

Economic Policy Priorities for the Remainder of the Trump Administration's First Term

Edited by Daren Bakst and Gabriella Beaumont-Smith

KEY TAKEAWAYS

As the Trump Administration's first term comes to a close, there are still many economic policy reforms that Congress and the Administration should implement.

In addition to Congress passing legislation, the Administration should finalize regulations in the pipeline, issue new executive orders, and draft new guidance.

Adopting the listed economic priorities will promote individual freedom and economic growth, and expand opportunities for all Americans.

As the Trump Administration's first term comes to a close, there are still many economic policy reforms that Congress and the Administration should adopt. In addition to Congress passing legislation, federal agencies should finalize rules that have been in the regulatory pipeline; and the Administration, among other things, should issue new executive orders and draft new guidance documents.

This *Backgrounder* identifies many economic policy priorities for both Congress and the Administration that should be pursued through the first term. These policy priorities cover energy and environment, financial regulation and housing, food and agriculture, governmental reform, labor and employment, tax and spending, and trade. The priorities will promote individual freedom and economic growth, and expand opportunities for Americans and their families.¹

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I. Economic Policy Priorities for the Trump Administration

There are many important economic policies that the Administration should implement on its own before the end of the current term. A significant number address energy and environmental issues, which is in large part a reflection of the Administration's extensive work in these areas. However, there are many other issues as well, from governmental reform to improve the accuracy of federally disseminated information to finalizing a labor regulation that would clarify the definition of independent contractors. Table 1 lists these priorities, which are explained in more detail below under "Economic Policy Priorities for the Administration."

Energy and Environment

The following are policy priorities for the Administration on energy and environmental issues:

The Bureau of Land Management (BLM) Should Conduct Lease Sales on Federal Lands. The BLM, which is part of the Department of the Interior, should continue to auction off oil and gas rights on federal lands in the continental U.S. and Alaska. The federal government owns nearly half the land in the 11 contiguous Western states and 60 percent of Alaska, and energy production is an integral part of these states' economy and budget.² Finalizing lease sales will provide opportunities for expanded energy production, more jobs, and increased revenue for states and even America's national parks.³ The year 2021 could bring excessive restrictions or outright bans on new oil and gas exploration permits on federal lands. As legally dubious as a prohibition on new oil and gas lease sales may be, the prospects of a new Administration attempting to impose such a prohibition makes finalizing any lease sales all that more imperative.

The BLM Should Conduct Lease Sales in the Arctic National Wildlife Refuge (ANWR) in Alaska. The BLM recently published a call for nominations for companies to identify tracts of land to bid on for the BLM's forthcoming oil and gas lease sale in the energy-rich ANWR.⁴ The BLM should finalize this lease sale as required by the Tax Cuts and Jobs Act of 2017. The potential for energy production and job creation is significant, while the environmental impact will be minimal. Only about 8 percent of the 19-million-acre refuge is open for exploration and development, and the total surface area covered by production and support facilities would be a fraction of 1 percent of the total refuge.⁵

TABLE 1

Economic Policy Priorities for the Administration

ISSUE AREA	ECONOMIC POLICY PRIORITIES
Energy and Environment	BLM should conduct lease sales on federal lands
	BLM should conduct lease sales in the Arctic National Wildlife Refuge in Alaska
	DOE should finalize modification of “showerhead” regulation
	The EPA should properly address the abuse of ancillary benefits
	The EPA should finalize its science transparency rule and require underlying data and models to be made available to the public
	The EPA should finalize the retention of the current ozone and particulate matter standards
	The Forest Service should complete guidance on implementation of the Great American Outdoors Act
	OMB should develop guidance on the social cost of carbon if it is to be used in policymaking
	OMB should require guidance for assessing the economic costs and the climate impact of proposed energy policies
Financial Regulation and Housing	President Trump should refrain from extending the eviction moratorium, allowing it to expire at the end of the year
	The Financial Crimes Enforcement Network should withdraw its new cross-border remittance rule
	The SEC should finalize the proposed exemptive order for certain activities of “finders”
	The FHFA and Treasury should end the government conservatorships for Fannie Mae and Freddie Mac
Food and Agriculture	DHS should extend the date of H-2A petitions
	The USDA and HHS should reject flawed recommendations when finalizing the 2020 Dietary Guidelines
Governmental Reform	OMB should issue guidance to clarify and strengthen the Information Quality Act
	President Trump should issue an executive order directing agencies to enforce subrecipient reporting requirements and terminate grant agreements with grantees that fail to comply
	OMB should issue a regulation barring federal grantees or their subsidiaries from suing the government under Title V of the Administrative Procedure Act
Labor and Employment	DOL should finalize its rule to provide greater clarity on the definition of “independent contractor” for general industry
	President Trump should revoke Executive Order 13502

Alaskans understand that energy development, tourism, recreation, and wildlife protection co-exist harmoniously, which is why the majority of Alaskans support development. The Alaskan state legislature supports opening ANWR, as has every Member of the Alaskan congressional delegation, and every Alaskan Governor, for the past 40 years.⁶ Tribal corporations and Native villages support the decision. The people of Kaktovik, the only

indigenous village in the refuge who rely on the land and wildlife for subsistence, own mineral rights and support development.⁷

The Department of Energy (DOE) Should Finalize Modification of “Showerhead” Regulation. The DOE is proposing⁸ to modify the definition of household “showerhead” to allow multiple components within a single device to be regulated as individual fixtures, consistent with the most recent standard developed by the American Society of Mechanical Engineers (ASME)—and in keeping with federal statute.⁹ If finalized, the modified definition would conform to congressional intent and, perhaps more important, allow manufacturers to offer alternatives to the trickle of spray produced by “low-flow” showerheads.

The Environmental Protection Agency (EPA) Should Properly Address the Abuse of Ancillary Benefits. The EPA recently proposed a rule with the stated intent of improving the consistency and transparency of cost-benefit analysis in Clean Air Act (CAA) rulemaking.¹⁰ In any rule, the EPA needs to address the agency’s long-standing abuse of indirect benefits (ancillary benefits). For years, the EPA has promulgated rules without justifying why it is regulating the pollutant that is the focus of the regulation. Instead, it has relied on ancillary benefits from regulating unrelated pollutants, especially particulate matter. This is a problem because the EPA does not have to justify the purpose of many of its air rules. It can also do legal end-runs around the CAA.¹¹

The EPA should clarify in the regulatory text how ancillary benefits will be applied in CAA rulemaking. At a minimum, ancillary benefits should play no more than an ancillary role in deciding whether to move forward with a regulation. A better approach would be to allow ancillary benefits to play, at most, a *de minimis* role in deciding whether to promulgate a CAA rule, especially when there are end-runs around the law.¹²

The EPA Should Finalize Its Science Transparency Rule and Require Underlying Data and Models to Be Made Available to the Public. There is wide agreement that there is a lack of transparency when it comes to agency use of science.¹³ In 2018, the EPA proposed a rule¹⁴ to address this problem and published a supplemental notice in 2020.¹⁵ In the final rule, the EPA should impose clear requirements to ensure that, when the EPA develops regulations or disseminates information, it will provide the public the necessary information, including data and models, to evaluate the integrity of the science.

The EPA should address any legitimate privacy, confidentiality, and confidential business information concerns. The agency is more than capable of doing so, and these narrow concerns should not be an excuse

to undermine the broader transparency effort. In general, there would be no reason not to disclose the underlying information to the public. However, when there are *genuine* reasons that would prevent the disclosure of underlying information to the public, the EPA should still consider these studies, but place less weight on them. But, when the underlying information is not being provided due to illegitimate concerns, these studies should be excluded; if there is no legitimate reason why experts and the public are unable to review the merits of the science, the EPA would be irresponsible for considering these studies.

The EPA Should Finalize the Retention of the Current Ozone and Particulate Matter Standards. Every five years, the EPA Administrator is supposed to review, and if appropriate, revise the standards for the six major air pollutants regulated under the National Ambient Air Quality Standards. Ground-level ozone, the main ingredient in smog, and particulate matter are two of these pollutants. In 2020, the EPA proposed its decision to retain the current ozone standards¹⁶ and another decision to retain the current particulate matter standards.¹⁷ Both of these decisions were carefully considered and consistent with the science, including recommendations made by the EPA's Clean Air Scientific Advisory Committee.¹⁸

The Forest Service Should Complete Guidance on Implementation of the Great American Outdoors Act (GAOA). The recently enacted GAOA addresses deferred maintenance on federal lands and reprograms the Land and Water Conservation Fund (LWCF) as a mandatory spending program administered by the executive branch¹⁹ through the National Park Service, Fish and Wildlife Service, and the BLM under the U.S. Department of the Interior (DOI), and the Forest Service under the U.S. Department of Agriculture. According to the new law, Congress can develop an allocation plan for the annual \$900 million available through the LWCF, but if it allocates less than this amount, control over the remainder resides with the President.²⁰

Given the budgetary discretion that Congress delegated to the executive, the DOI issued criteria to update internal management and implementation of the LWCF to better reflect the GAOA and the purposes Congress stipulated for the LWCF.²¹ The DOI's order prioritizes public access to outdoor recreation as clearly established by Congress, emphasizes access in urban areas, protects private property owners, and puts a premium on cooperation rather than conflict with states by first requiring written support from governors and county governments for federal land acquisitions. The Forest Service should update its LWCF implementation policies in similar fashion.

The Office of Management and Budget (OMB) Should Develop Guidance on the Social Cost of Carbon (SCC) if It Is to Be Used in Policymaking. The SCC is a metric designed to quantify the economic impact of carbon-dioxide emissions. Heritage Foundation analysts, both in Heritage Foundation publications as well as the peer-reviewed literature, have demonstrated that the metric is extremely sensitive to very reasonable changes to assumptions and thus highly susceptible to user-manipulation.²² Therefore lawmakers should not use the SCC in policymaking, and agencies should not use the SCC in regulatory impact analyses. The OMB should bar agencies from using the SCC as a metric.

If the SCC is going to be used by federal agencies, however, the OMB should require that estimates be made over a wide range of assumptions, including mean climate-sensitivity assumptions encompassing the entire recommended range of 1.5 to 4.5 degrees Celsius suggested by the Intergovernmental Panel on Climate Change.²³ Furthermore, in addition to other discount rates used, the OMB should require a discount rate of 7 percent as part of such cost-benefit analysis as the OMB has done in the past.²⁴

The OMB Should Require Guidance for Assessing the Economic Costs and the Climate Impact of Proposed Energy Policies. The OMB should require that energy policy proposals include an assessment of both the potential economic and climate impacts. Recent Heritage research has demonstrated that the Green New Deal, which aimed to zero out U.S. carbon-dioxide emissions by 2050, would result in an average annual employment shortfall of over 1.1 million lost jobs and a gross domestic product loss of more than \$15 trillion (over 20 years) while yielding less than 0.2 degrees Celsius global temperature mitigation and a reduction in sea-level rise of less than 2 centimeters.²⁵ The National Energy Modeling System used by the Energy Information Agency is a model that the OMB should suggest for analyzing the economic impact of these policies.²⁶

Since lawmakers are often concerned about the climate impact of various energy policies,²⁷ the OMB should provide guidance on measuring the influence on U.S. temperatures and sea-level rise of each proposed policy. The Model for the Assessment of Greenhouse Gas Induced Climate Change (MAGICC) can assess the climate impacts of greenhouse-gas regulations. The OMB should provide guidance that the MAGICC model be used for quantifying climate impacts of these types of regulations, under a variety of reasonable assumptions.²⁸

Financial Regulation and Housing

The following are policy priorities for the Administration on financial regulation and housing issues:

President Trump Should Refrain from Extending the Eviction Moratorium, Allowing It to Expire at the End of the Year. President Donald Trump issued an executive order implementing an eviction moratorium for residential rental properties until the end of 2020.²⁹ This order was predicated on powers granted by the Public Health Services Act to prevent the spread of communicable diseases.³⁰ But the order itself indicates that the ban is meant as an economic relief measure, not as a tool to protect the public from the spread of disease. For instance, the moratorium excludes people who are not in poverty, or who are otherwise able to pay their rent. A blanket moratorium that fails to focus on tenants infected with COVID-19 strays far from the express intent of the law: preventing the international or interstate spread of communicable diseases.

In the midst of the current economic storm, the President's desire to help to revive the economy and give relief to Americans who continue to suffer is understandable especially given the congressional stalemate over another relief bill. However, creating economic policy through executive order threatens a further encroachment of the executive branch upon the legislative branch. The eviction process serves as a safeguard to protect the private property rights essential to ensuring an ample supply of safe, affordable housing. State or local governments wishing to provide COVID-19 rental relief should do so through transparent, democratically implemented assistance.

The Financial Crimes Enforcement Network Should Withdraw Its New Cross-Border Remittance Rule. This newly proposed rule,³¹ which was issued without an advanced notice, would lower the threshold that triggers suspicious activity reports for electronic transfers from \$3,000 down to \$250. Lowering the threshold is exactly the wrong approach. Financial firms already file millions of suspicious activity reports (among other reports) each year to comply with anti-money-laundering rules, and there is good reason to believe that this regulatory regime is counterproductive.³² Dropping the reporting thresholds even further is likely to push many transactions underground, making it even more difficult to trace criminal activity.

The Securities and Exchange Commission (SEC) Should Finalize the Proposed Exemptive Order for Certain Activities of Finders. A "finder" is a person who is paid to assist small businesses in finding capital from time to time by making introductions to investors—either as an

ancillary activity to some other business (such as the practice of law, public accounting, or insurance brokerage), as a Main Street business colleague or acquaintance,³³ or as a friend or family member of the business owner.³⁴ They are typically paid a small percentage of the amount of capital that they helped the business owner to raise. Finders play an important role in introducing entrepreneurs to potential investors, thus helping them to raise the capital necessary to launch or grow their businesses.³⁵

The proposed exemptive order³⁶ would ensure that finders who simply make introductions and provide basic information do not have to register as broker-dealers and therefore avoid being regulated the same as large investment banks. It would create two tiers of finders. Tier II would be required to meet certain requirements but be lightly regulated. Tier I finders would be largely unregulated but would be prohibited from even speaking to investors and could only assist with one transaction annually. They would essentially be able only to provide their contact list to entrepreneurs who would then make cold calls. The Tier I category is markedly too narrow and should be improved.³⁷ The proposed order will certainly help a great number of entrepreneurs in middle America and those from less affluent backgrounds to raise needed capital. It will help to democratize access to capital, substantially clarify the rules governing finders,³⁸ and reduce transaction costs and barriers to entry.

The Federal Housing Finance Agency (FHFA) and the Department of the Treasury Should End the Government Conservatorships for Fannie Mae and Freddie Mac. On November 18, 2020, the FHFA finalized a new capital requirement rule for the government-sponsored enterprises.³⁹ This new FHFA rule requires Fannie Mae and Freddie Mac (combined) to carry as much as \$280 billion in equity capital once they exit conservatorship. While Congress did not intend for conservatorship to be permanent, Fannie Mae and Freddie Mac have been under federal control since 2008. The Administration should release the companies so that they can build private capital and protect Americans from future losses.⁴⁰ Historically, the lack of meaningful capital rules helped to fuel the companies' abnormal growth and, therefore, the outsized risk that they posed to the housing finance system, borrowers, and taxpayers. If Fannie Mae and Freddie Mac are going to exist, it is imperative that they operate with higher loss-absorbing equity capital similar to the requirements of large U.S. banks.⁴¹

Food and Agriculture

The following are policy priorities for the Administration on food and agricultural issues:

The Department of Homeland Security (DHS) Should Extend the Date of H-2A Petitions. The coronavirus pandemic has shifted supply chains and resulted in many business closures—60 percent will be permanent.⁴² In order to avoid disruptions to the food supply, the DHS temporarily changed restrictions on non-immigrant H-2A visas for agricultural workers in April 2020. This adjustment allows immediate employment of non-immigrant workers after the H-2A petition is received by U.S. Citizenship and Immigration Services, and it extends H-2A visas beyond the three-year maximum.⁴³ The DHS extended this rule on August 20, 2020, to all petitions received between August 19, 2020, and December 17, 2020.⁴⁴

The DHS should extend this rule again so that employers can file H-2A petitions until food supply chains are no longer likely to be at risk from the pandemic. In order to prevent food shortages and disruptions to food supply chains, employers in the agricultural industry should be given flexibility in hiring new employees and allowing workers to remain in the United States to meet consumers' needs.

The U.S. Department of Agriculture (USDA) and the U.S. Department of Health and Human Services (HHS) Should Reject Flawed Recommendations when Finalizing the 2020 Dietary Guidelines. Developed every five years by the USDA and HHS, the Dietary Guidelines for Americans play a critical role in the formulation of federal nutrition policy.⁴⁵ The USDA and HHS consider the recommendations of the influential Dietary Guidelines Advisory Committee (DGAC) in developing the guidelines.

Several of the recommendations made by the DGAC lack scientific support. For example, the current DGAC recommended that men should limit themselves to no more than one alcoholic beverage on days when alcohol is consumed, compared to the existing recommendation of two drinks.⁴⁶ This controversial decision allegedly relied on a single study.⁴⁷ Additionally, the DGAC recommended further reducing the amount of calories that Americans receive from added sugar from 10 percent to 6 percent.⁴⁸ The USDA and HHS should reject any recommendation of an added-sugar limit, since it is not based on actual harm from added sugar, and at a minimum, reject the recommendation to reduce added sugar intake.⁴⁹

Governmental Reform

The following are policy priorities for the Administration on governmental reform issues:

The OMB Should Issue Guidance to Clarify and Strengthen the Information Quality Act (IQA). The IQA directs the OMB to develop government-wide guidelines to improve the accuracy of federally disseminated information.⁵⁰ The law also allows the public to seek and obtain correction of inaccurate information. As implemented, the law has not lived up to its potential, in large part because there is too much agency discretion and insufficient means to enforce the law.⁵¹ The OMB can help to strengthen the law by better clarifying what is expected of agencies, including a clarification that, when the public requests correction of inaccurate information, the agency is required to correct the information so that it is accurate and meets any other information quality requirements.⁵²

President Trump Should Issue an Executive Order Directing Agencies to Enforce Subrecipient Reporting Requirements and Terminate Grant Agreements with Grantees that Fail to Comply. Each year, federal funds flow to non-federal entities known as subrecipients in order to carry out federal programs. These government resources may flow first to a pass-through entity or else flow directly from federal agencies to the subrecipients directly.⁵³ After receipt, the subrecipients channel the resources to the intended beneficiaries of the federal program. Subrecipients must comply with reporting requirements, according to the law. However, they rarely disclose this information. As such, taxpayers are left unaware of which organizations their taxpayer dollars are funding. Often, ideologically extreme entities are the end recipients.

The OMB Should Issue a Regulation Barring Federal Grantees or Their Subsidiaries from Suing the Government Under Title V of the Administrative Procedure Act. Over the past three years, grantees have repeatedly used federal grant awards to litigate against important conservative initiatives incorporated within the Administration's policy agenda.⁵⁴ Some of the most notable lawsuits include *Trump v. Hawaii*⁵⁵ and *National Fair Housing Alliance v. HUD*.⁵⁶ Current regulations merely bar some federal grant recipients from using the *grant* funds on litigation against the government.⁵⁷ Because money is fungible, these taxpayer dollars are still effectively weaponized. First Amendment liberties of grantees are in no way restricted by this prohibition, including the right to lobby and associate. Likewise, this regulation does not prevent federal grantees from participating in the rulemaking process.

Labor and Employment

The following are policy priorities for the Administration on labor and employment issues:

The U.S. Department of Labor (DOL) Should Finalize Its Rule to Provide Greater Clarity on the Definition of “Independent Contractor” for General Industry. Most businesses rely on a combination of employees (workers over whom they exercise direct and comprehensive control in exchange for a regular wage or salary) and contractors (individuals who provide specific services of their own accord for a set price). Ambiguity about how to classify workers—based on differing definitions in federal statute as well as state laws—can result in high administrative costs and cause fear and uncertainty for employers who risk costly lawsuits, even fines and prison, which could destroy their entire business if they make the wrong determination.⁵⁸

Small businesses can suffer the greatest consequences of misclassification; businesses with four or fewer employees rely on 6.7 contractors, on average.⁵⁹ The DOL final rule would more clearly define contractors based on the rule’s “economic reality” test, which relies primarily on the worker’s control over the work and the worker’s financial stake in the product or service he provides.⁶⁰ This rule would also benefit many workers who increasingly prefer the flexibility of being their own boss, choosing which jobs they perform, and what hours they work. In fact, in 2019, one of every three American workers participated in contract work, in some capacity,⁶¹ and nine of every 10 contractors said they prefer contract work to a traditional work arrangement.⁶²

President Trump Should Revoke Executive Order 13502. In 2009, President Barack Obama issued Executive Order 13502.⁶³ The order led to the use of project labor agreements in federally funded construction projects. Such agreements mandate the use of union-style work rules and collective bargaining by contractors.⁶⁴ This serves to increase costs for the sake of appeasing a political constituency rather than maximizing the public value of taxpayer dollars. The federal government should not impose such cost-increasing mandates.

II. Economic Policy Priorities for Congress

During the lame-duck session and the early legislative days of 2021, Congress can pass important commonsense economic legislation, as well as avoid taking harmful actions. These priorities include passing a full-year appropriations bill, refraining from providing additional aid to state and local governments, and addressing time-sensitive trade issues. Table 2 lists these economic policy priorities for Congress.

TABLE 2

Economic Policy Priorities for Congress

ISSUE AREA	ECONOMIC POLICY PRIORITIES
Energy and Environment	Reject any appropriations proposal for stand-alone interim storage of nuclear waste
	Codify regulatory reforms to facilitate infrastructure improvements
	Refrain from expanding and extending new energy subsidies
Food and Agriculture	Rein in the recent expansive use of the Commodity Credit Corporation
Governmental Reform	Increase professional staff levels in OIRA
Labor and Employment	Eliminate barriers to employers for offering early childhood education and care benefits
	Allow a safe harbor for “household employees” who choose to be contract workers
	Promote more opportunities for workers who want flexibility and independence, such as through policies contained in the NEW GIG Act
Tax and Spending	Pass a full-year appropriations bill, and avoid budgetary gimmicks
	Refrain from renewing expiring tax extenders
	Refrain from authorizing additional federal aid to state and local governments
	Refrain from renewing stimulus payments
Trade	Renew the Generalized System of Preferences
	Approve a Miscellaneous Tariff Bill (MTB) and codify the 2016 MTB process

Energy and Environment

The following are policy priorities for Congress on energy and environment issues:

Reject Any Appropriations Proposal for Stand-Alone Interim Storage of Nuclear Waste. Congress should not appropriate funds for a DOE interim storage site without tying appropriations to significant market-based policy changes to the Nuclear Waste Policy Act (NWPA) that provide for long-term storage and disposal.⁶⁵ An interim-storage-only approach is counterproductive to reaching a sustainable and confident waste-management policy.⁶⁶ It further eliminates important checks on the DOE that Congress put in place to incentivize progress on the permanent repository that is needed. These checks are doubly important for states that could house an interim storage site, and which to date have pre-emptively

rejected such efforts for fear of becoming a de facto permanent home to nuclear waste.⁶⁷

Licensed private interim storage sites are currently operating in 34 states. In 2015, the Nuclear Regulatory Commission (NRC) determined that these facilities are safe for more than 100 years.⁶⁸ In other words, the U.S. already has an interim storage system and what is needed is congressional leadership on long-term disposal policy. Rather than pursue a false solution, Congress should appropriate enough funds—and no more—to finish the NRC review of a proposed long-term repository at Yucca Mountain as required under the NWPA, and prepare to transition to durable, market-based reform in 2021.

Codify Regulatory Reforms to Facilitate Infrastructure Improvements. President Trump’s June 4 executive order⁶⁹ directed agencies to expedite permitting and streamline regulations that would otherwise impede infrastructure projects and inflate costs, including provisions of the National Environmental Policy Act, the Endangered Species Act, and the Clean Water Act. Given the dramatic economic downturn, the temporary expediting and streamlining should be codified to ensure stability for infrastructure investment and job creation. Otherwise, much time and money will be wasted fighting regulatory roadblocks instead of rebuilding the nation’s highways.

Refrain from Expanding and Extending New Energy Subsidies. Congress and the Administration should not implement any legislation that introduces new energy subsidies and expands existing ones. Of particular concern is a tax-extenders bill that includes a number of energy tax provisions, and an energy bill that would grant subsidies for specific energy technologies (for fossil, renewable, and nuclear energy sources) and energy efficiency, increase energy loan guarantee access, and increase taxpayer-funded job-training programs. While well intentioned, these programs overstep the government’s role in energy markets, distort investment decisions, and override consumer preferences. Congress should move forward with an energy bill next year, but it should be one that reduces government-imposed barriers to innovation, investment, job creation, and environmental progress.

Food and Agriculture

The following are policy priorities for Congress on food and agricultural issues:

Rein in the Recent Expansive Use of the Commodity Credit Corporation (CCC). The CCC is a funding mechanism by which Congress

and the Agriculture Secretary finance many⁷⁰ agricultural programs.⁷¹ The Agriculture Secretary has a broad range of powers through the CCC, granted under Section 5 of the Commodity Credit Corporation Charter Act.⁷² In general, though, Congress specifically authorizes how the money should be spent, usually through omnibus farm bill legislation.⁷³ There is still CCC discretionary authority for the Agriculture Secretary, but it has generally not been used to spend major amounts of taxpayer dollars to help agricultural special interests, and its use has been narrow in scope.⁷⁴ In fact, Congress placed limits on its use from 2012 to 2017 in appropriations bills.⁷⁵ However, in 2018 and 2019, the Agriculture Secretary used the CCC discretionary authority to provide \$28 billion of so-called trade aid to farmers.⁷⁶ These actions set a bad precedent.

Congress should limit the use of the CCC as it has in the past. At a minimum, if the Agriculture Secretary chooses to use CCC discretionary authority, it should not be for any major expenditures and it should be narrow in scope, consistent with past practices. It certainly should not be used to create entirely new programs out of whole cloth without express congressional authorization. It also should not be used to provide taxpayer dollars beyond direct assistance to farmers. Congress should not delegate its spending power to the Agriculture Secretary and abrogate its constitutional responsibilities to direct how taxpayer dollars are spent. Without proper constraints, the CCC would effectively become an annual slush fund for the Agriculture Secretary.⁷⁷

Governmental Reform

The following are policy priorities for Congress on governmental reform issues:

Increase Professional Staff Levels in the Office of Information and Regulatory Affairs (OIRA). The OIRA⁷⁸ reviews proposed and final regulations to ensure agency compliance with rulemaking procedures and regulatory authority. It is one of the only federal government entities that is charged with limiting, rather than producing, red tape. In its current incarnation, the OIRA's regulatory review is overwhelmed by the volume of rulemaking. With a staff of about 45, it is reviewing the work of agencies that employ 287,000 personnel, a ratio of more than 6,300 to 1. More resources should be focused on the OIRA's regulatory review function. This should be done at no additional cost to taxpayers: The necessary funding should come from cuts in the budgets of regulatory agencies.

Labor and Employment

The following are policy priorities for Congress on labor and employment issues:

Eliminate Barriers to Employers for Offering Early Childhood Education and Care Benefits. Employers who provide childcare benefits—such as onsite preschool or childcare programs, or subsidies for back-up childcare—can be a huge benefit to working parents and also help employers to increase employee retention. Yet, under the Fair Labor Standards Act, employers who provide any kind of onsite childcare or childcare subsidies must include the value of those benefits in employees’ “regular rate” of pay calculations.⁷⁹

This complicates and increases costs when workers who are paid hourly work overtime because, instead of just paying workers 1.5 times their wage, employers also have to add 1.5 times the hourly value of any childcare subsidy, even though those subsidies are usually fixed benefits. Congress could help more workers—especially lower-income and middle-income workers who are more likely to receive hourly wages—receive childcare benefits at work by adding childcare to the list of benefits (such as retirement contributions and health and life insurance) that are excluded from the “regular rate” of pay calculations.⁸⁰

Allow a Safe Harbor for “Household Employees” Who Choose to Be Contract Workers. With many schools open only partially and others—including preschools and childcare centers—still closed, many families require in-home care and education for their children.⁸¹ Yet, hiring a “household employee,” as opposed to a contractor, can involve a burdensome and time-consuming process of complying with state and federal regulations and tax laws.⁸² In addition to the tax burden, compliance with all the different rules and taxes is both confusing and burdensome, and mistakes can lead to significant tax bills for both the household “employer” and “employee.”⁸³ Congress should create a safe harbor to allow individuals who perform household work to choose to be treated legally as contractors instead of household employees.⁸⁴

Promote More Opportunities for Workers Who Want Flexibility and Independence, Such as Through Policies Contained in the New Economy Works to Guarantee Independence and Growth Act (NEW GIG) Act. Existing complications in the tax code make it difficult for employers to know who they can hire for specific tasks, and make it difficult for freelance workers to know which jobs they can perform. The NEW GIG Act would create a safe harbor—essentially the freedom for businesses to purchase contracted services and the freedom for freelance

workers to perform contracted jobs—so long as they meet three objective tests.⁸⁵ Those tests specify the relationship between the parties, the location of the services performed, and a written contract stating the independent contractor relationship.⁸⁶

This clarification would help businesses to better serve their customers through the specialization offered by contractors, and it would help to open doors for an increasing number of individuals who desire more flexible and independent work. Over the past five years, the percentage of full-time freelancers of all those who freelance jumped from 17 percent to 28 percent, and over half of all individuals who freelance say that no amount of money could compel them to switch back to traditional employment—which is what could happen without a safe harbor.⁸⁷

Tax and Spending

The following are policy priorities for Congress on tax and spending issues:

Pass a Full-Year Appropriations Bill and Avoid Budgetary Gim-micks. Congress should pass proper full-year appropriations and avoid a full-year continuing resolution. Even if both approaches lead to the same amount of spending, full-year appropriations are better for federal agency functioning.⁸⁸ In addition, Congress should pass appropriations in a fiscally responsible manner. That would mean avoiding the use of budgetary gimmicks, such as changes in mandatory spending programs (CHIMPs), and abiding by PAYGO rules.⁸⁹ With the gross federal debt well over \$27 trillion, it is time for legislators to stop running up the national credit card for the sake of political convenience.⁹⁰

Refrain from Renewing Expiring Tax Extenders. Tax extenders are temporary preferences in the tax code that are typically designed to prop up politically connected industries and allow Congress to pick winners and losers in the market.⁹¹ At the end of 2020, 47 tax provisions will expire and Congress will face industry and lobbyist pressure to extend them. The majority of these are subsidies for special interests in energy markets and the construction industry. There are also nine expiring emergency coronavirus-related provisions included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act; most of these should also be allowed to expire.⁹² While a limited few of the expiring provisions could have economic benefits, they should be debated on their individual merits and should not be lumped together with special interest tax carve-outs or other must-pass bills.⁹³

Refrain from Authorizing Additional Federal Aid to State and Local Governments. The federal response to the COVID-19 pandemic has already provided \$360 billion to state and local governments in direct aid to cover costs of coronavirus spread and containment, support for education systems, childcare for frontline workers, and subsidies for mass transit systems.⁹⁴ While state and local revenues fell by about 1.4 percent in fiscal year (FY) 2020, the declines have been much less than initially feared, and federal aid-to-date covered those losses in full, with an additional \$100 billion surplus across state and local governments in the final quarter of FY 2020.⁹⁵

Bailing out state and local budgets with unrestricted federal dollars would also not protect taxpayers from higher taxes as costs are shifted to federal taxpayers and the aid simply pushes state funding shortfalls (and state tax increases) into the future.⁹⁶ Federal subsidies also undermine local decision-making about the best pace for re-opening, and set a dangerous precedent that could lead to trillions of dollars in additional federal bailouts of the most irresponsible states and localities.⁹⁷

Federal aid tends to expand state budgets and make them less resilient during future crises, perpetuating problems like systematic pension underfunding. Instead of aiding the recovery and encouraging responsible budgeting, additional federal state bailouts would likely delay economic recovery, cause blatant inequities, and result in higher costs for everyone.

Refrain from Renewing Stimulus Payments. The first round of \$1,200 so-called stimulus checks included in the CARES Act was not a good use of taxpayer dollars, and a second round would be even more wasteful. One problem with sending checks to most Americans is that for those who have lost their jobs, the funds are inadequate, and for the more than 140 million workers who are employed, they are unnecessary.⁹⁸ Programs like unemployment insurance are targeted much more precisely than stimulus checks. The fact that the savings rate surged from a pre-crisis level of about 8 percent to 26 percent in the second quarter of 2020 suggests that many households do not face income shortfalls and will not spend additional stimulus checks immediately.⁹⁹ Stimulus checks have, historically, also not been as stimulative as traditional models predict.¹⁰⁰

Trade

The following are policy priorities for Congress on trade issues:

Renew the Generalized System of Preferences (GSP). The GSP is a trade program that eliminates tariffs on certain products from developing countries.¹⁰¹ The GSP is currently set to expire on December 31, 2020, and Americans will have to start paying tariffs on more than 5,000 products that are currently duty free.¹⁰² American businesses and families save \$1 billion annually thanks to the GSP, and the legislation is typically advanced with broad bipartisan support.¹⁰³ Congress should renew this trade preference program before it expires at the end of the year.

Approve a Miscellaneous Tariff Bill (MTB) and Codify the 2016 MTB Process. MTBs temporarily reduce or suspend tariffs on imports that are not available in the United States following the review of a petition submitted by an importer.¹⁰⁴ MTBs help manufacturers to remain competitive and keep prices low for Americans. It is estimated that duty suspensions in MTBs save Americans over \$700 million in taxes per year.¹⁰⁵ On December 31, 2020, tariff suspensions included in the 2018 MTB will expire, as will the process for reviewing MTB petitions. Congress should act quickly during this lame-duck session to consider a 2020 MTB and codify the MTB process established in 2016.¹⁰⁶

Conclusion

The end of an Administration's first term should not put a pause on policymaking. The Trump Administration and Congress still have time to implement economic policy reforms to improve Americans' lives. The economic policy priorities outlined in this *Backgrounders* are especially critical as the country works its way through the pandemic, and then seeks to recover from its economic aftermath.

These priorities, though, are critical regardless of the pandemic. After all, Congress and the Administration should always be striving to identify solutions that enable Americans to have the opportunity to prosper and achieve their individual American dreams.

Daren Bakst is Senior Research Fellow for Agricultural Policy in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation. **Gabriella Beaumont-Smith** is Policy Analyst in Macroeconomics in the Center for Data Analysis, of the Institute for Economic Freedom.

Contributors

Daren Bakst is Senior Research Fellow for Agricultural Policy in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation.

Gabriella Beaumont-Smith is Policy Analyst in Macroeconomics in the Center for Data Analysis, of the Institute for Economic Freedom.

David R. Burton is Senior Fellow in Economic Policy in the Roe Institute.

Jeremy Dalrymple is Research Associate in the Roe Institute.

Kevin D. Dayaratna, PhD, is Principal Statistician, Data Scientist, and Research Fellow in the Center for Data Analysis.

David A. Ditch is Research Associate in the Grover M. Hermann Center for the Federal Budget, of the Institute for Economic Freedom.

Rachel Greszler is Research Fellow in Economics, the Budget, and Entitlements in the Hermann Center.

Joel Griffith is Research Fellow for Financial Regulations in the Roe Institute.

Elizabeth Hanke is Research Fellow for Labor Economics and Policy in the Roe Institute.

Diane Katz is Senior Research Fellow for Regulatory Policy in the Roe Institute.

Nicolas D. Loris is Deputy Director of the Roe Institute.

Adam N. Michel, PhD, is Senior Analyst for Fiscal Policy in the Hermann Center.

Norbert J. Michel, PhD, is Director of the Center for Data Analysis.

Tori K. Smith is Jay Van Andel Trade Economist in the Roe Institute.

Katie Tubb is Senior Policy Analyst for Energy and the Environment in the Roe Institute.

Endnotes

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72. Commodity Credit Corporation Charter Act of 1948, Public Law No. 80–806.
73. Daren Bakst, David Ditch, and Joshua Sewell, "Congress Should Reject Efforts to Give Away Its Spending Power to Create a Massive USDA Slush Fund," Heritage Foundation *Issue Brief* No. 5091, July 16, 2020, p. 2, <https://www.heritage.org/agriculture/report/congress-should-reject-efforts-give-away-its-spending-power-create-massive-usda>.
74. *Ibid.*
75. In 2010, the Obama Administration tapped various USDA discretionary authorities to spend \$348 million on emergency assistance to agricultural producers. According to the Congressional Research Service, in response to the 2010 spending, Congress included a restriction in appropriations bills from fiscal years 2012 to 2017. The appropriations rider prevented the Secretary of Agriculture from sending income subsidies directly to farmers and ranchers by restricting the ability "to carry out clause (3) of section 32, or for any surplus removal activities or price support activities under section 5 of the Commodity Credit Corporation Charter Act." See, for example, the Consolidated Appropriations Act of 2017, Public Law No. 115–31, Division A, Sec. 215, <https://www.congress.gov/115/plaws/publ31/PLAW-115publ31.pdf> (accessed November 20, 2020). There were reported allegations that this money was intended to help then-Senator Blanche Lincoln (D–AR) in her 2010 re-election campaign. See, for example, Alexander Bolton, "Emanuel Throws \$1.5B Life Preserver to Farmers, Aiding Lincoln," *The Hill*, July 29, 2010, <https://thehill.com/homenews/administration/111675-rahm-emanuel-throws15-billion-life-preserver-to-farmers-helping-embattled-sen-lincoln> (accessed November 20, 2020), and Dan Morgan, "Bogus Promise on Deficit Undercuts Lincoln," *The Fiscal Times*, October 29, 2010, <http://www.thefiscaltimes.com/Articles/2010/10/29/Senator-Lincoln-Farm-Aid-Boosts-Deficit> (accessed November 20, 2020).
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77. Congress should definitely not expand the CCC borrowing authority as some have proposed. Bakst, Ditch, and Sewell, "Congress Should Reject Efforts to Give Away Its Spending Power to Create a Massive USDA Slush Fund."
78. The Office of Information and Regulatory Affairs (OIRA) is a statutory part of the Office of Management and Budget within the Executive Office of the President. See Office of Management and Budget, "Information and Regulatory Affairs," <https://www.whitehouse.gov/omb/information-regulatory-affairs/> (accessed November 24, 2020).
79. U.S. Code 29 USC 207(e)(4).
80. Rachel Greszler and Lindsey M. Burke, "Rethinking Early Childhood Education and Childcare in the COVID-19 Era," Heritage Foundation *Backgrounders* No. 3533, September 30, 2020, <https://www.heritage.org/sites/default/files/2020-09/BG3533.pdf>.
81. *Ibid.*
82. Currently, if individuals or families pay someone more than \$2,200 per year (the equivalent of \$42 per week) for work performed in their home, they are required to pay, withhold, and submit multiple taxes. This process requires registering as an employer with the state and federal government, hanging official employee-rights notices in one's home, and can include registering with, and submitting tax payments to, the state and federal unemployment insurance systems, state and federal income tax systems, and the Social Security Administration.
83. Individuals who provide services may prefer to be treated as contractors as opposed to household employees. A preschool teacher, for example, may provide services to two different preschool pods, covering 10 families in total. Under the current tax and regulatory structure, this could get confusing quickly. First, it is unclear whether just the families that host the preschool pod would be household employers. If the host families become the employers, they would probably have to become licensed providers and collect fees from the other families sending children to their home. If each of the families instead becomes household employers, the preschool teacher would be dependent on 10 different families to track, report, and pay Social Security, Medicare, and unemployment-insurance taxes. Failure of one or more households to do so correctly could result in significant end-of-the-year tax bills for the teacher. Moreover, it could be that the teacher crosses the \$2,200 per year threshold for some families and not for others, leading to confusion over who—the teacher or the family—should be submitting taxes.
84. This choice would allow individuals to receive higher base pay as contractors because of the compliance and tax savings for the household they serve. While those households would have to report any income they pay to individuals that exceeds \$600 in a year, they would only have to provide a single document—Form 1099-MISC—as opposed to registering with and meticulously tracking, reporting, and sending taxes to as many as five government entities.
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