriers complied with the deadline? Is the implementation complete?

   Response: The FCC's October 2024 Grouting Third Report and Order required wireless providers to develop rerouting solutions for 988 voice calls, so callers can be connected to geographically appropriate crisis centers based on their location. The Order imposed separate implementation deadlines for nationwide and non-nationwide providers: Nationwide providers were required to implement rerouting solutions for 988 voice calls by

January 13, 2025, while non-nationwide providers have until December 14, 2026, to implement these solutions. The three nationwide providers—AT&T, T-Mobile, and Verizon, which are responsible for transmitting the majority of calls to 988—have implemented georouting for 988 voice calls.

Questions from Representative Ashley Hinson

1. GPS System

You recently initiated a notice of inquiry (NOI) concerning a vital national security issue – making sure the United States is well-prepared if our GPS system goes down. Whether it's due to nefarious actors or normal technical glitches, too much of our economy, including critical infrastructure and public safety, would be dramatically impacted by any GPS outages.

Question: Can you explain the importance of launching this NOI and the role that FCC can play in solving this problem?

Response: GPS disruptions can harm our military, financial systems, agriculture, electric grid, consumer navigation tools, and so much more. It is imperative to build redundancies to a system that has so much riding on it. The FCC can bring government and private stakeholders together to develop new and complementary systems.

Question: Do you think there is a need for both space-based and terrestrial solutions?

Response: The FCC is approaching this with an open mind and is evaluating the record to find the right solution or mix of solutions.

We appreciate your recognition that budgets are tight, and we all need to do our best to protect limited taxpayer dollars. To that end, I understand some of the options being discussed in the NOI do not require the devotion of appropriated funds and would rely on the market-based solutions.

Question: Can you confirm that you will consider the potential cost and budgetary impact of these proposed backup systems when evaluating the record?

Response: Yes.

2. Spectrum

Iowa's farmers are increasingly leveraging wireless technology to drive efficiency and secure higher productivity. But to maximize the opportunities precision agriculture offers, we need to continue to improve wireless coverage, not just in our communities and along our roads, but over our tillable lands.

Question: Can you share how the FCC can support those outcomes by making more spectrum available and advancing smarter infrastructure policy?

Response: Farmers in Iowa and across the country feed the U.S. and the world. It is thus imperative that we support their needs—including their needs for next-generation connectivity. Indeed, U.S. leadership in wireless is vital for unlocking the full potential of precision agriculture. And we must continue to modernize our infrastructure policies so that our nation's farmlands have access to fast and reliable connectivity.

Question: Can you share how your efforts to free up more spectrum will help us compete with China?

Response: U.S. leadership in wireless is part and parcel of America's geopolitical leadership and national security. It ensures that next-generation wireless services develop in ways that will benefit our innovators and interests—rather than regimes that seek to diminish America's standing in the world. Right now, the U.S. has fallen behind China when it comes to key spectrum bands, but the U.S. is now poised to leapfrog our global counterparts. Indeed, by restoring the FCC's spectrum auction authority, the One Big Beautiful Bill will enable the FCC to close the gap with other countries and advance U.S. leadership.

3. Underutilized Spectrum

Question: What is the FCC doing to promote underutilized spectrum, such as the shortwave band (2-25 MHz), to be used by the commercial sector for high-speed data transmissions?

Response: Underutilized spectrum is a major concern for the FCC. We are constantly evaluating spectrum usage to ensure robust and efficient use of the nation's valuable spectrum resources.

WEDNESDAY, JUNE 4, 2025.

OFFICE OF MANAGEMENT AND BUDGET (OMB)

WITNESS

THE HONORABLE RUSSELL VOUGHT, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. JOYCE. The Subcommittee on Financial Services and General Government will come to order. This hearing is titled "The Budget Hearing of the Office of Management and Budget."

Members will have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the record.

I now recognize myself for an opening statement.

I would like to thank Director Vought for being here today. The Office of Management and Budget, or OMB, plays a central role in most of the decisions made in the executive branch, particularly as relates to the Federal budget.

It is also important to remember that OMB is an office created by Congress. In 1921, the Congress passed the Budget and Accounting Act of 1921, which created the Bureau of Budget under the Department of Treasury. Later in 1939, in the Reorganization Act of 1939, the bureau was relocated to the newly created Executive Office of the President. And, in 1970, Congress approved the bureau's renaming to the Office of Management and Budget.

I mention this history because OMB plays a unique role both as an office created by Congress and one that has been and continues to be responsible for fulfilling the President's policies.

In fact, over the last 100-plus days, OMB has played a central role, not just in the reconciliation negotiations or recent budget submission but in reshaping of the Federal Government. As of May 27, 157 executive orders, 39 memoranda, and 62 proclamations have been signed by the President. OMB plays a critical role in each of these decisions.

But, as appropriators of the Federal Government, we need to work with OMB to ensure that funds are being used as Congress intended. That is why the President's budget is so important. This is a guide to helping Congress understand the agency priorities and how the legislative and executive branch can work together to deploy the resources necessary to execute these priorities.

Last Friday, Federal agencies, including the Executive Office of the President set up their budget request for fiscal year 2026. OMB is requesting 146.1 million for the next fiscal year, a 13.3 percent increase above its fiscal year 2025 enacted level.

I look forward to discussing OMB's fiscal year 2026 request with you today, Director, and how we can work together to ensure agen-

cies have the resources they need to work on our priorities for our constituents and the public at large.

I now recognize the ranking member for his opening statement.

Mr. HOYER. Thank you very much, Mr. Chairman, and Mr. Director.

Candidly, Director Vought, I think your agenda is a danger to our country, our Constitution, our people, and one that marginalizes the Congress and Article I to establish an imperial presence. That is exactly the opposite of what our Founders had in mind.

What this administration has done under your direction mirrors what you did during Trump's first term, what you wrote in your Project 2025 chapter, and what you said in a 2023 speech to members of the MAGA right. You had accorded to you many times—as you probably know, I represent over 70,000 Federal employees—a highly offensive statement: "We want the bureaucrats," which is so often used as an epithet, not a descriptor, "to be traumatically affected. When they wake up in the morning, we want them to not want to go to work because they are increasingly viewed as villains. We want their funding to be shut down."

Were the thousands of doctors, scientists, and cancer researchers DOGE fired from NIH villains? The more than 800 employees DOGE dismissed from NOAA, people who track hurricanes and protect Americans from storms. Were they deep state agendas?

What about the food inspectors, intelligence officers, national park rangers, first responders, and countless others urged by this administration? They are just patriotic Americans trying to serve their country. All received an email seeking their decision to leave the Federal service—two point-plus million of them. What sort of message does that send?

I think of a Marylander named Caitlin, who worked at the Center for Medical and Medicaid Innovation, after spending weeks agonizing over whether DOGE would fire her, she died of suicide back in February.

I think of another Marylander, Monique, who worked for the Social Security Administration. She was forced to pick up more work, as many of her colleagues took the buyout or were fired by DOGE. The stress grew and grew until, sitting at her desk in February, she died of a heart attack. Her friends and family are certain it was triggered by the stress she was under at work.

No business on Earth could treat employees like this and expect efficiency to improve or their enterprise to succeed. There is no doubt efficiency has gone down. Backlogs have grown at the Social Security Administration, the VA, and other agencies. Federal employees now have to spend hours filling out paperwork just to order basic office supplies—something that used to take minutes.

One of the first things OMB did after Trump took office was pause all Federal loans and grants. They froze thousands of infrastructure projects that were already under construction across the country, an action taken with no regard or no awareness perhaps of the consequences of those actions.

The Trump administration has traumatized Americans—not just Federal employees—reduced efficiency, broken the law, and tram-

pled on Congress' authority. And for what? We have every indication that DOGE will cost taxpayers more than it is going to save.

Director Vought, you are going to play an even larger role in these efforts now that Elon Musk is reportedly leaving. This committee isn't going to ask you to summarize your work in five bullet points or write essays to pass a loyalty test. We expect you to address the concerns of the American people. They have questions. I have questions. We owe them answers.

Thank you, Mr. Chairman.

Mr. JOYCE. Thank you, Mr. Hoyer.

I now recognize the ranking member of the full committee, Ranking Member DeLauro, for her opening remarks.

Ms. DELAURO. Thank you. Thank you, Chairman Joyce, and thank you, Ranking Member Hoyer, for holding this vital hearing.

Director Vought, good afternoon. Welcome back to the House Appropriations Committee, and I thank you for appearing before us today.

The Office of Management and Budget is perhaps the most critical agency that most people have never heard of. I know you know this well, Mr. Vought, but that is no excuse to thwart and otherwise ignore the law. In the United States of America, if you disagree with a law, you have every right to urge that that law be changed. You can petition or meet with lawmakers. And you can wage a campaign in the court of public opinion; you can run to become a lawmaker yourself.

What disagreement with the law does not confer is license to ignore the law, to flagrantly violate the law, and to act as though you are completely above the law. This administration, instead of being laser-focused on the cost-of-living crisis, is actually making that cost-of-living crisis worse. And it has put billionaires in charge of the government and has filled the ranks of civil servants with political allies.

For the sake of eliminating accountability and cutting taxes for billionaires, this administration is unlawfully impounding or stealing funds and dismantling agencies, depriving the American people of the programs and services which Congress has created, authorized, and appropriated funds for.

You posit yourself a defender of everyday Americans and the champion for restoring an imagined version of America you consider morally and virtuously superior to the country we actually live in.

I do not believe your actions, which are inflicting direct harm on the people you claim to support, is in any way reflective of righteous values or of America's constitutional tradition. You support autocracy, not restrained or limited government. You have shown nothing but utter disregard and disrespect for this committee, for Congress as a whole, and for the laws that we have enacted.

When the President named you to retake this position, he said that you would, quote, "return self-governance to the people," end quote. Yet you have demonstrated contempt for American taxpayers by gleefully ignoring lawful requirements to provide them and their elected Representatives in Congress the most basic information as to how their tax dollars are being spent.

During your current tenure, the President is yet to submit a full budget. When it finally arrived, you will have led the most delayed Presidential transition for any OMB in history.

Despite your shortcomings at OMB, you fashion yourself the acting head of the Consumer Financial Protection Bureau. You have been very busy there, but, so far, your biggest achievement has been increasing at least 45 million Americans' credit card bills by hundreds of dollars annually by reinstating predatory fees.

You have ignored requests from this Congress for information. You stood up the Republican leadership of this committee, several of whom are here today. And you have mocked the Government Accountability Office for affirming what everyone in this room understands to be true: You are unlawfully impounding or stealing congressionally appropriated funds.

Director Vought, the Constitution confers the power of the purse, the power to make appropriations in law to the Congress. It is right there. It is Article I, section 9, clause 7.

The courts have repeatedly ruled that there is no inherent authority for the President to impound funds. The late Justice Antonin Scalia, not a liberal torchbearer, proudly proclaimed as much in reference to the Supreme Court's decision in Train v. City of New York.

Justice Kavanaugh, then for the D.C. Circuit, wrote, and I quote, "Even the President does not have unilateral authority to refuse to spend."

And Chief Justice Roberts during his time at the White House Counsel's Office stated, and I quote, "No area seems more clearly the province of Congress than the power of the purse."

Let me just go back to our Founding Fathers—the Congress has power of the purse—to Alexander Hamilton, and I quote, "Where the purse is lodged in one branch and the sword in another, there can be no danger."

You are not just on thin legal footing, Director Vought; you are living in a legal and historical fiction. You envision a king unbound by laws who rules by decree, who accepts lavish gifts from foreign governments, who fills public offices with ultra wealthy and political allies, and who expels opposition and crushes dissent.

This view of Presidential authority could not be more un-American and more dangerous to our constitutional order. You contend that there are over 200 years of historical practice to support your position. This is a lie and fiction. I have reviewed your pseudo history, and nearly every instance you claim supports your position of a President king, unbound by the American system of checks and balances, is either irrelevant or an exercise of discretion explicitly granted by the Congress and law.

Presidential impoundment power is a myth. You do not just have to take my word for it. The Constitution, the courts, Government Accountability Office, and the American history will tell us you are breaking the law.

Through the OMB funding freeze, which touched communities nationwide, you have attempted to seize control of the government and impound funds far beyond what is permitted by law. And, in venues across the country, the courts have broadly and unequivocally told you, quote, "No. You do not have the authority. You can-

not unfreeze unilaterally funding across the government that has been appropriated by the Congress."

The courts are making clear that you grossly overstepped your authority. You have had your day in court, and the courts have rebuked you. They have said, "No, no, no." None of this is surprising. Project 2025, which you coauthored, laid out your blueprint for concentrating absolute power, not just in the White House but in your own hands.

Your colleagues, Secretaries, and heads of major agencies have testified before us in the last several weeks to exactly this point. Your office has promoted your own goals over and above the people President Trump has handpicked to run his administration.

You have also said that you want to traumatize Federal employees, civil servants, as if inflicting trauma and creating a culture of fear and doubt will somehow make this government more efficient.

Mr. Vought, be honest; this was never about government efficiency. In fact, an efficient government, a government that capably serves the American people and proves good government is achievable is what you fear the most. You want a government so broken, so dysfunctional, so starved of resources, so full of incompetent political lackeys and bereft of experts and professionals that its departments and agencies cannot feasibly achieve the goals and the missions to which they are lawfully directed.

Your goal is privatization for the biggest companies to have unchecked power for an economy that does not work for the middle class, for working and vulnerable families. You want the American people to have no one to turn to but to the billionaires and the corporations this administration has put in charge. Waste, fraud, and abuse are not the targets of this administration; they are your primary objectives.

I thank you, and I thank the chair for his indulgence, and we look forward to your testimony.

I yield back.

Mr. JOYCE. Why thank you, Ranking Member DeLauro, for yielding back for 3 and a half minutes—it went over. But that is——

Ms. DELAURO. Thank you for your indulgence.

Mr. JOYCE. Today we welcome the testimony of the Honorable Russ Vought, Director of the Office of Management and Budget.

Director Vought, without objection, your written testimony will be entered into the record. With that in mind, we would ask you to please summarize your opening statement in 5 minutes.

STATEMENT OF HON. RUSSELL VOUGHT

Mr. VOUGHT. Thank you, Chairman Joyce, Ranking Member Hoyer, for inviting me to testify today.

Over the past 4 months, the Office of Management and Budget, or OMB, has worked tirelessly to deliver on President Trump's belief that the Federal Government works for the American people, not bureaucrats and the entrenched establishment.

Under the previous administration, government spending aggressively turned against our citizens, who saw their tax dollars used to fund cultural Marxism, The Green New Scam, or on projects unaligned with American interest, and even our own invasion. Every agency became a tool of the left.

Under President Trump, those days are over. The President's fiscal year 2026 budget in tandem with the with the One Big Beautiful Bill and other tools this administration has at its disposal will finally end the era of unchecked Federal spending, stop the weaponization of government, and turbocharge economic growth.

The fiscal year 2026 budget puts American citizens first and shifts the destructive paradigm that ruled Washington for decades, that we could only find national security and border security if we massively funded woke and weaponized bureaucracy coveted by the left.

The President's budget reduces nondefense spending by $163 billion, 22 percent below current year levels, and the lowest nondefense spending since 2017, if adjusted for inflation, all while we protect funding for national defense, homeland security, veterans, seniors, law enforcement, and infrastructure. Over 10 years, such restraint would generate trillions in savings necessary for delivering on the President's goal of balancing the budget.

The budget also incorporates the historic increases for defense and border security that will be provided by the One Big Beautiful Bill currently making its way through Congress. In combination with base appropriations, the bill is a once-in-a-generation opportunity to revolutionize our Nation's defense capabilities and protect our American sovereignty, providing the first ever trillion-dollar defense budget and the single largest investment in border security in our Nation's history.

The bill also improves our fiscal trajectory by reducing mandatory spending, as confirmed today by CBO, by roughly $1.7 trillion, the largest mandatory spending reduction in history, ending waste, fraud, and abuse, and preserving critical programs.

Along with the extension of President Trump's 2017 tax cuts and the new tax policies provided for additional relief to working- and middle-class families and our seniors, the bill will drive massive economic growth and raise GDP, increasing wealth across the board.

OMB's fiscal year 2026 budget request as an agency is critical to supporting this comprehensive fiscal strategy. The full request is $155.7, 76 million for OMB. OMB, as you all know, is a personnel-intensive agency. We are only asking for 20 additional FTEs, which would bring us from 500 employees to 520, and an additional 2 FTEs in one of our offices funded through the ITOR account.

I will note that OMB's request is substantially below the increase requested by the legislative branch's GAO. OMB's funding has remained essentially flat since fiscal year 2023. By contrast, under GAO's request for fiscal year 2026, the agency would receive an overall increase of 17 percent over 3 years.

As I have said many times, the civil servants at OMB are one of the most resourceful and innovative our country has to offer. They are not only a great value to the taxpayer but the whole Nation. OMB has been hard at work crafting the President's budget, implementing this administration's fiscal goals, and accomplishing the largest deregulatory agenda in our Nation's history.

With the President's budget, the One Big Beautiful Bill, historic tax—historic tariff revenue, and the recently transmitted $9.4 billion rescissions package, our deregulatory efforts and other key

tools, this administration is implementing a comprehensive strategy to improve the Nation's fiscal state.

Only but Washington D.C., that benefits from the status quo, Americans know instinctively they elected President Donald Trump to fix it. And the task ahead of us is great, but this administration, including OMB, is committed to working hand in hand with our partners in Congress and this committee to finally deliver for the American people. I look forward to answering your questions.

[The information follows:]

Thank you, Chairman Joyce and Ranking Member Hoyer, for inviting me to testify today.

Over the past four months, the Office of Management and Budget, or OMB, has worked tirelessly to deliver on President Trump's promise of a federal government that works for the American people, not bureaucrats and the entrenched establishment.

Under the previous Administration, government spending aggressively turned against our citizens, who saw their tax dollars used to fund cultural Marxism, the Green New Scam, foreign projects unaligned with American interests, and even our own invasion. Every agency became a tool of the Left.

Under President Trump, those days are over. The President's FY 2026 Budget, in tandem with the One Big Beautiful Bill and other tools this Administration has at its disposal, will finally end the era of unchecked Federal spending, stop the weaponization of government, and turbocharge economic growth.

The FY 2026 Budget puts American citizens first, and shifts the destructive paradigm that ruled Washington for decades—that we could only fund national and border security if we massively funded the woke and weaponized bureaucracy coveted by Democrats.

The President's Budget reduces non-defense spending by $163 billion, 22.6 percent-below current-year levels and the lowest non-defense level since 2017—considering inflation, this is the lowest level of non-defense spending we've seen in 25 years—all while we protect funding for national defense, homeland security, veterans, seniors, law enforcement, and infrastructure. Over 10 years, such restraint would generate trillions in savings, necessary for delivering on President Trump's goal of balancing the budget.

The Budget also incorporates the historic increases for defense and border security that will be provided by the One Big Beautiful Bill currently making its way through Congress. In combination with base appropriations, the One Big Beautiful Bill is a once-in-a-generation opportunity to revolutionize our nation's defense capabilities and protect American sovereignty, providing the first ever $1 trillion defense budget and the single largest investment in border security in our nation's history.

The One Big Beautiful Bill also improves our fiscal trajectory by reducing mandatory spending by roughly $1.6 trillion—the largest mandatory spending reduction in history—ending waste, fraud, and abuse, and preserving critical programs. Along with the extension of President Trump's 2017 tax cuts and new tax policies to provide additional relief to working- and middle-class families and our seniors, the One Big Beautiful Bill will drive massive economic growth, raising GDP and increasing wealth across-the-board.

OMB's FY 2026 budget request is critical to supporting the comprehensive fiscal strategy this Administration is implementing. The full request is $155.776 million for OMB. OMB is a personnel-intensive agency. We are asking for 20 additional FTEs, which would bring us from 500 to 520 in OMB, and an additional two FTEs in OFCIO, reaching 36 FTEs.

I will note that OMB's request is substantially below the increase requested by the legislative branch's GAO. OMB's funding level has remained essentially flat since FY 2023. By contrast, under GAO's request for FY 2026, the agency would receive an overall increase of 17% over three years.

As I have said many times, the civil servants at OMB are among the most resourceful and innovative our country has to offer—they are not only of great value to the taxpayer but to the whole nation. OMB has been hard at work crafting the President's Budget, implementing this Administration's fiscal goals, and accomplishing the largest deregulatory agenda in our nation's history.

With the President's Budget, the One Big Beautiful Bill, historic tariff revenue, the recently transmitted $9.4 billion rescissions package, our deregulatory efforts, and other key tools, this Administration is implementing a comprehensive strategy to improve the nation's fiscal state.

Only the Swamp benefits from the status quo. Americans know that instinctively, and they elected President Donald J. Trump to fix it. The task ahead of us is great, but this Administration, including OMB, is committed to working hand in hand with our partners in Congress to finally deliver for the American people.

I look forward to answering your questions.

Mr. JOYCE. Thank you very much for your opening statement.

I now recognize myself for 5 minutes. But, as I ask for all, we will try to make sure we stay on the 5-minute timeline so everyone here has an opportunity to ask their questions and get them answered. And the possibility exists then to get to round two. We will certainly allow for at least a second round, lightning of a question each. To get there, we have a hard stop of 4:10. Okay.

Director Vought, in the President's fiscal year 2026 budget request, OMB is requesting what you had just said, a 13.3 percent, or $17.1 million, increase for the fiscal year 2026. This increase funding would support, quote, "unavoidable costs" and investing in OMB's workforce, among other priorities.

Would you explain what those unavoidable costs are and why OMB needs to restore staffing levels that were previously reduced? And why is OMB's need for more staff different than staffing needs in any other agency.

Mr. VOUGHT. Sure. Thank you, Mr. Chairman. I mean, I think the reality is we have held constant for many, many years at the 500 level, even though the size of government has increased. And so, you know, when I was in the position in the first term, I had the view that OMB should reduce its head count. And the challenge that we found when we did that, when we pursued budgets that did not prioritize the analysis that OMB needs to do, you find yourselves in a situation where some of your key resource management offices are having to analyze programs and agencies that are growing exponentially larger.

Just to give you an example, our previous Resource Management Organization for National Security had the veterans; it had all state and foreign aid; it had the entirety of the Defense Department; it had the entire intelligence community. And, if you look at it, compared to the across the agency, you didn't have enough analysts to be able to do the job.

Similarly, we are being asked to do quite an amount of work with regard to the President's deregulatory initiatives. And that will continue to be a priority through OIRA. That is one of the reasons we are going to need additional FTEs when it comes to being able to staff that up—not unlike what you would see with our increases at—for border security or USTR with the work that the President is doing to get more rational trade deals on the books.

So, in terms of unavoidable costs, you know, just because you have the same amount of staff doesn't mean that you don't have things like tech support and the work that is required to keep all of our systems up and running. And there is a lot of expenses that goes with it. But I truly believe, and I think you all believe this too because of the resources that you have given to GAO, that it is paramount to have enough analysts that can grapple with the size and scope of the Federal Government. And I think that, pound for pound, an OMB career FTE is one of the most important from the standpoint of being able to address that need to be able to deal with fiscal health as a country and get cost-benefit analysis and a regulatory framework that makes sense for the country.

Mr. JOYCE. I want to focus on Executive Order No. 14158 issued on January 2025. It is titled "Establishing and Implementing the President's Department of Government Efficiency." The executive

order establishes the United States DOGE Service in USDS, and, within the reorganized USDS, a U.S. DOGE temporary organization is authorized through the 4th of July of next year.

Who is the Administrator of the DOGE service, and who is the Administrator of the U.S. DOGE temporary service, and who do they report to?

Mr. VOUGHT. The U.S. DOGE Service was the former USDS, U.S. Digital Service that was housed within OMB. With that EO, it was moved out of OMB into the Executive Office of the President as a standalone office reporting to the Chief of Staff. It has been led by Steve Davis, and we are in the midst of—with the last week or so of establishing the leadership on an ongoing basis. But I think the vision for DOGE is, in addition to having some of the consulting work that they have done continue in the EOP—and that is one of the reasons we have a request as part of the ITOR account is that DOGE would go and be far institutionalized at the actual agency. So many DOGE employees and FTEs are at the agencies working almost as in-house consultants as a part of the agency's leadership.

And I think, you know, the leadership of DOGE is now much more decentralized. It is the agency heads. And it has been for some time. The President has always said, from day one, agency heads are in charge of their departments. And they were benefiting from the consulting that DOGE was doing along the lines, and now that is much more pronounced.

Mr. JOYCE. I appreciate that there are many jurisdictions involved in DOGE's work, but OMB is front and center here, including in the subsequent DOGE E.O.s responsible for reorganizing the Federal workforce, including hiring practices, E.O. 14170, Federal hiring, and 14210, the Federal workforce.

And so I realize that I am about to run out of time. So you might talk about that on the second round.

The chair now recognizes Ranking Member Hoyer for any questions he may have.

Mr. HOYER. Mr. Director, OMB submits a requested budget. Congress passes the budget.

Do you consider the budget that Congress passes to be a suggestion or a directive?

Mr. VOUGHT. We believe it is a proposal for Congress to consider. We propose, and you obviously take it as a policy proposal and send it through your appropriations process.

Mr. HOYER. Question, Director. Once we pass that back to you, do you take it as a suggestion or a directive?

Mr. VOUGHT. It is a directive. We believe it is important for the congressional appropriations process to give us the levels as consistent with the power of the purse to set levels by which we can't go above.

Mr. HOYER. And, therefore, you consider it a ceiling?

Mr. VOUGHT. We do believe it is a ceiling.

Mr. HOYER. So we send your budget and say, "Spend a $100 on X objective." You can spend anywhere between 1 and 99 or 100 dollars. Is that accurate from your perspective?

Mr. VOUGHT. No, I don't think it is accurate from my perspective. I think that it is much more similar to, if you have asked us to per-

form a function and you have given us a $100 million and if we can perform it for $80 million, there is give in the system as to whether we are required constitutionally—we don't believe that we are—to push every last dollar out the door and lead to use-it-or-lose-it situations where we are creating waste, fraud, and abuse at the agencies at the——

Mr. HOYER. And the Congress made provision for that; it is called a rescission. Is that correct.

Mr. VOUGHT. There is one tool that Congress—there is one of many tools that Congress has given to deal with that scenario——

Mr. HOYER. The other tool is the unilateral judgment of the President of the United States and/or yourself not to spend.

Mr. VOUGHT. No, no, I was actually referring, under the ICA, to normal rescissions, deferrals, pocket rescissions. There is a whole manner of provisions in the ICA, in addition to just the agency doing the work that it does programmatically to review whether the spending that Congress has appropriated to an agency consistent with the law, authorizing committees, is there and can be done consistent with the President's views as he was elected on behalf of the American people.

Mr. HOYER. Thank you. Do you believe you have traumatized the people of OMB?

Mr. VOUGHT. No, I don't.

Mr. HOYER. So, notwithstanding that, did they also get the letter sent to 2-plus million people?

Mr. VOUGHT. They did.

Mr. HOYER. Was a judgment made as to how many of the people at OMB were absolutely necessary to do the job you now want to expand?

Mr. VOUGHT. No, and in fact——

Mr. HOYER. No judgment was made on that.

Mr. VOUGHT. So, as it pertains to the letter that you are referring to, it went out; I believe it went out before I was in office as the Director. And I don't think we lost very few at all. And my hope was that we wouldn't lose anyone from the deferred——

Mr. HOYER. But you lost a substantial amount throughout the government service without any understanding of how critical their work was to the task at hand. Is that accurate?

Mr. VOUGHT. Well, again, it was based on their choice.

Mr. HOYER. Is that accurate?

Mr. VOUGHT. I don't think it actually is accurate because the decision was made to give the employees the chance to make that determination. I don't think it was done lightly. And I think they made—those employees thought long and hard about whether it made sense——

Mr. HOYER. I agree. It wasn't done lightly. Obviously, it was considered blitzkrieg on the entire Federal Government. But nobody knew whether or not critically important people were going to take that or not. Isn't that accurate?

Mr. VOUGHT. Well, I think it is important to reflect that we don't ask employees to be in these positions and locked into these positions. There is no reason that they would have had to take those—that opportunity. And it is something that was not in any way compelled upon them.

Mr. HOYER. Of course, it wasn't compelled, but nor did you have or Mr. Musk have, or his people, any knowledge of who would take it and who didn't. And, therefore, it was simply across the board, which could have crossed—let's say everybody said yes. Now, probably everybody wouldn't have said yes. But that would have been a cataclysmic event for the United States. Do you believe this is the way people should be treated?

Mr. VOUGHT. I think all employees, political and career, should be treated with respect and dignity and to have that reflected through all of our employment processes.

Mr. HOYER. The people who——

Mr. JOYCE. Order.

Mr. HOYER. The people who just laughed obviously don't share that view. There are people who were removed involuntarily, one way or another. They were traumatized. So you accomplished your objective, which I think personally is not an objective that either any personnel manager should be very proud of. How many people in the administrative leave are being paid not to work?

Mr. VOUGHT. Congressman, I just would push back on your characterization. It has never been my desire to traumatize individuals or workers——

Mr. HOYER. I understand that. Why did you say that?

Mr. VOUGHT. Because you didn't actually listen to the entirety of the—and the context of what I said. I was referring specifically to bureaucracies that are weaponized against the American people. So do I believe that, at the NIH or the OMB or VA, that across the Federal Government, NOAA that there aren't career——

Mr. HOYER. My time has expired. And the chairman——

Mr. VOUGHT [continuing]. Individuals that are doing incredible work and are great public servants. But the notion that we don't have weaponized bureaucracies—and we saw this in the last administration—that are aimed at parts of our own citizenry——

Mr. HOYER. Let me stop you.

Mr. JOYCE. The chair now recognizes Mr. Womack for any questions he may have.

Mr. HOYER. Would my friend yield for 30 seconds?

Mr. WOMACK. I thank the gentleman. We will have another round. You can pick up on that line of questioning then. Because we all have questions to ask.

Mr. HOYER. Thank you.

Mr. WOMACK. And I am going to start with this one.

Director Vought, good to see you again. We worked on many occasions together. This is an appropriations hearing. And appropriations is driven by what we call top-line numbers, 302–As and then 302–Bs that flow down to the various subcommittees. But it begins with a budget. Where is the budget?

Mr. VOUGHT. Well, it is great to see you again. We believe you have the budget.

Mr. WOMACK. We have a skinny budget.

Mr. VOUGHT. You have the skinny budget, the discretionary budget in full. It allows you to get the appropriations process moving forward. Our approach with regard to the rest of what you would see in a full year comprehensive budget is that we have been focused on reconciliation. And so every aspect of what we have

been trying to do has been to further that bill to get it to the President's desk. And then we will come along afterwards with any supplementary information, proposals, deficits, picture.

But we thought it would, at the end of the day, confuse the Congress and confuse the American people to have two sets of proposals, two sets of numbers, and that is one of the reasons that we are focusing on reconciliation.

I understand the job that you have had to do, and we wanted to get you material as soon as we possibly could. I worked with Chairman Cole as early and often as I could. I have not actually—and not come and talked with the cardinals at every opportunity. We very much want to work with this committee.

Mr. WOMACK. So I think we all have a shared goal of putting the fiscal house of this Nation in order. I certainly do, and I have been working toward that, albeit it unsuccessfully, since I chaired the Joint Select Committee on Budget Process Reform. And we can come back to that if I have time.

But the total outlays of the Federal Government, in general, for those that are watching this hearing, that are going to read excerpts from this hearing, what are the total outlays of this Nation, from a——

Mr. VOUGHT. $7 trillion around.

Mr. WOMACK. Around 7 trillion. And we are going to receive income in various forms to the amount of about what?

Mr. VOUGHT. Five trillion.

Mr. WOMACK. About 5 trillion. A little less than seven. A little less than five. Maybe thereabouts when we look at the '25 numbers. The last set of numbers we have is, I think, in 2024.

Of that $7 trillion in outlays, how much of that is actually under the purview of this committee?

Mr. VOUGHT. About a third.

Mr. WOMACK. About a third. So we are looking at about a 30 to 33, 34, 35 percent slice of that Federal—but the rest of it is what we call mandatory spending. Is that right?

Mr. VOUGHT. Correct.

Mr. WOMACK. And how is mandatory spending broken down?

Mr. VOUGHT. Mandatory spending is broken down on all of the programs that are set in law. And so, you know, they are not—with very few exceptions that go through your committee, like food stamps or Medicaid, they are considered appropriated entitlements. The authorizers set the law, and the people who are benefiting from those laws can come to the Federal agencies and receive their benefits.

Mr. WOMACK. So only Congress can really change that through its lawmaking process. Is that correct?

Mr. VOUGHT. Correct.

Mr. WOMACK. And, of that roughly $5 trillion of mandatory spending, thereabouts, how much of that is the net interest on the debt?

Mr. VOUGHT. Net interest on the debt is about a trillion dollars now. It has exceeded defense. When we left office, unfortunately, it was only 300 billion, still far too high. But, in the last 4 years, we have gone from about 350 billion in annual net interest, and now we are upwards of a trillion dollars.

Mr. WOMACK. And it is because we have a debt of about $37-ish trillion, right?

Mr. VOUGHT. Correct.

Mr. WOMACK. What would like a 50-basis point move in the interest rate—and I would suspect that that is—that is very prospectful, given the fact that we were just downgraded by the third rating agency, what would that do to the net interest on a $37 trillion debt if we moved like 50 basis points?

Mr. VOUGHT. We are probably talking about a trillion-dollar swing there.

Mr. WOMACK. When are we going to deal with mandatory spending? And I am not talking about cuts. I am talking about sustainability. Because we have all said—and we have pretty much all agreed—that we want to make sure that we honor the promises that we have made to older Americans and vulnerable Americans. But, right now, the effort is only on the discretionary budget of the U.S. Government. It is about 33 percent of total spending.

So at what point in time will we see a plan and a strategy for which we really go after and fix the largest share of the Federal spending that is the crux of the national deficit that we have today?

Mr. VOUGHT. You know, we believe that we are doing that with this bill that you have passed out of the House. And one of the reasons we are so excited about it is that, for the first time since 1990s, we are talking about trillions of dollars with regard to mandatory savers. $1.7 trillion now is an enormous opportunity and first step along the lines of what you are talking about and what we have proposed in budgets before.

So I think it is—you know, for those that are saying, "Where are the DOGE cuts," that is not a reconciliation thing. For those that are saying, "Where are the mandatory reforms," that is in that bill, and we believe it is the first major conversation like this that we have had since the 1990s.

We will have more proposals as we go forward. You know, the President wants to have a balanced budget. Three out of our four budgets in the first term were aimed at that budget, had that as a goal. And we had large mandatory savers in those budgets that were consistent with the President's promises to protect Social Security and Medicare. And we will continue to have reforms along those lines.

Mr. WOMACK. Thank you very much.

I yield.

Mr. JOYCE. The chair now recognizes Ms. DeLauro, the ranking member of the full committee, for 5 minutes.

Ms. DELAURO. Thank you, Mr. Chairman.

Just very quickly. We really do not have a budget. What you sent covers this year. There is not a—no 10-year budget. There really isn't any vision for the future at all of what you have sent us.

Director Vought, after an appropriation is enacted, the first thing that happens is, before an agency can deliver the promises to the American people, is OMB has to make funding available through a legally binding decision known as an apportionment. In essence, you are the first and sometimes bureaucratic hurdle that stands between American taxpayers and the services, support, and protec-

tion they have promised in spending laws. And, for over 100 years, apportionments were secret. I reiterate, these decisions were effectively laws that you and your also unelected predecessors made whenever you liked without accountability or transparency.

I fought on a bipartisan basis, bicameral basis, alongside members of this subcommittee for 4 years to change that. We enacted simple transparency requirements because this committee and the Congress need information to effectively legislate. Independent watchdog organizations deserve the information to help the American public understand how your decisions affect their lives.

Three, most importantly, the American taxpayers are entitled to see how you, your predecessors, and every OMB Director, how you come, how you are spending their money.

My question is you do not think, Director Vought, that Congress deserves to know how you carry out the laws we enact. You do not believe that American taxpayers deserve to see how you spend their money. Do you?

Mr. VOUGHT. No, I don't think that characterization is true. We do. That is one of the reasons we come up to the Hill and testify, and we explain our decisions. We believe that apportionments are legally binding but not final agency actions and that it is part of a predecisional deliberative process on behalf of the executive branch to be able to manage agencies and the programs therein.

And what we found in the last 4 years in which the law that you worked hard to put into place that we have constitutional concerns about is that it actually degraded the oversight responsibilities that OMB had, in that we would, the people would actually change——

Ms. DELAURO. Excuse me, Mr. Director, because my time is running out. You know, in all fairness, I had this debate and discussion—I am not just having it with you—I had a debate and discussion on this with your predecessor and others with the same argument and so forth.

The American people, the Congress who legislates and enacts the laws has to have the ability to understand what you are spending, how you are doing it, at what intervals, and so forth.

And, also, let me just say, this requirement, as I say, was debated for 4 years, including with you specifically during your prior tenure as OMB Director. Your predecessor did comply with the law for over 2 years, and you followed this law for 2 months. What happened? Why did the website come down? Why do we not know what is happening? Why are we going back to those days of secret decisions being made by you and whomever else in terms of the spending of the dollars that we constitutionally enact here when we put these bills into law with congressionally directed resources that serve the American people? Tell me what happened. Why did you change what you were doing for 2 months or what your predecessor was doing over the last couple of years?

Mr. VOUGHT. Well, we had constitutional concerns with the provision. We had a veto threat against this provision in the first term. If it was presented in, while the President was still in office, I expect you would have had a signing statement that said, not unlike our letter to the committee, not unlike the DOJ's letter to the committee, we have constitutional concerns with it. And it is some-

thing that degraded our ability to manage taxpayer resources and do not the very responsible——

Ms. DELAURO. With all due respect against, again, I think the level of your honesty on your claims just really shines through on this topic. There probably isn't much more point in discussing it. But that goes at the very fact: You make up constitutional issues—where the Constitution places that power of the purse within this body and within an Appropriations Committee. Historically, it is there. But you make a decision as to what you want to do, what you think is Constitutional or not Constitutional, without any basis in fact, thereby pulling down that website that allows us to see what you are doing.

And we have no way of knowing if you are carrying out what we have lawfully—lawfully—required the executive branch to do. That is our responsibility. And your responsibility is to carry out what it is that we have appropriated here. You just can't pick and choose whatever the hell you want in going forward.

And I yield back the balance of my time.

Mr. JOYCE. The chair now recognizes Mrs. Hinson for her 5 minutes of questions.

Mrs. HINSON. Thank you, Mr. Chairman, and to our ranking member for holding this hearing today.

Director Vought, thank you so much for coming to answer our questions. It says a lot that you are here talking about the efficiencies that you are finding and the improvements you are making at OMB. This is really about taxpayer money and protecting the integrity of where those dollars go.

And, as you probably know, I have been very, very passionate about improper payments through OMB. We know, from the numbers out of GAO, that number is somewhere between $230- and $500-some billion. I actually think it is probably higher than that, right, and, when we look at the taxpayer money being disrespected in that way and people for years turning a blind eye to that in terms of fixing this problem. So I appreciate your candor and the effort by this administration to do that through the executive order from the President, 14249, to protect America's bank account against waste, fraud, and abuse.

I was proud to support this by introducing legislation here to codify the President's executive order to do exactly that, protecting American taxpayers from wasteful spending.

One of the provisions of the order did direct OMB to work with Department of Treasury to establish precertification and pre-award procedures across the Federal Government. This is the breakdown in process that has led to this fraud and improper payments.

Can you explain why those procedures were not in place before this executive order?

Mr. VOUGHT. One of the things in this issue in general—and I am sure you have been frustrated by it—is the extent to which this is all common sense, and yet it never seems to happen. And I actually posed the question to our team this morning: Why did we see nothing before the Trump administration? And, honestly, there just wasn't an interest in the previous administration.

We are very thankful for the executive order. We are going to be taking our duties very, very seriously. We look forward to working

with you on this. I think much of what DOGE has identified is the extent to which the agencies have not been pinging the systems and the datasets that are there and can be there. And then we need to fight through whatever bureaucracies, make an institutional argument for why the, whatever the grant agency is, shouldn't be cross-checking it with the data that is available.

So it will be a priority of ours, and we look forward to working with you on it.

Mrs. HINSON. Yeah, it certainly is a commonsense thing to know where the money is going and one hand knowing what the other hand is doing in that process. It is absolutely critical.

Can you update us on the implementation you mentioned? You know, obviously, you and I share that frustration that it wasn't in place before. And we do look forward to working with you, get you whatever resources you need to be able to implement this.

Where do you stand in making some of these fundamental changes to protect us?

Mr. VOUGHT. We are working on governmentwide guidance to agencies. To implement the E.O. right now, we are going through a policy process internally as to what that should include. And we will be back to you soon with details on that.

Mrs. HINSON. Okay. Looking forward to updates there. And, as we work to pass all 12 of these appropriations bills hopefully before that September 30 deadline, can you assure us that the days of not tracking where that money is going are over? You have a good eye and a good watch on it for taxpayers?

Mr. VOUGHT. Yes, and we have got a number of statutory responsibilities also in terms of taxpayer right-to-know statutes that have been tasked to OMB. It is another response to the chairman in terms of the need for the FTEs, is that often people want stuff to happen at OMB because they know it can get done, that we have tools to get the agencies to move forward. But therein is our need for the employees to be able to do that important work and to push through and make sure that we are living up to what you all have asked us to do.

Mrs. HINSON. Yeah, well, this certainly should be a bipartisan issue. And I questioned your predecessor about this and former Secretary of the Treasury as well. And Secretary Bessent was in here just a few weeks ago saying the same thing. He was incredulous that this was allowed to happen and go on. It should be a bipartisan issue. At least it was before President Trump started getting the credit for this. So we should be able to get behind policy that helps to fix this problem.

What else are you doing at OMB to help prevent improper payments, hold agencies accountable for their spending? You know, what does that process look like other than just issuing that guidance to other agencies? Where does the accountability come in there?

Mr. VOUGHT. So one of the cultural aspects of what I have tried to emphasize at OMB is one OMB. And so I don't like the notion of you have a budget side of the house, a regulatory side of the house, and a management side of the house—because often everything gets stove-piped, and you don't have the main interactors

with the agencies that are benefiting from much of the work that you would find at the management side doing improper payments.

So one of the things that we are doing—we had a meeting along these lines just yesterday about making sure that the people that work with the budget offices, the ones that are working regulatorily are coming up with policies that actually help along these lines. So it is not just, "Hey, did you go through the right process and ping the right systems?" We want there to actually—people to be getting credit for doing deregulatory activities that are also dealing with improper payments. We want there to be an emphasis on programmatically being rewarded for having the various budget offices and teams at the agencies being rewarded for this kind of activity. And I think that is the benefit of doing it at OMB, and I think that is what will inevitably be the success from it.

Mrs. HINSON. Yeah, you have a wealth of knowledge. You should use it your advantage going forward.

Thank you, Mr. Chairman, I yield back.

Mr. JOYCE. Thank you.

The chair now recognizes Mr. Pocan for 5 minutes.

Mr. POCAN. All right. Thank you, Mr. Chairman.

And thank you, Director Vought, for being here. I think you said the President supports the Big Bill that was passed out of the House, correct? And I think you also said the President does not support cutting Medicare.

Mr. VOUGHT. Correct.

Mr. POCAN. So, in the bill, there is a half-trillion dollar cut that gets triggered to Medicare. So I know a number of the people who voted for the bill are starting to read it now and finding there are parts they don't like. You might want to take a look at that provision.

Mr. VOUGHT. As you know——

Mr. POCAN. That is okay. That is okay.

Mr. VOUGHT. You don't want the explanation?

Mr. POCAN. I didn't ask you the question, did I? I am asking a question, though, since we didn't have your remarks this morning—I think we got them this afternoon—you mentioned "cultural Marxism." You did it in your comment. Could you please in two or three sentences define "cultural Marxism"?

Mr. VOUGHT. Sure. It is a political theory that, instead of dividing people on the basis of economic haves or haves-not, that you are dividing people on the basis of race and identity. And it is an attempt that we have seen, unfortunately, in this country, culminating in CRT, of dividing people on the race and in our agencies. And I——

Mr. POCAN. So your definition, Mr. Director, is different than—the definition I am pulling up. The first thing that pops up on here. It says, "Cultural Marxism refers to a far-right antisemitic conspiracy theory that misrepresents Western Marxism as being responsible for modern, progressive movements, identity politics, and political correctness." That is the first definition that pops up here. It actually comes up a couple times on the first page.

Mr. VOUGHT. On Google?

Mr. POCAN. Yeah. You identify yourself as a Christian Nationalist, correct?

Mr. VOUGHT. Look, I am a Christian. I don't think my faith should be a subject for this——

Mr. POCAN. No, I just asked you a simple question. Do you identify as a Christian Nationalist?

Mr. VOUGHT. No, this is—my faith is about—is one of an Evangelical Christian faith.

Mr. POCAN. I am not here to debate that. I just saw——

Mr. VOUGHT. But you brought it up.

Mr. POCAN. No, I asked you if you were a Christian Nationalist, and you said you weren't, correct?

Mr. VOUGHT. These are debates in the think tank world that we have——

Mr. POCAN. That——

Mr. VOUGHT [continuing]. A Christian nation——

Mr. POCAN. That is all right. Stop. Director, that is the not question I asked. So you support the efforts of DOGE. You mentioned Steve Davis. And I know we talked about trying to bring the Director of DOGE in here, and that would be very helpful. The problem is I just read he is also leaving with Elon Musk.

So who is in charge of DOGE if the guy who is taking over after Elon Musk just left, and he is leaving, it sounds like this is a bit of a circus. Who is in charge of DOGE?

Mr. VOUGHT. The Cabinet agencies that are in charge of the DOGE consultants that work for them are fundamentally in control of DOGE.

Mr. POCAN. Oh, that is an answer only a mother can love.

So you support the efforts of DOGE, I understand. Is the Federal Government currently spending less this year than it did last year?

Mr. VOUGHT. No, it is not.

Mr. POCAN. Great. And part of that is because you have sent us a rescission package worth $9 billion that goes after Big Bird and Cookie Monster, but you have added $200 billion to defense and homeland security. You have also—the bill that you just said the White House supports is going to add, depending on who you talk to, $2.4 trillion to $5 trillion to the National Debt. It is going to make somewhere between 11- and 16 million people lose their healthcare.

I know you said on a Sunday morning show, "No one will lose coverage as a result of this bill." Is that still your standing?

Mr. VOUGHT. Which one of those would you like me to take?

Mr. POCAN. The one I just asked. I will ask it again. I am sorry if I wasn't clear.

Mr. VOUGHT. The bill does not lead to less coverage for Medicaid beneficiaries. It has improper payments.

Mr. POCAN. So——

Mr. VOUGHT. And it leads to the fact that people who are ineligible because they are illegal aliens or because they are unwilling to work——

Mr. POCAN. Illegal aliens do not get Federal dollars from Medicaid, correct?

Mr. VOUGHT. That is not true. They get them in many different States, including California——

Mr. POCAN [continuing]. The State can provide it. Are there any Federal dollars——

Mr. VOUGHT. Congressman, because of the——

Mr. POCAN. How many Federal dollars, since you are the expert, how many Federal dollars go into funding illegal aliens getting Medicaid?

Mr. VOUGHT. Congressman, because of the money laundering——

Mr. POCAN. It is question. It is a number. How many dollars go to illegal aliens—Federal dollars for Medicaid? Simple question.

Mr. VOUGHT. It is not actually a simple question because Congress——

Mr. POCAN. All the Secretaries have a hard time with simple questions lately. I got to tell you. It is a simple question. You are saying that that is true. So if you can get back to us with that amount. How does that sound? How much Federal dollars?

Mr. VOUGHT. I am happy to get back to you about how the bill works and getting rid of the money laundering schemes that people use.

Mr. POCAN. So a lot of people disagree with you. The CBO disagrees with your analysis. Yale and Penn said 13.7 million people will lose health insurance. You also said this won't increase the debt. Is that correct?

Mr. VOUGHT. The bill will not increase the debt. It will lead to——

Mr. POCAN. So there, the Cato Institute disagrees with you. Moody disagrees. The CBO disagrees. Senator Hawley and Senator Rand and Senator Collins disagree. Elon Musk disagrees. Virtually everyone on this side of the aisle. So you are saying everyone is wrong, but you are the right one, that this does not increase the debt?

Mr. VOUGHT. I am saying that all the watchdogs, including the Congressional Budget Office, used a skewed vision, a view of what the baseline is.

Mr. POCAN. They were less than a few percent wrong last time on your tax bill, and they predicted it almost dead on. So you are saying this time there is significant changes, and they don't know what is going on, and only you do; is that correct?

Mr. VOUGHT. I am suggesting—I am stating that they use a baseline——

Mr. POCAN. Do you disagree with the Cato Institute?

Mr. VOUGHT. Yes.

Mr. POCAN. And Moody's?

Mr. VOUGHT. Yes.

Mr. POCAN. And Senator Hawley?

Mr. VOUGHT. Senator Hawley has a view as to the Medicaid programs that we are working with to articulate why we believe that these reforms do not hurt the beneficiaries that are involved.

Mr. POCAN. I am over time.

Mr. JOYCE. The chair now recognizes Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chair.

Mr. Vought, thanks so much for being here. And I apologize for the badgering that you are getting. I would really have appreciated the opportunity to hear your thorough and complete answers, but we will deal with that another time.

I just have to editorialize a bit. And thank you for the work that you are doing. I believe the reason that we hear the arguments

from the other side is that you are doing exactly what the American people have demanded. The American people are fed up with seeing their tax dollars wasted up here in Washington, D.C. You are getting down to the core of that waste, fraud, and abuse. And they are angry about it. I can't believe how much time that they are spending to protect their right to waste American taxpayer dollars. I appreciate your courage to jump right into the middle of it, to defend your position, and to do what all of us were sent to do here in Washington, D.C. Thank you.

Mr. VOUGHT. Thank you.

Mr. EDWARDS. What I see taking place is exactly what should take place. We have an administration now that is willing to really dig in and find out where the spending is going inside of Federal agencies, making immediate changes, changes uncomfortable often for people. I have recognized that. But change is necessary right now. We all agree that we can't stay on the current spending trend.

Let's also recognize that you are living up to your constitutional oath. You are making recommendations based off of things you see inside the administration that we can't see that have been hidden from us for the last several years. And I interpret that you are going to be coming back to Congress saying you made these decisions. We don't think that you need all this spending now. And then we are going to make a decision whether or not we should continue that. I don't see a constitutional issue. I think we are doing exactly what the American people asked us to do.

So, that said, for years, the Congressional Budget Office has been touted as a nonpartisan agency. But there is a growing body of evidence showing that it regularly overestimates the benefits of Democratic policies while underestimating their costs. And it downplays the success of Republican initiatives, such as President Trump's Tax Cuts and Jobs Act in 2017, while overestimating the cost.

Coupled with the publicity, known Democratic political affiliations among key CBO staff, this raises some serious questions about the agency's ability to impartially evaluate the cost of legislation.

My first question is, how can OMB and Congress work together to ensure future budget and policy decisions are based on sound objective data rather than politically motivated projections?

Mr. VOUGHT. Thank you, Congressman. I think one of them is working together to properly frame the information that that CBO has put out. I mean, I would not presume to give any advice as to how you all might govern CBO. But I would just say, as to educating the public, we try to do that this afternoon very quickly about how they construct their baselines leads to a warped view on a bipartisan basis for the policies that you all are considering as a major problem.

And, you know, both on the revenue side and on the tax side, there is often a lack of willingness to look at what might happen dynamically, not just on revenues but even the fact that someone that is not eligible for a program will be able to get additional care because they go to their private health insurance. I mean, that is the kind of analysis that CBO just does not do. And, as a result, you get bad outcomes when you are having a public policy debate about it.

Mr. EDWARDS. Thank you. Just a quick followup, do you believe that CBO'S estimate of President Trump's One Big Beautiful Bill accurately represents the benefits that it will provide to the American people and the fiscal year course correction that it will provide our Nation?

Mr. VOUGHT. No, I think it is fundamentally wrong. I stated that today. It will lead to reduced deficits and debt of $1.4 trillion. It will reduce mandatory savings of $1.7 trillion. And I don't think the way they construct their baseline, not only does it give a fair shake to economic growth, but it fundamentally misreads the economic consequences of not extending current law tax relief.

I mean, the degree to which we would have a recession or worse if the tax relief is not extended is something that they just fundamentally do not factor into their analysis.

Mr. EDWARDS. Thank you for that clarification.

Mr. Chair, I will yield.

Mr. JOYCE. Thank you, Mr. Edwards.

The chair now recognizes Ms. Gluesenkamp Perez for 5 minutes.

Ms. PEREZ. Thank you, Chair.

Thank you, Director Vought, for being here.

I used to run—my husband and I own an auto repair machine shop. I will never forget having an OSHA inspector come to my shop and ask me if my AC machine was a welder. The divorce of theory from practice. Respect for people who have done the work and who has the authority and the knowledge.

My question to you is, like, how are you adapting your staffing decisions to ensure that it is not just a sterling resume who is in your office but people who have done the work, respect for the trades, how many people you have in your office who don't have a college degree?

Mr. VOUGHT. I don't know the answer to that question. I come from a family of electricians; so that is my background. I have been very enthusiastic and excited about the policy proposals we had in the first term—that I am sure are working themselves through this one as well—to ensure that we are not expecting people to have college degrees and sterling resumes that might show itself. But, if someone can do the job, we want them at OMB as it pertains to our agency.

Ms. PEREZ. One kind of theoretical question I have here is that, you know—I think Wendell Berry said that excellent workmanship as with a breaking plow is destructive. Efficiency itself—it is not useful. It is efficiency towards what. It is about effectiveness. It is about a question of, like, what are we trying to do here? What is the purpose of this bill?

You know, my question to you is, like—all of these claims of pursuing efficiency, but the question is effectiveness. That is the true goal. How are you implementing what my community needs in these systems? And a lot of that, in my view, comes down to the question of procedural burden on civil servants.

So, if you are successful in your pursuits, we will soon have a much smaller field of civil servants. Who is going to reduce the procedural burden on those civil servants to pursue effectiveness?

Mr. VOUGHT. Well, I think, you know, government efficiency is not meant to sum the totality of what you want from a Federal

Government. I think it is meant to articulate an imbalance that we have seen in recent years and to correct for that imbalance.

And so that is the partnership with whatever department or agency you are dealing with, is they have been given responsibilities by Congress to go and perform functions on behalf of the American people. And the Department of Government Efficiency and OMB, to a large extent historically, is designed to make sure the work that they do is done in the best way possible.

But I am honestly—Congresswoman, I am one of these people that encourages OMB not to ask the efficiency question first and foremost but to ask—both in serving the President or the laws that you all have given us—what is trying to be accomplished by this, and let's make sure we accomplish it and then let's—and then you have earned the right to figure out how to do it most efficiently.

Ms. PEREZ. Yeah. My concern is that, right now, it is a process of randomly scapegoating civil servants and not a pursuit of—many of those people are exactly the people who could tell you what kind of bullshit paperwork they are putting up with. And so how to have a—not just a managerial class tell you what is appropriate but actually the people who are doing the work who should be part of that process of pointing out what the unproductive, you know, proceduralism is.

Mr. VOUGHT. I agree with you. I want to know what career staff thinks. It is a hallmark of my time at OMB. And I hate the paperwork that we often put on agencies to perform and do things that are not designed to actually lead to better outcomes. And so we have a deregulatory side for the agencies doing the work as it comes to GPRA and other things on the management side.

Ms. PEREZ. So I know you are a Christian. You might know the verse in Isaiah, chapter 5, verse 8 that says "woe to those who add farm to farm and house to house until they are the sole inhabitants of the land." This is, I think, a—I hope a sentiment that we share, but the Presidential budget calls for a 10 percent reduction in the Federal Trade Commission's competition budget and a static budget for the Department of Justice Antitrust Division and reduction of the size of the workforce.

So how will reducing the budget and staff of the antitrust agencies bring down the cost of living and ensure that small businesses like mine can compete on a fair, level playing field without a regulatory mode or antitrust forces holding us down?

Mr. VOUGHT. Look, we think it is a priority. We have given the Department of Justice and the FTC the resources that they have asked for. And we don't necessarily value everything by the dollar amount that is given, but we do think it is important and it is something that our leadership there will continue to pursue.

Ms. PEREZ. Thank you. I yield back.

Mr. JOYCE. Thank you.

The chair now recognizes Mr. Alford for his 5 minutes of questions.

Mr. ALFORD. Well, thank you, Chair Joyce and Ranking Member Hoyer.

And, Ms. DeLauro, thank you for being here today.

Director Vought, thank you most of all. I appreciate the work you are doing to try to right the ship in America, and we are about to hit a reef if we don't do something with our spending.

I do want to follow up on my colleague, Mr. Womack's, questioning about the full budget. So you were saying we are not going to receive the full budget until after the reconciliation package is done which at the earliest would be July 4. Is that correct?

Mr. VOUGHT. Correct. We will be forthcoming with additional information as it—to fill out the deficit picture and all of the additional information at that time.

Mr. ALFORD. I am new to this. I am new on Appropriations. I am just kind of learning this process. But this really puts us up against the wall. I mean, we are having our MilCon VA markup tomorrow without a full budget. We have got to get all 12 of these out of committee, and we have got to get these passed on the House floor. We have got to get a lot done before our August in-district work period. We don't need another CR and we don't need a government shutdown. That will not be good for the President. It will not be good for Congress. It will not be good for America.

So I——

Mr. VOUGHT. Let me clarify, Congressman.

Mr. ALFORD. Yes.

Mr. VOUGHT. You have everything you need for all of your markups. You do not just have high-level discretionary proposals that we were forthcoming with nearly a month ago. You have the full budget as it pertains to the appropriations process, and you have all of the information that is needed to be able to write those bills, particularly in the VA context where you are dealing with advanced appropriations.

Mr. ALFORD. Right.

Mr. VOUGHT. You have that material. The congressional budget justifications and the appendix went up last week and are continuing to flow. Where there is only some work that remains is on the defense side, and we are pushing DOD as fast as we can to get their remaining information up to the Hill.

Mr. ALFORD. Thank you for your support of the One Big Beautiful Bill. Of course, we too appreciate that.

You have said that, talking to critics, they have been relying on faulty CBO numbers for their criticism of the bill. Example: In 2017, the CBO was off with its projections of the TCJA by $1 trillion. What are the flaws in CBO's scoring?

Mr. VOUGHT. Well, other than the baselines that they use which don't reflect or aren't comparable with how they treat spending.

So CBO assumes that spending will continue. All of your appropriations bills are assumed not on the annual basis which, of course, they are passed on, but they are assumed to continue with inflation over the life of the 10-year window. That is not the case with tax revenue. For the way that the law was written and the way that CBO operates is that they judge an expiration date to be something that causes it to look like a new cost to taxpayers. That is one. And then, of course, they have had just historically undynamic assumptions with regard to tax policy and other policy moves therein.

Mr. ALFORD. I want to talk a little bit about the rescission package that you sent over, $9.4 billion package.

Secretary Rubio was sitting in that seat 2 weeks ago before the NSRP Subcommittee. There have been 5,341 USAID awards that have been terminated, unobligated savings of 27.7 billion, yet your rescission package only includes 9.3 billion, I believe, for State and foreign aid. Is that correct?

Mr. VOUGHT. It is correct, yeah.

Mr. ALFORD. Are we going to see further rescission packages that will claw back this money?

Mr. VOUGHT. Perhaps. We are very anxious to see the reception from a vote standpoint in the House and the Senate. We have had tremendous interactions with your committee sitting down with the chairman and the subcommittee chairman to make sure that the package—one of the reasons why it was—it took a little bit—it was constructed a long time ago—was we were having the conversations with this committee to make it so that it can be passed next week.

Mr. ALFORD. Okay.

Mr. VOUGHT. If that goes well, I am not—I am less concerned about the House as I am the Senate, and it is very important for it to pass. If it does, it will be worth the effort and we will send up additional packages.

Mr. ALFORD. Last question. Part of the rescission package to global health program for $400 million—it says this proposal would eliminate only those programs that neither provide lifesaving treatment nor support American interests. Does this include PEPFAR or any money that is funding PEPFAR whatsoever?

Mr. VOUGHT. It does. It has a cut to PEPFAR but not to lifesaving treatment. Let me just walk you through some of the——

Mr. ALFORD. What about prevention, sir?

Mr. VOUGHT. So the challenge we have in PEPFAR is that PEPFAR has been perceived as only lifesaving treatment, but if you look, you have got 2.5 million for teaching young children how to make environmentally friendly reproductive health decisions. You have nearly a million dollars for services for transgender people, sex workers, and their clients in sexual networks in Nepal. You have $5.1 million to strengthen the resilience of lesbian, gay, bisexual, transgender, intersex, and queer global movements.

So, even in an area like PEPFAR—and I did see some of the reaction from the Senate as to us including PEPFAR—we believe that it needs to be on the table. We can find waste, fraud, and abuse there that the American people would not support, and it is one of the reasons why it is in the package, but it will not lead to lifesaving treatment being denied. That has been a hallmark of all of President Trump's budgetary policies with regard to PEPFAR, is if you are receiving care, you will continue to receive that care.

Mr. ALFORD. I am out of time. Thank you. I yield back.

Mr. JOYCE. Thank you.

The chair now recognizes Mr. Ivey for his 5 minutes.

Mr. IVEY. Thank you, Mr. Chairman.

Good afternoon. I was shocked when I heard you say that all government employees should be treated with respect because that is absolutely not what I saw on the ground level. I mean, I saw peo-

ple crying when they were coming out of USAID. I think they had been given 15-minute intervals to retrieve their belongings.

I talked to people who were probationary employees who had been given these mass emails that they are going to be terminated. They had quit jobs and moved from other places and sold their houses to come do this work on reasonable reliance on an offer from the government to work for the Federal Government and a desire to serve their country, and they were unceremoniously pushed out the door.

And, when you said I know—you want to know what career staff thinks, that was a shocker to me, too, because many of these people, when they were being forced out, were trying to call and find out what their status was, whether they were going to be able to come back to work or not, when they would be terminated, all of those things. And that still goes on, and they don't get the answers from you all. So, you know, I appreciate your view of what is going on, but you have got to know that it is entirely different from the standpoint of the people who were going through this.

And I just want to focus on three quick areas where there is a potential impact. I mean, one thing you said that was interesting to me—you are going to ask for an additional 20 positions, if I heard you correctly——

Mr. VOUGHT. Yes, sir.

Mr. IVEY [continuing]. At OMB. It is a little ironic because you are slashing positions across the government and funding.

But we had the FBI director testify here a few weeks ago, and he came in and said he has 1,100 vacancies, I think it is, and he needs 1,300 additional. I think we can all agree that—the importance of public safety. And someone just mentioned fraud. Nobody ferrets it out better than the FBI. Yet, the day after he testified here, he testified in the Senate and said, I don't need those positions after all.

And then just one quick point on the fraud piece. I saw an FBI agent who runs the Fraud Division testify that between $500- and $700 million every year is stolen from the United States by our overseas adversaries and that they need additional resources to track that down, but apparently you guys aren't going to give that to them.

With respect to national security and the science piece of this, too, you know, the trauma quote has been read to you. And I heard your comment, you know, that it was taken out of context. And I listened to that speech. I don't agree. I think it was consistent with what you were saying that day. But let's just assume for the moment that what you are saying there is really true. The bottom line is that the actions that you have taken since then reiterates the message that you are trying to traumatize these people and that you want to treat them like villains.

And so what we have got going on right now on the science and tech piece that is rippling through NASA and other agencies where it is critical for us to have these science and tech folks, AI, the competition for quantum computing, and the like—they think they are being forced out of these positions. They are starting to look to go to Europe. They are starting to look to go back to Korea or India or other places rather than staying here and doing the work.

And I know from businesses in my district that they need people from overseas because we are not producing enough of them here in the United States. Yet, we are narrowing the pipeline based on what you are doing with respect to cutting grants to help fund. We are narrowing the pipeline with respect to the impact you are having on the universities in science and tech. We are narrowing the pipeline with respect to the postdocs and other people doing the research and the government contractors who are doing much of this work, too.

So, over and over again, we are squeezing that line down. If you look at the contrast with China, they are doing exactly the opposite, and they are doing exactly the opposite in the areas where we are in the most competitive areas and where we really need to win. We don't want China to get ahead of us militarily. We don't want China to get ahead of us on quantum computing and AI. But we are making cuts to NIST. We are making cuts to NASA. We are making cuts to the NIH. We are making cuts across the board on some of the most important aspects of what we need to do in the United States to maintain that lead.

And, with respect to public health—I see my time is running out here, and I guess we can do a second round in a minute—but the same kind of thing. The cuts to NIH—my father died from Alzheimer's. I am a cancer survivor. You guys shut down clinical trials in the middle of those going forward. And it is not like we can just flip a switch and it comes back and starts over again. Some of those are going to take years to catch back up to where they were, and some of the people who were conducting the research are leaving the United States because they don't want to have that happen again.

So I appreciate the goal of going after waste, fraud, and abuse. I don't think that that is what you all have really focused on here in your impact, certainly, because—we can go through that in the second round, but you are really undermining our ability to compete and stay ahead of China on really critical areas like national security and public safety.

Mr. JOYCE. The chair now recognizes the vice chair of the committee, Mr. LaLota from New York.

Mr. LALOTA. Thank you, Chairman.

Director, good to be with you today.

You are the director of the Office of Management and Budget. Is that correct?

Mr. VOUGHT. Correct.

Mr. LALOTA. And you previously served in that capacity in 2020 and 2021?

Mr. VOUGHT. In 2019 and 2020.

Mr. LALOTA. You went through January of 2021?

Mr. VOUGHT. I did.

Mr. LALOTA. Okay. And you are the executive branch's chief financial planner and policy coordinator. Is that a fair description of your title?

Mr. VOUGHT. I think that is fair, along with the Secretary of Treasury.

Mr. LALOTA. Great. And, in that role, how important is America's debt and deficit to you?

Mr. VOUGHT. Huge. We have an enormous problem ahead of us with regard to the debt that we are facing as a country. It is hanging over us. It is causing massive interest costs each and every year to keep growing. And the impact that it can suddenly cause a much worse situation than we have seen thus far is still always out there as a possibility. It is one of the reasons we have to pass this bill to be able to begin to get a handle on the spending that has been on autopilot that Members——

Mr. LALOTA. We are going to get into that.

Mr. VOUGHT [continuing]. Have been calling attention to.

Mr. LALOTA. About 37 trillion. Is that about right?

Mr. VOUGHT. Yes.

Mr. LALOTA. And the deficit is about what?

Mr. VOUGHT. $2 trillion and—somewhere between $1.5- and $2 trillion.

Mr. LALOTA. And the debt-to-GDP ratio, pretty bad, right?

Mr. VOUGHT. Yeah.

Mr. LALOTA. The worst since World War II?

Mr. VOUGHT. Yeah.

Mr. LALOTA. What if we do nothing? What if Congress sits on its hands, the executive branch does nothing? What if we just do the status quo? What happens with respect to interest rates, opportunity, buying power, the dollar, opportunity for future generations? What happens to all that if we do nothing?

Mr. VOUGHT. It will all get worse and we will continue to have issues with credit agencies. And one of the reasons why—Moody's was late to the party. The original credit ratings were drawing attention to the futility that this town had with the inability to ever pass anything of substance, and I think that is what has changed with the bill that you all are considering right now through Congress.

Mr. LALOTA. And I agree with you. Reconciliation is the start of something that we have to do to put our country on a better track to give more opportunity to the future generations.

I want to switch gears just a little bit but get back to the point in a moment. In your experience, scores and predictions by the CBO and JCT, how have they been, sir?

Mr. VOUGHT. Not accurate.

Mr. LALOTA. Thinking back to the first Trump administration and President Trump's 2017 Tax Cuts and Jobs Act, how would you rate the estimates by the CBO and JCT?

Mr. VOUGHT. They did not do a good job of rating it accurately. And, you know, they didn't think we would ever get to 3 percent growth. We did. They were off in their revenue assumptions. But, ultimately, that is par for the course. I mean, they don't think through dynamic assumptions with regard to their revenue policies.

Mr. LALOTA. And about how much in revenue were they off by? Do you remember?

Mr. VOUGHT. I don't have that at my fingertips.

Mr. LALOTA. 1.5 trillion?

Mr. VOUGHT. That is about right.

Mr. LALOTA. Only 1.5 trillion.

Are you familiar with CBO's work when they scored the American Rescue Plan?

Mr. VOUGHT. I am, but happy to be informed more on it.

Mr. LALOTA. Accurate or not accurate?

Mr. VOUGHT. If you have got a question here, I am happy to answer it, but off the top of my head——

Mr. LALOTA. Sure. I will lead you a little bit with this question. They projected inflation to be around 3.3 percent in 2021 and 2.5 in 2022 and 2.3 in 2024. Take a guess. Was it higher or lower than the projections, the inflation?

Mr. VOUGHT. I am sure that it served the administration's policy objectives.

Mr. LALOTA. Yeah. 4.7, 8 percent, and 4.1 percent respectively. Way off, but, yes, favorable to that administration.

And now, fast-forward, we have this One Big Beautiful Bill before us that the House Republicans—we passed last week, and we have received some new scores over the last day or so. And are you familiar with the CBO score on the growth rate they project in the One Big Beautiful Bill?

Mr. VOUGHT. It is about 2 percent.

Mr. LALOTA. Yeah, 1.8. Do you believe that is an accurate-enough growth rate given some of the historical context between TCJA 1? Much of the same policies in TCJA 1 led to 2, 3, and 4 percent growth, and yet they are scoring it as 1.8——

Mr. VOUGHT. No, I don't think they are accurate. I don't think it is reflective of the growth. I think it is much more likely—and we will get to our economic assumptions when we come later with more details from our fuller budget—but the budget resolution that you all passed, $2.5 trillion, I think the number there was 2.7. It was much more accurate in terms of a number that should flow from the policies in the bill.

Mr. LALOTA. Great. I would agree. 2.6 percent is, I think, what the House Budget Committee put forth. I think that is a more—a better estimate.

Would you agree that assuming only the 1.8 percent CBO number, it both underestimates the positive impact of the legislation and simultaneously overestimates the negative impacts like deficit projections?

Mr. VOUGHT. Yes, but I would go further. I think the challenge with the CBO score is the way they construct the baseline is they are asking policymakers who care about the debt and deficit to almost take the position that you shouldn't extend the tax relief, and then they don't model the extent to which that would implode the economy.

There are dynamic assumptions with regard to tax policies and economic growth, and then there should also be an area where they model the economic impacts of their own baseline policies.

Mr. JOYCE. The chair now recognizes Mr. Bishop for any questions he may have.

Mr. BISHOP. Thank you, Mr. Chairman.

Welcome, Director Vought.

Branding is very important in the characterization of the reconciliation bill, and there are many who are calling it one thing but there are many others who are characterizing it as the big, ugly bill.

I want to talk to you about your proposals relating to USDA research. You eliminate the Hatch Act formula grants which go to the 1862 land-grant institutions. There is a 44 percent cut to Evans-Allen research grants with the 1890 land-grant institutions and a 14 percent cut to the 1890 Extension Services. The Smith-Lever Cooperative Extension Program is cut by 46 percent.

Ag research has been the tool that has kept America ahead of our international competitors for decades and is, right now, more important than it ever was in our competition with our international competitors. We are falling behind other nations on ag research; so I strongly believe that research should be the last place that we should be looking at cutting.

How do you justify these cuts other than as part of your overall budget numbers quest if America is going to continue to be able to produce the highest-quality, the safest, the most abundant, and the most economic food and fiber anywhere in the world?

Mr. VOUGHT. Thank you, Congressman, for the question. I mean, we believe in agricultural research. I think we believe in the research that—even in areas where we are taking cuts, our desire is to make sure that we actually do research and that it is not going to some of the projects and line items that you saw Secretary Rollins put out there that she has canceled. And so where we found efficiencies, we wanted to make those reflected in the fiscal year 2026 budget.

But, you know, agriculture is incredibly important. We have to be able to feed ourselves first and foremost, and one of the ways that we need to be able to do that is not just our farm support programs but the extent to which we are thinking ahead and planning for the future and learning.

Mr. BISHOP. Thank you.

Mr. VOUGHT. But there is——

Mr. BISHOP. Thank you.

Mr. VOUGHT. I think in the eye of the beholder, there might be some differences.

Mr. BISHOP. Thank you.

Currently, my State, Georgia, is the most recent State to implement the Medicaid work reporting requirement. So far, what we have seen is a cautionary tale for other States: Higher administrative costs, increased bureaucratic red tape, and suppressed enrollment, even among eligible Georgians. And my congressional district has over 765,000 Georgians, and almost 17 percent of them—of the nonelderly residents are uninsured.

However, after 18 months of implementation, less than 1 percent of our district's residents who are age 19 to 64 were enrolled in the Georgia version of—Georgia's Pathways to Coverage Program. That is in spite of the State having spent $92 million in combined State and Federal funds on the program, most of which covered administrative expenses like technology upgrades rather than actual healthcare benefits. In other words, taxpayers are funding for-profit consultants to add on to clunky, outdated systems to process paperwork rather than covering the cost of doctor visits and prescription refills for eligible Georgians.

If the budget reconciliation bill mandates work or other community engagement reporting requirements for low-income, able-bod-

ied adults across all States, how can we avoid the high-cost, low-coverage pitfalls evidenced by Georgia's Pathways to Coverage program? For example, how will the Federal Government ensure that taxpayer dollars are going to healthcare benefits rather than more bureaucratic red tape as we have seen in Georgia?

And, quickly, the second question is most of the $92 million that was spent has been covered by the Federal Government due in part to the higher Federal match for administrative expenses like technology upgrades. This expense would not be necessary if not for the additional paperwork generated by the work reporting requirement. For 1,115 demonstration programs like the Georgia program, what steps have been taken to ensure that States are held accountable to rules regarding budget neutrality if they implement this on a nationwide basis?

Mr. VOUGHT. Well, thank you for the question. I haven't looked at Georgia's model, and I will look into that. Our belief is that this will not lead to additional paperwork but that it will build on the historic reforms that we saw in 1997 that were on a bipartisan basis.

Mr. BISHOP. There have been studies done on it that have been published that made it very clear. And, of course, obviously, the people who are skeptical of that have made that clear, also. It is out there. And I am surprised that you haven't been——

Mr. VOUGHT. Well, I mean, as it pertains to the 1997 reforms which now applies to the concept of work to Medicare—and, remember, in Medicaid, we have this issue where you have able-bodied, working adults that get a higher match than the intended—originally intended beneficiaries, the most—the disabled, the elderly, who, you know—basically, you get $9 for—nine Federal dollars for every $1 of State for the able-bodied, working adults, and then you get——

Mr. BISHOP. That is correct.

Mr. VOUGHT [continuing]. About 1.30 for everyone at the lower populations. And that is something that is off because what you have is States chasing the higher dollar. So this work requirement will make sure that we have——

Mr. BISHOP. It means that more money will have to go for the States setting up the mechanism in order to calculate that. It is more red tape, more paperwork, and less in services and care for the people who need it.

Mr. VOUGHT. We can disagree on that.

Mr. JOYCE. Thank you.

The chair will now recognize Mr. Cloud for his 5 minutes.

Mr. CLOUD. Thank you, Chair.

And thank you, Director Vought, for being here.

You know, as an American before being here as a Member of Congress, I just want to say thank you for finding efforts to find savings. I know what motivates me and a lot of people in our service here is the, really, demand that should be upon us to leave a better country than we find it.

And so we find ourselves headed to $36 trillion in debt, as you just talked about. We are looking at what is going on in the bond markets. They are really concerned about our debt load. You talked about World War II debt loads with—during peacetime being a

very big concern. Certainly, mandatory spending is a big part of that. But then we also, you know, have understood that, as government grows, freedom contracts. And so there is a need as well to make sure that we are returning a good return on investment when it comes to our discretionary funding as well.

Could you speak to what we can do to find savings during—with our discretional spending, especially considering at pre-COVID levels, we are spending—what—$2 trillion more a year now every year? And then we were—what—1.6 trillion in discretionary funding pre-COVID? Or I am sorry. That is after COVID. And then before COVID was 1.288 trillion in discretionary? That is a pretty substantial growth over just a couple-year period of time.

And, you know, nobody pre-COVID was thinking that we had a lean, mean, fighting machine of a Federal Government. Most people even then thought it was pretty bloated and a little lethargic and could use some tightening up. Could you speak to what we are doing to find savings and return a better return on our——

Mr. VOUGHT. Sure. I mean, it is reflected in our budget proposal. Generally, we proposed $163 billion in nondefense cuts, the lowest level adjusted for inflation since 2000. Not adjusted for inflation, it gets you back to your pre-COVID levels.

And we really are trying to find programs that we believe are fundamentally wasteful or divisive. You know, when you are providing $315 million for preschool grants for CRT indoctrination for 4-year-olds in Minnesota, we think that money is not just wasteful but it is actually harming the country as a whole and those individuals. And we looked at it from every vantage point from that standpoint. It is one of the reasons we talked about the cuts to woke and weaponized bureaucracy and wasteful, and sometimes you just can't afford something when you are $37 trillion in debt that you would otherwise be able to afford.

And, you know, there are drivers that you have in the appropriations process that we pay for. We pay for the needs that we see and for veterans. It almost acts like a mandatory program within your jurisdiction. We have proposals for rental reform to block grant to the States and require a cost share with States so that we don't have people that are too soon moving off these programs into self-sufficiency. It is another driver that you all are facing with. It is on your books. It is not a mandatory program but acts like a mandatory program, and we are trying to account and deal with those with the proposal that we sent out.

Mr. CLOUD. I was late to this hearing because I was in the DOGE Subcommittee hearing in which we were talking about NGOs that are—we call them NGOs, but many of them have well over 50 percent of their funding coming from the Federal Government. One I highlighted was Endeavors, which was a big part of the apparatus—really, the industry that gets stood up to bring illegal immigrants over. Ninety percent of their funding was coming from the Federal Government, and they kind of cease to be an NGO at that point.

Can you talk about how you are evaluating these—I would call them quasi-government entities as opposed to an NGO. I think it was over 35,000 of them are getting more Federal dollars than they are donations.

Mr. VOUGHT. It was a major thrust throughout this process for constructing this budget. We have what we call directors' review, and, literally, we would ask on every program not just what is the level, what is the need, but how is it distributed? We want to make sure that, if this is going to a nonprofit, the extent to which that nonprofit——

Mr. CLOUD. Is truly a nonprofit.

Mr. VOUGHT [continuing]. Shares our views and is not putting forward some of the ideologies that we have fundamental issues with. And so I can't give you a rack-up of what we found other than to—in the areas that we put for our cuts, we have concerns in addition to the value proposition of those dollars.

Mr. JOYCE. Thank you.

The chair now recognizes Mrs. Hinson for a matter of—before the——

Mrs. HINSON. Yes. Mr. Chairman, in light of the conversation earlier, I would like to submit an article for the record about illegal immigrants receiving coverage on Medicaid. We do know Federal dollars flow to States. And this is from The New York Times, May 14, 2025: "Governor Newsom proposes scaling back healthcare for undocumented immigrants in California." I would like to submit this article for the record, Mr. Chairman.

[This information follows:]

Newsom Proposes Scaling Back Health Care for Undocumented Immigrants in California

Gov. Gavin Newsom wants to charge monthly premiums for undocumented immigrants and stop adding new enrollees to the program as soon as January.

Listen to this article · 6:31 min Learn more



By Laurel Rosenhall
Reporting from Sacramento

May 14, 2025

Gov. Gavin Newsom on Wednesday called for California to scale back health care coverage for undocumented immigrants to help balance the state budget, retrenching on his desire to deliver “universal health care for all.”

The move came two days after the Trump administration targeted a different state-funded program for immigrants in California and signaled that it would continue to scrutinize benefits for undocumented individuals.

In a budget presentation on Wednesday, Mr. Newsom proposed freezing the enrollment of undocumented adults in the state’s version of Medicaid, known as Medi-Cal, as soon as January. He is also seeking to charge people who remain in the program $100 a month, beginning in 2027, and eliminate long-term care and dental benefits for undocumented adults and other noncitizens.

The governor estimates that those changes combined would save the state $6.5 billion by the 2028-29 fiscal year.

The Trump administration has been using its federal powers to pressure Democratic-led states to eliminate benefits for undocumented immigrants. As she targeted a California cash aid program, Kristi Noem, the homeland security

secretary, said on Monday: “If you are an illegal immigrant, you should leave now. The gravy train is over.”

But Mr. Newsom framed his proposed cuts as more a matter of fiscal necessity than a philosophical change.

California faces a $12 billion deficit in a proposed budget of $321.9 billion, Mr. Newsom said on Wednesday, because of increased spending at a time of volatility in the economy and financial markets. The shortfall could grow if the federal government curtails funding to states, as Congress is considering.

Mr. Newsom, a Democrat, blamed California’s budget shortfall partly on a projected drop in tax revenue resulting from President Trump’s turbulent trade wars, saying the tariffs had weakened the state’s economy. Mr. Newsom has begun referring to the impact of the tariffs as a “Trump Slump.”

Still, it has been clear for months that Medi-Cal has been spending billions of dollars more than expected, raising questions about whether the state can afford to carry on with its progressive ambitions.

Medi-Cal serves some 15 million people, including 1.6 million undocumented immigrants. Providing health care to undocumented immigrants has turned out to cost much more than California leaders anticipated when they made Medi-Cal coverage available last year to all low-income residents, regardless of immigration status. Those benefits are funded entirely by the state.

California Democrats have been driven by a belief that providing health care to low-income people is a moral imperative, as well as a more cost-effective approach than leaving immigrants to rely on emergency-room visits for routine care. Under federal law, undocumented immigrants are automatically entitled to emergency care but not to Medicaid benefits.

Mr. Newsom faced a difficult choice in trying to rein in Medi-Cal costs. He could have sought to reduce benefits for all recipients, including citizens, or to focus on cutting benefits just for undocumented immigrants. He did both on Wednesday.

Besides seeking rollbacks in immigrant services, the governor proposed eliminating coverage of weight-loss drugs for all Medi-Cal enrollees and reinstating an asset limit that would make it harder for seniors and people with disabilities to get benefits.

His proposal will now be considered by state lawmakers, who must pass a spending plan next month.

“This is a tough budget,” Mr. Newsom said in his presentation Wednesday.

“I don’t want to be in this position, but we are in this position.”

Coverage for undocumented immigrants is not the only reason Medi-Cal is running far over budget. Prescription drugs have cost the system more than expected, and more seniors have enrolled than the state projected.

But the cost of insuring undocumented immigrants has been a significant factor, and it has become a particularly sensitive issue for Democrats in California because of President Trump’s focus on deportations and the electorate’s interest in scaling back illegal immigration.

Medi-Cal benefits for undocumented immigrants have cost the state at least $2.7 billion beyond the $6.4 billion the state anticipated when eligibility was expanded last year. More undocumented immigrants signed up for Medi-Cal than expected, and the costs for their prescriptions were higher than projected.

“There was so much fanfare around the 2024 expansion,” said Paulette Cha, a research fellow at the Public Policy Institute of California. “This was extremely well publicized.”

Democrats see the unexpectedly large enrollment numbers as a mark of success in their aim to insure that all the state’s residents have health coverage. Republicans see them as a sign that California is too generous.

Mr. Newsom’s proposal created an “I told you so” moment for Republicans.

“We warned him,” Brian Jones, the Republican leader in the State Senate, said in a statement, citing a letter to the governor that he sent last year, in which he asked Mr. Newsom to freeze “his reckless Medi-Cal expansion for illegal immigrants.”

As the nation emerged from the Covid-19 pandemic shutdowns, public support grew for providing coverage to undocumented immigrants. When lawmakers passed an expansion of Medi-Cal in 2021, 66 percent of Californians favored providing health care coverage to the state’s undocumented residents, according to a survey by the Public Policy Institute of California.

But by 2023, the institute’s surveys showed, support had dipped to 55 percent.

A poll this month by the Institute of Governmental Studies at the University of California, Berkeley, found that respondents gave higher priority to covering undocumented children than to covering undocumented adults.

“California obviously did a really big, bold experiment,” Ms. Cha said.

Other Democratic-run states that want to cover undocumented immigrants may look to its experience, Ms. Cha said, and think that “maybe we’ll just try to be a little bit more cautious on budgeting.”

A correction was made on May 14, 2025*: Because of an editing error, an earlier version of this article attributed to Gov. Gavin Newsom a quote about preserving the long-term viability of Medi-Cal. The quote was from the governor’s office, not Mr. Newsom.*

When we learn of a mistake, we acknowledge it with a correction. If you spot an error, please let us know at nytnews@nytimes.com. Learn more

Laurel Rosenhall is a Sacramento-based reporter covering California politics and government for The Times.

A version of this article appears in print on , Section A, Page 16 of the New York edition with the headline: Newsom Proposes Cuts to Health Care for California’s Undocumented Immigrants

Mr. JOYCE. Without objection.

We have a limited amount of time, I notice, that—in which we can maybe go to a lightning round. I am sure Mr. Ivey is salivating for the chance for his lightning round.

And so we could pick your top question that you wanted to ask instead of—and try to keep it to 2 minutes. That will give everybody a chance and in order to be fair to everyone here. Fair enough?

Mr. IVEY. I will certainly defer to my elders here.

Mr. JOYCE. Well, we are looking forward to another 2-minute lecture.

I will take the liberty of going first, then.

The ITOR account was established back in 2015. The ITOR funds currently are being used for both DOGE Federal workforce and software initiative. What is the breakdown or percentage of DOGE funds that have been used for workforce issues, and what percentage of ITOR funds are being used to modernize technology?

And, further, your requests for this year for ITOR—it is an increase of 145 percent, and I was wondering if you could tell us is this for software modernization initiative or the 30 full-time equivalents that you have asked for in the budget request for ITOR specifically, or for the software initiative, or for DOGE, too?

Mr. VOUGHT. The ITOR request for fiscal year 2026 is for DOGE. We put it in the ITOR account because we are still in movement as to where DOGE resides and the fact that we have opportunities through standard USDS work to do technological work at the agencies.

So I wouldn't call it a plug, but we are certainly reflective of the fact that there is good work to be done regardless of whether DOGE is fundamentally housed in the EOP or at the agencies long term.

Mr. JOYCE. Thank you.

The chair will now recognize Mr. Hoyer for a question.

Mr. HOYER. Thank you, Mr. Chairman. I am at 5:17 already. Am I over? Tell me when I am ready.

I am against dynamic scoring not because I don't believe there is a dynamic score but because I think it is a gamble, and one of the reasons we got in the places where we are is because it has been a gamble.

I have been here a long time, as you know. When Ronald Reagan's David Stockman said tax cuts are going to pay for itself, Ronald Reagan increased the deficit. Only one man can stop spending or one person, the President of the United States, by 189 percent. Mick Mulvaney told us that the Bush tax cut would pay for itself, and Mitch Daniels also told us—excuse me, Mick Mulvaney was Trump's—that Bush's tax cut would pay for itself. They didn't do it. And we ran deficits. And, when we ran deficits, the only one that really had a low deficit was Bill Clinton and a balanced budget, as you probably recall.

Now, the budget you have now said—we have had a lot of talk about DOGE. Mr. Musk, of course, headed up DOGE and was regaled as somebody who was a genius and could do everything. He said this: "I am sorry, but I just can't stand it anymore. This massive, outrageous, pork-filled congressional spending bill is a dis-

gusting abomination. Shame on those who voted for it. You know you did wrong. You know it."

So at least one person that has been high up in this administration who, being worth $450 billion, is prepared to tell the truth. This bill is not going to pay for itself, and we are not honest with one another. The discretionary part of the budget, which you talked—you said 30 percent. Defense, veterans, homeland security. Take it far above that. So we deal with 14 or 13 percent of the budget to try to balance the budget. That is dishonest. It cannot be done if you eliminate all of nondefense, nonveteran discretionary funding. So David Stockman ended up with a book and said, we lied. I hope you won't do that now.

Mr. JOYCE. The chair now recognizes Mr. Womack for his lightning round of questions.

Mr. WOMACK. Director Vought, you have got a tough job. You have got a tough job. You inherited an absolute mess, a mess that has been created over decades. Not just one administration but many. It is because Congress can't say no.

But we have seen the Big Beautiful Bill slammed in here in this hearing today. I want to give you a second to tell us what is going to happen if H.R. 1 fails. If whatever comes back from the Senate fails to get to the desk of the President and signed into law, what happens at the end of this year?

Mr. VOUGHT. I think we will have a recession. I think we will be—economic storm clouds will be very dark. I think we will have a 60 percent tax increase on the American people.

And just if I can answer Congressman Hoyer's question or statement, the notion that this bill—we have been actually criticized unfairly for—on the reconciliation bill for the fact that it is all mandatory savers. I mean, you said we need to address the mandatory side of the House. There is $1.7 trillion in mandatory savers on the reconciliation bill. Do we need to do things on the appropriations side, the discretionary side? Yes. That is what we are here to talk about with rescissions and the bill that we have—the budget that we have sent up to you.

But we have to get back to what we did in 1997 where we had, for the first time, substantial mandatory reforms around not just cutting people and just getting people off programs but reforms. A work requirement. We are using the same model that Bill Clinton signed into law, and we think it will have incredible impact on not just these programs but giving people dignity of work. And we are not going to be ashamed by that, but we do need to explain ourselves to those that are being impacted by the watchdogs in this town that honestly don't have an incentive to get a bill done. They have chosen how they want to frame bills, and I think they are inaccurate.

Mr. WOMACK. I appreciate your response. Thank you so much. I yield.

Mr. JOYCE. Thank you, Mr. Womack.

The chair now recognizes the ranking member of the full committee, Ms. DeLauro, for 2 minutes.

Ms. DELAURO. Thank you, Mr. Chairman.

Very quickly. Don't pass the $4.5 trillion tax cuts for the wealthiest people in the country and the biggest corporations.

To my friends who comment—who is gone now—about the Constitution, read the Constitution. And there are many Republicans who have said that they haven't read the bill and they are troubled by what is in this big, ugly bill that you are discussing.

Let me just talk about impoundment. You speak about a tradition in this country which is, in fact, fiction. You say over 200 years Presidential impoundment is carrying the day for all of you. You are so captured by the lie that you founded a multimillion-dollar think tank to republish the lie. I am familiar with this work. The quality of the work is so bad.

And let me just say, to characterize it, this is page after page, going back to 1789, of what people looked at in terms of impounding or stealing funds. And let's just tell this. Even in your fake history, almost all the examples that you document demonstrate that Presidents have historically only delayed or refused to spend money when it was the Congress who gave them the power to do it. It is Article I, section 9, clause 7. That is operative.

There should be no debate. You have impounded and stolen funds that you have no business doing. You don't have that authority. The President doesn't have that inherent authority. And it has been documented by the courts, which is why over 250 lawsuits that have been filed, 185-plus rulings have paused Trump initiatives. You are in violation of the law. That is what we should be dealing with in this effort.

Would you recommit yourself to the truth, engaging with this committee, the American people, and the American people based on the respect for history as it actually has occurred?

Mr. VOUGHT. We haven't impounded any money. We are under programmatic review of Federal dollars across——

Ms. DELAURO. You have impounded money. $425 billion has been——

Mr. VOUGHT. We don't know where that number came from other than you, Congresswoman.

Ms. DELAURO. I will tell you. Look at the tracker. You all have been following it very closely.

And I will just say this. If people don't really want to appropriate and hold on to the power of the purse, then my suggestion is find another committee to sit on. Our responsibility is to make sure that we maintain that power of the purse and that what we say has got to be congressionally spent needs to be, and you do have a premise that in that bill—in the Impoundment Control Act that gives you—allows you to come up with a rescission package, but what is at stake is the illegality of what you have done with impounding and stealing funds from the American public and the unbelievable consequences it will have on their lives and their families' lives.

Mr. VOUGHT. Congresswoman, there is nothing——

Mr. JOYCE. The chair now recognizes Mrs. Hinson.

Ms. DELAURO. Thank you.

Mrs. HINSON. Thank you, Mr. Chairman.

You know, I think, fundamentally, there is a difference of viewpoint on this committee. We don't have a revenue problem. We have a spending problem in this country.

And some of the examples that you have showcased today, Director Vought—you know, the PEPFAR examples you gave earlier—

we want to see those dollars go to programs and people who need them. That is the whole point of what our committee is doing here, is asking those questions. And, when I hear about the waste, that is exactly what Iowans are telling me to come here and say we don't want to spend our money on this.

So kudos to you and to DOGE for everything you have done to uncover this, at least $175 billion in wasteful spending already, throwing away this money on international pet projects instead of going to constituents like mine in the district. I think it is abominable, and we shouldn't be allowing it.

The administration has discovered $300 million of SBA loans that have gone out to individuals under the age of 11 and $300 million over the age of 120. The youngest recipient of an SBA loan is a 9-month-old. How does that even happen? It sounds like it is a rhetorical question, but the previous administration allowed it to happen. So how does it happen?

Mr. VOUGHT. Well, I think one of the things that DOGE brought to this was an ability to think anew about something and look at it without having had the opportunity to be in this town and be up to speed on all the acronyms. To look at it just flat out, what is the value proposition of what is ongoing here, and what is the process by how it moves through the Federal bureaucracy?

And they thankfully had the ability to be outraged. And I think that is what the American people are outraged by, is the extent to which taxpayer dollars are spent on things that no one wants to defend. No one pushed back on the examples that I gave with regard to PEPFAR. No one wants to defend that. We may disagree as to whether that is the level of waste or whether that deserves a programmatic cut, but on a bipartisan basis, it is collectively outrageous. You go to any diner in the country in every town in the country and you present these examples, and it will be outrageous. And I think that is what DOGE brought to us.

Many of us have been in these salt mines for many years, and I think—I can't explain why this town needs that dose of reality, but it unfortunately does, and I am thankful this administration is giving it.

Mrs. HINSON. Yeah. Keep peeling back the layers of the onion. I yield back.

Mr. JOYCE. Thank you, Mrs. Hinson.

The chair now recognizes Mr. Pocan for his lightning round of questions. Two minutes, please.

Mr. POCAN. Thank you, Mr. Chair.

And I want to thank Mrs. Hinson for putting in the record to verify what I said, which is undocumented immigrants are not eligible to enroll in federally funded coverage, including Medicaid, CHIP, or Medicare, or to purchase coverage through the ACA marketplaces. In California, indeed, it was State funds. So thank you, Mrs. Hinson, for having my back. I love bipartisan cooperation.

Project 2025. You were one of the authors. You were on the advisory board. You worked for Heritage. You are basically January, February, and March in a Project 2025 calendar, right? But you were asked this weekend about it, and you said, no, the administration isn't following Project 2025.

I will go through a lightning round since I only have 2 minutes. Just tell me coincidence or not. In Project 2025, abolishing the Department of Education. You guys are doing that. Is that a coincidence?

Mr. VOUGHT. The President's view——

Mr. POCAN. Coincidence or not.

Mr. VOUGHT. The President's——

Mr. POCAN. Coincidence or not. Coincidence or not. That is all you have got to ask.

Mr. VOUGHT. The President's agenda——

Mr. POCAN. Okay. I will go through the rest. Ending diversity, equity, and inclusion?

Mr. VOUGHT. The President's agenda——

Mr. POCAN. Shifting FEMA costs to the States?

Mr. VOUGHT. The President designed——

Mr. POCAN. PBS and the National Public Radio?

Mr. VOUGHT. The President designed——

Mr. POCAN. Freezing Federal assistance, restricting gender-affirming care, revoking security clearances, stripping civil servants of employment protection, reinstating servicemembers who refused COVID–19 vaccines, banning transgender people from the military, a hiring freeze, withdrawing from the World Health Organization, sending active duty troops to the southern border, limiting refugee admissions, rescinding temporary protected status, capping indirect costs for university-based research, requiring disclosures of foreign gifts to universities—apparently not planes to Presidents—asserting the President's power to remove Federal officials, and targeting NOAA.

Were those all just coincidences that they happen to be in Project 2025 and they were just in the back pocket of the President since November?

Mr. VOUGHT. The President has never been more of a promises-made, promises-kept President than we have ever had in history. He has run on an agenda. He was very clear on that agenda. He is now enacting that agenda. And those of us who work for him work for his agenda and executing that agenda.

Mr. JOYCE. The chair now recognizes Mr. Alford.

Mr. ALFORD. A point of order before my time begins. Chair, how much time do we actually have in this lightning round?

Mr. JOYCE. One question, 2 minutes.

Mr. ALFORD. Two minutes. Okay. Thank you. Let's start.

For my State of Missouri, Renewable Fuel Standards for Renewable Volume Obligations rule has been at OMB since May 1. When will this be sent back to the EPA to release publicly, sir?

Mr. VOUGHT. We are working on it. We know it is a priority. It is part of an annual process that is very, very important.

Mr. ALFORD. Second question. A follow-up on PEPFAR. We talked about it a little bit. PEPFAR, since 2003, has saved about 26 million lives, mainly in Africa.

Aside from the crazy, woke programs which I agree should be stripped, is there any other prevention program—not treatment but prevention program—listed in this rescission package which is not of a woke nature?

Mr. VOUGHT. We believe that lifesaving treatment—I understand that is, in fact, your question. But we are scaling down the program as it pertains to the types of organizations that are providing—that are the examples of the waste, fraud, and abuse. The prevention itself is where an analytical look needs to be done, and it is one of the reasons why we have emphasized in successive budgets that we are going to protect lifesaving treatment, but we want to scrutinize heavily those that are bringing people into this system and the nonprofits——

Mr. ALFORD. Right. But do you see where I am going with this, sir? I mean, there is lifesaving treatment after you already have HIV, but there are prevention programs that PEPFAR does which are not of the woke nature which can prevent someone from getting HIV. Are those programs going to survive?

Mr. VOUGHT. It is something that our budget will be very trim on because we believe that many of these nonprofits are not geared towards——

Mr. ALFORD. Okay.

Mr. VOUGHT. The viewpoints of the administration, and we are $37 trillion in debt, again.

Mr. ALFORD. I know.

Mr. VOUGHT. So, at some point, the continent of Africa needs to absorb more of the burden of providing this healthcare.

Mr. ALFORD. I agree with you. In fact, I have a plan—a 5-year plan to scale down our commitment from the U.S. to put that on the backs of those in Africa and those in charities and churches. This is a temporary program. It is not to be sustained forever by American taxpayers. Thank you, sir.

Mr. JOYCE. The chair now recognizes Mr. Ivey for his 2-minute question, statement, or whatever.

Mr. IVEY. All of the above, maybe. I don't know.

My colleague there, you know, made me think of Bill Gates' quote. He just said the wealthiest man in the world is basically killing the poorest kids in the world by making these cuts, and you are sort of executing that.

I appreciate the comment that was made there, but we really can't sugarcoat this. More people are going to die. And, if I think I heard what you said there, prevention is going to get less funding than it currently is. And I think in every model, prevention is better than trying to cure it after a disease is contracted.

But, you know, real quick on this, the Merit Hiring Plan—which I saw one of the questions. I think it was question number three. "Identify one or two relevant executive orders or policy initiatives that are significant to you and explain how you would help implement them if hired." And I read that and I was like, well, I don't know that every President is going to, you know, be issuing 50 executive orders per day. So, if it is, you know, just a commitment to do what—follow one of President Trump's executive orders, I think that is totally inappropriate.

And I think there are a lot of positions that we need to fill in the Federal Government, like some of the science and engineering jobs I mentioned a few minutes ago. I don't really care if they are reading the President's executive orders, per se. You know, I care more about them curing cancer or addressing Alzheimer's, or if

they are Federal agents tracking down Sinaloa Cartel or identifying and tracking down the waste, fraud, and abuse that is actually occurring by major malefactors, or, you know, the competition with our adversaries abroad.

So I see my 2 minutes are running out. I do want to say this. I saw this up here, and it matches the T-shirts in the audience. To the labor community out there, stay strong. Keep working hard. We appreciate your work.

Mr. JOYCE. Thank you very much.

The chair now recognizes Mr. Cloud for his question for 2 minutes.

Mr. CLOUD. Thank you, Chairman, and I appreciate you being here.

You know, as I have looked at DOGE and the work that is going on, I have been surprised, really, from the vitriol from the left. You know, there is a video that has gone around of President Obama basically describing the work of DOGE and putting it to Joe Biden to take charge of it. Of course, we didn't see any nationwide injunctions to anything that they did. I am not sure if that is because they didn't do anything and it was ineffective.

But now we see things coming to light that—really, questions we have asked and tried to get from an appropriations standpoint. We had asked the bureaucracy where are these dollars really going to, and we couldn't get the answers. We had an administration that wouldn't work with us, and finally we have one that is not only willing to work with us but able to bring technology and tools to the table to get it done.

I appreciated what you said in light of—you know, when I go home and I talk about Medicaid and the fact that more than half the people on Medicaid are above the poverty line—and which you discussed about we are incentivizing people to stay out of the workforce in order to receive Medicaid, and in many of these States, they become very much for once they understand what is going on and what the real target is that we are actually protecting this and preserving it for the disabled and not attacking that. It just seems well within what we need to do in order to back off the 36 trillion; so thank you for your work on that.

I had one question in the limited time I have. Someone mentioned that dynamic scoring was kind of like asking the CBO who was—to score—dynamic scoring was kind of a gamble. I would say—submit that asking the CBO to do a score is a bit of a gamble because their accuracy has been so off.

And I would ask if the administration would support—I have a piece of legislation for the CBO to have to include interest costs in their scoring, and then I know Warren Davidson has one on Show Your Work, which they don't do—if the administration would support that.

Mr. VOUGHT. It is a good idea. I am happy to take a look at it and run it through our process to see what the President would think on it.

Mr. CLOUD. Thank you.

Mr. JOYCE. Thank you for that question.

The chair recognizes the ranking member of the full committee for a moment. A moment.

Ms. DELAURO. Thank you, Mr. Chairman.

The historical record is clear that the President doesn't have inherent power to refuse to spend funds appropriated by Congress, and for an accurate, historical record of this fact, I ask for unanimous consent to insert into the record the documentation that supports my claim about the myth of Presidential impoundment power.

Mr. CLOUD. I object.

Mr. JOYCE. Not asking for a statement. But, without objection, we will take it in the record.

[The information follows:]

The Myth of Presidential Impoundment Power

The historical record is clear: the president has no inherent power to refuse to spend funds appropriated by Congress.

MARCH 2025



Protect Democracy

Protect Democracy is a nonpartisan, nonprofit organization dedicated to preventing American democracy from declining into a more authoritarian form of government.

©2025 Protect Democracy

This paper was authored by Michael Angeloni, William Ford, Conor Gaffney, Jim Gilligan, and Alex Tausanovitch, with contributions from Arash Abbas and Genevieve Nadeau.

Protect Democracy is deeply grateful for the expertise provided by scholars and practitioners whose work and reviews helped shape this paper, including Matthew Lawrence, Eloise Pasachoff, Zachary Price, Raquel Spencer, and Adam Wilson. Nevertheless, Protect Democracy takes sole responsibility for the content of this paper and the attached appendix. Any errors are our own.

This publication is available online at:
protectdemocracy.org/impoundment-myth

Suggested citation: Protect Democracy, *The Myth of Presidential Impoundment Power* (Mar. 2025), protectdemocracy.org/impoundment-myth

Please direct inquiries to:
press@protectdemocracy.org

Cover photo credits: Jefferson: White House Historical Association; Roosevelt: Chronicle/Alamy Stock Photo; Nixon: Glasshouse Images/Alamy Stock Photo; Trump: DOD photo by Navy Petty Officer 1st Class Dominique A. Pineiro; all other photos Shutterstock

The Myth of Presidential Impoundment Power

Introduction 3

Congress's Power of the Purse: Constitutional Text, Structure, and Case Law 4

- Constitutional Text and Structure 5
- Federal Case Law 6
- Contemporary Ratification of *Kendall* and Nixon-Era Cases 9

Executing Congressional Appropriations: Correcting Mischaracterizations of the History of Presidential Impoundments 12

- Evaluating Practice-Based Constitutional Arguments 13
- Understanding Different Categories of Impoundments 14
- Correcting the Historical Record 17

Conclusion 36

Appendix: A History of Presidential Impoundments A1

I. Introduction

Throughout American history, Congress, not the president, has had the ultimate power to determine how government funds are spent. Few principles are as fundamental to the structure of government enshrined in the Constitution.

And yet, the current president and senior officials now serving in the executive branch have asserted that the president has the constitutional power to refuse to spend — that is, "impound" — funds appropriated by Congress. Not only is this view incorrect, it represents an extreme departure from over 200 years of constitutional history and practice. This paper shows that nothing in the Constitution's text and structure, federal case law, or American history supports the existence of a presidential power to impound. To the contrary, these sources of authority make clear that Congress, not the president, holds the power of the purse.

After addressing founding principles and applicable law, the lion's share of the paper is devoted to correcting mischaracterizations of the history of presidential impoundments — in particular those made by the Center for Renewing America (CRA),[1] which served until recently as a home to the main proponents of a purported presidential power to impound.[2] We summarize the appendix attached to this paper,[3] which analyzes every example CRA offers in support of the claim that an inherent presidential power to impound has been widely accepted and acted upon throughout American history.[4] We demonstrate that, contrary to CRA's broad claims, there is no inherent presidential power to impound.

[1] Russell Vought, who serves as the director of the Office of Management and Budget (OMB), founded CRA. Mark Paoletta, now the OMB general counsel, was a senior fellow there.
[2] Mark Paoletta et al., *The History of Impoundments Before the Impoundment Control Act of 1974* (June 24, 2024) ("CRA History"), https://tinyurl.com/bdedyam6.
[3] Citations to the appendix begin with the letter "A," followed by the page number (e.g., "A1-A5").
[4] For a more detailed explanation of how the appendix was assembled, see *infra* at pg. 17-18.

II. Congress's Power of the Purse: Constitutional Text, Structure, and Case Law

The Constitution gives Congress, and Congress alone, the power of the purse. Congress "commands the purse," as Alexander Hamilton wrote, holding the power to prescribe what funds may be drawn from the Treasury and how those funds will be spent through legislation.[5] In contrast, the president has no constitutional authority over federal spending.[6] His role is simply to ensure that spending laws are "faithfully executed."[7]

> **"Where the purse is lodged in one branch, and the sword in another, there can be no danger...."**
>
> **ALEXANDER HAMILTON**

Separating the power of the purse from the executive power is at the foundation of the Constitution's separation of powers.[8] By making the executive branch dependent on Congress to fund the operations of government, the Constitution checks the considerable powers given to the executive and prevents the aggrandizement of those powers, thereby addressing the founders' central concern of a tyrannical executive. "Where the purse is lodged in one branch, and the sword in another, there can be no danger," said Hamilton.[9] The purse is "that powerful instrument" for "reducing ... all the overgrown prerogatives of the other branches of the government," wrote James Madison.[10]

---

[5] The Federalist No. 78, https://tinyurl.com/mr3mh7an.
[6] *CFPB v. Cmty. Fin. Servs. Ass'n of Am., Ltd.*, 601 U.S. 416, 420 (2024) ("Our Constitution gives Congress control over the public fisc."); *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1231 (9th Cir. 2018) ("The United States Constitution exclusively grants the power of the purse to Congress, not the President.").
[7] U.S. Const. art. III, § 3.
[8] Kate Stith, *Congress' Power of the Purse*, 97 Yale L.J. 1343, 1344 (1988), https://tinyurl.com/3p5t73ae ("This empowerment of the legislature is at the foundation of our constitutional order.").
[9] 2 The Debates in the Several State Conventions on the Adoption of the Federal Constitution 349 (Jonathan Elliot ed., 1836), https://tinyurl.com/3tnneueu.
[10] The Federalist No. 58, https://tinyurl.com/5t3kwd6d.

So fundamental was this idea of separating the purse and the sword that "[b]y the time of the Constitutional Convention, the principle of legislative supremacy over fiscal matters engendered little debate and created no disagreement."[11] The early American colonial assemblies — informed by the experience of the English Parliament's struggle with the Stuart monarchs — asserted robust control over appropriations to check the power of royal governors, often exercising greater control over spending than that of the lower house of Parliament.[12] This allocation of power was translated into the first state constitutions, all of which except Georgia's contained explicit provisions for legislative control over spending.[13] It was against this backdrop of settled legislative supremacy over spending that the founders drafted and ratified the Constitution's provisions ensuring Congress's power of the purse.[14]

Constitutional Text and Structure

The first such provision is the Appropriations Clause, which provides that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."[15] "Textually, the command is unmistakable — no money can be paid out of the Treasury unless it has been appropriated by an act of Congress."[16] An affirmative complement to the Appropriation Clause's prohibition, the Necessary and Proper Clause provides Congress with broad discretion to fashion appropriations — their duration, purpose, conditions on their expenditure — as it sees fit.[17] And as the Supreme Court recently recognized, this grant of discretion empowers Congress to mandate that the executive branch spend an appropriation.[18] The final constitutional provision demarcating Congress's primary role in federal spending (and the president's secondary one) is the Take Care Clause, which imposes on the president the duty to see that "the Laws be faithfully executed."[19] Though the meaning of this clause is deeply contested, at a minimum it means that the president may not refuse to follow federal law

[11] *Cmty. Fin. Servs. Ass'n*, 601 U.S. at 431.
[12] Josh Chafetz, *Congress's Constitution* 53 (2017).
[13] *Id.* at 55. Further confirming that state constitutional conceptions of executive power included no inherent power to impound, 10 of the original 13 states later conferred on their governors a line-item veto power, functionally analogous to impoundment, but only long after their state constitutions were originally ratified. Nat'l Conf. of State Legislatures, *Inside the Legislative Process — General Legislative Procedures: The Veto Power* 6-34 (1998) ("Veto Power Table"), https://tinyurl.com/yc38zfy3 (Table 98-6.10) (listing Georgia in 1861, Pennsylvania in 1873, New York in 1874, New Jersey in 1875, Maryland in 1891, South Carolina in 1895, Delaware in 1897, Virginia in 1902, Massachusetts in 1918, and Connecticut in 1924). For example, Massachusetts amended its constitution in 1918 to provide that "[t]he governor may disapprove or reduce items or parts of items in any bill appropriating money," Mass. Const. Amend. art. LXIII, § 5. Connecticut adopted a highly similar amendment in 1924. *See* Conn. Const. art. IV, § 16. And while it did not specifically confer an item-veto power, in 1977, North Carolina adopted a balanced-budget amendment to its constitution directing the governor to "effect the necessary economies in State expenditures" to ensure they do not exceed fiscal-year revenues, N.C. Const. art. III, § 5(3); N.C. Legislative Library, *Amendments to the North Carolina Constitution of 1971* 3 (Jan. 26, 2022), https://tinyurl.com/4j9mryas (noting 1977 adoption of amendment requiring balanced budget).
[14] Chafetz, *supra*, at 56; *Cmty. Fin. Servs. Ass'n*, 601 U.S. at 431.
[15] U.S. Const. art. I, § 9.
[16] *Cmty. Fin. Servs. Ass'n.*, 601 U.S. at 425 (internal citation omitted).
[17] *McCulloch v. Maryland*, 17 U.S. 316, 419-21 (1819).
[18] *Cmty. Fin. Servs. Ass'n.*, 601 U.S. at 431 ("[E]arly legislative bodies exercised a wide range of discretion. Some appropriations required expenditure of a particular amount, while others allowed the recipient of the appropriated money to spend up to a cap.").
[19] U.S. Const. art. III, § 3.

because of a policy disagreement. He lacks the royal power of "dispensation" or "suspension."[20] Therefore, if Congress passes a law appropriating funds and requiring that those funds be spent for a particular purpose, the president must see that the law is executed. He cannot refuse to carry out statutory directives because he disagrees with Congress's policy choice or views the spending as unwise or inflationary.

Proponents of a presidential impoundment power seize on the last of these constitutional provisions, the Take Care Clause, invert its duty into license, and disregard the Constitution's clear commitment of countervailing powers over spending and legislation to Congress.[21] This argument has been brought before the courts in the past, and it has failed every time.

Federal Case Law

Kendall v. United States ex rel. Stokes

The foundational Supreme Court case rejecting broad presidential authority to decline to spend appropriations is *Kendall v. United States ex rel. Stokes*.[22] In 1835, Amos Kendall was appointed postmaster general under President Andrew Jackson. Concerned about potential cronyism in the Post Office, Kendall ordered the withdrawal of credits and the clawback of monies already paid to William Stokes and his partners, who were contract mail carriers in Baltimore.[23] Stokes petitioned Congress for a private relief act — the method of settling monetary claims against the federal government before Congress established the Court of Claims.[24]

---

[20] *Kendall v. United States ex rel. Stokes*, 37 U.S. 524, 613 (1838) (rejecting, emphatically, the argument that the Take Care Clause "vest[s]in the President a dispensing power").
[21] CRA also claims that no fewer than three other clauses in the Constitution "independently" provide the president with a general impoundment power: The Vesting Clause, which says simply that "The executive Power shall be vested in a President"; the Commander in Chief Clause, which says that "The President shall be Commander in Chief of the Army and Navy"; and the Reception Clause, which says that the president "shall receive Ambassadors." CRA, *The President's Constitutional Power of Impoundment* (Sept. 10, 2024), https://tinyurl.com/4mf7mba5; U.S. Const. art. II, §§ 1, 2, 3. The text of these clauses does not indicate any general presidential power to defy spending laws, and CRA's extrapolations are unconvincing. As to the Vesting Clause, CRA argues that the Constitution's vesting of the executive power in the office of the presidency means that specifically enumerated presidential powers, such as the Commander in Chief power, are "exclusive[ly] and preclusive[ly]" the president's, and Congress may not direct them through spending. As one scholar concludes, this claim is a "muddled mismash" of Supreme Court case law. Jack Goldsmith, *The President's Favorite Decision: The Influence of Trump v. U.S. in Trump 2.0*, Exec. Functions (Feb. 10, 2025), https://tinyurl.com/53fnyca6. But even if it were correct, this interpretation of the Vesting Clause does not support a general power of impoundment, only a power to ignore spending laws if they infringe on an enumerated power. And as to the enumerated Commander in Chief and Reception Clause powers on which CRA relies, neither has been interpreted to give the president control over military *spending* or foreign affairs *spending*. *See* Zachary Price, *Funding Restrictions and Separation of Powers*, 71 Vand. L. Rev. 357, 426-37, 449-62 (2018) https://tinyurl.com/2rkx2usn. These "exclusive and preclusive" powers — assuming they are such — do not include spending prerogatives that might supersede Congress's power of the purse.
[22] 37 U.S. 524 (1838).
[23] *Id.* at 609; Daniel Epstein, *Kendall v. United States and the Inspector General Dilemma*, U. Chi. L. Rev. Online, https://tinyurl.com/y4y4nw4j (last visited Jan. 27, 2025).
[24] *See generally* Floyd Shimomura, *The History of Claims Against the United States: The Evolution from a Legislative Toward a Judicial Model of Payment*, 45 La. L. Rev. 626 (1985).

Congress passed a law directing the solicitor of the treasury to adjudicate Stokes's contract claim and directing Kendall to pay Stokes whatever the solicitor determined he was owed. Congress was clear about this latter obligation, providing "that the Postmaster General be, and he is hereby, directed to credit such mail contractors with whatever sum or sums of money, if any, the said solicitor shall so decide to be due to them ...."[25]

The solicitor determined that Stokes was owed $162,727.05 and issued an order to Kendall directing him to pay the amount in full. But Kendall only paid Stokes $122,101.46. After Congress confirmed, by resolution, that it intended Stokes's relief act to be mandatory and the amount the solicitor determined should be paid in full, Stokes filed a mandamus petition to enforce the award with the Supreme Court.[26]

Before the Court, the attorney general defended Kendall's decision to pay less than the full amount owed under law by arguing that the Take Care Clause empowered the president to choose to what extent to enforce laws and the postmaster, as an executive officer, was exercising this delegated power.[27] The Supreme Court emphatically rejected this argument:

> This is a doctrine that cannot receive the sanction of this court. It would be vesting in the President a dispensing power, which has no countenance for its support in any part of the constitution; and is asserting a principle, which, if carried out in its results, to all cases falling within it, would be clothing the President with a power entirely to control the legislation of congress, and paralyze the administration of justice. To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the constitution, and entirely inadmissible.[28]

CRA argues that *Kendall* does not apply to impoundments, and anyway that the decision was cabined later by the Court in *Decatur v. Paulding*, 39 U.S. 497 (1840).[29] Neither of these arguments is convincing. First, CRA attempts to distinguish *Kendall* by arguing that the case did not involve a dispute over an appropriations law, but rather an obligation under contract made mandatory through a private relief act. But it is unclear why this matters. A private relief act is a law like any other (as are appropriations), and if the law mandates expenditure, *Kendall* says the president has no constitutional power to defy the law. Second, no court has read *Decatur* as limiting or even being in tension with *Kendall*. In fact, *Decatur* itself states that it is affirming the "doctrines ... announced in the case of *Kendall*."[30] Rather, the two cases simply deal with two very different kinds of statutes: In *Kendall*, the statute in question imposed a "ministerial [duty]

[25] Act of July 2, 1836, ch. 284, 6 Stat. 665, 665-66, https://tinyurl.com/mr35jpyr.
[26] Epstein, *supra*.
[27] *Kendall*, 37 U.S. at 612-13.
[28] *Id.* at 613.
[29] CRA History at 10-11, https://tinyurl.com/bdedyam6.
[30] 39 U.S. at 516.

with no discretion," while in *Decatur* the statute, which created a Navy pension program, reposed discretion to adjudicate pension claims in the secretary of the navy.[31]

Kendall is still good law, and federal courts have applied it consistently to reject presidential impoundments premised on an exercise of authority under the Take Care Clause — most prominently in response to President Nixon's failed campaign of impoundments.

Nixon-Era Litigation

In the early 1970s, President Nixon undertook a wide-ranging program of impoundments, withholding billions in congressional appropriations for public housing, highway funding, community health centers, farm relief, and other social programs that he disfavored and viewed as inflationary. He justified his actions by asserting a "constitutional right for the President of the United States to impound funds."[32]

Nixon's impoundments drew a fierce backlash from Congress, culminating in the passage of the Impoundment Control Act.[33] But they were also immediately tested in the courts. States, cities, and organizations who saw their federal funding withheld filed lawsuits seeking the release of the funds. In the district courts, the administration argued that the president had a constitutional power to withhold the funds. It resoundingly lost.[34] Some courts were incredulous at the administration's position.[35] Many viewed the matter as settled by *Kendall*.[36] None accepted the administration's position that the Constitution empowered the president to ignore spending laws. In a decision representative of the district courts' reception of Nixon's argument, Judge Gesell wrote: "At least with respect to the programs involved here, there is no basis for defendants' assertion of inherent constitutional power in the Executive to decline to spend in the face of a clear statutory intent and directive to do so .... The defendants have no residual constitutional authority to refuse to spend the money."[37]

---

[31] *Work v. United States ex rel. Rives*, 267 U.S. 175, 177 (1925) (comparing *Kendall* and *Decatur*). *See also* Zachary S. Price, *The President Has No Constitutional Power of Impoundment*, Yale J. Reg. Online (July 18, 2024), https://tinyurl.com/247j95un (critiquing CRA's attempt to distinguish *Kendall*).
[32] The President's News Conference of January 31, 1973, 1 Pub. Papers 62 (1973), https://tinyurl.com/447re5j5.
[33] Congressional Budget & Impoundment Control Act of 1974, Pub. L. No. 93-344, tit. X, 88 Stat. 297, 332-39 (1974), https://tinyurl.com/5xn329ve (now codified at 2 U.S.C. §§ 682-88).
[34] *See, e.g.*, *Guadamuz v. Ash*, 368 F. Supp. 1233, 1243-44 (D.D.C. 1973); *Loc. 2677, Am. Fed'n of Gov't Emp. v. Phillips*, 358 F. Supp. 60, 77 (D.D.C. 1973); *Louisiana. v. Weinberger*, 369 F. Supp. 856, 864 (E.D. La. 1973); *Nat'l Council of Cmty. Mental Health Ctrs., Inc. v. Weinberger*, 361 F. Supp. 897, 901; 903 (D.D.C. 1973); *Cmty. Action Programs Exec. Directors Ass'n of N.J., Inc. v. Ash*, 365 F. Supp. 1355, 1360 (D.N.J. 1973); *Campaign Clean Water, Inc. v. Ruckelshaus*, 361 F. Supp. 689, 696 (E.D. Va. 1973); *Pennsylvania v. Lynn*, 362 F. Supp. 1363, 1372 (D.D.C. 1973); *Guste v. Brinegar*, 388 F. Supp. 1319, 1324–25 (D.D.C. 1975). The Nixon administration did win some cases on statutory grounds, but to our knowledge no court recognized the constitutional power claimed. *See Pennsylvania v. Lynn*, 501 F.2d 848 (D.C. Cir. 1974); *Hous. Auth. of City & Cnty. of San Francisco v. HUD*, 340 F. Supp. 654, 657 (N.D. Cal. 1972).
[35] *Loc. 2677*, 358 F. Supp. at 77 ("The defendant really argues that the Constitution confers the discretionary power upon the President to refuse to execute laws passed by Congress with which he disagrees ....").
[36] *E.g. Campaign Clean Water*, 361 F. Supp. at 696 ("More than a century ago the United States Supreme Court laid to rest any contention that the President has the power suggested.").
[37] *Nat'l Council of Cmty. Mental Health Ctrs.*, 361 F. Supp. at 901, 903.

By the time the issue made it to the appellate courts, the administration had abandoned its constitutional argument.[38] In the sole impoundment case to make it all the way to the Supreme Court, the Nixon administration expressly disclaimed any constitutional issue. In fact, the solicitor general argued that the administration's decision to withhold funds was in accord with *Kendall*'s holding that the Constitution only countenances executive withholdings of appropriations where Congress provides such discretion.[39]

Contemporary Ratification of *Kendall* and Nixon-Era Cases

The federal litigation generated by Nixon's impoundments thus reinforced, unanimously, the Supreme Court's conclusion in *Kendall* that the president lacks any inherent constitutional power of impoundment. No claims to such power have been asserted in court since. However, in recent decades a number of prominent jurists (including proponents of a unitary executive and two current Supreme Court justices), have agreed in dicta that there is no presidential impoundment power, and executive branch lawyers have issued legal opinions consistently finding the same.

In *Clinton v. City of New York*, a case striking down the Line Item Veto Act — that is, Congress's attempt to *give* the president a unilateral impoundment power — Justice Scalia wrote in concurrence that "President Nixon, the Mahatma Gandhi of all impounders, asserted at a press conference in 1973 that his 'constitutional right' to impound appropriated funds was 'absolutely clear.' Our decision two years later in *Train v. City of New York*, proved him wrong."[40]

And in *In re Aiken County*, then-circuit judge Brett Kavanaugh wrote that "a President sometimes has policy reasons … for wanting to spend less than the full amount appropriated by Congress for a particular project or program. But in those circumstances, even the President does not have unilateral authority to refuse to spend the funds."[41] Even these jurists who hold (or held) expansive views of executive power could not accept the proposition that the president could defy spending laws.

Judge Kavanaugh's opinion cited a memorandum written by William Rehnquist when he was an assistant attorney general in the Office of Legal Counsel (OLC). OLC's primary function is to prepare and provide legal advice to the president and executive branch agencies,[42] and its lawyers thus tend to be institutionally inclined toward an expansive view of executive power.

---

[38] *See, e.g.*, *City of New York v. Train*, 494 F.2d 1033, 1050 n.39 (D.C. Cir. 1974) ("There is no constitutional question in this case. Both sides have agreed[.]"). The Nixon administration appears to have made an early bid for the Supreme Court to intervene in the constitutional litigation, supporting a motion filed by the state of Georgia for leave to file a bill of complaint directly in the Supreme Court in an impoundment case while district court litigation was pending. Louis Fisher, *Court Cases on Impoundment of Funds: A Public Policy Analysis* 76-80 (1974). The Supreme Court declined to hear the case. *Georgia v. Nixon*, 414 U.S. 810 (1973).
[39] *See* Br. for Pet'r at 37-38, *Train v. City of New York*, 420 U.S. 35 (1975).
[40] 524 U.S. 417, 468 (1998) (Scalia, J. concurring in part and dissenting in part) (internal citations omitted).
[41] 725 F.3d 255, 261 n.1 (D.C. Cir. 2013).
[42] 28 C.F.R. § 0.25(a).

In his opinion, Rehnquist considered the question of the president's power to impound directly. His conclusion was unambiguous: "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent."[43]

> **"With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent."**
>
> **CHIEF JUSTICE WILLIAM REHNQUIST**

Rehnquist's OLC opinion is in accord with every other OLC opinion to consider the matter.[44] It also is in accord with the beliefs Chief Justice John Roberts held while serving as associate White House counsel in the Reagan administration. In a 1985 memorandum, Roberts wrote that "the question of whether the President has such [impoundment] authority is not free from doubt, but I think it clear that he has none in normal situations."[45] Roberts went on to explain his view that the office of the presidency and its institutional interests are best served not by recklessly pushing the boundaries of its authority, but by principled adherence to the separation of powers: "Our institutional vigilance with respect to the constitutional prerogatives of the

[43] *Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools*, 1 Supp. Op. O.L.C. 303 (Dec. 1, 1969), https://tinyurl.com/zxff6mj7.
[44] *See Memorandum to the Honorable Edward L. Morgan, Deputy Counsel to the President* (Dec. 19, 1969) (determining whether the president has authority to impound certain funds by analyzing whether Congress provided this discretionary authority in statute), https://tinyurl.com/5m7n25xb; *Memorandum to Clark MacGregor, Counsel to the President, from Ralph E. Erickson, Acting Assistant Attorney General, Re Constitutional Power of Congress to Compel Spending of Impounded Funds* (Jan. 7, 1972) (secured via FOIA), https://tinyurl.com/yc7rxphc ("In response to your question whether Congress can constitutionally require ... the President to spend funds appropriated by the Congress for domestic programs but thereafter impounded by the President, we would find it difficult to recommend to the Attorney General that he should take the position that the Congress does not have that power. The Office of Legal Counsel has consistently held that Congress has this authority."). *The President's Veto Power*, 12 Op. O.L.C. 128, 166-68 (July 8, 1988), https://tinyurl.com/mt596rfu ("Moreover, to the extent that the commentators are suggesting that the President has inherent, constitutional power to impound funds, the weight of authority is against such a broad power in the face of an express congressional directive to spend. This Office has long held that the 'existence of such a broad power is supported by neither reason nor precedent .... There is no textual source in the Constitution for any inherent authority to impound.'").
[45] *Memorandum from John G. Roberts, Assoc. White House Couns., for Fred F. Fielding, Couns. to the President, Regarding Impoundment Authority* (Aug. 15, 1985), https://tinyurl.com/ms8ak8h5.

presidency requires appropriate deference to the constitutional prerogatives of the other branches, and no area seems more clearly the province of Congress than the power of the purse."[46] Thus, even executive branch lawyers have consistently rejected the notion that the Constitution contains an implied power of impoundment.

[46] *Id.*

III. Executing Congressional Appropriations: Correcting Mischaracterizations of the History of Presidential Impoundments

It is clear from the text and structure of the Constitution, and from consistent Supreme Court precedent, that Congress — not the president — has the power to decide how federal funds are spent.

Perhaps for this reason, the Center for Renewing America has tried to craft an argument based on historical practice.[47] CRA claims that it has been "overwhelmingly understood" throughout American history — from the founding until the Nixon presidency — that the president cannot be compelled by Congress to spend federal funds.[48] It claims that, prior to the passage of the Impoundment Control Act in 1974, "impoundment occurred routinely and frequently without protests from Congress,"[49] and that presidential impoundments were "acknowledged as executive in nature and applauded by legislators."[50] In support of these claims, CRA cites approximately 41 examples[51] that it argues are instances in which a president impounded funds in reliance on this shared understanding of the Constitution.

Simply put, CRA's characterization of this history is inaccurate.

Below we examine all 41 historical examples CRA cites (which we have divided into a total of 60 alleged impoundments). Drawing on the detailed appendix to this paper, we demonstrate that these examples fail to support claims of a historical practice of unilateral presidential impoundment. Most of the examples CRA cites are not germane to their argument, either because they are not impoundments at all or because the executive action at issue was

[47] Of the two full-length reports that CRA has published on this topic, one focuses entirely on this historical argument and the other blends assertions about history with other arguments, but begins the very first sentence with a claim about history. CRA History, *supra*; Mark. Paoletta & Daniel Shapiro, *The President's Constitutional Power of Impoundment*, at 1, Ctr. for Renewing Am. (2024), https://tinyurl.com/2t7257ce (beginning "since the Founding, it has been understood …").
[48] CRA History at 1, https://tinyurl.com/mr2cnwej.
[49] CRA Staff, *Impoundment Claim & Response*, at 2, Ctr. for Renewing Am. (2024), https://tinyurl.com/59zu7btz.
[50] Paoletta & Shapiro, *The President's Constitutional Power of Impoundment*, *supra*, at 7, https://tinyurl.com/2a85ww7z.
[51] Some examples CRA offers are broad and overlapping, so the precise number may vary depending on the judgments one makes about which examples are distinct.

authorized by Congress. Of the relatively few instances — 12 total — in which presidents impounded funds against the instructions of Congress, six took place within one three-year period (during the presidency of Franklin Roosevelt), and almost all of the 12 were either: (1) putatively justified, at least in part, based on statute; (2) vigorously opposed by Congress; or (3) in one prominent instance, overturned by the courts.

Evaluating Practice-Based Constitutional Arguments

Given the centrality and clarity of Congress's power of the purse in both the text and original understanding of the Constitution, there should be no need to consider historical practice in order to conclude that the president lacks any inherent power to impound appropriated funds.[52]

However, when courts do consider evidence of historical practice — as they often do in separation of powers cases[53] — they set a high bar for accepting such evidence as a "gloss" on the text of the Constitution. The canonical description of the use of such evidence is Justice Frankfurter's concurrence in *Youngstown Sheet & Tube Co. v. Sawyer*:

> [A] systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned, engaged in by Presidents who have also sworn to uphold the Constitution, making as it were such exercise of power part of the structure of our government, may be treated as a gloss on 'executive Power' vested in the President by § 1 of Art. II.[54]

It is no wonder, then, that proponents of a presidential power to impound resort to making sweeping historical claims. In order for their argument to prevail, they need to show that presidents have "systematic[ally]" impounded funds without congressional permission, that this practice has been long and continuous ("unbroken"), and that it was known to Congress and "never before questioned." Moreover, it is critical, particularly to any interpreter concerned with the original meaning of the Constitution, that the practice extends back to the founding era.[55]

As we detail below, CRA fails to show any systematic, continuous, unquestioned practice, let alone one dating back to the founding era.

---

[52] Notably "[i]nterpreters [of the Constitution] who are strong textualists, structuralists, or originalists will rarely, if ever, reason from historical practice (at least explicitly)." Alison L. LaCroix, *Historical Gloss: A Primer*, 126 Harv. L. Rev. F. 75, 81 (2012), https://tinyurl.com/4v4acxhn.
[53] Trevor W. Morrison & Curtis A. Bradley, *Historical Gloss and the Separation of Powers*, 126 Harv. L. Rev. 411, 412-13 (2012), https://tinyurl.com/4xtjc2e3 ("Arguments based on historical practice are a mainstay of debates about the constitutional separation of powers."); *see, e.g.*, *Zivotofsky v. Kerry*, 576 U.S. 1 (2015); *NLRB v. Canning*, 573 U.S. 513 (2014); *The Pocket Veto Case*, 279 U. S. 655 (1929).
[54] *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610-11 (1952) (Frankfurter, J., concurring).
[55] *See, e.g.*, *Cmty. Fin. Servs. Ass'n*, 601 U.S. at 426 (basing its analysis of Congress's power under the Appropriations Clause on "the Constitution's text, the history against which that text was enacted, and congressional practice immediately following ratification").

Understanding Different Categories of Impoundments

Before turning to the broad historical argument, it is important to understand the "practice" that CRA is trying to constitutionalize, and to what extent individual examples in fact fit that alleged practice.

Perhaps the most serious error in CRA's reasoning is its failure to recognize critical distinctions between different kinds of presidential impoundments. As the Government Accountability Office (GAO) explains, an impoundment is any "action or inaction by an [executive] officer or employee" that "delays or precludes the obligation or expenditure of budget authority."[56] Or put more simply: an impoundment is the temporary deferral or permanent withholding of "funds that Congress has provided in legislation."[57] But not all impoundments are alike.

Congress sometimes requires the president to spend appropriated funds, and sometimes gives the president a degree of discretion to delay, withhold, or reallocate funds. In a recent Supreme Court decision, Justice Clarence Thomas notes that this distinction predates the Constitution, in "[t]he appropriations practice in the Colonies and early state legislatures":

> Some appropriations required expenditure of a particular amount, while others allowed the recipient of the appropriated money to spend up to a cap. Some appropriations were time limited, others were not. And, the specificity with which appropriations designated the objects of the expenditures varied greatly.[58]

The key point here is that, if Congress *authorizes* the president to delay expenditures or withhold funds, and the president does so, that is technically an "impoundment," but not evidence of any inherent presidential power. Rather, when this happens, Congress is exercising the power of the purse and the president is simply operating within the bounds that Congress has set.

In the three-part framework famously articulated by Justice Jackson in *Youngstown*, the president's power "is at its maximum" "[w]hen the President acts pursuant to an express or implied authorization of Congress."[59] The president's power exists in a middle zone when the distribution of power between Congress and the president overlaps or is uncertain.[60] And the president's power "is at its lowest ebb" "[w]hen the President takes measures incompatible with the expressed or implied will of Congress."[61]

---

[56] GAO, GAO-16-464SP, *Principles of Federal Appropriations Law, Chapter 2: The Legal Framework* 2-47 (2016), https://tinyurl.com/4fumbp3y.
[57] Richard Kogan, *FAQs on Impoundment: Presidential Actions Are Constrained by Long-Standing Constitutional Restrictions* 2, Ctr. for Budget & Pol'y Priorities (2024), https://tinyurl.com/y6ydcw87.
[58] *Cmty. Fin. Servs. Ass'n,* 601 U.S. at 431-32.
[59] 343 U.S. at 635 (Jackson, J., concurring).
[60] *Id*. at 637.
[61] *Id*.

CRA argues that the president can impound funds *in spite of the express will of Congress*, the third of the *Youngstown* categories. However, the large majority of the examples CRA cites fall into the first *Youngstown* category: Congress, via statute, authorized the president to impound funds. These examples therefore actually undercut CRA's argument.

Consider what CRA calls "the most famous early impoundment precedent": Thomas Jefferson's decision not to purchase gun boats to patrol the Mississippi River.[62] Congress passed a statute that "authorized and empowered" Jefferson to construct "a number not exceeding fifteen gun boats" using "a sum not exceeding fifty thousand dollars."[63] Those words make clear that Congress gave President Jefferson *permission* to spend federal funds to construct the gun boats without *requiring* him to purchase the gun boats. Indeed, that is precisely how Justice Scalia interpreted the gun boat appropriation when he described it in a 1998 concurring opinion, referring to it as a "permissive" appropriation that left "the decision to spend the money to the President's unfettered discretion."[64] Nonetheless, CRA cites this as evidence that Jefferson believed he had a constitutional right to ignore congressional appropriations that require expenditure.

Of course, Congress frequently appropriates funds of specific amounts for specific purposes and has done so throughout American history. For example, the same Congress that told Jefferson he could spend "a sum not exceeding fifty thousand dollars" on gun boats also appropriated exactly "sixteen thousand nine hundred and forty-eight dollars and thirty-seven cents" to repay an estate for "naval materials" it purchased,[65] and specified the exact salary and benefits to be paid to two music teachers for the army's artillery regiment.[66] But CRA makes no effort to determine whether any of the impoundments it cites are in accordance with, or contrary to, statutory instructions.

CRA also elides other important distinctions. For example, it sometimes cites historical events that are not properly understood as impoundments. One such event is a decision made by President Van Buren's secretary of the navy about whether the widow of a Navy veteran was entitled to a second pension. The secretary determined she was not, and the Supreme Court upheld that as an appropriate exercise of discretion.[67] CRA makes much of this decision, claiming that it validates "the Executive's long-recognized impoundment authority."[68] But this

[62] CRA History at 9, https://tinyurl.com/cjauyje.
[63] *See* Act of Feb. 28, 1803, ch. XI, § 3, 2 Stat. 206, https://tinyurl.com/5byhrt3c.
[64] *See Clinton*, 524 U.S. at 466-67 (Scalia, J., concurring in part and dissenting in part) ("From a very early date Congress also made permissive individual appropriations, leaving the decision whether to spend the money to the President's unfettered discretion. In 1803, it appropriated $50,000 for the President to build 'not exceeding fifteen gun boats, to be armed, manned and fitted out, and employed for such purposes as in his opinion the public service may require'[.]") (quoting statute).
[65] Act of Mar. 2, 1803, ch. XVII, § 1, 2 Stat. 209, https://tinyurl.com/zamds6r9.
[66] The same is true of the salary and benefits provided to infantry music teachers, which were fixed the previous year at $8 per month, one ration daily, and, annually, "one hat, one coat, one vest, two pair of woollen and two pair of linen overalls, one coarse linen frock and trowsers for fatigue clothing, four pair of shoes, four shirts, two pair of socks, two pair of short stockings, one blanket, one stock and clasp, and one pair of half gaithers." *See* Act of Feb. 28, 1803, ch. XIII § 1, 2 Stat. 206, https://tinyurl.com/5byhrt3c; Act of Mar. 16, 1802, ch. IX, §§ 4-7, 2 Stat. 134, https://tinyurl.com/yc78ytz5.
[67] *Decatur v. Paulding*, 39 U.S. (14 Pet.) 497, 513 (1840).
[68] CRA History at 11, https://tinyurl.com/ypyt2dbp.

was not an impoundment at all; it was an individualized determination of eligibility for a government benefit. The government makes a multitude of such determinations. Decisions to deny an individual a National Science Foundation grant or determine them ineligible for Social Security disability benefits may be challenged as contrary to law, but they are not impoundments — and neither was Secretary Dickerson's pension decision.

> **"Much as we love the President, if Congress ... passed a law that garbage should be put on the White House steps, it would be our regrettable duty, as a bureau, in an impartial, nonpolitical and nonpartisan way to advise ... as to how the largest amount of garbage could be spread in the most expeditious and economical manner."**
>
> **CHARLES DAWES**

Lastly, CRA in several cases notes that executive branch officials sometimes make an effort to find cost savings, and, again, points to this as evidence that the president has the unrestricted authority to refuse to spend money appropriated by Congress. However, even prior to the passage of the Impoundment Control Act (which provides a mechanism for the president to seek Congress's permission to reduce spending), the executive branch still had to follow governing law — to include the relevant appropriations and enabling statutes, and the Antideficiency Act[69] — when attempting to find such savings and ensure that doing so was fully consistent with "the accomplishment of the objects of legislation."[70]

---

[69] Pub. L. No. 58-217, ch. 1484, § 4, 33 Stat. 1214, 1257-58 (1905), https://tinyurl.com/yc3fmej7; Pub. L. No. 59-28, ch. 510, § 3, 34 Stat. 27, 48-49 (1906), https://tinyurl.com/yc7p93w; Pub. L. No. 81-759, ch. 896, § 1211, 64 Stat. 595, 765-66 (1950), https://tinyurl.com/mvx8×3xa.

[70] Charles Dawes, *The First Year of the Budget of the United States* 118 (1923), https://tinyurl.com/436k8ykh. Some scholars refer to "uncontroversial" cost savings — where the executive branch can faithfully execute a statutory function or make purchases for less money than Congress appropriated — as "routine impoundments," distinct from "policy impoundments" which defy Congress's will. Chafetz, *supra*, at 64; Louis Fisher, *Congressional Budget Reform: The First Two Years*, 14 Harv. J. on Legis. 413, 448-49 (1977), https://tinyurl.com/3p3kv32b. In this view, if Congress appropriates $10 for a fixed expense and the executive branch finds that it can make that exact same purchase for $8 — without "interfer[ing] with the priorities for spending which are established by Congress" — it makes sense that Congress would not object. *See* Fisher, *Congressional Budget Reform*, *supra*, at 448; *but see* Allen Schick, *Whose Budget? It All Depends on Whether the President or Congress Is Doing the Counting*, in *The Presidency and the Congress: A Shifting Balance of Power* 103 (William S. Livingston et al. eds., 1979) ("Far from administrative routine, Nixon's wholesale impoundments in

CRA highlights a process created by Charles Dawes, the first director of the Bureau of the Budget under President Harding, which required government officials to try to identify possible savings.[71] But Dawes could not have been clearer in his view that Congress had the power of the purse, and that any savings identified had to be consistent with congressional objectives. "Much as we love the President," Dawes explained, "if Congress, in its omnipotence over appropriations and in accordance with its authority over policy, passed a law that garbage should be put on the White House steps, it would be our regrettable duty, as a bureau, in an impartial, nonpolitical and nonpartisan way to advise the Executive and Congress as to how the largest amount of garbage could be spread in the most expeditious and economical manner."[72]

CRA hopes to demonstrate that, regardless of what Congress wants, the president is empowered under the Constitution to withhold congressionally-appropriated funds for his own purposes. Ironically, because CRA fails to distinguish between different types of impoundments — and indeed, some non-impoundments — most of the examples it cites show exactly the opposite: that presidents have largely operated within the bounds Congress has set and gone to some length to ensure that congressional objectives are efficiently achieved.

Correcting the Historical Record

Considering these distinctions, the historical evidence CRA attempts to muster falls far short of establishing a consistent practice of unilateral presidential impoundments.

The attached appendix examines all 41 examples of supposed impoundments that CRA cites in support of its claims. Some of the historical examples are in fact quite complex. For example, CRA's reference to President Lyndon Johnson's impoundment of funds appropriated for the Department of Health, Education and Welfare seems to refer generally to reductions that Johnson made to over 40 different budget items, including several reductions to elementary and secondary education, which CRA lists separately.[73] In our analysis, we separate out the specific reductions, and analyze all those that account for $10 million or more in potentially impounded funds.[74] We also separate out several different reductions that President Franklin Roosevelt made to public works projects that CRA treats as a unified example. After these disaggregations, the appendix contains 60 total examples.

---

late 1972 and 1973 were intended to rewrite national priorities at the expense of congressional power and preferences.").

[71] CRA History at 13, https://tinyurl.com/bdf9×8u4. For further analysis of the process Dawes established, see A11-A13.

[72] Dawes, *supra*, at 178, https://tinyurl.com/ykdnjth5.

[73] CRA History at 18, https://tinyurl.com/35zkwp4z.

[74] Because of the time required to identify and analyze the appropriations and other relevant statutes implicated in Johnson's scores of spending reductions, we chose potential impoundments at or above $10 million in value, as they capture the overwhelming majority of the funds Johnson allegedly impounded for the Departments of Agriculture (more than 90%); Housing and Urban Development (over 99%); and Health, Education, and Welfare (more than 70%). A42-A69. Considering cuts at or above that level thus gave us a representative — and more digestible — sample.

For each of these examples, we analyzed:

(1) Whether the conduct in question was, in fact, an impoundment;
(2) Whether the impoundment was authorized by statute; and
(3) If the impoundment did not appear to be authorized by statute, what justification, if any, the president offered for impounding the funds.

In some cases, we could not answer all these questions conclusively. The work of discerning the legal basis and justification for each instance in which federal funding was withheld (if, in fact, it was withheld) requires extensive research spanning most of American history. In assembling the appendix, we reviewed all sources cited by CRA, and in turn, any relevant sources cited by those sources. We also conducted extensive research on federal authorizations, appropriations, and other relevant statutes. However, it was not always possible to locate all relevant information, and so there may be isolated instances in which our research did not uncover all of the relevant facts.

The overall picture presented by the appendix, however, is clear. First, only in a small minority of instances did presidents actually impound funds without congressional authorization. Second, there are even fewer examples of unauthorized impoundments in early American history. Third, prior to the Nixon administration, when presidents did impound funds without statutory authorization, they often attempted to justify those impoundments as permitted by statute. And, finally, after Nixon's abuse of impoundments and the passage of the Impoundment Control Act, every subsequent president (until now) has accepted the legitimacy of the Impoundment Control Act and of Congress's control over appropriations. From 1974 to 2023, no president of either party asserted an inherent power to impound — until Trump did so in a June 2023 campaign video.

CRA Provides Few Examples of Presidents Impounding Funds in Defiance of Congress at Any Point in History

Substance aside, the examples CRA cites implicate only a tiny share of the innumerable appropriations that Congress has enacted over the course of American history. CRA cites 41 alleged instances of presidential impoundment. Individual modern appropriations bills contain far more spending instructions — for example, the 2024 Department of Defense Appropriations Act alone is 58 pages long and in some places includes many individual line items on each page.[75] Even taking CRA's examples at face value, they would represent only a drop in the bucket of funds Congress has appropriated from the founding through 1974.

But it would be a mistake to take CRA's evidence at face value. Of the 60 examples we review in the appendix, five were not impoundments[76] and 39 seem to have been authorized by statute. In

[75] Pub. L. No. 118-47, div. A, 138 Stat. 462, 462-520 (2024), https://tinyurl.com/bdd8s4hy.
[76] Rather than impoundments, these five actions instead were: an adjudication of eligibility for a pension under President Van Buren, A8; a prompt expenditure of funds to pay for construction of the *U.S.S. United States* under

four instances, which we marked as "unknown," it was not possible to determine from the sources CRA cited and additional research whether the alleged impoundment was authorized by statute, not authorized, or not an impoundment. That leaves only 12 examples in which presidents withheld money that Congress required them to spend. As discussed further below, even in those few instances of presidential defiance of statute, the justifications presidents offered for the impoundments lend little support to the idea of an inherent presidential impoundment power, and no support to the idea that Congress acquiesced to any such claim of power.

CRA Fails to Identify Any Founding-Era Assertions of a Unilateral Executive Impoundment Power

As thin as CRA's evidence is overall, their historical account is perhaps most lacking with regard to the founding era. The last founding father to serve as president was James Monroe, America's fifth president. For the period of the first five presidencies, spanning 36 years, CRA offers only five examples of alleged presidential impoundments. In none of these examples did the president express any intent to impound money against the wishes of Congress, let alone assert a constitutional right to do so.

CRA's first example comes during the Washington administration, which it alleges "underspent tens of thousands on hospital department appropriations."[77] This assertion finds its roots in a February 1797 congressional debate recounted in Joseph Gales's *Annals of Congress*.[78] Although CRA does not specify which Washington-era hospital department appropriations were "underspent,"[79] Gales makes specific reference to a 1796 appropriation, which the military reportedly did not spend in full on its hospital department.[80] According to Gales, Congress had previously appropriated $30,000 for the military's hospital department, but that year's expenses for the department "had [only] cost six thousand nine hundred and five dollars."[81] The military both withheld the remainder of the appropriation, which it did not spend on its hospital department, and then "appl[ied] the surplus to other purposes"[82] — a clear violation of the relevant appropriations statute, which provided no authority for that action.[83]

President Truman, A29-A30; a prompt expenditure of funds by President Johnson's Agriculture Department for small watershed projects, A42-A43; an adjustment of expected earnings from an accelerated sale of agriculture loans under Johnson, A52-53; and a Johnson administration effort to fight inflation by inducing lenders to make fewer student loans, A61-A62.

[77] CRA History at 5, https://tinyurl.com/5d8vsuy6.

[78] Joseph Gales, *Annals of the Congress of the United States: Fourth Congress, Second Session* 2321 (1849) (statement of Rep. Albert Gallatin), https://tinyurl.com/ycaptp79; CRA History at 5 (citing Lucius Wilmerding, *The Spending Power* 41 (1943)); Wilmerding, *supra*, at 41 & n.34 (citing Gallatin's statement at "6 *Annals*, 2321").

[79] CRA History at 5, https://tinyurl.com/5d8vsuy6.

[80] Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79; Act of June 1, 1796, ch. 51, § 1, 1 Stat. 493, 494, https://tinyurl.com/y8m4yfvs ("For the hospital department, the sum of thirty thousand dollars ....").

[81] Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79.

[82] *Id.*

[83] Even CRA does not argue that Washington's illegal transfer of funds from the hospital department appropriation to "other purposes" was lawful.

Prominent members of Congress were appalled by this unconstitutional spending and sought to prevent more of it going forward. Rep. Albert Gallatin — who would later serve as secretary of the treasury for 14 years under Presidents Jefferson and Madison — reported with concern that the treasury secretary was treating military appropriations "as general grants of money," a practice which was "making the law a mere farce."[84] Gallatin advocated for and secured a drastic reduction in the hospital appropriation for the following fiscal year,[85] and sought also to put some "contingent articles together in one sum."[86] "It was thought," one scholar wrote, "that, by allowing a certain latitude to the War Department in the matter of contingent expenses, Congress would be justified in expecting the expenditure of money to be confined to the specific objects for which each sum was appropriated."[87] In other words, Congress both decried the Washington administration's actions and passed legislation to prevent such conduct going forward.

CRA next points to instances where Presidents Jefferson and Madison allegedly impounded funds. Jefferson, CRA contends, impounded funds Congress appropriated for the construction of navy yards and gunboats, as well as for a government "'contingency fund.'"[88] And Madison impounded funds appropriated for "the crews of gunboats in New Orleans."[89] But three of these four examples — including Jefferson's decision not to purchase gun boats, already discussed above — were expressly authorized by Congress.[90] Jefferson's decision to spend less than the full amount Congress set aside for the government's "contingent expenses" was clearly permitted by the text and nature of the underlying appropriations statutes.[91] By definition, funds for "defraying the contingent expenses of government"[92] are intended to be used only if contingencies arise. Similarly, President Madison's decision to save money by reducing the size of the crews of gun boats in New Orleans was one Congress had clearly provided for when it appropriated "a sum not exceeding four hundreds thousand dollars" to employ those crews, and explicitly stated that Madison may discharge those crews "if in his judgment their service may be dispensed with."[93]

That leaves one final founding-era example — President Jefferson's decision to suspend the construction of navy yards. Jefferson's action was not authorized by the plain text of the applicable 1801 appropriation, which provided $500,000 for "the expenses attending six seventy-four gun ships, and for completing navy yards, docks, and wharves."[94] However, Jefferson made clear in his first annual message to Congress that he had "suspended or slackened" the expenditure of funds for constructing navy yards not because of any policy

[84] Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79 (statement of Rep. Albert Gallatin as summarized by Gales).
[85] The 1797 hospital department appropriation provided for "a sum not exceeding ten thousand dollars." Act of Mar. 3, 1797, ch., 17, § 1, 1 Stat. 508, 508, https://tinyurl.com/ynpvrueh.
[86] *Id*.
[87] Wilmerding, *supra*, at 41.
[88] CRA History at 8-9, https://tinyurl.com/bde6dp2a.
[89] *Id.* at 9.
[90] A5-A6.
[91] *See* Act of May 1, 1802, ch. 47, 2 Stat. 184, 188, https://tinyurl.com/mrej99y7; Act of Mar. 1, 1805, ch. 21, 2 Stat. 316, 321, https://tinyurl.com/3a8p85ky; Act of Feb. 10, 1808, ch. 17, 2 Stat. 462, 466, https://tinyurl.com/yz36j79d.
[92] *Id.*
[93] Act of July 2, 1836, ch. 284, 6 Stat. 665, 665-66, https://tinyurl.com/mr35jpyr.
[94] Act of Mar. 3, 1801, § 1, 2 Stat. 122-23, https://tinyurl.com/bdfpfdz2.

disagreement with Congress, but because he doubted whether the prior administration had "perfectly understood" the "authority given by the Legislature" for that construction.[95] In other words, Jefferson withheld the funds because the Adams administration had taken steps to purchase and construct six navy yards,[96] when they were granted the authority in statute to build only two.[97] It was not clear whether Congress, through its 1801 appropriation, had intended for Jefferson to finalize the construction of only two navy yards, or all the navy yards that the previous administration had acquired, including those purchased without clear statutory authorization. Therefore, Jefferson impounded the navy yard funds not as an exercise of any asserted presidential prerogative, or in defiance of Congress, but in an effort to accurately discern Congress's will. Or as Jefferson put it in his first annual message, he slackened expenditures so "that the Legislature might determine whether so many yards are necessary as have been contemplated."[98]

In summary, CRA cites no examples in which a founding-era president impounded funds in defiance of Congress on the basis of an asserted executive power. Nor does it identify any instance in which one of America's first five presidents even *claimed* to have such a power. Rather, the evidence CRA cites shows presidents impounding funds pursuant to authority Congress gave them in statute (Jefferson's gunboat and contingency fund impoundments, and Madison's gunboat impoundment) or in order to clarify what authority Congress gave them (Jefferson's navy yard impoundment). And when the Washington administration not only impounded funds but illegally used them for "other purposes,"[99] Congress, led by Jefferson and Madison's future treasury secretary, responded legislatively.

Jackson and FDR Were the Only Presidents Prior to Nixon Both to Impound Funds in Defiance of Congress and to Assert a Constitutional Justification

As noted above, of the 60 examples included in the appendix, there are only 12 in which it appears that the president withheld funds without congressional authorization to do so. Most of these unauthorized impoundments (six) took place during President Franklin Roosevelt's administration. Prior to FDR, no president other than Andrew Jackson asserted a constitutional power to impound funds in defiance of Congress — and the Supreme Court roundly rejected Jackson's assertion of power.[100]

---

[95] Thomas Jefferson, First Annual Message to Congress (Dec. 8, 1801), https://tinyurl.com/52m6ajsz.
[96] H.R. Doc. No. 7-28 (1802), *in* Walter Lowrie & Walter Franklin, eds., *American State Papers* 103 (1834), https://tinyurl.com/3hssw3jm; H.R. Doc. No. 7-186, at 2 (1802) (hereinafter Nicholson Report), *in* Walter Lowrie & Matthew St. Clair Clarke, eds., *American State Papers* 753 (1832), https://tinyurl.com/29tcz44x.
[97] Acts of Feb. 25, 1799, chs. XV & XVI, 1 Stat. 622 (1799), https://tinyurl.com/3f88f2ek (appropriating $50,000 for the construction of two docks); *see* Nicholson Report, *supra*, at 2, https://tinyurl.com/29tcz44x (congressional committee report subsequently finding that "no authority was given, by law, nor any appropriation made, except for the two docks" and "that four of the navy yards were purchased without authority, and the money misapplied which was paid for them"). See A4-A5.
[98] Jefferson, First Annual Message to Congress, *supra*, https://tinyurl.com/52m6ajsz.
[99] *See* Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79.
[100] We address the twelfth and final unauthorized impoundment in the appendix. In that instance, during the Eisenhower administration, the Marine Corps impounded funds Congress appropriated to expand the size of the Corps. A32-A33. While this impoundment was not authorized by statute, there is no evidence the Eisenhower administration justified it on constitutional grounds. Moreover, of the eight Eisenhower-era impoundments

Unauthorized Impoundments Before FDR

CRA has identified only five instances during the first 150 years of American history in which presidents refused to spend appropriations in defiance of Congress. These are: the Washington-era impoundment of hospital department funds; Jefferson's impoundment of funds to construct navy yards; a Jackson-era impoundment of funds owed to contract mail carriers; President Buchanan's alleged impoundment of funds for public buildings in Illinois; and President Grant's impoundment of certain river and harbor funds.[101] But these examples do not support the notion that the president has an inherent constitutional power to impound appropriated funds.

- Although the military under **President Washington** both impounded funds appropriated for its hospital department and repurposed them without congressional permission, Washington never asserted that he had any constitutional authority to withhold appropriated funds. And Congress responded to the incident legislatively, including by significantly reducing the military's hospital department appropriation for the following fiscal year.

- Although **President Jefferson** withheld congressional appropriations for navy yards, as explained above, he never asserted any constitutional power to impound appropriated funds. Rather, his actions to "suspend[] and slacken[]" expenditures on the navy yards[102] are best understood as a legitimate attempt to clarify and comply with the intent of Congress.[103]

- The same cannot be said of the refusal of **President Jackson's** postmaster general to pay four contract mail carriers the full amount they were owed, as Congress directed in statute. In the litigation that followed this refusal, the attorney general argued that the Take Care Clause gave the president, and by extension executive officials such as the postmaster general, the discretion to pay less than the full amount that the statute required.[104] In *Kendall*, the Supreme Court rejected that argument, ruled that the postmaster general's nonexpenditure of funds was an unlawful usurpation of Congress's legislative authority, and ordered the administration to pay the contractors the remainder of what they were owed.[105] The administration did so.[106] CRA dismisses this case, arguing that it "did not involve an impoundment, and its principles are not applicable to impoundment."[107] But we nonetheless include this incident here and in the

reviewed in the appendix, it is the only one not authorized by statute. Of the remaining seven, six were authorized by statute and one we categorized as "unknown," as there was not enough information, either provided by CRA or uncovered in our additional research, to draw a well-founded conclusion about the episode. A33-A40.
[101] CRA History at 5, 8, 10-12, https://tinyurl.com/5d8vsuy6.
[102] Jefferson, First Annual Message to Congress, *supra*, https://tinyurl.com/52m6ajsz.
[103] A4-A5.
[104] *Kendall*, 37 U.S. at 612-13.
[105] *Id.* at 609, 612-13, 626. See also *supra* at pg. 6-8.
[106] *Kendall v. Stokes*, 44 U.S. 87, 96-97 (1845) (stating the contractors received the money they were owed).
[107] CRA History at 10, https://tinyurl.com/ye24zmcj.

appendix because it involved a refusal by an executive branch official to make a statutorily required payment — very nearly the definition of "impoundment."[108] Moreover, *Kendall* is not just legal precedent rejecting a constitutional justification for an impoundment. It is also early constitutional history demonstrating that when Congress requires expenditure, the executive branch must follow Congress's instructions.

- CRA alleges that **President Buchanan** "withheld funds that had been appropriated to construct public buildings in Illinois in order to punish the State's congressional delegation for opposing the administration's objectives."[109] This claim appears to rest on a single source: an 1861 speech given by Sen. Stephen Douglas of Illinois, who accused Buchanan on the Senate floor of withholding the building construction funds because of a "quarrel" with the representatives from Illinois.[110] CRA cites no source that speaks to any legal justification offered by the president for his action. But Douglas's floor speech makes clear that Congress did not acquiesce. Douglas repeatedly called the president's action unlawful — explicitly stating that Buchanan "disobeyed the law" — and seemed determined to rectify the situation.[111] Moreover, this incident is the only example that CRA cites of a president impounding funds during the nearly 40-year period from 1838 to 1876. Thus, it provides no support to the idea that there was a "systematic, unbroken, executive practice" of impoundment, "long pursued to the knowledge of the Congress and never before questioned."[112]

- Finally, although **President Grant** indeed impounded funds, he justified the action on statutory, not constitutional, grounds. "After signing the Rivers and Harbors Bill of 1876," CRA writes, "President Grant sent a special message to Congress in which he stated that he did not intend to spend the total amount appropriated because certain appropriations were for 'works of purely private or local interest,' and that '[u]nder no circumstances will I allow expenditures upon works not clearly national.' ... Pursuant to the President's order, the Secretary of War refused to spend over half of the $5 million appropriated for internal improvements."[113] In response, the House of Representatives passed a resolution requesting that the president "state under what law or authority these orders and limitations upon said act of Congress were made."[114] In a letter to Congress, Grant's secretary of war, J.D. Cameron, explained the legal rationale, relying principally on two statutory arguments (and making no reference to the Constitution).[115] He starts by saying that "the law and authority are found in the Act itself," and continues to argue that: (1) the law does not make it "mandatory" for the secretary of war to

[108] See A8.
[109] CRA History at 11, https://tinyurl.com/ypyt2dbp.
[110] Cong. Globe, 36th Cong., 2d Sess. 1177 (1861), https://tinyurl.com/muhe8e6v
[111] Douglas stated that the president "disobeyed the law;" that "[t]o this hour, you could not get the law executed;" and that "the obstinancy of a hostile Executive refused to obey the law and execute it." *Id*.
[112] *See Youngstown*, 343 U.S. at 610-11 (Frankfurter, J., concurring).
[113] CRA History at 11-12, https://tinyurl.com/ypyt2dbp; *see* Special Message from President Ulysses S. Grant to the House of Representatives (Aug. 14, 1876), https://tinyurl.com/yc7n6sc4.
[114] 5 Cong. Rec. H374 (daily ed. Dec. 23, 1876), https://tinyurl.com/bdz883bt.
[115] Letter from Secretary of War J.D. Cameron to President Grant (Jan. 11, 1877), *in Executive Documents of the House of Representatives*, 44th Cong., 2d Sess., Exec. Doc. No. 23, at 2-3 (1877), https://tinyurl.com/5dfuawdk.

> "expend the full amount," and practical considerations make it necessary for him not to; and (2) the appropriations are "indefinite" (meaning they did not expire) and therefore could be spent in the future.[116] That the secretary relied on statutory arguments is notable, as it amounts to an effort to explain that Congress itself permitted the administration's action. Nonetheless, Cameron's statutory arguments are unconvincing. The underlying appropriation stated that "[i]t shall be the duty of the Secretary of War to apply the moneys herein appropriated as far as may be by contract, except when specific estimates cannot be made for particular work, or where, in the judgment of said Secretary, the work cannot be contracted at prices advantageous to the Government …."[117] Although this allowed, in specified circumstances, for expenditure of less than the full amount appropriated for individual river and harbor improvements, Grant stated that he would not spend any money on "works of purely private or local interest."[118] The underlying statute did not give the president the authority to do this. The fact remains, however, that Grant did not assert any constitutional authority to withhold the funds, and Congress directly challenged his failure to execute the appropriation.

These examples are at once few in number and thin in nature, undermining any suggestion of a continuous practice of presidents defying Congress, particularly during the nation's first hundred years. Moreover, it is significant that in two of these five instances, presidents justified their noncompliance with appropriations laws either out of a desire to better ascertain Congress's intent (Jefferson) or on statutory grounds (Grant). They strove, in other words, to avoid the appearance of defying Congress. And in the only instance where a president's defiance of Congress was resolved through litigation, the president (Jackson) resoundingly lost.

FDR's Impoundments, His Reluctant Constitutional Defense of Them, and Congress's Response

Among the evidence that CRA offers, FDR is the only president, prior to Nixon, who impounded funds on multiple occasions in avowed defiance of statute.[119] And Roosevelt's administration did reluctantly assert that he had the constitutional authority to do so. However: (1) all but one of Roosevelt's impoundments in defiance of statute occurred during World War II, when concerns about the war effort likely overcame reservations about exceeding statutory limits;[120] (2) his administration defended these actions first on statutory grounds, before reluctantly offering a constitutional justification; (3) members of Congress did not acquiesce to these impoundments, but rather vehemently and repeatedly objected to them; and (4) after the war, rather than continue to assert any constitutional power to impound, the Bureau of the Budget affirmatively asked Congress to pass a law allowing it to hold funds in reserve in certain circumstances,

[116] *Id*.
[117] Act of Aug. 14, 1876, ch. 267, 19 Stat. 132, 138, https://tinyurl.com/5n9ata7s.
[118] Special Message from President Ulysses S. Grant to the House of Representatives, *supra*, https://tinyurl.com/yc7n6sc4.
[119] See A14-A25 (Roosevelt appendix entries).
[120] The sole outlier is a 1938 impoundment of funds Congress appropriated for Reserve Officers' Training Corps Units. See A14-A15. There is no evidence that the Roosevelt administration offered any constitutional justification for that impoundment.

which Congress ultimately did in 1950. Collectively, then, even these examples cannot bear the weight put on them to support an inherent presidential power to impound.

- **All but one of Roosevelt's impoundments in defiance of statute occurred during World War II, when concerns about the war effort likely overcame reservations about exceeding statutory limits.** In successive budget messages to Congress in 1941-1943, Roosevelt outlined a program "for the total defense of our democracy."[121] After the United States entered the war, this required orienting both defense and non-defense spending to the sole objective of military victory.[122] To do this, Roosevelt sought to adjust expenditures for and defer work on an array of programs, including certain public works projects and pieces of highway construction, deemed nonessential to the war effort.[123] The administration's impoundment of funds for two flood control projects illustrates this approach. In the Flood Control Act of 1941, Congress directed the construction, "as speedily as may be consistent with budgetary requirements," of a flood control reservoir in Markham Ferry, Oklahoma, and a levee on the Arkansas River near Tulsa, Oklahoma.[124] In subsequent appropriations acts, Congress included $1.5 million for the Markham Ferry project and $513,000 for the Tulsa levee project.[125] In early 1942, the Bureau of the Budget placed the funds for these projects in reserve, blocking their expenditure.[126] In a letter to the War Department, Budget Director Harold Smith justified holding those funds in reserve because "[n]either of these projects have as yet been designated as of sufficient importance to the national defense to be constructed at the present time."[127]

---

[121] President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 3, 1941), https://tinyurl.com/bpc5m252; President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 5, 1942) ("1942 Budget Message"), https://tinyurl.com/4j3k77df; President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 6, 1943) ("1943 Budget Messsage"), https://tinyurl.com/j4dnpf6v.
[122] 1943 Budget Message, https://tinyurl.com/j4dnpf6v.
[123] *See, e.g.*, 1942 Budget Message, https://tinyurl.com/4j3k77df ("The public works program is being fully adjusted to the war effort .... Federal aid for highways will be expended only for construction essential for strategic purposes. Other highway projects will be deferred until the postwar period. For all other Federal construction I am restricting expenditures to those active projects which cannot be discontinued without endangering the structural work now in progress.").
[124] Pub. L. No. 77-228, ch. 377, § 3, 55 Stat. 638, 639 (1941), https://tinyurl.com/yj85575s; *id.*, 55 Stat. at 645-46 (Arkansas River Basin projects); *Third Supplemental National Defense Appropriation Bill for 1942: Hearings Before the Subcomm. of the Senate Comm. on Appropriations*, 77th Cong. 320 (1941), https://tinyurl.com/5n6evw3s (testimony of Sen. Elmer Thomas) (noting "the Markham Ferry proposed power development is authorized for construction by the provisions of Public Law 228, 77th Congress"); 1971 Hearings at 381-82, https://tinyurl.com/5y42nhf5 (testimony of Prof. J.D. Williams) ("A $15.4 million power and flood control reservoir at Markham Ferry on the Grand Neosho River in Oklahoma was also authorized by Public Law 228.").
[125] Pub. L. No. 77-353, ch. 591, 55 Stat. 810, 854 (1941), https://tinyurl.com/mu9uayu3; S. Rep. No. 77-894, at 6 (1941) (noting $1,500,000 for Markham Ferry, Oklahoma, and $300,000 for Tulsa and West Tulsa, Oklahoma, under "Flood control, general"); H.R. Rep. No. 77-1501, at 8 (1941) (Conf. Rep.) (deciding to go with Senate, rather than House, proposal for the flood control appropriation); Pub. L. No. 77-527, ch. 246, 56 Stat. 219, 221-22 (1942), https://tinyurl.com/3vjpkwff; H.R. Rep. No. 77-2041, at 2 (1942) (Conf. Rep.) (noting appropriation of $213,000 for "Tulsa-West Tulsa project, to protect defense industries from floods").
[126] 1971 Hearings at 382-83, https://tinyurl.com/3zz29pm3 (study by Prof. J.D. Williams); *War Department Civil Functions Appropriation Bill, 1944: Hearings Before a Subcomm. of the Senate Comm. on Appropriations*, 78th Cong. 21-22 & n.5 (1943), https://tinyurl.com/3jpdabcf.
[127] Letter from Budget Director Harold Smith to Secretary of War (Feb. 5, 1942), *in Independent Offices Appropriation Bill for 1945: Hearings Before the Subcomm. of the S. Comm. on Appropriations*, 78th Cong. 268-69 (1944), https://tinyurl.com/bdfmj2kt.

- **Though the administration referenced the war effort as it made certain project-specific funding decisions, when the Senate Appropriations Committee pressed for the legal basis for impoundments, the Budget Bureau sought first to justify them on statutory grounds.** In a memorandum to the Senate Appropriations Committee, the Budget Bureau suggested first that the Antideficiency Act permitted it to hold appropriated funds in reserve to prevent expenditures in excess of appropriations and to effect savings.[128] But the Bureau conceded that no "express enactment" allowed the president to block funding for projects, such as the "levee work on the Arkansas River," that "have been authorized and appropriated for if he does not consider them of important value to the military."[129] Such actions, the Bureau asserted, "must be viewed therefore as an exercise by the President (or in his behalf) of the ultimate responsibility and authority vested in him as Chief Executive by article II, section 1, of the Constitution, an authority which includes general administrative control over the officers of the executive departments in the performance of their official duties. See *Myers* v. *United States* (272 U.S. 52, 135)."[130] This defense is noteworthy for several reasons. First, *Myers* had nothing to say about a presidential power to impound, and neither conferred nor acknowledged a free-standing power of "general administrative control" permitting the president to disregard enacted laws. Rather, *Myers* addressed the president's power to remove certain executive officers without Senate approval.[131] Second, at no point in the memorandum did the Budget Bureau invoke the president's power as commander-in-chief — even when answering the Senate's question about the president's authority, during the war, "to set up control over projects that have been authorized and appropriated for if he does not consider them of important value to the military."[132]

- **Members of Congress did not acquiesce to Roosevelt's impoundments**. Lawmakers were outraged by the Bureau's practice of impounding funds, and repeatedly challenged the administration's actions in hearings[133] and floor speeches,[134] and through threatened and enacted legislation. "Now, where is the law," Sen. John Overton asked in a 1943 appropriations hearing, "that authorizes either the Executive or the Bureau of the Budget to impound funds that have been appropriated by Congress?"[135] In an exchange

[128] *See* Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 738-40, https://tinyurl.com/ex8y7td9.
[129] *Id.* at 739-40.
[130] *Id.* at 740.
[131] *Myers v. United States*, 272 U.S. 52, 117, 119, 132 (1926).
[132] *See* Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 738-40, https://tinyurl.com/ex8y7td9.
[133] *See, e.g.*, *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 336-42, https://tinyurl.com/3dmav2uk (remarks by Sens. Overton, McKellar, and Thomas); *see also, e.g.*, *Departments of State, Justice, and Commerce Appropriation Bill for 1944*, 78th Cong. 56-61 (1943), https://tinyurl.com/53xnnc32 (remarks by Sens. McCarran and White).
[134] *See, e.g.*, 88 Cong. Rec. H3296-98 (daily ed Apr. 2, 1942), https://tinyurl.com/bdezedrk (remarks of Rep. Voorhis concerning the Bureau of the Budget).
[135] *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 336, https://tinyurl.com/3dmav2uk.

with Budget Director Harold Smith, Sen. Kenneth McKellar reiterated his colleague's question: "Where is the statute that gives you the right to set up in any department, your own or any other, a reserve fund? Will you put your hand on the statute or Executive order? As I told you a while ago, in my mind you are going far beyond the limit of your duties of your office .... There is no law about it that I know of."[136] On at least one occasion, a senator's threat to introduce an amendment requiring the expenditure of frozen funds — for the Tulsa levee project — helped secure their release.[137] And Congress enacted responsive legislation, too, including: a 1943 law prohibiting the impoundment of highway construction funds unless the War Production Board affirmatively found "the use of critical material" for such construction "would impede the conduct of the war";[138] a 1944 law directing the release of funds appropriated for the construction of public roads but impounded;[139] and statutes enacted in 1944 and 1945 to strengthen congressional oversight of and involvement in federal spending decisions by requiring the administration to submit to Congress recommendations for the repeal of funds "deemed no longer required."[140]

- **After the war, the Budget Bureau sought authorization from Congress to withhold funds in some circumstances.** In a 1947 report to Congress, the Bureau of the Budget and the General Accounting Office requested express authority, in the form of an amendment to the Antideficiency Act, to hold funds in reserve in specified circumstances.[141] "[T]here is no general statutory authority," they wrote, "under which appropriated moneys can be reserved or impounded so that they may be returned to the Treasury."[142] In a draft bill accompanying the report, the pair proposed allowing the Bureau to establish reserves "to provide for contingencies, or to effect savings

[136] *Id.* at 338.
[137] *See id.* at 340 (remarks of Sen. Elmer Thomas) ("So on one bill I raised the issue, and I introduced an amendment directing the Budget Bureau to release those funds and I submitted the amendment on that to the committee at that time ...."); 1971 Hearings at 385-86, https://tinyurl.com/yuufc573 (mentioning threatened introduction of an amendment that "would have required the Budget Bureau to release $513,000 of impounded funds for the Tulsa-West Tulsa project," and that the "[r]eaction within the Budget Bureau indicated that [the] threat was not taken lightly"); *War Department Civil Functions Appropriation Bill, 1944: Hearings*, *supra*, at 21-22 & n.7, https://tinyurl.com/3jpdabcf (table noting release of impounded Tulsa project funds).
[138] Pub. L. No. 78-146, ch. 236, § 9, 57 Stat. 560, 563 (1943), https://tinyurl.com/36abb3eu. This flipped the presumption that a project might be blocked, and funds for it impounded, merely if it had not been found to be essential to the war effort. *See, e.g.*, Letter from Budget Director Harold Smith to Secretary of War (Feb. 5, 1942), *in Independent Offices Appropriation Bill for 1945: Hearings*, *supra*, at 268-69, https://tinyurl.com/bdfmj2kt (noting impoundment of funds because "[n]either of these projects have as yet been designated as of sufficient importance to the national defense to be constructed at the present time"); 1942 Budget Message, https://tinyurl.com/4j3k77df ("Federal aid for highways will be expended only for construction essential for strategic purposes.").
[139] Pub. L. No. 78-358, ch. 286, 58 Stat. 361, 371 (1944), https://tinyurl.com/ytwbrrwc.
[140] Second Deficiency Appropriation Act of 1944, Pub. L. No. 78-375, ch. 304, § 303, 58 Stat. 597, 623 (1944), https://tinyurl.com/dvuckvun; Pub. L. No. 79-132, ch. 271, 59 Stat. 412, 416 (1945), https://tinyurl.com/mvdcmdxe (requiring, "in addition to compliance with the provisions of section 303 of the Second Deficiency Appropriation Act, 1944," that "there shall be submitted to the Congress on January 3, 1946, a list showing the condition of the balances of each of such appropriations and contract authorizations together with recommendations for the repeal of such of those funds ... deemed no longer required").
[141] U.S. Bureau of the Budget & U.S. Gen. Accounting Off., B-66949, *Report and Recommendations by the Director of the Bureau of the Budget and the Comptroller General of the United States With Respect to the Antideficiency Act and Related Legislation and Procedures* (June 5, 1947), https://tinyurl.com/yhdcwhpk (proposed bill language starting at PDF pages 37-38).
[142] *Id.* at 14.

> whenever savings are made possible by or through changes in quantitative or personnel requirements, greater efficiency of operations, or other developments subsequent to the date on which the appropriation was made available."[143] Though Congress did not take action on that proposal in 1947, it did three years later. In the General Appropriations Act of 1951, Congress enacted a modified version of the 1947 language, permitting the establishment of reserves "to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which the appropriation was made."[144] In clarifying the Budget Bureau's authority, Congress also narrowed it — foreclosing the use of the apportionment process to withhold funds for entire projects, as Roosevelt had done during the war.

In short, even though Roosevelt impounded funds in defiance of law, his administration attempted first to justify those actions on statutory grounds; faced sustained pushback from Congress; and soon essentially acknowledged that it lacked statutory authorization for the actions it took during the war. No wisp of any constitutional argument remained. Far from unquestioned, then, Roosevelt's defiance of spending laws emerges as a fiercely contested episode of relevant history.

When Truman and Kennedy Offered Constitutional Justifications for Their Actions, Those Actions Actually Were Authorized by Statute

CRA identifies several other instances in which presidents pointed to their constitutional power either to justify impounding funds or to push back against draft legislative text directing the executive branch to spend a particular sum of money. In 1949, after Congress appropriated funds to support more Air Force groups than the White House had requested,[145] Truman impounded the additional funds.[146] Truman's defense secretary justified the action on constitutional grounds,[147] and Truman himself asserted that "if the president "doesn't feel like the money should be spent, I don't think he can be forced to spend it"[148] — defenses CRA characterizes as "the most notable examination of the constitutional issue."[149] Over a decade

[143] *Id.* (proposed bill language on PDF page 38), https://tinyurl.com/3s2z4cec.
[144] Pub. L. No. 81-759, ch. 896, § 1211, 64 Stat. 595, 765-66 (1950), https://tinyurl.com/mvx8×3xa.
[145] H.R. Rep. No. 81-417, at 30-36 (1949) (House report on National Military Establishment Appropriation Act, 1950); S. Rep. No. 81-745, at 31-32 (1949) (Senate report on the same); H.R. Rep. No. 81-1454, at 2 (1949) (Conf. Rep.) (noting compromises between House and Senate proposals); Pub. L. No. 81-434, ch. 787, 63 Stat. 987, 1013-17 (1949), https://tinyurl.com/c3tt3tnt.
[146] Presidential Statement on Signing the National Military Establishment Appropriation Act, 1950 (Oct. 29, 1949), *in* 1971 Hearings at 524-25, https://tinyurl.com/537v7y3r (Truman announced he was "directing the Secretary of Defense to place in reserve the amounts provided by the Congress … for increasing the structure of the Air Force."); Letter from President Truman to Defense Secretary Louis Johnson (Nov. 8, 1949), *in* 1971 Hearings at 525, https://tinyurl.com/bd9ra8en.
[147] *Department of Defense Appropriations for 1951: Hearings Before the Subcomm. of the House Comm. on Appropriations*, 81st Cong. 54-55 (1950), https://tinyurl.com/4wc5ns5j (exchange between Rep. Mahon and Defense Secretary Johnson).
[148] President's News Conference of Sept. 28, 1950, 1 Pub. Papers 661 (1950), https://tinyurl.com/3fm99yu2.
[149] CRA at 15, https://tinyurl.com/36y8m9s8.

later, President Kennedy impounded funds Congress appropriated for the B-70 bomber.[150] And he subsequently objected to legislative language that would have directed the Air Force to spend more on the program.[151] CRA argues that Kennedy's objection "forcefully rebuffed" Congress's "attempt to encroach on his executive power."[152] But while Truman and Kennedy both pointed to their constitutional power in these instances, their actions were actually consistent with the laws Congress passed. Those actions, and the constitutional arguments made in support of them, therefore are not evidence of an inherent presidential impoundment power.

President Truman

When Truman impounded funds appropriated for additional Air Force groups beyond the number he had requested (58 versus 48), he and his defense secretary defended the action on constitutional grounds on two separate occasions. In testimony before the House Appropriations Committee, Defense Secretary Louis Johnson asserted that "the power" to impound the additional Air Force funds "is vested in the President as Commander in Chief."[153] And later in 1950, when a reporter asked President Truman why he did not spend the money, he responded: "It wasn't necessary. It was not necessary .... That is the discretionary power of the President. If he doesn't feel like the money should be spent, I don't think he can be forced to spend it."[154]

Despite this sweeping pronouncement, Truman's impoundment was expressly authorized by the underlying appropriations law, the 1950 National Military Establishment Appropriation Act.[155] At the House's urging, that law increased the amounts available in several appropriations to fund 58 Air Force groups.[156] Those appropriations were: construction of aircraft and related procurement ("an amount not to exceed $1,992,755,000" for contracts); special procurement ($134,477,000); maintenance and operations ($1,199,792,000); research and development ($233,000,000, "to remain available until expended"); and contingencies ($15,200,000 for "emergencies and extraordinary expenses").[157] However, because the Senate continued to

[150] Jack Raymond, *Pentagon Orders 780-Million Cut in Air Programs*, N.Y. Times (Oct. 28, 1961), https://tinyurl.com/6j2utxry.
[151] Letter from President Kennedy to Rep. Vinson (Mar. 20, 1962), *in* 1971 Hearings at 526, https://tinyurl.com/2e92bher.
[152] CRA History at 17-18, https://tinyurl.com/3a2hzh3a.
[153] *Department of Defense Appropriations for 1951: Hearings*, *supra*, at 54-55, https://tinyurl.com/4wc5ns5j (exchange between Rep. Mahon and Defense Secretary Johnson).
[154] President's News Conference of Sept. 28, 1950, 1 Pub. Papers, *supra*, at 661, https://tinyurl.com/3fm99yu2.
[155] Pub. L. No. 81-434, 63 Stat. at 1013-17, https://tinyurl.com/c3tt3tnt.
[156] H.R. Rep. No. 81-417, *supra*, at 30-36 (noting increases above administration request for the purpose of "increasing the proposed strength to 58 groups"); S. Rep. No. 81-745, *supra*, at 31-32 (table reflecting differences between administration, House, and Senate proposals for Air Force appropriations); H.R. Rep. No. 81-1454, *supra*, at 2 (Conf. Rep.) (noting compromises between House and Senate proposals).
[157] H.R. Rep. No. 81-1454, *supra*, at 2 (Conf. Rep.); Pub. L. No. 81-434, 63 Stat. at 1013-17, https://tinyurl.com/c3tt3tnt (enacted appropriations reflecting House-proposed levels for construction of aircraft and related procurement, special procurement, maintenance and operations, research and development, and contingencies). CRA claims that the Senate agreed to the higher amounts that the House sought for additional Air Force groups "on the express understanding that the President retained inherent impoundment power." CRA History at 15-16, https://tinyurl.com/4kambfft. Nothing in the legislative history or other historical records suggests the Senate held this view, let alone provides an express statement of it. The secondary source CRA cites for its

oppose the funding increases, the final bill included a compromise: it gave the administration discretion in two key places. First, it provided that the Air Force could spend "an amount not to exceed $1,992,755,000" on construction of new aircraft, thereby permitting the expenditure of less than that amount. And the final bill included a provision — section 702 — reducing the amount the Air Force could spend under its appropriations for special procurement and maintenance and operations. Section 702 provided that "amounts to be obligated or expended" under those headings "shall not exceed" $125,797,000 and $1,143,858,000, respectively, permitting expenditures below those amounts.[158] Thus, when Truman impounded some funds under each of those appropriations,[159] his actions were consistent with the underlying statute.

Similarly, when the administration impounded portions of funds appropriated for research and development and contingencies,[160] those actions also were permitted by the statute. Because the research and development appropriation was "to remain available until expended,"[161] the administration did not have to spend the full amount appropriated in a single fiscal year. (It nonetheless spent most of that money, reporting only $36 million of the originally appropriated $233 million left over at the end of the fiscal year.[162]) And because the contingencies appropriation was intended only for "emergencies and extraordinary expenses," and required the Air Force secretary to sign off on any expenditures, the statute gave the Air Force discretion to spend less than the full amount appropriated.[163] Far from defying Congress, then, Truman's actions were consistent with the text of the appropriations — and the compromise struck between a House that wanted more Air Force groups and a Senate that wanted fewer.

Furthermore, just as Truman's broad statement that if the president "doesn't feel like the money should be spent, I don't think he can be forced to spend it," did not result in defiance of the 1950 National Military Establishment Appropriation Act, it appears not to have shaped his broader approach to executing appropriations laws. In other instances where Truman impounded funds,

---

claim does not mention the Constitution. Rather, it quotes Sen. Elmer Thomas, who said that he thought the funds "should be impounded" and that "if the money is appropriated it may not be used." *See* Fisher, *Presidential Spending Power*, *supra*, at 162-63; 95 Cong. Rec. S14355 (daily ed. Oct. 12, 1949), https://tinyurl.com/ythvbf49 (statement of Sen. Thomas). Thomas did not specify a legal basis for a potential impoundment of those funds. But given the discretion that Congress wrote into the appropriations it ultimately enacted, Thomas's remarks cannot, without more, be read as support for a constitutional impoundment power.

[158] Pub. L. No. 81-434, § 702, 63 Stat. at 1024-25, https://tinyurl.com/muewtnf9; H.R. Rep. No. 81-454, *supra*, at 2 (Conf. Rep.) (noting "Amendment No. 100 reduces certain specific appropriations"); 95 Cong. Rec. S14353-55 (daily ed. Oct. 12, 1949), https://tinyurl.com/bdfpa22a (Senate debate over conference committee amendments).

[159] U.S. Bureau of the Budget, Exec. Off. of the President, *Budget of the United States Government for Fiscal Year 1951*, at 745 (1950), https://tinyurl.com/r5ereuzz (noting Truman held $726,151,000 of the "construction of aircraft and related procurement" appropriation in reserve "as a result of [his] determination not to expand the Air Force above the 48-group level"); U.S. Bureau of the Budget, Exec. Off. of the President, *Budget for the Military Functions of the Department of Defense for the Fiscal Year 1952*, at 119-20, 126 (1951), https://tinyurl.com/fm9sx3ha (noting $1.8 million "[u]nobligated balance" for the fiscal year 1950 "maintenance and operations" appropriation, and $3.5 million "[u]nobligated balance" for the fiscal year 1950 "special procurement" appropriation).

[160] *Budget for the Military Functions of the Department of Defense for the Fiscal Year 1952*, *supra*, at 123, 126, https://tinyurl.com/yc4bmzph (noting $36,320,538 as "[b]alance available in subsequent year" for fiscal year 1950 "research and development" appropriation, and 1,595,508 as the "[u]nobligated balance" for fiscal year 1950 "contingencies" appropriation).

[161] Pub. L. No. 81-434, 63 Stat. at 1015, https://tinyurl.com/2jt5bzek.

[162] *Budget for the Military Functions of the Department of Defense for the Fiscal Year 1952*, *supra*, at 123, https://tinyurl.com/yc4bmzph.

[163] *See* Pub. L. No. 81-434, 63 Stat. at 1017, https://tinyurl.com/4j3knvbe.

he did so consistent with, and not in defiance of, statute.[164] Indeed, in one instance where Truman held up funds Congress appropriated for the construction of a dam, he explicitly noted that he did so pursuant to Congress's instructions: "[I]n view of the legislative history of the provisos in the Kings River item, … I am asking the Director of the Budget to impound the funds appropriated for construction of the project, pending determination of the allocation of costs and the making of the necessary repayment arrangements."[165] When those costs were determined in reports the secretary of war submitted to Congress, Truman released the funds and the project moved forward.[166]

President Kennedy

When Kennedy spent less than the full amount Congress appropriated in 1961 and meant to be used in part for the B-70 bomber (later known as the RS-70), it was similarly because he had the discretion to do so under the relevant appropriation statute — which did not address the bomber specifically and provided that the relevant funds would "remain available until expended," meaning they did not have to be spent in full that year.[167] Kennedy later cited his power as "Commander in Chief" under the Constitution not to defend this impoundment, but rather to push back against language the House Armed Services Committee sought to include in a 1962 defense authorization bill to compel him to spend more on the system. The House-proposed language would have "directed" the Air Force secretary "to utilize an authorization in an amount not less than $491,000,000 during Fiscal Year 1963 to proceed with production planning and long leadtime procurement for an RS-70 weapon system."[168] In a letter to the committee's chair, Rep. Carl Vinson, Kennedy objected to the use of the word "directed," suggesting instead that "the word 'authorized' would be more suitable to an authorizing bill (which is not an appropriation of funds) and more clearly in line with the spirit of the Constitution."[169] To preserve the Constitution's "clear separation of legislative and executive powers," Kennedy continued, "I must, therefore, insist upon the full powers and discretions essential to the faithful execution of my responsibilities as President and Commander in Chief, under article II, sections 2 and 3, of the Constitution."[170]

---

[164] A25-A32.
[165] Statement by the President Concerning Plans for Development of California's Water Resources (May 3, 1946), https://tinyurl.com/ymr3txyr; *see* Pub. L. No. 79-374, ch. 247, 60 Stat. 160, 163 (1946), https://tinyurl.com/yc8949pd (noting that "none of the appropriation for the Kings River and Tulare Lake project, California, shall be used for the construction of the dam until the Secretary of War has received the reports as to the division of costs between flood control, navigation, and other water uses").
[166] H. Doc. No. 80-136, Report on Allocation of Costs of King River and Tulare Lake Project, California, at 1-2 (Jan. 31, 1947); Fisher, *Presidential Spending Power*, *supra*, at 166.
[167] A40-A42; Pub. L. No. 87-144, 75 Stat. 365, 374 (1961), https://tinyurl.com/5n9abct9 (appropriating $2.4 billion for "Research, Development, Test, and Evaluation, Air Force"); H.R. Rep. No. 87-873, at 7 (1961) (Conf. Rep.) ("The Committee of Conference is in agreement that $400,000,000 of this [Research, Development, Test, and Evaluation, Air Force] appropriation shall be available for the B-70 program.").
[168] H.R. Rep. No. 87-1406, at 1 (1962).
[169] Letter from President Kennedy to Rep. Vinson (Mar. 20, 1962), *in* 1971 Hearings at 526, https://tinyurl.com/2e92bher.
[170] *Id.*

Though Kennedy's constitutional objection was forceful, he did not, in his general reference to the "powers and discretions" of the president, explicitly assert an inherent power to impound. And he wrote only that the use of the word "directed" would violate the "spirit of the Constitution," not its letter.[171] Indeed, Kennedy conceded that while "unwise," a "legislative effort to 'direct' the Executive" is "not impossible."[172] But recognizing the importance of "comity" between the branches, Kennedy both acknowledged that it was "incumbent upon the Executive to give every possible consideration … to the views of the Congress" and offered an accommodation: Defense Secretary Robert McNamara would be willing to "reexamine the RS-70 program and related technological possibilities."[173]

In addition to the substance of Kennedy's letter to Vinson, the timing of it is notable. The president did not attempt to intervene after Congress enacted the authorization bill, but rather through a request for a change in bill text prior to its enactment. In other words, Kennedy took steps to avoid being in a position to defy a statutory directive from Congress. The president's intervention ultimately won the day. The final defense authorization bill "authorized," but did not direct, an appropriation of $491 million "for the production planning and long leadtime procurement of an RS-70 weapon system."[174] The president and Congress therefore avoided a direct confrontation, and Kennedy did not defy any enacted law.[175]

Since Congress Passed the Impoundment Control Act, Trump Is the Only President to Assert An Inherent Power to Impound

For CRA, the relevant history of impoundments ends in 1974. That year, Congress passed the Impoundment Control Act, further limiting when the president may impound funds to only two scenarios: deferrals, or temporary delays in spending, and proposed rescissions, where the president suggests cancellations of funds to Congress.[176] As one scholar notes, "[d]espite asserting that the [ICA] 'represented an unprecedented break with the Nation's constitutional history and traditions,' [CRA] halts its historical survey with the statute's enactment and thus identifies no post-enactment practice supporting its theory."[177] That omission is not surprising, because the history since 1974 further undermines the notion that presidential practice supports the existence of an inherent power to impound.

Since Nixon resigned and Congress passed the ICA, Trump is the only president to have asserted an inherent constitutional power to impound. None of the other eight subsequent Republican and Democratic presidents — Gerald Ford, Jimmy Carter, Ronald Reagan, George

[171] *Id.*
[172] *Id.*
[173] *Id.*
[174] Pub. L. No. 87-436, 76 Stat. 55, 55 (1962), https://tinyurl.com/5n98vhu2.
[175] *See* Price, *The President Has No Constitutional Power of Impoundment*, *supra*, https://tinyurl.com/247j95un.
[176] Congressional Budget & Impoundment Control Act of 1974, Pub. L. No. 93-344, tit. X, 88 Stat. 297, 332-39 (1974), https://tinyurl.com/5xn329ve (now codified at 2 U.S.C. §§ 682-88); *see* Pub. L. No. 100-119, §§ 206-07, 101 Stat. 754, 785-86 (1987), https://tinyurl.com/4at5tabs (amending and reaffirming two of the ICA's provisions).
[177] Price, *The President Has No Constitutional Power of Impoundment*, *supra*, https://tinyurl.com/247j95un.

H.W. Bush, Bill Clinton, George W. Bush, Barack Obama, and Joe Biden — has asserted the power that Trump now claims.

It is notable that Presidents Ford and Reagan, in particular, did not assert this power. In litigation and a signing statement, respectively, both presidents challenged the constitutionality of the section of the ICA empowering the Government Accountability Office (GAO) to sue the executive branch to release impounded funds.[178] But even as Ford and Reagan aired this constitutional objection, neither president raised the broader challenge Trump now does: that the ICA as a whole is unconstitutional because it encroaches on the president's supposed inherent power not to spend appropriated funds.

Trump himself discovered this constitutional power to impound only recently. Although Trump's first term featured both an impoundment of funds Congress appropriated for Ukraine and repeated threats to cancel billions of dollars in foreign aid,[179] the administration defended these actions primarily on statutory grounds.[180] Trump's hold on funds for Ukraine did not violate the ICA, the Office of Management and Budget (OMB) argued, because the hold was a permissible "programmatic delay," rather than an action prohibited by the statute.[181] And Trump's threats to cancel foreign aid turned on the "text of the Impoundment Control Act," which OMB asserted allowed "the President to propose [rescissions] and withhold funds at any time in a fiscal year."[182]

---

[178] Points & Auths. in Supp. of Defs.' Mot. to Dismiss at 3-13, *Staats v. Ford*, No. 75-cv-00551 (D.D.C. June 16, 1975), https://tinyurl.com/287vac9d (The cause of action "violates the Constitution in two ways. First, by authorizing the Comptroller General, a legislative officer, to perform the executive function of enforcing the law, the provision runs afoul of the constitutional separation of powers. Secondly, by in effect authorizing the Congress to sue the Executive, the United States appears on both sides of this action and no justiciable case or controversy is presented within the meaning of Article III."); Statement on Signing H.J. Res. 324 Into Law, 23 Weekly Comp. Pres. Doc. 1091 (Oct. 5, 1987) ("First, the Supreme Court's recent decision in *Bowsher v. Synar*, which struck down portions of the original Gramm-Rudman-Hollings law, makes clear that the Comptroller General cannot be assigned Executive authority by the Congress. In light of this decision, section 206(c) of the joint resolution, which purports to reaffirm the power of the Comptroller General to sue the executive branch under the Impoundment Control Act, is unconstitutional. It is only on the understanding that section 206(c) is clearly severable from the rest of the joint resolution, under the reasoning of the Supreme Court's 1987 decision in *Alaska Airlines v. Brock*, that I am signing the joint resolution with this constitutional defect."). OMB General Counsel Mark Paoletta has similarly argued that the ICA's cause of action is unconstitutional. *See* Mark Paoletta & Daniel Shapiro, *Trump is right about the Impoundment Control Act — it's unconstitutional*, The Hill (June 24, 2024), https://tinyurl.com/yw88bbhv.

[179] *See* GAO, B-331564, *Office of Management and Budget — Withholding of Ukraine Security Assistance* (Jan. 16, 2020), https://tinyurl.com/nhea99ck; Carol Morello & Karoun Demirjian, *Trump administration is considering pulling back $3 billion in foreign aid*, Wash. Post (Aug. 16, 2018), https://tinyurl.com/8a5mycvw; John Bresnahan et al., *Trump kills plan to cut billions in foreign aid*, POLITICO (Aug. 22, 2019), https://tinyurl.com/syarw7en.

[180] GAO, *Withholding of Ukraine Security Assistance*, *supra*, at 7, https://tinyurl.com/4c65xdh2; GAO, B-330330, *Impoundment Control Act — Withholding of Funds Through Their Date of Expiration* 8-9 (Dec. 10, 2018), https://tinyurl.com/3d7rzzbk (explaining OMB's argument that the ICA "does not preclude an impoundment from persisting through the date on which amounts would expire"); *see* Letter from OMB Dir. Russell Vought & OMB Gen. Couns. Mark Paoletta to Rep. John Yarmuth, Chair, House Comm. on Budget, at 3-4 (Jan. 19, 2021), https://tinyurl.com/4npzsp45 (citing the ICA and Antideficiency Act to defend actions both taken and contemplated).

[181] GAO, *Withholding of Ukraine Security Assistance*, *supra*, at 7, https://tinyurl.com/4c65xdh2.

[182] Letter to Tom Armstrong, GAO Gen. Couns., from Mark Paoletta, OMB Gen. Couns., at 4 (Nov. 16, 2018), https://tinyurl.com/3cf46rwj; GAO, *Withholding of Funds Through Their Date of Expiration*, *supra*, at 8-9, https://tinyurl.com/3d7rzzbk.

It was only at the end of Trump's first term that the administration began to escalate its assertions of authority to impound. In a letter that OMB Director Russell Vought and OMB General Counsel Mark Paoletta sent to Congress, the pair decried "interpreting the ICA in a manner" that would "sanction a Legislative encroachment upon the President's constitutional authority to faithfully execute the laws."[183] But they continued to argue that the "temporary pauses" in spending sometimes required by faithful execution were in accordance with the ICA, not in defiance of it, because they "constitute programmatic delays, not impoundments."[184] Not until June 2023 did Trump explicitly and publicly claim an inherent power to impound. In a campaign video, Trump vowed to "use the president's long-recognized Impoundment Power to squeeze the bloated federal bureaucracy for massive savings," and promised to "challenge the Impoundment Control Act in court."[185]

Trump's threat to challenge the ICA in court and his actions since taking office to defy the law through a thicket of executive orders, memoranda, and agency actions to freeze and cancel federal funds[186] stand in stark contrast to past administrations' compliance with the ICA.[187] That compliance has not been perfect. But on the limited number of occasions when past administrations unlawfully impounded funds and GAO pushed them to release the money in compliance with the law, presidents have uniformly backed down. This was the case in 1975, for example, when GAO sued the Ford administration for impounding $264.1 million needed to implement the Home Ownership Assistance Program.[188] In an internal memorandum, Secretary of Housing and Urban Development (HUD) Carla Hills recommended releasing the impounded funds because "it is the belief of HUD's General Counsel, trial counsel in the Civil Division of the

[183] Letter from OMB Dir. Russell Vought & OMB Gen. Couns. Mark Paoletta, *supra*, at 5-6 https://tinyurl.com/4npzsp45.
[184] *Id.* at 3.
[185] Donald J. Trump, *Using Impoundment to Cut Waste, Stop Inflation, and Crush the Deep State*, Agenda47 (June 20, 2023), https://tinyurl.com/yc6cf28f.
[186] *E.g.*, Unleashing American Energy, Exec. Order No. 14,154, 90 Fed. Reg. 8353 (Jan. 20, 2025), https://tinyurl.com/yc63veh9; Reevaluating and Realigning United States Foreign Aid, Exec. Order No. 14,169, 90 Fed. Reg. 8619 (Jan. 20, 2025), https://tinyurl.com/yc398e7k; Withdrawing the United States From the World Health Organization, Exec. Order. No. 14,155, 90 Fed. Reg. 8361 (Jan. 20, 2025), https://tinyurl.com/4pufek3h; Memorandum from Matthew Vaeth, Acting Dir., U.S. Off. of Mgmt. & Budget, to Heads of Exec. Dep'ts & Agencies, Regarding Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs (Jan. 27, 2025), https://tinyurl.com/mr3xx2e3 (since rescinded); Jeremy Herb et al., *'People are just flipping out': Billions in federal funding remain frozen despite court orders to keep the taps open*, CNN (Feb. 13, 2025), https://tinyurl.com/m2zfj8w7 (describing agency actions to freeze federal funds); Press Release, Sen. Patty Murray, Vice Chair, U.S. Senate Comm. on Appropriations, Week 4: Trump's Funding Freeze Continues, at 2-3 (Feb. 15, 2025), https://tinyurl.com/fh58htru (table outlining funding "illegally withheld" by Trump administration).
[187] *See, e.g.*, Price, *Funding Restrictions and Separation of Powers*, *supra*, at 435 n.281, https://tinyurl.com/msxspuax (collecting sources on executive compliance with the ICA); Chafetz, *supra*, at 65 ("The Impoundment Control Act's checks have generally been effective, with studies finding that presidents have largely adhered to the act's requirement to report impoundments and that presidents have released funds when required to."); Wm. Bradford Middlekauff, Note, *Twisting the President's Arm: The Impoundment Control Act as a Tool for Enforcing the Principle of Appropriation Expenditure*, 100 Yale L.J. 209, 218-19 & nn. 52-54 (1990), https://tinyurl.com/yyshe23f ("The Comptroller General has found few situations since passage of the ICA where the executive branch has not reported an impoundment. In addition, the Comptroller General has not had to reclassify deferrals as rescissions or vice versa with any degree of regularity. With respect to the release of deferred funds, a Special Assistant to the Comptroller General has testified that the Comptroller General's 'monitoring experience and a review of the record indicate no pattern or practice of refusal or failure to release deferred funds in a timely manner'" (footnotes omitted).).
[188] Compl. ¶ 17, *Staats v. Ford*, No. 75-cv-00551 (D.D.C. Apr. 15, 1975), https://tinyurl.com/mwe86969; 120 Cong. Rec. H34116 (Oct. 7, 1974), https://tinyurl.com/3pt525k2 (noting the submission of Ford's special message).

Department of Justice and the Solicitor General that the GAO is likely to prevail."[189] The Ford administration subsequently released the money, reactivated the Home Ownership Assistance Program, and settled the lawsuit with GAO.[190]

Under Reagan, a threat by GAO to sue was enough to prompt the administration to release frozen funds. In 1986, the comptroller general twice notified Congress of his intent to sue the administration — first, over funds appropriated for the Strategic Petroleum Reserve[191] and, second, over budget authority made available to the Maritime Administration and the Urban Mass Transportation Administration.[192] In both cases, the administration released the money.[193] In neither instance did it raise purported constitutional justifications for its actions.

Since the Reagan administration, GAO has not needed to threaten to sue the executive branch to ensure compliance with the ICA.[194] GAO inquiries and comptroller general decisions regarding potential impoundments have been enough to prompt the release of funds.[195] Such was the case at the start of the first Trump administration, when the Departments of Energy and Homeland Security released unlawfully impounded funds after inquiries by GAO.[196] That presidents have largely complied with the ICA thus further undercuts the notion that there is any long-recognized inherent presidential power to impound. From 1974 to 2023 — roughly fifty unbroken years — no president asserted or appears to have acted on such a power.

---

[189] Memorandum from Carla Hills, Sec'y, U.S. Dep't of Hous. & Urban Dev., to L. William Seidman, Exec. Dir., Economic Pol'y Bd., at 1, 4 (Sept. 26, 1975), https://tinyurl.com/2xrcde78.
[190] Stip. Re Dismissal, *Staats v. Lynn*, No. 75-cv-00551 (D.D.C. Nov. 26, 1975), https://tinyurl.com/2fv26kcv.
[191] GAO, *Report to the Chairman, Subcommittee on Environment, Energy, and Natural Resources, Committee on Government Operations, House of Representatives: Oil Reserve—Status of Strategic Petroleum Reserve Activities as of March 31, 1986*, at 9 (Apr. 1986), https://tinyurl.com/2ks4wrxr; 132 Cong. Rec. H3479 (Mar. 4, 1986), https://tinyurl.com/4ptrka3a (noting letter from Comptroller General "transmitting notification of his intention to institute a civil action in the U.S. district court to require that the budget authority for the strategic petroleum reserve be made available for obligation"); H. Doc. 99-173 (Mar. 4, 1986) (notification).
[192] H. Doc. No. 99-192 (Apr. 9, 1986) (comptroller general notification of intent to sue).
[193] GAO, *Status of Strategic Petroleum Reserve Activities*, *supra*, at 9 n.2, https://tinyurl.com/2ks4wrxr; *Impoundment Control Act Use and Impact of Recission Procedures: Hearing before the Subcomm. on Federal Financial Management of the S. Comm. on Homeland Security & Governmental Affairs*, 111th Cong. 2 (2009) ("Poling Statement"), https://tinyurl.com/3csyc9d7 (statement of Susan A. Poling, Managing Assoc. Gen. Couns., GAO Office of Gen. Couns.) ("During the initial years of the ICA, we filed 25-day reports on several occasions .... In each case, the funds were released.").
[194] Poling Statement at 2, https://tinyurl.com/3csyc9d7. Searches we conducted using the HeinOnline electronic database — which houses the entire Congressional Serial Set collection (through 2017) and all GAO reports and comptroller general decisions (through 2008) — returned no post-Reagan administration instances where the comptroller general notified Congress of an intent to sue to release impounded budget authority. Previously, on two occasions, GAO threatened to sue the Ford administration to release impounded funds. But in one case, the Department of Health, Education, and Welfare released the funds in response. S. Doc. No. 94-256 (Sept. 14, 1976). And in another, a court ordered the withholding of housing funds and GAO concluded there was no longer an impoundment. GAO, OGC-77-9, B-115398, *Civil Litigations Concerning the Section 236 Housing Program* (Dec. 23, 1976).
[195] *See, e.g.*, Poling Statement at 5, https://tinyurl.com/hh7wsa9b ("For his budget proposal for fiscal year 2007, the President requested the "cancellation" or rescission of previously appropriated funds from 40 programs, administered by 13 agencies. This time only one agency withheld funds from obligation in violation of the ICA and released the funds after our inquiry.").
[196] GAO, B-329092, *Impoundment of the Advanced Research Projects Agency-Energy Appropriation Resulting from Legislative Proposals in the President's Budget Request for Fiscal Year 2018*, at 1-2 (2017), https://tinyurl.com/37um3uin; GAO, B-329739, *U.S. Department of Homeland Security — Impoundment Control Act and Appropriations for the Tenth National Security Cutter*, at 8 (2018), https://tinyurl.com/4a4tuzf5.

IV. Conclusion

An imagined presidential power to impound funds deserves no sanction. Every source of authority makes clear that there is no inherent presidential power to impound. It finds no basis in the Constitution's text and structure, which commits the power of the purse to Congress. It finds no support in federal case law, which as early as 1838 rejected an effort to justify on constitutional grounds executive defiance of a spending law. It finds no home even in the legal opinions and precedent internal to the executive branch.

For history to evince an inherent presidential power to impound, it would have to show "a systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned, engaged in by Presidents who have also sworn to uphold the Constitution, making as it were such exercise of power part of the structure of our government," such that it "may be treated as a gloss on 'executive Power' vested in the President by § 1 of Art. II."[197] The historical record, even as CRA presents it, reveals no such thing.

Instead, the historical record shows that presidents have largely acted within the bounds of the law, and impounded funds in accordance with their statutory authority. When presidents have impounded funds in defiance of statute, they often have attempted to justify their actions on statutory grounds, as President Grant did. When Presidents Jackson and Nixon pressed their cases in court, making sweeping arguments about their constitutional power to defy spending laws, they resoundingly lost. And even in the case of President Roosevelt, who repeatedly impounded funds in defiance of the law, he first offered a statutory justification before resorting to a constitutional defense. And he faced sustained and vocal pushback from Congress over a period of years.

Far from systematic, unbroken, and never-before-questioned, the "practice" this historical record reveals is one of only sporadic presidential action in defiance of Congress — which both Congress and the courts have countermanded. At many different junctures in American history, these coordinate branches of government (along with lawyers in the executive branch) have rejected the sweeping presidential power to impound now claimed. It therefore "is supported by neither reason nor precedent."[198] And so it should remain.

[197] *Youngstown*, 343 U.S. at 610-11 (Frankfurter, J., concurring).
[198] *Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools*, 1 Supp. Op. O.L.C., *supra*, at 308, https://tinyurl.com/hf2t2y83.

APPENDIX

A History of Presidential Impoundments

The Center for Renewing America (CRA) argues that the history of presidential impoundments from the founding through the Nixon administration supports the notion that the president has an inherent constitutional power to impound appropriated funds.[1] This appendix examines each alleged example that CRA cites in support of that claim. For each example, we reviewed the relevant appropriations and other statutes, in addition to the sources cited by CRA and other primary and secondary sources, to determine: (1) whether there was, in fact, an impoundment; (2) whether the impoundment was authorized by statute; and (3) if the impoundment appeared not to be authorized by statute, what justification, if any, the president offered for impounding the funds.

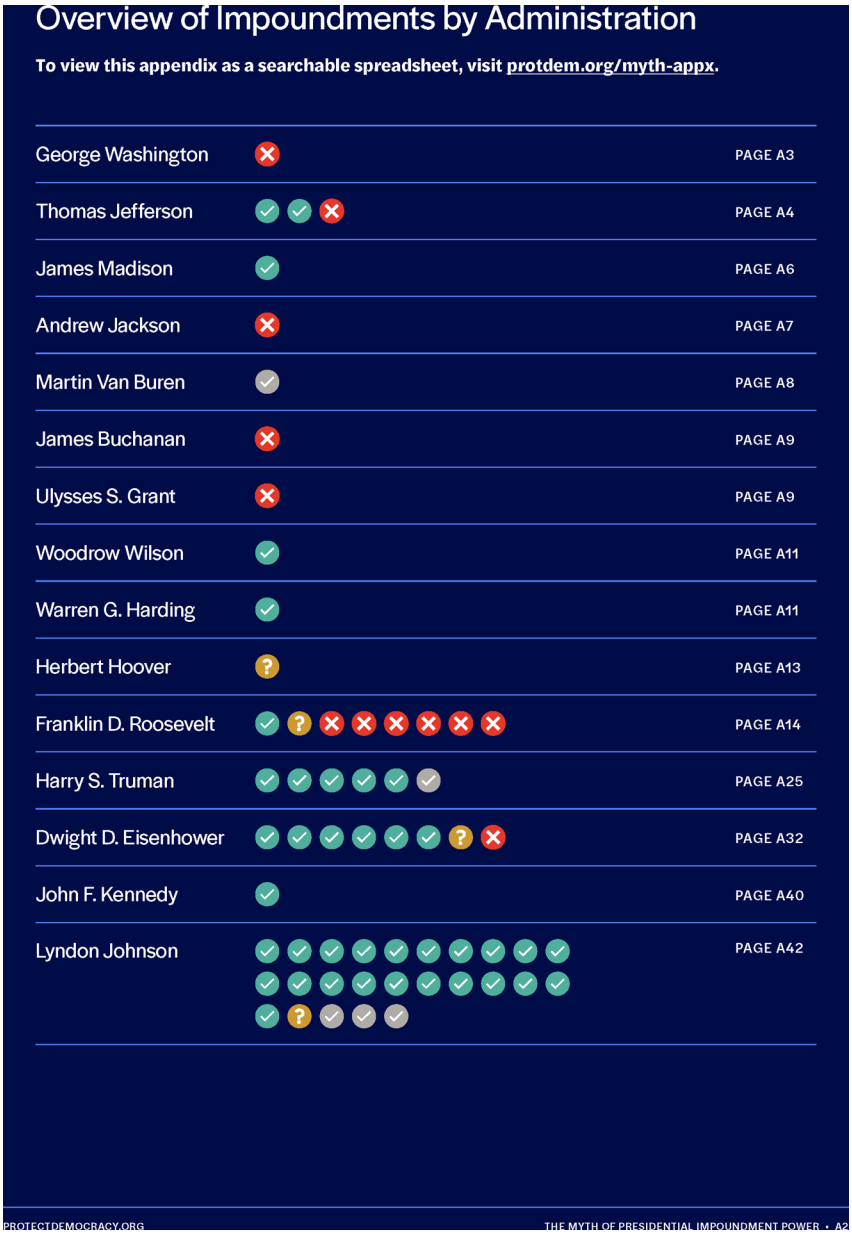
Throughout, we relied on the definition of an impoundment offered by the Government Accountability Office (GAO): any "action or inaction by an [executive] officer or employee" that either temporarily or permanently "precludes the obligation or expenditure of budget authority."[2] Budget authority, GAO explains, is "authority provided by federal law to enter into financial obligations that will result in immediate or future outlays [think: payments] involving federal government funds."[3] Such authority often takes the form of appropriations, but may also include authority to enter into contracts or borrow money.[4]

We have grouped alleged impoundments into four categories:

AUTHORIZED	UNAUTHORIZED	UNKNOWN	NOT AN IMPOUNDMENT
The impoundment was permitted by laws passed by Congress.	*The impoundment was not permitted by laws passed by Congress.*	*There was not enough information to assess the alleged impoundment.*	*The action taken by the executive branch was not an impoundment.*

As our paper explains, these examples do not support the contention that the Constitution allows the president to unilaterally impound funds. Even in the few instances reviewed here when presidents have impounded funds without authorization, they have almost always asserted a statutory justification or faced vigorous opposition from Congress or the courts. **To view this appendix as a searchable spreadsheet, visit protdem.org/myth-appx.**

1 *See* Mark Paoletta et al., *The History of Impoundments Before the Impoundment Control Act of 1974* (June 24, 2024) ("CRA History"), https://tinyurl.com/bdedyam6.
2 GAO, GAO-16-464SP, *Principles of Federal Appropriations Law, Chapter 2: The Legal Framework* 2-47 (2016), https://tinyurl.com/4fumbp3y.
3 GAO, GAO-05-734SP, *A Glossary of Terms Used in the Federal Budget Process* 20 (2005) ("GAO Glossary"), https://tinyurl.com/2xuepe5d.
4 *Id.* at 20-22.


Overview of Impoundments by Administration
To view this appendix as a searchable spreadsheet, visit protdem.org/myth-appx.
George Washington
PAGE A3
Thomas Jefferson
PAGE A4
James Madison
PAGE A6
Andrew Jackson
PAGE A7
Martin Van Buren
PAGE A8
James Buchanan
PAGE A9
Ulysses S. Grant
PAGE A9
Woodrow Wilson
PAGE A11
Warren G. Harding
PAGE A11
Herbert Hoover
PAGE A13
Franklin D. Roosevelt
PAGE A14
Harry S. Truman
PAGE A25
Dwight D. Eisenhower
PAGE A32
John F. Kennedy
PAGE A40
Lyndon Johnson
PAGE A42
PROTECTDEMOCRACY.ORG
THE MYTH OF PRESIDENTIAL IMPOUNDMENT POWER • A2

George Washington

1789–97

MILITARY HOSPITAL FUNDS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "it was well known that the Executive underspent tens of thousands on hospital department appropriations" during the Washington administration."[5]

This assertion finds its roots in a February 1797 congressional debate recounted in Joseph Gales's *Annals of Congress*.[6] Although CRA does not specify which Washington-era hospital department appropriations were "underspent,"[7] Gales makes specific reference to a 1796 appropriation, which the military reportedly did not spend in full on its hospital department.[8] Our assessment considers this episode.

ASSESSMENT

This impoundment was **not authorized by statute**. After the military spent the portion of the 1796 appropriation it needed to fund its hospital departments, it used the remaining money for other purposes without congressional authorization — an infringement on Congress's power of the purse, but one that even CRA does not argue is constitutional.

In 1796, Congress appropriated $30,000 "[f]or the [military's] hospital department."[9] Gales writes that in a congressional debate, Representative Albert Gallatin, stated that "this year," the hospital department "had cost six thousand nine hundred and five dollars."[10] If true, it would mean the Washington administration did not spend $23,095 of the $30,000 appropriation on hospitals. But Gallatin (as summarized by Gales) did not allege that the money was withheld; he alleged that the military "appl[ied] the surplus to other purposes."[11]

Congress debated how to prevent the military and other government officials from continuing to reallocate excess funds, a practice that Gallatin believed was "making the law a mere farce."[12] Congress substantially decreased the 1797 hospital department appropriation while also providing the executive branch with limited discretion to spend less than the full amount: "a sum not exceeding ten thousand dollars."[13] At Gallatin's urging, Congress also combined some military appropriations "together in one

5 CRA History at 5, https://tinyurl.com/5d8vsuy6.

6 Joseph Gales, *Annals of the Congress of the United States: Fourth Congress, Second Session* 2321 (1849) (statement of Rep. Albert Gallatin), https://tinyurl.com/ycaptp79; CRA History at 5 (citing Lucius Wilmerding, *The Spending Power* 41 (1943)); Wilmerding, *supra*, at 41 & n.34 (citing Gallatin's statement at "6 *Annals*, 2321").

7 CRA History at 5, https://tinyurl.com/5d8vsuy6.

8 Gales, *supra*, at 2321. Gales's account contains some errors. He wrote that it was the "uniform practice of the House to appropriate from thirty to forty thousand dollars" for the hospital department. However, hospital department appropriations in Washington's administration never exceeded $30,000. Congress did not appropriate $40,000 for the hospital department until 1799, during the Adams administration. Act of Mar. 2, 1799, ch. 44, § 1, 1 Stat. 741, 743, https://tinyurl.com/59n5tj6x.

9 Act of June 1, 1796, ch. 51, § 1, 1 Stat. 493, 494, https://tinyurl.com/y8m4yfvs ("For the hospital department, the sum of thirty thousand dollars ....").

10 Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79.

11 *Id.*

12 *Id.* (statement of Rep. Albert Gallatin as summarized by Gales).

13 Act of Mar. 3, 1797, ch., 17, § 1, 1 Stat. 508, 508, https://tinyurl.com/ynpvrueh.

sum,"[14] to provide some discretion to allocate funds between "contingent expenses," while disallowing unlimited transfers.[15]

14 Gales, *supra*, at 2321, https://tinyurl.com/ycaptp79.
15 Wilmerding, *supra*, at 41.

Thomas Jefferson

1801

CONSTRUCTION OF NAVY YARDS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, in 1801, "President Jefferson announced that his administration was impounding funds for the construction of shipyards to allow the Republican Congress to reassess these Federalist Era appropriations. Jefferson apparently had no qualms about asserting, almost in passing, the President's impoundment authority on the basis of policy disagreements with previous congressional appropriations."[16]

ASSESSMENT

This impoundment was **not authorized by statute**. But Jefferson did not impound the funds because of "policy disagreements" with Congress. Quite the opposite; he "suspended or slackened" expenditures because he suspected that spending in the prior administration had unlawfully exceeded congressional appropriations.

In 1799, Congress had appropriated $50,000 for the construction of two docks.[17] But Secretary of the Navy Benjamin Stoddert, under President John Adams, had begun purchasing land for the construction of six navy yards,[18] spending over $190,000 on land and improvements, apparently without congressional authorization.[19] In March 1801, Congress appropriated $500,000 for "the expenses attending six seventy-four gun ships, and for completing navy yards, docks, and wharves."[20] This put Jefferson in a legal quandary. Congress had instructed him to "complet[e] navy yards," without specifying the number, and perhaps unaware that land for six navy yards had been purchased instead of the two that were authorized. If Jefferson completed all six, he was potentially furthering defiance of Congress, but the same could be said of withholding the funds.

In December 1801, in his first annual message to Congress, Jefferson announced that he had "suspended or slackened" the expenditure of funds for constructing navy yards so "that the Legislature might determine whether so many yards are necessary as have been contemplated."[21] Jefferson expressed doubt that the prior administration had "perfectly understood" the "authority given by the Legislature."[22] A congressional committee tasked with investigating the matter issued a report five months later finding that

16 CRA History at 8, https://tinyurl.com/bde6dp2a.
17 Acts of Feb. 25, 1799, chs. XV & XVI, 1 Stat. 622 (1799), https://tinyurl.com/3f88f2ek.
18 H.R. Doc. No. 7-28 (1802), *in* Walter Lowrie & Walter Franklin, eds., *American State Papers* 103 (1834), https://tinyurl.com/3hssw3jm; H.R. Doc. No. 7-186, at 2 (1802) (hereinafter Nicholson Report), *in* Walter Lowrie & Matthew St. Clair Clarke, eds., *American State Papers* 753 (1832), https://tinyurl.com/29tcz44x.
19 *Id.*
20 Act of Mar. 3, 1801, § 1, 2 Stat. 122-23, https://tinyurl.com/bdfpfdz2.
21 President Thomas Jefferson, First Annual Message to Congress (Dec. 8, 1801), https://tinyurl.com/52m6ajsz.
22 *Id.*

"no authority was given, by law, nor any appropriation made, except for the two docks" and "that four of the navy yards were purchased without authority, and the money misapplied which was paid for them."[23] In 1803, Congress sold one of the navy yards that was purchased unlawfully.[24]

23 Nicholson Report, *supra*, at 2, https://tinyurl.com/29tcz44x.
24 Act of Feb. 10, 1803, ch. IV, 7 Stat. 199, https://tinyurl.com/7kbjs5h4.

Thomas Jefferson

1803

CONSTRUCTION OF GUNBOATS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, the "most famous early impoundment precedent came in 1803, when Jefferson refused to spend a congressional appropriation of $50,000 for 15 gunboats for use on the Mississippi."[25]

ASSESSMENT

This impoundment was **authorized by statute**. In the underlying appropriation, Congress "authorized and empowered" Jefferson to construct "a number not exceeding fifteen gun boats" using a "sum not exceeding fifty thousand dollars."[26] This statutory language gave Jefferson discretion to determine whether and how much of the funds to spend.[27]

Jefferson's impoundment was only temporary, however. In his fourth annual message to Congress, the president shared that "[t]he act of Congress of 1803 February 28, for building and employing a number of gun boats, is now in a course of execution to the extent there provided for."[28]

25 CRA History at 9, https://tinyurl.com/cjauyje. This case is regularly referenced by Trump and his allies. *See, e.g.*, Donald J. Trump, *Using Impoundment to Cut Waste, Stop Inflation, and Crush the Deep State*, Agenda47 (June 20, 2023), https://tinyurl.com/yc6cf28f; Mark Paoletta & Daniel Shapiro, *The Next POTUS Should Reclaim The Constitutional Spending Power Congress Stole*, The Federalist (June 7, 2024), https://tinyurl.com/3bebu9tr.
26 *See* Act of Feb. 28, 1803, § 3, 2 Stat. 206, https://tinyurl.com/5byhrt3c.
27 Justice Scalia recognized this appropriation as discretionary in a special concurrence. *See Clinton v. City of New York*, 524 U.S. 417, 466-67 (1998) ("From a very early date Congress also made permissive individual appropriations, leaving the decision whether to spend the money to the President's unfettered discretion. In 1803, it appropriated $50,000 for the President to build 'not exceeding fifteen gun boats, to be armed, manned and fitted out, and employed for such purposes as in his opinion the public service may require'[.]") (quoting statute).
28 President Thomas Jefferson, Fourth Annual Message (Nov. 8, 1804), https://tinyurl.com/y725cxsf.

Thomas Jefferson

1802–09

CONTINGENCY FUNDS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "'Jefferson found it unnecessary on repeated occasions to use all of the money provided in a contingency fund' and 'regularly returned the unexpended balance to the Treasury.'"[29]

ASSESSMENT

These impoundments were **authorized by statute**. In 1802, 1805, and 1808, Congress appropriated $20,000 for "defraying the contingent

29 CRA History at 8-9, https://tinyurl.com/bde6dp2a (quoting Louis Fisher, *Presidential Spending Power* 150 (1975)).

expenses of government."[30] None of these statutes required expenditure of the appropriated funds, nor would it have made sense to do so given that Congress provided the funds for contingencies that might, but would not necessarily, arise.

To the extent Jefferson "'regularly returned the unexpended balance to the Treasury,'" it was because he was required to do so by a 1795 law, which provided, with some exceptions, that appropriations both unexpended and expired for more than two years "shall be deemed to have ceased and been determined; and the sum so unexpended shall be carried to an account on the books of the treasury, to be denominated 'The Surplus Fund.'"[31]

30 Act of May 1, 1802, ch. 47, 2 Stat. 184, 188, https://tinyurl.com/mrej99y7; Act of Mar. 1, 1805, ch. 21, 2 Stat. 316, 321, https://tinyurl.com/3a8p85ky; Act of Feb. 10, 1808, ch. 17, 2 Stat. 462, 466, https://tinyurl.com/yz36j79d.

31 Act of Mar. 3, 1795, ch, 45, § 16, 1 Stat. 433, 437, https://tinyurl.com/398p46ff.

James Madison

1809

GUNBOAT CREWS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[President James] Madison too impounded funds .... In 1809, Madison announced to Congress that he was reducing the crews of gunboats in New Orleans in order to save money that Congress had appropriated."[32]

ASSESSMENT

This impoundment was **authorized by statute**. In the underlying appropriation, Congress "authorized and empowered" the president to employ additional midshipmen and seamen for a "period not exceeding two years," unless he decided to discharge them sooner because "in his judgment their service may be dispensed with."[33] Congress appropriated "a sum not exceeding four hundred thousand dollars" for this end.[34] This language indicates a clear grant of discretion by Congress both to spend less than the full amount appropriated and to employ the crews only insofar as the president, "in his judgment," deemed it necessary.

32 CRA History at 9, https://tinyurl.com/cjauyje; *see* Letter from President James Madison to Congress (May 23, 1809), https://tinyurl.com/ezrf9a9y ("I have thought it not inconsistent with a just precaution, to have the Gun-Boats, with the exception of those at New Orleans, placed in a situation, incurring no expence beyond that requisite for their preservation and conveniency for future service; and to have the crews of those at New Orleans, reduced to the number required for their navigation and safety.").

33 Act of Jan. 31, 1809, § 2, 2 Stat. 514, https://tinyurl.com/h9akfh23.

34 *Id.*

Andrew Jackson

1838

FUNDS OWED TO CONTRACTORS FOR MAIL DELIVERY SERVICES

UNAUTHORIZED

ALLEGED IMPOUNDMENT

In 1836, Congress passed a private relief act that "directed" the solicitor of the treasury to settle the claims of four contract mail carriers for payment for their services, and "directed" the postmaster general to pay the contractors whatever amount the solicitor determined they were owed.[35] The solicitor determined the contractors were owed $161,563.89, but the postmaster general paid them only $122,102.46.[36]

CRA states that this was not an impoundment, only "a contract claim against the government that was adjudicated by Congress" and "involved no discretion."[37] However, because this incident involves the defiance of a clear statutory requirement to pay the contractors a specified sum (the amount that the solicitor of the treasury determined they were owed), this paper treats the refusal to pay the full amount as an impoundment of the unspent funds.

ASSESSMENT

This nonpayment of funds made available by Congress — an impoundment — was **not authorized by statute**. So the Supreme Court held in *Kendall v. United States ex rel. Stokes*, 37 U.S. 524 (1838).

After the postmaster general refused to pay the contractors the full amount they were owed, the attorney general argued before the Supreme Court that the Take Care clause granted the president, and by extension executive branch officials, the discretion to pay less than the full amount that the statute required. The Supreme Court roundly rejected that argument: "To contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the constitution, and entirely inadmissible."[38] The Court then ordered the postmaster general to pay the contractors the rest of the money they were owed,[39] and the contractors received that money.[40]

35 Act of July 2, 1836, ch. 284, 6 Stat. 665, 665-66, https://tinyurl.com/mr35jpyr.
36 *Kendall v. United States ex rel. Stokes*, 37 U.S. 524, 609 (1838).
37 CRA History at 10, https://tinyurl.com/ye24zmcj.
38 *Kendall*, 37 U.S. at 612-13.
39 *Id.* at 609, 626.
40 *Kendall v. Stokes*, 44 U.S. 87, 96-97 (1845).

Martin Van Buren

1803

REFUSAL TO PAY A WIDOW A SECOND PENSION

NOT AN IMPOUNDMENT

ALLEGED IMPOUNDMENT

According to CRA, the secretary of the navy under President Martin Van Buren impounded funds by refusing to pay a widow a second pension.[41]

ASSESSMENT

This action was **not an impoundment**, but rather an adjudication of eligibility for a pension.

On July 10, 1832, Congress made the secretary of the navy the trustee of the Navy pension fund and made it his "duty to receive applications for pensions, and to grant the same according to the terms of the acts of Congress ...."[42] On March 3, 1837, Congress passed a law entitling the widow of any officer who died serving the Navy to receive, from the pension fund, half the monthly salary the deceased officer would have been earning.[43] The same day, Congress passed a special resolution entitling Susan Decatur, the widow of a commodore, to receive a pension from the Navy.[44] Decatur applied for both pensions.[45]

After consulting with the attorney general, the secretary of the navy invited Decatur to choose which pension to receive but found she was not entitled to both. Decatur elected to receive the general pension but later sued to secure the pension provided under the special resolution.[46] The Supreme Court ruled against Decatur, finding that the underlying statutes gave the Navy secretary "discretion" in adjudicating pension claims and administering the pension fund.[47] The Court held it had "no right, by mandamus, to control" the exercise of that discretion.[48]

Decisions about the eligibility of individuals for particular benefits are commonplace in government. A lawful determination not to grant any such individual benefit is not considered an impoundment.

41 CRA History at 11, https://tinyurl.com/ypyt2dbp.
42 Act of July 10, 1832, ch. 194, 4 Stat. 572, https://tinyurl.com/y57dv5pw.
43 *Decatur v. Paulding*, 39 U.S. (14 Pet.) 497, 513 (1840).
44 Act of Mar. 3, 1837, 6 Stat. 700, https://tinyurl.com/2rpbb5va.
45 *Decatur*, 39 U.S. at 514.
46 *Id.*
47 *Id.* at 515, 517.
48 *Id.*; *see Work v. United States ex rel. Rives*, 267 U.S. 175, 177 (1925) ("This court held that Congress intended the Secretary to construe the statutes and to allow the pensions accordingly, and that although the court might, as a matter of legal construction, differ from his conclusion, it could not by mandamus or injunction constrain him in his exercise of his discretion.").

James Buchanan

1860

PUBLIC BUILDINGS IN ILLINOIS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "President Buchanan withheld funds that had been appropriated to construct public buildings in Illinois in order to punish the State's congressional delegation for opposing the administration's objectives. Although the action was politically unpopular, there does not appear to have been any constitutional objection raised to this impoundment."[49]

ASSESSMENT

This impoundment was **not authorized by statute**, but there is no indication that Buchanan offered any constitutional justification for it.

In 1856 and 1857, Congress appropriated money for the construction of public buildings, including custom and court houses and post offices, in Springfield and Cairo, Illinois.[50] The 1856 appropriation "authorized and directed" the construction of those buildings.[51] The 1857 appropriation provided clearly for their construction.[52] The historical record on what occurred next is sparse. In an 1861 speech on the floor of the Senate, Senator Stephen Douglas of Illinois explained that when President Buchanan "began to quarrel with the Representatives" from Illinois in 1857, he "disobeyed the law" appropriating funding for constructing public buildings.[53] "To this hour," Douglas said, "you could not get the law executed. Other custom-houses could be built; other post offices could be made; but not a dollar could be expended at Springfield or at Cairo in Illinois, although the law required it."[54]

While Douglas did not cite the Constitution in his objection to Buchanan's withholding of funds, he made clear that he believed the law required expenditure of funds to construct the buildings.

49 CRA History at 11, https://tinyurl.com/ypyt2dbp.

50 Act of Aug. 18, 1856, ch. 129, § 18, 11 Stat. 81, 92-93, https://tinyurl.com/5n84b3z8; Act of Mar. 3, 1857, ch. 108, 11 Stat. 221, 226, https://tinyurl.com/3ck7jyxu.

51 Act of Aug. 18, 1856, § 18, 11 Stat. at 92.

52 Act of Mar. 3, 1857, 11 Stat. at 226.

53 Cong. Globe, 36th Cong., 2d Sess. 1177 (1861), https://tinyurl.com/muhe8e6v, *cited by* Louis Fisher, *The Constitution Between Friends: Congress, the President, and the Law* 91 n.36 (1978).

54 Cong. Globe, 36th Cong., 2d Sess., *supra*, at 1177, https://tinyurl.com/muhe8e6v.

Ulysses S. Grant

1876

RIVER AND HARBOR IMPROVEMENTS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[a]fter signing the Rivers and Harbors Bill of 1876, President Grant sent a special message to Congress in which he stated that he did not intend to spend the total amount appropriated because certain appropriations were for 'works of purely private or local interest,' and that '[u]nder no circumstances will I allow expenditures upon works not clearly national.' ... Pursuant to the President's order, the Secretary of War refused to spend over half of the $5 million appropriated for internal improvements."[55]

55 CRA History at 11-12, https://tinyurl.com/ypyt2dbp.

ASSESSMENT

This impoundment was **not authorized by statute**, but the administration justified its action on statutory, not constitutional, grounds.

The underlying appropriation stated that "[i]t shall be the duty of the Secretary of War to apply the moneys herein appropriated as far as may be by contract, except when specific estimates cannot be made for particular work, or where, in the judgment of said Secretary, the work cannot be contracted at prices advantageous to the Government ...."[56] Although this allowed, in specified circumstances, for expenditure of less than the full amount appropriated for individual river and harbor improvements, Grant went further and announced that he would not spend any money on "works of purely private or local interest."[57]

The underlying statute did not give the president the authority to do this. It was, for the most part, highly prescriptive, containing several pages of specific amounts to be spent on specific projects.[58]

And yet, when pressed by Congress, the administration defended its action primarily on statutory grounds rather than claiming any constitutional right to impound. In a letter that Grant transmitted to Congress, his secretary of war, J.D. Cameron, explained that "the law and authority" for the administration's action "are found in the act itself, which appropriates certain sums to be expended for certain purposes, under the direction of the Secretary of War, but is in no way mandatory upon him to expend the full amount."[59] Cameron also suggested that the administration had heightened discretion to determine what river and harbor funds would be spent and when because "these appropriations are of the character of 'indefinite appropriations;' i.e., they do not lapse into the Treasury if unexpended at the end of two years."[60] However, given Grant's statement that he would "[u]nder no circumstances" allow the expenditures, it does not appear that he intended merely to defer the spending.[61]

56 Act of Aug. 14, 1876, ch. 267, 19 Stat. 132, 138, https://tinyurl.com/5n9ata7s.

57 Special Message from President Ulysses S. Grant to the House of Representatives (Aug. 14, 1876), https://tinyurl.com/yc7n6sc4.

58 Act of Aug. 14, 1876, 19 Stat. at 132-38, https://tinyurl.com/5n9ata7s.

59 Letter from Secretary of War J.D. Cameron to President Grant (Jan. 11, 1877), *in Executive Documents of the House of Representatives*, 44th Cong., 2d Sess., Exec. Doc. No. 23, at 2 (1877), https://tinyurl.com/5dfuawdk.

60 *Id.*

61 *See* Special Message from President Ulysses S. Grant to the House of Representatives, *supra*, https://tinyurl.com/yc7n6sc4.

Woodrow Wilson

1916

INTERNATIONAL PEACE CONFERENCE

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "President Wilson declined to expend funds appropriated by Congress for holding a peace conference with the great powers aiming to end the First World War."[62]

ASSESSMENT

It is not clear that Wilson impounded these funds.[63] However, to the extent that he did, his action was **authorized by statute**.

In 1916, Congress "authorized and requested" the president "to invite, at an appropriate time, not later than the close of the war in Europe, all the great Governments of the world to send representatives to a conference which will be charged with formulating a plan for a court of arbitration or other tribunal, to which disputed questions between nations shall be referred for adjudication and peaceful settlement."[64] For this purpose, Congress "appropriated and set aside and placed at the disposal of the President" $200,000, "or so much thereof as may be necessary."[65] This language gave the president discretion to determine whether to host the conference, which Congress merely "requested," and how much of the $200,000 to spend, if any.

62 CRA History at 13, https://tinyurl.com/bdf9x8u4 (citing Christian Bale, Note, *Checking the Purse: The President's Limited Impoundment Power*, 70 Duke L.J. 606, 654 (2020), https://tinyurl.com/3yph84v3).

63 The only source CRA cites for this alleged impoundment is a student law review article, which in turn cites only the 1916 appropriation. CRA History at 13, https://tinyurl.com/bdf9x8u4; Bale, *supra*, at 654 & n.276, https://tinyurl.com/3yph84v3. Therefore, it is not clear where the allegation that Wilson refused to spend the appropriation originated (it seems entirely possible that the funds could have supported the costs of the Paris Peace Conference, where the League of Nations was founded).

64 Pub. L. No. 64-241, ch. 417, 39 Stat. 556, 618 (1916), https://tinyurl.com/mr2hrdzv.

65 *Id.*

Warren G. Harding

1921

HOLDING APPROPRIATED FUNDS IN RESERVE TO EFFECT SAVINGS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1921, the first Director of the Budget Bureau (later the Office of Management & Budget), Charles G. Dawes, issued a circular to the Executive Branch expressly reaffirming that appropriations are to be treated as a ceiling on expenditures and not a directive to spend the full amount. Executive officers were to abide by the President's determination of the maximum amount of an appropriation to be expended during the fiscal year, with the rest being placed in a general reserve .... This understanding was repeated by President Harding himself, who instructed his officers that 'you should not only carefully guard against any of your activities being carried on at a rate which would require additional appropriations for the fiscal year, but should arrange to conduct your business with a minimum of expense consistent with efficient administration.' Indeed, the President expressly instructed his officers to impound funds 'to effect some savings from your appropriations for the coming fiscal year.'"[66]

66 CRA History at 13, https://tinyurl.com/bdf9x8u4.

ASSESSMENT

This practice of holding funds in reserve to effect savings was, at the time, **permitted by statute** — provided that agencies could still accomplish applicable statutory objectives. However, CRA's description of this matter is both incomplete and misleading.

Budget Bureau Director Dawes made clear that agency efforts to save money by spending less than the full amount appropriated were never to come at the expense of "the accomplishment of the objects of legislation."[67] Agencies, in other words, could spend less only if they could fully and faithfully execute the laws Congress passed for less money than Congress gave them. For Dawes, the laws Congress passed, not the president's wishes, were of prevailing importance. "Much as we love the President," Dawes explained, "if Congress, in its omnipotence over appropriations and in accordance with its authority over policy, passed a law that garbage should be put on the White House steps, it would be our regrettable duty, as a bureau, in an impartial, nonpolitical and nonpartisan way to advise the Executive and Congress as to how the largest amount of garbage could be spread in the most expeditious and economical manner."[68]

It was through the newly created Bureau of the Budget that Dawes sought to find such economies. At the start of President Harding's term, Congress passed the Budget and Accounting Act of 1921,[69] which established the Bureau and tasked it with helping the president prepare an annual budget request to Congress.[70] To this end, the law gave the Bureau the "authority to assemble, correlate, revise, reduce, or increase the [appropriations] estimates" of executive departments and agencies.[71] In short, it focused the Bureau on proposing savings through an annual budget request to Congress.

The first regulations the Bureau issued in July 1921 established a process for acquiring estimates of appropriations for the president's budget. But those regulations also went a step further.[72] They directed agencies to identify the portion of each appropriation that is "indispensable" in executing the relevant statutory objective and "the resulting balance which may be saved under each appropriation."[73] Agencies then had to submit that information to the president "for his approval," and the amount "approved by the President for expenditure" under an appropriation was to be "considered as the maximum available for obligation during the fiscal year."[74] The remaining funds were kept in a "general reserve," and thus were blocked from expenditure.[75]

It appears that Dawes believed such reserves were permissible, or at least not prohibited by law, provided that agencies accomplished Congress's substantive statutory objectives.

67 *See* Charles Dawes, *The First Year of the Budget of the United States* 118 (1923), https://tinyurl.com/436k8ykh.
68 *Id.* at 178, https://tinyurl.com/ykdnjth5.
69 Budget & Accounting Act of 1921, ch. 18, 42 Stat. 20, https://tinyurl.com/256jcw94.
70 *Id.* § 207, 42 Stat. at 22.
71 *Id.*
72 Budget Circular No. 4 (July 1, 1921), *in* Dawes, *supra*, at 411, https://tinyurl.com/5cfxs6d7.
73 *Id.*
74 *Id.*
75 *Id.*

To establish these reserves, agencies relied on the apportionment process created in the Antideficiency Act.[76] The Antideficiency Act prohibited expenditure of "any sum in excess of appropriations made by Congress," and required the executive branch to "apportion[]" appropriations "by monthly or other allotments as to prevent expenditures in one portion of the year which may necessitate deficiency or additional appropriations."[77] In 1906, the statute said nothing about whether or when agencies could establish reserves against appropriations. In 1950, in response to President Roosevelt's use of reserves during World War II to gut entire projects that Congress funded,[78] lawmakers amended the Antideficiency Act to delineate the exclusive circumstances in which reserves could be established, and in doing so narrowed the executive's discretion.[79]

76 *Executive Impoundment of Appropriated Funds: Hearings Before the Subcomm. on Separation of Powers of the S. Comm. on the Judiciary*, 92d Cong. 182 (1971) ("1971 Hearings"), https://tinyurl.com/yrxxd2bn (testimony of Prof. Joseph Cooper) (noting Dawes "alter[ed] the manner in which the provisions of the Anti-Deficiency Act were interpreted and implemented," asserting that "the procedures of apportionment or allotment should be used to make provision for 'savings' as well as for preventing deficiencies"); Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings on H.R. 3598 Before a Subcomm. of the Comm. on Appropriations of the U.S. Senate*, 78th Cong. 738-40 (1943), https://tinyurl.com/ex8y7td9 (citing letter from President Roosevelt to Senator Russell noting that "compliance with the Anti-Deficiency Act" is the purpose of the Bureau's practice of holding appropriated funds in reserve); *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 336 (testimony of Budget Bureau Director Harold Smith) ("[A]s a practical matter in making apportionments, you must set up some reserves. When you appropriate to a department a particular sum of money, and then say there shall be no deficiency, it is necessary that you apportion that money so that you have some reserve on hand in order that you do not incur a deficiency, because it is practically impossible for a department, or any individual, for that matter, to come out at the end of the year right on the nose, in dollars and cents, with the appropriation.").

77 *See* Pub. L. No. 59-28, ch. 510, § 3, 34 Stat. 27, 48-49 (1906), https://tinyurl.com/yc7p93w4.

78 *E.g.* 1971 Hearings at 392-93, https://tinyurl.com/3ab6h5e9 (study by Prof. J.D. Williams).

79 Pub. L. No. 81-759, ch. 896, § 1211, 64 Stat. 595, 765-66 (1950), https://tinyurl.com/mvx8x3xa.

Herbert Hoover

1931

TEN PERCENT CUT IN GOVERNMENT EXPENDITURES

UNKNOWN

ALLEGED IMPOUNDMENT

According to CRA, "President Hoover vigorously employed the impoundment power to decrease government spending in the midst of the Great Depression. To this end, he ordered administrations to slow down domestic program implementation, which achieved a ten percent cut in government expenditures."[80]

ASSESSMENT

There is **not enough information** to assess this alleged impoundment. The literature cited by CRA leads back to a single source: political scientist Joseph Cooper's 1971 testimony to the Senate on executive impoundment of appropriated funds.[81] Cooper testified that "in 1931 President Hoover used the procedures for establishing an annual budget reserve to effect an overall 10% cut in expenditures. Letters were sent out by the Bureau of the Budget directing the departments to cut their proposed expenditures for fiscal 1932 by 10% and to set up this amount in a reserve which could

80 CRA History at 13-14, https://tinyurl.com/bdf9x8u4.

81 *Id.* at 13-14 & n.88, https://tinyurl.com/bdf9x8u4 (citing the following note); Note, *Impoundment of Funds*, 86 Harv. L. Rev. 1505, 1510-11 & n.21 (1973) (citing Cooper's testimony, 1971 Hearings at 182, https://tinyurl.com/yrxxd2bn); Bale, *supra*, at 654 & n.278, https://tinyurl.com/3yph84v3 (citing the prior Note); *see* 1971 Hearings at 181-89, https://tinyurl.com/yc7y8z5u (testimony of Prof. Cooper).

not be used without approval of the President."[82] Cooper cites no authority in support of this claim, and does not suggest that Hoover either asserted or acted based on a belief in any inherent presidential power to impound. Furthermore, Cooper provides no further detail about what expenditures were ultimately cut or whether the cuts were authorized by statute.

82 1971 Hearings at 182, https://tinyurl.com/yrxxd2bn.

Franklin D. Roosevelt

1933

VARIOUS PROGRAMS

UNKNOWN

ALLEGED IMPOUNDMENT

According to CRA, "[t]hroughout the 1930s, President Roosevelt impounded appropriated funds for various programs, citing economic emergency."[83]

ASSESSMENT

There is **not enough information** to assess this alleged impoundment. CRA relies on a single source to support its claim: a law review article by Nile Stanton.[84] But Stanton spends only a single sentence on this topic — one in which he asserts that "President Roosevelt impounded funds in the 1930s in order to cope with the emergencies of economic depression and war."[85] Stanton, in turn, cites just one source to support that sentence: a study by Professor J.D. Williams, which examined impoundments undertaken by the Roosevelt administration in the 1940s, not the 1930s.[86] It is difficult, without either a program-specific allegation or more detail in the underlying sources, to assess CRA's claim. But in the following example, we assess a specific allegation that the Roosevelt administration impounded funds for Reserve Officers' Training Corps units in 1938.

83 CRA History at 14, https://tinyurl.com/vkjwhfs6.
84 *Id.* at 14 n.90; Nile Stanton, History and Practice of Executive Impoundment of Appropriated Funds, 53 Neb. L. Rev. 1, 10 (1974), https://tinyurl.com/35fxph4v.
85 Stanton, *supra*, at 10 & n.56.
86 *See* J.D. Williams, The Impounding of Funds by the Bureau of the Budget (1955) (Inter-University Case Program, Case Series No. 28), in 1971 Hearings at 378-94, https://tinyurl.com/5vyd9h8b.

Franklin D. Roosevelt

1938

RESERVE OFFICERS' TRAINING CORPS UNITS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1938, FDR's administration impounded funding for ROTC units."[87]

ASSESSMENT

This impoundment was **not authorized by statute**, but the sources we reviewed gave no indication that the administration offered any constitutional justification for it.

For fiscal year 1937, Congress included in its annual appropriation for the Reserve Officers' Training Corps funds for the establishment of additional

87 CRA History at 14, https://tinyurl.com/vkjwhfs6; *see also* Bale, *supra*, at 636-37, https://tinyurl.com/yvmwt9ry; Elias Huzar, *The Purse and the Sword: Control of the Army by Congress Through Military Appropriations*, 1933-1950, at 363 (1950).

R.O.T.C. units.[88] Though the text of this appropriation neither mentioned nor required the establishment of additional units, the conference committee report shows that Congress included $517,850 for such units.[89] Because there were not enough officers to train the additional units, the administration impounded these funds.[90]

In fiscal year 1938, Congress "reappropriated" the unspent $517,850 for a single fiscal year, but did not mention a specific purpose for which the money should be used.[91] This appears to reflect a disagreement between the Senate and House Appropriations Committees, the former of which sought to reappropriate the $517,850 for "52 additional units" and the latter of which sought to reappropriate it for "general Reserve Officers' Training Corps purposes for the fiscal year 1938."[92] The administration again impounded these funds.[93]

This action was not authorized by statute. Although the law creating the Reserve Officers' Training Corps "authorized" but did not require the president to establish R.O.T.C. units at American colleges and universities,[94] Congress made clear in its single-year reappropriation of the unexpended $517,850[95] that it wanted the Defense Department to spend that money in fiscal year 1938. The department's nonexpenditure of the funds therefore was not authorized by statute.

88 Pub. L. No. 74-598, ch. 404, 49 Stat. 1278, 1301-02 (1936), https://tinyurl.com/mryp2h5y.

89 H.R. Rep. No. 74-2494, at 5 (1936) (Conf. Rep.).

90 H.R. Rep. No. 75-690, at 20 (1937) ("Other units have not been established and will not be established for the advanced reason that there is a lack of officers for detail as instructors."); *Military Establishment Appropriation Bill for 1938: Hearings before the Subcomm. of the H. Comm. on Appropriations*, 75th Cong. 646 (1937), https://tinyurl.com/yvrknw7a (Gen. Conley testified that "[t]o use this $500,000 of which you are speaking — we do not have the officer personnel even to consider establishing additional units. There are plenty of units that want to come in, but we do not have the personnel to handle them."); *Military Establishment Appropriation Bill for 1939: Hearings on H.R. 9995 Before the Subcomm. of the S. Comm. on Appropriations*, 75th Cong. 46 (1938), https://tinyurl.com/mr3d2wp7 (Sen. Russell, noted, with respect to the fiscal year 1937 funds: "Well, those funds were impounded. Something happened to them and not a single unit was established, one of the reasons being that there were not sufficient officers.").

91 Pub. L. No. 75-176, ch. 423, 50 Stat. 442, 465-66 (1937), https://tinyurl.com/yc4wzpsu ("[I]n addition, $517,850 of the appropriation 'Reserve Officers' Training Corps, 1937' ... is hereby reappropriated ....").

92 S. Rep. No. 75-739, at 3 (1937); H.R. Rep. No. 75-690, at 20 (1937).

93 *Military Establishment Appropriation Bill for 1939: Hearings on H.R. 9995*, *supra*, at 46, https://tinyurl.com/mr3d2wp7 (Sen. Russell noted that "[i]n 1938 and 1937 this committee provided an increase in the funds for the R.O.T.C. units sufficient to give every college a unit that wanted one .... Well, those funds were impounded.").

94 National Defense Act Amendments, Pub. L. No. 66-242, ch. 227, § 33, 41 Stat. 759, 776-77 (1920), https://tinyurl.com/ydda9f3d.

95 Pub. L. No. 75-176, 50 Stat. at 465-66, https://tinyurl.com/yc4wzpsu ("[I]n addition, $517,850 of the appropriation 'Reserve Officers' Training Corps, 1937' ... is hereby reappropriated ....").

Franklin D. Roosevelt

1940–43

THREE PUBLIC WORKS PROJECTS

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, "[b]etween 1940 and 1943, President Roosevelt refused to spend more than $500 million in public works funds on policy grounds."[96]

ASSESSMENT

Three impoundments in this category are analyzed individually below. None were authorized by statute.

CRA's allegation that Roosevelt impounded $500 million Congress appropriated for public works projects leads back[97] to a single source: Professor J.D. Williams's study entitled "The Impounding of Funds by the Bureau of the Budget."[98] Williams provides no source for that figure, but highlights specific impoundments of funds Congress appropriated for a levee near Tulsa, Oklahoma ($513,000); a flood control reservoir in Markham Ferry, Oklahoma ($1.5 million); and the construction of two airports in Nevada ($800,000).[99] These impoundments, totaling $2.813 million, are analyzed below. None were authorized by statute.

Before proceeding to that analysis, some context is important. In successive budget messages to Congress, President Roosevelt stated that he would defer, and significantly restrict expenditures on, construction projects that interfered with or were not essential to the war effort.[100] To carry this out, the Bureau of the Budget used the apportionment process established in the Antideficiency Acts of 1905 and 1906[101] to place funds for those projects in reserve, blocking their expenditure.[102]

This practice was a departure from how the Bureau previously used the apportionment process, which was to prevent deficiencies (i.e., expenditure in excess of an appropriation) and to find cost savings where a program could be

96 CRA History, at 14, https://tinyurl.com/vkjwhfs6.

97 *Id.* at 14 (citing Note, *Impoundment of Funds*, 86 Harv. L. Rev., *supra*, at 1509); Note, *Impoundment of Funds*, 86 Harv. L. Rev., *supra*, at 1509 (citing J.D. Williams, *The Impounding of Funds by the Bureau of the Budget*, *supra*, *In* 1971 Hearings at 378, 390, https://tinyurl.com/5vyd9h8b).

98 1971 Hearings at 390, https://tinyurl.com/4vaxswwa.

99 *Id.* at 381-87, https://tinyurl.com/5y42nhf5.

100 President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 3, 1941), https://tinyurl.com/bpc5m252 ("During this period of national emergency it seems appropriate to defer construction projects that interfere with the defense program by diverting manpower and materials."); President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 5, 1942), https://tinyurl.com/4j3k77df ("The public works program is being fully adjusted to the war effort. The general program of 578 million dollars includes those projects necessary for increasing production of hydroelectric power, for flood control, and for river and harbor work related to military needs. Federal aid for highways will be expended only for construction essential for strategic purposes. Other highway projects will be deferred until the postwar period. For all other Federal construction I am restricting expenditures to those active projects which cannot be discontinued without endangering the structural work now in progress."); President Franklin Roosevelt, Annual Budget Message to Congress (Jan. 6, 1943), https://tinyurl.com/j4dnpf6y ("The most important reductions recommended for the coming year relate to work relief and general public works .... Expenditures for general public works will be greatly curtailed. Continuing projects are directly related to war needs. Others have been discontinued as rapidly as this could be done without risking the loss of the investment already made.").

101 Pub. L. No. 58-217, ch. 1484, § 4, 33 Stat. 1214, 1257-58 (1905), https://tinyurl.com/yc3fmej7; Pub. L. No. 59-28, ch. 510, § 3, 34 Stat. 27, 48-49 (1906), https://tinyurl.com/yc7p93w4.

102 *See* Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 738-40, https://tinyurl.com/bdf8v6yj; J.D. Williams, *The Impounding of Funds by the Bureau of the Budget*, *supra*, *In* 1971 Hearings at 378-94, https://tinyurl.com/5vyd9h8b.

executed as Congress intended without expending the full amount Congress had appropriated.[103] "The Bureau of the Budget," its first director wrote, "is simply a business organization whose activities are devoted constantly to the consideration of how money appropriated by Congress can be made to go as far as possible toward the accomplishment of the objects of legislation."[104] In other words, while the Bureau strove to save money, doing so was never to come at the expense of faithfully executing the laws Congress enacted.

During World War II, Roosevelt took a different approach, using the apportionment process not merely to find savings but to block an array of enacted projects, such as those listed above. This pattern drew considerable criticism from congressional appropriators, who demanded to know the legal basis for the Bureau's impoundments.[105] "Now, where is the law," Senator John Overton asked in a 1943 hearing, "that authorizes either the Executive or the Bureau of the Budget to impound funds that have been appropriated by Congress?"[106]

In a memorandum to the Senate Appropriations Committee, the Bureau outlined its answer.[107] While it argued that the Antideficiency Act permitted impounding funds to effect savings, the Bureau conceded that no "express enactment" allowed the president to block "projects that have been authorized and appropriated for if he does not consider them of important value to the military."[108] Such actions, the Bureau asserted, "must be viewed ... as an exercise by the President (or in his behalf) of the ultimate responsibility and authority vested in him as Chief Executive by article II, section 1, of the Constitution, an authority which includes general administrative control over the officers of the executive departments in the performance of their official duties."[109]

Though the Bureau relied on this argument to justify impoundments during the war, nothing, in the words of one scholar, "could resolve doubts in the minds of some of the officials in the Budget Bureau about its legal authority to impound funds in peacetime when the war power of the President could no longer be relied upon."[110] This doubt prompted the Bureau to go to Congress to seek statutory support for its asserted authority to impound funds via the apportionment process.[111] In a 1950 amendment to the

103 *See* Budget Circular No. 4 (July 1, 1921), *in* Dawes, *supra*, at 411, https://tinyurl.com/5cfxs6d7; 1971 Hearings at 181-83, 379, https://tinyurl.com/yc7y8z5u (noting differences in use of apportionment process during Roosevelt administration compared to prior administrations).

104 Dawes, *supra*, at 118, https://tinyurl.com/436k8ykh.

105 *See, e.g.*, *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 336-42, https://tinyurl.com/3dmav2uk (remarks by Senators Overton, McKellar, and Thomas); *see also, e.g.*, *Departments of State, Justice, and Commerce Appropriation Bill for 1944*, 78th Cong. 56-61 (1943), https://tinyurl.com/53xnnc32 (remarks by Senators McCarran and White).

106 *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 336, https://tinyurl.com/3dmav2uk.

107 *See* Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 738-40, https://tinyurl.com/bdf8v6yj.

108 *Id.* at 739-40.

109 *Id.* at 740.

110 1971 Hearings at 392, https://tinyurl.com/3ab6h5e9 (study by Prof. J.D. Williams).

111 *Id.* at 392-93; U.S. Bureau of the Budget & U.S. Gen. Accounting Off., B-66949, Report and Recommendations by the Director of the Bureau of the Budget and the Comptroller General of the United States With Respect to the Antideficiency Act and Related Legislation and Procedures (June 5, 1947), https://tinyurl.com/yhdcwhpk (proposed bill language starting at PDF pages 37-38).

Antideficiency Act, Congress clarified and narrowed the Bureau's authority, allowing it to place funds in reserve only to "provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available."[112] Establishing reserves for other purposes, as Roosevelt did during the war to halt entire projects, was thus officially foreclosed.

112 Pub. L. No. 81-759, ch. 896, § 1211, 64 Stat. at 765-66, https://tinyurl.com/mvx8x3xa.

Franklin D. Roosevelt

1940–43

PUBLIC WORKS PROJECT 1: LEVEE PROJECT

UNAUTHORIZED

ALLEGED IMPOUNDMENT

Public works impoundment #1: Levee project near Tulsa, Oklahoma[113]

ASSESSMENT

This impoundment was **not authorized by statute**. But in response to pressure from Congress and the War Production Board, the Bureau of the Budget released the funds before they expired, allowing the project to move forward.

In the Flood Control Act of 1941, Congress authorized an array of construction projects for "the control of destructive floodwaters," and provided that the projects "shall be prosecuted as speedily as may be consistent with budgetary requirements, under the direction of the Secretary of War and the supervision of the Chief of Engineers ...."[114] Among the projects Congress "authorized" was a levee on the Arkansas River "in the immediate vicinity of Tulsa and West Tulsa, Oklahoma."[115] In the Third Supplemental National Defense Appropriation Act of 1942 and the War Department Civil Appropriation Act of 1943, Congress included $300,000 and $213,000, respectively, for that project.[116] The former appropriation was "to remain available until expended"; the latter was an annual appropriation set to expire on June 30, 1943.[117]

In early 1942, the Bureau of the Budget placed those funds in reserve, blocking their expenditure.[118] This action followed a finding by the War

113 1971 Hearings at 381-86, https://tinyurl.com/5y42nhf5; CRA History at 14, https://tinyurl.com/vkjwhfs6 (noting Tulsa levee impoundment); *see also* Stanton, *supra*, at 10, https://tinyurl.com/35fxph4v.

114 Pub. L. No. 77-228, ch. 377, § 3, 55 Stat. 638, 639 (1941), https://tinyurl.com/yj85575s.

115 *Id.*, 55 Stat. at 645-46 ("The project for local flood protection on both sides of the Arkansas River in the immediate vicinity of Tulsa and West Tulsa, Oklahoma ..."); 1971 Hearings at 381 (study by Prof. J.D. Williams), https://tinyurl.com/5y42nhf5.

116 Pub. L. No. 77-353, ch. 591, 55 Stat. 810, 829 (1941), https://tinyurl.com/mu9uayu3; S. Rep. No. 77-894, at 6 (1941) (noting $300,000 for Tulsa and West Tulsa, Oklahoma, under "Flood control, general"); H.R. Rep. No. 77-1501, at 8 (1941) (Conf. Rep.) (noting decision to go with Senate, rather than House, proposal for the flood control appropriation); Pub. L. No. 77-527, ch. 246, 56 Stat. 219, 221-22 (1942), https://tinyurl.com/3vjpkwff; H.R. Rep. No. 77-2041, at 2 (1942) (Conf. Rep.) (noting appropriation of $213,000 for "Tulsa-West Tulsa project, to protect defense industries from floods").

117 Pub. L. No. 77-353, 55 Stat. at 829, https://tinyurl.com/mu9uayu3; Pub. L. No. 77-527, 56 Stat. at 219, 221-22, https://tinyurl.com/3cufkh6n.

118 1971 Hearings at 382-83 (study by Prof. J.D. Williams), https://tinyurl.com/3zz29pm3; *War Department Civil Functions Appropriation Bill, 1944: Hearings Before a Subcomm. of the S. Comm. on Appropriations*, 78th Cong. 21-22 (1943), https://tinyurl.com/3jpdabcf; Independent Offices Appropriation Bill for 1945: Hearings Before the Subcomm. of the S. Comm. on Appropriations, 78th Cong. 268-69 (1944), https://tinyurl.com/bdfmj2kt (letter from Budget Bureau to War Department announcing placement of $300,000 for Tulsa levee project into budgetary reserve).

Production Board that the Tulsa project could not "properly be described as essential to the national defense."[119]

Nothing in the 1941 Flood Control Act, the underlying appropriations acts, or the Antideficiency Act permitted the Bureau's impoundment of the entire amount Congress appropriated for the levee project, which Congress had provided "shall be prosecuted."[120] The Bureau of the Budget conceded as much in a memorandum it sent to the Senate Appropriations Committee. This impoundment, the Bureau wrote, "was not taken in pursuance of any express enactment, and must be viewed therefore as an exercise by the President (or in his behalf) of the ultimate responsibility and authority vested in him as Chief Executive by article II, section 1, of the Constitution, an authority which includes general administrative control over the officers of the executive departments in the performance of their duties."[121]

Despite this pronouncement, developments on the Arkansas River and in Congress ultimately forced the Bureau to change course. After the Arkansas River overflowed in June 1942, forcing the closure of a nearby steel mill that handled war contracts, pressure built on the Bureau to release the Tulsa funds.[122] Senator Elmer Thomas, a member of the Senate Appropriations Committee, threatened to introduce an amendment requiring the expenditure of the funds.[123] And days later, the War Production Board both deemed the Tulsa project "necessary for war purposes" and notified Congress of its reversal.[124] In October 1942, the Bureau released the money, allowing the project to move forward.[125]

Although the Bureau released the funds well before they were set to expire, the Bureau's hold on the funds violated the authorizing statute's requirement that the flood control projects "shall be prosecuted as speedily as may be consistent with budgetary requirements."[126] The Bureau did not withhold the money for budgetary reasons. Thus, the delay in expenditure was not permitted under the statute, making it an unauthorized impoundment.

119 1971 Hearings at 383 (study by Prof. J.D. Williams), https://tinyurl.com/3zz29pm3; *see* Independent Offices Appropriation Bill for 1945: Hearings, *supra*, at 268-69, https://tinyurl.com/bdfmj2kt (letter from Budget Director Harold Smith to War Department justifying placement of Tulsa levee funds in budgetary reserve because the project was not "designated as of sufficient importance to the national defense to be constructed at the present time").

120 *See* Pub. L. No. 77-228, 55 Stat. at 639, https://tinyurl.com/yj85575s.

121 Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, in *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 740, https://tinyurl.com/bdf8v6yj.

122 1971 Hearings at 385-86, https://tinyurl.com/yuufc573.

123 *First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 340, https://tinyurl.com/2mdvwzpk; *see* 1971 Hearings at 385-86, https://tinyurl.com/yuufc573.

124 1971 Hearings at 385-86, https://tinyurl.com/yuufc573; Second Supplemental National Defense Appropriation Act, Pub. L. No. 77-763, ch. 629, 56 Stat. 990 (1942), https://tinyurl.com/4uz4s8jp (H.R. 7672).

125 *War Department Civil Functions Appropriation Bill, 1944: Hearings*, *supra*, at 21-22 & n.7, https://tinyurl.com/3jpdabcf (table noting release of impounded Tulsa project funds); 1971 Hearings at 386 (study by Prof. Williams), https://tinyurl.com/yykeeckr; Louis Fisher, *Politics of Impounded Funds*, 15 Admin. Sci. Quarterly 361, 365 (1970), https://www.jstor.org/stable/2391628.

126 Pub. L. No. 77-228, 55 Stat. at 639, https://tinyurl.com/yj85575s.

Franklin D. Roosevelt

1940–43

PUBLIC WORKS PROJECT 2: FLOOD CONTROL RESERVOIR

UNAUTHORIZED

ALLEGED IMPOUNDMENT

Public works impoundment #2: Flood control reservoir in Markham Ferry, Oklahoma[127]

ASSESSMENT

This impoundment was **not authorized by statute**. However, the Roosevelt administration justified its action narrowly on the ground that the project was not essential to the war effort, and ultimately released the impounded funds to pay for other flood control projects in the next fiscal year.

In the Flood Control Act of 1941, Congress authorized an array of construction projects for "the control of destructive floodwaters," and provided that the projects "shall be prosecuted as speedily as may be consistent with budgetary requirements, under the direction of the Secretary of War and the supervision of the Chief of Engineers ...." [128] Among the projects Congress authorized was a flood control reservoir in Markham Ferry, in Oklahoma's Grand River Basin.[129] In the Third Supplemental National Defense Appropriation Act of 1942, Congress included $1.5 million for that project under the "[f]lood control, general" heading.[130] The money was "to remain available until expended."[131]

Despite the Flood Control Act's requirement that the authorized projects "shall be prosecuted,"[132] the Bureau of the Budget impounded the Markham Ferry funds and blocked the construction of that project.[133] This action was not authorized by the Flood Control Act, the underlying appropriation act, or the Antideficiency Act.

Bureau of the Budget Director Harold Smith justified the impoundment on the grounds that the project conflicted with national defense priorities: "The manufacture of hydroturbines (which would be needed were Markham Ferry to be undertaken) is in direct competition with the manufacture of

127 1971 Hearings at 381-83, https://tinyurl.com/5y42nhf5; CRA History at 14, https://tinyurl.com/vkjwhfs6 (noting Markham Ferry impoundment).

128 Pub. L. No. 77-228, § 3, 55 Stat. at 639, https://tinyurl.com/yj85575s.

129 *Id.*, 55 Stat. at 645-46 (Arkansas River Basin projects); *Third Supplemental National Defense Appropriation Bill for 1942: Hearings Before the Subcomm. of the S. Comm. on Appropriations*, 77th Cong. 320 (1941), https://tinyurl.com/5n6evw3s (testimony of Sen. Elmer Thomas) (noting "the Markham Ferry proposed power development is authorized for construction by the provisions of Public Law 228, 77th Congress"); 1971 Hearings at 381-82, https://tinyurl.com/5y42nhf5 (study by Prof. J.D. Williams) ("A $15.4 million power and flood control reservoir at Markham Ferry on the Grand Neosho River in Oklahoma was also authorized by Public Law 228.").

130 Pub. L. No. 77-353, 55 Stat. at 829, https://tinyurl.com/mu9uayu3; S. Rep. No. 77-894, at 6 (1941) (noting $1,500,000 for Markham Ferry, Oklahoma, under "Flood control, general"); H.R. Rep. No. 77-1501, at 8 (Conf. Rep.) (noting decision to go with Senate, rather than House, proposal for the flood control appropriation).

131 Pub. L. No. 77-353, 55 Stat. at 829, https://tinyurl.com/mu9uayu3.

132 Pub. L. No. 77-228, 55 Stat. at 639, https://tinyurl.com/yj85575s.

133 *War Department Civil Functions Appropriation Bill, 1944: Hearings*, *supra*, at 21-22 & n.5, https://tinyurl.com/3jpdabcf (table noting impoundment of Markham Ferry funds and noting their "[r]elease[] at the end of fiscal year 1942 to supplement the regular appropriation for the fiscal year 1943 for application to other projects in the program for that year"); Independent Offices Appropriation Bill for 1945: Hearings, *supra*, at 268-69, https://tinyurl.com/bdfmj2kt (letter from Budget Bureau to War Department announcing placement of "$1,500,000 for construction of the Markham Ferry Reservoir project" into "budgetary reserve").

guns and forgings.'"[134] Although the Bureau ultimately released the $1.5 million, it was used "to supplement the regular [flood control, general] appropriation for fiscal year 1943 for application to other projects in the program for that year," not to construct the Markham Ferry reservoir.[135]

134 1971 Hearings at 382, https://tinyurl.com/3zz29pm3 (study by Prof. J.D. Williams, quoting Budget Director Smith); *see* Independent Offices Appropriation Bill for 1945: Hearings, *supra*, at 268-69, https://tinyurl.com/bdfmj2kt (letter from Budget Director Smith to War Department announcing placement of Markham Ferry funds in reserve because the project was not "designated as of sufficient importance to the national defense to be constructed at the present time").

135 *War Department Civil Functions Appropriation Bill, 1944: Hearings*, *supra*, at 22 & n.5, https://tinyurl.com/3jpdabcf.

Franklin D. Roosevelt

1940–43

PUBLIC WORKS PROJECT 3: NEVADA AIRPORTS

UNAUTHORIZED

ALLEGED IMPOUNDMENT

Public works impoundment #3: construction of two airports in Nevada[136]

ASSESSMENT

This impoundment was **not authorized by statute**, but the administration justified it narrowly on the need to pursue only those construction projects that were necessary to the war effort and the airports ultimately were built.

In 1942, Congress passed an appropriations act providing that "not to exceed" $800,000 "shall be available for the establishment of landing areas" until June 30, 1943.[137] Although neither the statute nor the accompanying committee reports specified where these airport landing areas were to be built,[138] the Bureau of the Budget acknowledged in testimony before Congress that it understood the provision to refer to the proposed construction of airports in Lovelock and Winnemucca, Nevada.[139] The Bureau nevertheless placed those funds in reserve and refused to release them even after receiving requests to do so from the Commerce Department in 1942 and 1943.[140] In its responses denying those requests, the Bureau of the Budget stressed that, in order to release the funds, it needed to receive certifications that construction of the airports was "necessary for the prosecution of the war."'[141] When the Commerce Department turned to the Army for that certification, the Army denied it, finding that "[a]t the present time no military necessity has developed that requires construction or

136 1971 Hearings at 386-87, https://tinyurl.com/yykeeckr.

137 Pub. L. No. 77-644, ch. 472, 56 Stat. 468, 492 (1942), https://tinyurl.com/ycxkw76d.

138 *Id.*; H.R. Rep. No. 77-1771 (1942); S. Rep. No. 77-1347 (1942); H.R. Rep. No. 77-2236, at 7 (1942) (Conf. Rep.) (adding proviso making "not to exceed $800,000" available "for the establishment of landing areas").

139 Departments of State, Justice, and Commerce Appropriation Bill for 1944: Preliminary Hearings Before the Subcomm. of the S. Comm. on Appropriations, 78th Cong. 57 (1943), https://tinyurl.com/ycxd8k6v (testimony of L.C. Martin, Assistant Dir. in Charge of Estimates, Bureau of the Budget) ("We understood you had in mind the two projects in Nevada.").

140 *Id.* at 50 (testimony of Administrator of Civil Aeronautics Charles Stanton); *id.* at 50-51 (excerpt from the Budget Bureau's letter denying Stanton's "requested release of $298,606 for the construction of an airport at Winnemucca, Nev."); Independent Offices Appropriation Bill for 1945: Hearings, *supra*, at 268, https://tinyurl.com/bdfmj2kt (letter from Budget Bureau to Commerce Department denying the latter's request for the release of $304,755 for construction of the Lovelock airport).

141 Departments of State, Justice, and Commerce Appropriation Bill for 1944: Preliminary Hearings, *supra*, at 50-51, https://tinyurl.com/3myaf454 (Bureau of the Budget letter regarding Winnemucca); Independent Offices Appropriation Bill for 1945: Hearings, *supra*, at 268 (Bureau of the Budget letter regarding Lovelock).

use of critical materials at either of these locations.'"[142] Thus, close to six months after Congress appropriated funds for the airports, they remained impounded.

This action was not authorized by statute. Although that law gave the administration discretion in determining the exact amount to spend on the airports — "not to exceed $800,000" — it explicitly provided that some amount beneath that cap "shall be available for the establishment of landing areas."[143] In testimony before Congress, the Budget Bureau conceded that "there is no authority in law specifically authorizing the Bureau of the Budget to place in a budget reserve any part of an appropriation made available to any department or agency of the Government."[144]

Thus, although congressional testimony from 1949 confirms that the airports ultimately were built,[145] there was no statute authorizing the Bureau's impoundment.

142 Departments of State, Justice, and Commerce Appropriation Bill for 1944: Preliminary Hearings, *supra*, at 51, https://tinyurl.com/yz9f4e5f (response from Col. James Newman, chief of the Army Air Forces's Buildings and Grounds Division of Office of Space Service, to Administrator of Civil Aeronautics Charles Stanton).

143 Pub. L. No. 77-644, 56 Stat. at 492, https://tinyurl.com/ycxkw76d.

144 Departments of State, Justice, and Commerce Appropriation Bill for 1944: Preliminary Hearings, *supra*, at 56, https://tinyurl.com/53xnnc32 (testimony of Budget Bureau's L.C. Martin).

145 Departments of State, Justice, Commerce, and Judiciary Appropriation Bill for 1950: Hearings Before the Subcomm. of the S. Comm. on Appropriations, 81st Cong. 347-48 (1949), https://tinyurl.com/3xp239uv (remarks of Sen. McCarran) (referencing airports at Lovelock and Winnemucca, Nevada).

Franklin D. Roosevelt

1941

CIVILIAN CONSERVATION CORPS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n the early 1940s, the administration 'ordered impoundment of ... $95 million which had been appropriated for the Civilian Conservation Corps' surplus labor force ....'"[146]

ASSESSMENT

This impoundment was **authorized by statute**. In 1941, Congress appropriated a total of $246,960,000 for the Civilian Conservation Corps.[147] Due to declining enrollment in the Corps,[148] Congress inserted a provision in the appropriation providing that: "In the expenditure of funds appropriated herein under the heading 'Civilian Conservation Corps,' the over-all cost per enrollee per year shall not exceed $1,000 on the basis of a total enrollee appropriated strength herein of two hundred and thirty-two thousand five hundred enrollees: Provided, That irrespective of the total number of enrollees either authorized or actually enrolled, in no event shall there be expended more than $1,000 per actual enrollee per year."[149]

146 CRA History at 14, https://tinyurl.com/vkjwhfs6 (quoting Stanton, *supra*, at 10, https://tinyurl.com/2skcky9c).

147 Pub. L. No. 77-146, ch. 269, 55 Stat. 466, 472-73 (1941), https://tinyurl.com/2c6ebf8x.

148 H.R. Rep. No. 77-688, at 17-19 (1941) (describing enrollment challenges and provision to limit costs per enrollee to $950); S. Rep. No. 77-441, at 4 (1941) (describing provision to limit costs per enrollee to $1,060); H.R. Rep. No. 77-881, at 4 (1941) (Conf. Rep.) (resolving difference between House and Senate proposals and setting provision to limit costs per enrollee at $1,000).

149 Pub. L. No. 77-146, 55 Stat. at 473, https://tinyurl.com/2c6ebf8x.

Following this statutory guidance and in accordance with a Corps enrollment of roughly 148,000 youths, the Bureau of the Budget placed $95,000,000 in reserve and made approximately $150,000,000 available to the Corps to spend.[150] Because Congress provided that "in no event shall there be expended more than $1,000 per actual enrollee per year," this impoundment was authorized by statute.

150 *Reduction of Nonessential Federal Expenditures: Hearings Before the Joint Comm. on Reduction of Nonessential Federal Expenditures*, 77th Cong. 1-2, 138 (1941), https://tinyurl.com/47mab7ed (testimony of B.S. Beecher, Bureau of the Budget).

Franklin D. Roosevelt

1942

FUNDS FOR THE DEPARTMENT OF AGRICULTURE

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n the early 1940s," the Roosevelt administration impounded funds appropriated for "the Surplus Marketing Corporation."[151]

ASSESSMENT

Though there was no Surplus Marketing Corporation, it appears that this is a reference to funds originally appropriated for the Surplus Marketing Administration, the impoundment of which was **not authorized by statute**. Nevertheless, the administration defended its action on statutory, not constitutional, grounds.

In February 1942, President Roosevelt consolidated the Surplus Marketing Administration, the Agricultural Marketing Service, and the Commodity Exchange Administration into the Agricultural Marketing Administration in the Department of Agriculture.[152] In January 1943, the Bureau of the Budget testified that it had placed $38,520,919 appropriated for the Agricultural Marketing Administration in reserve.[153] The Bureau did not specify from which appropriation or appropriations the money placed in reserve came. But Senator Richard Russell wrote to the president "criticizing [t]he Budget Bureau's attempt to curtail ... the food distribution programs of the Agricultural Marketing Administration."[154]

This seems most likely to be a reference to a $35 million appropriation for the Surplus Marketing Administration for fiscal years 1942 and 1943, provided to "procure, transport, and distribute agricultural and other commodities and supplies to meet the emergent requirements of the civilian population of the Territories and possessions of the United States ...."[155] This spending appears to be mandatory under the language of the appropriation — which provides a particular sum to be spent within a specific timeframe on the listed statutory objectives, without any discretionary language.[156] The impoundment of this appropriation therefore was not authorized.

151 CRA History at 14, https://tinyurl.com/vkjwhfs6.
152 Exec. Order No. 9069 (Feb. 23, 1949), https://tinyurl.com/2hyj2c82.
153 *Reduction of Nonessential Federal Expenditures: Hearings Before the Joint Comm. on the Reduction of Nonessential Federal Expenditures, Part 5*, 78th Cong. 1821 (1943), https://tinyurl.com/4ydcr9v2.
154 J.D. Williams, *The Impounding of Funds by the Bureau of the Budget*, *supra*, *in* 1971 Hearings at 385, https://tinyurl.com/yuufc573.
155 Pub. L. No. 77-371, ch. 621, 55 Stat. 855, 855-56 (1941), https://tinyurl.com/3b5nk45a (appropriation for).
156 *Id.*

However, President Roosevelt sent a reply to Senator Russell's letter defending the Budget Bureau's practice of placing funds in reserve, and arguing that it was justified based on the need to comply with the Antideficiency Act and to achieve savings where possible.[157]

157 Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, *in First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 739, https://tinyurl.com/ex8y7td9 (excerpting Roosevelt's letter to Sen. Russell); *Departments of State, Justice, and Commerce Appropriation Bill for 1944: Preliminary Hearings*, *supra*, at 57, https://tinyurl.com/836jy2s (excerpting Roosevelt's letter to Russell).

Franklin D. Roosevelt

1942

CIVILIAN PILOT TRAINING PROGRAM

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n the early 1940s," the Roosevelt administration impounded funds for "civilian pilot training projects."[158]

ASSESSMENT

This impoundment was **not authorized by statute**, but the Bureau of the Budget ultimately released more than half of the impounded funds.

In 1939, Congress passed the Civilian Pilot Training Act, which authorized the Civil Aeronautics Authority — later the Civil Aeronautics Administration — to train civilian pilots "within the limits of available appropriations made by the Congress."[159] In 1941, Congress appropriated $25 million for "[a]ll necessary expenses" in carrying out that program.[160] In 1942, the Bureau of the Budget froze $1.13 million of that appropriation.[161] As the administrator for civil aeronautics, Brigadier General D.H. Connolly, confirmed in testimony before Congress, this withholding forced the Civil Aeronautics Administration to "discontinue some primary training over the country."[162]

Nothing in the text of the 1939 Civilian Pilot Training Act or the 1941 appropriation permitted this impoundment.[163] Although the Bureau of the Budget argued during the Roosevelt administration that the Antideficiency Act gave it the authority to hold appropriated funds in reserve to effect savings,[164] nothing in that law provided authority to effect savings where doing so would harm the execution of the programs that Congress had funded. Because the Bureau's 1942 impoundment of civilian pilot training funds forced the curtailment of that training program, the Antideficiency Act could not have provided statutory support for the withholding.

158 CRA History at 14, https://tinyurl.com/vkjwhfs6.

159 Pub. L. No. 75-153, ch. 244, § 2, 53 Stat. 855, 855-56 (1939), https://tinyurl.com/yauhsx3h.

160 Pub. L. No. 77-135, ch. 258, 55 Stat. 265, 280 (1941), https://tinyurl.com/yjz48kvb.

161 *Department of Commerce Appropriation Bill for 1943: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 77th Cong. 121-23 (1942), https://tinyurl.com/mrxksmn9; *see Department of State Appropriation Bill for 1943: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 77th Cong. 490 (1942), https://tinyurl.com/5yzc4knt (statement of Rep. Rabaut) ("And over and above that, the Budget froze some of the money this year.").

162 *Department of Commerce Appropriation Bill for 1943: Hearings*, *supra*, at 123, https://tinyurl.com/2a5z5nsu.

163 *See generally* Pub. L. No. 75-153, 53 Stat. at 855-56, https://tinyurl.com/yauhsx3h; Pub. L. No. 77-135, 55 Stat. at 280, https://tinyurl.com/yjz48kvb.

164 *See* Memorandum from the Budget Bureau to the Senate Appropriations Committee Concerning the Authority of the Budget Bureau to Set Up Reserves Against Appropriations, *in First Supplemental National Defense Appropriation Bill for 1944: Hearings*, *supra*, at 738-40, https://tinyurl.com/ex8y7td9.

Nonetheless, it appears the Bureau of the Budget ultimately released some of the $1.13 million it impounded, as the administration reported in a subsequent budget request to Congress that only $511,372 of the $25 million Congress appropriated for civilian pilot training for fiscal year 1942 remained unobligated.[165]

165 U.S. Bureau of the Budget, Exec. Off. of the President, Budget of the United States for 1944 — War Supplement, at 74-75 (1943), https://tinyurl.com/5xuszr8s (listing actual obligations for civilian pilot training for fiscal year 1942).

Harry S. Truman

1946

KINGS RIVER PROJECT

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, President Harry Truman "temporarily impounded funds appropriated to develop water resources as part of the Kings River Project in order to study the prospective costs of the project."[166]

ASSESSMENT

This impoundment was **expressly authorized by statute**. Congress explicitly forbade the president from spending this appropriation until the proper study had been completed. The appropriation act provided that "none of the appropriation for the Kings River and Tulare Lake project, California, shall be used for the construction of the dam until the Secretary of War has received the reports as to the division of costs between flood control, navigation, and other water uses ...."[167] President Truman acknowledged that he was following Congress's express instructions when he temporarily withheld expenditures until reports from the various agencies arrived and were analyzed: "[I]n view of the legislative history of the provisos in the Kings River item, and in view of the disadvantageous position in which the Government would be placed if repayment arrangements were unduly postponed, I am asking the Director of the Budget to impound the funds appropriated for construction of the project, pending determination of the allocation of costs and the making of the necessary repayment arrangements."[168]

In January 1947, the secretary of war notified Truman that the required reports on the allocation of costs for the project were complete.[169] After Truman submitted the reports to Congress in February 1947,[170] he released the funds for the Kings River project — long before they were set to expire in June 1947.[171]

166 CRA History at 15, https://tinyurl.com/36y8m9s8.

167 Pub. L. No. 79-374, ch. 247, 60 Stat. 160, 163 (1946), https://tinyurl.com/yc8949pd. The authorizing law also explicitly emphasized the secretary of war's discretion in completing the project, noting that it was "authorized substantially in accordance with the plans contained in House Document Numbered 630, ... *with such modifications thereof as in the discretion of the Secretary of War and the Chief of Engineers may be advisable* ...." Pub. L. No. 78-534, ch. 665, 58 Stat. 887, 901 (1944), https://tinyurl.com/266eeekr (emphasis added).

168 Statement by the President Concerning Plans for Development of California's Water Resources (May 3, 1946), https://tinyurl.com/ymr3txyr.

169 H. Doc. No. 80-136, Report on Allocation of Costs of King River and Tulare Lake Project, California, at 1-2 (Jan. 31, 1947).

170 *See id.* at 1.

171 Fisher, *Presidential Spending Power*, *supra*, at 166; Pub. L. No. 79-374, 60 Stat. at 160, 163, https://tinyurl.com/yc8949pd.

Harry S. Truman

1946

NATIONAL GUARD

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, President Truman impounded half of the $110 million Congress appropriated for the National Guard in 1946.[172]

ASSESSMENT

This impoundment was ultimately **authorized by statute**. In late 1946 or early 1947, the Budget Bureau placed $60 million of the National Guard's $110 million appropriation in reserve pending Congress's consideration of a bill to transfer a substantial portion of that appropriation to the "Finance Service, Army" appropriation account.[173] In May 1947, Congress passed a law authorizing the transfer of up to $55.1 million from the National Guard appropriation to the Army's Finance Service.[174] Ultimately, $48.2 million was transferred.[175]

As Major General Kenneth Cramer, then the chief of the National Guard Bureau, told the House Appropriations Committee: "the initiation of the [transfer] action was executive in character" but "it was subsequently ratified by Congress."[176]

172 CRA History at 15, https://tinyurl.com/36y8m9s8 (citing Bale, *supra*, at 655, https://tinyurl.com/4ad-swd7v); Pub. L. No. 79-515, ch. 583, 60 Stat. 541, 556 (1946), https://tinyurl.com/yh9xt9hf.

173 *Military Establishment Appropriation Bill for 1948: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 80th Cong. 1109-10 (1947), https://tinyurl.com/4y8949uh.

174 Pub. L. No. 80-44, ch. 49, 61 Stat. 57, 71 (1947), https://tinyurl.com/28w2t2xs.

175 *Military Functions, National Military Establishment Appropriation Bill for 1949: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 80th Cong. 427 (Mar. 29, 1948), https://tinyurl.com/375j-dctu; *but see id.* at 264 (noting a transfer not of $48.225 million but of $49.625 million).

176 *Id.* at 419.

Harry S. Truman

1949

TEN ADDITIONAL AIR FORCE GROUPS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, this impoundment contains "[t]he most notable examination of the constitutional issue."[177]

In 1949, after an intense debate between Congress and the Department of Defense over the appropriate size of the Air Force, Congress appropriated funds to support 58 Air Force groups over the White House's requested 48.[178] President Truman announced he was placing the funds for those additional groups in reserve.[179]

ASSESSMENT

This impoundment was **authorized by statute**, but the Truman administration justified it on constitutional grounds.

177 CRA at 15, https://tinyurl.com/36y8m9s8.

178 H.R. Rep. No. 81-417, at 30-36 (1949) (House report on National Military Establishment Appropriation Act, 1950); S. Rep. No. 81-745, at 31-32 (1949) (Senate report on the same); H.R. Rep. No. 81-1454, at 2 (1949) (Conf. Rep.) (noting compromises between House and Senate proposals).

179 Presidential Statement on Signing the National Military Establishment Appropriation Act, 1950 (Oct. 29, 1949), *in* 1971 Hearings at 524-25, https://tinyurl.com/537v7y3r; Letter from President Truman to Defense Secretary Louis Johnson (Nov. 8, 1949), *in* 1971 Hearings at 525, https://tinyurl.com/bd9ra8en; *see National Military Establishment Appropriation Bill for 1950: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 81st Cong. 227-44 (1949), https://tinyurl.com/yu5w78v6 (Mar. 31, 1949, Air Force testimony); Fisher, *Presidential Spending Power*, *supra*, at 162-63.

In the 1950 National Military Establishment Appropriation Act, Congress appropriated funds for the Air Force, above the administration's request, to support an expansion of the Air Force from 48 to 58 groups.[180] However, the enacted legislation gave the administration discretion not to spend the additional funds. This was the result of a compromise between the House, which sought the additional funds and supported the expansion to 58 groups, and the Senate, which opposed the funds and the expansion.

In its draft 1950 National Military Establishment Appropriation bill, the House added funds for additional Air Force groups to seven appropriations: (1) construction of aircraft and related procurement; (2) special procurement; (3) maintenance and operations; (4) military personnel requirements; (5) research and development; (6) salaries and expenses, administration; and (7) contingencies.[181] The Senate opposed each of these increases.[182]

In conference, the managers for the House and Senate arrived at a compromise. The final bill would include the higher amounts the House proposed for five appropriations — construction of aircraft and related procurement ("an amount not to exceed $1,992,755,000" for contracts), special procurement ($134,477,000), maintenance and operations ($1,199,792,000), research and development ($233,000,000, "to remain available until expended"), and contingencies ($15,200,000, "[f]or emergencies and extraordinary expenses, ... to be expended on the authority or approval of the Secretary of the Air Force") — and the lower amounts the Senate proposed for two appropriations, military personnel requirements ($1,201,000,000) and salaries and expenses, administration ($58,425,000).[183] However, because the Senate continued to oppose the House-urged funding increases, the final bill also included a provision — section 702 — reducing the amount the Air Force actually could spend on special procurement and maintenance and operations. Section 702 provided that "amounts

180 Pub. L. No. 81-434, ch. 787, 63 Stat. 987, 1013-17 (1949), https://tinyurl.com/c3tt3tnt; S. Rep. No. 81-745, at 31-32 (1949) (table reflecting differences between administration, House, and Senate proposals for Air Force appropriations); H.R. Rep. No. 81-417, *supra*, at 30-36 (noting increases above administration request for the purpose of "increasing the proposed strength to 58 groups").

181 H.R. Rep. No. 81-417, *supra*, at 30-36; *see* S. Rep. No. 81-745, *supra*, at 31-32 (table comparing House, Senate, and administration proposals).

182 S. Rep. No. 81-745, *supra*, at 31-32 (table showing lower Senate proposals for construction of aircraft and related procurement, special procurement, maintenance and operations, military personnel requirements, research and development, salaries and expenses, and contingencies); *id.* at 20 (responding to the House and recommending "reduc[ing] the proposed air-group strength from 58 to 48 groups).

183 H.R. Rep. No. 81-1454, supra, at 2 (Conf. Rep.); Pub. L. No. 81-434, 63 Stat. at 1013-17, https://tinyurl.com/c3tt3tnt (enacted appropriations reflecting House-proposed levels for construction of aircraft and related procurement, special procurement, maintenance and operations, research and development, and contingencies, and Senate-proposed levels for military personnel requirements and salaries and expenses, administration). CRA claims that the Senate agreed to the higher amounts that the House sought for additional Air Force groups "on the express understanding that the President retained inherent impoundment power." CRA History at 15-16, https://tinyurl.com/4kambfft. Nothing in the legislative history or other historical records suggests the Senate held this view, let alone provides an express statement of it. The secondary source CRA cites for its claim does not mention the Constitution. Rather, it quotes Sen. Elmer Thomas, who said of the funds provided for the additional Air Force groups that he thought they "should be impounded" and that "if the money is appropriated it may not be used." *See* Fisher, *Presidential Spending Power*, *supra*, at 162-63; 95 Cong. Rec. S14355 (daily ed. Oct. 12, 1949), https://tinyurl.com/ythvbf49 (statement of Sen. Thomas). Thomas did not specify a legal basis for a potential impoundment of those funds. But given the discretion that Congress wrote into the appropriations it ultimately enacted, Thomas's remarks cannot, without more, be read as support for a constitutional impoundment power.

to be obligated or expended" under those headings "shall not exceed" $125,797,000 and $1,143,858,000, respectively.[184]

In October 1949, Truman signed the 1950 National Military Establishment Appropriation Act into law and announced that he was "directing the Secretary of Defense to place in reserve the amounts provided by the Congress ... for increasing the structure of the Air Force."[185] These reserves appear to have consisted of the contract authority the House had included for "construction of aircraft and related procurement." Truman held $726,151,000 of that amount in reserve "as a result of [his] determination not to expand the Air Force above the 48-group level."[186] Because the 1950 National Military Establishment Appropriation Act "authorized" — but did not require — contracts "in an amount not to exceed $1,992,755,000,"[187] this impoundment was permitted by statute.

The Air Force also reported nonexpenditures under the other appropriations the House sought to increase to fund the additional Air Force groups.[188] These unobligated amounts included:

- $3,500,000 for special procurement;[189]
- $1,800,000 for maintenance and operations;[190]
- $31,320,538 for research and development;[191] and
- $1,592,528 for contingencies.[192]

Each of these nonexpenditures was permitted by statute.

- Section 702 of the 1950 National Military Establishment Appropriation Act provided that "amounts to be obligated or expended" for special procurement and maintenance and operations "shall not exceed" $125,797,000 and $1,143,858,000, respectively.[193] This allowed for the respective nonexpenditures of $3,500,000 and $1,800,000.

184 Pub. L. No. 81-434, § 702, 63 Stat. at 1024-25, https://tinyurl.com/muewtnf9; H.R. Rep. No. 81-454, *supra*, at 2 (Conf. Rep.) (noting "Amendment No. 100 reduces certain specific appropriations"); 95 Cong. Rec. S14353-55 (daily ed. Oct. 12, 1949), https://tinyurl.com/bdfpa22a (Senate debate over conference committee amendments).

185 Presidential Statement on Signing the National Military Establishment Appropriation Act, 1950, *in* 1971 Hearings at 524-25, https://tinyurl.com/537v7y3r.

186 U.S. Bureau of the Budget, Exec. Off. of the President, *Budget of the United States Government for Fiscal Year 1951*, at 745 (1950), https://tinyurl.com/r5ereuzz.

187 Pub. L. No. 81-434, 63 Stat. at 1013, https://tinyurl.com/c3tt3tnt.

188 There is no evidence that these unobligated amounts were held in reserve, blocking their expenditure.

189 U.S. Bureau of the Budget, Exec. Off. of the President, *Budget for the Military Functions of the Department of Defense for the Fiscal Year 1952*, at 126 (1951), https://tinyurl.com/fm9sx3ha ($3,500,000 is the account's "[u]nobligated balance, estimated savings (available for administrative reappropriation in subsequent year).").

190 *Id.* at 119-20 ($1,800,000 is the account's "[u]nobligated balance, estimated savings (available for administrative reappropriation in subsequent year).").

191 *Id.* at 123 ($31,320,538 is the account's "[b]alance available in subsequent year" after subtracting, from the total unobligated balance of $36,320,538, the $5,000,000 transfer the account received. This transfer was subtracted from the total unobligated balance to isolate the likely amount of the original 1950 research and development appropriation that remained unobligated at the end of the fiscal year.).

192 *Id.* at 126 ($1,592,528 is the "[u]nobligated balance, estimated savings (available for administrative reappropriation in subsequent year)" after subtracting, from the total unobligated balance of $1,595,508, the $2,980 transfer the account received. This transfer was subtracted from the total unobligated balance to isolate the likely amount of the original 1950 contingencies appropriation that remained unobligated at the end of the fiscal year.).

193 Pub. L. No. 81-434, § 702, 63 Stat. at 1024-25, https://tinyurl.com/muewtnf9.

- The appropriation for research and development provided that $233,000,000 was "to remain available until expended."[194] This permitted the delayed expenditure of $31,320,538, as Congress did not require the full amount of that appropriation to be spent in fiscal year 1950.
- Finally, the contingencies appropriation provided $15,200,000 for "emergencies and extraordinary expenses, ... to be expended on the authority or approval of the Secretary of the Air Force, and such expenses may be accounted for solely on his certificate ...."[195] This requirement of approval and control by the secretary, and the clear intention of the funds for "emergencies and extraordinary expenses," gave the Air Force discretion to spend less than the full amount appropriated.

Although these impoundments were, for those reasons, authorized by statute, the Truman administration defended them on constitutional grounds on two occasions. In testimony before the House Appropriations Committee, Defense Secretary Louis Johnson asserted that "the power" to impound the additional Air Force funds "is vested in the President as Commander in Chief."[196] And later in 1950, when a reporter asked President Truman why he did not spend the money appropriated for the additional Air Force groups, he responded: "It wasn't necessary. It was not necessary .... That is the discretionary power of the President. If he doesn't feel like the money should be spent, I don't think he can be forced to spend it."[197]

194 *Id.* at 1015.
195 *Id.* at 1017.
196 *Department of Defense Appropriations for 1951: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 81st Cong. 54-55 (1950), https://tinyurl.com/4wc5ns5j (exchange between Rep. Mahon and Defense Secretary Johnson).
197 President's News Conference of Sept. 28, 1950, 1 Pub. Papers 661 (1950), https://tinyurl.com/3fm99yu2.

Harry S. Truman

1949

U.S.S. UNITED STATES AIRCRAFT CARRIER

NOT AN IMPOUNDMENT

ALLEGED IMPOUNDMENT

In 1949, Truman's secretary of defense canceled the construction of a Navy aircraft carrier, the *U.S.S. United States*, at the urging of the Joint Chiefs of Staff and with the approval of the chairs of the House and Senate Armed Services Committees and the president.[198] CRA claims that Truman impounded funds Congress appropriated for the *U.S.S. United States*.[199]

198 Fisher, *Politics of Impounded Funds*, *supra*, at 367-68; *Military Situation in the Far East: Hearings before the S. Comm. on Armed Services & the S. Comm. on Foreign Relations*, 82d Cong. 2636-37 (1951), https://tinyurl.com/6js5aas2 (testimony of Defense Secretary Johnson); *National Military Establishment Bill for 1950: Hearings Before a Subcomm. of the S. Comm. on Appropriations*, 81st Cong. 161 (1949), https://tinyurl.com/383swetf (letter from Defense Secretary Johnson canceling *U.S.S. United States*).
199 CRA History at 15, https://tinyurl.com/36y8m9s8 (citing Stanton, *supra*, at 12, https://tinyurl.com/3kj57dbd (alleging Truman impounded funds for *U.S.S. United States*)). Citing Stanton, CRA claims Truman impounded funds for the *U.S.S. Forrestal*, as well. *Id.* Stanton relies on a single authority in alleging this: the 1973 Senate testimony of Comptroller General Elmer Staats. Stanton, *supra*, at 12 & n.73. Staats claimed that "[i]n 1950, the aircraft carrier *Forrestal* was canceled by the DOD after funds had been appropriated." *Impoundment of Appropriated Funds by the President: Joint Hearings Before the Ad Hoc Subcomm. of the S. Comm. on Government Operations & the Subcomm. on the Separation of Powers of the S. Comm. on the Judiciary*, 93d Cong. 98 (1973) ("1973 Hearings"), https://tinyurl.com/56jhskc9. However, Staats was mistaken; he appears to have confused the *Forrestal*, which was not canceled, with the *United States*, which was canceled. The *Forrestal* was commissioned as the Navy's first "supercarrier" in 1955, and it served tours in the Mediterranean and Pacific. *See* Nat'l Museum of U.S. Navy, *USS Forrestal (CVA-59, later CV-59, and AVT-59)*, https://tinyurl.com/yk2juwey (last visited Mar. 9, 2025). Because Stanton and CRA present

ASSESSMENT

Truman **did not impound funds** for the *U.S.S. United States*. In 1948, Congress appropriated funds for the "new postwar shipbuilding program"[200] under the headings "[c]onstruction of ships" and "[o]rdnance for new construction."[201] These appropriations were "to remain available until expended."[202] Although neither enacted appropriation directly named or referenced the *U.S.S. United States*, the Senate committee report accompanying the 1949 Department of the Navy Appropriation Act mentioned that Congress included funds "for beginning work on the new 65,000-ton superaircraft carrier" — a reference to the *United States* — "as well as [for] conversions to other types of vessels ...."[203] Neither the Senate nor the House committee reports specified a particular amount they wanted to be spent on the carrier.[204]

In 1948 and early 1949, the Navy began constructing the carrier, laying its keel on April 18, 1949.[205] On April 23, Defense Secretary Johnson sent a letter to the secretary of the navy announcing his decision to cancel further construction of the carrier.[206] Johnson later testified that he did so at the urging of the Joint Chiefs, and after consulting with and securing the approval of the chairs of the House and Senate Armed Services Committee.[207]

Because no law required the construction of the carrier or the expenditure of a particular sum on it, and because we found no evidence that money intended for the carrier was withheld, it appears that Defense Secretary Johnson did not, in canceling the carrier, impound funds intended for it. Evincing its approval of the cancellation, Congress did not appropriate further funds for the *U.S.S. United States*. Rather, as a Senate Appropriations Committee noted in a report, the 1950 "[c]onstruction of ships" and "[o]rdnance for new construction" appropriations were "intended to permit the Navy to undertake a substitute shipbuilding program to replace the item approved in the 1949 appropriation bill for the Navy for the consideration of a flush-deck carrier."[208]

no evidence that funds appropriated for the *Forrestal* were impounded, or even that its construction was impeded, this appendix addresses only the alleged impoundment of funds effected as a result of the cancellation of the *U.S.S. United States*.

200 S. Rep. No. 80-2136, at 14-15 (1948) (Senate report accompanying Department of the Navy Appropriation Bill, 1949); H.R. Rep. No. 80-1621, at 5 (1948) (House report accompanying the same).

201 Pub. L. No. 80-753, ch. 617, 62 Stat. 584, 592 (1948), https://tinyurl.com/yhauxu6k.

202 *Id.*

203 S. Rep. No. 80-2136, *supra*, at 15.

204 *Id.* at 14-15; H.R. Rep. No. 80-1621, *supra*, at 4-6.

205 Walter Waggoner, *Keel Is Laid for Super-Carrier, Issue in Navy-Air Force Dispute*, N.Y. Times (Apr. 19, 1949), https://tinyurl.com/hvxutne8.

206 *National Military Establishment Bill for 1950: Hearings*, *supra*, at 161, https://tinyurl.com/383swetf (letter from Defense Secretary Johnson).

207 *Military Situation in the Far East: Hearings*, *supra*, at 2637, https://tinyurl.com/6js5aas2.

208 S. Rep. No. 81-745, at 10 (1949).

Harry S. Truman

1950

CONSTRUCTION OF VETERANS' HOSPITALS

AUTHORIZED

ALLEGED IMPOUNDMENT

In 1949, President Truman temporarily withheld funds allocated to build new veterans' hospitals after World War II to allow the Veterans Administration to determine where to best locate the new hospitals."[209] CRA refers to this as a "high profile impoundment."[210]

ASSESSMENT

This impoundment was **expressly authorized by statute**. In 1931, Congress authorized the construction of new Veterans Administration hospitals and facilities and provided that such construction "shall be done in such manner as the President may determine," and that the "location and nature" of the new buildings "shall be in the discretion of the Administrator of Veterans' Affairs, subject to the approval of the President."[211] This authorizing law gave the president ultimate authority to control future veterans' hospital construction.

During Truman's presidency, appropriations acts providing funding for veterans' hospital construction were governed by and explicitly referenced the 1931 authorizing law, giving Truman the authority to determine whether and how to spend the hospital construction funds.[212] Several of these appropriations acts contained additional permissive language authorizing obligations "not exceeding" a particular amount, subject to "the approval of the President."[213]

Years later, a former administrator of veterans' affairs who testified to Congress agreed that Truman's action was an example of an impoundment authorized by statute (though in his view, this statute was the Antideficiency Act).[214]

209 1971 Hearings at 84-85, https://tinyurl.com/bdfrrczf (testimony of William Driver, former administrator of veterans' affairs); Fisher, *Presidential Spending Power*, *supra*, at 151.

210 CRA at 15, https://tinyurl.com/36y8m9s8.

211 Pub. L. No. 71-868, ch. 521, 46 Stat. 1550-51 (1931), https://tinyurl.com/4242b436.

212 Pub. L. No. 79-49, ch. 106, 59 Stat. 106, 129 (1945), https://tinyurl.com/mptnmu52; Pub. L. No. 79-334, ch. 113, 60 Stat. 60, 77 (1946), https://tinyurl.com/yhbwvhjf; Pub. L. No. 79-419, ch. 425, 60 Stat. 262, 265 (1946), https://tinyurl.com/5b364vu7; Pub. L. No. 80-269, ch. 359, 61 Stat. 585, 605-06 (1947), https://tinyurl.com/393w5735; Pub. L. No. 80-862, ch. 775, 62 Stat. 1196, 1201 (1948), https://tinyurl.com/jymmphb4; Pub. L. No. 81-266, ch. 506, 63 Stat. 631, 654-55 (1949), https://tinyurl.com/4nwytp5y; Pub. L. No. 81-759, ch. 896, 64 Stat. at 719, https://tinyurl.com/mwnpzhtd.

213 Pub. L. No. 80-269, 61 Stat. at 605-06, https://tinyurl.com/393w5735; Pub. L. No. 80-862, 62 Stat. at 1201, https://tinyurl.com/jymmphb4.

214 1971 Hearings at 84-85, https://tinyurl.com/bdfrrczf.

Harry S. Truman

1950

DOMESTIC PROGRAMS DURING THE KOREAN WAR

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, Truman impounded appropriations for numerous "domestic programs in order to focus on the Korean War effort."[215]

ASSESSMENT

This impoundment was **expressly authorized by statute**. Section 1214 of the 1950 Omnibus Appropriations Act directed the president to "reduce[] in the amount of not less than $550,000,000" appropriations, reappropriations, and contract authorizations provided for in that act.[216] In a 1973 congressional hearing, both then Senator Hubert Humphrey and Comptroller General Elmer Staats cited this episode as an example of Congress authorizing the president to impound funds, in contrast to Nixon's impoundments contrary to statute.[217]

215 CRA History at 15, https://tinyurl.com/36y8m9s8.
216 Pub. L. No. 81-759, § 1214, 64 Stat. at 595, 768, https://tinyurl.com/4kwt5vtu.
217 1973 Hearings at 67-68, 99, https://tinyurl.com/4apuh2a7.

Dwight D. Eisenhower

1956

INCREASE IN MARINE CORPS PERSONNEL

UNAUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, in 1956, President Dwight Eisenhower "impounded $46.4 million appropriated by Congress to increase Marine Corps personnel."[218]

ASSESSMENT

This impoundment was **not authorized by statute**, but the administration did not justify it on constitutional grounds.

In 1955, Congress appropriated $650,244,000 for "Military Personnel, Marine Corps" for fiscal year 1956; $290,190,000 for "Marine Corps Procurement," which was "to remain available until expended"; and $181,605,000 for "Marine Corps Troops and Facilities" for fiscal year 1956.[219] These enacted amounts included $33.8 million above the administration's request for Marine Corps military personnel, $8.9 million above the administration's request for Marine Corps troops and facilities, and $3.7 million above the administration's request for Marine Corps procurement.[220] Congress apparently provided this additional $46.4 million to support an "[i]ncrease in Marine Corps strength."[221] Although the enacted appropriations did not specify a particular number of Marine Corps personnel, it is relatively clear from the increase in funds for "Military Personnel" and "Marine Corps Troops and Facilities," and that the funds were available for only a single fiscal year (1956), that Congress intended to effect some increase in the

218 CRA History at 16, https://tinyurl.com/4kambfft; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 471, 526, https://tinyurl.com/2kv4sd3n.
219 Pub. L. No. 84-157, ch. 358, 69 Stat. 301, 307 (1955), https://tinyurl.com/3hkbnwe5.
220 1971 Hearings at 471, https://tinyurl.com/2kv4sd3n (table entitled "Department of Defense Analysis of Planned Utilization of Additional Appropriations Provided by the Congress over Budget Request, Fiscal Year 1956").
221 *Id.*

size of the Marine Corps during fiscal year 1956. But the Corps appears not to have spent any of the additional funds.[222]

Despite this, the administration in no way suggested that it had any constitutional right to withhold these funds. Rather, a military official suggested that the Marine Corps had simply applied the funds as it had done in previous years, and that the Corps had fewer personnel than previously estimated. In a 1956 hearing before the House Appropriations Committee, Marine Corps Fiscal Director Maj. Gen. David Shoup explained that the annual Marine Corps military personnel appropriation "estimate is a mathematical application of rates of pay and allowances prescribed by law to be paid or furnished under varied conditions and situations .... The [fiscal year] 1956 estimate upon which the appropriation was based provided for an end strength of 215,000," but the actual end strength amounted to 201,000.[223] "The unobligated amount," Shoup continued, "is due principally to a lower personnel plan."[224]

222 *Id.*

223 *Department of the Navy Appropriations for 1957: Hearings Before a Subcomm. of the H. Comm. on Appropriations*, 84th Cong. 103 (1956), https://tinyurl.com/526r39ep (testimony of Maj. Gen. Shoup).

224 *Id.*

Dwight D. Eisenhower

1957

DEFENSE CUTBACKS

? UNKNOWN

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1957, [Eisenhower] 'issued a series of orders and announcements for cutbacks and stretchouts in defense programs.' In 1958, he 'asked agency heads to delay and reduce expenditures to avoid the possibility of having to borrow money.'"[225]

ASSESSMENT

There is **not enough information** to assess these alleged impoundments. CRA appears to refer to actions the Eisenhower administration took in late 1957 and early 1958 to delay or temporarily reduce expenditures to avoid breaching the statutory debt limit.[226] However, it is not clear from CRA's paper; the secondary sources it cites;[227] a recent Congressional Research Service report on the debt limit, which references the episode;[228] House and Senate committee reports accompanying the 1958 law raising the debt limit;[229] or congressional testimony on this subject from senior administration

225 CRA History at 16-17, https://tinyurl.com/4kambfft.

226 *See* Pub. L. No. 84-678, ch. 536, 70 Stat. 519, 519 (1956), https://tinyurl.com/cf4mwthe (law enacted July 9, 1956, raising the debt limit until June 30, 1957); Pub. L. No. 85-336, 72 Stat. 27, 27 (1958), https://tinyurl.com/ycswc587 (law enacted Feb. 26, 1958, raising the debt limit until June 30, 1959).

227 Fisher, Presidential Spending Power, *supra*, at 153 ("In 1957, in order to keep within the statutory debt limit, the Eisenhower Administration issued a series of orders and announcements for cutbacks and stretchouts in defense programs. When Congress later raised the debt limit, the money was released."); Stanton, *supra*, at 13 n.79, https://tinyurl.com/32c9canj (citing no supporting authority in a passing reference to actions the Eisenhower administration took to avoid breaching the statutory debt limit).

228 D. Andrew Austin, Cong. Rsch. Serv., R48209, A Binding Debt Limit: Background and Possible Consequences 33 (2024), https://tinyurl.com/msu6sy3d ("During another debt limit episode in 1957, Eisenhower ordered the Pentagon to limit its outlays enough to avoid breaching the debt limit.").

229 H.R. Rep. No. 85-1282 (1958); S. Rep. No. 85-1297 (1958).

officials in 1958 and 1959[230] what specific actions the administration took and which programs were affected.

The only information that is clear from these sources is high level: the administration delayed or temporarily reduced some expenditures, including at the Pentagon, to avoid breaching the statutory debt limit[231] and released those funds when Congress raised the debt limit in early 1958.[232] However, whether the referenced actions were authorized by statute or undertaken in defiance of it is impossible to determine without a clear accounting of what specific actions took place and when.

230 Debt Limit of the United States: Hearing on H.R. 9955 and H.R. 9956, Bills to Provide for a Temporary Increase in the Debt Limit of the United States, Before the H. Comm. on Ways & Means, 85th Cong. (1958) ("House 1958 Debt Limit Hearing"), https://tinyurl.com/48ws2hu7; Debt Ceiling Increase: Hearings on H.R. 995, an Act to Provide for a Temporary Increase in the Public Debt, Before the S. Comm. on Finance, 85th Cong. (1958) ("Senate 1958 Debt Limit Hearings"), https://tinyurl.com/mr2wtzwt; The Budget for 1960: Hearings Before the H. Comm. on Appropriations, 86th Cong. 40 (1959), https://tinyurl.com/ytrrrpx3 (testimony of Budget Bureau Director Maurice Stans) ("In any event, the process of slowing up the rate of expenditure at that time was, to the best of my knowledge, one of holding within the debt limit and when Congress returned and the debt limit was increased the money was released.").

231 *See* House 1958 Debt Limit Hearing at 23, https://tinyurl.com/32chps7x (testimony of Treasury Secretary Robert Anderson acknowledging, in response to a question about whether "cutbacks in the defense program over the last 6 months" were due to the "close proximity of the national debt to the ceiling during that period," that "in the calculations of the expenditure rates of each of the Government agencies there has been and will continue to be some judgments taken in light of the debt ceilings"); Senate 1958 Debt Limit Hearings at 23-24, https://tinyurl.com/3da88wfh (testimony of Secretary Anderson acknowledging a "decrease by some 5 or 6 percent the amount of progress payments on certain of the [Defense Department] contracts"); *id.* at 45 (Secretary Anderson noting that he "call[ed] the attention, not only of the Department of Defense but of all the other departments of Government, that we were very close to the debt ceiling, and that" perhaps "our expenditure programs [should] not move forward so rapidly as to exhaust our balances"); Austin, Cong. Rsch. Serv., *supra*, at 33, https://tinyurl.com/msu6sy3d (noting limits on Pentagon outlays).

232 The Budget for 1960: Hearings, *supra*, at 40, https://tinyurl.com/ytrrrpx3 (testimony of Budget Bureau Director Stans that "when Congress returned and the debt limit was increased the money was released"); Fisher, Presidential Spending Power, *supra*, at 153 (noting release of funds after debt limit increase); Pub. L. No. 85-336, 72 Stat. at 27, https://tinyurl.com/ycswc587 (raising the debt limit on Feb. 26, 1958).

Dwight D. Eisenhower

1959

HOUND DOG MISSILE PROGRAM

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1959, [Eisenhower] impounded $48 million in Hound-dog missile funds ...."[233]

ASSESSMENT

This impoundment was **authorized by statute** and did not impair the Air Force's continued development of the Hound Dog missile.

In 1958, Congress included funding for the Hound Dog missile program in an appropriation entitled "Aircraft, Missiles and Related Procurement,"[234] which provided a lump sum of over $6.6 billion to the Department of the Air Force.[235] The enacted appropriations language made no mention of any particular aircraft or missile program, instead providing the Air Force with discretion to allocate the appropriated funds among the listed purposes, which included "construction, procurement, and modification of aircraft,

233 CRA History at 17, https://tinyurl.com/3a2hzh3a; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 474, 526, https://tinyurl.com/ukj5prvz.

234 H.R. Rep. No. 85-1830, at 62, 65-66 (1958); S. Rep. No. 85-1937, at 13 (1958) ("In amounts related to House action, the committee has approved the House additions for MINUTEMAN and HOUND DOG programs."); *see* H.R. Rep. No. 85-2503, at 7 (1958) (Conf. Rep.) (noting final amount appropriated for Air Force aircraft, missiles, and related procurement).

235 Pub. L. No. 85-724, 72 Stat. 710, 720 (1958), https://tinyurl.com/4u6tmee6.

missiles, and equipment."[236] Moreover, the language specified that the $6.6 billion appropriation was to "remain available until expended,"[237] meaning that the Air Force did not have to spend the full amount of the appropriation in that single fiscal year.

Although Congress noted in committee reports that it included $48 million above the administration's request for the Hound Dog,[238] Air Force Secretary James Douglas testified in a 1959 hearing that these additional funds "were not apportioned" — meaning that the Air Force did not spend them.[239] Because of the discretion granted in the text of the Air Force's "Aircraft, Missiles and Related Procurement" appropriation, and the absence of a requirement to spend a particular sum on the Hound Dog, the Air Force was not required to spend the additional $48 million Congress had included. But the Air Force did continue work on the program. Indeed, as President Eisenhower noted in a 1959 budget message to Congress, "the production of the Hound Dog air-to-ground missile has been accelerated."[240]

236 *Id.*
237 *Id.*
238 H.R. Rep. No. 85-1830, *supra*, at 9, 62, 65-66; S. Rep. No. 85-1937, *supra*, at 13 ("In amounts related to House action, the committee has approved the House additions for MINUTEMAN and HOUND DOG programs.").
239 *Department of Defense Appropriations for 1960, Part 1: Hearings Before the Subcomm. of the H. Comm. on Appropriations*, 86th Cong. 814 (1959).
240 President Dwight Eisenhower, Annual Budget Message to the Congress: Fiscal Year 1960 (Jan. 19, 1959), https://tinyurl.com/paanc23w.

Dwight D. Eisenhower

1959

MINUTEMAN MISSILE PROGRAM

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1959, [Eisenhower] impounded ... $90 million in Minuteman funds ...."[241]

ASSESSMENT

This impoundment was **authorized by statute**. In 1958, Congress included funding for the Minuteman intercontinental ballistic missile program in Air Force appropriations entitled "Aircraft, Missiles and Related Procurement" and "Research and Development."[242] The former appropriation provided $6.6 billion, "to remain available until expended," for "construction, procurement, and modification of aircraft, missiles, and equipment."[243] The latter appropriation provided $743 million, "to remain available until expended," for "expenses necessary for basic and applied scientific research and development."[244] Neither appropriation made specific mention of the Minuteman, instead providing the Air Force with discretion to allocate the funds among the purposes listed in each appropriation.[245] However, House and Senate Appropriations Committee reports show that

241 CRA History at 17, https://tinyurl.com/3a2hzh3a; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 474, 526, https://tinyurl.com/ukj5prvz.
242 Pub. L. No. 85-724, 72 Stat. at 720-21, https://tinyurl.com/4u6tmee6; H.R. Rep. No. 85-1830, *supra*, at 65-66, 68; S. Rep. No. 85-1937, *supra*, at 13-14 (noting Senate agreement to House proposals for MINUTEMAN funding); *see* 1971 Hearings at 474, https://tinyurl.com/ukj5prvz.
243 Pub. L. No. 85-724, 72 Stat. at 720-21.
244 *Id.*
245 *Id.*

the committees included $75 million above the administration's request for the Minuteman in the "Aircraft, Missiles and Related Procurement" appropriation and $15 million above the administration's request for the Minuteman in the "Research and Development" appropriation.[246]

In a 1959 hearing, Air Force Secretary Douglas testified that while the Bureau of the Budget did not apportion the additional $90 million to the Air Force, the Air Force was able to "more than accomplish" the goal of accelerating the Minuteman program by reprogramming funds for it.[247] As the Defense Department confirmed even more explicitly in subsequent testimony to Congress: "Funds to carry on the MINUTEMAN in fiscal year 1959 on the expanded scale proposed by the Congress were provided by the Air Force through reprogramming funds no longer required for other projects."[248]

Although the Air Force did not spend the specific $90 million Congress included for the Minuteman in its "Aircraft, Missiles and Related Procurement" and "Research and Development" appropriations in fiscal year 1959, Air Force Secretary Douglas confirmed that these funds would be "applied against the 1960 budget."[249] The text of these appropriations gave the Air Force the discretion to do this. Because both appropriations were "to remain available until expended," the Air Force was not required to spend the full amount appropriated in a single fiscal year. And because neither appropriation mentioned, let alone required, the expenditure of a particular sum on the Minuteman, the Air Force ultimately had discretion in the amount it chose to spend on that project, among the other projects funded by the indefinitely available "Aircraft, Missiles and Related Procurement" and "Research and Development" appropriations.

246 H.R. Rep. No. 85-1830, *supra*, at 65-66, 68; S. Rep. No. 85-1937, *supra*, at 13-14 (noting Senate agreement to House proposals for MINUTEMAN funding); *see Department of Defense Appropriations for 1960, Part 1: Hearings*, *supra*, at 32; 1971 Hearings at 474, https://tinyurl.com/ukj5prvz.
247 Department of Defense Appropriations for 1960, Part 1: Hearings, *supra*, at 812-13.
248 1971 Hearings at 474, https://tinyurl.com/ukj5prvz (table of defense appropriations and expenditures).
249 Department of Defense Appropriations for 1960, Part 1: Hearings, *supra*, at 813.

Dwight D. Eisenhower

1959

KC-135 JET TANKERS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1959, [Eisenhower] impounded ... $55.6 million for KC-135 tankers ...."[250]

ASSESSMENT

This impoundment was **authorized by statute**. In 1958, Congress included funding for additional KC-135 jet tankers in Air Force appropriations entitled "Aircraft, Missiles and Related Procurement" and "Procurement Other Than Aircraft and Missiles."[251] The former appropriation provided over $6.6 billion, "to remain available until expended," for "construction, procurement, and modification of aircraft, missiles, and equipment."[252] The

250 CRA History at 17, https://tinyurl.com/3a2hzh3a; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 474, 526, https://tinyurl.com/ukj5prvz.
251 1971 Hearings at 474, https://tinyurl.com/ukj5prvz; Pub. L. No. 85-724, 72 Stat. at 720, https://tinyurl.com/4u6tmee6.
252 Pub. L. No. 85-724, 72 Stat. at 720.

latter appropriation provided over $2.22 billion, "to remain available until expended," for "procurement and modification of equipment (including ground handling equipment for aircraft and missiles, ground guidance and electronic control equipment, and ground electronic and communication equipment)."[253] Neither appropriation made specific mention of the tankers, instead providing the Air Force with discretion to allocate the funds among the purposes that each appropriation listed.[254] However, subsequent Defense Department testimony to Congress indicates that Congress included $51.6 million above the administration's request for KC-135 tankers in the "Aircraft, Missiles and Related Procurement" appropriation and $3.9 million above the administration's request for KC-135 tankers in the "Procurement Other Than Aircraft and Missiles" appropriation.[255]

In a 1959 hearing, Air Force Secretary Douglas testified that the service used none of these additional funds.[256] The text of the enacted "Aircraft, Missiles and Related Procurement" and "Procurement Other Than Aircraft and Missiles" appropriations gave the Air Force the discretion not to spend those additional funds. Neither enacted appropriation mentioned the tankers, let alone required the expenditure of a particular sum on their procurement. And both appropriations were "to remain available until expended," meaning the Air Force was not required to spend the full amount of the appropriation in a single fiscal year.[257]

Moreover, it appears that the administration impounded only the additional funds Congress provided for the tankers. Production of the tankers otherwise continued apace. In fact, in Jan. 1959, President Eisenhower noted, in apparent reference to the KC-135, that the "dispersal program for our strategic bomber force and its supporting tankers is nearing completion."[258]

253 *Id.*
254 *See id.*
255 *Department of Defense Appropriations for 1960, Part 1: Hearings*, *supra*, at 33; 1971 Hearings at 474, https://tinyurl.com/ukj5prvz.
256 *Department of Defense Appropriations for 1960, Part 1: Hearings*, *supra*, at 812-13 (testimony of Secretary Douglas).
257 *See* Pub. L. No. 85-724, 72 Stat. at 720, https://tinyurl.com/4u6tmee6.
258 President Dwight Eisenhower, Annual Budget Message to the Congress: Fiscal Year 1960, *supra*, https://tinyurl.com/paanc23w.

Dwight D. Eisenhower

1959

STRATEGIC AIRLIFT AIRCRAFT

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1959, [Eisenhower] impounded … $140 million for strategic airlift aircraft."[259]

ASSESSMENT

This impoundment was **authorized by statute**, and appears to have involved only the temporary "postponement" of spending the $140 million to the following fiscal year.[260] This action was well within the Air Force's discretion,

259 CRA History at 17, https://tinyurl.com/3a2hzh3a; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 474, 526, https://tinyurl.com/ukj5prvz.
260 Department of Defense Appropriations for 1960, Part 1: Hearings, *supra*, at 813 (testimony of Secretary Douglas).

as the governing appropriations act specified that the funds would remain available until expended.

In 1958, Congress included funding for "strategic airlift aircraft" in Air Force appropriations entitled "Aircraft, Missiles and Related Procurement," and "Procurement Other Than Aircraft and Missiles."[261] The former appropriation provided over $6.6 billion, "to remain available until expended," for "construction, procurement, and modification of aircraft, missiles, and equipment."[262] The latter appropriation provided over $2.22 billion, "to remain available until expended," for "procurement and modification of equipment (including ground handling equipment for aircraft and missiles, ground guidance and electronic control equipment, and ground electronic and communication equipment)."[263] Neither appropriation made specific mention of the strategic airlift aircraft, instead providing the Air Force with discretion to allocate the funds among the purposes listed in each appropriation.[264] However, subsequent Defense Department testimony to Congress indicates that Congress included $136.1 million above the administration's request for strategic airlift aircraft in the "Aircraft, Missiles and Related Procurement" appropriation and $3.9 million above the administration's request for strategic airlift aircraft in the "Procurement Other Than Aircraft and Missiles" appropriation.[265]

In a 1959 hearing, Air Force Secretary Douglas testified that the service planned to "postpone[]" spending the "larger part of the $140 million … to the 1960 from the 1959 buy period."[266] The text of the enacted "Aircraft, Missiles and Related Procurement" and "Procurement Other Than Aircraft and Missiles" appropriations gave the Air Force the discretion to do this. Both appropriations provided that the funds were "to remain available until expended," meaning the Air Force was not required to spend them in full in a single fiscal year.[267]

261 1971 Hearings at 474, https://tinyurl.com/ukj5prvz; Pub. L. No. 85-724, 72 Stat. at 720, https://tinyurl.com/4u6tmee6.

262 72 Stat. at 720.

263 *Id.*

264 *Id.*

265 *Department of Defense Appropriations for 1960, Part 1: Hearings*, *supra*, at 33; 1971 Hearings at 474, https://tinyurl.com/ukj5prvz.

266 *Department of Defense Appropriations for 1960, Part 1: Hearings*, *supra*, at 813 (testimony of Secretary Douglas).

267 *See* Pub. L. No. 85-724, 72 Stat. at 720, https://tinyurl.com/4u6tmee6.

Dwight D. Eisenhower

1960

NIKE-ZEUS ANTIMISSILE SYSTEM

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, Eisenhower "withheld … $137 million for Nike-Zeus anti-missile program funds."[268]

Eisenhower confirmed this in his fiscal year 1961 budget message to Congress, where he noted that until further testing could be conducted, "the $137 million appropriated last year by the Congress for initial production steps for the Nike-Zeus system will not be used."[269]

ASSESSMENT

This impoundment was **authorized by statute**. In 1959, Congress added $137 million to an appropriation entitled "Procurement of Equipment and Missiles, Army."[270] The Defense Department indicated that it would spend the additional money on the Nike-Zeus missile system,[271] but the enacted appropriation did not require it to do so.[272] Indeed, the text of the "Procurement of Equipment and Missiles, Army" appropriation stated that the funds in that category were to "remain available until expended," meaning that the Army was not required to spend the full amount of the appropriation in that fiscal year.[273] For these reasons, the underlying statute gave Eisenhower discretion to withhold the additional funds.

However, in his fiscal year 1961 budget message to Congress, Eisenhower made clear that he withheld the funds not to thwart Congress's will, but because he thought the Nike-Zeus technology "should be carefully tested before production is begun."[274] Eisenhower thus "recommend[ed] sufficient funds in [his fiscal year 1961] budget to provide for the essential phases of such testing."[275] Congress subsequently "agreed to limit the program to research and development,"[276] including funds for the Nike-Zeus system in its fiscal year 1961 defense appropriation bill only under the Army's "Research, Development, Test, and Evaluation" appropriation.[277]

268 CRA History at 17, https://tinyurl.com/3a2hzh3a; *see also* Stanton, *supra*, at 12 & n.74, https://tinyurl.com/3vsde2uw; 1971 Hearings at 477 & n.1, 526, https://tinyurl.com/46svjpjj.

269 President Dwight Eisenhower, Annual Budget Message to the Congress: Fiscal Year 1961 (Jan. 18, 1960), https://tinyurl.com/mryn3j6m.

270 S. Rep. No. 86-476, at 3-5 (1959), https://tinyurl.com/4ce9fd24; H.R. Rep. No. 86-408, at 3, 7, 57-59 (1959); Pub. L. No. 86-166, 73 Stat. 366, 374 (1959), https://tinyurl.com/5h2fywwe; *see* Memorandum for the President from the Secretary of Defense Regarding Production and Deployment of the NIKE-X, at 8 (Dec. 10, 1966), https://tinyurl.com/yue3re2e.

271 S. Rep. No. 86-476, *supra*, at 5, https://tinyurl.com/y63jutp3; Memorandum for the President from the Secretary of Defense Regarding Production and Deployment of the NIKE-X, *supra*, at 8, https://tinyurl.com/yue3re2e ("Secretary McElroy agreed to accept $137 million for the acceleration of NIKE-ZEUS.").

272 Pub. L. No. 86-166, 73 Stat. at 374, https://tinyurl.com/5h2fywwe.

273 *Id.*

274 President Dwight Eisenhower, Annual Budget Message to the Congress: Fiscal Year 1961, *supra*, https://tinyurl.com/mryn3j6m.

275 *Id.*

276 Memorandum for the President from the Secretary of Defense Regarding Production and Deployment of the NIKE-X, *supra*, at 9, https://tinyurl.com/35fyjne7.

277 H.R. Rep. No. 86-1561, at 63-64 (1960) (House report accompanying H.R. 11998, the 1961 defense appropriation bill) (noting funding for Nike-Zeus under "Research, Development, Test, and Evaluation, Army"); S. Rep. No. 86-1550, at 32 (1960) (Senate report accompanying H.R. 11998) (noting funding for Nike-Zeus under "Research, Development, Test, and Evaluation, Army").

Dwight D. Eisenhower

1960

NUCLEAR-POWERED CARRIER

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, Eisenhower "withheld $35 million for nuclear-powered carrier procurement ...."[278]

ASSESSMENT

This impoundment was **authorized by statute**. In 1959, Congress provided $1.3 billion for naval shipbuilding in an appropriation entitled "Shipbuilding and Conversion, Navy."[279] The appropriation's text made no mention of a nuclear-powered carrier,[280] but Defense Department testimony to Congress indicates that Congress included $35 million within that appropriation for "advance procurement for [a] nuclear-powered carrier."[281]

The department ultimately declined to spend that money.[282] But the text of the "Shipbuilding and Conversion" appropriation did not require it to do so. The enacted appropriation did not mention a nuclear-powered carrier, let alone specify an amount for its procurement. Instead, it allowed the president to allocate the appropriated funds among the purposes listed in the statute, which included "construction, acquisition, or conversion of vessels" and "procurement of critical long lead time components and designs for vessels to be constructed or converted in the future."[283] Moreover, the appropriation specified that all of the funds for "Shipbuilding and Conversion" were to "remain available until expended,"[284] meaning that the Navy did not have to spend the full amount of that appropriation in that single fiscal year.

278 CRA History at 17, https://tinyurl.com/3a2hzh3a; 1971 Hearings at 477, 526, https://tinyurl.com/46svjpjj.
279 Pub. L. No. 86-166, 73 Stat. at 374, https://tinyurl.com/5h2fywve.
280 *See id.*
281 1971 Hearings at 477, https://tinyurl.com/46svjpjj.
282 *Id.*
283 Pub. L. No. 86-166, 73 Stat. at 374, https://tinyurl.com/5h2fywve.
284 *Id.*

John F. Kennedy

1961

B-70 STRATEGIC BOMBER

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "President Kennedy similarly impounded significant military funds. In 1961, Congress appropriated $380 million for the B-70 strategic bomber — $180 million more than the White House requested in its budget. Kennedy impounded the additional $180 million because he judged that ICBM technology eliminated the need for the additional bombers. Congressman Vinson, chair of the House Armed Services Committee, was furious and drafted language for the next year's appropriation stating 'that the Secretary of the Air Force, as an official of the executive branch, is directed, ordered, mandated, and required to utilize the full amount of the $491 million authority granted' for the B-70 bomber .... President Kennedy forcefully rebuffed Vinson's attempt to encroach upon his executive power. He argued that the language should be modified from 'directed' to 'authorized' because such language is 'more clearly in line with the spirit of the Constitution.'"[285]

285 CRA History at 17-18, https://tinyurl.com/3a2hzh3a (footnotes omitted).

ASSESSMENT

This impoundment was **authorized by statute**. In 1961, President Kennedy requested that Congress appropriate $220 million for the development of a B-70 (later RS-70) bomber.[286] Congress instead included $400 million for the B-70 in a broader $2,403,260,000 appropriation for "Research, Development, Test, and Evaluation, Air Force."[287] The Defense Department refused to spend the additional $180 million that Congress made available, deeming it unnecessary to advance continued research on and testing of the B-70,[288] but nothing in the statute required it to spend the additional amount.

Although the conference committee's report stated that "$400,000,000 of this [Research, Development, Test, and Evaluation, Air Force] appropriation shall be available for the B-70 program,"[289] the text of the enacted "Research, Development, Test, and Evaluation, Air Force" appropriation did not mention, let alone require, the expenditure of a particular sum on the B-70.[290] Moreover, because the "Research, Development, Test, and Evaluation, Air Force" appropriation was "to remain available until expended,"[291] the amount provided for it did not have to be spent in a single fiscal year. The underlying appropriation statute thus gave the Pentagon discretion not to spend the full amount Congress had appropriated.

CRA makes much of a subsequent exchange between President Kennedy and Representative Carl Vinson, the chair of the House Armed Services Committee, about the B-70.[292] Vinson sought to add language to a 1962 defense authorization bill that would have "directed" the Air Force secretary "to utilize an authorization in an amount not less than $491,000,000 during Fiscal Year 1963 to proceed with production planning and long leadtime procurement for an RS-70 weapon system."[293] Kennedy objected to the use of the word "directed," suggesting instead that "the word 'authorized' would be more suitable to an authorizing bill (which is not an appropriation of funds) and more clearly in line with the spirit of the Constitution."[294]

Although Kennedy raised constitutional objections to Vinson's language — "insist[ing]" in a letter to Vinson "upon the full powers and discretions essential to the faithful execution of my responsibilities as President and Commander in Chief, under article II, sections 2 and 3, of the Constitution"[295] — he also emphasized the importance of a "spirit of comity" between the executive and legislative branches and offered that Defense

286 President John Kennedy, Special Message to the Congress on the Defense Budget (Mar. 28, 1961), https://tinyurl.com/354m8xz9.

287 Pub. L. No. 87-144, 75 Stat. 365, 374 (1961), https://tinyurl.com/5n9abct9; H.R. Rep. No. 87-873, at 7 (1961) (Conf. Rep.) ("The Committee of Conference is in agreement that $400,000,000 of this appropriation shall be available for the B-70 program.").

288 Jack Raymond, *Pentagon Orders 780-Million Cut in Air Programs*, N.Y. Times (Oct. 28, 1961), https://tinyurl.com/6j2utxry.

289 H.R. Rep. No. 87-873, *supra*, at 7.

290 *See* Pub. L. No. 87-144, 75 Stat. at 374, https://tinyurl.com/5n9abct9.

291 *Id.*

292 *See* CRA History at 17-18, https://tinyurl.com/3a2hzh3a.

293 H.R. Rep. No. 87-1406, at 1 (1962).

294 Letter from President Kennedy to Rep. Vinson (Mar. 20, 1962), *in* 1971 Hearings at 526, https://tinyurl.com/2e92bher.

295 1971 Hearings at 526, https://tinyurl.com/2e92bher.

Secretary Robert McNamara was willing to "reexamine the RS-70 program."[296] In other words, Kennedy made clear that he did not seek to thwart Congress's will in pursuing and funding the RS-70.

In the end, lawmakers acceded to Kennedy's request to change the text of the defense authorization bill. As one scholar has written, "Congress ultimately omitted mandatory language from the bill, giving Kennedy no occasion to defy any statutory objective."[297] The final bill merely "authorized" an appropriation of $491 million "for the production planning and long leadtime procurement of an RS-70 weapon system,"[298] but did not direct any action.

296 *Id.*
297 Zachary Price, *The President Has No Constitutional Power of Impoundment*, Yale J. Reg. Online, Notice & Comment (July 18, 2024), https://tinyurl.com/2xyb5s95.
298 Pub. L. No. 87-436, 76 Stat. 55, 55 (1962), https://tinyurl.com/5n98vhu2.

Lyndon Johnson

1965

TWO WATERSHED PROJECTS

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, in 1965, President Lyndon Johnson "impounded funds for watershed projects in order to voice his opposition to the legislative procedures used to appropriate the funds. Congress refused to change its procedures and the funds remained impounded for the remainder of the Johnson Administration."[299]

ASSESSMENT

Two potential impoundments in this category are reviewed below. We marked the first as "unknown" because there was not enough information to determine whether funds were impounded. We marked the second as not an impoundment.

CRA's claim appears to conflate two programs, which Congress authorized and funded separately: (1) water resource development projects overseen by the Army Corps of Engineers[300] and (2) watershed projects overseen by the Department of Agriculture.[301]

In support of its claim, CRA cites Louis Fisher's *Presidential Spending Power*. Fisher, in turn, cites several primary sources,[302] including President Johnson's 1965 statement upon signing Public Law 89-298[303] and Representative G.V. Montgomery's 1969 floor remarks asserting that Johnson impounded funds for small watershed projects governed by Public Law 83-566.[304]

299 CRA History at 18; https://tinyurl.com/35zkwp4z (citing Fisher, Presidential Spending Power, *supra*, at 166).
300 Pub. L. No. 89-298, §§ 201(a), 222, 79 Stat. 1073, 1073, 1089 (1965), https://tinyurl.com/4mp398bn; Pub. L. No. 89-299, 79 Stat. 1096, 1097 (1965), https://tinyurl.com/tbxyw7h5 (appropriation for Army Corps of Engineers to carry out water resource development projects).
301 Watershed Protection & Flood Prevention Act, Pub. L. No. 83-566, 68 Stat. 666 (1954), https://tinyurl.com/2jhuasyv; Pub. L. No. 88-573, 78 Stat. 862, 865-66 (1964), https://tinyurl.com/3jx5fmxz (appropriation for Department of Agriculture's Soil Conservation Service for watershed projects).
302 Fisher, Presidential Spending Power, *supra*, at 166 & n.52 (endnotes on page 308 n.52).
303 Statement by the President Upon Signing the Omnibus Rivers and Harbors Bill, 2 Pub. Papers 1083 (Oct. 26, 1965), https://tinyurl.com/52yrvf4h.
304 115 Cong. Rec. H5923-24 (daily ed. Mar. 11, 1969), https://tinyurl.com/heae9was.

Because these programs are distinct, we assess them individually below. Although Johnson objected to a statutory requirement in Public Law 89-298 that the Public Works Committees approve water resource development projects before the Army could draw funds to prosecute them, it is not clear whether Johnson impounded funds in light of this objection. And it appears that Johnson did not impound funds under the "watershed protection" appropriation for small watershed projects, but rather prudently obligated those funds in accordance with the law.

Lyndon Johnson

1965

WATERSHED PROJECT 1: PUBLIC LAW 89-298

UNKNOWN

ALLEGED IMPOUNDMENT

Potential impoundment #1: Funds for water resource development projects under Public Law 89-298

ASSESSMENT

There is **not enough information** to determine whether funds were impounded as a result of Johnson's objection to a committee approval requirement in Public Law 89-298.

Title II of Public Law 89-298, known as the Flood Control Act of 1965, "authorized" the secretary of the army to construct and maintain certain "water resource development project[s]."[305] However, section 201(a) of the law provided that "[n]o appropriation shall be made to construct, operate, or maintain any [water resource development] project if such project has not been approved by resolutions adopted by the Committees on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration of such approval the Secretary shall transmit to Congress a report of such proposed project, including all relevant data and all costs."[306]

President Johnson objected to this procedure on the basis that it violated the Constitution's separation of powers.[307] But he nevertheless signed the legislation into law because he concluded that the legislation "permits, but does not require, the executive branch to use the objectionable procedure."[308] And he "instructed the Secretary of the Army to refrain from exercising the authority with which section 201(a) attempts to vest in him."[309]

The day after enacting the 1965 Flood Control Act (Public Law 89-298), Congress enacted a public works appropriations act (Public Law 89-299) providing the Army Corps of Engineers with about $993 million to construct "river and harbor, flood control, shore protection, and related projects."[310]

305 Pub. L. No. 89-298, §§ 201(a), 222, 79 Stat. 1073, 1073, 1089 (1965), https://tinyurl.com/4mp398bn.
306 *Id.* § 201(a), 79 Stat. at 1073, https://tinyurl.com/4mp398bn.
307 Statement by the President Upon Signing the Omnibus Rivers and Harbors Bill, 2 Pub. Papers, *supra*, at 1083, https://tinyurl.com/52yrvf4h. Johnson's objection was well taken, but that would not become evident for nearly another two decades, when the Supreme Court invalidated a somewhat similar "legislative veto" provision in INS v. Chadha, 462 U.S. 919 (1983).
308 Statement by the President Upon Signing the Omnibus Rivers and Harbors Bill, 2 Pub. Papers, *supra*, at 1083, https://tinyurl.com/52yrvf4h.
309 *Id.*
310 Pub. L. No. 89-299, 79 Stat. 1096, 1097 (1965), https://tinyurl.com/tbxyw7h5.

The appropriation provided that the funds would "remain available until expended," but barred the Army from using them "for projects not authorized by law," an evident cross-reference to the project-approval requirement in the Flood Control Act.[311]

It is not clear if Johnson impounded funds made available under this appropriation as a result of his objection to section 201's committee-approval requirement. Section 204 of the 1965 Flood Control Act "adopted and authorized" numerous other flood control projects that were not subject to a committee approval requirement, and directed that those projects "shall be initiated as expeditiously and prosecuted as vigorously as may be consistent with budgetary requirements."[312] The administration later reported spending $934 million of its $993 million appropriation for fiscal year 1966.[313] Although this amounts to an underexpenditure of almost $60 million, because the relevant appropriation was "to remain available until expended," the administration was not required to spend the full amount in a single fiscal year. Moreover, it is not clear whether Johnson's objection to section 201(a), or other programmatic factors, caused the underexpenditure.

311 *Id.*
312 Pub. L. No. 89-298, § 204, 79 Stat. at 1074-85, https://tinyurl.com/2e4bpf7t.
313 U.S. Bureau of the Budget, Exec. Off. of the President, Budget of the United States Government for Fiscal Year 1968, at 245 (1967), https://tinyurl.com/2ddy6cpw.

Lyndon Johnson

1965

WATERSHED PROJECT 2: PUBLIC LAW 83-566

NOT AN IMPOUNDMENT

ALLEGED IMPOUNDMENT

Potential impoundment #2: Funds for watershed projects under Public Law 83-566

ASSESSMENT

We found **no evidence that Johnson impounded funds** for small watershed projects under the relevant appropriation.

CRA claims that "[i]n 1965, Johnson impounded funds for watershed projects in order to voice his opposition to the legislative procedures used to appropriate the funds."[314] CRA cites Louis Fisher's *Presidential Spending Power* in support of this claim.[315] Fisher, in turn, cites a 1969 floor speech by Rep. Montgomery, who asserted that Johnson withheld funding from "96 small watershed projects approved by both Houses of the 90th Congress" because Johnson objected to a committee approval procedure in the governing law, Public Law 83-566.[316] Although that law contained a committee approval procedure similar to the one in the 1965 Flood Control Act,[317]

314 CRA History at 18; https://tinyurl.com/35zkwp4z (citing Fisher, Presidential Spending Power, *supra*, at 166).
315 *Id.*
316 Fisher, Presidential Spending Power, *supra*, at 166 & n.52 (endnote 52 on page 308 citing Rep. Montgomery's 1969 floor remarks); 115 Cong. Rec. H5923-24 (daily ed. Mar. 11, 1969), https://tinyurl.com/heae9was (remarks by Rep. Montgomery on Public Law 566 small watershed projects).
317 *Compare* Pub. L. No. 83-566, § 2(2), 68 Stat. at 666, https://tinyurl.com/2jhuasyv, *with* Pub. L. No. 89-298, § 201(a), 79 Stat. at 1073, https://tinyurl.com/4mp398bn.

we found no evidence confirming that Johnson objected to the specific procedure in Public Law 83-566 or that he impounded funds on the basis of that objection.[318]

Indeed, the Johnson administration's reporting to Congress on its annual expenditures under the relevant appropriation — the Department of Agriculture's "watershed protection" appropriation[319] — seems to show that the administration obligated the appropriated funds in full.[320] Moreover, the standard statutory language for that appropriation provided both that funds "shall remain available until expended" — meaning they did not have to be spent in full in a single fiscal year — and that the current-year appropriation "shall be merged" with "the unexpended balances of funds heretofore appropriated or transferred to the Department for watershed protection purposes."[321] In other words, Congress anticipated that some of the funds made available for watershed projects might be left over at the end of the fiscal year, and it provided, in each annual appropriation, that those funds would be available for use in future fiscal years. Thus, even if the Johnson administration impounded some small amount of "watershed protection" funds from year to year, the underlying appropriation permitted that temporary impoundment and expressly allowed the use of such funds in the future.

In light of this statutory language and the administration's reporting on its "watershed protection" expenditures, it seems likely that the Johnson administration did not impound funds for the watershed projects Rep. Montgomery listed in his floor remarks, but rather that it prioritized other projects over the listed ones. Such action would have been consistent with the discretion that the administration was afforded in the underlying

318 Johnson's Public Papers from 1965-1968 do not mention any constitutional objection to the Public Law 83-566 committee approval procedure, whereas they do for the 1965 Flood Control Act and two bills with related requirements. See Statement by the President Upon Signing the Omnibus Rivers and Harbors Bill, 2 Pub. Papers, *supra*, at 1083-84, https://tinyurl.com/52yrvf4h (referring to Johnson's vetoes of the Northwest disaster relief bill and of a military authorization bill).

319 Two appropriations to the Department of Agriculture's Soil Conservation Service funded small watershed projects under Public Law 83-566: a "watershed planning" appropriation and a "watershed protection" appropriation. H.R. Rep. No. 9-364, at 20-21 (1965) (explaining the legislative history of the Department of Agriculture's watershed programs). The "watershed planning" appropriation tended to be around $6 million, whereas the "watershed protection" appropriation tended to be for significantly larger amounts (around $70 million). See, e.g., Pub. L. No. 89-556, 80 Stat. 689, 692-93 (1966), https://tinyurl.com/5fj2dx79; Pub. L. No. 90-113, 81 Stat. 319, 323-24 (1967), https://tinyurl.com/yw2e75c8; Pub. L. No. 90-463, 82 Stat. 639, 642-43 (1968), https://tinyurl.com/mvr2jmv5. Because Rep. Montgomery's chart of watershed projects from which Johnson allegedly withheld funds lists total project costs in the tens of millions of dollars, we assume that Montgomery was referring to projects that would have received funding under the "watershed protection" appropriation. *See* 115 Cong. Rec. H5923-24 (daily ed. Mar. 11, 1969), https://tinyurl.com/heae9was.

320 *Budget of the United States Government for Fiscal Year 1968*, *supra*, at 202, https://tinyurl.com/ku7xz6sm (reporting on final fiscal year 1966 obligational authority and expenditures for watershed protection); U.S. Bureau. of the Budget, Exec. Off. of the President, *Budget of the United States Government for Fiscal Year 1969*, at 233 (1968), https://tinyurl.com/2szsu4tm (reporting on final fiscal year 1967 obligational authority and expenditures for watershed protection); U.S. Bureau. of the Budget, Exec. Off. of the President, *Budget of the United States Government for Fiscal Year 1970*, at 224 (1969), https://tinyurl.com/mfba8657 (reporting on final fiscal year 1968 obligational authority and expenditures for watershed works of improvement).

321 Pub. L. No. 89-556, 80 Stat. at 692-93, https://tinyurl.com/5fj2dx79; Pub. L. No. 90-113, 81 Stat. at 323-24, https://tinyurl.com/yw2e75c8; Pub. L. No. 90-463, 82 Stat. at 642-43, https://tinyurl.com/mvr2jmv5.

appropriation, which provided a lump sum for an array of different watershed protection efforts[322] but did not specify an order in which those efforts should be undertaken.

322 Eligible watershed protection efforts included "river basin surveys and investigations, and research," and "preventive measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land." *See* Pub. L. No. 89-556, 80 Stat. at 692-93, https://tinyurl.com/5fj2dx79; Pub. L. No. 90-113, 81 Stat. at 323-24, https://tinyurl.com/yw2e75c8; cf. Pub. L. No. 90-463, 82 Stat. at 642-43, https://tinyurl.com/mvr2jmv5 (similar but not the same statutory language).

Lyndon Johnson

1965–66

NUCLEAR-POWERED GUIDED MISSILE FRIGATE

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "Johnson also impounded funding for … a nuclear-powered guided missile ship," the DLGN-36.[323]

ASSESSMENT

This impoundment was **authorized by statute**. In a 1965 defense authorization act, Congress authorized an appropriation of $1.72 billion for naval vessels, but provided that "$150,500,000 is authorized only for the construction of a nuclear powered guided missile frigate."[324] In the appropriations act that followed, Congress appropriated $1.6 billion for naval "Shipbuilding and Conversion," which was "to remain available until expended."[325] Committee reports accompanying the final bill show that Congress included within that amount $20 million for "advanced procurement of long lead time items required for the construction of a nuclear powered guided missile frigate."[326] However, the appropriation made no specific mention of a nuclear-powered ship. The Defense Department, which opposed construction of the frigate, refused to release those funds to the Navy.[327]

The following year, Congress passed legislation that pushed the executive branch to build the ship, but that contained an explicit loophole. The language authorizing funds for the ship stated that the administration "shall" enter into a contract to build the ship "as soon as practicable unless the President fully advises the Congress that its construction is not in the national interest."[328] Members of the House Armed Services Committee had pushed for "strong mandatory language" (without such an exception) but were rebuffed by their Senate colleagues, who apparently did not want to deny the executive branch discretion over the building of the ship.[329] In the defense appropriations act that year, Congress appropriated over $1.75 billion for naval "Shipbuilding and Conversion," which was "to remain available until expended."[330] Although that appropriation again did not mention

323 CRA History at 18, https://tinyurl.com/35zkwp4z (citing Bale, *supra*, at 656, https://tinyurl.com/2s459faz (mentioning the DLGN-36)).
324 Pub. L. No. 89-37, 79 Stat. 127, 128 (1965), https://tinyurl.com/3v6djc4d.
325 Pub. L. No. 89-213, 79 Stat. 863, 869 (1965), https://tinyurl.com/5f47e4nu.
326 *Id.*; H.R. Rep. No. 89-528, at 40 (1965); S. Rep. No. 89-625, at 36 (1965).
327 John H. Stassen, *Separation of Powers and the Uncommon Defense: The Case Against Impounding of Weapons Systems Appropriations*, 57 Geo. L.J. 1159, 1169-70 (1969); H.R. Rep. No. 90-221, at 6 (1967) ("Last year, … the Secretary of Defense had not released the $20 million to the Navy …").
328 Pub. L. No. 89-501, 80 Stat. 275, 275 (1965), https://tinyurl.com/mu45sxvf.
329 Stassen, *supra*, at 1170-71.
330 Pub. L. No. 89-687, 80 Stat. 980, 986-87 (1966), https://tinyurl.com/mr3shdhw.

the nuclear-powered ship, committee reports show that Congress included $130.5 million within the "Shipbuilding and Conversion" appropriation for "construction of a nuclear powered guided missile frigate."[331]

Though the administration could have simply informed Congress that the building of the ship was not in the national interest, the secretary of defense instead released funding for the ship and permitted its construction.[332] Because the appropriations were to "remain available until expended," this delay in the release of funds was authorized by statute.

331 S. Rep. No. 89-1458, at 35 (1966) ("Concurrence is recommended in the House allowance of $130,500,000 for the construction of a nuclear powered guided missile frigate (DLGN). The total estimated cost of this ship is $150,500,000, of which $20 million was provided for the procurement of long leadtime items in the Department of Defense appropriation bill, 1966."); H.R. Rep. No. 89-1652, at 24 (1966); H.R. Rep. No. 89-2215, at 5 (1966) (Conf. Rep.) (noting, under appropriation for "Shipbuilding and Conversion, Navy," that "of the funds appropriated under this heading, $130,500,000 would be available only for the construction of a nuclear powered guided missile frigate ...").

332 *Id.* at 1172; *see* H.R. Rep. No. 90-221, *supra*, at 6 ("Last year, when the Secretary of Defense had not released the $20 million to the Navy, the Congress completed the funding of that frigate by adding $130.5 million and required the construction of the frigate unless the President advised the Congress fully as to his reasons for not finding that construction in the national interest. Only after this mandate did the Secretary of Defense reluctantly permit the construction of this frigate.").

Lyndon Johnson

1966

FEDERAL-AID HIGHWAY FUNDS

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "President Johnson impounded billions of dollars in funds appropriated for federal highways."[333] In support of this, CRA cites only a 1967 attorney general opinion considering the legality of a fiscal year 1967 deferral of nearly $700 million in federal highway funds.[334] This entry addresses that specific impoundment.

ASSESSMENT

This impoundment was **authorized by statute** and involved no claim of any constitutional authority to impound.

In 1966, Congress appropriated $3,898,400,000 for the federal highway trust fund, "to remain available until expended."[335] However, in light of the president's effort to reduce federal spending to curb inflation and in accordance with the Bureau of the Budget's instructions, the federal highway administrator limited highway trust fund obligations to $3.3 billion for fiscal year 1967.[336] As Acting Attorney General Ramsey Clark explained in an opinion on the matter, the "effect of the action is to defer to fiscal years subsequent to fiscal 1967 the obligation of funds in excess of $3.3 billion for Federal-aid highway projects. The reduction of funds was limited to the approval of future projects and did not affect the availability of funds for projects which already had been approved and which, pursuant to 23 U.S.C. 106(a), constitute contractual obligations of the United States."[337]

333 CRA History at 18, https://tinyurl.com/35zkwp4z.

334 *Id.* at 18 & nn.131-32; *Federal-Aid Highway Act of 1956 — Power of President to Impound Funds*, 42 Op. Att'y Gen. 347, 347-48 (1967), https://tinyurl.com/9cththu9.

335 Pub. L. No. 89-797, 80 Stat. 1479, 1495 (1966), https://tinyurl.com/29m6j27s.

336 42 Op. Att'y Gen. *supra*, at 347-48, https://tinyurl.com/9cththu9.

337 *Id.* at 348

After reviewing both the authorizing statutes governing the Federal-aid highway program and the fiscal year 1967 appropriation providing funds for it, Clark concluded that the secretary of transportation "has the power to defer the availability to the states of those funds authorized and apportioned for highway construction which have not, by the approval of a project, become the subject of a contractual obligation on the part of the Federal Government in favor of a State."[338] (Although Clark's opinion at times took a broad view of presidential power, a subsequent Department of Justice opinion on executive impoundment, written by then-Assistant Attorney General William Rehnquist, stated that Clark's opinion "appears to us to have been based on the construction of the particular statute, rather than on the assertion of a broad constitutional principle of executive authority."[339])

In a separate opinion on the legality of the highway deferral, the General Accounting Office reached the same conclusion as Clark. As Comptroller General Elmer Staats explained: "The General Accounting Office is responsible for seeing that appropriations made by the Congress are disbursed in accordance with the laws enacted by the Congress .... The permanent provisions of law governing the Federal-aid highway program are contained in title 23, United States Code. We find nothing in title 23 which specifically requires the Executive Branch to obligate in fiscal year 1967 all the Federal-aid highway funds available for obligation during that fiscal year, ... nor are we aware of such a requirement in any other law."[340]

Moreover, in a Senate hearing, during a discussion of Johnson's attempts to reduce spending in fiscal year 1967, Budget Bureau Director Charles Schultze clarified that, "[i]n the case of the highway trust fund, ... this is a deferral; the funds remain available and will be used for completion of the highway system."[341] In February and March of 1967, Johnson released $175 million and $350 million of the deferred highway funds, respectively.[342]

338 *Id.* at 348-50.

339 *Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools*, 1 Supp. Op. O.L.C. 303, 309 (Dec. 1, 1969), https://tinyurl.com/hf2t2y83.

340 Letter from Elmer Staats, U.S. Comp. Gen., to Rep. Jennings Randolph, Chair, House Comm. on Pub. Works (Feb. 24, 1967), *in* 1971 Hearings at 65-67, https://tinyurl.com/2knwfxue.

341 *The Budget for Fiscal Year 1968: Hearings Before the S. Comm. on Appropriations*, 90th Cong. 67 (1967), https://tinyurl.com/ydkwkr3c. In a subsequent exchange, Schultze elaborated further: "This is not a question of cutting the highway program. It is a question of deferring some of the construction. There is a big difference between cutting the overall highway program, where you would be quite right in the sense that you are completely flaunting the will of Congress, and exercising, I believe, a perfectly warranted Presidential judgment on economic conditions, by deferring the date at which that construction will be carried out." *Id.* at 77, https://tinyurl.com/5ackrbut.

342 President Lyndon Johnson, The President's News Conference (Feb. 27, 1967), https://tinyurl.com/rabx-weay; Statement by the President Announcing the Release of Deferred Funds for Federal Programs, 1 Pub. Papers 357 (Mar. 17, 1967), https://tinyurl.com/44y32vuk.

Lyndon Johnson

1966–71

CONSTRUCTION OF A NATIONAL AQUARIUM

AUTHORIZED

ALLEGED IMPOUNDMENT

According to CRA, "[i]n 1966, Johnson impounded funds for the construction of a national aquarium."[343]

ASSESSMENT

This impoundment was **authorized by statute**. In 1962, Congress passed a law that "authorized," but did not require, construction of the National Fisheries Center and Aquarium.[344] In 1965, Congress provided $9.2 million for that construction in an $11.2 million supplemental appropriation, which was "to remain available until expended," for the Interior Department's Bureau of Sport Fisheries and Wildlife.[345] The text of that appropriation stated only that the money was an additional amount for the bureau's "Construction" account,[346] which made funds available for an array of purposes: "construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources."[347] The supplemental appropriation itself did not mention the aquarium. Only committee reports specified that $9.2 million of that appropriation was intended "for construction of the National Fisheries Center and Aquarium."[348]

In a 1971 congressional hearing on impoundments, officials from the Department of the Interior testified that the $9.2 million Congress appropriated for the aquarium was placed in reserve from 1966 to 1971.[349]

During the hearing, these officials explained that the funds were initially placed in reserve because the aquarium could not be built until the design and planning process concluded, which did not occur until approval of the final plans in February 1969 (Johnson's presidency ended on January 20th, 1969).[350]

Although by the start of the Nixon administration the plans had been completed and the building of the aquarium could have commenced, Department of the Interior officials were instructed not to move forward.[351] In 1971, the funds "remain[ed] in reserve" and the administration recommended that the project be terminated.[352]

343 CRA History at 18, https://tinyurl.com/35zkwp4z.

344 Pub. L. No. 87-758, § 1(a), 76 Stat. 752, 752 (1962), https://tinyurl.com/tz6pcvej.

345 Pub. L. No. 89-309, 79 Stat. 1133, 1138 (1965), https://tinyurl.com/3j3h7zyv ("For an additional amount for 'Construction', $11,222,000, to remain available until expended."); H.R. Rep. No. 89-1162, at 21 (1965) (referencing "$9,240,000 for construction of the National Fisheries Center and Aquarium"); S. Rep. No. 89-912, at 17 (1965) (referencing "$9,240,000, for construction of the National Fisheries Center and Aquarium"); H.R. Rep. No. 89-1198, at 6 (1965) (Conf. Rep.).

346 Pub. L. No. 89-309, 79 Stat. at 1138, https://tinyurl.com/3j3h7zyv.

347 *See* Pub. L. No. 89-52, 79 Stat. 174, 184 (1965), https://tinyurl.com/bdxcfucx.

348 H.R. Rep. No. 89-1162, *supra*, at 21; S. Rep. No. 89-912, *supra*, at 17.

349 1971 Hearings at 211-17, https://tinyurl.com/4na7m8vs.

350 *Id.* at 211, 213, 216.

351 *Id.* at 212-13.

352 *Id.* at 216; *see id.* at 217 (explaining that the funds "ha[ve] been placed in budgetary reserve ... and [are] therefore unavailable for use"); U.S. Off. of Mgmt. & Budget, Exec. Off. of supra, President, *Budget of the United States Government for Fiscal Year 1972*, at 53 (1971), https://tinyurl.com/3393tzep (recommendation to "[t]erminate plans for a national fisheries center and aquarium").

At that point, the question is whether the Nixon administration was required by statute to build the aquarium or spend a particular sum of funds on it. The answer appears to be "no." In 1962, Congress "authorized," but did not require or direct, construction of the aquarium.[353] Appropriations acts for the Department of the Interior for fiscal years 1966–71 similarly indicate no requirement to build the aquarium or to spend a particular amount on it.[354] And in 1972, Congress acceded to the administration's request to terminate the project. In a conference committee report, lawmakers noted that they would use the unspent $9.2 million to fund other Bureau of Sport Fisheries and Wildlife construction projects.[355]

353 Pub. L. No. 87-758, § 1(a), 76 Stat. 752, 752 (1962), https://tinyurl.com/tz6pcvej.

354 Pub. L. No. 89-52, 79 Stat. 174, 184 (1965), https://tinyurl.com/bdxcfucx; Pub. L. No. 89-309, 79 Stat. at 1138, https://tinyurl.com/3j3h7zyv; Pub. L. No. 89-435, 80 Stat. 170, 179 (1966), https://tinyurl.com/2r-7ba34f; Pub. L. No. 90-28, 81 Stat. 59, 67 (1967), https://tinyurl.com/bdfc2u2j; Pub. L. No. 90-425, 82 Stat. 425, 434 (1968), https://tinyurl.com/565t9pk5; Pub. L. No. 91-98, 83 Stat. 147, 156 (1969), https://tinyurl.com/mrt8af48; Pub. L. No. 91-361, 84 Stat. 669, 677 (1970), https://tinyurl.com/34t78xec; Pub. L. No. 92-76, 85 Stat. 229, 236 (1971), https://tinyurl.com/mrs5mnu2.

355 H.R. Rep. No. 92-1250, at 7 (1972) (Conf. Rep.) ("The managers on the part of the House and the Senate agree to a total construction program for the Bureau of Sport Fisheries and Wildlife of $9,070,100 which shall be funded from the unobligated balance available as of July 1, 1972 of funds originally appropriated for construction of the National Fisheries Center and Aquarium."); *see* S. Rep. No. 92-921, at 14 (1972) ("The projects for which appropriations are recommended are to be constructed by use of unobligated funds ($9,150,000) heretofore appropriated for the National Fisheries Center and Aquarium.").

Lyndon Johnson

1966

AGRICULTURE APPROPRIATION

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, "in 1966, Johnson objected to an agricultural appropriation bill that exceeded his budget request and 'proceeded to reduce expenditures for certain items 'in an attempt to avert expending more in the coming year than provided in the budget.'"[356]

ASSESSMENT

Eight reductions in this category are analyzed individually below. Seven were authorized by statute; one was not an impoundment.

As detailed further in the entries that follow, all of the significant cuts or deferrals that the Johnson administration made to agricultural appropriations were authorized by statute, with the exception of one which appears not to be an impoundment at all.

In 1966, due to concerns about inflation, Johnson decided that he needed to take steps to reduce government spending. In a special message to Congress, he estimated that about $3 billion in reductions would be needed "in that limited portion of the fiscal 1967 budget under direct Presidential control."[357]

One of the areas targeted for reductions by Johnson was agricultural appropriations. In his 1966 signing statement accompanying the Department of Agriculture and Related Agencies Appropriation Act, Johnson made clear

356 CRA History at 18, https://tinyurl.com/35zkwp4z.

357 President Lyndon Johnson, Special Message to the Congress on Fiscal Policy (Sept. 8, 1966), https://tinyurl.com/4njm2k2x. Johnson later explained in a news conference that the administration intended to make a $5.3 billion "budgetary cutback" to achieve a $3 billion reduction in actual federal expenditures for the remaining seven months of fiscal year 1967 (ending June 30, 1967). The President's News Conference of November 29, 1966, 2 Pub. Papers 1406-07 (Nov. 29, 1966), https://tinyurl.com/bddfwhf9.

that, despite that "Congress often adds to or reduces specific items proposed in the President's budget," and though this is "a proper exercise of congressional prerogative," he would nonetheless "reduce expenditures for the programs covered by this bill."[358] Johnson thought that Congress's addition of $312.5 million beyond his budget request was "most unwise" at a time when he was "making every effort to moderate inflationary pressures."[359]

In a press conference announcing his 1966 budget cuts, Johnson said that "[i]n the Department of Agriculture program reductions will be in excess of $400 million," with a resulting "$350 million in expenditure reduction."[360] In early 1967, his budget director, Charles Schultze, gave testimony to both the House Ways and Means Committee and the Senate Appropriations Committee detailing the cuts.[361] Schultze provided a table to Congress (Table 3) that lists 18 different expenditure reductions in Department of Agriculture spending, ranging from $0.4 to $100 million, and including deferrals.[362]

Below is an analysis of each of the eight expenditure reductions of $10 million or more, which account for more than 90 percent of the total expenditure reductions.[363] Seven of these reductions were authorized impoundments and one was not an impoundment.

In Johnson's public statements, he sometimes made vague and broad declarations about his authority as president — but he also frequently attempted to reassure Congress and the public that he was exercising restraint, following the law, and acting with congressional approval. He noted, for example, that more than half of the non-defense budget was made up of "payments fixed by law or otherwise uncontrollable."[364] Furthermore, he said that he had discussed his budget cuts "with 34 key Members of the House and Senate, including the leaders of both parties and members of the Appropriations Committees," and that "[t]hey believe that reductions are prudent and necessary for our national well-being."[365]

Johnson also eventually released $71 million in Department of Agriculture funds, stating that "[i]nflationary pressures have subsided."[366]

358 President Lyndon Johnson, Statement by the President Upon Signing the Department of Agriculture and Related Agencies Appropriation Bill (Sept. 8, 1966), https://tinyurl.com/4sjynh5m.

359 *Id.*

360 The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1409, https://tinyurl.com/bddfwhf9.

361 *Temporary Increase in Debt Ceiling: Hearings Before the H. Comm. on Ways and Means*, 90th Cong. 8-29 (1967) ("Schultze House Testimony"), https://tinyurl.com/y2y87vce; *The Budget for Fiscal Year 1968: Hearings Before the S. Comm. on Appropriations*, 90th Cong. 61-78, 114-15 (1967) ("Schultze Senate Testimony"), https://tinyurl.com/3xdt648m.

362 Schultze Senate Testimony at 69, https://tinyurl.com/5cxzjj6c; Schultze House Testimony at 23, https://tinyurl.com/bdhrswt9.

363 Note that, because of the time required to identify and analyze each of these appropriations, this analysis focuses on the most substantial sums ($10 million or more) that account for the large majority of the reductions. Furthermore, the descriptions of the expenditure reductions in Schultze's table are terse, occasionally even cryptic. Thus, there is in some cases a degree of uncertainty as to the nature of the actions taken, the identity of the programs affected, and the specific sources of their statutory authority. We have made our best effort to identify the programs at issue and the administration's statutory authority for the corresponding reductions or deferrals.

364 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x.

365 President Lyndon Johnson, Statement by the President Announcing a Cutback in Federal Spending for the Current Fiscal Year (Nov. 29, 1966), https://tinyurl.com/3fzpeckw.

366 Statement by the President Announcing the Release of Deferred Funds for Federal Programs, 1 Pub. Papers, *supra*, at 357, https://tinyurl.com/44y32vuk.

Lyndon Johnson

1966

AGRICULTURE REDUCTIONS 1 AND 2: FOOD-FOR-FREEDOM

AUTHORIZED

ALLEGED IMPOUNDMENT

Agriculture reductions #1 and #2: (1) $100 million reduction, and (2) additional $25 million reduction (following preparation of 1968 budget estimates) in Public Law 480 food-for-freedom shipments[367]

ASSESSMENT

This impoundment was **authorized by statute**. Public Law 480 is a reference to the Agricultural Trade Development and Assistance Act of 1954, which, as amended, "authorize[d]" the president "to determine requirements and furnish agricultural commodities" obtained from the Commodity Credit Corporation (CCC) "to meet famine or other urgent or extraordinary relief requirements" abroad, and for other purposes.[368] The statute gave the Johnson administration the discretion to determine when and under what circumstances to "request" agricultural commodities from the CCC for foreign assistance, and provided that the president "may furnish" such commodities "in such manner and upon such terms and conditions as he deems appropriate."[369] For fiscal year 1967, in addition to $3.6 billion appropriated to cover CCC operating losses, including but not limited to losses due to administration of Public Law 480, Congress also appropriated $200 million, "to remain available until expended," specifically for "commodities disposed of for emergency famine relief to friendly peoples" pursuant to Public Law 480, as amended.[370]

Because Congress granted the president discretion in that law and made its 1966 appropriation of $200 million "available until expended,"[371] the Johnson administration had discretion to maintain expenditures for this program at levels below the appropriated amount.

367 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the two line items are labeled as "Commodity Credit Corporation: Public Law 480 — Food for freedom, reduction in shipments for 1967," and "Commodity Credit Corporation: Cut back shipments further under food-for-freedom program").

368 Pub. L. No. 89-808, § 2(C), 80 Stat. 1526, 1534-35 (1966), https://tinyurl.com/2yb6ttcj (codified at 7 U.S.C. §§ 1721-24); Pub. L. No. 83-480, 68 Stat. 454 (1954), https://tinyurl.com/3wrnawx3 (amended by Pub. L. No. 89-808).

369 Pub. L. No. 89-808, § 2(C), 80 Stat. at 1534-36, https://tinyurl.com/2yb6ttcj.

370 Pub. L. No. 89-556, 80. Stat. 689, 702-03 (1966), https://tinyurl.com/mwa9ny69.

371 *Id.*

Lyndon Johnson

1966

AGRICULTURE REDUCTION 3: SALES OF FARM LOANS

NOT AN IMPOUNDMENT

ALLEGED IMPOUNDMENT

Agriculture reduction #3: $86 million reduction in expenditures due to action to speed up sale of loans from the Agricultural Credit Insurance Fund[372]

ASSESSMENT

This was **not an impoundment**. This entry in Schultze's Table 3 appears to refer to accelerated sales by the Farmers Home Administration (FmHA) of real-estate secured loans made by private lenders to small family farmers

372 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the line item is labeled as "Farmers Home Administration: Agricultural credit insurance fund: Action to speed up sale of loans, including changing discount").

and ranchers and agricultural associations that the FmHA acquired in connection with its insurance (guarantees) of such loans, pursuant to authority conferred by the Consolidated Farmers Home Administration Act of 1961.[373] FmHA was "authorized" but not required by the statute to insure and purchase such loans, and could either hold such loans in the Agricultural Credit Insurance Fund (ACIF) or sell them.[374] Therefore the referenced action does not appear to involve a reduced expenditure of budget authority, but rather an adjustment to expected earnings from accelerated sales of loans in the ACIF portfolio.

373 Pub. L. No. 87-128, tit. III, subtit. A, §§ 302-09, 75 Stat. 294, 307-10 (1961), https://tinyurl.com/3wx26sre (codified at 7 U.S.C. §§ 1922-29 (1964), https://tinyurl.com/53nccmby).

374 *Id.*

Lyndon Johnson

1966

AGRICULTURE REDUCTION 4: FARM OPERATING LOANS

AUTHORIZED

ALLEGED IMPOUNDMENT

Agriculture reduction #4: $75 million reduction in Farmers Home Administration farm operating loans[375]

ASSESSMENT

This impoundment was **authorized by statute**. The Consolidated Farmers Home Administration Act of 1961, "authorized" but did not require the secretary of agriculture to make direct operating loans to family farmers and ranchers and soil conservation districts.[376] Furthermore, the relevant appropriations language provided that such loans "may be made from funds available," in the amount of $350,000,000.[377] The Johnson administration therefore had discretion to maintain expenditures for this program at levels below appropriated amounts. (On March 17, 1967, Johnson announced that he had released $25 million in "[f]arm operating loans."[378])

375 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the line item is labeled as "Farmers Home Administration: Direct loan account, operating loans — Reduction in farm operating loans").

376 Pub. L. No. 87-128, tit. III, subtit. B, §§ 311-16, 75 Stat. 294, 310-11 (1961), https://tinyurl.com/37h8r88v (codified at 7 U.S.C. §§ 1941-46 (1964), https://tinyurl.com/48e8839d).

377 Pub. L. No. 89-556, 80 Stat. at 700, https://tinyurl.com/4kbkepa4.

378 Statement by the President Announcing the Release of Deferred Funds for Federal Programs, 1 Pub. Papers, *supra*, at 357, https://tinyurl.com/44y32vuk.

Lyndon Johnson

1966

AGRICULTURE REDUCTION 5: AGRICULTURAL COMMODITIES

AUTHORIZED

ALLEGED IMPOUNDMENT

Agriculture reduction #5: $40 million reduction in Section 32 purchases of agricultural commodities by the Consumer and Marketing Service[379]

ASSESSMENT

This impoundment was **authorized by statute**. The Act of August 24, 1935,[380] known as Section 32, created a permanent appropriation (equal

379 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the line item is labeled as "Consumer and Marketing Service: Sec. 32, reduction in purchases of surplus commodities").

380 Pub. L. No. 74-320, ch. 641, § 32, 49 Stat. 750, 774 (1935), https://tinyurl.com/337tnzx7 (codified at 7 U.S.C. § 612c (1964)).

to 30 percent of annual customs duties receipts) for payments to encourage the exportation and domestic consumption of U.S. agricultural commodities, and to purchase surplus commodities to support farm income, such payments to be made "at such times, in such manner and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the [statute's] purposes."[381] The statute, as amended, expressly provided that unobligated balances up to $300,000,000 would continue to remain available until expended.[382] Thus, the statute contemplated that the secretary may elect not to expend or obligate all appropriated funds in a given fiscal year, and provided that unspent amounts may be carried forward for use in future years. The Johnson administration therefore had discretion to maintain expenditures for this program at levels below appropriated amounts.

381 *Id.*
382 7 U.S.C. § 612c (1964), https://tinyurl.com/9mn3p9hr.

Lyndon Johnson

1966

AGRICULTURE REDUCTIONS 6 AND 7: RURAL ELECTRIFICATION

AUTHORIZED

ALLEGED IMPOUNDMENT

Agriculture reductions #6 & #7: (1) $27 million reduction in expenditures and (2) further $10 million reduction in expenditures (following preparation of 1968 budget estimates), from "[h]old[ing] down" new Rural Electrification Administration loan commitments, and postponing advances on prior commitments[383]

ASSESSMENT

This impoundment was **authorized by statute**. The Rural Electrification Act of 1936 "authorized and empowered," but did not require, the Rural Electrification Administration to make loans for rural electrification and the provision of rural telephone service.[384] That law authorized appropriations for such loans, and provided that "[i]f any part of the annual sums made available for the purposes of this Act shall not be loaned or obligated during the fiscal year for which such sums are made available, such unexpended or unobligated sums shall be available for loans by the Administrator in the following year or years ...."[385] Moreover, for fiscal year 1967 the relevant appropriation stated that funds for such loans, exceeding $490 million, were to "remain available without fiscal year limitation."[386] Therefore, the Johnson administration had statutory discretion to reduce or defer expenditures for rural electrification and telephone service loans (so long as consistent with prior commitments) even if additional appropriated funds for the programs remained available.

383 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the two line items are labeled as "Rural Electrification Administration: Loans, electric and telephone — Hold down loans to minimum essential needs" and "Rural Electrification Administration: Further pos[t]pone advances on prior loan commitments").
384 Pub. L. No. 74-605, ch. 432, 49 Stat. 1363, 1363-67 (1936), https://tinyurl.com/3cyvku9n; Pub. L. No. 81-423, ch. 776, 63 Stat. 948, 948-49 (1949), https://tinyurl.com/heb3puzh (amending Pub. L. No. 74-605) (codified at 7 U.S.C. §§ 901-24 (1964), https://tinyurl.com/5bx9sn9h).
385 Pub. L. No. 74-605, § 3(e), 49 Stat. at 1364, https://tinyurl.com/y8kjak93 (codified as amended at 7 U.S.C. § 903(e) (1964), https://tinyurl.com/yhyuun38).
386 Pub. L. No. 89-556, 80 Stat. at 700, https://tinyurl.com/4kbkepa4.

Lyndon Johnson

1966

AGRICULTURE REDUCTION 8: RESEARCH CONSTRUCTION

AUTHORIZED

ALLEGED IMPOUNDMENT

Agriculture reduction #8: $10.9 million due to "slowdown on research construction" for the Agricultural Research Service and Library[387]

ASSESSMENT

This impoundment was **authorized by statute**. The Department of Agriculture Organic Act of 1944 "authorized" but did not require the secretary of agriculture to "erect, alter, and repair such buildings and other public improvements as may be necessary to carry out [the department's] authorized work."[388] Pursuant to this authority, the relevant appropriation made funds available to the Agricultural Research Service (ARS) for the construction, alteration, and repair of buildings and improvements in connection with its agricultural research programs, animal and plant disease and pest control, and other activities.[389] The appropriation provided $123.4 million for ARS research programs generally, including but not limited to facilities construction and improvement, and stipulated that $11.2 million of that amount was to remain available for construction and improvement of agricultural research facilities until expended.[390] As these provisions and the Organic Act indicate, the administration had statutory discretion to spend less than the full amount set aside for ARS research construction.

387 Schultze Senate Testimony at 69, https://tinyurl.com/3xdt648m (where the line item is labeled "Agricultural Research Service and Library: Slowdown on research construction").

388 Pub. L. No. 78-425, ch. 412, tit. VII, § 703, 58 Stat. 734, 742 (1944), https://tinyurl.com/4c54dnxk (codified, until a 1966 revision of Title 5, at 5 U.S.C. § 565a, now codified at 7 U.S.C. § 2250).

389 Pub. L. No. 89-556, 80 Stat. at 689-90, https://tinyurl.com/mtwpk7bp.

390 *Id.* at 689.

Lyndon Johnson

1966

HOUSING AND URBAN DEVELOPMENT REDUCTIONS

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, "Johnson also impounded funding for low-cost housing ...."[391]

ASSESSMENT

Four reductions in this category are analyzed individually below. All four were authorized by statute.

As detailed further below, all of the significant cuts or deferrals that the Johnson administration made to housing and urban development funds were authorized by statute.

In 1966, due to concerns about inflation, Johnson decided that he needed to take steps to reduce government spending. In a special message to Congress, he estimated that about $3 billion in reductions would be needed "in that limited portion of the fiscal 1967 budget under direct Presidential control."[392]

391 CRA History at 18, https://tinyurl.com/35zkwp4z.

392 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x. Johnson later explained in a news conference that the administration intended to make a $5.3 billion "budgetary cutback" to achieve a $3 billion reduction in actual federal expenditures for the remaining seven months of fiscal year 1967 (ending June 30, 1967). The President's News Conference of November 29, 1966, 2 Pub.

One of the areas targeted for reductions by Johnson was housing and urban development appropriations. In a press conference announcing his 1966 budget cuts, Johnson said that there would be "in the neighborhood of $1 billion" of reductions "in housing and urban development."[393]

In early 1967, his budget director, Charles Schultze, gave testimony to both the House Ways and Means Committee and the Senate Appropriations Committee detailing the reductions.[394] Schultze provided to Congress a table (Table 3) that lists five different expenditure reductions in housing and urban development spending, ranging from $2.0 to $280 million, and including deferrals.[395]

Below is an analysis of the four expenditure reductions listed in Schultze's Table 3, under Housing and Urban Development, of $10 million or more, accounting for over 99 percent of the total.[396] As noted above, all four of these reductions were authorized by statute.

In Johnson's public statements, he sometimes made vague and broad declarations about his authority as president — but he also frequently attempted to reassure Congress and the public that he was exercising restraint, following the law, and acting with congressional approval. He noted, for example, that more than half of the non-defense budget was made up of "payments fixed by law or otherwise uncontrollable."[397] Furthermore, he said that he had discussed his budget cuts "with 34 key Members of the House and Senate, including the leaders of both parties and members of the Appropriations Committees," and that "[t]hey believe that reductions are prudent and necessary for our national well-being."[398]

Johnson also eventually released the majority of the deferred funds for the Department of Housing and Urban Development — $630 million[399] — stating that "[i]nflationary pressures have subsided."[400]

Papers, *supra*, at 1406-07, https://tinyurl.com/bddfwhf9.

393 The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1409, https://tinyurl.com/bddfwhf9.

394 Schultze House Testimony at 8-29, https://tinyurl.com/y2y87vce; Schultze Senate Testimony at 61-78, 114-15 https://tinyurl.com/3xdt648m.

395 Schultze Senate Testimony at 72, https://tinyurl.com/yyr2szb9; Schultze House Testimony at 25-26, https://tinyurl.com/bdvmeux9.

396 Note that, because of the time required to identify and analyze each of these appropriations, this analysis focuses on the most substantial sums ($10 million or more) that account for the large majority of the reductions. Furthermore, the descriptions of the expenditure reductions in Schultze's table are terse, occasionally even cryptic. Thus, there is in some cases a degree of uncertainty as to the nature of the actions taken, the identity of the programs affected, and the specific sources of their statutory authority. We have made our best effort to identify the programs at issue and the administration's statutory authority for the corresponding reductions or deferrals.

397 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x.

398 Statement by the President Announcing a Cutback in Federal Spending for the Current Fiscal Year, *supra*, https://tinyurl.com/3fzpeckw.

399 This amount exceeds the 1967 reductions included in Schultze's Table 3, but it includes funds released prior to the announcement, the release of which may have predated Table 3.

400 Statement by the President Announcing the Release of Deferred Funds for Federal Programs, 1 Pub. Papers, *supra*, at 357, https://tinyurl.com/44y32vuk.

Lyndon Johnson

1966

HUD REDUCTION 1: LOW-COST MORTGAGES

AUTHORIZED

ALLEGED IMPOUNDMENT

Housing and urban development reduction #1: $280 million in low-cost housing mortgages[401]

ASSESSMENT

This impoundment was **authorized by statute**. At the time, the National Housing Act of 1934 "authorize[d]" but did not require the president — after considering "conditions in the building industry and the national economy," and "conditions affecting the home mortgage investment market," and finding it to be "in the public interest" — to "authorize" the Federal National Mortgage Association (FNMA) to purchase mortgages for low- and moderate-cost housing insured under 12 U.S.C. § 1715l(d)(3) and (h), subject to an aggregate $2.25 billion cap on mortgages held at any one time for this and other "special assistance functions" specified under 12 U.S.C. § 1720.[402]

Mortgage purchases under this "special assistance" authority appear to have been funded through borrowing authority — that is, a kind of budget authority "enacted to permit an agency to borrow money and then to obligate against amounts borrowed."[403] Specifically, it appears these mortgage purchases were funded through the issuance of FNMA stock, including preferred stock issued to the Department of the Treasury, and/or debt obligations FNMA was authorized, but not required, to issue to Treasury as needed to carry out its "special assistance functions" under 12 U.S.C. § 1720.[404] (HUD's fiscal year 1967 appropriations included no funds for purchases of mortgages to carry out FNMA's "special assistance" functions[405] or for purchases of other FNMA mortgages.)

Nothing in the statute authorizing FNMA's borrowing to fund mortgage purchases required it to obligate against the full amount borrowed. Because of this, and because FNMA was authorized but not required to purchase mortgages for low- and moderate-cost housing, the administration had discretion to reduce anticipated expenditures for this program.

401 Schultze Senate Testimony at 72, https://tinyurl.com/4v9cvffp (where the line item is labeled as "FNMA: Low cost housing mortgages" further noting that "Only $250,000,000 of the authority is now being used for mortgage purchases, the remainder is reserved for use if it should prove necessary").

402 Pub. L. No. 73-479, ch. 847, 48 Stat. 1246 (1934), https://tinyurl.com/2f3uv92b; Pub. L. No. 83-560, § 201, 68 Stat. 590, 616-17 (1954), https://tinyurl.com/mj7rnp7d (amending Pub. L. No. 73-479) (at the time codified, as further amended, at 12 U.S.C. § 1720(a), (c), (h) (1964), https://tinyurl.com/yc7m99f2); Pub. L. No. 89-117, § 801(a), 79 Stat. 451, 493 (1965), https://tinyurl.com/4mvketr6 (increasing the limit on authorized mortgage holdings for special assistance functions to $2.25 billion in fiscal year 1967).

403 GAO Glossary at 21, https://tinyurl.com/2f354mfd.

404 12 U.S.C. §§ 1718, 1720(d) (1964), https://tinyurl.com/3uxayn2k.

405 Pub. L. No. 89-555, 80 Stat. 663, 683 (1966), https://tinyurl.com/54sb63d7; Supplemental Appropriations Act, 1967, Pub. L. No. 89-697, 80 Stat. 1057, 1058-59 (1966), https://tinyurl.com/4adkuaas.

Lyndon Johnson

1966

HUD REDUCTION 2: SECONDARY MARKET MORTGAGES

AUTHORIZED

ALLEGED IMPOUNDMENT

Housing and urban development reduction #2: $176 million reduction in expenditures for "FNMA secondary market mortgage purchases"[406]

ASSESSMENT

This impoundment was **authorized by statute**. At the time, under the National Housing Act, the FNMA was "authorized" to purchase, sell, and otherwise deal in any mortgages which are insured under the Act, without prior authorization by the president, for purposes, inter alia, of facilitating the secondary mortgage market, but not mandated to do so by the pertinent provisions.[407]

Mortgage purchases for FNMA's "[s]econdary market operations" under 12 U.S.C. § 1719 appear to have been funded through borrowing authority — that is, a kind of budget authority "enacted to permit an agency to borrow money and then to obligate against amounts borrowed."[408] Specifically, it appears these mortgage purchases were funded through the issuance of stock, including preferred stock issued to the Department of the Treasury, and/or debt obligations that FNMA was authorized, but not required, to issue to Treasury.[409] (HUD's fiscal year 1967 appropriations included no funds for purchases of mortgages to carry out FNMA's secondary market operations,[410] or for purchases of other mortgages.)

Nothing in the statute authorizing FNMA's borrowing to fund mortgage purchases required it to obligate against the full amount borrowed. Because of this, and because FNMA was authorized but not required to purchase mortgages for secondary market operations, the administration had discretion to reduce anticipated expenditures for this program.

406 Schultze Senate Testimony at 72, https://tinyurl.com/4v9cvffp (where the line item is labeled as "Preferred stock purchase (net): Restrictions on FNMA secondary market mortgage purchases have been maintained to avoid the necessity of any net purchase of preferred stock this year").

407 12 U.S.C. §§ 1717(b), 1719 (1964), https://tinyurl.com/yc2vt8mh; *see* Pub. L. No. 73-479, ch. 847, 48 Stat. 1246, https://tinyurl.com/2f3uv92b; Pub. L. No. 83-560, § 201, 68 Stat. at 613, 618, https://tinyurl.com/mr22w5ap (amending Pub. L. No. 73-479) (at the time codified, as further amended, at 12 U.S.C. §§ 1717(b), 1719 (1964)).

408 GAO Glossary at 21, https://tinyurl.com/2f354mfd.

409 12 U.S.C. §§ 1718, 1719(a)(1)-(2), (b), (c) (1964), https://tinyurl.com/3uxayn2k.

410 Pub. L. No. 89-555, 80 Stat. at 683, https://tinyurl.com/54sb63d7; Supplemental Appropriations Act, 1967, Pub. L. No. 89-697, 80 Stat. at 1058-59, https://tinyurl.com/4adkuaas.

Lyndon Johnson

1966

HUD REDUCTION 3: MULTIFAMILY HOUSING CONSTRUCTION

AUTHORIZED

ALLEGED IMPOUNDMENT

Housing and urban development reduction #3: $75 million reduction in expenditures for "FNMA construction financing of certain multifamily housing"[411]

ASSESSMENT

This impoundment was **authorized by statute**. This action appears to fall within FNMA's same discretionary National Housing Act authority (noted immediately above) regarding the purchase and sale of mortgages insured under the Act in connection with FNMA's secondary market operations (the Act provided for federal insurance of certain multi-family housing mortgages).[412] (And, as also noted immediately above, such purchases appear to have been funded through borrowing authority — that is, FNMA issuances of stock and/or issuance of debt obligations to Treasury — rather than through appropriations.)

Therefore the administration had discretion to reduce anticipated expenditures for this program.

411 Schultze Senate Testimony at 72, https://tinyurl.com/4v9cvffp (where the line item is labeled as "FNMA construction financing of certain multifamily housing: New authority is not to be used").

412 12 U.S.C. §§ 1717(b), 1719 (1964), https://tinyurl.com/yc2vt8mh; *see* Pub. L. No. 87-70, 75 Stat. 149, 160 (1961), https://tinyurl.com/3m7vn862 (adding National Housing Act § 234) (codified as amended, 12 U.S.C. § 1715y (1964), https://tinyurl.com/w63mhwbc).

Lyndon Johnson

1966

HUD REDUCTION 4: URBAN RENEWAL GRANTS

AUTHORIZED

ALLEGED IMPOUNDMENT

Housing and urban development reduction #4: $10 million reduction in urban renewal program grants and loan disbursements to local public agencies[413]

ASSESSMENT

This impoundment was **authorized by statute**. The reference evidently is to urban renewal grants and loans made to local public agencies under Title I of the Housing Act of 1949[414] and section 314 of the Housing Act of 1954.[415] These statutes provided that the Housing and Home Finance Administration (later succeeded by the Department of Housing and Urban Development) was "authorized" to make and "may make," but was not required to make, loans and grants to local public agencies and other public bodies to finance various urban renewal projects.[416] For fiscal year 1967, Congress appropriated $725 million to these grant programs "to remain available until

413 Schultze Senate Testimony at 72, https://tinyurl.com/4v9cvffp (where the line item is labeled as "Reduction in grant and loan disbursements resulting from holding local public agency working balances to very low level," under "Urban renewal program (reestimate results from tight money market)").

414 Pub. L. No. 81-171, 63 Stat. 413 (1949), https://tinyurl.com/yzf4ttv5 (as amended) (at the time codified at 42 U.S.C. §§ 1450-65 (1964), https://tinyurl.com/46kby5wf).

415 Pub. L. No. 83-560, ch. 649, 68 Stat. at 629-30, 640, https://tinyurl.com/y3z8mesh (then codified at 42 U.S.C. § 1452a (1964), https://tinyurl.com/bdd29zzd). *See* Pub. L. No. 89-555, 80 Stat. at 681, https://tinyurl.com/2s4274kk.

416 42 U.S.C. §§ 1452, 1452a, 1452b, 1453 (1964), https://tinyurl.com/46kby5wf.

expended."[417] The Johnson administration therefore had discretion to maintain expenditures for these urban renewal programs at levels below the appropriated amounts (so long as consistent with prior grant and loan commitments).[418]

417 Pub. L. No. 89-309, 79 Stat. 1133, 1136 (1965), https://tinyurl.com/yck6fwdf. *See also* Pub. L. No. 89-555, 80 Stat. at 681, https://tinyurl.com/2s4274kk (appropriating $15 million for administrative expenses for urban renewal programs). (Urban renewal loans were funded with borrowings from the Treasury. 42 U.S.C. § 1452(e) (1964), https://tinyurl.com/46kby5wf.)

418 Schultze's Table 3 describes this action as a "[r]eduction in grant and loan disbursements resulting from holding local public agency working balances to very low level[s]." Schultze Senate Testimony at 72, https://tinyurl.com/4v9cvffp. This suggests an effort to manage the outflow of funds to recipient agencies more closely, perhaps by making disbursements in installments, or on a reimbursement basis to defray agencies' expenses as they incurred them, rather than by making lump-sum disbursements in advance. So long as these actions were consistent with the terms of recipients' grant and loan contracts, nothing in the terms of the Housing Act of 1949 or the Housing Act of 1954 constrained the administration's discretion to adopt these measures.

Lyndon Johnson

1966

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REDUCTIONS

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, "Johnson also impounded funding for … the Department of Health, Education, and Welfare …."[419]

ASSESSMENT

Six reductions in this category are analyzed individually below. Five were authorized by statute; one was not an impoundment.

As detailed further below, all of the significant cuts that the Johnson administration made to various student loan, regional medical, and construction grant programs at the Department of Health, Education, and Welfare (HEW) were authorized by statute. Moreover, all of them concern spending that was deferred rather than permanently withheld, and one reduction was not an impoundment at all. In short, none of these cuts reflects an effort to thwart Congress's will.

In 1966, due to concerns about inflation, Johnson decided that he needed to take steps to reduce government spending. In a special message to Congress, he estimated that about $3 billion in reductions would be needed "in that limited portion of the fiscal 1967 budget under direct Presidential control."[420]

One of the areas targeted for reductions by Johnson was HEW. In a press conference announcing his 1966 budget cuts, Johnson said that "[i]n the Department of Health, Education, and Welfare we will have … about $275 million in expenditure reductions. That will be in the delayed start of a good deal of construction and the transfer of certain allocations that are unspent in certain areas."[421]

419 CRA History at 18, https://tinyurl.com/35zkwp4z.

420 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x. Johnson later explained in a news conference that the administration intended to make a $5.3 billion "budgetary cutback" to achieve a $3 billion reduction in actual federal expenditures for the remaining seven months of fiscal year 1967 (ending June 30, 1967). The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1406-07, https://tinyurl.com/bddfwhf9.

421 The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1409, https://tinyurl.com/bddfwhf9.

In early 1967, his budget director, Charles Schultze, gave testimony to both the House Ways & Means Committee and the Senate Appropriations Committee detailing the reductions.[422] The table Schultze provided to Congress (Table 3) lists over 40 different HEW reductions, ranging from $0.1 to $61.7 million, largely deferrals rather than cuts.[423] As Schultze noted in his testimony, "with respect to deferrals, for example, in the case of the ... HEW projects," "the money will be spent later."[424]

Below is an analysis of each of the six reductions of $10 million or more (excluding the elementary and secondary education programs, discussed further below separately), which account for more than 70 percent of the total.[425] Five of these reductions were authorized by statute, and one was not an impoundment.

In Johnson's public statements, he sometimes made vague and broad declarations about his authority as president — but he also frequently attempted to reassure Congress and the public that he was exercising restraint, following the law, and acting with congressional approval. He noted, for example, that more than half of the non-defense budget was made up of "payments fixed by law or otherwise uncontrollable."[426] Furthermore, he said that he had discussed his budget cuts "with 34 key Members of the House and Senate, including the leaders of both parties and members of the Appropriations Committees," and that "[t]hey believe that reductions are prudent and necessary for our national well-being."[427]

422 Schultze House Testimony at 8-29, https://tinyurl.com/y2y87vce; Schultze Senate Testimony at 61-78, 114-15, https://tinyurl.com/3xdt648m.

423 Schultze Senate Testimony at 70-72, https://tinyurl.com/bdd459h4; Schultze House Testimony at 24-25, https://tinyurl.com/mr28keje.

424 Schultze Senate Testimony at 67, 114, https://tinyurl.com/ydkwkr3c.

425 *See* Schultze Senate Testimony at 70-72, https://tinyurl.com/bdd459h4. This analysis focuses only on the reductions of $10 million or more because of the time required to identify and analyze the appropriations and other laws implicated in each reduction. It is worth noting that the descriptions of the expenditure reductions listed in Schultze's table are terse, occasionally even cryptic. Thus, there is, in some cases, a degree of uncertainty as to the nature of the actions taken, the identity of the programs affected, and the specific sources of their statutory authority. We have made our best effort to identify the programs at issue and the administration's statutory authority for the corresponding reductions or deferrals.

426 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x.

427 Statement by the President Announcing a Cutback in Federal Spending for the Current Fiscal Year, *supra*, https://tinyurl.com/3fzpeckw.

Lyndon Johnson

1966

HEW REDUCTION 1: HIGHER EDUCATION LOANS

NOT AN IMPOUNDMENT

ALLEGED IMPOUNDMENT

HEW reduction #1: $30.8 million reduction: "Higher education loan[s]," due to program reduction of $100 million to be carried over for use in 1968[428]

ASSESSMENT

This reduction was **not an impoundment**. The referenced action appears to concern the federal guaranteed student loan program, as authorized by the Higher Education Act of 1965.[429] At the time the statute provided that upon

428 Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he (where the line item is labeled as "Higher education loan fund: Program level reduced from $300,000,000 to $200,000,000. $100,000,000 is carried over for use in 1968 program," under "Education").

429 Pub. L. No. 89-329, tit. IV, pt. B, §§ 421-35, 79 Stat. 1219, 1236-49 (1965), https://tinyurl.com/424k4h89 (as amended) (codified at 20 U.S.C. §§ 1071-85).

receipt and approval of an application from an eligible lender, the HEW commissioner of education "may issue ... a certificate of insurance" to the lender covering a single insurable higher-education loan, or all such loans made by the lender within a specified period and subject to an aggregate maximum amount stated in the certificate,[430] subject also to a statutory cap on the aggregate principal amount of all loans covered (in fiscal year 1967, $1 billion).[431] The Act established a student loan insurance fund for payments to lenders in connection with defaults on insured loans.[432]

It appears that, by temporarily reducing the aggregate principal amount of student loans to be insured "from "$300,000,000 to $200,000,000,"[433] the Johnson administration expected to induce lenders to make fewer loans during the fiscal year, thereby slowing inflation. Because the statute authorized but did not require the commissioner to insure all or even a minimum aggregate principal amount of eligible student loans, the described "program reduction" for fiscal year 1967, with carryover to fiscal year 1968, appears to have fallen within the administration's discretion.

In addition, the "program reduction" appears to have involved a policy change rather than a reduction in the expenditure of appropriated funds: lowering the aggregate principal amount of loans insured by the commissioner for the remainder of fiscal year 1967. Therefore, the action was both consistent with statute and did not appear to involve any impoundment.

430 *Id.* § 429, 79 Stat. at 1243, https://tinyurl.com/2p9kejd4 (codified at 20 U.S.C. § 1079).
431 *Id.* § 424, 79 Stat. at 1237-38, https://tinyurl.com/mr3tcuad (codified at 20 U.S.C. § 1074).
432 *Id.* § 431, 79 Stat. at 1245-46, https://tinyurl.com/25mdtcd9 (codified at 20 U.S.C. § 1081).
433 Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he.

Lyndon Johnson

1966

HEW REDUCTION 2: CONSTRUCTION GRANTS

AUTHORIZED

ALLEGED IMPOUNDMENT

HEW reduction #2: $61.7 million reduction due to deferral in grants for construction of "[a]cademic facilities," "research construction," and "research and training project[s]."[434]

ASSESSMENT

This impoundment was **authorized by statute**. The referenced action appears to concern grants for the construction of undergraduate and graduate academic facilities authorized by Titles I and II of the Higher Education Facilities Act of 1963 ("HEFA"),[435] and grants for research, surveys, and demonstrations in the field of education authorized by the Act of July 26, 1954 (later known as the Cooperative Research Act).[436]

434 Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he (where the line item is labeled as "Academic facilities construction, research construction, and research and training project grants: Defer construction and new project grants," under "Education").
435 Pub. L. No. 88-204, tits. I & II, 77 Stat. 363, 363-72 (1963), https://tinyurl.com/yx32awx3; Pub. L. No. 89-329, §§ 701-702(d), 79 Stat. 1219, 1266-68 (1965), https://tinyurl.com/4jacepd2 (amending Pub. L. No. 88-204); Pub. L. No. 89-752, §§ 2-4, 80 Stat. 1240, 1240-42 (1966), https://tinyurl.com/ys26x36y (same) (codified at 20 U.S.C. §§ 711-33).
436 Pub. L. No. 83-531, 68 Stat. 533 (1954), https://tinyurl.com/2hsez7hv; Pub. L. No. 89-10, §§ 401-03, 79 Stat. 27, 44-47 (1965), https://tinyurl.com/rf4x9cmw (amending Pub. L. No. 83-531); Pub. L. No. 89-750, §§ 141-43, 80 Stat. 1191, 1202-03 (1966), https://tinyurl.com/bdfk67yf (formerly codified at 20 U.S.C. §§ 331-332b).

Title I of HEFA directed the commissioner of education, upon receipt and approval of applications from eligible institutions of higher education, to award grants to such institutions from appropriations allocated among the states according to a prescribed formula, for the construction of undergraduate academic facilities meeting certain statutory requirements. The statute authorized the commissioner to pay grants in advance, by way of reimbursement, or in installments as he determined, and further provided that funds appropriated for the purpose of these grants would remain available until the close of the next succeeding fiscal year.[437] The Supplemental Appropriations Act, 1967, appropriated $453 million for Title I grants, to remain available through the close of fiscal year 1968.[438]

Title II of HEFA directed the commissioner, upon receipt and approval of applications from eligible institutions of higher education, to award grants to such institutions for the construction of graduate academic facilities meeting certain statutory criteria, and provided that sums appropriated for this purpose were to remain available until expended.[439] The Supplemental Appropriations Act, 1967, appropriated $60 million for Title II grants to remain available until expended.[440]

The Cooperative Research Act "authorized," but did not require, the commissioner to make grants available to public or non-profit universities, colleges, or other public or non-profit agencies, institutions, or organizations, for research, surveys, and demonstrations, and the construction of regional research facilities, in the field of education. The Act further provided that appropriated funds allocated to construction projects for which applications were submitted before July 1, 1970, and approved by the commissioner before July 1, 1971, were to remain available until expended.[441] Congress made $70 million in fiscal year 1967 funding available for these purposes, up to $12.4 million of which was to remain available for the construction of regional research facilities until expended.[442]

The administration therefore had discretion to defer awards of HEFA Title I and Title II grants, and to maintain expenditures for educational research under the Act of July 6, 1954, at levels below appropriated amounts. (And as Budget Director Schultze noted in his Senate testimony, "with respect to deferrals, for example, in the case of the … HEW projects," "the money will be spent later.")[443]

437 20 U.S.C. § 711-19 (1964), https://tinyurl.com/ms2w6b2z.

438 Pub. L. No. 89-697, 80 Stat. at 1061, https://tinyurl.com/5n98cwrj.

439 20 U.S.C. §§ 731-32 (1964), https://tinyurl.com/muehbk4a; Pub. L. No. 89-752, § 4, 80 Stat. 1240, 1242 (1966), https://tinyurl.com/y3jfw6zn (amending 20 U.S.C. § 731 and providing that amounts "appropriated pursuant to this title for any fiscal year shall remain available for grants under this title until expended").

440 Pub. L. No. 89-697, 80 Stat. at 1061, https://tinyurl.com/5n98cwrj.

441 Pub. L. No. 89-10, §§ 401-03, 79 Stat. at 44-47, https://tinyurl.com/rf4x9cmw (amending Pub. L. No. 83-531); Pub. L. No. 89-750, §§ 141-143, 80 Stat. at 1202-03 (same), https://tinyurl.com/bdfk67yf.

442 Pub. L. No. 89-787, 80 Stat. at 1385, https://tinyurl.com/59xv29zx.

443 Schultze Senate Testimony at 67, 114, https://tinyurl.com/ydkwkr3c.

Lyndon Johnson

1966

HEW REDUCTION 3: DEFERRAL OF NEW PROJECTS

AUTHORIZED

ALLEGED IMPOUNDMENT

HEW reduction #3: $13.2 million reduction in expenditures due to deferral of new projects in federally impacted areas.[444]

ASSESSMENT

This impoundment was **authorized by statute**. Public Law 81-815[445] authorized payments to assist local school districts (at varying rates of subsidy) in the construction of additional school facilities needed to accommodate enrollments of children (i) residing on federal property, (ii) residing on federal property with a parent employed on federal property, (iii) residing with a parent employed on federal property, or (iv) whose attendance otherwise ensuing from federal activities substantially increased enrollment.[446] In the event a local school district was unable to provide for the education of such children, the statute directed the commissioner of education to make arrangements for constructing or otherwise providing necessary school facilities for their education.[447] The act provided that sums appropriated for these purposes were to "remain available until expended."[448]

An Office of Legal Counsel (OLC) opinion from 1969 briefly considered precisely the question at issue here: whether it was legal for the president to defer expenditures of funds appropriated to carry out Public Law 81-815.[449] The opinion stated that "it does appear to us that there are enough discretionary powers throughout the statute to permit [the commissioner of education] to postpone the obligation of funds."[450] It went on to say that the language in the fiscal year 1970 appropriation saying that the funds "shall remain available until expended … would seem to confirm the conclusion that there is no legal requirement that the funds be obligated in the year for which the appropriation is made."[451] Since that language — to "remain available until expended" — was also used in both Public Law 81-815 itself, as noted above, and the corresponding appropriation for school construction in federally affected areas for fiscal year 1967,[452] and because that appropriation further provided that "applications filed on or before June 30, 1966, shall receive priority over applications filed after such date,"[453] it seems clear that the Johnson administration had the authority to defer expenditures on the "new

444 Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he (where the line item is labeled as "Federally impacted areas: Defer new projects," under "Education").

445 Pub. L. No. 81-815, 64 Stat. 967, 967-78 (1950), https://tinyurl.com/4hk33n7n (as amended) (formerly codified at 20 U.S.C. §§ 631-45 (1964), https://tinyurl.com/2u6cwp7e).

446 20 U.S.C. §§ 631, 633-36 (1964), https://tinyurl.com/2u6cwp7e.

447 *Id.* § 640 (1964), https://tinyurl.com/3b6p9wpv.

448 *Id.* § 631 (1964), https://tinyurl.com/2u6cwp7e.

449 *Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools*, 1 Supp. Op. O.L.C. 303, 306-07 (Dec. 1, 1969), https://tinyurl.com/zxff6mj7.

450 *Id.* at 306.

451 *Id.*

452 Pub. L. No. 89-787, 80 Stat. 1378, 1384 (1966), https://tinyurl.com/43v3p8ju (Providing, under the heading "Assistance for School Construction," "$22,937,000, to remain available until expended").

453 *Id.*

projects" referenced in Schultze's testimony.[454] (And as Schultze stated, "with respect to deferrals, for example, in the case of the ... HEW projects," "the money will be spent later.")[455]

454 *See* Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he.
455 *Id.* at 67, 114, https://tinyurl.com/ydkwkr3c.

Lyndon Johnson

1966

HEW REDUCTION 4: PUBLIC HEALTH SERVICE EXPENDITURES

AUTHORIZED

ALLEGED IMPOUNDMENT

HEW reduction #4: $55.9 million reduction in Public Health Service expenditures due to deferred hospital construction starts[456]

ASSESSMENT

This impoundment was **authorized by statute**. The expenditures at issue involved grants and loans for hospital and other facilities construction. Many if not most of these expenditures were likely mandated by statute (upon receipt and approval of applications from eligible state or local agencies or non-governmental institutions).[457] However, the relevant appropriation also made clear that substantial sums — exceeding the $55.9 million at issue here — were available until the close of fiscal year 1968, and in two cases "until expended."[458] Therefore, the Johnson administration's deferral of these funds was likely authorized by statute. And as Budget Director Schultze noted in his Senate testimony, "with respect to deferrals, for example, in the case of the ... HEW projects," "the money will be spent later."[459]

456 *Id.* at 71, https://tinyurl.com/5frpz5yt (where the line item is labeled as "Hospital construction activities: Defer construction starts," under "Public Health Service").
457 Hospital & Medical Facilities Amendments Act of 1964, Pub. L. No. 88-443, §§ 2, 3, 78 Stat. 447, 447-57 (1964), https://tinyurl.com/5n8a82rv (adding new § 318 and §§ 601-607 to the Public Health Service Act, to provide for mandatory formula grants to states for construction and modernization of hospitals and other medical facilities); Mental Retardation Facilities & Community Mental Health Centers Construction Act of 1963, Pub. L. No. 88-164, §§ 131-37, 201-07, 77 Stat. 282, 286-94 (1963), https://tinyurl.com/5n8ym28r (mandatory formula grants to states for construction of community mental health centers and facilities for the mentally retarded); *see* Pub. L. No. 89-787, 80 Stat. at 1390, https://tinyurl.com/y7rpkat7 (making appropriations for hospital construction activities conducted pursuant to these statutes); *but see* Pub. L. No. 88-443, § 3, 78 Stat. at 457, https://tinyurl.com/26cc5nwy (adding new Public Health Service Act § 610, authorizing but not mandating loans for projects meeting grant requirements under §§ 601-607); Pub. L. No. 88-443, 78 Stat. at 459, https://tinyurl.com/45vy6rc4 (adding new Public Health Service Act § 624, authorizing discretionary grants to state and local governments and other public and non-profit institutions for research relating to, inter alia, construction of experimental hospitals); Pub. L. No. 88-164, tit. I, pt. B, §§ 121-25, 77 Stat. at 284-85, https://tinyurl.com/5n8ym28r (discretionary competitive grants to university-affiliated hospitals for construction of demonstration facilities for the "diagnosis and treatment, education, training, or care of the mentally retarded"); Appalachian Regional Development Act of 1965, Pub. L. No. 89-4, tit. II, § 202, 79 Stat. 5, 11-12 (1965), https://tinyurl.com/435wv56a; Appalachian Regional Development Act Amendments of 1967, Pub. L. No. 90-103, § 107, 81 Stat. 257, 259-60 (1967), https://tinyurl.com/mwyz3hb4 (amending Pub. L. No. 89-4) (discretionary grants for "planning, construction, equipment, and operation of multicounty demonstration health projects, including hospitals," in the Appalachian region).
458 Pub. L. No. 89-787, 80 Stat. at 1390, https://tinyurl.com/y7rpkat7 (providing $313.5 million for "hospital construction activities," of which "$170,000,000 shall be available until June 30, 1968 ..., for grants or loans for hospitals and related facilities pursuant to section 601(b) of the Public Health Service Act, $100,000,000 shall be available until June 30, 1968 ..., for grants or loans for facilities pursuant to section 601(a) of the Public Health Service Act, $5,000,000 shall be for special project grants pursuant to section 318 of the Public Health Service Act, $7,500,000 shall be for the purposes authorized in section 624 of the Public Health Service Act, $10,000,000, to remain available until expended, shall be for grants for facilities pursuant to part B of the Mental Retardation Facilities Construction Act, $15,000,000 shall be available until June 30, 1968, for grants for facilities pursuant to part C of the Mental Retardation Facilities Construction Act, and $2,500,000, to remain available until expended, shall be for grants for construction, equipment, and operation of demonstration health facilities under the Appalachian Regional Development Act of 1965 ...").
459 Schultze Senate Testimony at 67, 114 https://tinyurl.com/ydkwkr3c.

Lyndon Johnson

1966

HEW REDUCTION 5: REGIONAL MEDICAL PROGRAM

AUTHORIZED

ALLEGED IMPOUNDMENT

HEW reduction #5: $10 million reduction in expenditures due to slow down in planning and operating the regional medical program[460]

ASSESSMENT

This impoundment was **authorized by statute**. Public Law 89-239[461] "authorized," but did not require, the surgeon general to make grants to public or nonprofit private universities, medical schools, and research institutions to assist them in the development, construction, and operation of regional programs for cooperative research, training, diagnosis, and treatment relating to heart disease, cancer, or stroke, and related illnesses.[462] Moreover, the relevant appropriation of $43 million specified that the funds did not have to be spent until the end of fiscal year 1968.[463] The administration therefore had discretion, under the authorizing statute and appropriation, to "slow down" the expenditures at issue. And as Budget Director Schultze noted in his Senate testimony, "with respect to deferrals, for example, in the case of the … HEW projects," "the money will be spent later."[464]

460 *Id.* at 71, https://tinyurl.com/5frpz5yt (where the line item is labeled as "Regional medical program: Slow down planning and operating regional medical program," under "NIH").
461 Pub. L. No. 89-239, 79 Stat. 926, 926-31 (1965), https://tinyurl.com/zmsfhsmw (formerly codified at 42 U.S.C. §§ 299-299i, https://tinyurl.com/5n6fv8cv).
462 *Id.* §§ 900-04, 79 Stat. at 926-29, https://tinyurl.com/zmsfhsmw.
463 Pub. L. No. 89-787, 80 Stat. at 1393, https://tinyurl.com/3nbnkc57.
464 Schultze Senate Testimony at 67, 114, https://tinyurl.com/ydkwkr3c.

Lyndon Johnson

1966

HEW REDUCTION 6: COMMUNITY MENTAL HEALTH CENTERS

AUTHORIZED

ALLEGED IMPOUNDMENT

HEW reduction #6: $15.2 million reduction in expenditures due to deferred construction of community mental health centers[465]

ASSESSMENT

This impoundment was **authorized by statute** because the spending was deferred and not withheld. Title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 established mandatory formula grants to states for the construction of community mental health centers.[466] However, the relevant appropriation of $50 million specified that the funds did not have to be spent until the end of fiscal year 1968 (the deferral here occurred in fiscal year 1967).[467] The administration therefore had discretion to defer the expenditures at issue. And as Budget Director Schultze noted in his Senate testimony, "with respect to deferrals, for example, in the case of the … HEW projects," "the money will be spent later."[468]

465 *Id.* at 71, https://tinyurl.com/5frpz5yt (where the line item is labeled as "Construction of community mental health centers, Public Health Service: Defer construction starts").
466 Pub. L. No. 88-164, §§ 200-07, 77 Stat. at 290-94, https://tinyurl.com/mt7w2bjf.
467 Pub. L. No. 89-787, 80 Stat. at 1392, https://tinyurl.com/yckd9w8f.
468 Schultze Senate Testimony at 67, 114, https://tinyurl.com/ydkwkr3c.

Lyndon Johnson

1966

ELEMENTARY AND SECONDARY EDUCATION ACT PROGRAMS

SEE INDIVIDUAL ANALYSIS BELOW

ALLEGED IMPOUNDMENT

According to CRA, "Johnson also impounded funding for … elementary and secondary education."[469]

ASSESSMENT

Two reductions in this category are analyzed individually below. Both appear to be authorized by statute.

In 1966, due to concerns about inflation, Johnson decided that he needed to take steps to reduce government spending. In a special message to Congress, he estimated that about $3 billion in reductions would be needed "in that limited portion of the fiscal 1967 budget under direct Presidential control."[470]

One of the areas Johnson targeted for reductions was elementary and secondary education. In a press conference, Johnson announced that there would be "$530 million in program reductions" amounting to "$395 million in expenditur[e]" reductions for "[e]lementary and secondary education."[471]

In early 1967, his budget director, Charles Schultze, gave testimony to both the House Ways and Means Committee and the Senate Appropriations Committee detailing the reductions.[472] The vast majority of them ($410 million in expenditures) were listed in a table (Table 2) entitled "[i]ncreased congressional authorizations for which we do not plan to request 1967 appropriations."[473] Because that table reflects only a decision not to request appropriations, and not the deferral or unilateral cutting of enacted appropriations, this "reduction" was not an impoundment.

However, Schultze's Table 3 lists two actual reductions within the HEW appropriation, under the heading "Elementary and secondary education activities," each of which exceeds $10 million.[474] As discussed below, both reductions appear to be deferrals rather than permanent cuts. And Johnson announced in March 1967 that the majority of those deferred funds had been released prior to the end of the fiscal year.[475]

469 CRA History at 18, https://tinyurl.com/35zkwp4z.

470 Special Message to the Congress on Fiscal Policy, *supra*, https://tinyurl.com/4njm2k2x. Johnson later explained in a news conference that the administration intended to make a $5.3 billion "budgetary cutback" to achieve a $3 billion reduction in actual federal expenditures for the remaining seven months of fiscal year 1967 (ending June 30, 1967). The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1406-07, https://tinyurl.com/bddfwhf9.

471 The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1410, https://tinyurl.com/bddfwhf9.

472 Schultze House Testimony at 8-29, https://tinyurl.com/y2y87vce; Schultze Senate Testimony at 61-78, https://tinyurl.com/3xdt648m.

473 Schultze Senate Testimony at 68, https://tinyurl.com/33tzcvew; *see* The President's News Conference of November 29, 1966, 2 Pub. Papers, *supra*, at 1410, https://tinyurl.com/bddfwhf9 ("I touched on that a moment ago, but this is largely increased congressional authorizations which we do not plan to fund. That should not be alarming to you because a good many of the Congressmen expected us to send up a supplementary after the authorization went to us. We didn't do it, so they are aware of that already, particularly in the education field.").

474 Schultze Senate Testimony at 70, https://tinyurl.com/ycx927he.

475 Statement by the President Announcing the Release of Deferred Funds for Federal Programs, 1 Pub. Papers, *supra*, at 357, https://tinyurl.com/44y32vuk.

Lyndon Johnson

1966

ESEA REDUCTION 1: EDUCATIONAL CENTERS

AUTHORIZED

ALLEGED IMPOUNDMENT

ESEA reduction #1: $18.2 million reduction in expenditures for supplementary educational centers and services due to deferral of new project grants[476]

ASSESSMENT

This impoundment was **likely authorized by statute**. Title III of the Elementary and Secondary Education Act of 1965 (ESEA) provided for grants to local educational agencies (subject to the submission and approval of applications meeting program requirements) to fund "supplementary education centers and services" out of appropriated sums apportioned among the states according to a prescribed formula.[477] The commissioner of education was given discretion to make grant payments for approved projects in advance, in installments, or by way of reimbursement.[478] The Supplemental Appropriations Act, 1967, allocated $145,000,000 for these grants.[479] Because this "cutback" involved only a deferral of new project grants and, as noted above, Schultze testified that where expenditures at HEW were deferred "the money [would] be spent later" in the year while the funds "remain available,"[480] the administration likely acted within the scope of its discretion under the statute.

476 Schultze Senate Testimony at 70, https://tinyurl.com/bdd459h4 (where the line item is labeled as "Elementary and secondary education activities, Title 3 supplementary centers and services: Defer new project[ ] grants until later in year").
477 Pub. L. No. 89-10, §§ 301-06, 79 Stat. 27, 39-43 (1965), https://tinyurl.com/5n86epvr (as amended).
478 *Id.* § 305(b), 79 Stat. at 43.
479 Pub. L. No. 89-697, 80 Stat. at 1061, https://tinyurl.com/5n98cwrj.
480 Schultze Senate Testimony at 67, 70, 114, https://tinyurl.com/bdd459h4.

Lyndon Johnson

1966

ESEA REDUCTION 2: EDUCATION GRANT FUNDS

AUTHORIZED

ALLEGED IMPOUNDMENT

ESEA reduction #2: $34 million reduction in expenditures due to postponing reallocation of grant funds for education of disadvantaged children[481]

ASSESSMENT

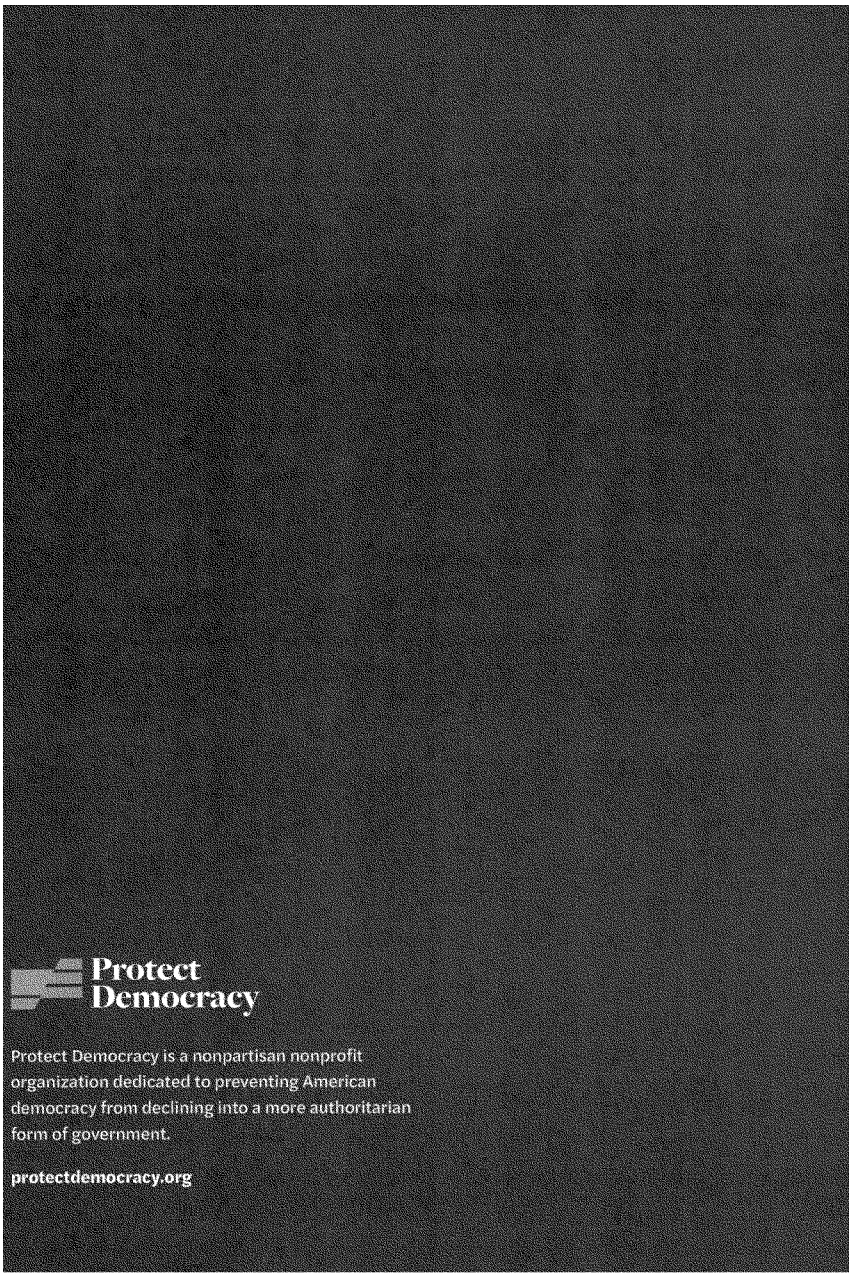
This impoundment was **likely authorized by statute**. Title I of ESEA provided for grants to eligible state and local educational agencies (upon the submission and approval of applications complying with program requirements) to meet the educational needs of children from low-income families (or otherwise disadvantaged), to be funded out of appropriated sums apportioned among the states according to a prescribed formula.[482] The Supplemental Appropriations Act, 1967, allocated approximately $1.1 billion for these grants.[483]

481 *Id.* at 70, https://tinyurl.com/bdd459h4 (where the line item is labeled as "Elementary and secondary education activities, Title 1: education of disadvantaged: Stop reallocation of formula grants").
482 Pub. L. No. 89-10, 79 Stat. at 27-36, https://tinyurl.com/436stwus (adding new Title II to Pub. L. No. 81-874, 64 Stat. 1100 (1950), https://tinyurl.com/2s38xur9); Pub. L. No. 89-313, § 6, 79 Stat. 1158, 1161-62 (1965), https://tinyurl.com/5apw3dzr (amending Pub. L. No. 81-874); Pub. L. No. 89-750, tit. I, pt. A, 80 Stat. 1191, 1191-99 (1966), https://tinyurl.com/yc9jhbkz (same) (at the time codified at 20 U.S.C. §§ 241a-241l).
483 Pub. L. No. 89-697, 80 Stat. at 1061, https://tinyurl.com/5n98cwrj.

To partially offset shortfalls in appropriated funds, the statute provided that the excess of a state's total grant eligibility over the amount for which applications in the state had been approved was to be made available to local agencies, first in that state, and then in others, experiencing a shortfall. The statute did not specify, however, when or how quickly the commissioner of education must execute this reallocation of excess available funds.[484]

Thus, the halt in "reallocation of [Title I] formula grants" appears to have been a reference to a pause in an ongoing reallotment of grant funds from states that had been allocated funds in excess of their needs. Because this "cutback" involved only a deferral in making funds available; because, as noted above, Schultze testified that where expenditures at HEW were deferred, "the money [would] be spent later" in the year while the funds "remain available";[485] and because the statute did not prescribe at what point in the fiscal year the reallocation of funds must occur, the administration likely acted within the scope of its statutory discretion.

484 Pub. L. No. 89-750, § 114(b), 80 Stat. at 1197 (at the time codified at 20 U.S.C. § 241h).
485 Schultze Senate Testimony at 67, 70, 114 https://tinyurl.com/ydkwkr3c.


Protect
Democracy
Protect Democracy is a nonpartisan nonprofit organization dedicated to preventing American democracy from declining into a more authoritarian form of government.
protectdemocracy.org

Ms. DELAURO. Thank you. And I also might want to add for the gentleman who just spoke, 39 percent of the children in this Nation get their——

Mr. JOYCE. More statements. Thank you.

With that, our time has concluded.

I would like to thank Director Vought for having been here today. And, you know, I know sometimes you didn't have a chance to finish that. I am glad to give you, since you have 1 minute left, 1 minute to close out or you are free to leave. It is up to you.

Mr. VOUGHT. I am all good. I appreciate all of the comments, whether I disagreed with them or not, and look forward to follow up with the committee.

Mr. JOYCE. Thank you very much.

There may be some members who would like to submit questions for the record. Please submit any questions for the record to the subcommittee staff within 7 days.

I would please ask everyone to stay in their seats and allow the director to leave, and then as he gets out of the room there, then we will move.

Thank you very much. With that, this subcommittee is adjourned.

[Whereupon, at 4:09 p.m., the subcommittee was adjourned.]

Responses to Questions for the Record from OMB Director Russell Vought's June 4, 2025 Hearing before the House Appropriations Subcommittee on Financial Services and General Government

9/16/2025

Table of Contents

Representative DeLauro 3
Representative DeLauro 1 3
Representative DeLauro 2 5
Representative DeLauro 3 7
Representative DeLauro 4 9
Representative DeLauro 5 11
Representative DeLauro 6 12
Representative DeLauro 7 13
Representative DeLauro 8 14
Representative DeLauro 9 15
Representative Hinson 16
Representative Hinson 1 16
Representative Hoyer 17
Representative Hoyer 1 17
Representative Hoyer 2 18
Representative Hoyer 3 19
Representative Hoyer 4 20
Representative Hoyer 5 21
Representative Hoyer 6 22
Representative Hoyer 7 23
Representative Hoyer 8 24
Representative Hoyer 9 25
Representative Hoyer 10 26
Representative Hoyer 11 27
Representative Hoyer 12 28
Representative Hoyer 13 29
Representative Hoyer 14 30
Representative Hoyer 15 31
Representative Hoyer 16 32
Representative Hoyer 17 33
Representative Hoyer 18 34
Representative Hoyer 19 35
Representative Hoyer 20 36
Representative Hoyer 21 37
Representative Hoyer 22 38
Representative Hoyer 23 39
Representative Hoyer 24 40
Representative Hoyer 25 41
Representative Hoyer 26 42
Representative Hoyer 27 43
Representative Hoyer 28 44
Representative Hoyer 29 45
Representative Hoyer 30 46
Representative Hoyer 31 47

Representative Hoyer 32 48
Representative Hoyer 33 49
Representative Hoyer 34 50
Representative Hoyer 35 51
Representative Hoyer 36 52
Representative Hoyer 37 53
Representative Hoyer 38 54
Representative Hoyer 39 55
Representative Hoyer 40 56
Representative LaLota 57
Representative LaLota 1 57
Representative LaLota 2 58
Representative LaLota 3 59
Representative LaLota 4 60
Representative LaLota 5 61
Representative LaLota 6 62
Representative LaLota 7 63
Representative LaLota 8 64

Representative DeLauro

Representative DeLauro 1

Question

The Administration has made frequent use of Voluntary Separation Incentive Payments (VSIPs) and Deferred Resignation Programs (DRPs) across government agencies during calendar year 2025. The February 4, 2025 memorandum sent from the Acting Director and the General Counsel of the U.S. Office of Personnel Management (OPM) to all Heads and Acting Heads of Departments and Agencies entitled "Legality of Deferred Resignation Program" (available here) described the parameters of the program, including the following legal analysis (emphasis added): "The deferred resignation program offers employees who opt into the program an exemption from any return-to-work requirements and full pay and benefits regardless of workload, with the expectation that most employees will transition their duties and be placed on administrative leave for the bulk of the deferred resignation period. Those assurances are binding on the government." In addition, the "Template Deferred Resignation Agreement" shared with DRP in the same memorandum would, if adopted by agencies, create clear documentary evidence of a binding agreement between an agency and another person for payments in an amount equivalent to personnel compensation that would have been paid for work completed – but no longer will be – during subsequent reporting pay periods.

For the record, provide the Committee with—

> (1) a tabular accounting in a sortable and machine-readable format, for each pay period in fiscal year 2025 through May 31, 2025, showing an agency-by-agency aggregation of—
>
> > (A) the total number of DRP agreements entered into with employees;
> >
> > (B) the total dollar value of the DRP agreements entered into with employees referenced in (A);
> >
> > (C) the total number of DRP agreements entered into with employees whose personnel and compensation is provided with budgetary resources charged to the applicable appropriation, fund, or authorization provided by division A of Public Law 119-4 pursuant to section 1107 of such division or section 107 of Public Law 118–83;
> >
> > (D) the dollar value of DRP agreements entered into with employees referenced in (C);
> >
> > (E) the amount of appropriated budgetary resources available for personnel compensation and benefits for each agency that was or will be charged to the applicable appropriation, fund, or authorization provided by division A of Public Law 119-4 pursuant to section 1107 of such division or section 107 of Public Law 118–83; and

(F) the amount of appropriated budgetary resources available for personnel compensation and benefits available for immediate obligation pursuant to section 1513(b) of title 31, United States Code, for each agency that was or will be charged to the applicable appropriation, fund, or authorization provided by division A of Public Law 119-4 pursuant to section 1107 of such division or section 107 of Public Law 118–83.

(2) An explanation detailing the obligating event for the Federal resources used to finance DRP agreements entered into during each pay period in fiscal year 2025 through May 31.

Response

Although the Office of Personnel Management (OPM) initially established and managed the Deferred Resignation Program (DRP), the DRP has since become a workforce shaping tool that agencies are able to use at their discretion. OPM is responsible for establishing the DRP framework while agencies are now responsible for managing implementation, exclusions, timing, and some agency level adjustments. Agencies are also responsible for any associated implementation costs within their existing resources. We currently estimate that over 150,000 federal employees have participated at this time. However, as the programs are managed at the agency level, much of the data is not available government wide.

Representative DeLauro 2

Question

In early 2025, the United States DOGE Service (USDS) received its own Treasury Account Symbol, separate from the historical financing of its predecessor entity (the U.S. Digital Service), which was financed out of the Office of Management and Budget's Information Technology Oversight and Reform account. No funding has been directly appropriated to the USDS since it was established as a standalone entity in the Executive Office of the President. Publicly available budgetary information indicates that USDS has received tens of millions in funding pursuant to provisions of title 31 commonly known as the Economy Act.

Provide for the record a copy of each interagency agreement resulting in at least $1 million in spending authority from offsetting collections for the USDS, from the effective date of Executive Order 14158 through the end of May 2025, for the USDS and a machine-readable and sortable tabulation of the agencies party to such agreements, the dates on which they were signed, and the anticipated amount of resulting spending authority from offsetting collections for each agreement.

Response

Please see excel attached.

USDS IAAs - January 20, 2025 - May 31, 2025

Agency	Date Signed	Total Budget Authority
General Services Administration	1/29/2025	$8,712,000
Office of Management and Budget	3/10/2025	$6,000,000
TOTAL		$14,712,000

Representative DeLauro 3

Question

Section 251A(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) currently requires the annual sequestration of mandatory budgetary resources through part of FY 2032. Provide for the record a tabulation in a sortable and machine-readable format showing—

(1) each Treasury Account Symbol (TAS) with direct spending budgetary resources in budget function 050 (including multifunction accounts with direct spending resources in budget function 050) for fiscal year 2024, 2025, or 2026, (as shown in the Program and Financing schedule in the Appendix accompanying the President's Budget for FY 2026);

(2) the amount of the resources referenced in (1);

(3) the amounts sequestered from such resources in (1) in fiscal years 2024 and 2025 or estimated to be sequestered from such resources in fiscal year 2026 under the May 30, 2025, OMB Report to Congress on the BBEDCA 251A Sequestration for Fiscal Year 2026;

(4) the amount in any TAS listed in (1) that was exempt from 251A sequestration for 2026; and

(5) the statutory justification for any exempted amount shown in (4), to include a brief TAS-specific rationale for why such statutory exemption applies.

Response

Provided with this response is an Excel spreadsheet of the 050 accounts subject to sequestration in fiscal years 2024, 2025, and 2026. If mandatory budget authority is not found in the report in those years, then this spending was either exempted from sequestration in the applicable laws, or the spending was provided after release of the President's Budget for that year. All of the statutory justifications for accounts exempted from sequestration can be found in sections 255 and 256 of BBEDCA, 2 U.S.C. §§ 955 and 956.

Defense-Function Resources in 251A Sequestration Order Appendices
Fiscal Years 2024, 2025, and 2026
(dollar amounts in millions)

Fiscal Year	Agency Title	Bureau Title	Budget Account	Line Title	Sequestrable Base	Sequestration Percentage	Reduction
2024							
	Department of Defense--Military Programs						
		Military Personnel					
			007-05-0041	Concurrent Receipt Accrual Payments to the Military Retirement Fund			
				Appropriation	22,569	8.3%	1,873
		Operation and Maintenance					
			007-10-9922	Miscellaneous Special Funds			
				Appropriation	1	8.3%	*
				Unobligated balance in 050	18	8.3%	1
		Revolving and Management Funds					
			007-40-4555	National Defense Stockpile Transaction Fund			
				Spending authority	122	8.3%	10
				Unobligated balance in 050	409	8.3%	34
		Trust Funds					
			007-55-8164	Commissary Stores Surcharge Program			
				Administrative expenses in otherwise exempt resources	228	8.3%	19
			007-55-9971	Other DOD Trust Funds			
				Appropriation	5	8.3%	*
				Unobligated balance in 050	1	8.3%	*
	Department of Health and Human Services						
		Centers for Disease Control and Prevention					
			009-20-0943	CDC-wide Activities and Program Support			
				Appropriation	55	8.3%	5
				Unobligated balance in 050	5	8.3%	*
	Department of Labor						
		Office of Workers' Compensation Programs					
			012-15-1524	Administrative Expenses, Energy Employees Occupational Illness Compensation Fund			
				Appropriation	150	8.3%	12
				Unobligated balance in 050	3	8.3%	*
2025							
	Department of Defense--Military Programs						
		Military Construction					
			007-25-5756	Natick Land Conveyance			
				Spending authority	19	8.3%	2
				Unobligated balance in 050	9	8.3%	1
		Military Personnel					
			007-05-0041	Concurrent Receipt Accrual Payments to the Military Retirement Fund			
				Appropriation	24,511	8.3%	2,034
		Operation and Maintenance					
			007-10-9922	Miscellaneous Special Funds			
				Appropriation	1	8.3%	*
				Unobligated balance in 050	17	8.3%	1
		Revolving and Management Funds					
			007-40-4555	National Defense Stockpile Transaction Fund			
				Spending authority	42	8.3%	3
				Unobligated balance in 050	514	8.3%	43
		Trust Funds					
			007-55-8164	Commissary Stores Surcharge Program			
				Administrative expenses in otherwise exempt resources	250	8.3%	21
			007-55-9971	Other DOD Trust Funds			
				Appropriation	5	8.3%	*
				Unobligated balance in 050	3	8.3%	*
	Department of Health and Human Services						
		Centers for Disease Control and Prevention					
			009-20-0943	CDC-wide Activities and Program Support			
				Appropriation	55	8.3%	5
				Unobligated balance in 050	3	8.3%	*
	Department of Labor						
		Office of Workers' Compensation Programs					
			012-15-1524	Administrative Expenses, Energy Employees Occupational Illness Compensation Fund			
				Appropriation	151	8.3%	13
				Unobligated balance in 050	3	8.3%	*
2026							
	Department of Defense--Military Programs						
		Military Construction					
			007-25-5756	Natick Land Conveyance			
				Unobligated balance in 050	9	8.3%	1
		Military Personnel					
			007-05-0041	Concurrent Receipt Accrual Payments to the Military Retirement Fund			
				Appropriation	27,747	8.3%	2,303
		Operation and Maintenance					
			007-10-9922	Miscellaneous Special Funds			
				Appropriation	2	8.3%	*
				Unobligated balance in 050	14	8.3%	1
		Revolving and Management Funds					
			007-40-4555	National Defense Stockpile Transaction Fund			
				Spending authority	32	8.3%	3
				Unobligated balance in 050	295	8.3%	24
		Trust Funds					
			007-55-8164	Commissary Stores Surcharge Program			
				Administrative expenses in otherwise exempt resources	236	8.3%	20
			007-55-9971	Other DOD Trust Funds			
				Appropriation	5	8.3%	*
				Unobligated balance in 050	3	8.3%	*
	Department of Health and Human Services						
		Centers for Disease Control and Prevention					
			009-20-0943	CDC-wide Activities and Program Support			
				Appropriation	55	8.3%	5
				Unobligated balance in 050	3	8.3%	*
	Department of Labor						
		Office of Workers' Compensation Programs					
			012-15-1524	Administrative Expenses, Energy Employees Occupational Illness Compensation Fund			
				Appropriation	145	8.3%	12
				Unobligated balance in 050	1	8.3%	*

Representative DeLauro 4

Question

The Full-Year Continuing Appropriations Act, 2025 (division A of Public Law 119–4) provided, among other funding and authorities, 19 appropriated amounts from the general fund of the Treasury, summing to over $12 billion, that were designated as being for an emergency requirement pursuant to section 251 the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). Funding designated as an emergency requirement is available just like any other appropriation, subject to the authorities and conditions that Congress places on those appropriations in statute. Designating funding as an emergency requirement pursuant to BBEDCA, however, does mean that any discretionary caps in place at the time must be increased to accommodate those amounts. The President has the requirement to decide whether to subsequently designate those Congressionally-designated funds as an emergency requirement; this requirement, enshrined in BBEDCA, does not by itself have anything to do with the availability of an appropriations for obligation, and is only related to the evaluations of the discretionary limits on budget authority under BBEDCA. The designating language in each of the 19 instances referenced above also incorporated an explicit condition on the availability of those appropriations. Section 1110(b) of Public Law 119–4 requires that all of those amounts – each and every one of them – must be designated by the President as an emergency requirement, or else none of those amounts – not a single one of them – is legally available for obligation.

For the record, provide a tabulation showing, for each of the 19 amounts—

(1) a cataloguing of whether and when the President subsequently designated each of those amounts as an emergency requirement and transmitted each designation to Congress;

(2) whether, and if so when, the President anticipates he will designate additional amounts as an emergency requirement that were not yet designated as listed in (1); and

(3) an accounting of the total obligations incurred and expenditures made as of the end of May, 2025, using any of the 19 amounts designated as an emergency requirement. In addition, for the record, produce all account-specific apportionments made pursuant to section 1513(b) of title 31, United States Code, after March 22, 2024, for each of the Treasury Appropriation Fund Symbols for which one of the 19 amounts referenced above was provided.

Response

The President has completed the process of designating amounts in Public Law 119-4 (Full-Year Continuing Appropriations and Extensions Act, 2025) as being for an emergency requirement, in accordance with BBEDCA. Presidential designations are posted on the OMB website. The most recent designation letter signed by the President can be found here:

https://www.whitehouse.gov/wp-content/uploads/2025/03/Presidential-Designation-of-Funding-as-an-Emergency-Requirement-Multiple-Accounts-in-the-Full-Year-Continuing-Appropriations-and-Extensions-Act.pdf

Total obligations by account can be found in the monthly reports OMB provides to Congress pursuant to section 1114 of Public Law 119-4, most recently provided by OMB on Friday, June 13, 2025. Expenditures of emergency designated funding can be found within the SF 133 monthly reporting and have a domain code of "AAL."

Representative DeLauro 5

Question

In the $9.4B Rescissions package, rescinding $8.3B of international assistance is proposed. That amount includes multiple programs for humanitarian aid, global health programs for women and children, agricultural assistance in impoverished or war-torn regions, security in conflict zones, and a myriad of other assistance programs. Given the scope of those programs, please list what programs remain to be funded. Additionally, please specify which agencies would execute this spending, given one of the proposed rescissions also divests of USAID.

(1) Please provide the project costs and descriptions for each program under the AEECA account requested for rescission.

(2) Are any national security-related projects funded through any program proposed in the Rescissions package? If so, what are those programs and projects? Has a cost estimate or risk assessment been conducted to mitigate the loss of those programs?

(3) Are there plans to submit a rescissions package that result in the closure of any US embassies? If so, when can Congress expect to receive that package?

(4) Does OMB commit to spending all the funds that are a part of the special message that Congress refuses to rescind?

Response

The Administration is still conducting the Foreign Assistance Review. Any programs determined to continue that were previously implemented by USAID will move to the Department of State.

1. The FY 2025 AEECA funding proposed for rescission had not been allocated into any specific Operating Units or programs.

2. No

3. OMB defers to the Department of State regarding embassy planning and operations.

4. OMB will work with agencies to comply with all statutory requirements.

Representative DeLauro 6

Question

If the Republican House or Senate Budget Committee chairman fails to submit for H.R. 1 a statement into the Congressional Record titled "Budgetary Effects of PAYGO Legislation", OMB will be required to estimate the costs of H.R. 1 for purposes of the Statutory Pay-As-You-Go Act.

(1) For such an estimate, will OMB use the statutorily required scorekeeping set forth in 2 USC § 639, and the same economic and technical assumptions as used in the most recent budget submitted by the President under 31 USC § 1105(a)?

(2) Is it OMB's understanding as it has failed to submit a full budget for FY 2026, the most recent President's budget for purposes of Statutory Pay-As-You-Go Act is currently the FY 2025 budget?

(3) How would such an estimate differ from the estimate OMB made on June 7, 2025, for the costs of H.R. 1?

Response

(1) OMB will follow all applicable statutes when scoring the bill.

(2) The President's FY 2026 Budget Request, released on May 2, 2025, and subsequent technical materials, were released in accordance with the requirements of 31 U.S.C. § 1105(a) and, as such, provides the basis OMB will use to score subsequent PAYGO legislation.

(3) OMB will work with agencies to develop a score for the enacted provisions.

Representative DeLauro 7

Question

You mention in your estimate on June 7, 2025, for H.R. 1 that there is no political universe in which Republicans would allow the temporary tax provisions in TCJA to expire. As such, you believe that the baseline should adjust for the continuation of TCJA.

(1) When the Trump Administration issued a memo on December 11, 2017, estimating the costs of TCJA, did it include a similar adjustment for the continuation of TCJA?

(2) Did CBO and Congress err when estimating the original costs of TCJA when it went through Congress, including for purposes of the Senate Byrd Rule, by determining that TCJA should be scored as if the temporary provisions would expire?

(3) H.R. 1 includes new provisions that are written to be temporary. Is it OMB's view that a future Congress should let those expire? Should continuation of those provisions be included for determining the costs of H.R. 1?

Response

There is a difference between estimating the effects of legislation that has not been signed into law and estimating the effects of legislation that continues previously enacted policies. In the former case, it is not current policy, but it is in the latter case. When determining how legislation impacts the finances of American taxpayers, it should be estimated relative to current policy.

It was appropriate to estimate or score the costs of the assuming the temporary provisions of TCJA would expire, and it is appropriate to estimate the costs of H.R. 1, the One Big Beautiful Bill Act, assuming the temporary provisions will expire.

Representative DeLauro 8

Question

The OMB estimate on June 7, 2025, includes a list of estimates of the budgetary impact of a few Trump Administration policies. One such estimate is the revenue from tariffs to date, if extended over a ten-year period. However, the implementation of these tariffs has been chaotic and uneven, with the Trump Administration levying tariffs and then abruptly suspending them while negotiations continue. In addition, the Administration has stated that these tariffs are a tool to get the United States better trade deals and fairer trading parameters. Isn't it true that if the Administration succeeds in their goal of fairer trade without the need to levy these tariffs, the revenue you estimate will not materialize as well? Your estimate shows tariffs raising $2.8 trillion dollars over the decade. Who pays the cost of those tariffs?

Response

President Trump implemented the tariffs due to an unusual and extraordinary threat to the national security and economy of the United States. That threat arose from a lack of reciprocity in our bilateral trade relationships, disparate tariff rates and non-tariff barriers, and U.S. trading partners' economic policies that suppress domestic wages and consumption, as indicated by large and persistent annual U.S. goods trade deficits.

The cost of tariffs is borne by foreign exporters. Consumers did not bear the cost of tariffs in the first Trump administration and are not bearing the cost now as inflation continues to decline. Real wages are up so workers are better off than they were before the tariffs. President Trump believes in an economy that leads with production and wages.

Representative DeLauro 9

Question

The President has submitted an appropriations request for FY2026, but when will we see the rest of the budget, including revenue, mandatory spending, economic forecast, and deficit and debt projections?

Response

The President's FY 2026 Budget Request, released on May 2, 2025, was released in accordance with the requirements of 31 U.S.C. § 1105(a).

During a transition year, administrations often need to depart from "regular order" when transmitting their first Budget to the Congress. In addition, the budget development process coincided with consideration of sweeping changes to the tax code and mandatory spending this year as part of reconciliation pursuant to the congressional budget resolution for 2025. The 2026 Budget focuses on providing the Committees on Appropriations with the information they need to work in earnest on annual appropriations bills for 2026. This means that budget data is largely limited to amounts through 2026 and summary presentations of budget data.

Representative Hinson

Representative Hinson 1

Question

I'm interested in knowing how many commercial activities are being performed by federal employees. There could be opportunities in the future to bring in a private sector option to find savings to the taxpayer for these commercial activities currently performed in-house without any competition, in other words via monopoly performance. Through the FAIR Act of 1998 (P.L. 105-270), OMB is supposed to take inventory of these numbers annually, federal agency by federal agency. It's my understanding that the last time this data was shared publicly by OMB was for FY2013 when OMB cited 1.12 million federal employees were engaged in commercial activities.

1. Do you know what the FAIR Act of 1998 inventory numbers are for FY2024?

2. Where online are these numbers posted by OMB so that I may track these numbers annually as OMB posts these updates?

3. If appropriations goes into a third year of the CR, we will see another $20 billion of the investment in the IRA lost to a mindless process. What are your plans to prevent this outcome?

Response

1.Agency inventories for FY 2024, which were submitted during the previous Administration, are under OMB review. In FY 2024, there were approximately 2.3 million federal employees. Historically, agency inventories have shown that between 50-60% of activities are commercial in nature.

2.The FAIR Act requires agencies to post their inventories. In FY 2023, OMB approved posting for approximately three-quarters of departments and agencies covered by the Chief Financial Officers Act.

3. The Administration looks forward to working with your Committee to enact full-year FY 2026 appropriations bills.

Representative Hoyer

Representative Hoyer 1

Question

• Who made the final decision on agency staffing levels, was this you, Elon Musk, or Cabinet Secretaries and Agency heads?

    o What analysis did OMB conduct to determine the right level of staffing for each agency to accomplish their mission?

Response

As the President has made clear, cabinet secretaries and agency heads are in charge of their departments and agencies.

Representative Hoyer 2

Question

• How much money has the federal government spent hiring and then later firing probationary employees? Does OMB have an estimate?

o Among the terminated probationary employees, do you know how many of those separated were in probationary status due to recent promotion?

o How much is it costing the government to fire and later rehire federal employees due to agency reversals of mission critical positions?

o Does OMB have a cost estimate related to separation incentives and early retirement payments?

Response

Probationary and trial periods are intended to be used by agencies as an extension of the hiring process. Agencies are responsible for any associated implementation costs within their existing resources.

Representative Hoyer 3

Question

• Federal law requires the provision of back pay to federal workers who are found to have been the victim of a wrongful adverse personnel action, including dismissal. Is OMB monitoring agencies' implementation regarding the provision of backpay and reinstatement of benefits to wrongly terminated employees?

o How much are we paying for Temporary Continuation of Coverage for reinstated federal workers? How much for FEHBP premiums for reinstated federal workers?

Response

Each agency is responsible for complying with legal requirements governing employee pay. The Office of Personnel Management (OPM) serves as the primary agency responsible for the Federal Health Benefits Program (FEHBP). As such, OPM, and individual employing agencies are best positioned to provide you with the most accurate and up to date information on FEHBP.

Representative Hoyer 4

Question

- How many federal employees are currently on administrative leave?
    - What are the costs associated with these individuals, in both benefits and pay?
    - How much money has the federal government spent on salaries for workers placed on administrative leave during this administration?

Response

Although the Office of Personnel Management (OPM) initially established and managed the Deferred Resignation Program (DRP), the DRP has since become a workforce shaping tool that agencies are able to use at their discretion. OPM is responsible for establishing the DRP framework while agencies are now responsible for managing implementation, exclusions, timing, and some agency level adjustments. Agencies are also responsible for any associated implementation costs within their existing resources. We currently estimate that over 150,000 federal employees have participated at this time.

Representative Hoyer 5

Question

• How many federal employees are currently in the “Leave Without Pay” status?

Response

Leave without pay (LWOP) is a temporary nonpay status and absence from duty that, in most cases, is granted at the employee's request. For example, an employee is entitled to LWOP under the Family Medical Leave Act. LWOP use has not been centrally tracked by OMB previously, and we are not collecting that data from agencies currently.

Representative Hoyer 6

Question

• How much money has the executive branch spent litigating challenges to federal employee personnel actions?

Response

The Constitution vests the President of the United States with the authority to oversee and manage the Executive Branch. Frivolous lawsuits and unconstitutional universal injunctions have sought to prevent the President from exercising his Constitutional authority to create an efficient government that is accountable to the American people. These actions must be fought vigorously, and OMB currently is not collecting data from agencies on the cost to fight these lawsuits and challenge unconstitutional injunctions in order to uphold the President's authority to enact the reforms the American people elected him to implement.

Representative Hoyer 7

Question

• We agree with you that OMB's career team is an example of the federal workforce at their absolute and most professional best. You requested additional staff for OMB in the FY26 request; can you provide a detailed breakdown of how you expect to allocate those staff to bolster the ranks of OMB?

Response

We will be filling positions across our entire team and prioritizing positions in key Administration priority areas.

The FY 2026 budget request provides 20 new FTE to support informing Administration's decisions on national security and other policies and resource requirements, including implementation of historic increases in defense and border security, unleashing America's affordable and reliable energy and natural resources, and momentous changes across the Federal Government increasing its efficiency and effectiveness.

By comparison, GAO's FY26 budget request was $934M, a $122M increase above FY25 enacted. That's a 15% increase. Their FY26 proposed staffing level is 3,528 FTEs, compared to 533 for OMB. GAO aspires to be seven times as large as OMB.

Representative Hoyer 8

Question

On March 17, I sent a letter expressing my concern regarding the commencement of large-scale reductions in force and reorganization of agencies within this Committee's jurisdiction. I have yet to receive a reply to my letter – thus I am requesting clarity as to why and restating the questions therein. Question:

- Please provide the full number of Federal civilian employees, including those in full and parttime status, employed by the Executive Office of the President, categorized by agency of employment, occupation, and duty-station location for each week beginning January 20, 2025.
- Please provide the number of probationary employees terminated by your department, categorized by agency of employment, occupation, and duty-station location, for each week beginning January 20, 2025.
- Please provide plans for reinstating probationary employees if the courts determine that such firings were unlawful.
- Please provide the number of employees who participated in the Deferred Resignation Program, categorized by agency of employment, occupation, and duty-station location.
- Provide subsequent weekly reports regarding the Executive Office of the President's Federal civilian employees, including at minimum, the number of full and part-time employees, occupations, agency of employment, and duty-station location. The report should also include the number of federal employees who were separated and later reinstated, as well as the number of employees reinstated and put on administrative leave

Response

OMB is only one component within the Executive Office of the President (EOP). EOP operations are handled by the Office of Administration -- not OMB. As such, OMB would not have the EOP information you have requested.

Representative Hoyer 9

Question

• Why did Jeremy Lewin send an email on Saturday April 12 from his USAID account, assisting you and other CFPB leadership staff on the illegal April RIF? Is Jeremy Lewin authorized to conduct CFPB business on his USAID email? This email was produced by the CFPB in the NTEU v Vought case.

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 10

Question

• Why did you illegally terminate more than 200 CFPB employees on February 11th and 13th, including pregnant employees and individuals with serious medical conditions? Our office has received numerous reports from affected individuals describing significant emotional distress resulting from the abrupt nature of these terminations, the sudden loss of income, and the disruption of healthcare coverage.

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 11

Question

• What justification is there for the illegal termination of 1,500 employees on April 17th, particularly considering a judicial order that had mandated a pause in such actions? There has been absolute chaos in these illegal firings. We have received alarming reports from former employees detailing severe consequences, including disruption to health insurance coverage and related hardships.

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 12

Question

• What are the plans for the CFPB headquarters? The CFPB is not able to cancel the lease it has with the OCC, only the OCC may cancel the lease. Has the OCC cancelled the sublease to CFPB HQ? We understand that all current employees have ordered to clean out their personal belongings from the building this week.

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 13

Question

• Which trainings did DOGE personnel take, if any? Can you describe to me what the proper procedures are at CFPB to safeguard Confidential Supervisory Information (CSI), of financial institutions? Can you promise this Committee that no DOGE staff accessed proprietary trade data or CSI of large banks?

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 14

Question

• What is the rationale behind the apparent shutdown of the CFPB's Enforcement and Supervision functions, which are mandated by Congress?

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 15

Question

• In January 2025, the CFPB had proposed a draft rule to clarify that consumer protections under the Electronic Fund Transfer Act also apply to cryptocurrencies, including and stablecoins. This proposal also clarified that the anti-fraud protections in EFTA apply to certain video games. Why has the CFPB, under your leadership, abandoned these efforts to ensure consumers are made whole when their cryptocurrency or video game accounts are hacked?

Response

I testified before the House Appropriations Committee in my capacity as the Director of the Office of Management and Budget.

Representative Hoyer 16

Question

• Do you agree that apportionments are legally binding on agencies?

Response

Apportionments are predecisional and deliberative internal executive branch documents that are not final agency actions. Apportionments represent internal Executive Branch directives from OMB, exercising delegated authority from the President, to agencies that are legally binding upon agencies.

Representative Hoyer 17

Question

• Do you concur with the statement that apportionments are a tool that the administration can use to limit spending of appropriations?

Response

The law requires time-limited funds to be apportioned so that they are not spent at rates that would indicate a need for additional appropriations, and requires funds without time limitations to be apportioned to achieve their most effective and economical use.

Representative Hoyer 18

Question

• When Congress directs an appropriation to an agency, and OMB apportions money directly to the agency, do you concur that means the agency receiving the appropriation and apportionment is the same agency that must spend the money?

Response

Appropriations, as apportioned, must be spent consistent with underlying law.

Representative Hoyer 19

Question

• Is it accurate to say that the administration has no plans to have USAID, rather than State, spend any of USAID's appropriations?

Response

All funds appropriated to USAID are under the authority of the Secretary of State.

Representative Hoyer 20

Question

• Do you expect USAID to spend its expiring appropriations before funds expire at the end of the fiscal year?

Response

OMB is working with the Department of State to review all foreign assistance funds in accordance with the law and court orders.

Representative Hoyer 21

Question

• You are legally required by Section 204 of Division E of the CAA 2023 to operate a publicly available automated system regarding apportionments – it was taken down March 24, violating the law and transparency requirements. Apportionments are final agency actions, so your claims of pre-deliberations are false.

o Will you commit to following the law and putting it back up?

o Are you or other political appointees signing agency apportionments right now? How frequently are apportionments happening?

Response

The automated apportionment system has been restored and includes all of the apportionments OMB has approved since March 24, 2025.

As I did in the first Trump Administration, I have delegated the authority to approve apportionments to the Program Associate Directors at OMB. This is appropriate because policy leadership should have the burden and responsibility of making these important funding decisions. Apportionments are being approved as necessary to carry out authorized programs, projects, and activities, consistent with all applicable legal requirements.

Representative Hoyer 22

Question

• You have floated the idea of a pocket recession as being legally viable. Setting aside the Constitutional issues with this view, it is not the only way you have attempted to zero out programs. In your view, are mass layoffs (in other words a Reduction in Force of 100% of staff in a given program) similarly legal avenues for the executive branch to impound funds legally appropriated by Congress?

Response

A RIF is a workforce shaping tool the Executive Branch uses to structure agencies to align with mission requirements. This is legally separate from the authority provided to the President by the Impoundment Control Act.

Representative Hoyer 23

Question

• Are all independent agencies sending regulations to OIRA for review? Are rules being reviewed by the White House before or after votes of the commissioners of the independent agencies and commissions?

Response

Section 3 of EO 14215, "Ensuring Accountability for All Agencies," requires that, as of April 21, 2025, formerly independent agencies begin submitting all proposed and final significant regulatory actions to OIRA for EO 12866 review. As a result, over 25 agencies are complying with EO 12866 for the first time. The transition to full compliance has been fairly smooth for agencies. Regarding votes by commissioners taking place before or after OIRA review, this practice varies across agencies, with some adjusting voting requirements and revising rulemaking timelines to accommodate OIRA review. In the meantime, OIRA is reviewing significant rules issued by formerly independent agencies. Information about these reviews is available on https://www.reginfo.gov/public/.

Representative Hoyer 24

Question

• Do members of DOGE participate in interagency review of regulations? Are DOGE individuals permitted to review regulations if there are financial or personal relationships to the subject matter or regulated entities?

Response

As part of EO 12866 interagency review, OMB may share significant draft regulations with offices within the Executive Office of the President and with other executive branch agencies that have equities or expertise. Individual federal employees are generally responsible for compliance with statutory requirements governing their financial conflicts of interest (See 18 U.S.C.§ 208) and regulations governing personal and business relationships (See 5 C.F.R. § 2635.502).

Representative Hoyer 25

Question

• Please provide greater detail on what the $100 million included in reconciliation for deregulatory efforts is for? What capabilities would be enhanced and how many FTEs would be included in such an effort?

Response

The provision you are referring to in this question was not included in the version of the bill that was signed into law. The One Big Beautiful Bill Act provided $100 million to the Office of Management and Budget for purposes of finding budget and accounting efficiencies in the executive branch.

Representative Hoyer 26

Question

• HHS on February 28, issued a policy statement limiting the circumstances under which HHS agencies must publish proposed rules for public comment before finalization. Is OMB continuing to review regulations that will not undergo notice and comment, particularly related to grants, benefits, or contracts?

o How is OMB defining which HHS regulations must undergo notice and comment? Are major federal benefits included in such a definition, such as Medicaid and Medicare?

o What are considered appropriate circumstances that would constitute a “good cause” for an exemption? How does this comport with the ruling of the DC Circuit in Mack Trucks v. EPA that the good cause exception is to be narrowly construed and only reluctantly countenanced?

o Are guidance documents subject to this procedural policy shift regarding public participation?

o Will repeal of agency regulations continue to follow proper process of notice and comment, consistent with the Administrative Procedures Act? o How does forgoing public comment serve “the public interest?”

Response

In accordance with EO 12866, OMB reviews "significant" regulatory actions. Generally, significant regulatory actions are those that have an effect on the economy of $100 million or more, create inconsistency with actions of other agencies, materially impact the budgetary impact of entitlements, grants, user fees or loans; or raise novel legal or policy issues. Rules that meet these criteria are reviewed by OMB whether or not notice and comment are required by the Administrative Procedure Act (APA).

Federal agencies, advised by their general counsel offices, have primary responsibility for ensuring that their regulations and guidance documents comply with applicable laws and statutes, such as the APA, and whether good cause or other exceptions to the APA's notice and comment requirements are appropriate to the circumstances of any particular regulation or guidance document. As part of the interagency review process conducted by OMB, rules are shared with offices and other agencies with equities and expertise, including DOJ and other offices with legal expertise, and the applicability of the APA's notice and comment provisions to a given rule can be part of OMB's review.

Representative Hoyer 27

Question

• Please specify how OIRA is ensuring statistical agencies continue to maintain CIPSEA protections and whether data has been shared with DOGE individuals from CIPSEA-covered agencies for non-statistical purposes.

o Are there data sharing agreements between the DOGE Temporary Organization and any CIPSEA-covered agency?

Response

Agencies that acquire information under a pledge of confidentiality and for exclusively statistical purposes restrict access to the information in accordance with the pledge and other provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA). As part of OMB's process for approving information collections under the Paperwork Reduction Act, OMB works with agencies to ensure the data protections asserted to the respondents are appropriate. Each OMB-recognized statistical agency or unit with CIPSEA-protected data is required to track access to the data and issue annual reports on their compliance with CIPSEA data protections and the designated agents that have restricted access privileges. Questions about access to any specific CIPSEA-protected data asset, including any data sharing agreements with other federal entities, or designated agents with authority to access such data assets should be directed to the collecting agency.

Representative Hoyer 28

Question

• Who is the current Administrator of DOGE?

Response

Cabinet Agencies are in charge of the DOGE employees.

Representative Hoyer 29

Question

• What is your role in relation to the US DOGE Service?

Response

Pursuant to Executive Order 14158, the United States Digital Service was publicly renamed and reformed as the United States DOGE Service (USDS) and was established in the Executive Office of the President. USDS reports to the White House Chief of Staff. USDS will continue its work with the EOP, but the agencies are in charge of the USDS employees.

Representative Hoyer 30

Question

• How many people have been hired into the U.S. DOGE Service Temporary Organization? o How much money has been spent on salaries of DOGE employees?

Response

This question should be directed to the U.S. DOGE Service.

Representative Hoyer 31

Question

• How are you distinguishing between the Temporary DOGE Organization and DOGE? o How many individuals are working for the Temporary DOGE? o How many DOGE individuals have transitioned from temporary or special government employees into full time government hires? o The FY26 budget request includes $45 million in funding for DOGE, including 150 full-time equivalent employees. Are those employees intended to be temporary employees? How is OMB distinguishing between employees intended for the temporary organization?

Response

The 150 FTEs reflected in the 2026 Budget are not part of the Temporary Organization, and will be focused on IT modernization efforts. Other questions should be directed to the U.S. DOGE Service.

Representative Hoyer 32

Question

• Have any individuals who are not federal employees been given access to government data systems?

Response

This question should be directed to the U.S. DOGE Service.

Representative Hoyer 33

Question

• How many interagency agreements does DOGE have with agencies to perform services? Have additional apportionments been made to fund DOGE services?

Response

As of September 15, 2025, DOGE has 7 active interagency agreements with different agencies. Apportionments are posted on the public apportionment system.

Representative Hoyer 34

Question

• DOGE has been recruiting for an Ethics and FOIA Advisor. How many people received this solicitation to interview for this role?

o Does DOGE concur that it is subject to ethics obligations and FOIA? If so, please specify.

o What legal standards will this individual be holding DOGE activities to?

o What is the reporting structure for the DOGE FOIA Office?

Response

These questions should be directed to the U.S. DOGE Service.

Representative Hoyer 35

Question

• You've stated that DOGE will be more institutionalized at agencies. What is the reporting structure for this institutionalization? Who do DOGE individuals at agencies report to, Agency Heads or the White House?

Response

The Cabinet Agency leaders are in charge of DOGE employees. DOGE will continue its work with the EOP.

Representative Hoyer 36

Question

• How much has DOGE saved the American taxpayer? Is OMB maintaining records regarding DOGE's activities and purported savings?

Response

DOGE is maintaining a record of savings at www.doge.gov/savings.

Representative Hoyer 37

Question

• Have all DOGE members completed financial disclosure forms and ethics training?

Response

This question should be directed to the U.S. DOGE Service.

Representative Hoyer 38

Question

• What proportion of ITOR's "no year funds" have gone to DOGE in this FY?

Response

Upon the President's signing of Executive Order 14158, Establishing and Implementing the President's, "Department of Government Efficiency," renaming the United States Digital Service to the United States DOGE Service and establishing the entity as a separate component of the EOP, $750,000 of ITOR's no-year-funds were transferred to DOGE.

Representative Hoyer 39

Question

• How much of ITOR funds are currently obligated? How much of that is obligated to DOGE-related activities?

Response

$10,179,619 in ITOR funds are obligated to-date.

OMB has not obligated funding for DOGE Activities. Funding that was transferred to DOGE from the ITOR account is obligated by DOGE in its separate DOGE account, and is not obligated in the ITOR account.

Representative Hoyer 40

Question

• Since Inauguration Day, OPM and GSA have been significantly more muscular in asserting their leadership over the bureaucracy, often at the expense of OMB's traditional role, issuing direction without the OMB Director's signature listed. For example, OPM just released several policy memos about federal hiring that create significant unfunded requirements related to management policy.

o Can you describe your role in issuing these policies and advocating for OMB's traditional equities?

o Should Congress assume that you have ceded that responsibility for management to OPM and GSA?

Response

OMB has not ceded any responsibility and works collaboratively with OPM and GSA.

Representative LaLota

Representative LaLota 1

Question

For public universities managing tight budgets and planning multi-year research or aid programs, delays in federal funding distribution can disrupt operations and student services. Congress has directed these funds to be allocated—delays only create more uncertainty and inefficiency.

1. What are OMB's specific plans to ensure that all FY2025 appropriated funds for institutions of higher education are distributed on schedule and with maximum transparency, as directed by Congress?

2. What accountability measures are in place to prevent further delays?

Response

OMB is committed to restoring fiscal discipline and ensuring that all funding aligns with Administration priorities and meets the needs of ordinary Americans. To that end, OMB is working with each agency to carefully review all spending to ensure it meets these criteria. To comply with the President's memorandum to agencies "Radical Transparency about Wasteful Spending," agencies have publicly shared information about discontinued grants and contracts. OMB is working with agencies to ensure that agency reviews of spending are thorough and move at the appropriate pace.

Representative LaLota 2

Question

The Administration's proposed reductions to research and development funding will directly affect public universities that contribute to regional innovation and national security. In particular, land-grant and state research institutions drive advances in agriculture, energy, defense, and health sciences.

1. How does OMB reconcile these cuts with the Administration's stated goals of economic competitiveness and technological leadership—especially when peer nations like China are increasing their investments in university-based R&D?

Response

In the past, agencies have funded low priority areas of science and research of dubious public value, including at public universities, such as "Latinx" representation in engineering and identifying "systemic racism in mathematics." This type of research has arguably made our nation weaker, undermines the Constitution's guarantee of racial equality, and is not a productive use of taxpayer dollars. The 2026 Budget request maintains R&D funding in areas of national importance and also restores the role of private sector investment to provide additional support to other R&D fields.

Representative LaLota 3

Question

Public research universities in my district help drive regional innovation, national security, and American competitiveness. Yet the Administration is proposing cuts that could undermine this ecosystem—especially at institutions that don't have billion-dollar endowments.

1. How does the Administration prioritize research and development funding at public colleges and universities, particularly those that serve rural and economically diverse populations?

2. What is OMB's plan to safeguard America's leadership in science and innovation amid these proposed reductions?

Response

The President's 2026 Budget maintains funding for economically diverse students through Pell grants and welcomes the opportunity to work with Congress to address its funding challenges. The 2026 Budget request maintains R&D funding in areas of national importance and restores the role of private sector investment to support other R&D fields. In support of Executive Order 14303 "Restoring Gold Standard Science," OMB is also working with the Office of Science & Technology Policy and agencies to reinstate scientific integrity policies to ensure that science is no longer manipulated or misused to justify political ends.

Representative LaLota 4

Question

With multiple federal agencies supporting higher education—often with overlapping missions—coordination is key to eliminating redundancy and improving efficiency. Institutions in fiscally conservative districts expect federal dollars to be targeted, transparent, and results-oriented.

1. How is OMB improving coordination with agencies like the Department of Education, NSF, and NIH to reduce administrative burdens, streamline funding applications, and ensure that federal higher education dollars are aligned with both national priorities and local workforce needs?

Response

OMB is in a unique position and uses its annual budget process to review spending within and among agencies and departments for similar purposes and overall objectives on behalf of the President. Further, per Executive Order 14192 "Unleashing Prosperity Through Deregulation," OMB is working with agencies to conduct an exhaustive review of all regulations and policies to reduce administrative burden on awardees. Additionally, OMB is working with agencies to reduce programmatic duplication and reviewing all funding to ensure that it is aligned with national priorities.

Representative LaLota 5

Question

1. While GSA's authority was expanded through EO 14240 to include the U.S. Government's acquisition of "common goods and services" and "Government-wide acquisition contracts for information technology", what jurisdiction does GSA have to review contracts outside this scope that are not associated with DOGE and GSA, especially contracts related to critical national security missions?

Response

GSA is best positioned to provide you with their specific legal authorities. The consolidation initiative is focused on common spending, not mission specific requirements, such as those related to critical national security missions. OMB is working with GSA to determine what contracted work is suitable for consolidation, which tends to be simple, mission agnostic work – not critical national security requirements.

Representative LaLota 6

Question

2. If GSA somehow does have the authority to review all contracts including within the Department of Defense, would it not be prudent for the Office of Defense Pricing, Contracting and Acquisition Policy office to have final say into the modification of any DoD contracts, especially those that could have serious national security implications that are outside GSA and DOGE's area of responsibility?

Response

Contracting authority rests with the awarding agency. This includes the authority for making changes to existing contracts. As such, OMB would expect DOD, not GSA, to make final decisions regarding the management of its contracts.

Representative LaLota 7

Question

3. During the contract review process, what standard or metrics are GSA basing their determinations on regarding if a contractor provided enough cost savings, and why is that standard not communicated to the contractor?

Response

GSA is best positioned to provide you with the information you've requested as to their contract review process. As such, I suggest this question be directed to GSA.

Representative LaLota 8

Question

4. What authority does GSA have to forbid a contractor from discussing potential contract modifications with their government customer? Should GSA personnel be held liable for making these requests when they may be in direct violation of the contracts they are reviewing?

Response

Contracting authority rests with the awarding agency, including the authority for making changes to existing contracts.

WITNESSES

	Page
Atkins, Paul	3
Carr, Brendan	41
Prepared statement	44
Vought, Russell	93
Prepared statement	96