

FIGHT GOVERNMENT CORRUPTION

In theory, Members of Congress and other public officials should make decisions to advance the common good, not reward campaign donors or enrich themselves. In practice, politicians often fall short of these ideals. Government ethics and transparency rules are meant to prevent politicians from serving themselves. Unfortunately, Congress has exempted itself from many of these rules while leaving large loopholes in others.

Half of Congressmen and Congresswomen join lobbying firms after they leave office, collecting lavish salaries for influencing their former colleagues. Members of both parties pass through the “revolving door” between Capitol Hill and K Street. Former Senate Majority Leaders and former House Majority Leaders have become lobbyists, and for many, election to Congress becomes the path to a multi-million dollar lobbying career. The same is often true of Cabinet secretaries.

Voters are in the dark about how lobbyists influence their elected representatives because Congress has exempted itself from the Freedom of Information Act (FOIA). As a result, Members of Congress do not have to report when they meet with lobbyists or what they discuss. Lobbyists can and do secretly draft bills and amendments for Members of Congress, but the communications about this process are hidden from public view.

Ethics rules generally prevent senior executive branch officials from owning stock in companies affected by their decisions, but Congress has not seen fit to apply these standards to itself. Members of Congress frequently vote on bills that directly affect the value of individual stocks they own.

The government can do better for the American

people. Open records policies should apply to Congress. Members of Congress should have to disclose e-mails with lobbyists and other outside parties, and they should have to disclose any and all meetings with lobbyists and advocacy organizations. Voters should know how lobbyists are trying to influence their elected representatives.

Members of Congress should also be prohibited from owning or trading individual stocks. Congressmen and Congresswomen should not derive financial benefits from votes they cast.

THE FACTS

- ★ 14 current and former members of Congress were convicted of criminal offenses between 2012 and 2022.
- ★ Over the past three years, at least 64 members of Congress violated the STOCK Act, a law intended to combat insider trading by Members of Congress.
- ★ Federal ethics rules generally prohibit senior executive branch officials from owning more than \$15,000 worth of individual stocks.
 - These ethics rules do not apply to Members of Congress or their staff members.
- ★ Executive branch agencies fulfilled more than 838,000 FOIA requests in FY 2021.
 - Congress did not fulfill any FOIA requests, because FOIA does not cover Congress.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Apply open records requirements to members of Congress and their staff members, allowing the American people to see their communications with

lobbyists and special interest groups.

- ★ Require Members of Congress to report meetings with lobbyists and other advocacy organizations.
- ★ Prohibit Members of Congress from owning or trading individual stocks.
 - This would not prevent the ownership of broadly diversified mutual or index funds, which grow with the overall economy.

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MOVE FEDERAL AGENCIES AND DECISION-MAKING CLOSER TO THE PEOPLE

To many Americans, the federal government feels distant and out of touch. Indeed, Washington policymakers and federal bureaucrats inhabit a different world from most Americans. The Washington, D.C., metropolitan area exists in a bubble largely insulated from forces affecting the rest of the country. Federal spending drives the Washington economy, and federal jobs or related positions—such as lobbying or federal contracting—dominate both the Washington job market and social scene. Federal employees also make on average one-sixth more than comparable private sector workers. And five of the seven wealthiest counties (or county-equivalents) in the U.S. are located in the Washington metropolitan area.

Washington bureaucrats make decisions affecting the entire country, but many of them are socially and economically disconnected from the rest of the Nation. The people making federal policies often have little experience walking in the shoes of those who are affected by their decisions. As a result, the decisions they make often do not truly reflect the will of the American people.

Relocating federal agencies outside Washington would pierce this “beltway bubble.” Doing so would move agency leadership closer to the American people and into communities where they are not primarily surrounded by like-minded federal employees and contractors. During the Trump Administration, the U.S. Department of Agriculture successfully moved the Economic Research Service and the National Institute of Food and Agriculture from Washington, D.C., to Kansas City, Missouri, while the Department of Interior moved the Bureau of Land Management to Grand Junction, Colorado.

Relocating agencies would also save taxpayers a lot of money. The cost of living in the Washington metropolitan area ranks among the highest in the U.S. Highly paid federal employees, contractors, and lobbyists bid up housing prices as they compete for homes with shorter commutes into “the Federal City.” The federal government then pays its Washington employees premium wages to compensate for these higher living costs. By relocating 100,000 employees out of the Washington metropolitan area, the federal government would save more than \$1 billion annually in locality pay.

The argument for keeping federal agencies concentrated in Washington has long been that they need to be physically present in the same city to coordinate with each other, the White House, and Congress. Modern teleworking technology, however, has eliminated this need. Three-fifths of federal employees telecommuted every day during the COVID-19 pandemic. Agencies continued to coordinate very effectively with each other and Congress while most of their employees worked remotely. This demonstrated that they can function equally effectively with employees working in other states.

The federal government should also move decision-making closer to the American people. The federal government currently regulates almost every aspect of Americans’ lives—crowding out the ability of individuals, communities, and states to make decisions themselves. But this was not the Founders’ original vision. Instead, they conceived of a federal government that would tackle only truly national responsibilities such as national defense or regulating interstate commerce.

However, the Supreme Court of the United States has interpreted federal authority to regulate interstate commerce very broadly, and it now includes matters that only tangentially affect interstate commerce. The federal government has consequently swelled from one of limited and enumerated powers to one with expansive authority to regulate every facet of Americans' lives.

The federal government should return to the Framers' vision. In the case of interstate commerce, Congress or the courts should restrict federal regulatory agencies' jurisdiction to truly interstate economic activities. Regulation of matters that only indirectly affect interstate commerce should be left to states or local communities, which are better able to judge their unique needs.

THE FACTS

- ★ Federal employees enjoy 17% higher salary and benefits than comparable private sector workers.
- ★ 283,000 federal employees work in the Washington, D.C., metropolitan area.
- ★ The Washington metropolitan area contains five of the seven wealthiest counties and county-equivalents **1** in the U.S.:
 - Loudon County, Virginia (median household income of \$147,100) **2**;
 - Falls Church City, Virginia (median household income of \$146,900);
 - Fairfax County, Virginia (median household income of \$127,900);
 - Howard County, Maryland (median household income of \$124,000); and
 - Arlington County, Virginia (median household income of \$122,600).
- ★ The Washington metropolitan area has the fifth-highest cost of living out of 267 urban areas in the U.S.
- ★ Cost-of-living adjustments raise federal salaries in the Washington metropolitan area to 13% higher than what federal employees earn in the rest of the U.S.
- ★ Relocating 100,000 federal jobs from the Washington metropolitan area to the rest of the

U.S. would save taxpayers \$1.4 billion per year in federal employee locality pay adjustments.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Broadly relocate federal cabinet departments and their sub-agencies across the U.S.
 - This effort should have a particular focus on relocating to areas with low living costs.
- ★ In the alternative, unilaterally relocate agency subcomponents employing at least 100,000 federal employees, if necessary, by using presidential authority.
 - This would include relocating the FBI headquarters and IRS headquarters.
- ★ Federal regulatory agencies' jurisdiction should be restricted to truly interstate economic activity.

FOOTNOTES

1 Some states, such as Louisiana, have parishes instead of counties. In other states, like Virginia, some independent cities perform the functions of county governments.

2 All figures are in 2019 dollars.

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CUT THE RED TAPE

Regulations impose a hidden tax on the economy by forcing businesses to spend money on compliance costs instead of investing it in hiring workers or expanding operations. Regulations are often proposed in isolation with little regard to the collective burden that federal red tape imposes across the economy. And in some cases, Congress or agencies deliberately hide the costs of policy choices by issuing regulations instead of taxing or spending.

Beyond formal regulations, agencies frequently impose additional layers of red tape through “guidance documents”—informal agency statements on law or policy that do not require Administrative Procedure Act (APA) rulemaking procedures. APA procedures give members of the public an opportunity to comment on proposed policy changes and require agencies to respond to those comments.

Unfortunately, the public usually has no opportunity to comment on guidance documents before they are issued. Although the documents are not technically legally binding, regulated parties typically feel they must comply with them to avoid becoming an enforcement target. Agencies issue hundreds or thousands of guidance documents each year, making it difficult for small businesses and individuals to keep up with rapidly evolving policy and legal positions.

The Trump Administration addressed this problem by requiring agencies to restrain the total cost of all regulations they issued. Its executive order on “Reducing Regulation and Controlling Regulatory Costs” (Executive Order 13771) generally prohibited agencies from increasing the total regulatory burden on the economy and required agencies to take two deregulatory actions for each regulatory action. Additionally, its executive order on “Promoting the

Rule of Law Through Improved Agency Guidance Documents” (Executive Order 13891) required agencies to make their guidance documents publicly available on a central website and give the public an opportunity to comment on major guidance documents before they were issued.

These reforms had a very positive effect, as total regulatory costs fell by \$199 billion during the four years of the Trump Administration. The Council of Economic Advisers estimated that, if left in place, these reforms would have increased Americans’ real household incomes by an average of \$3,100 per year.

Unfortunately, the current administration rescinded Executive Order 13771 and the guidance transparency requirements on President Biden’s first day in office. In its first year, the Biden Administration increased net regulatory burdens by \$201 billion and forced firms to spend an estimated 131 million additional hours completing paperwork.

Past experience and research indicate that the increasing red tape from the current administration will raise prices for American families. Businesses get their money from their customers. When regulations and their associated compliance burdens raise businesses’ costs, they pass those costs onto customers through higher prices. The government should ensure that the overall regulatory burden does not raise costs on the American people.

THE FACTS

- ★ Federal agencies reduced net regulatory costs by \$199 billion during the four years of the Trump Administration.
- ★ The Council of Economic Advisers estimated that the Trump Administration’s deregulatory reforms

would raise annual household incomes by \$3,100 a year once they took full effect.

- ★ Federal agencies increased net regulatory costs by \$201 billion in 2021, the first year of the Biden Administration.
- ★ Americans will take an estimated 131 million hours to complete the paperwork created by new regulations finalized in 2021.

At the state level, support policies that:

- ★ Ensure the public has an opportunity to weigh in by requiring agencies to provide a public comment period before issuing new rules or guidance documents.
- ★ Ensure public availability of state agency guidance documents by publishing them on a central website.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Require regulatory budgeting so agencies must consider and cap the total cost of all the regulations they issue, rather than examining regulations in isolation.
- ★ Restore the executive branch requirement that agencies take two deregulatory actions for each new regulatory action initiated.
- ★ Ensure the public has an opportunity to weigh in on agency guidance by requiring agencies to follow the APA's notice-and-comment procedures before issuing significant guidance documents.
- ★ Ensure public availability of guidance documents by requiring agencies to publicize them on a central website.

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REFORM THE CIVIL SERVICE TO CREATE ACCOUNTABILITY IN THE BUREAUCRACY

In theory, the president controls the executive branch of the federal government. But in practice, career federal bureaucrats wield enormous power with little accountability to the president. Civil service protections make removing career employees prohibitively difficult. Federal removal procedures often take 6 months to a year to complete, without counting appeals. And surveys show that most federal supervisors lack confidence that they could remove problematic employees.

Unsurprisingly, agencies rarely fire career bureaucrats. In FY 2020, agencies dismissed fewer than 4,000 out of 1.6 million tenured career federal employees. According to recent surveys, federal employees are widely frustrated that their agencies do not take action against poor performers. The system also prevents agencies from firing bureaucrats who advance their own policy agendas.

For example, during the Trump Administration, career employees in the Department of Justice's Civil Rights Division refused to assist in litigation against Yale University for discriminating against Asian Americans. These employees knew a successful lawsuit would undermine racial preferences in college admissions. Because they supported those racial preferences, they refused to participate in the litigation—despite Yale's clear violations of the Civil Rights Act.

The reformers who created the civil service never dreamed of empowering career staff to undermine elected officials. They wanted to end the spoils system, but they also recognized that removal protections would be destructive. The Pendleton Act of 1883 created a professional civil service by regulating federal

hiring while keeping the federal workforce at-will. Not until the 1960s did the general federal workforce gain the ability to appeal dismissals.

Several states have returned their government workforces to at-will employment, meaning employees can be fired for any non-discriminatory reason, and employees cannot appeal their removal. These states continue to operate highly effectively. They demonstrate that government workforces do not need removal protections to avoid the spoils system, and they show that at-will employment is compatible with a professional merit service.

For America's democracy to function, executive branch employees must be accountable to the president. If the bureaucracy can pursue its own agenda, no matter who voters elect, then the government is no longer accountable to the people. To protect the government's democratic accountability—as well as to remove poor performers from the federal workforce—the federal government should return to at-will employment. State governments that have not already done so should do the same.

The federal and many state governments also pay their employees to work for government unions, while on the clock as public employees. These practices subsidize union activities that make it harder for elected officials to manage the bureaucracy. They are wasteful and counterproductive subsidies.

THE FACTS

- ★ Non-veteran federal employees were first given removal appeals in 1962.
- ★ It now takes an estimated six to 12 months for federal agencies to dismiss a poor performer.

- ★ This figure does not include subsequent appeals.
- ★ Just 26% of federal supervisors are confident they could remove a demonstrated poor performer.
- ★ Only one-third of federal employees report their agency takes steps “to deal with a poor performer who cannot or will not improve.”
- ★ Fewer than 4,000 out of 1.6 million tenured federal employees were dismissed for poor performance or misconduct in FY 2020.
- ★ 58% of Americans believe it is too hard to fire poorly performing government employees.
- ★ State employees in Arizona, Georgia, Missouri, and Texas serve at-will. So do managers and supervisors in Florida state government.
- ★ Agencies spend \$200 million annually to subsidize federal union operations.

significant portions of the federal workforce at-will.

- ★ Require federal unions to reimburse taxpayers for using agency resources.

At the state level, support policies that:

- ★ Return state employees to at-will employment.
- ★ End “release time” subsidies for government unions.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Return the federal civil service to at-will employment—the original vision for a professional merit service.
- ★ Agencies should be free to remove employees for any non-discriminatory reason, with no external appeals.
- ★ Include dismissal policies like those outlined in the Lloyd-LaFollette Act, instead of extensive civil service appeals.
 - Under Lloyd-LaFollette, supervisors had to explain in writing why an employee deserved dismissal. Employees could respond in writing.
 - A different agency official decided whether the employee would be removed. Employees could not appeal this decision.
 - This system protected against arbitrary or unfair removals without making justified removals difficult.
- ★ Use executive branch authorities to make

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DISMANTLE THE ADMINISTRATIVE STATE

To prevent the federal government from abusing its power, the Framers of the Constitution created an unprecedented system of a democratically accountable government with internal checks and balances. As Alexander Hamilton argued in Federalist No. 51:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

Based on this reasoning, the Constitution was designed to protect the American people from concentrated and unaccountable government power. It divided legislative, executive, and judicial power between three separate branches of government and further divided legislative power between the House of Representatives and the Senate. Regular elections hold the legislative and executive branches accountable to the people. The Bill of Rights further requires due process before Americans can be deprived of life, liberty, or property and protects additional rights such as the right to a speedy trial.

Unfortunately, the modern “administrative state” has largely circumvented these safeguards. Congress has broadly delegated much of its legislative authority to executive branch administrative agencies, which issue thousands of rules annually that bind the American people. Many of these rules are issued by unaccountable career staff—not political appointees. And under the Supreme Court’s Chevron and Auer doctrines, courts must generally uphold these rules.

As a result, administrative agencies now do most

federal policymaking, and Congress often has little say in major federal policy decisions. For example, the government’s recent policies mandating that healthcare workers receive COVID-19 vaccines, restricting oil and gas drilling, standing down immigration enforcement, and providing federal funding to abortion providers all took effect without a vote of Congress. Indeed, the healthcare vaccine mandate took effect despite the Senate voting against it.

While the Framers created an independent judiciary, “administrative judges”—senior agency officials—typically determine whether Americans have violated administrative rules in internal agency proceedings. These administrative proceedings often lack the due process safeguards that protect Americans in criminal prosecutions. Administrative agencies now wield concentrated executive, legislative, and judicial power in a manner that the Framers sought to prevent.

Administrative agencies are also insulated from accountability to the American people. While voters can write to their representatives or senators or volunteer to work on their reelection campaigns, voters have little influence on the enormous federal bureaucracy. The career bureaucracy focuses primarily on operating its agencies, not representing citizens’ concerns. In dozens of “independent agencies,” the elected president cannot even remove agency leaders after appointing them. As a result, these agencies exercise vast regulatory power without accountability to voters or the president.

America can restore the Constitution’s checks and balances by dismantling the administrative state and returning federal authorities to their proper branches. The federal government can be made accountable to the American people.

THE FACTS

- ★ The U.S. federal government has 278 executive branch departments, bureaus, agencies, and sub-agencies.
- ★ The Biden Administration issued 3,273 final rules, including 164 “significant” final rules, during President Biden’s first year in office.
 - Elected Members of Congress did not vote to approve any of these rules, but they legally bind the American people.
- ★ Appeals courts uphold agency interpretations of the law in 71% of Chevron cases.
- ★ 55% of voters believe letting government bureaucrats set rules without approval from Congress or voters is a major threat to democracy.
- ★ Only 25% of the Department of Health and Human Services’ rules were issued by officials appointed by the President and confirmed by the United States Senate. Many of these rules were instead issued by career bureaucrats.
- ★ 28 independent agencies are led by officials whom the president cannot remove at-will. These independent agencies include the National Labor Relations Board, the Federal Trade Commission, and the Federal Energy Regulatory Commission.
- ★ 1,931 administrative law judges (ALJs) and 10,831 non-ALJ executive branch employees perform quasi-judicial adjudications in the executive branch.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Prevent major agency rules or guidance documents from taking effect without an affirmative vote of Congress.
- ★ Prohibit career bureaucrats from issuing regulations. That authority should be restricted to political appointees alone.
- ★ Do not let agencies authoritatively interpret statutes and regulations they administer. That role should be the responsibility of the courts.
- ★ Make all agency heads serve at the pleasure of the president, without removal protections.
- ★ Allow only Article III Judges—not senior agency officials—to perform judicial functions, such as

imposing fines or penalties.

- ★ Require agencies to provide Americans the due process protections contained in the Trump Administration’s since-rescinded “Regulatory Bill of Rights” in administrative enforcement proceedings.
- ★ Establish agency ombudsmen to investigate and redress bureaucratic abuses.

At the state level, support policies that:

- ★ Prevent major agency rules or guidance documents from taking effect without an affirmative vote of the legislature.
- ★ Give state governors final responsibility for the issuance of state rules.
- ★ Do not let agencies authoritatively interpret statutes and regulations they administer. That should be the responsibility of state courts.

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BALANCE THE BUDGET

Not having run a budget surplus in 21 years, the federal government is expected to run deficits totaling a whopping \$15.74 trillion over the coming decade. If the will were there to tackle this problem, what would it really take to balance the budget?

The first step to balancing the federal budget is to grow the economy. Economic growth alone will not solve our budget predicament, but it is an essential component of any solution. The current administration's anti-work and pro-regulation policies hamper economic growth. The damage would be compounded further if the administration passes its tax hike agenda.

In the 21 years since the federal government last ran a budget surplus, federal revenue has for the most part remained at a stable 16-18% of GDP. But while revenues more than doubled, federal outlays more than tripled (+215.2%). In short, the federal government does not have a revenue problem; it has a spending problem. To balance the budget within 10 years given CBO's current economic and revenue projections, federal spending growth would need to slow from a projected 4.26% annual growth rate to 1.27%.

Mandatory spending (Social Security, Medicare, etc.) accounts for 64% of federal spending and a majority of the projected 10-year spending increase. Urgent action is needed to preserve and modernize these programs for the senior citizens and vulnerable populations who depend on them and to prevent harm to the U.S. economy from unsustainable debt and higher taxes.

Despite only accounting for 29% of total federal spending, discretionary spending offers ample opportunities for significant savings. For example, the Republican Study Committee (RSC) detailed budget

process reforms and \$16.7 trillion in potential spending savings (relative to the current law baseline) in its recently published "Blueprint to Save America."

Lastly, interest on the federal debt acts as a self-reinforcing driver of deficits, with the CBO estimating interest costs to triple from \$399 billion this year to \$1.194 trillion by 2032. Once again, the solution to this issue lies in restraining spending. Doing so reduces not only the additional principal added to the debt, but it also saves on subsequent interest.

The federal budget will not balance anytime soon. Achieving balance will take years of dedicated effort to accelerate economic growth and a commitment to reining in federal spending growth, but these sacrifices are necessary to hand the next generation an even more prosperous America that puts their dreams and aspirations first.

THE FACTS

- ★ Federal outlays are expected to total \$5.874 trillion in 2023, according to CBO.
- ★ With next year's deficit forecast to total \$984 billion, balancing the budget would require a 16.8% spending cut—more than the combined spending next year on national defense and veterans' programs.
- ★ The CBO's online model estimates that raising baseline labor force and productivity growth rates by 0.5 and 0.4 percentage points, respectively, would boost cumulative GDP by more than \$11.2 trillion and cut the deficit by \$1.9 trillion.
- ★ Federal revenue has grown 142.9% in the 21 years since the federal government last ran a budget surplus, and the deficit has still soared.
- ★ Reducing federal outlays by 5% in 2023 and

maintaining the savings for a decade relative to the CBO's current law baseline would cut cumulative interest costs by \$440 billion, lower the 10-year deficit by \$3.38 trillion, and shrink the fiscal year 2032 deficit by 17%.

THE AMERICA FIRST AGENDA

At the federal level, support policies that:

- ★ Aim to achieve 4% economic growth by pursuing policies that encourage work and investment, such as making the Tax Cuts and Jobs Act permanent.
- ★ Avoid economically damaging tax hikes that would complicate deficit reduction efforts.
- ★ Implement across-the-board work requirements for able-bodied Americans on federal government assistance programs.
- ★ Address unsustainable mandatory spending growth and strengthen economic growth by modernizing and preserving key programs that senior citizens and vulnerable populations rely on.
- ★ Impose discretionary spending caps with automatic sequestration penalties.
- ★ Pursue bold changes to budget processes that make it easier to root out wasteful spending items.

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