

SOLUTIONS for America



A product of The Heritage Foundation's Leadership for America campaign.



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Founded in 1973, The Heritage Foundation is a research and educational institution—a think tank—whose mission is to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.

We believe the principles and ideas of the American Founding are worth conserving and renewing. As policy entrepreneurs, we believe the most effective solutions are consistent with those ideas and principles. Our vision is to build an America where freedom, opportunity, prosperity, and civil society flourish.

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Table of Contents

Introduction	v
Changing America’s Course	1
Restoring the U.S. to a Free Economy	3
The Entitlement Crisis	5
Reining in Runaway Spending and Deficits	7
Tax Reform	9
Meeting America’s Energy and Environmental Needs	11
The Unsustainable Growth of Welfare	13
Making Federal Policy Marriage-Friendly	15
The Rising Tide of Red Tape	17
Re-embracing Federalism	19
Revitalizing Federal Highway Transportation Policy	21
Education Reform	23
Getting Health Care Reform Right	25
The Federalization of Homeland Security	27
Overcriminalization	29
Civil Justice Reform	31
The Role of the Courts	33
Ensure that Congress Follows the Constitution	35
A Conservative Foreign Policy	37
The Building Blocks of a Strong National Defense	39
The Threat of Nuclear Weapons	41
Holding Terrorists Accountable	43
Developing a Strong Border and Immigration Policy	45

Introduction

America has reached a tipping point.

The federal government has grown exponentially, not just in spending (up from approximately \$20,000 per household in 2000 to \$31,000 today), but in its reach. Government now intrudes into virtually every aspect of our daily lives, from the type of toilet we can purchase, to the mix of fuel we can put in our cars, to the kind of light bulb we can use.

Government policies have stifled domestic energy production while pouring billions of public dollars into alternative energy subsidies, reflecting the elitist, “progressive” faith that bureaucrats can pick winners and losers better than private markets. As a result, energy is too expensive and we have grown too dependent on foreign sources. And now, unelected bureaucrats have been empowered to stipulate what health services we will purchase and how and from whom we will receive them.

Excessive government intervention not only limits individual freedoms, it stifles entrepreneurial creativity and job creation, locks the poor into a lifetime of dependency and poverty, and limits the ability of hard-working Americans to enjoy upward mobility. Moreover, the federal government now dominates in spheres of activity traditionally reserved to the states, leaving little or no room for state-level innovation in policy areas such as education, transportation, health care, welfare, and even law enforcement.

The pace of expansion has been breathtaking. My colleague Bill Beach summed up the year 2009 this way:

Not only did the federal government effectively take over half of the U.S. economy and expand public-sector debt by more than all previous governments combined, it also oversaw the largest single-year expansion in total government debt in U.S. history.

The rapid growth of federal grasp and reach is unsettling, at best. More and more Americans have come to question whether their children will inherit a better future, and even whether it is still possible to achieve the American Dream

through hard work. In one of many such indicators, the Gallup Organization reports that Americans are more pessimistic about their future now than at any time since the Carter “malaise” of the late 1970s.

That assessment may be dour, but it’s certainly reasonable. One study found that, during the first four months of 2009, fewer than half of college graduates age 25 and under were working in jobs that required a college degree. Other recent trends foretell a bleak future in terms of both prosperity and national security.

Interest payments on the national debt will triple over the next six years, to approximately \$600 billion annually. That’s more than Congress spends on education, energy, transportation, housing, and environmental protection combined—and over half of these payments will go to foreign investors.

In the *2010 Index of Economic Freedom*, the United States fell from the ranks of “economically free” nations, due primarily to excessive debt, spending, and taxation. How dire is our fiscal situation? In May, the International Monetary Fund took the extraordinary step of placing the U.S. on its watch list of nations overextended by debt. The IMF called on U.S. lawmakers to reduce government debt by hundreds of billions annually or face certain economic catastrophe.

The national “Index of Dependence on Government” shows that Americans’ dependency on government—for everything from food and shelter to health care—increased last year at the fastest rate in over three decades. Our burgeoning welfare state now dispenses a trillion dollars annually to tens of millions of Americans without asking for anything in return. As currently structured, these programs undercut both the family unit (that fundamental building block of society) and cherished American values such as personal responsibility and the virtue of work.

Military preparedness has declined thanks to a procurement holiday that began in the 1990s. Today, the size of

the U.S. Navy's fleet stands at its lowest point since 1916. Yes, that's right, 1916—the pre-World War I era when America aspired to be a regional power. Tactical aircraft and B-1 Lancer bombers are, on average, over 20 years old while KC-135 tankers are practically historical artifacts at 44 years old. Little wonder that a prestigious committee of national security experts recently concluded that, absent a concerted effort to rebuild our armed forces, America was heading toward a national security “train wreck.”

But all is not doom and gloom. America has faced similar challenges in the past and surmounted them. The American public's overwhelmingly negative reaction to the recent explosion of government activism, in fact, encourages us that we will never pass that tipping point. As my colleague Matthew Spalding has written:

There is something about a nation founded on principles, something unique in its politics, that often gets shoved to the background but never disappears. Most of the time, American politics is about local issues and the small handful of policy questions that top the national agenda. But once in a while, it is instead about voters' stepping back and taking a longer view as they evaluate the present in the light of our founding principles. That is why all the great turning-point elections in U.S. history ultimately came down to a debate about the meaning and trajectory of America....

Growing opposition to runaway spending and debt, and to a looming government takeover of health care... may mean that they are ready to re-embrace clear, enforceable limits on the state....To do that, conservatives must ...present a clear choice: stay the course of progressive liberalism, which moves away from popular consent, the rule of law, and constitutional government, and toward a failed, undemocratic, and illiberal form of statism; or correct course in an effort to restore the conditions of liberty and renew the bedrock principles and constitutional wisdom that are the roots of America's continuing greatness.

“The American people,” he concludes, are “poised to make the right decision.”

Indeed they are. Reams of polling data confirm that Americans want our government leaders to embrace policy changes consistent with The Heritage Foundation's vision to build an America where freedom, opportunity, prosperity, and civil society flourish.

Majorities of Americans believe that:

- America is an exceptional nation worth preserving and defending, and the best way to do so is through military strength;
- America's virtues are such that, when an immigrant settles here, he should embrace our culture, values, and

heritage rather than become isolated in the culture, heritage, and language of his country of origin;

- The government has too much power, wastes too much money, and cannot be trusted to pursue the right priorities; therefore it should be smaller in size and more limited in scope;
- The closer a government is to the citizen, the more effectively it will spend the citizen's tax dollars; i.e., the federal government wastes the most, state governments somewhat less, and local governments waste the smallest portion of each tax dollar;
- Government regulations usually backfire and generate unintended consequences, whether it be in lowering the quality and increasing the cost of our health care or negatively affecting businesses in other policy areas;
- The best way to promote job creation and economic growth is by exerting a lighter regulatory touch, which includes lightening the burden of environmental regulations;
- Government should not use its power to pick winners and losers, whether it be policies that grant preferences to unions, certain racial groups, trial lawyers, corporate subsidy-seekers, or other politically connected entities;
- Welfare recipients should be required to work in exchange for their benefits; and
- Judges should make decisions based on what is written in the Constitution or clearly delineated in the law, and not on the basis of their own viewpoints and feelings.

A policy agenda faithful to these sentiments will both win the support of the American people and restore American greatness in a manner consistent with our nation's founding principles.

What follows in these pages is a comprehensive policy agenda compiled by a team of Heritage experts. They identify the nature and scope of our most pressing problems in 23 discrete policy areas, and recommend 128 specific policy prescriptions for Congress to consider.

These recommendations may strike some as being too ambitious or unrealistic. But bear in mind that seldom, if ever, has our nation faced challenges as profound as those described above. Now is not the time for tepid proposals or “small think.” Our nation is on an unsustainable trajectory.

Robust and ambitious policies are required to revive America.

HIGHLIGHTS:

- **Place a firm cap on overall federal spending, and limit future year-to-year growth to inflation plus population growth.** Federal spending is on an unsustainable trajectory because we lack a mechanism that forces Congress to live within agreed upon spending limits. A binding cap will force lawmakers to make the tough decisions required to get us back to fiscal sanity.
- **Require the Big Three entitlement programs—Medicare, Medicaid, and Social Security—to live within firm, congressionally approved budgets.** If Congress is ever to control spending, it must end the era of open-ended entitlements. Currently, Big Three spending is on autopilot—increasing automatically year after year. Entitlement spending must be brought into the congressional budgetary process. Lawmakers should establish a five-year budget for these programs and include protective mechanisms, such as triggers, that will automatically keep spending within the congressionally approved limits.
- **Revive federalism.** The federal government has usurped the states' traditional role in areas such as transportation, education, health (especially Medicaid), homeland security, and law enforcement. Washington must cede vast swatches of its policymaking authority—and the funding that goes with it—to states willing to reassume leadership in these areas.
- **Limit the unsustainable growth of welfare spending, and require recipients to give something back.** Aggregate welfare spending now approaches \$1 trillion annually and does more harm than good. Congress must treat all 71 means-tested welfare programs holistically, as a discrete category of federal spending, and cap annual year-to-year welfare spending growth at inflation. This will force Congress to consider new approaches that could actually help the poor surmount poverty. To this end, Congress should require able-bodied adults to treat a portion of certain welfare benefits as loans to be repaid rather than as an open-ended grant from taxpayers.
- **Pay federal workers wages and benefits comparable to what their counterparts earn in the private sector.** Federal employee compensation is far too generous. Total compensation—hourly wages plus benefits—is 30–40% above that of comparable private sector workers. By bringing federal compensation in line with mar-

ket rates, Congress would save taxpayers approximately \$47 billion a year.

- **Do no harm.** Tax increases, especially those loaded on small-business owners (our most productive and entrepreneurial individuals), are counterproductive at any time. To raise taxes during a recession is a recipe for crippling economic growth and job creation. Maintaining the tax burden at its current level is the least Congress should do.
- **Encourage investment and job creation.** Reduce the top tax rate on corporate earnings—currently the second highest among all industrial nations—and let businesses immediately deduct investments in new plant and equipment. These two changes to the tax code will unleash the most productive investment and create the most private sector jobs. Specifically, lawmakers should align the top rate on corporate earnings to those that prevail in our 30 largest trading partners—approximately 25%.
- **Liberate employed seniors from payroll taxes.** As part of the broader effort to reform entitlement programs, seniors who wish to work beyond retirement age should be freed from the burden of paying Social Security payroll taxes. Employers willing to retain or hire these older workers also should be exempt from paying the employer share of the FICA tax.
- **Invest in peace through strength.** A robust military is the surest way to deter aggression and reinforce U.S. diplomacy. To accomplish this, the Pentagon procurement holiday must end. Congress must refurbish our armed forces, especially our depleted Navy fleet and vital missile defenses.

Perilous times necessitate bold action. America is at a tipping point. To continue on the current path of ever-expanding central government will plunge us into a statist abyss of lost liberties, vanishing opportunity, and dying prospects of a better tomorrow. But our nation can just as well correct course, as she has so often in the past.

In Tea Parties throughout the land, Americans by the millions have begun the process, rallying around the vision of the Founders. The policies articulated in these pages are calculated to make that vision a reality, to build an America where freedom, opportunity, prosperity, and civil society flourish anew.

—Edwin J. Feulner, Ph.D.
President
The Heritage Foundation

Changing America's Course

THE ISSUE:

The United States is the world's strongest, most prosperous, most just, and freest nation. Yet the path we have been following is turning America into a very different place: a country stifled by a highly regulated economy, nationalized industries, and government-run health care, ruled more by bureaucrats and judges than by the consent of the governed and with a foreign policy that pays far too much deference to international organizations and erodes American sovereignty. The American people now face the choice of either continuing the policies of progressive liberalism or changing course to a new direction that is guided by principle and oriented toward renewing America's greatest purpose and promise.

THE FACTS:

- **We Hold These Truths.** America is unique in its dedication to the principles of liberty and constitutional government. The United States stands for the proposition—proclaimed in the Declaration of Independence and embodied in the Constitution—that all are created equal and endowed by their Creator with unalienable rights to life, liberty, and the pursuit of happiness. Government exists to secure these rights, and its legitimate powers are derived from the consent of the governed. An enduring framework of limited government secures national independence and the rule of law, provides for economic opportunity and religious liberty, and maintains a flourishing society of republican self-government.
- **Liberalism's Rejection of America's Principles.** Over the course of the 20th century, modern liberalism repudiated America's core principles, holding that there are no self-evident truths but only relative values, no permanent rights but only changing rights held at the indulgence of government. The Constitution is a "living" document that endlessly evolves and grows with the times, and it is the new purpose of government to engineer a better society, assuring equal outcomes and redistributing wealth through a distant and patronizing welfare state that regulates more and more of America's economy, politics, and society.
- **Unlimited Government.** As a result, the federal government now dominates virtually every area of life, and we are wrapped in an intricate web of its policies and procedures. While Congress passes massive pieces of legislation with little serious deliberation, the majority of "laws" are promulgated in the guise of "regulations" by administrators who are mostly unaccountable and invisible to the public. The United States government now controls formerly private banks, a major insurance firm, and significant lenders of home loans, and has stock ownership in leading automobile companies.
- **Unsustainable Spending.** Annual federal spending has increased by 242 percent since 1970, eight times faster than median household income. The annual federal government budget did not reach \$1 trillion until 1987 but exceeded \$2 trillion in 2002 and \$3 trillion in 2009. The expansion of federal government spending is being driven mostly by the growth of guaranteed entitlements, now more than half of all program spending, and is expected to nearly double over the next decade. As a result, the current national debt (about \$68,000 per household) will double in five years and nearly triple over the next 10 years.
- **The Collapse of Self-Government.** In assuming more and more tasks in more and more areas outside of its responsibilities, modern government has greatly damaged American self-rule. The state's extended reach—fueled by its imperative to impose moral neutrality on the public square—continues to push traditional social institutions into the shadows. By feeding an entitlement mentality and dependence rather than promoting self-reliance and independence, administrative government encourages a character incompatible with republicanism.

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First Principles

The future of liberty depends on reclaiming America's first principles. This product is part of the First Principles Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- **An Increasingly Dangerous World.** Transnational terrorism, rampant anti-Americanism, unaccountable international institutions, nuclear proliferation, and regional conflict all threaten our security, our liberties, and our prosperity. The ability of rogue nations and hostile non-state actors to use weapons of mass destruction against the United States creates a new and compelling interest in America’s actively defending itself. Complacency, either at home or abroad, risks not only the peaceful and productive future of this country, but also that of its friends and allies.

THE SOLUTIONS:

- **Reset America’s Compass.** Despite constant criticism and scorn by academic elites, politicians, and the popular media, most Americans still believe in the uniqueness of this country and respect the principles that define its meaning. We must look to the principles and practices of the American Founding not as a matter of historical curiosity, but as a source of assurance and direction for our times.
- **Unshackle American Enterprise.** The American system of democratic capitalism is under concerted attack and must be defended. Government should be the framework for promoting unlimited opportunity and widespread prosperity, and the key is to increase incentives to produce by removing barriers to work and investment: decreasing tax rates, reducing government spending, and preventing the overregulation of private enterprise. It is imperative that we unshackle America’s entrepreneurs and allow the power of economic creativity to flourish.
- **Take Back Our Fiscal Future.** The first step toward restoring budget responsibility is to reform the budget decision process so that Social Security, Medicare, and Medicaid—the major drivers of escalating deficits—are no longer on autopilot. In order to ensure a fiscally sustainable future and better stewardship for younger generations, entitlements must be transformed away from subsidized benefits to everyone regardless of need toward real insurance whereby the government spreads risk and protects people against unexpected and devastating occurrences.
- **Restore the Institutions of Civil Society.** Liberty and limited government rest on the strength of institutions that precede our constitutional order. Rather than expanding government intervention in family life and curtailing religious influence in the public square, we must advance policy changes that strengthen marriage and the family and recognize a robust understanding of religion in society.
- **Look to the States.** Self-government cannot be revived without a decided reversal of administrative centralization in the United States, and that means a significant decentralization of power and vast areas of policymaking from the federal government to states, local communities, neighborhoods, families, and citizens. Education, health care, transportation, criminal law enforcement, and homeland security—all issues that in recent decades have become federal concerns but are better dealt with at the state and local levels of government—are ripe for this kind of reform.
- **Promote Liberty and Independence.** As a matter of principle, the United States must be able, willing, and prepared at all times to defend itself and its institutions, just as it promotes the long-term prosperity and well-being of its people. A profound commitment to the concept of sovereignty must be at the center of our nation’s policies. But liberty does not belong only to the United States, and this country must recognize its special responsibility to defend the cause of liberty in the world.
- **Restore the Limits of Government.** To protect individual liberty, the Framers of the Constitution carefully enumerated the powers to be vested in the national government, rejecting any broader approach as dangerous. This great limitation has been whittled away to almost nothing. Today, Congress routinely legislates without regard to the constitutional limits on its powers, and only rarely do the courts act to enforce these limits. Indeed, Congress does not just ignore the constitutional limitations on its powers. Members have repeatedly failed to read the bills upon which they were voting, and some have even declared that they have to pass gargantuan bills first so that they can find out what is in them. None of this inspires confidence in Congress as an institution or in its members, who take an oath to support the Constitution.
- **Reform Government.** Congress should provide proper notice of bill texts to Members of Congress and the public. Each House of Congress should adopt a rule requiring, absent special circumstances, the posting of the text of all bills on an Internet site not less than two days before floor debate begins on such bills. Members should be given a point of order to challenge departures from the rule that would require at least a bare majority vote. Congress should not use improper means to enact major laws such as the “reconciliation” process reserved for budget bills. And Congress should adopt adequate procedures to consider the constitutionality of pending bills along the lines of those set forth in the Enumerated Powers Act, which would require that all legislation in Congress contain a concise explanation of the constitutional authority empowering Congress to act on it.

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Restoring the U.S. to a Free Economy

THE ISSUE:

In 2010, for the first time ever, the United States has fallen from the ranks of the economically “free” as measured by the *Index of Economic Freedom*, published annually by The Heritage Foundation and *The Wall Street Journal*, falling below the cutoff that earns countries the right to call themselves “free.” The status of the United States today? “Mostly free.” The reason? Notable decreases in financial freedom, monetary freedom, and property rights. The U.S. scores particularly badly in areas where the government has taken too large and intrusive a role. This decline must be reversed.

THE FACTS:

- **Fiscal Freedom.** U.S. personal and corporate marginal income tax rates are higher than the world averages of 29% (personal) and 25% (corporate). The overall U.S. tax burden (28.3% of GDP in 2008) is also considerably higher than the world average of 23.2%.
- **Government Spending.** In the past two years, spending has exploded, reaching 24.7% of GDP in 2009 and estimated to grow further to 25.4% in 2010. The growth of the federal budget deficit has been even more explosive, adding about \$1 trillion to the national debt in 2009 and again in 2010.
- **Financial Freedom.** Since 2008, the Troubled Asset Relief Program (TARP) and similar programs have bailed out a wide variety of financial firms. These bailouts include government attempts to micromanage businesses on the theory that since they have accepted U.S. taxpayers’ dollars, they must respond to political control from Washington.
- **Corruption.** To be successful in its role as honest regulator of various industries, the government must be seen as neutral and disinterested. In 2009, however, the U.S.

government became part owner or effective operator of several “too-big-to-fail” companies. The impartiality of subsequent regulatory efforts was seen by some as compromised.

THE SOLUTIONS:

- **Reduce Tax Rates.** Our corporate income tax rate, currently the second highest in the developed world, must be cut to restore U.S. competitiveness. The corporate tax rate should be set at or below the Organisation for Economic Co-operation and Development average of 26% to eliminate the incentive for businesses and jobs to move overseas. We should also stop taxing businesses as individuals, but rather reduce rates to 25%, which would help business to grow and create jobs. The U.S. needs lower, flatter taxes without multiple layers of taxation on personal savings and investment and other forms of capital. A reduction of the overall tax burden on Americans to a level consistent with or lower than world average tax levels would improve fiscal freedom.
- **Spend Less and Devolve Responsibilities.** Congress should enact a firm cap on the annual increase in total government spending, limited to inflation plus population growth. Lawmakers should exert all effort to keep overall federal spending to less than 20% of U.S. GDP, the historical post–World War II average for federal spending. Congress should take entitlement spending off autopilot and subject it to the discipline of the budgetary process through long-term budgets that Congress regularly reviews. This would force entitlement spending to compete politically with other spending priorities. The responsibilities of federal agencies for transportation, agriculture, and education should be devolved to the states. The new health care bill that centralizes so much decision-making and funding in Washington must be repealed. State and

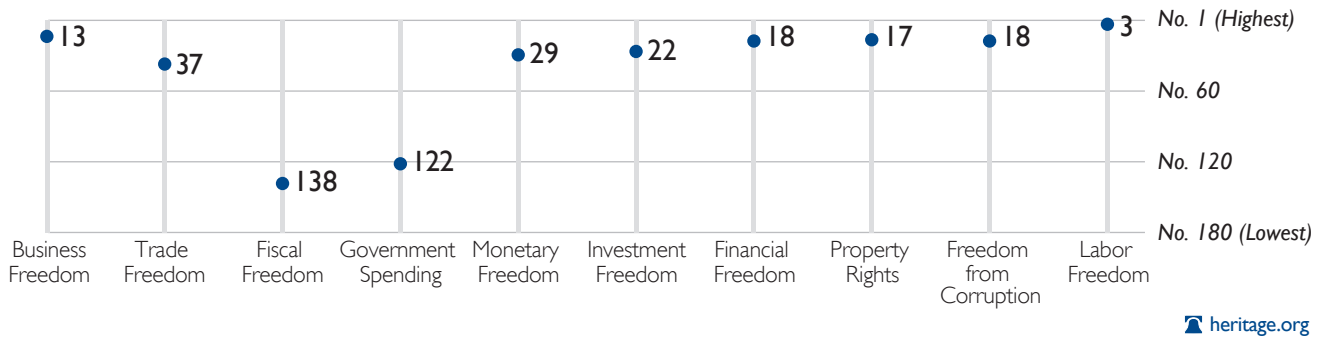
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American Leadership

The freedom and security of Americans depend on America’s global leadership. This product is part of the American Leadership Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

U.S. Ranking in 10 Economic Freedoms



local governments can tailor programs to make them more efficient and can experiment with new approaches to reduce the overall cost of government.

- Unwind Government Intervention.** The government should end the interventions it has made since 2008, starting with abolition of the TARP program. It should then abolish Freddie Mac and Fannie Mae and repeal all U.S. government regulatory measures that interfere with mortgage markets. Congress should also repeal the Sarbanes–Oxley Act, which discriminates against small firms and reduces competition. Companies should be allowed to fail, and laws and regulations should create no expectation of a future bailout.
- Reduce Government Involvement in Commercial Decision-making.** Congress must eliminate the insidious practice of earmarking, which corrupts the legislative process. The government needs to divest itself of all assets acquired in connection with the financial crisis and recession and refrain from interfering in bankruptcy cases. These reforms, like the others, would both com-

plement and reinforce the overall restoration of America's economic freedom.

- Give Workers a RAISE.** Union contracts set both a wage floor and a wage ceiling. [Unionized employers may not give productive workers pay raises](#) outside those envisioned in the collectively bargained contract. Unions usually demand that employers reward workers for “[time served](#)” rather than “hard work.” No matter how exemplary the employee, wages cannot exceed what his union contract specifies. This “[seniority ceiling](#)” removes the incentive for outstanding performance and limits the union member's upward mobility. [The RAISE Act](#) (Rewarding Achievement and Incentivizing Successful Employees) would allow employers to pay individual workers more, but not less, than the union contract specifies. [The RAISE Act](#) would provide workers with the incentive to increase productivity. Current federal law caps the wages of 8 million American workers. [The RAISE Act](#) would restore to millions of union members the inherent American right to earn individual raises through individual efforts.

The Entitlement Crisis

THE ISSUE:

Entitlements—Social Security, Medicare, and Medicaid—threaten to bankrupt the nation. The unsustainable tsunami of spending on these programs will accelerate as 77 million baby boomers flood into them. Unlike other parts of the federal budget, such as defense or most education programs, Congress does not review and approve the level of funding for these programs annually or...ever. Rather, their expansion is on autopilot, fueled by demographic changes and rapidly rising health care costs. We are reaching a budgetary tipping point as entitlement spending's automatic "first call" crowds out other national priorities. [Recent studies](#) show that America's long-term fiscal situation is one of the world's worst, which makes reforms even more urgent if we are to avoid the fate of Greece or even Britain. But entitlements are also a moral challenge. It is simply wrong to make unsustainable promises to today's adults by shackling our children and grandchildren with crippling debt or heavy taxes.

THE FACTS:

- **Ever-Higher Spending.** Without reforms, these programs will more than double the historical average of federal spending from 20% of the economy to nearly 50% in just two generations.
- **Lack of Budget Control.** The United States is the only major country that does not subject these programs to real budgets and budget control.
- **Doubling Taxes.** Raising taxes to pay for these uncontrolled promises is not an option. Congress would have to double federal Income tax rates on the next generation and continue to raise taxes in a futile attempt to keep up with spending.

- **New Revenue, New Spending.** Even if higher taxes were thought to be part of the solution, the experience of Obamacare and previous programs demonstrates that new revenue simply encourages new spending.
- **Mortgaging Our Future.** U.S. debt exceeds \$13 trillion, but we would have to take out the equivalent of a mortgage of \$63 trillion to cover the future debt costs of these entitlements. Each person's share of that hidden mortgage now exceeds [\\$200,000](#).

THE SOLUTIONS:

- **Tell Us the Truth and Fix the Way Congress Spends Our Money.** First and foremost, the age of entitlements must end. Rather than allow these programs to bankrupt us on autopilot, Congress should set firm and enforceable budget caps for Medicare, Medicaid, and Social Security. Put these programs on a firm, long-term budget—say 30 years—and require Congress to review these budgets regularly. [Triggers or other mechanisms](#) should be deployed to enforce budget limits if Congress fails to act. Entitlement obligations should be disclosed prominently in the annual budget resolution. Before enacting major new policy changes, Congress should show their true costs by considering the long-term budgetary implications. Today, Congress looks only at the first 10 years. When lawmakers do pass reforms, savings should be banked rather than spent on other programs.
- **Fix Medicare.** Establish a new Medicare "defined contribution" system as we transition away from today's costly and inefficient fee-for-service system. This means deciding as a nation how much we want to spend instead of today's open-ended promises. New retirees, just like federal workers, would receive

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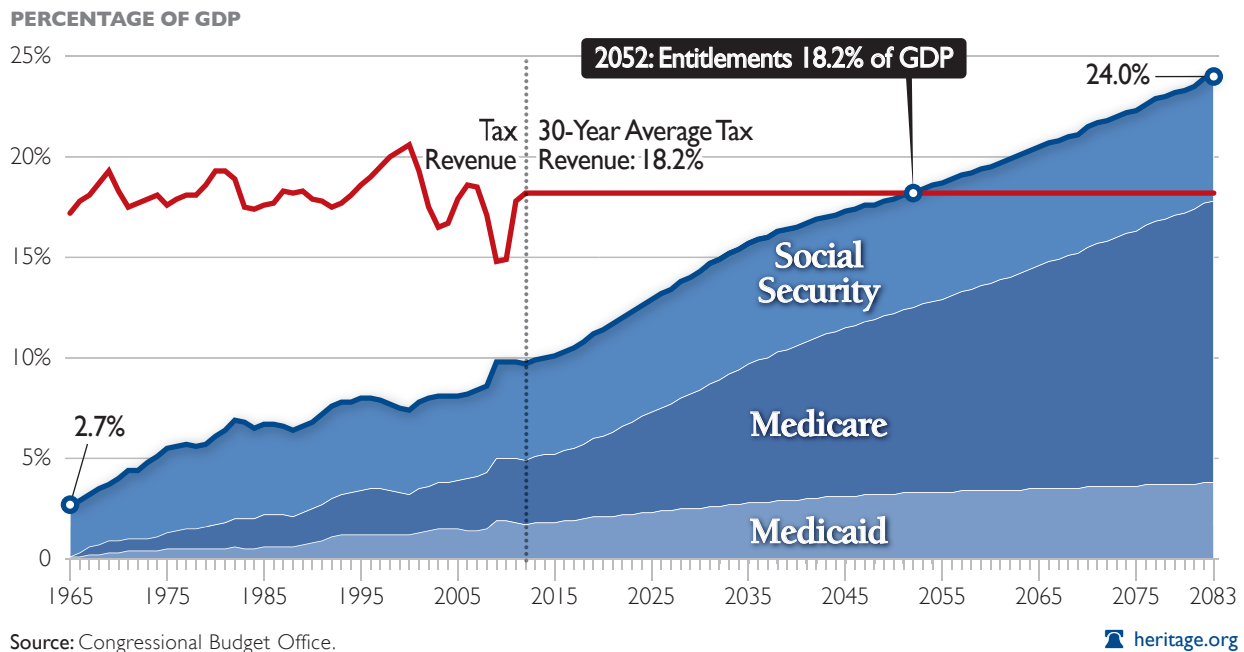


Entitlements

Entitlements are one of the greatest domestic challenges the nation faces. This product is part of the Entitlements Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

Entitlements Will Consume All Tax Revenues by 2052

If future taxes are held at the historical average, spending on Medicare, Medicaid, and Social Security will consume all revenues by 2052. Because entitlement spending is funded on autopilot, no revenue will be left to pay for other government spending, including constitutional functions such as defense.



a government contribution to purchase the health insurance that best meets their needs. The contribution, or “premium assistance,” would be capped but reviewed periodically. An individual’s contribution would be adjusted according to income and underlying medical condition.

- **Fix Medicaid.** The current system is unaffordable, imposes huge costs and unfunded mandates on states, and is poorly suited to the needs of patients or doctors. Healthier families should be allowed into private health insurance with their share of Medicaid money. We need patient-centered care to give the disabled, elderly, and their families a say in the care and services they receive. Medicaid’s long-term care benefit must be transformed from an open-ended entitlement to an insurance-based model of private coverage as part of a general strategy to boost long-term care insurance.
- **Fix Social Security.** To boost savings, we need to include a system of voluntary personal accounts within Social Security. The system as a whole should be made solvent by transforming the remainder of Social Security

to “real insurance,” focusing benefits on those who really need them during retirement while strengthening the safety net for poorer retirees. As Americans live longer productive lives, the retirement age should be raised and indexed to future increases in longevity. Incentives such as removing payroll taxes for workers over the retirement age should accompany these changes. Another important step is to improve the indexation of past earnings used to calculate Social Security benefits and establishing a more realistic cost-of-living adjustment that better reflects changes in a retiree’s cost of living.

- **Increase Retirement Savings.** Automatic enrollment, whereby workers are automatically enrolled in employer-sponsored retirement savings but allowed to opt out, should be expanded, and automatic IRA, a simple payroll deduction system that small businesses would offer to employees, should be created. Workers should be encouraged to include annuity-like products, which ensure that they will not outlive their savings, in their retirement plans.

Reining in Runaway Spending and Deficits

THE ISSUE:

The Obama Administration has used the recession as an excuse for a historic and permanent expansion of government and deficits. Only during the height of World War II has Washington matched current levels of spending (25% of GDP) and deficits (10% of GDP). Even after the recession, runaway spending is expected to keep annual budget deficits over \$1 trillion, which could result in sharply higher interest rates, painful tax increases, and even a Greece-like economic crisis. Beyond our own economic consequences, dumping this staggering debt on future generations would be absolutely immoral.

THE FACTS:

- **Soaring Spending.** Federal spending per household, which has already [surged](#) from \$25,000 to \$31,000 since 2008, would reach \$36,000 by 2020 under President Obama's budget (adjusted for inflation). If spending rises \$11,000 per household, taxes will eventually have to follow.
- **Debt and Taxes.** Even with \$3 trillion in tax increases over the next decade, the President's budget would [double](#) the national debt to more than \$20 trillion (\$138,000 per household) by 2020.
- **Spending Is Driving Long-Term Deficits.** Even if all of the tax cuts are extended, revenues will exceed their 18% of GDP historical average by the end of the decade. The reason the budget deficit is projected to [rise by 6%](#) of GDP over its historical average by 2020 is that spending will exceed its historical average by 6% of GDP. Nearly all of this growth will occur in Social Security, Medicare, Medicaid, and net interest. And deficits will expand even further if lawmakers repeat the past decade's 79% growth (adjusted for inflation) in discretionary spending.

THE SOLUTIONS:

- **Enact Spending Caps.** Washington has no enforceable limits on its spending. Discretionary spending has nearly doubled since Congress let its spending caps expire in 2002. Entitlement spending grows every year on autopilot. The repeated bypassing of Pay-As-You-Go ([PAYGO](#)) rules has rendered that budget constraint irrelevant. As long as Congress remains under pressure to spend, Members need annual spending caps to help them set priorities and make the necessary trade-offs. Congress should enact a firm cap on the annual increase in total government spending, limited to inflation plus population growth. It should also include triggers and other protections to prevent lawmakers from bypassing this cap.
- **Stop Digging.** A recession is no excuse for irresponsible federal spending. Washington should repeal the remaining stimulus funds, which have [failed](#) to create jobs and growth. Any new unemployment assistance should be offset by spending cuts elsewhere. Remaining TARP funds should be rescinded before they can be allocated to new spending. Most important, lawmakers must repeal Obamacare, a ticking spending and deficit [time bomb](#).
- **Rein in Entitlements.** Social Security, Medicare, and Medicaid are driving long-term deficit growth. It is impossible to rein in runaway spending significantly without fundamentally [reforming](#) these programs.
- **Empower States.** Washington taxes families, subtracts a hefty administrative cost, and sends the remaining revenues back to state and local governments with specific rules dictating how they may and may not spend the money. Instead of performing many functions poorly, Congress should focus on performing a few functions

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Entitlements

Entitlements are one of the greatest domestic challenges the nation faces. This product is part of the Entitlements Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

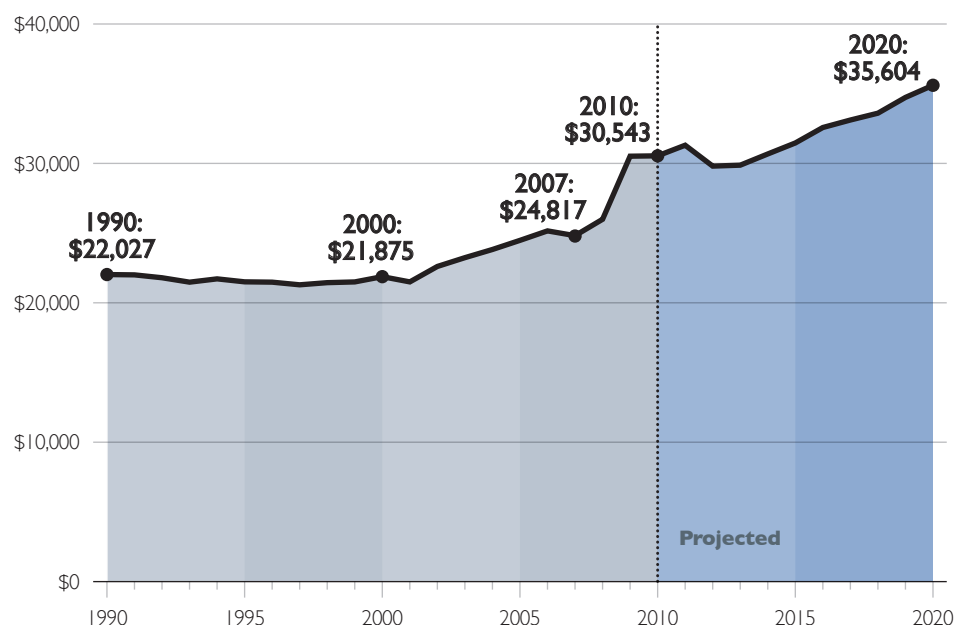
well. Most highway, education, justice, and economic development programs should be devolved to state and local governments, which have the flexibility to tailor local programs to local needs (thus likely performing those functions at a lower taxpayer cost).

- Empower the Private Sector.** Anyone who has dealt with the post office or lived in public housing understands how wasteful, inefficient, and unresponsive government can be. Government ownership of business also crowds out private companies and encourages protected entities to take unnecessary risks. After promising profits, government-owned businesses frequently lose billions of dollars, leaving taxpayers to foot the bill. Any government function that can also be found in the yellow pages may be a candidate for privatization. Washington should also develop a plan to sell unused land and assets, which could include government-owned dams in the Western U.S., underutilized government buildings, and commercially oriented land owned by the Bureau of Land Management and National Forest Service.

- Ban Corporate Welfare.** Even before the financial bailouts, Washington spent more on corporate welfare (\$90 billion) than on homeland security (\$70 billion). There is no justification for taxing working Americans to subsidize profitable companies. Lawmakers could start by reforming America's largest corporate welfare program—[farm subsidies](#), which are overwhelmingly distributed to large, profitable agribusinesses rather than struggling family farmers. Other programs like the Technology Innovation Program (formerly known as the [Advanced Technology Program](#)) should be eliminated.

In 2010, Washington Will Spend \$30,543 per Household

INFLATION-ADJUSTED DOLLARS (2010)



Source: Office of Management and Budget, *Budget of the United States Government, FY 2011, Historical Tables*, Table 1.1, at <http://www.whitehouse.gov/omb/budget/Historicals> (April 26, 2010); Congressional Budget Office, "An Analysis of the President's Budgetary Proposals for Fiscal Year 2011," March 2010, at <http://www.cbo.gov/ftpdocs/112xx/doc11280/frontmatter.shtml> (April 26, 2010). Household totals based on U.S. Census Bureau data.

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- Eliminate Pork and Waste.** Each year, for [example](#), Washington loses \$98 billion to payment errors and pays \$25 billion to maintain vacant federal properties. Washington also diverts about \$20 billion annually into pork projects, corrupting the legislative process by assigning taxpayer dollars based on lobbying rather than merit.
- Bring Federal Pay in Line with the Private Sector.** Not only is the federal government doing too many things best left to the private sector and to state governments but, adding insult to injury, it pays the federal employees who carry out those tasks substantially more than they would earn in the private sector. Total compensation—hourly wages plus benefits—is 30 to 40 percent above that of comparable private sector workers. Congress should bring equity to federal pay and align federal compensation with market rates. Doing so would save taxpayers approximately \$47 billion a year.

Tax Reform

THE ISSUE:

Taxes should raise the revenue to fund necessary government operations in ways that cause the least possible economic damage. Accordingly, Congress and President Obama should reform the existing tax code and drop their current plans to increase taxes on high-income earners, small businesses, investors, and other job creators. For good reason, no school of economic thought advocates raising taxes during a recession or in its immediate aftermath. Raising taxes now would be reckless and irresponsible. Instead, Congress should focus on tax reforms that would grow jobs and the economy.

THE FACTS:

- **Corporate Taxes Are Too High.** At a combined government rate of 40%, the U.S. has the second highest corporate income tax rate in the world, which makes [America unappealing in the competition for businesses and jobs](#).
- **The Problem with Progressivity.** Top earners are the immediate target for new tax increases, but [the U.S. tax system is already highly progressive](#). The top 1% of income earners paid 40% of all federal income taxes in 2007, while the bottom 50% paid only 3%.
- **The Return of the Death Tax.** In January 2011, unless President Obama and Congress act, the death tax which currently stands at 0% will be raised to 55% with a \$1 million exemption. The death tax discourages saving and investing, undermines job creation, suppresses productivity and wage growth, contradicts the central promise of American life—wealth creation—and hurts those who have their savings tied up in land and other hard-to-sell assets. The death tax is a drag on the economy and raises only 1% of all federal revenue. Estimates show it

costs the economy more in lost growth than it raises in revenue.

- **Households Are Already Taxed Enough.** American households are sending more of their income to Washington, even with the 2001 and 2003 tax relief. For 2008, the average household paid \$21,616, which is well above the historical average of \$16,334.

THE SOLUTIONS:

- **Block the Obama Tax Hikes.** President Obama and Congress want to drastically raise taxes in January 2011, which would stifle the anemic economic recovery and destroy job creation. [The current tax rates must be made permanent](#) for all individuals, businesses, and investors.
- **Permanently Eliminate the Death Tax.** Congress should stick with current policy and permanently repeal the death tax once and for all. Abolition of this harmful tax will help spur economic recovery, put unemployed Americans back to work, and increase the long-term growth potential of the economy. Most importantly, repeal of the death tax would restore the American Dream that if you work hard and live a virtuous life, you can pass the fruits of your labor to succeeding generations of your family without fear that the government will take it away from them.
- **Lower Corporate Income Taxes.** The U.S. corporate tax rate should be set at or below the Organisation for Economic Co-operation and Development average of 26% to eliminate the incentive to move businesses and jobs overseas.
- **Shift to a Territorial Tax System.** The U.S. is one of the few countries that still taxes businesses on income earned abroad. Taxing businesses only on the income earned within U.S. borders would improve our competi-

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Entitlements

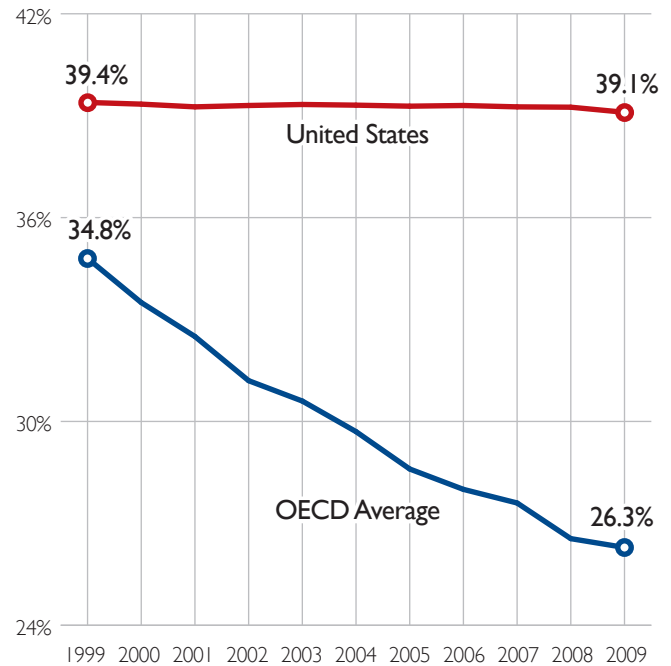
Entitlements are one of the greatest domestic challenges the nation faces. This product is part of the Entitlements Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

tiveness at home and abroad, which in turn would spur job creation.

- **Stop Taxing Businesses as Individuals.** Taxes on small businesses are often collected at [high rates on owners' individual tax returns](#). Instead, taxes should be collected at the entity level and rates reduced to 25%, which would help business to grow and create jobs.
- **Fix Capital Depreciation Rules.** Businesses typically must deduct the cost of investments in new plants and equipment over years. Shortening or eliminating the depreciation period would reduce the tax bias against business investment, increasing business investment, competitiveness, and future wage growth through higher worker productivity.
- **Eliminate the Alternative Minimum Tax.** The Alternative Minimum Tax (AMT) is a secondary income tax system without purpose or justification that now threatens to ensnare middle-income families. Eliminating the AMT from individual and corporate income taxes would simplify the tax code and prevent an unintended tax hike.
- **Liberate Seniors from Payroll Taxes.** As part of a broader effort to reform of our out-of-control entitlement programs, seniors who wish to work into their retirement years should be freed from the burden of paying Social Security payroll taxes and employers who are willing to hire and/or retain older workers should be exempt from paying the employer share of the payroll tax.
- **Eliminate State and Local Tax Deductions.** The deduction of state and local taxes from federal taxes lowers the

U.S. Corporate Income Tax Rate Is Increasingly Uncompetitive

COMBINED CORPORATE INCOME TAX RATE



Source: Organisation for Economic Co-operation and Development, at <http://www.oecd.org>.

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perceived cost of government and encourages its growth. Eliminating this deduction would both simplify the tax system and offset the cost of the proposed tax relief.

Meeting America's Energy and Environmental Needs

THE ISSUE:

America needs an energy policy that promotes environmental sustainability and economic growth. Yet many Members of Congress and the Administration are promoting policies and promulgating regulations that centralize power in Washington—an approach that leads to the high prices, energy shortages, and foreign dependence that politicians use to justify their failed big-government policies. Americans should demand an energy policy that is rooted in the free market, builds on private property rights, and relies on the initiative and entrepreneurial spirit of the private sector. This will not only promote economic growth, but also help Americans to achieve their environmental objectives. Ultimately, it is economic prosperity, not government dictate, that provides the means to protect the environment.

THE FACTS:

- **Running Out of Oil?** Three decades ago, [proven world oil reserves were](#) 645 billion barrels; five years ago, it was 1.28 trillion, and [in 2009, it was](#) 1.34 trillion. New, innovative technologies [and sound policies to allow access](#) will help to recover that oil and discover more. Unfortunately, the Administration's policies are keeping much of this resource off-limits, which means higher prices and more dependence.
- **Energy Subsidies and Mandates.** Solar and wind [receive subsidies](#) of over \$23/Mwh (megawatt hour) compared with \$1.59/Mwh for nuclear, \$0.44/Mwh for conventional coal, and \$0.25/Mwh for natural gas. This does not include the \$27.2 billion allocated in the 2009 "stimulus" bill for energy efficiency and renewable energy research and investment. Congress mandated that

renewable fuels be mixed into the gasoline supply and [required production of 36 billion gallons of ethanol](#) by 2022. Energy subsidies and mandates reduce competition, inflate prices, and stifle technological innovation, and Americans have to pay twice for the subsidies: first through higher taxes and second with higher energy prices.

- **Access to America's Natural Resources.** The federal government owns and controls 650 million acres of land in the United States, including large portions in the western U.S. For instance, the federal government owns approximately 85% of the land in Nevada, 69% of Alaska, 57% of Utah, and 53% of Oregon. The federal government does not adequately maintain its land, much of which could be put to much more productive use like ranching, mining, or forestry through private ownership.
- **Affordable Electricity.** The science behind global warming is anything but certain, but one thing is certain: The policies to cap carbon dioxide and mandate "clean" energy production are very expensive. The cap and trade bill passed by the House of Representatives [would result in](#) 1.9 million fewer jobs in 2012, \$9.4 trillion in lost economic growth from 2012–2035, and a 90% increase in the price of electricity by 2035. Proposals for a renewable electricity mandate, which would require 20% of our nation's electricity (currently at 3%) to come from government-picked renewable sources, are not much better. They [would destroy over one million jobs](#) (on net), cut national income (GDP) by \$5.2 trillion between 2012 and 2035, and increase electricity prices 36%. Neither policy would have any noticeable environmental impact, but both would result in more government control of the economy and thus more lobbyists flooding the halls of Congress to pursue their special interests.

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Energy & Environment

Unleash free enterprise, protect America's energy interests, and free global energy markets. This product is part of the Energy & Environment Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- **Nuclear Power.** The U.S. gets 20% of its electricity (and 70% of its emissions-free electricity) from 104 nuclear power plants. Further, at less than two cents per kilowatt hour, nuclear energy is among the least expensive electricity produced in the U.S. and also, with no injuries or deaths as a result of commercial nuclear energy in the U.S., among the safest. Yet due to an onerous regulatory burden and the federal government's failed strategy to manage nuclear waste, no new plants have been permitted in over three decades.

THE SOLUTIONS:

- **Expand Onshore Oil Production into Previously Restricted Areas,** including Alaska's Arctic National Wildlife Refuge, where an estimated 10 billion barrels of oil—16 years of current imports from Saudi Arabia—lie beneath a few thousand acres that can be accessed with minimal environmental impact.
- **Open America's Outer Continental Shelf to Offshore Oil and Gas Exploration.** Offshore drilling bans prevent exploration in about 85% of our coastal waters. [A rein-vigorated offshore and onshore energy program](#) could create 113,000 to 160,000 new jobs by 2030.
- **Peel Back All Energy Subsidies.** The federal government must stop picking winners and losers in the energy sector. Subsidies create complacency within the industry and reduce the incentive to innovate. In most cases, subsidies either transfer part of the cost for a market-viable investment to the public or divert direct investment away from more efficient projects. They distort the market and cost the many for the benefit of the few. Freeing energy industries from all government subsidies would allow companies to rely on innovation and efficiency, not taxpayer handouts, to remain competitive and allow competition among all energy sources, including renewables.
- **Reform the Offshore Oil and Gas Liability Regime.** Congress should [establish a liability and claims process](#) that fully assigns risk of offshore oil and gas operations, allows for victims to be fully compensated, and protects companies from frivolous lawsuits. Such a regime should include a multi-tiered insurance and liability system that relies on private insurance to cover liability for normal operations and a voluntary insurance pool for liability exceeding \$1 billion; an industry-funded organization governed by an independent board to reduce the likelihood of spills by setting and enforcing safety standards at individual sites, collecting safety data, sharing best practices, and working with government regulators; and a pre-

positioned industry-funded preparedness and response capability, certified by an independent organization, to deal aggressively and effectively with accidents if they do happen, as well as a more robust and integrated federal oversight and national response.

- **Allow the U.S. Department of the Interior to Provide the Appropriate Lease Sales When Possible for Oil Shale.** According to the Department of the Interior and the Bureau of Land Management, a moderate estimate of 800 billion barrels of recoverable oil from oil shale in the Green River Formation is three times greater than the proven oil reserves of Saudi Arabia. The technology to collect and refine oil shale [is developing at a rapid pace](#), and private companies are willing to invest in it. When the private sector demonstrates that oil shale is economically feasible and can be done safely, the DOI should allow commercialization to move forward.
- **Amend the Clean Air Act to Exclude Carbon Dioxide and Other Greenhouse Gases from the Environmental Protection Agency's Purview.** The Clean Air Act [was never intended to regulate carbon dioxide](#), yet that is precisely what the EPA is attempting to do. The result would be that schools, farms, restaurants, hospitals, apartment complexes, churches, and anything with a motor—from motor vehicles to lawnmowers, jet skis, and leaf blowers—could be subject to cost-increasing restrictions.
- **Introduce Market Principles into Nuclear Waste Management Reform.** The federal government's inability to fulfill its legal obligations under the 1982 Nuclear Waste Policy Act has often been cited as a significant obstacle to building additional nuclear power plants. Given nuclear power's potential to help solve many of the nation's energy problems, [now is the time to break the impasse](#) over managing the nation's used nuclear fuel.
- **Reform the Arduous Permitting Process for New Nuclear Power Plants.** The first step is to create a [permit schedule that reduces the current](#) four-year timeline to two years for traditional reactors. Second, establishing an alternative licensing pathway for new nuclear technologies could help build the necessary regulatory support on which their commercial success ultimately depends.
- **Maintain the Yucca Option.** Under any realistic nuclear waste management scenario, there will be a need for long-term geologic storage. The Nuclear Regulatory Commission (NRC) is currently reviewing the Department of Energy's application [for a permit to construct the repository at Yucca Mountain](#). Congress should fully support this process.

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The Unsustainable Growth of Welfare

THE ISSUE:

Despite spending almost \$16 trillion since the War on Poverty began in 1964, welfare programs have failed to reduce the causes of poverty, and instead have hurt many of the people they were intended to help. Poverty in America is overwhelmingly linked to the absence of fathers and a lack of work, but welfare payments have had the destructive effects of eroding marriage and the work ethic in low-income communities. The welfare reform of 1996 transformed one program, significantly reducing welfare rolls and lowering child poverty. But today that reform is in jeopardy, and some 70 other federal means-tested programs need similar reform.

THE FACTS:

- **Welfare on the Rise.** The growth of welfare spending is unsustainable and will drive the United States into bankruptcy if allowed to continue unreformed. Welfare spending is projected to cost taxpayers \$10.3 trillion over the next 10 years.
- **The President's Budget.** President Obama's FY 2011 budget request would increase total welfare spending to \$953 billion, a 42% increase over welfare spending in FY 2008.
- **The Collapse of Marriage.** The collapse of marriage is the predominant cause of child poverty in the U.S. today. When the War on Poverty began, 7% of children were born out of wedlock; today, the figure is over 40%. Most alarmingly, the out-of-wedlock birthrate among African-Americans is 72%.
- **Amnesty Will Make the Problem Worse.** If the U.S. government were to grant amnesty or "earned citizenship" to illegal immigrants, the welfare system would be

flooded with new recipients. Of the 11 million–12 million illegal immigrants in the U.S., at least half lack a high school degree.

THE SOLUTIONS:

- **Use Loans, Not Grants.** Granting welfare to able-bodied adults creates a potential moral hazard because it can lead to an increase in the behaviors that generate the need for aid in the first place. A reformed welfare policy can reduce this moral hazard by treating a portion of welfare aid as a loan to be repaid rather than as an outright grant from the taxpayer.
- **Establish Reasonable Fiscal Constraints.** Once the current recession ends, aggregate welfare spending for all 71 means-tested welfare programs should be rolled back to pre-recession levels. After this rollback is completed, the growth of welfare should be capped at the rate of inflation. This will force Congress to determine whether or not these programs further the goal of alleviating poverty. Programs that do would be allowed to grow; those that don't would be eliminated or reformed.
- **Promote Personal Responsibility and Work.** Able-bodied welfare recipients should be required to work or prepare for work as a condition of receiving aid. Food stamps and housing assistance, two of the largest welfare programs, should be aligned with the TANF (Temporary Assistance for Needy Families) program to require able-bodied adults to work or prepare for work for at least 30 hours per week.
- **End the Welfare Marriage Penalty.** Current means-tested welfare programs penalize low-income recipients who choose to marry; these anti-marriage penalties should be reduced or eliminated. In addition, government should

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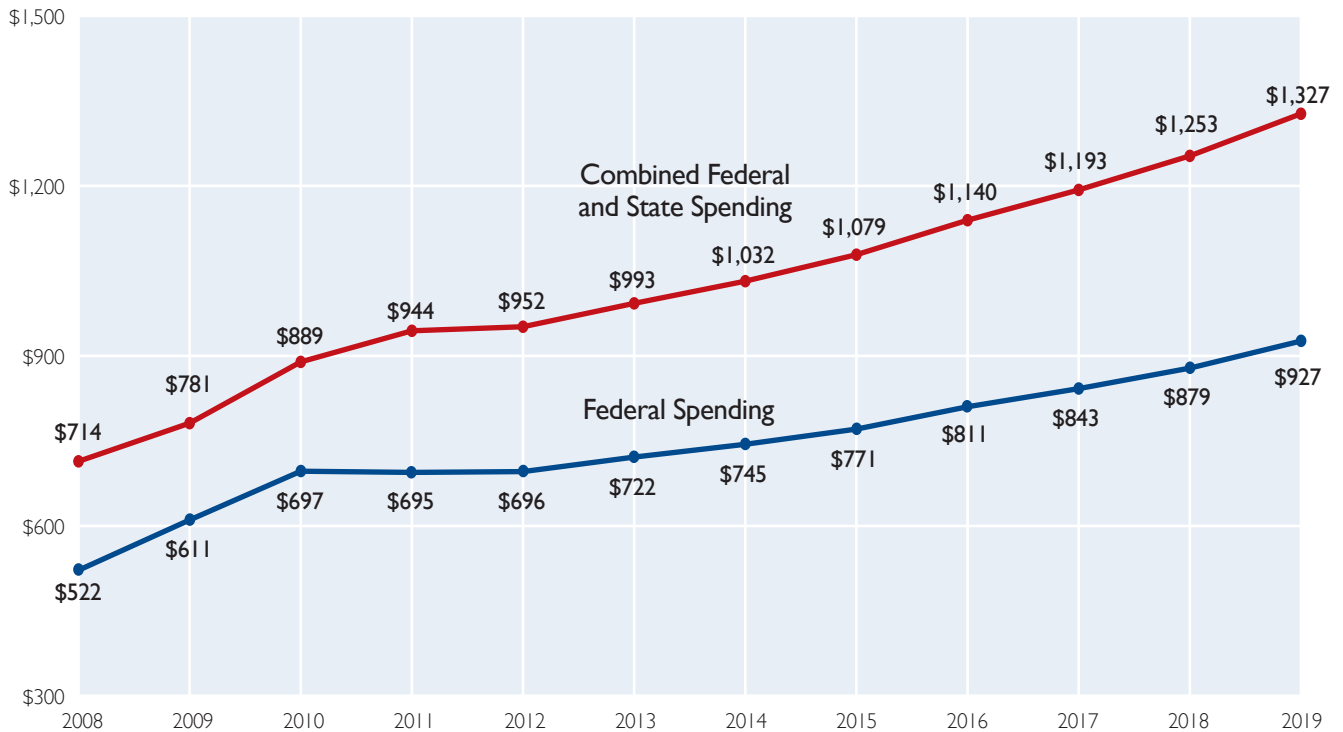


Family & Religion

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Projected Means-Tested Welfare Spending

IN BILLIONS OF CURRENT DOLLARS



Source: Heritage Foundation calculations based on current and previous Office of Management and Budget documents and other official government sources.

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provide information on the importance of marriage to individuals in communities that have a high risk of having children out of wedlock, with an emphasis on the benefits to children of a married two-parent family.

- Limit Low-Skill Immigration.** Around 15% (\$100 billion per year) of total means-tested welfare spending goes to households headed by immigrants with high school degrees or less. One-third of all immigrants lack

a high school degree. Over the next 10 years, America will spend \$1.5 trillion on welfare benefits for lower-skill immigrants. Government policy should limit future immigration to those who will be net fiscal contributors, paying more in taxes than they receive in benefits. The legal immigration system should not encourage the immigration of low-skill immigrants who would increase poverty and impose vast new costs on already overburdened taxpayers.

Making Federal Policy Marriage-Friendly

THE ISSUE:

The institution of marriage draws mothers and fathers together in the smallest of communities, reinforcing bonds with their children and cementing ties across generations. Marriage is the necessary foundation of the family and therefore essential for societal existence and well-being. The erosion of marriage thus affects communities both small and large, reducing human happiness, weakening civil society, producing negative social consequences, and imposing vast new costs on taxpayers. Federal tax, health, and welfare policy has often undervalued the benefits of forming married families and keeping them together.

THE FACTS:

- **Marriage Decline Is Due to Many Factors.** Over the past 40 years, out-of-wedlock births have gone from 10 percent of all births to 40.6 percent in 2008. No-fault divorce, changes in social attitudes and religiosity, family-destructive welfare policies, and radical political movements have all contributed to the incremental weakening of marriage.
- **The Social Cost of Marriage Decline Is Enormous.** Children raised in married households do better on every significant measurement of personal well-being and attainment. They perform better in school, commit fewer crimes, engage in fewer risky behaviors, experience less poverty, and have fewer marital problems as adults. The annual cost of means-tested welfare alone for single parents is \$300 billion.
- **Divorce Rates Are Stabilizing but Still High.** The U.S. divorce rate fell in 2009 for the first time in years, but the weakening economy puts more long-term stress on married households. Lower-income families and their children are hit harder by higher rates of marital breakdown and have fewer resources to cope with the effects of father absence.

THE SOLUTIONS:

- **Block the Obama Restoration of the Marriage Penalty in the Tax Code.** The tax cuts that expire at the end of 2010 include marriage penalty relief that has been in place for a decade. The Joint Tax Committee estimates that 35 million couples will pay an average of \$595 more in taxes in 2011 alone if marriage penalty relief is not extended.
- **Repeal New Marriage Penalties Included in Obama-care.** The Patient Protection and Affordable Care Act provides tax credits for the purchase of health insurance, but the configuration of these credits imposes new marriage penalties that could exceed \$10,000 a year for certain couples. These penalties provide another strong reason for the repeal of Obamacare and the enactment of real reform.
- **End the Welfare Marriage Penalty.** Current means-tested welfare programs penalize low-income recipients who choose to marry. These anti-marriage penalties should be reduced or eliminated.
- **Fund an Advertising Campaign to Promote the Benefits of Marriage.** Programs like the “healthy marriage initiative” in the Department of Health and Human Services stressed the long-term benefits of marriage for child outcomes and encouraged low-income couples at risk of government dependency to marry and stay married. Funding for such programs should be increased and not diluted with separate job training and similar initiatives. Messaging about marriage, including public service advertising, should provide information on the importance of marriage to individuals in communities who have a high risk of having children out of wedlock, with emphasis on the benefits to children of a married mother and father.

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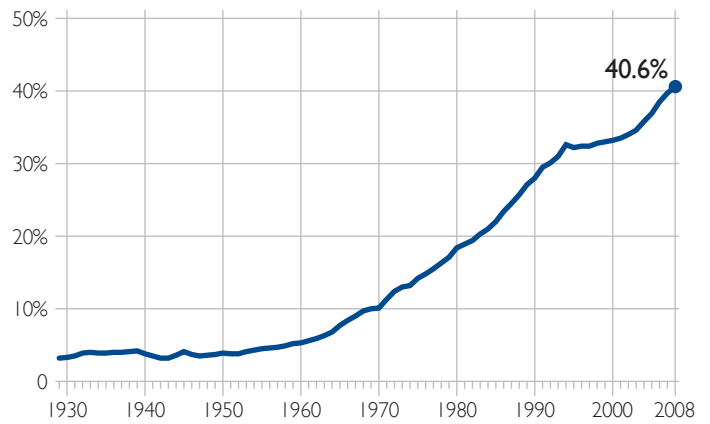
Family & Religion

Fostering the permanent institutions of family and religion to maintain ordered liberty in American society. This product is part of the Family & Religion Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

Growth of Out-of-Wedlock Childbearing in the U.S., 1929–2008

One of the most alarming social trends in recent decades has been the growth in the out-of-wedlock birth rate—the percentage of all births that occur to non-married women. Throughout most of U.S. history, out-of-wedlock childbearing was very rare. When the War on Poverty began in 1963, only 7 percent of children in the U.S. were born out of wedlock. Over the next four and a half decades, the number has risen steadily. In 2008, 40.6 percent of all births in the U.S. occurred outside marriage. The raw numbers of births are as follows: In 2008 there were 4.25 million births in the U.S. Of these 2.53 million were born to married couples and 1.7 million were born outside marriage.

PERCENTAGE OF CHILDREN BORN OUT OF WEDLOCK



Source: U.S. Census Bureau data.

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The Rising Tide of Red Tape

THE ISSUE:

Most Americans are painfully aware of the amount of taxes they pay, but explicit taxes and spending are only part of the total burden that government places on Americans. The rest comes in the form of hidden taxes imposed by government regulations. These “regulatory taxes” appear on no budget or balance sheet but are very real: They cost Americans an estimated \$1 trillion or more each year, and these costs are increasing. In fiscal year 2009, new regulations costing more than \$13 billion per year were adopted by the Bush and Obama Administrations, the highest annual total since 1992. Much more is in the works. Anyone who uses electricity, drives a car, has a job, visits a doctor, owns stocks, or patronizes a bank will be affected by the additional regulation being advanced by the Obama Administration. The effects of such a regulatory tsunami could be disastrous—destroying jobs, threatening enterprises, and deterring new investment.

THE FACTS:

- **Record-High Regulatory Page Count.** The Code of Federal Regulations, a compendium of all existing federal rules, hit a record high of 163,333 pages in 2009, an increase of some 22,000 since the beginning of the decade. In 2008, the CFR weighed in at 157,974 pages, having increased by 16,693 pages since the start of the George W. Bush Administration.
- **Ballooning Regulatory Agency Budgets.** President Obama’s fiscal 2011 budget calls for direct expenditures by regulatory agencies of over \$59 billion, an increase of 4.1 percent over fiscal 2010, and 8.9 percent over fiscal 2009.
- **Flood of New Rules.** This year, the Obama Administration has adopted some 25 major new regulations.

That is higher than the full-year total for all but one year since 1997.

- **Trillion-Dollar Cost.** According to a 2005 study by the Small Business Administration, the total burden of federal regulation is some \$1.1 trillion—more than Americans pay in personal income taxes each year.
- **Major New Regulatory Regimes Created.** New regulatory threats are coming from a variety of areas. Two of the biggest areas of increase have been health care and financial reform, both of which were the subject of massive new regulatory legislation passed this year. Other areas of concern include energy use, which is under threat from climate change legislation, and the Internet, which is the target of Federal Communication Commission regulatory efforts.

THE SOLUTIONS:

- **Establish a Sunset Date for New Federal Regulations.** To prevent outdated regulations from being left in place in perpetuity, new regulations should, as a matter of routine, include a “sunset” date by which they would expire automatically unless specifically renewed by lawmakers. Such automatic sunset clauses already exist in some cases. Congress should make them the rule, and not the exception.
- **Protect the Office of Information and Regulatory Affairs (OIRA).** Over the past 30 years, OIRA has played a key role in Republican and Democratic Administrations, scrutinizing proposed new regulations, checking their effectiveness and cost, and providing an outside check on agencies’ regulatory agendas. This institutional role is a vital one and should be preserved. Congress and the Administration should reject attempts to reduce OIRA’s role or authority.

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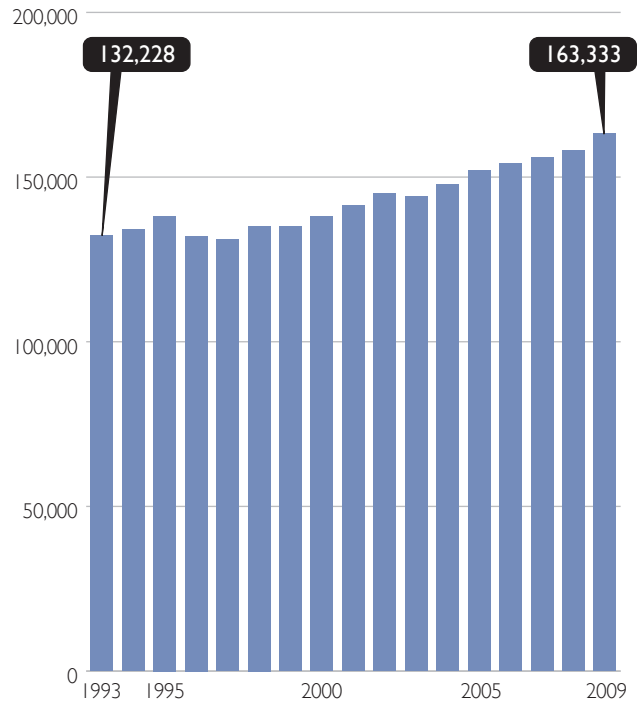
Enterprise & Free Markets

Eliminating barriers to enterprise and innovation is vital to economic creativity and prosperity. This product is part of the Enterprise & Free Markets Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- Establish a Congressional Regulation Office.** Congress receives detailed information from the Congressional Budget Office on the state of the budget and on proposals that would affect the budget, but it has no independent source of information on regulatory programs. A nonpartisan Congressional Regulation Office would help to fill this gap. Such an office could review the regulatory impact of legislative proposals and report on the cost and effectiveness of rules adopted by agencies. In this way, a Congressional Regulation Office would act as both a complement and a counterweight to OIRA.
- Repeal New Health Care and Financial Services Regulations.** The regulatory regimes placed in President Obama's health care reform and financial regulation bills were a step backward for consumers and the economy, and imposed unnecessary regulatory costs or taxes on American businesses and families. Congress should repeal both and adopt market-based solutions in their stead.

Code of Federal Regulations Has Grown 24 Percent Since 1993

NUMBER OF TOTAL PAGES IN THE COMPLETE CODE OF FEDERAL REGULATIONS



Source: National Archives and Records Administration, Code of Federal Regulations, at <http://www.gpoaccess.gov/cfr/> (August 2, 2010).

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Re-embracing Federalism

THE ISSUE:

In the American plan of constitutional government, the national government was never supposed to have all of the power or make all of the decisions. Indeed, most powers of government were located, and the decisions that affect citizens' day-to-day lives were to be made, at the state level. This relationship was turned on its head over the course of the 20th century. Ever-increasing amounts of regulations and laws emanating from the federal government have centralized and bureaucratized political rule in America, undermining the balance of federalism and threatening self-government.

THE FACTS:

- **A Nation of States.** Federalism is a crucial component of our system of government and part of the very infrastructure that makes our political liberty possible. It is evident throughout our history and our laws: the mirror image of the limited authority and extent of the federal government's powers in the United States Constitution. The clearest statement of this relationship is found in the Tenth Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."
- **Growth of the Federal Government.** The relative size of the various levels of government has changed dramatically since 1900. Then, almost 60% of government spending took place at the state and local levels. Today, the federal government spends more than twice as much as all other levels of government combined.
- **Centralization of Administration.** Over the course of the 20th century, the administration of government has been increasingly centralized under the federal govern-

ment, gathering particular momentum with the expansion of the regulatory state in the 1960s. The *Federal Register*, which contains the text of new federal regulations, notices, and decisions, ran to 22,877 pages in 1960; it was 68,598 pages in 2009.

- **Subsuming of States Under National Programs.** Today, states increasingly administer policies and programs emanating from Washington, making them for the most part agents of a national administrative government that, in theory if not in fact, is unlimited and all-encompassing. As a result, states often act like supplicants seeking relief from the federal government.
- **A Renewed Threat.** The policies of the current Administration and Congress—from massive spending to the takeover of whole industries to new regulatory initiatives and the resulting explosion of debt—have been especially threatening to and destructive of the idea and structural integrity of federalism.

THE SOLUTIONS:

- **Changing the Dynamic.** The best path toward achieving the goal of decentralizing government power starts with practical but significant reforms that will change the dynamic in key policy matters. There are several areas that in recent decades have become federal government concerns but are better dealt with at the state and local levels of government. Five areas are especially ripe for this kind of reform.
- **Health Care.** A centralized approach to health care cannot possibly produce a system that will work efficiently everywhere in the United States, given the country's diversity and also the complexity of health care. The federal government should instead create the conditions for states to take the lead in discovering the best ways

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First Principles

The future of liberty depends on reclaiming America's first principles. This product is part of the First Principles Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

to achieve affordable health care for their citizens. To do this the federal government must end the bias in the tax code against individuals who purchase health coverage on their own, in order to help foster market innovation. It must promote interstate commerce in health insurance. And it should provide states with waivers from the statutes governing such programs as Medicaid and Medicare—not just the regulations—to spur state experimentation.

- **Education.** We must restore the preeminent role of the states in establishing the education priorities that are best suited to their own citizens' needs. States should have the freedom to opt out of federal education programs and assume full responsibility, free of stifling federal mandates, to direct their education funding and policy. States should be able to consolidate federal funding and direct it to any educational purpose that is lawful under state statute. In exchange for freedom from federal mandates, states should provide increased transparency about performance standards and be able to show results in terms of student achievement over time.
- **Transportation.** States should control and establish the priorities for their highway and other transportation-related programs rather than be beholden to the one-size-fits-all, lobbyist-driven mandates now entrenched in federal law. This includes control of their share of federal money allocated to them from the highway trust fund. States that want to opt out of the federal highway program altogether and retain all of the federal fuel tax revenues raised within the state should be able to do so.
- **Homeland Security.** State and local governments include far more individuals involved in domestic security

than the federal government has, and policies should reflect that dynamic. Homeland security grants have become pork-barrel legislation and should be scrapped and replaced by cooperative agreements between the federal government and the states. Not every natural disaster is a national disaster, so federal law should be changed to prevent the federal takeover of every natural disaster and allow more effective state responses. In general, despite the enormous growth of the federal government, states maintain the flexibility to develop innovative solutions to America's toughest challenges. Congress should help the states by amending federal laws—for example, in the area of immigration—to clearly permit the states to experiment with reform efforts.

- **Overcriminalization.** The power to make laws and decisions about the enforcement of those laws should generally reside as close as possible to those who will be most affected. Yet Congress has criminalized broad swaths of American life that have no clear connection to legitimate federal interests or to the Constitution. This over-federalization of crime undermines state and local accountability for law enforcement, undermines cooperative and creative efforts to fight crime, and injures America's federalist system of government. To stop this over-federalization, Congress should require written analysis and justification of every new or modified federal criminal offense or penalty, including (1) a direct statement of the express constitutional provision authorizing the new criminalization, (2) an analysis of whether the criminalization is consistent with both constitutional and prudential considerations of federalism, and (3) a discussion of any overlap between the proposed criminalization and existing state law criminalizing the same conduct.

Revitalizing Federal Highway Transportation Policy

THE ISSUE:

The federal highway system was created in 1956 to build the interstate highway system. That task was largely completed in the early 1980s. All of the funds to build and maintain that system are derived from the road users who pay a federal fuel tax of 18.3 cents per gallon of gasoline. Spending approximately \$50 billion per year on roads and transit systems, the federal program supplements similar volumes of spending by state and local governments, also usually derived from a state-imposed fuel tax. Since the 1980s, the federal program has lost its sense of purpose, and today no more than 65% of all federal trust fund spending goes toward general-purpose roads. The rest of these funds are diverted to unrelated purposes, including mass transit, national parks and forests, bicycle trails, earmarks, bureaucracy, urban revitalization, and historic preservation. As a result, congestion has worsened in most major metropolitan areas, and roads and bridges have deteriorated everywhere.

THE FACTS:

- **Deteriorated Infrastructure.** Some estimates indicate that bringing our highways up to an acceptable standard would cost an additional \$78 billion per year, or \$27 billion per year just to sustain the current level of quality.
- **Failing Sources of Federal Funding.** Starting with a \$23 billion surplus in 2000, wasteful federal transportation spending and trust fund diversions have left the highway trust fund with a deficit in FY 2010, requiring a \$14.7 billion bailout with general revenues and deficit spending to meet commitments. A cumulative trust fund deficit of \$93.9 billion is projected for 2013 to 2020.
- **Misplaced Priorities.** More than 20% of trust fund spending (and motorist fuel taxes) goes to transit sys-

tems which serve only 5% of the nation's passengers, three-quarters of whom are located in just seven metropolitan areas.

- **Pervasive Regional Inequities.** The formulas used to redistribute federal fuel tax revenues back to the states are biased in favor of the slow-growing states located in New England and the Middle Atlantic regions, who receive larger shares from the trust fund than they pay in. By contrast, states in the Southeast and West, which are growing much faster than the nation as a whole, receive less than they pay in.

THE SOLUTIONS:

- **Give States More Flexibility.** The federal highway program should be modified to allow states the maximum flexibility in spending their share of federal money allocated to them by formula from the highway trust fund. States should be permitted to spend such funds according to their own transportation priorities rather than the one-size-fits-all, lobbyist-driven mandates now entrenched in federal law. To the extent that the federal government maintains overall goals, they should be limited to congestion mitigation, enhanced mobility, and safety.
- **Allow States to Opt Out of the Federal Program.** States should also be allowed to opt out of the federal highway program in return for a commitment to meet certain obligations. In return for the right to retain all of the federal fuel tax revenues raised within the state, the state would agree to (1) maintain the interstate highway system to a certain standard of quality, (2) meet a series of existing federal safety standards, and (3) forgo the receipt of any federal transportation spending derived from general revenues.

- **Seek More Private-Sector Investors and New Non-Tax Sources of Revenue.** States should be allowed the maximum flexibility in utilizing non-fuel tax fees such as tolls, congestion taxes, public-private partnerships, privatization, and competitive markets and private participation in transit service provision.
- **End All Diversions to Non-Road Uses.** Federal fuel tax revenues paid as a user fee by motorists and truckers should not be diverted to programs that do not benefit road users. Recent proposals by Transportation Secretary Ray LaHood and Members of Congress would divert money from roads to other uses, including bicycles,

walking, transit, land use planning, and larger federal bureaucracies to operate these programs. Instead of calling for gas tax increases which will hurt American consumers at the pump, we should limit federal highway funding to highways and roads.

- **End All Transportation Earmarks.** In the past, all transportation bills have been subject to extensive earmarking, the Bridge to Nowhere being one of the more prominent. Earmarks undermine a state's ability to set its own transportation priorities by micromanaging its investment decisions, often at the behest of lobbyists.

Education Reform

THE ISSUE:

American education is at a crossroads. The federal government's role in education has grown significantly over the past half-century, infringing on our long-held principle of federalism in education. Massive spending increases, and the reams of regulations that accompany them, have not led to better results. Meaningful reforms like school choice, moreover, have been stymied by special interests. To restore a sense of self-government, empower families, and yield educational excellence, it is imperative that educational authority be returned to states and local leaders and parents.

THE FACTS:

- **Increased Federal Control.** The federal government's continued overreach into education has culminated in a push to implement national standards and tests, which threatens the long-established right of parents to direct their children's education and muzzles the states' traditional role in designing school curricula. National standards threaten to standardize mediocrity by undercutting those states that demand more from their students.
- **Increased Spending.** Increased federal control of education has corresponded with increased education spending from Washington. Today, combined federal, state, and local education spending exceeds \$580 billion annually, or about 4.2 percent of GDP. But while inflation-adjusted per-pupil spending has more than doubled since 1970—it now exceeds \$10,000 per student per year—academic achievement has stagnated and graduation rates have remained flat.
- **Teachers Unions Stifle Education Reform.** Many of the problems plaguing American education today can

be attributed directly to the influence of unions and the unions' staunch opposition to meaningful education reform. According to the Federal Election Commission, teachers unions spent more than \$71 million in 2007–2008 on campaigns and candidates, with 95 percent of their contributions going to left-leaning politicians and their causes.

- **Undermining School Choice for Children in Need.**

One casualty of the Obama Administration's education agenda is the successful and highly popular D.C. Opportunity Scholarship Program (DCOSP), which provides scholarships of up to \$7,500 for low-income children in the nation's capital. Sadly, the White House wants to phase out this program despite its proven track record of increasing the educational achievement of the students receiving opportunity scholarships.

THE SOLUTIONS:

- **Free States from Federal Red Tape.** States should have the freedom to opt out of federal education programs and should be allowed to consolidate federal funding in order to direct resources to any lawful education purpose under state statute. Policymakers can look to past models, such as the Academic Achievement for All Act (Straight As) and the A-PLUS Act for inspiration. Freeing states from Washington mandates and empowering state leaders to exercise greater control over education funding would foster innovation, efficiency, and excellence.
- **Reject National Standards and Tests.** Congress should reject and dismantle the Obama Administration's effort to establish federal standards and tests. State oversight of standards and tests will make them more transparent and accountable to parents.

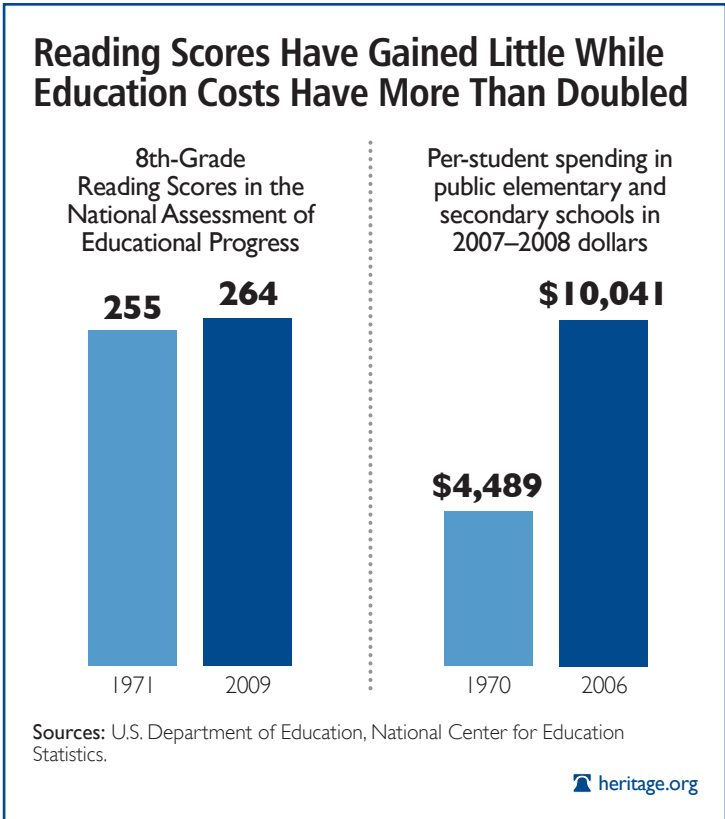
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Education

Return authority to the states and empower parents with the opportunity to choose a safe and effective school. This product is part of the Education Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- Curb Federal Education Spending.** Education spending has no correlation with academic achievement. Yet Congress, at the behest of teachers unions, continues to increase federal spending on education. Instead of increasing funding for public education, federal and state policymakers should embrace reforms that focus resources on the classroom, rather than on the so-called education blob—the tens of thousands of bureaucrats who do not contribute to the quality of classroom teaching.
- Free Students to Attend Safe, Effective Schools.** In order to improve educational outcomes, parents should be empowered to hold schools accountable through school choice. Research demonstrates that students who participate in school choice programs achieve more academically than those who do not. State policymakers should be free to allow parents to convert their share of federal funds in programs such as IDEA (the Individuals with Disabilities Education Act) and Title I to school choice initiatives, i.e., allowing funds to follow children to schools, including private schools, that best meet their needs.



Getting Health Care Reform Right

THE ISSUE:

The health care system needs reform, but not the types of changes enacted under the new health care law. The Patient Protection and Affordable Care Act moves the health care system in the wrong direction. This highly unpopular law would assert federal control over health care benefits and financing, erect a complex one-size-fits-all health system, and centralize America's health care decisions in Washington. Instead, Congress should transform the health care system into one that empowers individuals and families, not Washington, to control more of their health care decisions.

THE FACTS:

- **Health Care Spending.** The U.S. spends over \$2.6 trillion on health care, roughly 17 percent of gross domestic product.
- **More Government Control.** [Health care spending](#) will increase by \$311 billion between 2010 and 2019 under the new law. Soon, the government will control over half of all health care spending.
- **Rising Crisis in Health Care Entitlements.** The Medicare program alone faces a \$30.8 trillion unfunded obligation with an onslaught of 77 million retiring baby boomers. Medicaid has become a growing fiscal problem for the states, accounting for [over 21 percent of state spending](#)—second only to education.
- **No Two States Are Alike.** State health insurance markets differ radically, reflecting differences in demography, levels of poverty, regulation, and underlying health care costs. [Rates of uninsurance](#) range from 25% in Texas to 5% in Massachusetts, while [premiums for individual policies](#) range from \$2,606 in Iowa to \$6,630 in New York.

THE SOLUTIONS:

- **Repeal Obamacare.** There is a precedent for repealing highly unpopular and misguided laws: the Medicare Catastrophic Coverage Act of 1988. History may be repeating itself. Recently, over 70% of Missouri residents rejected a key provision of Obamacare—the requirement that individuals purchase a health insurance plan designed and approved by government bureaucrats. The rebellion at the state level, in fact, is both widespread and multi-dimensional. Some states will vote on similar repeal measures; in others, legislation has been introduced challenging various aspects of the law; still others have banded together to challenge the constitutionality of the individual mandate in lawsuits. The House of Representatives even voted recently to repeal one provision of Obamacare that will impose draconian paperwork requirements on millions of small businesses. The easiest way to address all these grievances: repeal Obamacare.
- **Promote Personal Control Through Tax Equity.** Today, workers who purchase coverage through their employer receive an *unlimited* tax break on the value of their health care benefits. However, those who purchase coverage on their own receive no comparable tax break. Ideally, the current tax exclusion should be replaced (or at the very least capped) with a system of universal tax credits for taxpayers. Concurrently, existing health care spending, such as Medicaid and SCHIP (the State Children's Health Insurance Program) should be redirected to help low-income individuals and families purchase *private* health insurance. Putting Americans in charge of their health care dollars and decisions will go along way toward bringing about greater efficiency and cost reduction to the health care system.

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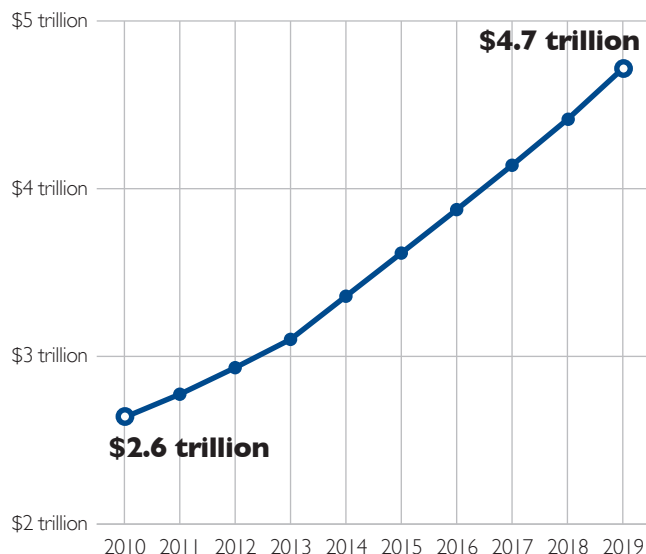
Health Care

Every American should have freedom of choice in health care. This product is part of the Health Care Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- Fix Current Government Health Programs.** To address the country's looming entitlement crisis, Medicare and Medicaid must be transformed. Specifically, Medicare should be a defined-contribution system in which the government provides a contribution for benefits and seniors are able to apply their contribution to the health plan that suits them best. Medicaid should be restructured to mainstream healthy moms and kids into private health insurance through premium assistance while patient-centered models of care should be integrated into Medicaid to give the disabled, the elderly, and their families a say in the care and services they receive. Updating these programs would make the costs both more predictable and sustainable for beneficiaries and taxpayers alike.
- Promote Federal-State Partnerships.** A one-size-fits-all federal solution cannot accommodate the unique and diverse health care challenges facing the states. States should take the lead in health care reform by identifying the key health care challenges facing their citizens, structuring a consumer-based marketplace for health insurance, and expanding affordable health care options for their citizens, including setting up pooling arrangements to protect persons with pre-existing conditions while not unduly burdening taxpayers. Beyond reforming the tax treatment of health insurance and restructuring health care entitlements, the federal government should promote interstate commerce in health insurance, extend certain protections for those who maintain continuous coverage, and provide states with technical assistance and relief from federal rules that inhibit innovation.
- Provide Portability.** Individuals—not the government—should be able to choose the health coverage that best

Under PPACA, Health Care Expenditures Will Continue to Rise

PROJECTED NATIONAL HEALTH EXPENDITURES



Source: Centers for Medicare and Medicaid Services.

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suits their needs. To accomplish this, private health insurance must be portable—that is, owned by Americans so they can take their package from job to job. Portability, in turn, will require lawmakers to end the bias against individuals now in the tax code (see above) and for states to take the lead in guaranteeing that individuals can choose from among competing plans in transparent and lightly regulated marketplaces.

The Federalization of Homeland Security

THE ISSUE:

In the years since it was created, the Department of Homeland Security has spent more than \$250 billion, yet many key homeland security areas continue to produce weak outcomes as more programs federalize traditional state and local activities. From the pork-barrel nature of homeland security grants to the massive federalization of natural disasters to the fed-centric approach to domestic counterterrorism, the more power that is exerted inside the Beltway, the more the role of states and localities is weakened. With far more resources (time, people, money, and expertise), states and localities are ideally suited to lead our domestic homeland security enterprise. The proper role of the federal government is to provide a broad policy architecture and to work as a true partner with states and localities.

THE FACTS:

- **Pork and Politics Drive Grants.** The 9/11 Commission said that homeland security grants were becoming pork-barrel legislation. The commission was right. DHS continues to hand out grants based on highly suspect criteria to too many undeserving jurisdictions that are subject to little or no risk.
- **FEMA Does Too Much.** In the short span of 16 years, the yearly average of Federal Emergency Management Agency declarations tripled from 43 under President George H. W. Bush to 89 under President Bill Clinton to 130 under President George W. Bush. In his first year, President Barack Obama issued 108 declarations—the 12th highest number in FEMA history—without the occurrence of one hurricane or other major disaster.
- **States and Localities Have No Real Say.** State and local governments have far more individuals involved in domestic security than the federal government has. In fact, the state and local personnel advantage is roughly 2,200,000 to 50,000. As for funding domestic security, the eight-year combined budget for DHS and the Department of Justice is roughly \$323 billion. The total eight-year homeland security budget for just the top 26 states and the District of Columbia is at least \$220 billion, or 68 percent of the combined DHS and DOJ budget. When the homeland security budgets of the remaining 24 states and thousands of cities and counties are factored in, state and local homeland security spending certainly exceeds federal spending.
- **States and Local Governments Need a Leadership Role in Responding to All Kinds of National Disasters.** Federal laws, in some cases, undermine the authority of state and local governments during disaster response. For example, the federal response to the Deepwater Horizon spill was conducted under the authorities of the Oil Pollution Act of 1990, using existing plans and procedures for responding to “spills of national significance.” This approach put the federal response at odds with state and local authorities, who are more practiced and familiar with responding to large-scale disasters under the National Response Framework and the Robert T. Stafford Act, where they are supported by rather than subservient to federal authorities. As a result of conflicting expectations, the federal government was unable to organize effective recovery and response operations before major oil flows made landfall, damaging sensitive marshlands, forcing the closing of fishing grounds, and making tourist beaches off-limits. Federal efforts should empower, not hamstring, the ability of state and local governments to take the initiative during any disaster.

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Protect America

The 21st century will be a dangerous place if America fails to protect itself and its allies. This product is part of the Protect America Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

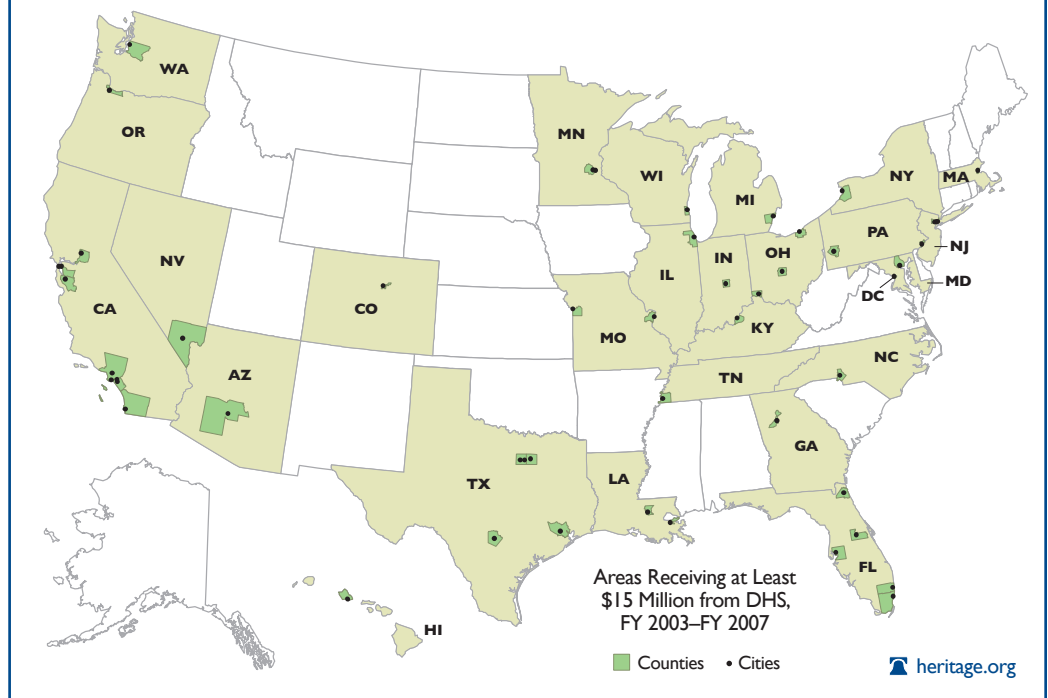
THE SOLUTIONS:

- **Reform the Homeland Security Grant Structure.** Congress should reduce the number of Urban Areas Security Initiative—eligible cities to the 35 highest-risk cities and use cooperative agreements instead of grants. With cooperative agreements, the federal government and the states and localities can sit down as true and equal partners and negotiate outcomes at the beginning, including covering programmatic and financial oversight requirements, and then direct funds to achieve those desired outcomes without the need for yearly applications.

- **Modify the Stafford Act to Curb the Federalization of Natural Disasters.** Congress should establish clear requirements that limit the types of situations in which declarations can be issued—eliminating some types of disasters entirely from FEMA's portfolio. Furthermore, Congress should reduce the cost-share provision for all FEMA declarations to no more than 25 percent of the costs.

- **Give States and Localities a Seat at the National Policy Table.** To ensure that their equities are represented, state and local governments should be provided with a permanent and direct representative group within the executive branch that allows them to participate in the formation of policy from inception to execution. Currently, state, local, and tribal authorities provide input through instruments such as the Department of Homeland Security's Advisory Council (HSAC) and through agencies requesting comment or consultation from stakeholders on proposed programs

Key Jurisdictions Receiving Funds from the Department of Homeland Security



and policies. These have proven inadequate. By law, a Council of Governors has been established to advise the Department of Defense on matters relating to the National Guard. Similar initiatives may be applicable for homeland security. In addition, a means must be established to provide appropriate representation of state, local, and tribal perspectives in the formulation of policy on homeland security issues within the National Security Council staff.

- **Establish Synchronized Federal Response Efforts that Respect Federalism.** Responses to Spills of National Significance should be managed under the National Response Framework. The Oil Pollution Act of 1990 should be amended to make oil spill responses consistent with the Robert T. Stafford Act's intergovernmental approach. Likewise, legislation governing response to other major types of national disasters should be made consistent with the National Response Framework.

Overcriminalization

THE ISSUE:

Federal criminal law has exploded in size and scope—and deteriorated in quality. Honest, hard-working Americans doing their best to be respectable, law-abiding citizens can no longer be assured that they are safe from federal prosecutors. Federal criminal law used to focus on inherently wrongful conduct: treason, murder, counterfeiting, and the like. Today, an unimaginably broad range of socially and economically beneficial conduct is criminalized. More and more Americans who are otherwise law-abiding are being trapped and unjustly punished. Congress must halt its overcriminalization rampage and begin to eliminate vague, overbroad criminal offenses that punish good people who violate one of the tens of thousands of federal criminal offenses without criminal intent.

THE FACTS:

- **Explosion of Federal Criminal Law.** The number of criminal offenses in the U.S. Code increased from 3,000 in the early 1980s to 4,000 by 2000 to over 4,450 by 2008. Moreover, there is no letup in sight; rather, the pace appears to be constant or even accelerating.
- **Criminalization by Bureaucrat.** Scores of federal departments and agencies have created so many criminal offenses that the Congressional Research Service itself admitted that it was unable even to count all of the offenses. The Service's best estimate? "Tens of thousands." In short, not even Congress's own experts have a clear understanding of the size or scope of federal criminalization.
- **Deeply Flawed Criminal Offenses.** The Heritage Foundation and the National Association of Criminal Defense Lawyers reported in May the results of a [joint study](#) finding that three out of every five new nonviolent offenses

lack a criminal-intent requirement that is adequate to protect from unjust criminal punishment Americans who engaged in conduct that they did not know was illegal or otherwise wrongful.

- **Breakneck Pace Continues.** Despite this rampant overcriminalization, Congress continues to criminalize at an average rate of one new crime for every week of every year (including when its Members are not in session). All inherently wrongful conduct has been criminalized several times over, yet from 2000 through 2007, Congress enacted 452 new criminal offenses.

THE SOLUTIONS:

- **Congress Must Justify All New Criminalization.** Because federal law has already criminalized all inherently wrongful conduct many times over, Congress should be required to provide written analysis and justification of every new or modified criminal offense or penalty. The report should include a description of the problem each offense or penalty is intended to redress, any specific cases or concerns motivating the legislation, and a review of any overlaps it will have with existing federal and state law.
- **Congress's Carelessness Should Not Endanger You.** Federal law should codify the Rule of Lenity, thereby ensuring that the benefit of the doubt under vague, overbroad laws goes to the person being prosecuted, not to the government.
- **Honest Mistakes Should Not Result in Prison Time.** Every criminal conviction must require proof beyond a reasonable doubt that the person acted with criminal intent. Federal criminal laws should require such proof. The time when a person can be arrested and incarcerated

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Rule of Law

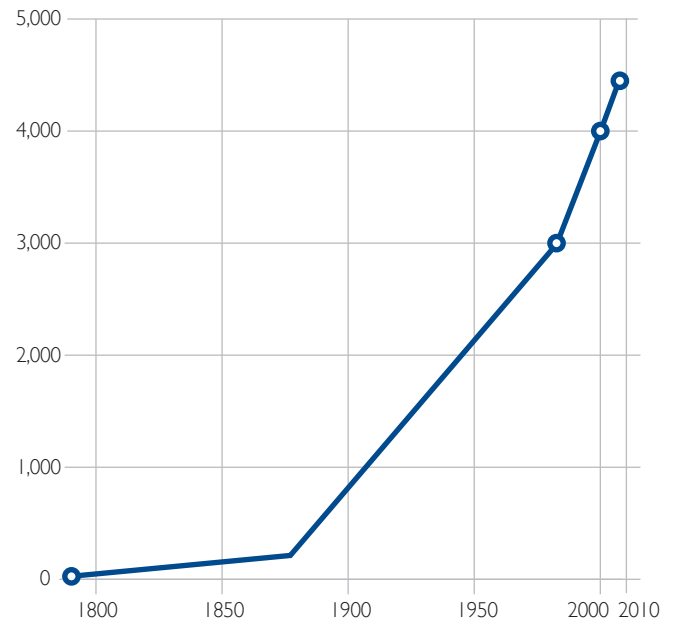
The rule of law is the foundation for constitutional government and a flourishing civil society. This product is part of the Rule of Law Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

ated for failing, for example, to affix a federally mandated sticker to an otherwise lawful UPS package must come to an end.

- **Bureaucrats Should Not Be Making New Crimes.** Congress should not “delegate” its power to criminalize to unelected officials in the scores of federal departments and agencies that it has created. Both common sense and constitutional principles hold that the decision as to whether something is important enough to send a person to federal prison should be made by the American people’s elected representatives.
- **Repeal Unjust Laws.** Congress seems to have forgotten that it can repeal bad laws. It can and should. The worst, most unjust criminal offenses should be thrown into the legislative dumpster. Congress should start with offenses that allow Americans to be punished as criminals even if they did not know that they were doing something unlawful or otherwise wrongful and offenses that are vague, overbroad, or cannot be understood even by lawyers.

Explosive Growth of Federal Criminal Law

NUMBER OF FEDERAL CRIMES (SELECT YEARS)



Sources: Crimes Act of 1790, 1 Stat. 112; American Bar Association, “The Federalization of Criminal Law,” 1998; John S. Baker, Jr., “Revisiting the Explosive Growth of Federal Crimes,” Heritage Foundation *Legal Memorandum*, No. 26, June 16, 2008.

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Civil Justice Reform

THE ISSUE:

Abusive litigation is one of the most harmful strains on our economy. Tort law should compensate victims and deter harmful events as efficiently as possible. The current system, however, encourages plaintiffs' lawyers and activists to manipulate the civil justice system for their own ends at the expense of the public. Unchecked and open-ended liability inevitably leads to litigation abuse and increased risk of liability that, in turn, cause unintended consequences such as the withdrawal of consumer products from the market and a chilling effect on innovation and entrepreneurial risk-taking. We can simultaneously protect, improve, and make our civil justice system more efficient *and* bring greater fairness and predictability to market participants and consumers.

THE FACTS:

- **The Tort Explosion.** From 1996 through 2005, more than 135 million civil lawsuits were filed in state courts—an average of 52,000 new cases every business day—and payouts for tort losses and insurance premiums increased by 60% in inflation-adjusted dollars.
- **The Social Cost: \$838 per Person.** Our tort system directly costs our economy billions of dollars each year: \$254.7 billion, or \$838 for every person, in 2008 alone. That does not include indirect costs such as defensive medicine and the lost benefits of products and vital drugs that are withdrawn from the market.
- **High Cost, Low Reward.** Less than 15 cents of every tort-cost dollar goes to pay compensatory damages to the injured plaintiff.
- **Higher Costs of Goods and Services.** A poll of small-business owners and managers found that 62% make

business decisions to avoid lawsuits that make their products and services more expensive. One study shows that 83% of doctors practice defensive medicine by ordering unneeded tests and treatments, costing the American health care system more than \$100 billion annually. Our tort system is the most expensive in the world.

- **The Problem of Defensive Medicine.** In 2009, Howard Dean, former Chairman of the Democratic National Committee, told a town hall meeting that the proposed health care legislation did not include tort reform because Democrats in Congress did not want to “take on” the trial lawyers. Yet fully 83% of Americans believe that frivolous lawsuits are a problem, and 79% agree that new laws encouraging even more of these lawsuits will negatively affect the economy.

THE SOLUTIONS:

- **Oppose Federal Policies That Encourage and Facilitate Lawsuit Abuse.** The Obama Administration and Congress have been busy promulgating executive orders and laws that increase the amount of contentious litigation or drive up the expense and difficulty of litigation. This chills entrepreneurship and economic growth while putting justice out of reach for many individuals and businesses.
- **Discourage Regulation Through Litigation.** Under our Constitution, how and when commerce is regulated is determined by Congress and state legislatures. Measures that encourage or allow courts to regulate through litigation—including a failure by the Administration to support federal preemption where it genuinely exists—damage specific industries, retard economic growth, undermine democratic accountability, and hurt consumers.

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Rule of Law

The rule of law is the foundation for constitutional government and a flourishing civil society. This product is part of the Rule of Law Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

- **Support Medical Liability Reform While Respecting the Role of the States.** Many states have implemented caps on non-economic damages and limits on attorney contingency fees, helping to speed settlement of valid claims, providing injured patients with a greater share of recoveries, reducing medical malpractice premiums, and reducing physician shortages. Congress failed to include any meaningful tort reform in the health care overhaul bill. To the extent that Congress is going to regulate the health care industry, it should enact similar

reforms and not interfere with the states' efforts in this area.

- **Encourage Arbitration as an Alternative to Litigation When Voluntarily Agreed to and Oppose All Efforts by Congress to Void Arbitration Agreements.** Arbitration serves as a beneficial alternative to litigation because it provides a more expeditious and less expensive resolution of disputes. It would be a major error for Congress to invalidate arbitration clauses in employment, consumer, brokerage, and other contracts.

The Role of the Courts

THE ISSUE:

The Founders envisioned the judiciary to be the “least dangerous branch,” but activist judges have transformed the courts into policymaking bodies that wield wide-ranging power over virtually all aspects of American life. Rather than fulfilling their duty to interpret the Constitution and laws as they are written, judges increasingly seek to impose their own policy preferences on the nation. Recent examples include a federal judge relying on administrative fiat rather than federal law to strike down an Arizona law that simply enforced immigration laws that are already on the books and a federal judge in California creating a previously unknown constitutional right to homosexual marriage. In order to restore the rule of law in America, elected officials, legal experts, and concerned citizens must oppose judicial activism and encourage the President to select constitutionalist judges.

THE FACTS:

- **The Current Supreme Court’s Delicate Balance.** Only four of the nine current justices on the bench have demonstrated that they are usually faithful and consistent constitutionalists. The others are either hard-core liberal activists or inconsistent in their approach. President Barack Obama will likely have at least one more Supreme Court nominee and fill around 50–60 more federal circuit court seats.
- **Closely Decided Landmark Decisions.** Roughly one-fifth of the Supreme Court’s cases this term were decided by a 5–4 vote, including *McDonald v. Chicago*, which properly confirmed that the Second Amendment protects citizens’ gun rights in the states, and *Christian Legal Society v. Martinez*, which incorrectly held that a law school may enforce policies infringing on a religious

group’s First Amendment rights to free speech and association.

- **Importing Foreign Law.** Unable to justify their desired outcomes with United States law, several justices have resorted to citing foreign law in interpreting our Constitution and laws. At least three of the current justices have publicly promoted this practice, and newly confirmed Justice Elena Kagan has also endorsed looking to foreign law.
- **The “Empathy Standard.”** President Obama has stated that an essential criterion for his judicial nominees is whether they have personal empathy for certain parties: “We need somebody who’s got the heart, the empathy, to recognize what it’s like to be a young teenage mom. The empathy to understand what it’s like to be poor, or African-American, or gay, or disabled, or old.”
- **Americans Want Constitutionalist Judges.** In a national survey of 800 actual voters conducted by the Polling Company for the Federalist Society, 70 percent of voters surveyed prefer Supreme Court justices and other federal judges “who will interpret and apply the law as it is written and not take into account their own viewpoints and experiences.”

THE SOLUTIONS:

- **Promote a Robust Dialogue About the Importance of Putting Constitutionalist Judges on the Bench.** Members of Congress should seek to educate the American people about the threat of judicial activism and pledge to promote the appointment—or in states, where applicable, the election—of constitutionalist judges.
- **Senators Should Vigorously Question a Judicial Nominee Regarding His or Her Philosophy of**

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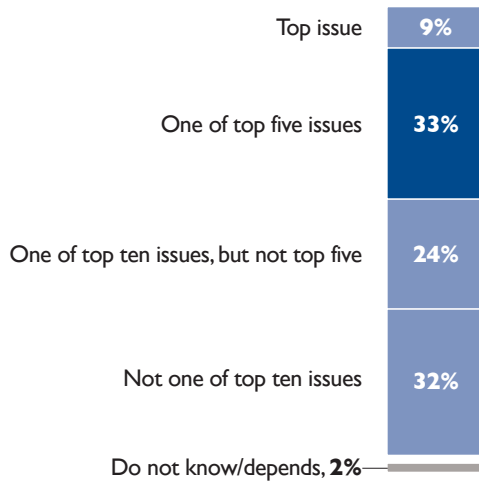
Rule of Law

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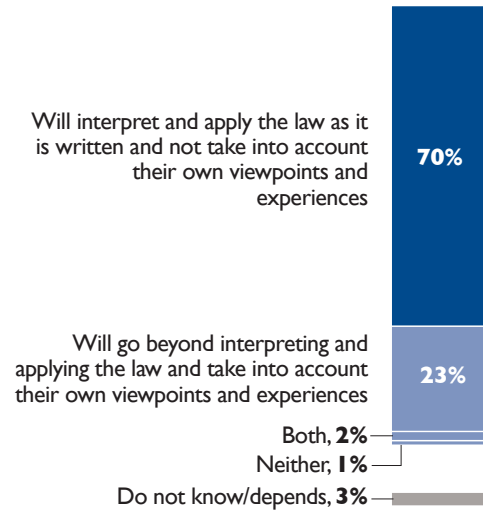
Survey Responses on Judicial Nominations

FROM A NATIONWIDE SURVEY OF 800 ACTUAL VOTERS CONDUCTED DURING AND AFTER THE 2008 ELECTION

Q: When you decided for whom you would vote for President of the United States, how important was it to you whom that person might nominate to serve as Justice on the United States Supreme Court and other federal courts relative to other issues?



Q: Regardless of whom you voted for, would you prefer a President nominate Justices to the United States Supreme Court and judges to federal courts who ... ?



Source: Poll of 800 actual voters, conducted November 4–5, 2008, by the polling company, inc. for The Federalist Society; margin of error is plus or minus 3.5 percentage points; figures may not sum to 100 due to rounding.

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Judging. Senators have the duty to gauge whether a nominee will be faithful to the original meaning of the Constitution and laws. They should ask the nominee whether he or she will interpret the Constitution according to its original meaning or according to their own personal view of “evolving standards” informed by foreign law.

- **Reject Activist Judges.** If there is evidence that a judicial nominee cannot legitimately carry out his or her oath to do impartial justice without regard to the parties before the court—that is, that he or she will rule based on empathy rather than law—then the Senators should reject the nominee. Senators must remember that they, too, take an oath to uphold and protect the Constitution.

Ensure that Congress Follows the Constitution

THE ISSUE:

To protect individual liberty, the Framers of the Constitution carefully enumerated the powers to be vested in the national government, rejecting any broader approach as dangerous. This great limitation has been whittled away to almost nothing. Today, Congress routinely legislates without regard to the constitutional limits on its powers, and only rarely do the courts act to enforce these limits. Indeed, Congress does not just ignore the constitutional limitations on its powers. Members have repeatedly failed to read the bills upon which they were voting, and some have even declared that they have to pass gargantuan bills first so that they can find out what is in them. None of this inspires confidence in Congress as an institution or in its Members, who take an oath to support the Constitution.

THE FACTS:

- **Congress Mocks Constitutional Limits on Its Powers.** When House Speaker Nancy Pelosi (D–CA) was asked what provision of the Constitution authorized Congress to require all Americans to buy health insurance, she responded, “Are you serious? Are you serious?” Her press spokesman followed up by saying, “You can put this on the record. That is not a serious question.”
- **Congress Did Not Have Authority to Impose an Individual Health Insurance Mandate.** Congress has never before attempted to require all Americans to buy any particular good or service from a private market, and that is for a very good reason: Congress lacks the constitutional power to do so. The individual insurance mandate exceeds any authority recognized by the Supreme Court, but much more important, it is clearly contrary to the actual, enumerated powers conferred on Congress in the text of the Constitution.

- **Congress Rarely Gives Reasoned Consideration to the Legislation It Passes.** Speaker Pelosi also explained, “But we need to pass the [health care] bill so that you can find out what is in it, away from the fog of controversy.” What we have learned since its enactment has not been reassuring. For his part, Representative John Conyers (D–MI) responded to suggestions that he read the health care bill before voting on it by saying, “What good is reading the bill if it’s a thousand pages and you don’t have two days and two lawyers to find out what it means after you read the bill?”
- **Congress Does Not Provide Its Members with the Opportunity to Give Reasoned Consideration to the Legislation upon Which It Votes.** After Congress voted to post the text of the 2009 stimulus bill on the Internet for 48 hours before voting on it, the current leadership did not release the amended version of the bill that emerged from conference until 11:00 pm—only 10 late-night hours before the House was scheduled to take up the bill for consideration.
- **Congress Does Not Have Adequate Rules and Procedures for Consideration or Debate on the Constitutionality of Its Legislation.** There is no requirement that bills even mention the constitutional powers that authorize them, and there is no adequate mechanism for Members of Congress who have constitutional concerns about particular pieces of legislation to raise their concerns and have them considered by other Members.

THE SOLUTIONS:

- **Provide Proper Notice of Bill Texts to Members of Congress and the Public.** Each House of Congress should adopt a rule requiring, absent special circumstances, the posting of the text of all bills on an Internet

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site not less than two days before floor debate begins on such bills. Members should be given a point of order to challenge departures from the rule that would require at least a bare majority vote.

- **Don't Use Improper Means to Enact Major Laws.** The "reconciliation" process that is reserved for budget bills should not have been used in the Senate for passage of a health care reform that restructured a major portion of the economy and government. Congress should prevent such abuses, especially with respect to all major legislation.
- **Adopt Adequate Procedures to Consider the Constitutionality of Pending Bills.** Each house of Congress (or both houses in a joint resolution or law) should adopt rules and procedures along the lines of those set forth in the Enumerated Powers Act, which has been introduced by Representative John Shadegg (R-AZ) and Senator Tom Coburn (R-OK) and would require that all legislation

in Congress contain a concise explanation of the constitutional authority empowering Congress to act on it. Under such rules, failure to comply would subject the bill to a point of order, a procedural device that delays consideration of the measure until the problem is corrected or the objection is overruled. The rules should also allow debate, pursuant to a point of order, if Members of Congress believe that the statement of constitutional authority is erroneous.

- **Repeal Unconstitutional Provisions.** Congress should promptly repeal any unconstitutional legislation enacted by the previous Congress. A good place to begin is with the mandate requiring all Americans to maintain or buy private health insurance under the new health care law, which, as Randy Barnett, Nathaniel Stewart, and Todd Gaziano have shown, is [unconstitutional](#). Other provisions of the improperly considered legislation should also be reviewed and repealed.

A Conservative Foreign Policy

THE ISSUE:

The United States was founded on the belief that people have inalienable rights to life, liberty, and self-governance and that government's first duty is to protect our freedom and security. America's history of advancing liberty and rights at home and abroad is unparalleled. Our leaders should not apologize for that history; nor should they deny us these rights or neglect to speak up for them. America is an exceptional nation conceived in liberty. Its foreign and defense policies must reflect that truth.

THE FACTS:

- **Our Freedoms, Security, and Sovereignty Are at Risk.** Current U.S. policies undermine the freedoms, security, and sovereignty that have served us so well. Bringing foreign opinions and laws into our courts, entering treaties that counter our interests, and giving supranational institutions moral legitimacy over the Constitution threaten liberty itself.
- **Engagement Is No Strategy.** The Administration's policy of engagement assumes that we must appease the anxieties of dictatorial states and international institutions as well as friendly nations. It has not worked. Iran, Russia, China, North Korea, and Venezuela have become more aggressive since President Obama took office.
- **U.S. Military Power Is Waning.** A congressionally chartered panel that examined the 2010 Quadrennial Defense Review has concluded that the U.S. military is on the verge of decline and must be modernized.
- **A Weaker Military Undermines Our Interests.** Restraining spending on defense, failing to rein in entitlements, and massively expanding government's role deprive our military of what it needs to protect our homeland, win the Afghan war, convince North Korea

and Iran to forgo nuclear weapons, and make our diplomacy more effective.

- **U.S. Economic Might Is Declining.** As the 2010 *Index of Economic Freedom* shows, the U.S. economy has fallen from the ranks of "free" with the largest overall decline in economic freedom of the world's 20 largest economies.
- **Apologies Do Not Win Friends and Influence Enemies.** The President's job is to defend U.S. interests. His apologies have backfired, encouraging others to press the U.S. even harder to adopt policies against our interests.

THE SOLUTIONS:

- **Place Liberty First.** Defending liberty should be the central goal of foreign policy and the organizing principle for the alliances, international institutions, and treaties we join. Our role as leader of the free world will not endure unless others know that America still stands for liberty and justice for all.
- **Invest in Peace Through Strength.** A robust military is the surest way to deter aggression and reinforce diplomacy. We must modernize our forces, deploy missile defenses, and strengthen our alliances.
- **Win in Afghanistan.** We must win in Afghanistan to ensure that it never again becomes a terrorist haven and to encourage Pakistan to deal with the terrorist groups and Taliban on its territory. To win will require renouncing a predetermined timeline and fully resourcing the counterinsurgency strategy.
- **Prevent Iran from Getting Nuclear Weapons.** We must lead the effort to enforce sanctions on Iran's regime and security organs; ban foreign investment, loans and credits, subsidized trade, and refined petroleum exports; and

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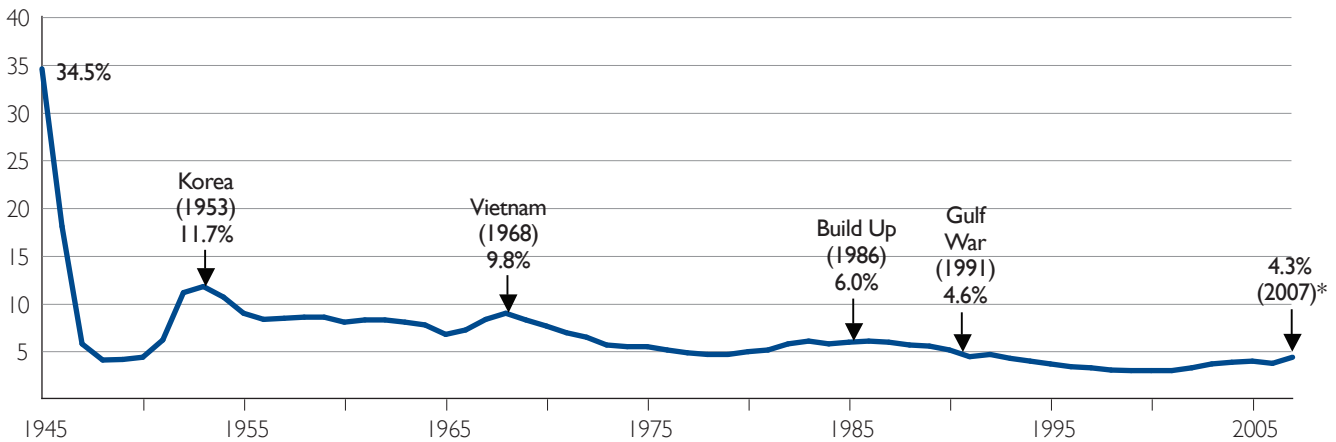


American Leadership

The freedom and security of Americans depend on America's global leadership. This product is part of the American Leadership Initiative, one of 10 transformational initiatives in our Leadership for America campaign.

Defense Budget as a Percent of GDP

PERCENT OF GDP



* Estimated.

Source: U.S. Department of Defense.

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deny visas to its officials. We should expose Iran's human rights abuses and support democracy activists, and we should deploy robust missile defenses to convince Tehran that its nuclear weapons will not achieve their objectives.

- **Take a Tougher Stand on North Korea.** We must lead the effort to fully implement U.N. sanctions and prevent North Korea from procuring or exporting any component of a weapon of mass destruction; freeze the assets of any person, company, bank, or government complicit in that activity; and enforce international laws against North Korea's illegal activities, including currency counterfeiting and narcotics production and distribution.
- **Strengthen Alliances and Build New Coalitions and Entities Around Shared Values.** We must take the lead and increase cooperation with like-minded nations to advance liberty in every form—e.g., a Global Economic Freedom Forum to advance free markets, a Liberty Forum for Human Rights to promote individual

freedoms and human dignity, and a Global Freedom Coalition to advance global security.

- **Undertake Responsible Arms Control.** Under a “protect and defend” strategy, the U.S. should work with Russia to safely reduce operationally deployed strategic nuclear warheads; deploy missile defenses against strategic attack; negotiate bilateral treaties countering nuclear-armed terrorism; and secure a global stability treaty emphasizing strategic defenses.
- **Don't Sign New START.** The U.S. Senate should not ratify the New START treaty signed by Presidents Barack Obama and Dmitry Medvedev. The treaty contains inadequate verification; constrains the U.S. ability to develop and deploy missile defenses; allows Russia to increase its deployed strategic nuclear delivery systems while America is forced to cut; and while U.S. policy stops the construction of new nuclear warheads, Russia and China can move ahead with robust modernization efforts.

The Building Blocks of a Strong National Defense

THE ISSUE:

Today, every branch of America's active duty military forces, as well as the National Guard and Reserves, are strained by the high level of operations that began in the 1990s. Despite the procurement holiday and dramatic defense budget cuts of the 1990s and the increasing investments since 2001, the demands on our forces are shortchanging their preparedness. Their wartime footing in Iraq and Afghanistan and the multi-theater war against terrorism, the economic downturn, and the rising costs of entitlements are forcing defense planners to make risky assumptions and trade-offs.

THE FACTS:

- **National Defense Is a Constitutional Obligation.** The U.S. Constitution directs the federal government first and foremost to provide for the common defense. Only fully equipped and modernized forces can assure this end.
- **Compromising Core Missions Jeopardizes Security.** America needs a force capable of fulfilling myriad core missions, from protecting our homeland and that of our allies to responding to disasters; ensuring freedom of air, space, sea, and cyberspace; helping our allies build their defense capacities to better partner with us if needed; and defeating enemies on their own territory so they cannot attack the U.S. with impunity. We cannot do this with smaller forces and outdated materiel.
- **Military Equipment Is Aging Quickly.** The major operations we undertook in 2001 after a decade of equipment and personnel cuts have aged our inventory of fighting vehicles, planes, and ships much more quickly than

planned. Tactical aircraft are, on average, over 20 years old; B-1 Lancer bombers over 20; and KC-135 tankers about 44 years old. The U.S. must commit to modernizing its forces in the near term to ensure their ability to fulfill their missions and defend our interests in the future.

- **Defense Spending Is Near Historical Lows.** Defense spending came in at 38% of gross domestic product (GDP) during World War II; 14% in the Korean War; 10% during the Vietnam War, and 7% in the Cold War. Yet since 2001, it has averaged roughly 4% of GDP.
- **Obama's Defense Budgets Will Shrink Even Further.** White House budget plans indicate defense budgets will fall as a percentage of GDP to a startling 3.01% in 2019.
- **Defense Spending Is Not the Cause of America's Fiscal Woes.** Mandatory spending on entitlements and interest on our debt currently accounts for over 50% of the federal budget, while defense spending accounts for less than one-fifth.

THE SOLUTIONS:

- **Adopt Sensible Defense Budgets.** Eliminating waste is a worthy goal, but any funds achieved from efficiencies in defense operations must be reinvested in the military to offset the cost of modernizing and developing next-generation equipment. Real reform means fixing outdated, inefficient personnel compensation and business practices—not cutting troops and critical capabilities like missile defenses and fighter planes. By maintaining sensible and stable defense budgets and adopting better pay practices, we can find the funds for modernization and provide a steady stream of funding for new equipment with higher

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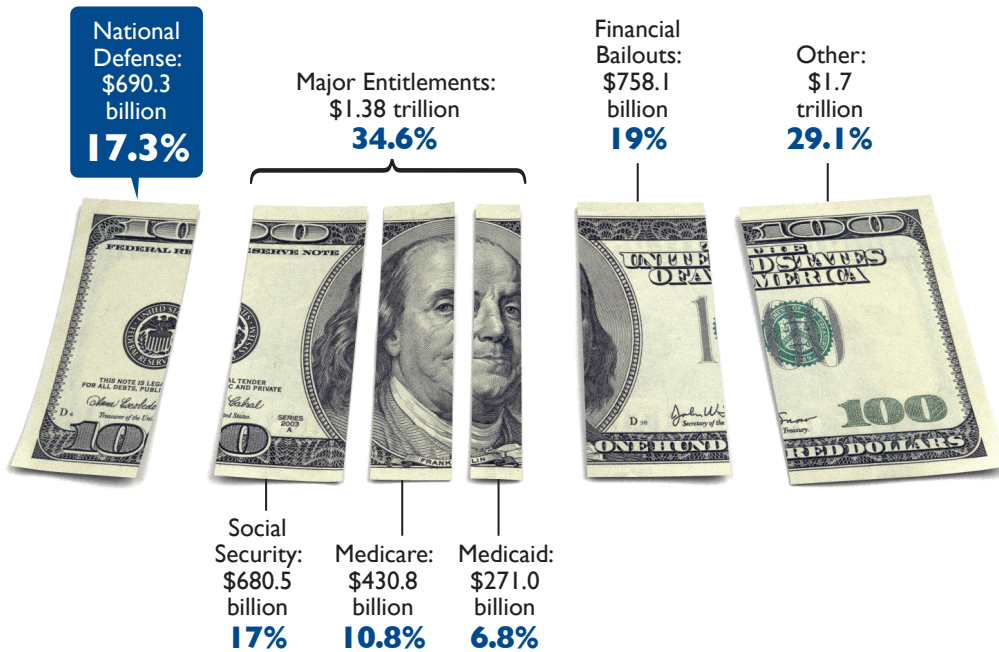


Protect America

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Defense Spending Is Less Than One-Fifth of the Federal Budget

The federal government spends half as much on national defense as it does on the three major entitlement programs. Defense spending is also only slightly more than Social Security spending. Figures shown are federal outlays in fiscal year 2009.



Source: Office of Management and Budget, *Budget of the U.S. Government, FY 2010, Historical Tables*, Table 3.2, at <http://www.whitehouse.gov/omb/budget/Historicals> (December 9, 2009).

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and more efficient production rates, economies of scale, and lower production costs.

- Modernize Logistics Systems.** Currently, performance-based logistics partnerships between Department of Defense and defense industry personnel have helped increase our combat capabilities. The Aerospace Industries Association estimates that modernizing and expanding such performance-based logistics could save as much as \$32 billion per year.
- Undertake Broader Acquisitions Reform.** Congress should promote a wider reform agenda for acquisitions that includes restoring a systems engineering team approach, simplifying criteria, continuing competition well into the production phase, and carefully deregulating the defense market to remove barriers to entry and cut through the red tape that drives up costs.
- Build Partnerships and Capacity through Foreign Military Sales.** We can achieve more efficient production rates and offset costs to U.S. taxpayers by further easing all the restrictions on sales of select platforms to our allies and partners. As a first step, the Senate should conclude the two pending treaties in this area with the United Kingdom and Australia, two of our most reliable allies.
- Stop Runaway Entitlement Spending.** Social Security, Medicare, and Medicaid outlays consume 8.4% of GDP today; by 2030 that share is projected to surpass 14%. Should lawmakers allow entitlement spending to go unreformed, it will inevitably crowd out other categories of federal spending. Some will react by slashing future spending on our national security. For that reason, entitlement reform is essential if we are going to devote adequate resources to national security—the first and foremost responsibility of the federal government.

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The Threat of Nuclear Weapons

THE ISSUE:

The first duty of the U.S. government is to protect the American people. The spread of ballistic missile technology and the existence of nuclear weapons programs in states such as North Korea and Iran make fulfilling this duty more urgent than ever. During the Cold War, the U.S. protected Americans by threatening devastating retaliation against any enemy who attacked the U.S. or its allies. Today, the U.S. needs a new strategy, a positive vision that combines verifiable arms control, missile defense, a modernized arsenal, and responsible non-proliferation diplomacy. This “protect and defend” strategy is a modern realization of President Ronald Reagan’s vision of “peace through strength.”

THE FACTS:

- **The Threat Is Real.** Nations around the world are developing ballistic missile technology and nuclear weapons that will allow them to directly threaten the United States. America’s allies are already at risk.
- **The U.S. Is Vulnerable.** The Administration has backed away from plans to introduce a comprehensive system of missile defense that would protect both the U.S. and its allies. Instead, it has relied on flawed diplomacy, confusing strategic visions, an aging nuclear arsenal, and limited defensive systems.
- **Arms Control Is Not the Answer.** The purpose of arms control agreements is to improve the security of the United States, not to demonstrate our goodwill to foreign regimes. Since the late 1960s, the U.S. has reduced its nuclear stockpile by over 80 percent. This has done nothing to halt the rise of other nuclear powers.
- **Retaliation Alone Is Not the Answer.** The Cold War vision of deterrence required the U.S. to use nuclear

weapons to destroy the population and economic infrastructure of any enemy that attacked it with such weapons. The U.S. can and should do better. Our ultimate goal should be to shift to a deterrence-oriented strategy, one that presumes that reliance on nuclear weapons will be reduced over time. It should be to protect and defend our people and our allies.

THE SOLUTIONS:

- **Modernize the U.S. Nuclear Arsenal.** The U.S. will have nuclear weapons in its arsenal for the foreseeable future. These weapons should be modern so that they can be maintained safely and relied on to perform effectively. Failing to invest in the nuclear arsenal leads to atrophy of the U.S. scientific and technical base and forces the U.S. to deploy old weapons that both reduce its strategic options and trap it in outdated policies of massive retaliation.
- **Deploy Comprehensive Missile Defense.** The purpose of missile defense is to protect the American people and America’s allies. No American could object to this. If other states object to this, that is evidence of their desire to achieve their strategic aims by threatening the United States. The U.S. should continue an active and wide-ranging program of research and development and should immediately deploy a comprehensive system of missile defense that will protect U.S. forces in the field, U.S. allies, and the American homeland.
- **Don’t Sign New START.** The U.S. Senate should not ratify the New START treaty signed by Presidents Barack Obama and Dmitry Medvedev. The treaty contains inadequate verification; constrains the U.S. ability to develop and deploy missile defenses; allows Russia to increase its deployed strategic nuclear delivery systems while

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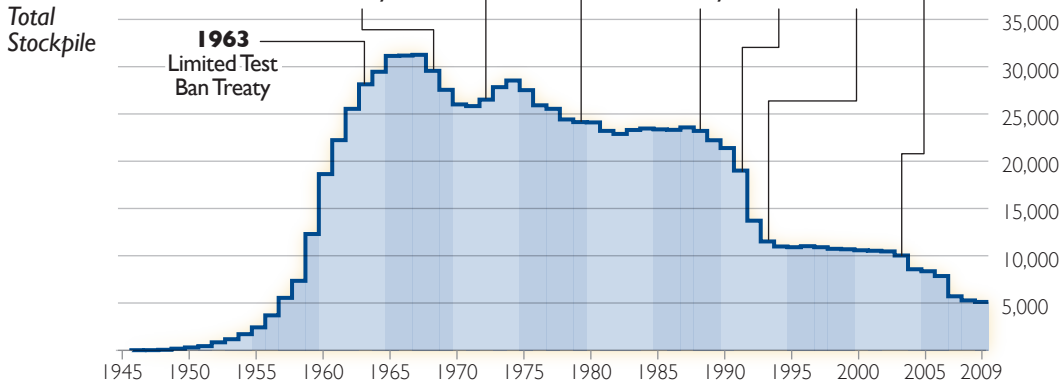
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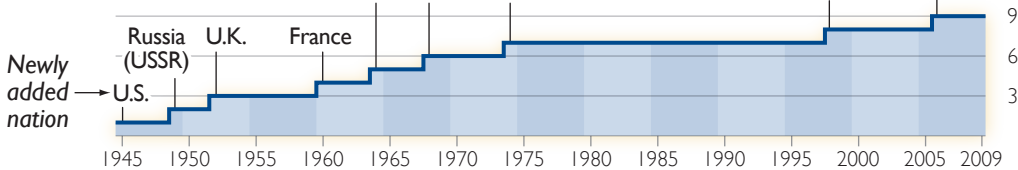
Nuclear Powers Emerge as U.S. Stockpile Shrinks

America's stockpile of nuclear weapons is 78 percent smaller now than in 1987, as new treaties took effect. Since then, Pakistan and North Korea have become nuclear powers, and Iran has aggressively sought to develop nuclear weapons.

U.S. Nuclear Arms



Nuclear States



* Never formally ratified ** Entered into force in 1994 *** Never entered into force

Note: Israel's status as a nuclear state is undeclared, but believed to have begun in 1968.

Sources: Natural Resources Defense Council, *Bulletin of the Atomic Scientists*, Center for Defense Information, U.S. Department of Energy.

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America is forced to cut; and while U.S. policy stops the construction of new nuclear warheads, Russia and China can move ahead with robust modernization efforts.

- **Take Proliferation More Seriously.** The United States should continue efforts like the Proliferation Security Initiative that have proven their value and resulted in the disarmament of Libya. It should also recognize that the most successful way to control and limit the spread of nuclear weapons and other weapons of mass destruction is to defend and advance freedom around the world: The fall of the Soviet Union was non-proliferation's

greatest moment. The U.S. should seek to return the Non-Proliferation Treaty regime to a central focus on non-proliferation.

- **Return to Peace Through Strength.** Weakness and strategic vulnerability do not create peace. They create opportunities for unfriendly and opportunistic states to blackmail America and threaten its allies. In rebuilding and modernizing its arsenal, its defenses, and its diplomacy, the U.S. will preserve and spread peace by adopting a protect and defend strategy and bringing into the 21st century Ronald Reagan's vision of "peace through strength."

Holding Terrorists Accountable

THE ISSUE:

The United States is at war. Since the September 11, 2001, attacks, the United States has detained alien unprivileged belligerents under the law of war and the congressional Authorization for Use of Military Force (AUMF). Although the Supreme Court has held that the AUMF allows the government to detain the enemy without charge, it has issued a series of decisions that have invaded the traditional province of the elected branches of government. This overreach by the Court has created dangerous uncertainty for those who are charged with prosecuting the war. The President must seek and Congress must pass appropriate legislation that defines who the enemy is and the rights he has, regardless of where he is captured or held. All lawful tools within the province of the executive branch must be utilized, including military commissions and, in limited appropriate cases, referral of cases to the federal court. The President should immediately provide the military commissions with the best resources our country has to offer, including the best federal prosecutors and defense counsel.

THE FACTS:

- **Judicial Encroachment.** In 2008, the Supreme Court for the first time in history extended the writ of habeas corpus to alien unprivileged belligerents apprehended and detained abroad. This decision and related decisions reflect a Court choosing to make policy in an unprecedented way where no guidance exists from the elected branches.
- **No Statutory Definition.** The executive branch has failed to seek, as promised, an appropriate statute defining the rights of detainees. As a result, much has been left to federal judges, allowing them to fill in the gaps in current law with policies that reflect their own will.

- **Lack of Proper Facilities in the U.S.** There is no courtroom capable of handling the sensitive information and security needs of holding and trying terrorists within the United States, even on military bases. Guantanamo Bay is currently equipped to meet these security challenges.
- **Criminal Justice–Only Mentality.** The Christmas Day bomber and Times Square bomber both were Mirandized shortly after they were captured. The Obama Administration’s starting point in terrorism cases is to treat terrorists as mere criminals, not as unlawful enemy soldiers with valuable intelligence. This is dangerous and ill conceived, because dealing with an unconventional enemy requires the use of all lawful tools at the government’s disposal, including interrogation for intelligence purposes and the use of military commissions.
- **Skirting Issues, Losing Assets.** The United States, under President Obama, has purposefully allowed captured terrorists to go into the custody of other countries in order to avoid the difficult issues involved in apprehending and holding more detainees in a system that lacks useful definitions. This has the effect of reducing American access to the potentially critical intelligence information gleaned from these individuals.
- **Refusing to Provide Experienced Prosecutors.** Attorney General Eric Holder has refused to provide experienced federal prosecutors to the Office of Military Commissions, despite being asked to do so by the Department of Defense.

THE SOLUTIONS:

- **Congress Must Enact Appropriate Legislation.** This includes defining the rights and privileges of unprivileged belligerents, including current detainees and future cap-

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tures, and providing clear distinctions among unprivileged belligerents, POWs, and domestic criminals.

- **Fully Resource Commissions.** Attorney General Holder must send the best federal prosecutors to commissions.
- **Keep Guantanamo Open Until It Is No Longer Needed.** The detention facility at Guantanamo Bay is first-rate, and detainees are well treated. Congress should deny funds to close the facility until it is no longer needed.
- **Do Not Import Terrorists into the U.S.** Before moving to close Guantanamo and transfer any remaining detainees to the United States, Congress must define their rights and privileges. Otherwise, it is likely that the courts will declare that they enjoy the exact same ben-

efits that the Constitution, the Bill of Rights, and various statutes provide to typical civilian, criminal defendants, even when lawful POWs have never had such rights in our courts or any other court in the world.

- **Conduct a Comprehensive Review of Detainees and Diplomacy.** The Administration should conduct a review of all detainees released or transferred from Guantanamo to evaluate the actual recidivism rate. The review must include an analysis of the diplomatic agreements the United States had with the countries that received detainees from Guantanamo to ensure compliance with the assurances by the receiving country. This review should be reported to committees of jurisdiction in Congress, utilizing classified hearings.

Developing a Strong Border and Immigration Policy

THE ISSUE:

For far too long, the United States has failed to enforce its immigration laws. Its visa system does not adequately serve the needs of the economy, legal immigrants, or U.S. citizens. Cartel violence and continued illegal immigration along the U.S. southern border have many Americans concerned. Americans are demanding a border and immigration policy that will keep the U.S. free, safe, and prosperous—not an amnesty that simply exacerbates the problem.

THE FACTS:

- **Border Violence on the Rise, Illegal Immigration Continues.** The U.S. has made progress on securing the border, but the border is still not secure. Drug cartels have seized control of major parts of Mexico's northern border—with more than 6,000 murders in 2008 from drug cartel violence. The threat of spillover violence in the U.S., as well as continued illegal immigration, remains a significant problem.
- **State and Locals Overwhelmed.** Once in the U.S., illegal aliens consume a significant share of government services, such as health care, law enforcement, and education. Particularly hard-hit are state and local governments, which often bear the cost of footing this bill—a multibillion-dollar unfunded mandate. It is estimated that in 2007, illegal aliens in California cost the state between \$9 billion and \$38 billion in public services.
- **Interior Enforcement Rollbacks.** Instead of building on past progress, the current Administration has reversed a number of effective interior enforcement efforts. For instance, it has switched from random workforce checks

to soft audits and has instituted changes in the 287(g) program, a state and local immigration enforcement program, that will discourage participation. In FY 2009, the number of worksite arrests was down “by more than 50 percent” from the previous fiscal year.

- **U.S. Visa Policies Are Broken.** U.S. visa and naturalization programs remain inefficient and lacking in significant infrastructure investments that could help legal immigration to run more smoothly. The U.S. still has not explored a market-based temporary worker program that would allow immigrants to come to work in the United States legally.
- **Amnesty Will Make the Problem Worse.** The current Administration has placed amnesty for the 10.8 million illegal immigrants in the U.S. at the top of its policy agenda. Amnesty would simply encourage more illegal immigration, making the current problems even worse, while remaining fundamentally unfair to those who came to the U.S. legally.

THE SOLUTIONS:

- **Provide Comprehensive Security.** The United States must have a complete security system—from the point of origin, in transit, at the border, and within the United States—that strengthens all of the activities, assets, and programs necessary to secure America's borders. Immigration legislation should create an integrated security system that addresses border infrastructure and links border management to all activities involved in cross-border travel and transport, from issuing visas and passports to internal investigations and the detention and removal

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of unlawful persons and the enforcement of immigration and workplace laws.

- **Allow for operational flexibility.** Over the past 10 years, the United States has tripled border spending and manpower as border incursions have skyrocketed. The Department of Homeland Security (DHS) must be given operational flexibility to achieve its objectives, rather than specific mandates from Congress to undertake specific measures such as building border obstacles or deploying forces from the National Guard. Effective border security must be measured by “outcomes,” the results achieved on the ground, rather than “outputs,” how much money Washington has poured into securing the border.
- **Invest in Adaptive Technologies and Assets.** Federal, state, and local law enforcement must be provided technologies that will allow them to match the adaptive threat of the transnational cartels and shifting patterns of illegal immigrations. These technologies include small adaptive, unmanned vehicles, and fixed and mobile sensors that detect and track border activity in real time. Wiser investments would also include funding cost-effective initiatives that would rapidly increase security at the border, such as private-sector contractors and using state defense forces as a means for organizing the contributions of citizen volunteers.
- **Target Federal Support to State and Local Authorities.** To secure the border, Congress should allocate about \$400 million per year over the next three years out of the projected spending on homeland security grants. Congress must resist the temptation to turn these grants into earmarked pork-barrel programs and direct these resources to state and local authorities for community policing and related public safety and security programs for improving border security. The number of Border Enforcement Security Task Forces should be increased and robust support provided for state, local, and tribal participation. Federal support for 287(g) and Secure Communities programs, which expand the capacity of local law enforcement to deal with illegal immigration, should be greatly expanded.
- **Enhance Workplace Enforcement.** The use of E-Verify, an electronic system for employee eligibility verification, should be expanded to the maximum extent practical. By law, the Internal Revenue Service should be authorized to share Social Security “no-match” data with the

Department of Homeland Security for the purpose of enhancing enforcement.

- **Authenticate Identification.** Immigration reform should include implementation of the Intelligence Reform and Terrorism Prevention Act of 2004 and the REAL ID Act of 2005. These laws do not create a national identification card, but rather establish that when key identification materials, such as driver’s licenses (and the documents used to obtain them, like birth certificates), are issued at any level of government and used for a federal purpose (such as security checks before boarding commercial passenger planes), these documents must meet national standards of authenticity. Such documents should be issued only to persons living lawfully in the United States. To prevent tampering, counterfeiting, or fraud, and to enhance privacy protections, the laws also establish standard security features concerning identification cards. Congress should appropriate the money to help states establish systems to meet requirements under the REAL ID Act.
- **Implement Effective Temporary Worker Programs.** American employers need the means to get the workers they need when they need them to help grow the economy and create more jobs. Pilots for new forms of temporary worker programs should be established and expanded as the U.S. economy recovers and the demand for temporary labor grows. While recognizing that a temporary worker program would contribute to the task of policing borders and coastlines, a comprehensive plan for integrated border security must be implemented and operational control of the border must be achieved in concert with any new programs that substantially increase permanent or temporary workers in the United States. Triggers could be established to phase in temporary worker programs.
- **Establish a National Trust for Voluntary Return.** Congress should charter a National Trust for Voluntary Return—a program to help and encourage illegal aliens to return voluntarily to their home countries. The National Trust for Voluntary Return should be privately run and funded by private donations. It should be a community-based volunteer program. Individuals participating in the program should be required to register with US-VISIT before they exit and agree not to return unlawfully.

Leadership *for* America Ten Transformational Initiatives

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