

NOMINATION OF THE HONORABLE RUSSELL T. VOUGHT, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

**HEARING & EXECUTIVE
BUSINESS MEETING**

BEFORE THE

**COMMITTEE ON THE BUDGET
UNITED STATES SENATE**

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

June 3, 2020—HEARING ON THE NOMINATION OF THE HONORABLE RUSSELL T. VOUGHT, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

June 11, 2020—EXECUTIVE BUSINESS MEETING TO CONSIDER THE NOMINATION OF THE HONORABLE RUSSELL T. VOUGHT, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET



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**NOMINATION OF THE HONORABLE RUSSELL
T. VOUGHT, OF VIRGINIA, TO BE DIRECTOR
OF THE OFFICE OF MANAGEMENT AND
BUDGET**

WEDNESDAY, JUNE 3, 2020

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to notice, at 2:31 p.m., in Room SR-301, Russell Senate Office Building, Hon. Michael B. Enzi, Chairman of the Committee, presiding.

Present: Senators Enzi, Grassley, Toomey, Perdue, Braun, Scott, Kennedy, Cramer, Sanders, Murray, Wyden, Stabenow, Whitehouse, Warner, Kaine, and Van Hollen.

Staff Present: Doug Dziak, Republican Staff Director; and Warren Gunnels, Minority Staff Director.

OPENING STATEMENT OF CHAIRMAN MICHAEL B. ENZI

Chairman ENZI. I will go ahead and call to order this Senate Budget Committee hearing for the nomination of Mr. Russell T. Vought for Director, Office of Management and Budget.

Good afternoon and welcome. I want to make a few brief opening remarks. Then I will turn it over to Ranking Member Sanders to do the same.

We are here today to consider the nomination of Mr. Russell T. Vought, of Virginia, to serve as the next Director of the Office of Management and Budget. Mr. Vought has served as OMB's Deputy Director since February 2018. President Trump nominated him in March as the Nation was facing an unprecedented crisis, both health and economic, from the COVID virus.

The Office of Management and Budget is playing a key part in responding to this crisis that makes its work more important than ever. In addition to building the President's annual budget, OMB also manages governmentwide functions such as agency rule-making, contracting, grants management, financial management, information technology (IT), program assessment, and property management, just to name a few. Given OMB's vast responsibilities, it is critical to have a Senate-confirmed Director in place.

Before we hear from the Deputy Director, I want to discuss our response to the coronavirus pandemic. Congress, working with the President, acted to provide needed relief for individuals, businesses, and State and local governments on a series of bills resulting in

spending of unprecedented size. Addressing the pandemic was necessary, and we will emerge from this crisis.

Unfortunately, the pandemic deepened our Nation's debt and deficits, which were already on an unsustainable path. I look forward to hearings Mr. Vought's ideas on how we can start to address such issues in the future and how we can deal with the growing fiscal challenges.

As the most recent budget report from the Congressional Budget Office (CBO) shows, the overall budget deficit in the first 7 months of fiscal year 2020 was \$1.48 trillion, which was \$949 billion more than the deficit recorded at the same time last year. CBO currently projects the Federal budget deficit will be \$3.7 trillion this year.

I remain concerned about the Nation's fiscal health, and I know many of my colleagues share this concern. While we had the financial tools to address this crisis this time, we should not assume that this will always be true. This unprecedented national crisis has highlighted the need for better budgeting. The Federal response to the crisis was necessary, and there may be more legislation coming. But we must ensure the Federal Government also develops a sustainable plan for budgeting. A working budget process is needed rather than the recent structure where the motto seems to be everyone gets what everyone wants and there are no constraints.

The Bipartisan Congressional Budget Reform Act, approved in a bipartisan way by this Committee in November 2019, aims to fix the Government's broken budget process and would provide a more orderly and deliberative budget process focused on long-term fiscal planning.

One other important part of a working budget process is to know exactly where taxpayer money is going. That is why it is critical that OMB provide Congress and the public with a program inventory. That way we can see how resources are used. Then we can be better informed when we make spending decisions. This inventory, which I have been working to obtain for some time now, will help the Government eliminate budget deficit in the first—I wish that were true—would help to eliminate duplication, which is currently plaguing our vast bureaucracy and have a better way to ensure programs are working as intended.

One area of positive news is that interest rates are currently very low, and we have more flexibility in borrowing money to aggressively attack the coronavirus crisis. We should not always assume this will be the case. Failure to address our unsustainable budget will mean future Congresses will not have the same flexibility to deal with threats. I am eager to hear Mr. Vought's views about reforming the broken budget and spending process.

Finally, I know that Mr. Vought and his OMB team are charged with helping to both oversee many of the programs we established in what surely has to be record time, and I suspect many of my colleagues are interested in hearing when the administration is going to complete this enormous task.

In these times of unprecedented actions, we have asked the Trump administration to act quickly, efficiently, and with a goal to returning our country to some normalcy. I look forward to hearing from Mr. Vought about how this is being accomplished and what

we can do to help improve these efforts. I believe despite our differences, everyone in Congress looks forward to a time when our Nation is on the better side of this pandemic.

Ranking Member Sanders.

OPENING STATEMENT OF SENATOR BERNARD SANDERS

Senator SANDERS. Mr. Chairman, thank you very much for holding this important hearing to discuss the nomination of Russell Vought to be Director of the OMB. And let me thank Mr. Vought for being with us this afternoon.

As you have indicated, Mr. Chairman, we are in the midst of a major economic downturn, which some feel is the worst economic crisis since the Great Depression. More than 100,000 Americans have died from the coronavirus; 40 million have lost their jobs; millions have lost their health insurance; and people across this country face hunger and the fear of being evicted from their homes.

On top of that, the torture and murder of George Floyd by Minneapolis police officers has caused millions of Americans to rise up and demand urgent reforms through our broken and racist criminal justice system.

Mr. Vought, if I might, let me be very blunt. Given the enormity of this crisis and the failure of the Trump administration to respond to the unprecedented pain and suffering that the American people are now experiencing, I will be voting against your nomination. The Federal budget to my mind is more than just a series of numbers. It is a reflection of what our national priorities are and who we are as a Nation.

As Deputy OMB Director and as Acting OMB Director, budgets you helped write have given us a clear indication of what the Trump administration values, and that is, massive tax breaks for the wealthiest people and the most profitable corporations in our country, paid for by billions of dollars in cuts in programs that working families, the elderly, the children, the sick, and the poor desperately need.

Further, these budgets have made it very clear that Donald Trump was not forthcoming with the American people when he was a candidate for President. During his campaign, as most Americans will remember, Trump told the American people that he would provide health care to everybody. But his budgets have called for the repealing of the Affordable Care Act, which would have thrown up to 32 million Americans off of the health care that they already have. That is not providing health care for everybody.

Trump said that he would not cut Medicaid, Medicare, or Social Security. But his last budget called for a \$900 billion cut to Medicaid, a \$500 billion cut to Medicare, and tens of billions in cuts to Social Security.

Trump said during his campaign that he would pass a tax bill that would not benefit the wealthy, but the bill he supported and that was passed provided 83 percent of the tax benefits for the top 1 percent of Americans at the end of the 10-year period.

Trump said that he would be a champion of working families, but the budget he proposed and the budget that Mr. Vought helped write calls for devastating cuts to child care, nutrition assistance

for pregnant mothers and babies, affordable housing, public education, and heating assistance to the elderly and the disabled.

What I find most disappointing is that the Trump administration and OMB in particular seem to have learned nothing from the public health and economic crises that we are in today. At a time when up to 43 million Americans are in danger of losing their employer-provided health insurance, the Trump administration is still proposing massive cuts to Medicaid and still wants to repeal the Affordable Care Act.

At a time when over 40 million Americans have lost their jobs and are struggling economically, the Trump administration does not want to renew the \$600-a-week expanded unemployment benefits set to expire in July.

At a time when more than 20 percent of Americans are struggling with hunger, the Trump administration is still calling for major cuts to the Special Supplemental Nutrition Program for Women, Infants, and Children and other nutrition programs.

At a time of massive wealth and income inequality, the Trump administration is calling for a huge cut in the capital gains tax that would primarily benefit the top 1 percent.

So, Mr. Vought, let us be clear. The budgets you have prepared for President Trump are the Robin Hood principle in reverse. They would take from the most vulnerable in our society, those who need our help the most, and they would give to the wealthiest and most powerful people in America, those who need our help the least. That was the wrong approach to take before the pandemic, during the worst public health and economic crisis in our lifetimes. It is certainly unacceptable.

Mr. Chairman, thank you very much.

Chairman ENZI. Thank you, Senator Sanders.

Our Committee considered Mr. Vought's nomination to be Deputy Director in 2017. Since January of 2019, Mr. Vought has served as Acting Director. Mr. Vought, we look forward to hearing from you today.

Under the rules of the Committee, nominees are required to testify under oath, so would you please rise with me so I can administer the oath? Do you swear the testimony that you are about to give to the Senate Budget Committee will be the truth, the whole truth, and nothing but the truth?

Mr. VOUGHT. I do.

Chairman ENZI. If asked to do so and if given reasonable notice, will you agree to appear before this Committee in the future and answer any questions that the members of the Committee have?

Mr. VOUGHT. I do.

Chairman ENZI. Thank you. Please be seated, and we will now have a chance to hear from you.

**TESTIMONY OF RUSSELL T. VOUGHT, OF VIRGINIA, TO BE
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET**

Mr. VOUGHT. Thank you, Mr. Chairman, and thank you, Ranking Member and the members of the Committee, for the honor of appearing before you today.

I also want to thank my family—my wife, Mary, and my daughters, Ella and Porter—for the unconditional support that they have

given me not only throughout this confirmation process but during my time at OMB.

I am honored that the President has nominated me to serve as Director of the Office of Management and Budget, following in the footsteps of some very distinguished public servants. Working at OMB has long been an aspiration. I came to OMB at the very beginning of this administration. I have had the privilege of helping to lead this agency, first as Deputy Director and for the last year and a half as the Acting Director. I know the caliber of the men and women who work there. I know the importance of their mission. I know the awesome responsibility of the work that OMB does.

My mantra at OMB throughout my years in leadership has been “One OMB,” in order to create a culture not of silos but of collaborators so that the best expertise can be heard. I have had management positions throughout my career, but none so equally challenging and rewarding as the management of this agency. The portfolios of the various components of this agency are so diverse and each one of a critical nature fundamental to the functions of our Government.

The men and women I work with at OMB thrive on information gathering and problem solving. They are innovative and smart and, frankly, tenacious. They do their best work when they work together, bridging the gaps between their management and their budget and their regulatory silos to find holistic answers to complicated challenges.

There are roughly 500 full-time employees at the agency, but I have seen them do remarkable things. It has been a privilege to work with them and to lead them for the last 3-1/2 years, and I would consider it an even greater privilege to do that as the Director.

I have spent my entire career caring about taxpayers and their families. I have fought to save them money and ensure that their tax dollars are well spent. I come from a blue-collar family, the son of an electrician and the son of a teacher. I know what they went through to balance their budget and save for the future. My parents worked long, hard hours to put me through school. They worked very hard hours to pay for the Government in their lives. And I have often wondered what else they would have been able to accomplish if they were freer to build and save more of their own hard-worked earnings.

My parents represent the forgotten men and women of this country. They have always been the yardstick by which I have tested Government spending. And I am grateful to work for an administration that has made the eyes and the heart of the forgotten man the lens from which we see policy.

These men and women live and work in every city and every town of every State in this great country. I believe in their dreams, and I believe that our Government ought to let them pursue their dreams. The very phrase “Office of Management and Budget” may not be part of their lexicon daily, but I know that the work of OMB has a great ability to impact them in immeasurable ways. And if the Senate confirms me to be the Director, I will work to serve their betterment.

Thank you for considering my nomination, and I look forward to answering your questions.
[The prepared statement of Mr. Vought follows:]

Testimony of Russell T. Vought
to be Director, Office of Management and Budget
June 3, 2020

Thank you, Mr. Chairman. And, thank you, the Ranking Member, and the members of the Committee for the honor of appearing before you today.

I also want to thank my family, my wife Mary and my daughters, Ella and Porter, for the unconditional support they have given me not only throughout this confirmation process but throughout my tenure at OMB.

I am honored that the President has nominated me to serve as Director for the Office of Management and Budget, following in the footsteps of some very distinguished public servants. Working at OMB has long been an aspiration. I came to OMB at the very beginning of this Administration. I have had the privilege of helping to lead this agency, first as Deputy Director and for the last year and a half as Acting Director. I know the caliber of the men and women who work there. I know the importance of their mission. I know the awesome responsibility of the work that OMB does.

My mantra at OMB throughout my years in leadership there has been "One OMB," in order to create a culture, not of silos, but of collaborators so that the best expertise gets heard. I have had management positions in my career, but none so equally challenging and rewarding as the management of this agency. The portfolios of the various components of this agency are so diverse, and each one of a critical nature fundamental to the functions of our government.

The men and women I work with at OMB thrive on information-gathering and problem-solving. They are innovative and smart and, frankly, tenacious. They do their best work when they work together, bridging the gaps between their management and their budget and their regulatory functions to find holistic answers to complicated challenges.

There are roughly 500 full-time employees at this agency. But, I have seen them do remarkable things. It has been a privilege to work with them and to lead them for the last three and a half years. And I will consider it an even greater privilege to do that as their Director.

I have spent my entire career caring about taxpayers and their families. I have fought to save them money and ensure that their tax dollars are well spent. I come from a blue-collar family, the son of an electrician and a school teacher. I know what they went through to balance their budget and save for the future. My parents worked long, hard hours to put me through school. They worked long, hard hours to pay for the government in their lives. I have often wondered what else they would have been free to build and give without such a high burden.

My parents represent the forgotten men and women of this country. They have always been the yardstick by which I have tested government spending. And, I am grateful to work for an Administration that has made the eyes and heart of the forgotten man the lens through which we see policy.

These men and women live and work in every city and every town of every state in this great country. I believe in their dreams and I believe that our government ought to let them pursue those dreams. The very phrase, "Office of Management and Budget," may not be part of their daily lexicon, but I know that the work of OMB has the ability to impact them in immeasurable ways. If the Senate confirms me to be the Director of OMB, know that I will be serving for their betterment.

Thank you for considering my nomination. I look forward to answering your questions.

Chairman ENZI. Thank you.

We will now turn to questions for Mr. Vought. Let me take a minute to explain the process for all Committee members before we start. The hearing room has been configured to maintain the recommended 6-foot social distancing between Senators, between Senators and the nominee and other individuals in the room necessary to operate the hearing, which we have kept to a minimum.

A number of Senators have chosen to use secure video teleconferencing technology which will allow them to remotely participate. For those joining by videoconference, once you start speaking, there will be a slight delay before you are displayed on screen. To minimize background noise, we are asking Senators who are using the videoconference option to please click the mute button until it is their turn to ask questions.

If there is a technology issue, we will move to the next Senator until it is resolved. I would remind all Senators and the nominee that the 5-minute clock still applies. For Senators using the video option, you will notice a screen labeled "Timer" that will show how much time is remaining. At about 30 seconds, I will gently tap the gavel to remind Senators their time is almost expired.

To simplify the speaking order process, Senator Sanders and I have agreed to go by seniority, alternating between sides, for this first hybrid hearing.

With that, Mr. Vought, I have a few questions.

Recently, in response to the COVID-19 pandemic, Congress passed four bills providing trillions of dollars in assistance. The Coronavirus Aid, Relief, and Economic Security (CARES) Act alone cost nearly \$2 trillion.

These are unique circumstances, and it is especially important for the Government to administer this aid, both quickly and responsibly.

What steps is OMB taking to ensure that COVID-19 funds, particularly when it comes to the distribution of dollars and other resources, are being made effectively? How will OMB work with Congress to ensure these pandemic-related programs are working as intended? Mr. Vought.

Mr. VOUGHT. Thank you, Mr. Chairman. We worked very expeditiously, within 2 weeks of the bills being passed, to put out guidance to all the agencies to ensure that we fulfill the twin goals of trying to get the relief out quickly, as quickly as possible, and also to ensure that we do so in a way that Congress and the administration have transparency in how the dollars are spent. We put out M-20-21 that we believe gives guidance to be able to use some of the transparency data systems that Congress has mandated OMB to help set up over the many years. I know this is of great interest to you, and we will continue to do that.

We are in the midst of trying to ascertain on a monthly basis how much has gone out, and we will continue to do that and work to provide the information that is necessary so this Committee and others have information as to how things are going. But we also want to be able to do everything we possibly can to get the money out the door as fast as possible.

Chairman ENZI. Thank you. I will switch to a little different thing here now. For some time I have asked for a program inven-

tory of all the programs the Federal Government operates. This information would better inform Congress if program areas overlap or have duplication. How is OMB working on producing this information? What impediments are there to producing an inventory? It is beyond me to imagine that we do not even have an inventory. And can you commit to a timeline to start? Further, how is OMB working on identifying and reducing program overlap and duplication?

The first thing I am interested in, though, is the list of programs. I did not mention effectiveness in that list. That would be nice, but we cannot start on that until we kind of know what the ones are. So how are you doing on that? And what is the timeline?

Mr. VOUGHT. Certainly, Mr. Chairman, and I know this has been a major priority of yours. And ever since I was a staffer who my bosses, when I worked on Capitol Hill would say, "How many Federal programs are there?" and you would ask GAO and GAO would not be able to give you a good sense. And so this is clearly coming from a place of need. There is an inventory up on taxpayerspending.gov, but the problem with it right now is that it does not allow for the cross-sorting across agencies to be able to identify, okay, how many economic development programs are there, how many cultural State educational exchanges are at State and United States Agency for International Development (USAID). It does not allow you to have a window into the effectiveness of the program, and all the other things that, when you ask the question how many—is there are Federal program inventory you are trying to get it.

So it will be a priority of ours at OMB if the Senate confirms me as Director. We are in the process next steps of rolling out a pilot program that we believe that we can move forward on all of the CARES Act funding that are across agencies and also have a particularly coding that allows us to be able to provide additional transparency and build off of the current system. That is the first thing that we are going to be doing next. But it will be part of the long process that we believe we can work expeditiously to get done and make sure that both the administration and the Congress has the inventory that you all have legislated.

Chairman ENZI. Thank you. I think one of my ideas on that was tell each department to give you a list of all the programs they have, and any that they do not list do not get funded. That is beyond the scope, I am sure, of what you can do. But in the past few months alone, we have added trillions to our national debt responding to this coronavirus pandemic. For future nonemergency legislation, should Congress agree to adhere to budgets and avoid additional and un-offset non-emergency spending?

Mr. VOUGHT. Well, again, the administration has been trying to implement the last four bills, and we have tried to take a pause as to figure out what we need for a next phase. We are fully willing to participate in that conversation. I do not want to speak on behalf of the administration as it pertains to the need for offsets. We are in a once-in-a-generation economic and public health shock that has required us to take ground-breaking steps to be able to respond economically to make sure this is as close to a V-shaped recovery as possible. But I think to the extent that you are reflecting a con-

cern about spending and at some point we are going to have to get our arms wrapped around the fiscal challenges that we went into this crisis facing, those challenges have not gone away. And this administration has and will continue to put forward proposals to be able to participate in that conversation. If it happens this year, that could be a beneficial opportunity. But it may not be this year. It may be in the future.

Chairman ENZI. Thank you. My time has expired.

Senator SANDERS.

Senator SANDERS. Mr. Vought, as a result of the economic downturn, over 16 million Americans have already lost their health insurance, and that is on top of the 87 million who were uninsured or underinsured before the pandemic. In February, the Trump administration released a budget that would have cut Medicaid by some \$900 billion, Medicare by \$500 billion, over the next decade, in addition to trying to repeal the Affordable Care Act. In other words, while the number of uninsured and underinsured are soaring, the Trump administration is proposing massive cuts to health care.

As you may know, there are credible estimates that before the current crisis, up to 68,000 Americans die each year because they do not get to a doctor when they should because they are uninsured or underinsured.

Given the massive cuts to Medicare and Medicaid that the administration is proposing, does the administration have any estimates as to how many more Americans will die because they cannot get to a doctor on time?

Mr. VOUGHT. Senator, I reject the premise of your question in that we have not cut Social Security, we have not cut Medicare, we have not cut Medicaid. The President campaigned and has fulfilled his campaign commitments in those areas. Under the President's budget, Medicaid would grow by 3 percent every year. The Medicare program would grow 6 percent. We have made reforms, we have proposed reforms in the area of drug pricing, in the area of site neutrality, so if you pay for a computerized axial tomography (CAT) scan at an outpatient hospital or at a doctor's office, that CAT scan costs the same.

So we continue to grow these programs. The President is committed in these areas to the campaign commitments that he made to the American people, and——

Senator SANDERS. Mr. Vought, I do not mean to interrupt you. I do not have a lot of time. But as you well know, medical inflation is significantly higher than general inflation. And when you are not keeping up with medical inflation, you are cutting those programs.

So what I am asking you again, before the pandemic, there were credible estimates that over 60,000 Americans died because they were uninsured or underinsured. The number of uninsured is soaring. Have you done any research to determine how many more people will be dying because of the cuts to Medicare and Medicaid you are proposing, not keeping up with medical inflation?

Mr. VOUGHT. Again, Senator, we reject the view that our proposals would lead to any deaths as a result of people not being on the program. Our proposals we believe would——

Senator SANDERS. Are you suggesting—are you suggesting—are you suggesting, in strong disagreement with all of the research that I have seen, are you suggesting that people are not dying in America because they are uninsured or underinsured?

Mr. VOUGHT. No, I am not suggesting that, sir. I am suggesting that when you have a proposal in a budget that makes reforms to a program like Medicaid that needs reform so that people do not have bad care in the program—and I am thinking specifically of Deamonte Driver, who was a 12-year old who did not get care as a result of having a tooth infection, and he died as a result of being—

Senator SANDERS. I do know the case, but you are also aware that today we have tens of millions of people who are uninsured or underinsured and that cuts to Medicaid will make a bad situation worse.

I have another question that I would like to ask you. My understanding is that the Government has spent over \$1 billion in support to drug companies to develop a vaccine for the coronavirus. I support that expenditure, as a matter of fact. My question to you is: After taxpayers spend an enormous amount of money helping to develop a vaccine for the coronavirus, will the administration make certain that that vaccine is distributed free of charge to all Americans, to everybody, regardless of their income, so that the American people do not pay twice for this vaccine that is being developed?

Mr. VOUGHT. Thank you for that question, Senator. I am not prepared to speak on behalf of the administration, but I would be happy to take that viewpoint back to the administration, and as we think through these important issues in the next few months.

Senator SANDERS. Well, what do you think? I mean, do you think that everybody in this country, regardless of income, should be able to access the vaccine, or should it only be available to people who have the money to pay for it?

Mr. VOUGHT. I think, Senator, that this administration has been very clear, the President has been very clear that we are going to do everything that we can to respond to this public health crisis and to make sure this is as close to a V-shaped economic recovery as we can possibly experience, and all ideas are on the table.

Senator SANDERS. All right. You did not answer my question, so I am assuming that you have not discounted the possibility that working-class people and lower-income people may not be able to afford the vaccine that will keep them alive. Is that a fair assumption?

Mr. VOUGHT. Senator, my answer was to get to the point where I could say that this administration does care about the affordability of vaccines as they are produced as therapeutics, as they are produced. It is an open policy process. I am not going to get ahead of it. But we share the concern that it is important to make sure these things are affordable for the American people so that there is no chance that this virus comes back in the fall.

Senator SANDERS. Well, I am disappointed that you have not answered the question, but thank you very much.

Thank you, Mr. Chairman.

Chairman ENZI. Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman. Can you hear me okay?

Chairman ENZI. Yes.

Senator TOOMEY. Great. Well, first of all, Mr. Vought, I want to tell you that I want to commend the work you have been doing since you joined the administration in the various roles that you have played. You have always been a constructive, transparent, accessible person, and I appreciate the working relationship that we have with you and that we have in my office.

I also want to say that I think you deserve your share of the credit for what we had prior to the onset, the invasion of this virus that has wreaked so much havoc, and I am referring to the best economy of my lifetime, and I am almost 60 years old. But the fact is we had resumed strong economic growth; we had record job creation. We had more job openings than we had people looking for work. We had record low unemployment rates. We had wages growing. We had wages growing fastest for the lowest-income American workers. We were narrowing the income gap. And while everything was booming and we were firing on all cylinders, we got hit out of the blue by this terrible pandemic, and we need to recover from this as quickly as we possibly can.

One of the ways that we got to the level of growth and prosperity that we were enjoying was tax reform, which was very, very conducive to further investments and enhancing economic growth. The other was rolling back excessive and unnecessary regulation, and that is something that you played a major role in.

Now, with the advent of the pandemic, the administration had the good sense to issue an Executive Order (EO) designed to provide regulatory relief specifically to facilitate fighting the pandemic. I think it is called the "Regulatory Relief to Support Economic Recovery Executive Order," and it directs agencies to consider making temporary regulatory actions that could be taken in the fight against COVID.

Well, I want to say that a number of those actions have been extremely constructive. One example is the 40 distilleries across the State of Pennsylvania that are producing hand sanitizer now, helping us all to stay safer, to reduce the rate of transmission, and they are only able to do that because the Alcohol, Tobacco Tax, and Trade Bureau waived certain regulatory requirements. Dan Healy, a co-owner of Midstate Distillery in Harrisburg, Pennsylvania, praised the quick action of regulators to adjust their approach in light of the pandemic and allowed them to swiftly alter their business, give us the ability to not only keep our employees working but allowed us to also be a benefit to our community and provide hand sanitizer to those essential workers who might otherwise have gone without.

Here is my question for you, Mr. Vought. Do you think it would be a good idea for us to consider making some of these really sensible but thus far temporary relief measures permanent so that we can enjoy the benefits of these reforms indefinitely?

Mr. VOUGHT. Thanks for your question and your kind words, Senator. I do think that would be a useful exercise. Executive orders that the President signed, I believe 2 weeks ago at the Cabinet meeting, were designed to take an accounting of the 600 dif-

ferent regulatory actions that the administration did in the midst of the public health crisis and the recovery, to identify which ones of those could be made permanent, and I believe in that process we will also figure out what we can do administratively and what we need to do to work with you in terms of new statutes. So I commit to continue that conversation with you, but this is important, not just the regulatory flexibilities to have distillers make hand sanitizer, but to allow a different nutrition labeling if you are doing take-out, to work with restaurants that are doing everything they possibly can to get through the shock of not having people sitting in their restaurants right now.

And so there is a whole host of creative ideas that have been—actions that have been taken that we want to begin to work through to see what can be done on a permanent basis. So I commit to working with you on that, Senator.

Senator TOOMEY. Well, I look forward to it. Thanks very much for your service.

Thank you, Mr. Chairman.

Senator BRAUN [presiding]. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Mr. Vought, welcome. Tell me about climate change.

Mr. VOUGHT. I believe that the vast majority of the scientific evidence suggests that it is real. The climate is always changing. Humans have a part to play. I believe that we also have a part to play in being innovative, and we do not believe as an administration that taking steps that hurt our economy is a way to solve for climate change. But it is an issue, and this administration, even under the budgets that have been criticized, continues to have \$8 billion devoted to it for clean energy technology and research.

Senator WHITEHOUSE. Have you read any of the central bank reports—I think there are about 34 of them now—or any of the Federal Reserve reports—I think there are three of them now—or the letter to Chief Executive Officer (CEO) Larry Fink of BlackRock about what uncontrolled climate change portends for the U.S. economy in particular?

Mr. VOUGHT. I have not, Senator.

Senator WHITEHOUSE. I would advise you to do that. I think that is pretty basic due diligence for somebody seeking this position. I will send you a package, and if you would be interested, do that. There is also a letter from economists that I think was published in one of our leading newspapers, perhaps even the Wall Street Journal. I will get that to you as well. If you would take the time—

Mr. VOUGHT. I am happy to review that.

Senator WHITEHOUSE. The warnings are pretty stark, and it would be a shame to act in a way that is inconsistent with very clear warnings.

Another question is the role of special interest interference at OMB. For as long as I have been in the Senate, OMB has been kind of the last redoubt for special interests wanting to meddle in legislation. In this administration, particularly in the environmental space, they seem to have two bites at the apple. One is that if you look at an agency like Environmental Protection Agency (EPA), it is in my view fundamentally corrupted by the fossil fuel

industry, does exactly what the fossil fuel industry says, has its senior decision-makers come out of the fossil fuel industry, meets virtually exclusively with the fossil fuel industry, and over and over again has its determinations blown up because they are so obviously following the fossil fuel industry rather than proper administrative procedure.

This is kind of a general question, but what is your sense about what OMB's proper role is as a second bite at the apple for special interests in meddling in legislation in a much more secretive environment, OMB's, rather than in the more public Administrative Procedures Act environment of the regulatory agency?

Mr. VOUGHT. Senator, I think your characterization is unfair. OMB has a profound role to play in bringing the interagency together to make sure everyone's equities are considered, and we have the most transparent process of any agency because we make it available to the public who our staff is meeting with, any documents that are provided to our staff. We believe that is very transparent of a process. And so this is something that I think it is very important role to play from the standpoint of ensuring, along with the other agencies, are we regulating consistent with statutory intent, are we regulating with a view toward cost-benefit analysis, both the benefits and the costs. And so I think from that standpoint OMB and Office of Information and Regulatory Affairs (OIRA) in particular have a very important role to play, and it does not—the factual evidence does not reflect the characterizations that you made.

Senator WHITEHOUSE. That is inconsistent with my experience and the evidence that I have seen, so we will just have to disagree on those facts.

Lastly, in the CARES Act, somebody slipped in a provision for net operating loss adjustments in the tax law, and the reported information that we have on that is that of the \$160 billion in the pair of provisions, around \$100 billion will go to the individual tax returns of individuals making over \$1 million a year. So one in every 8,000 Americans is about in that situation. It means they each get, if it were averaged, \$1.6 million in a tax giveaway as a result of this. I want to know what OMB's role was in that piece of legislation. Did you help get it into the CARES Act? Was it cleared through you? What do you know about that specific bill?

Mr. VOUGHT. Well, I would just say, Senator, we support, obviously, that package and the provisions that were put in that package. The administration was doing everything it could to be able to identify things that would provide liquidity to businesses that were trying to—

Senator WHITEHOUSE. No, no, no, no. This is individual tax returns. This is individual tax returns. This is not liquidity to businesses. This is on an individual's personal tax return, and for individuals whose personal tax returns showed over \$1 million a year in income, they got a "gimme" of \$100 billion, with a B. I do not know how that is consistent with the values that you have just stated, and it is not accurate to say that it supports corporate liquidity. It does not. It goes straight to individual tax returns.

Mr. VOUGHT. Again, Senator, we were supportive of the provisions in that bill. We as an administration worked through a proc-

ess to give our negotiators on the Hill the information that they needed. In terms of how that particular provision works, I would refer you to the Secretary of Treasury.

Senator WHITEHOUSE. Well, we have the information as to how it works, and if I may, Mr. Chairman, I would like to ask a question for the record so that we can pursue where this came from. It turned up in a version of this bill, but nobody has come forward to say that this is their baby, and I want to know where it came from. And if it was an administration thing, it is of considerable note because the primary beneficiaries of that kind of a tax benefit are people who are big-time real estate investors like, for instance, the President and his family. So I think it is important to get to the bottom of this, and I hope we will get a better set of answers.

Thank you.

Senator BRAUN. The record will be open until noon tomorrow.

Senator WHITEHOUSE. We will put in a Question for the Record (QFR), and I hope that the Committee will support getting actual answers to QFRs.

Senator BRAUN. Senator Grassley.

Senator GRASSLEY. Thank you for this opportunity to ask you questions. I have had a chance to visit with you on a couple occasions privately. I think you are a good person for the job that you are in now. I want to ask about auditing the Defense Department. It is the only Department of the Federal Government, I understand, that cannot get a certified audit or what you call a "clean audit." Also, there have already been decisions made by Congress that you ought to be able to do that by 2 years ago, and it was not done, and we are in the process of seeing what can be done in the area of getting a certified audit.

So in response to my prehearing questions, you indicated your support for an annual audit process at the Department of Defense (DOD). Leaders have estimated that a clean opinion is likely 5 or more years away and that the annual audit cost would be upwards to \$200 million. So I have two further questions.

First, is conducting an annual audit that is doomed to fail the best use of resources? Or would it be a better strategy to conduct an audit every other year or on another timetable until a clean audit opinion is reached?

Mr. VOUGHT. Thank you for the question, Senator, and I appreciate your leadership in this area over the many years of finding waste and abuse in the Department of Defense.

So as it pertains to the audit, my view would be that it would be something that should be done every year. We are going to learn things each and every year, and I think part of building a culture of auditing is to do it often.

And if we can get it done in a cheaper way, OMB is going to be working hard to do that. If we can make sure that there is a clean audit faster than 5 years, that would be something that we are going to continue to work on. But we are proud of the fact that this is the second year that DOD did an audit. That had been long something that Congress had labored to ensure occurred, and we want to build on that so that the American people and Congress have a great deal of confidence in the funding that is going to the

Department of Defense, which is very important to secure the country.

Senator GRASSLEY. In response to my prehearing questions, you indicated that the DOD relies on over 300 financial management systems, which is a major obstacle preventing a clean audit opinion. You also noted that the Department of Defense has made progress in closing audit findings. Some of the components have spent time and money correcting problems in legacy systems that are planned for retirement rather than focusing on acquiring or developing new integrated systems.

How could OMB support DOD in consolidating financial systems and ensuring that audit remediation efforts are not wasted on financial management systems that will soon be retired?

Mr. VOUGHT. In two respects, Senator. We have two different offices that have a role to play. We actually have three, but, namely, the Office of Federal Financial Management that is in charge of the audits that each of the agencies do, and also our Office of Chief Information Officer, which is in charge of ensuring that agencies have help in figuring out how they can modernize their legacy IT systems. We spend about \$80 to \$90 billion in IT. Much of this can be done to improve systems, but also moving things to digital, moving things to cloud where appropriate, and we want to help be a consultant for these agencies to be able to identify things that we can have innovation and get better results. And so we will definitely be part of that process and improving on what you have seen from the financial management systems.

Senator GRASSLEY. Prior to the onset of COVID-19, the economy was performing remarkably well with wage growth accelerating, especially for low-wage workers and record low unemployment rates. I believe that tax reform and streamlining of regulations contributed to solid economic performance, and I would like to see the economy return to this robust performance, obviously with considerable attention paid to safety of the worker.

I appreciate the work that OMB has done in helping on deregulation, and before I get to my question, I would also like to express my appreciation for the hard work of career staff at OMB. I understand that OMB worker satisfaction has historically been relatively high outside of a couple years when Mr. Orszag was in charge and remains high today. I am confident that you will continue to make sure, especially in light of the pandemic, that your staff is safe and satisfied in their work environments.

In regard to deregulation, it has been estimated that by reducing delays, paperwork, and inefficiency, changes in some regulations and elimination in others can save billions and billions of dollars. So, for you, could you discuss efforts to streamline regulations that have occurred over the past couple of years?

Mr. VOUGHT. Sure. Thank you, Senator. The President has given us a number of structural tools through his Executive orders. He started with his Executive order to do two for one, two deregulatory initiatives for every one. We are at about seven and a half for every one right now over the last 3 years. We have built on that with regard to efforts to get guidance, our arms wrapped around guidance to make sure that guidance cannot be used as a work-around through the regulatory process. The President put forward

an EO on that to make sure we are bringing transparency, putting them on websites at each agency that are searchable, and then just recently, 2 weeks ago, as I mentioned in my response to Senator Toomey, the President put forward an EO to ask all agency heads to go through—of the 600 different regulatory initiatives, some of those were enforcement—and identify which of those could be made permanent for the recovery. It was not a directive to do anything specific because we want agency heads to be able to look at their statutes and identify what makes sense, what they have the authority to do, and potentially come back to Congress with where we need additional statutory authority.

So one of the things about this President is not just the desire to regulate less and remove red tape; he has also been trying to get his arms wrapped around the administrative state so that for future administrations the American people have a more transparent Government from which to work from.

Senator GRASSLEY. Thank you.

Chairman ENZI [presiding]. Senator Stabenow.

Senator STABENOW. Thank you very much, Mr. Chairman.

And thank you for joining us today, Mr. Vought.

It has often been said that a budget shows what a nation's biggest values are. It is really about what we value. And the job of the Director of the Office of Management and Budget is to ensure that our Nation's needs are met and our values are honored.

Unfortunately, during your time as OMB's Acting Director, I believe the Nation's values and certainly Michigan's values have too often been ignored in this process. Michigan cares about our Great Lakes, and time and time again the Trump administration has tried to defund the Great Lakes Restoration Initiative, which works to keep our water clean and protected, and it is very, very important to us in Michigan and in the Great Lakes States.

We care about health care, and time and time again, the Trump administration has cut funding for critical health needs, attacked the Affordable Care Act, and proposed cuts in Medicare and Medicaid. That includes during a pandemic that has taken the lives of more than 100,000 people, as we know.

Michigan cares about civil rights, including the right to peacefully protest and the right to vote. People across the country, including in Michigan, are rightfully horrified by the murder of George Floyd. Violence like this has been happening far too often and for far too long in black and brown communities.

So how has the Trump administration responded? By using tear gas against peaceful protesters for a photo op in front of a church on Monday night, and by making it harder for people to vote and harder to hold those in power accountable for the choices they have made.

Everything is interconnected. That is why we can talk about this in the context of the budget and what is happening. It is all interconnected. The health of our water is connected to the health of people, which is connected to the health of our democracy. Those of us who care about these issues—and I would hope that it is all of us—need to stand together to bring accountability and change and healing right now to this country.

Unfortunately, our Michigan values and our American values have not been honored, as I mentioned, while you have been Acting Director of the Office of Management and Budget, and let me just give a specific.

On May 20th, President Trump attacked our Michigan Secretary of State, Jocelyn Benson, on Twitter for providing every voter in our State with an absentee ballot application. How shocking. The President falsely claimed that this action was illegal and stated that Michigan's Department of State had gone rogue. In his tweet, he threatened to withhold funding from the State if it carried out its plan to provide all registered voters with the opportunity to exercise their right to vote. In his first tweet, which he deleted and was replaced, you were among those who was attacked.

Mr. Vought, could you provide details on what Federal funds the President plans to withhold from the State of Michigan? Is it those for voting? Is it the administration seeking—are they seeking to withhold Federal funds for COVID-19 testing, which is so critical for us right now? Funding for our hospitals? Funding for our Great Lakes? Which funding is the President talking about?

Mr. VOUGHT. Senator, thanks for that question. I just would note with regard to the Great Lakes funding initiative, that is an example of where this administration has changed its mind. The President changed his budget proposal as a result of having additional information about the important work that that initiative does. As it pertains—

Senator STABENOW. If I might just correct you, it took 3 years, as the author of the Great Lakes Restoration Initiative. The first year he zeroed it out; the second year, 90-percent cut; third year, 90-percent cut. And it was only, I think, after taking another look at Michigan and where we were and how important we were, that he backed off from that. Go ahead.

Mr. VOUGHT. Senator, our last two budgets, both the amended budget last year and this one that was proposed earlier this year funds the Great Lakes Initiative. As it pertains to your specific question, the President has not given us any direction to look at those programs, and I have not done so. I cannot answer you specifically, but we would take a program-by-program review, and we would figure out what the law entailed. But, again, the President has not made a decision to go in that direction.

Senator STABENOW. So you do not know which way—but that there are—that Michigan may lose funding. I would close because I know my time—because there are other States that are doing this. Michigan, Nebraska, Iowa, South Dakota, West Virginia, Georgia, New York, Delaware, and Rhode Island—they have also sent absentee ballot applications to their registered voters. Do you plan or do you know if the President plans to also withhold Federal funds from any of those States?

Mr. VOUGHT. Senator, there are no plans to do that at this point because the President has not made a decision to do that.

Senator STABENOW. Thank you.

Thank you, Mr. Chairman.

Chairman ENZI. Senator Perdue.

Senator PERDUE. Well, thank you, Mr. Chairman. Thank you, Acting Director. I really appreciate your work over there over the last couple years.

I only have two questions, and I will tell you what they are up front, but unlike my colleagues, I am not going to waste time in this hearing talking about political—I am not going to make a political statement about the crisis that we are in. I want to talk about another crisis, and that is our debt crisis and our budget crisis.

I agree with our Chairman, and what I am about to say has no reflection on this Committee or the Chairman, and that is that our budget process in the Federal Government is totally broken. The proof of that is over the last 46 years now, it has only worked four times to fund the Government before the end of the fiscal year. You know all this.

The second part of that, though, is it contributes to a \$23 trillion debt crisis.

So my first question is: What can we do through the OMB to deal with the debt crisis going forward after COVID-19? Because we have just added another couple trillion dollars, it looks like, and that is before Main Street gets levered up, to our debt.

The second part of that, though, is there are other things that we need to do besides fix the budget process. So two questions. One, what can you and the OMB do to help us deal with the 1974 Budget Act that is totally broken, it has never really worked, to get our Government funded on time? And I will highlight that by the fact that the White House gives us a budget in the first year of a new Congress, in late February generally. We are then 5 months into that fiscal year. There is no way that we can implement the 1974 Budget Act. In 1921, when they created the OMB, some of us questioned whether or not that was constitutional relative to Article II and Article I. But I want to know now in reality of what we face today, with a \$23 trillion debt, two questions. What can you do to help us solve the budgeting process? And how is the White House thinking about addressing the aftermath of COVID-19 and the \$23 trillion that we went into the crisis with in terms of Federal debt?

Mr. VOUGHT. Sure, and I appreciate the interest in this area and your question, Senator. We believe that OMB has a role to play to be able to get you information as soon as we have, and I know you have had ideas in some of these bills that this Committee has passed, and we are happy to work with you on that particular front to be able to identify actual spending levels and when we have it.

We do not actually—we work through the budget process for the President in the fall, and so to some extent, February is the soonest that we can get it done, and if we started it earlier, it would back up earlier. And so that is the real-world challenge that we face. But we want to be a partner in more budgeting and having the debate of fiscal responsibility. Our budgets have always been meant to start that conversation with Congress. Our hope is that the proposals that we put forward, not necessarily envisioning this situation, would be used to be able to be a template for those types of conversations, and we are willing to work with you on any ideas that Congress has about how we are going to begin to get our fiscal

house in order, whether that is a fiscal rule or whether those are process changes, whether those are Government shutdown protection acts, which I know that many of the Senators have worked on. Those are all things that, you know, we would love to be partners with you on that front.

Senator PERDUE. Well, we have a lot of people on both sides of the aisle—Senator Kaine is still here, Senator Whitehouse was just here, and Senator King have worked with us for the last 5 years, 5-1/2 years, trying to get at some of these solutions. We had the Joint Select Committee in 2018 that came up with some recommendations. And there are some points of commonality. I think we are beginning to make some headway there on two particular fronts, though. One is Senator Lankford has a proposal that would protect us from Government shutdowns through a Continuing Resolution (CR) process, which I hate CRs, but this has some teeth in it that would give us an incentive here to not leave and to get it done before we leave the Senate at the end of the fiscal year if we do not have it done.

The second is Senator Romney—we have been working on the trust funds, the Highway Trust Fund, Medicare Trust Fund, Social Security Trust Fund in quiet working groups. There is a possibility we may be moving to a bill there.

How do you see the OMB's participation with regard to the fact that of our total spending of \$5 trillion, only less than a third of that is actually in the budget? In fact, most of our spending is mandatory, and it is where the growth is. We are spending less in discretionary spending now as a percentage of the economy than we did in 2011. So the question is: How do we ever get at the shortfall until we start looking holistically at our total expenses and our total revenue, including tax extenders, all of the things that both sides talk about here? How do you see the OMB working through that with us?

Mr. VOUGHT. I appreciate the question. So our budgets have proposed reforms on both sides of the equation, both the discretionary side, which you have the annual control over, and the mandatory side. The President has put forward more mandatory reforms within his campaign commitments to protect Social Security and Medicare than any President in history. And I think a part of that answer—and I know I am off the time clock here—is having these proposals ready for whenever there is a moment to be able to tackle spending, because often you all will be on committees and you will need a pay-for and you come to look at the budget that you have many different views, some positive, some negative, with regard to a budget. But there are always some things that find common ground in that budget, and that is what we think we are doing when we send up the President's budget.

Senator PERDUE. Great. Thank you. Thank you very much.

Thank you, Mr. Chairman.

Chairman ENZI. Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman. Thank you for making sure members have the opportunity to participate safely and remotely. I do think it is regrettable the White House is no longer giving Mr. Vought and other administration officials that same choice.

I do have a short amount of time, so I am going to get right to it. I have reviewed the record, and I find Mr. Vought to be unfit and unqualified to lead the Office of Management and Budget or any office. I would like to say I am stunned we are having this confirmation hearing for this nominee, especially as our Nation is dealing with dynamic events brought on by deep divisions in this country and unprecedented challenges that require a coordinated, concerted national effort. But in the age of President Trump, there is very little that surprises me anymore.

First of all, we have Mr. Vought's repeated displays of contempt towards Congress. Under Mr. Vought's leadership, we know OMB violated the law by illegally withholding Federal funds, and those funds were, of course, the military funds appropriated on a bipartisan basis to the nation of Ukraine that President Trump directed to be withheld as part of his unlawful attempt to extort the President of Ukraine. Thanks to the work of our colleague Senator Van Hollen, we have a legal decision by the Government Accountability Office (GAO) as well as the release of internal emails that make clear that Mr. Vought was aware of and complicit in violating the Impoundment Control Act and ignoring Congress' constitutional power of the purse.

In addition, we have the Articles of Impeachment against President Trump in which the House of Representatives names Mr. Vought as a participant in the administration's obstruction of Congress, citing his failure to cooperate with the committees of Congress, including his failure to comply with a subpoena.

Further, we have the report last week in the Washington Post that, under Mr. Vought's leadership, OMB for the first time will not provide an updated economic forecast as part of its midsession review. Why? To brazenly hide the ball from Congress and the American people as to the true state of our economy and to the full extent and length of this massive downturn the administration sees in employment and economic growth, and that is shameful.

To the Chairman and my Republican colleagues, how is it that we are having a hearing on a nominee who has shown he is unwilling or unable to stand up to this President even when directed to break the law and who has continuously displayed such a willful disregard of Congress as a co-equal branch of Government?

There is a lot more I could say in opposition to this nomination, but I want to make one final point, which is that I have seen very little, if any, meaningful engagement or leadership from him and OMB in regards to the Federal response to the COVID-19 pandemic. We are in the midst of an unprecedented emergency, facing both a massive public health and a massive economic crisis, with truly enormous budgetary needs from the Federal Government to protect and assist our first responders, our families, our communities, our States. I see Treasury Secretary Mnuchin up here meeting and negotiating with Congress. But Mr. Vought, the acting head of OMB for some time now, is nowhere to be found. How can that be? And what does it say about his views of this pandemic and the need for historic Federal fiscal action as well as his ability to work effectively with us, Congress, to get the job done for the American people?

So I strongly urge this Committee to join me in rejecting this nomination, and I hope that what President Trump would do is put forward a nominee with a demonstrated respect for the rule of law and for Congress' authority. That is the least of what this role requires, and it is not too high a bar to ask of its occupant.

So, Mr. Vought, you are in front of us in the midst of a historic pandemic. There is tragic loss of life. There is unprecedented loss of jobs and income. The President has said he is in no rush to provide additional relief to help our desperate families or communities or first responders or our States. He said he thinks things are fine. I want to ask you today: Is the President wrong? Do you share his assessment?

Mr. VOUGHT. Is the President wrong with regard to what, Senator?

Senator MURRAY. To his quote that he is in no rush to provide additional relief to help because he thinks things are fine.

Mr. VOUGHT. I think what the President is getting at there, Senator, is that we passed about \$2.6 trillion in Federal resources that we want to make sure we implement well, that we want to figure out what are the true needs, what changes can be made before we go forward. But I do not think he is in any way taking it off the table. I think with regard to the roles that I have played throughout the response and recovery, I was a member of the task force.

Secretary Mnuchin and I have a great relationship. We talk multiple times a day, and he and I are constantly working together on these issues. And there were things that I needed to do to be able to help the interagency process as part of the task force, and it is not a reflection of the importance of the CARES Act or my support for that important piece of legislation.

In terms of working with Congress, my door is always open, my phone is always on, Senator, to build a closer relationship with you and other members of this Committee.

Chairman ENZI. Thank you.

Senator MURRAY. Mr. Chairman, I am out of time. I will have more to say on this nomination.

Chairman ENZI. Thank you.

Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman.

So I think that it is wise at this stage of the game, when we have just done \$2.7 trillion—if it is that much, it could be more—that we make sure it is working. I do want to agree, though, with my Democratic colleague Bernie Sanders on the issue of health care. I think it is a broken system. I came from the place where I had to deal with it as a business owner, every year grappling with issues of costs going up, people not being covered correctly.

I started a plan that covered preexisting conditions and no caps on coverage and have made it sustainable for now 13 years. I believe some of the lowest-hanging fruit that we all could agree with—80 Senators weighed in on ideas to fix the health care system. Once we get all these outlier issues behind us, I think we will come back to that.

Senator Whitehouse mentioned climate. I think that is an issue that we have got to consider on our side of the aisle because I think there is a big external cost to it that we currently dismiss.

Let us go back to health care. I noticed in terms of any individual in Government that tried to put more reforms out there, hitting the industry where it needed to be hit on pharmacy benefit managers (PBM) discounts, transparency, stuff I know that needs to be addressed and has worked, it has hit the courts almost immediately. President Trump did that.

What is coming from the White House? What will you shepherd through that if we can get health care costs down, we are taking care of a couple things at once? We are going to make it where it is going to defer the trust fund being fully depleted here in 5 years. Give me your thoughts on that, please.

Mr. VOUGHT. I would just agree with your focus on the importance of tackling health care. It is something that has been reflected in all the President's budgets. He wants to reform and replace the Affordable Care Act. That has come with it a commitment to protect individuals with preexisting conditions. It has also come with it ideas to be able to pursue federalism and be able to give more States the ability to make decisions and design better programs within the Medicaid system.

We have had Medicare proposals—and these are just savings and reform proposals that do not lead to a cut in the program—that would lead to better health care outcomes, cheaper prescription drugs, being able to give seniors a cap in the prescription drug program that they have not had previously.

So those are examples that we have done in terms of the proposals in our budget, and then regulatorily expanding short-term, limited-duration plans, trying to expand association health plans. These are all things that we are trying to pursue in kind of an all-of-the-above approach with regard to health care.

Senator BRAUN. I think that is so important because the health care industry has delivered this product that impacts the cost of Medicaid, Medicare, and private health care costs.

I have got a question. Revenues always come up as an issue, and haven't we generated, prior to the coronavirus, record revenues in the neighborhood of being at 3.5 to 4 percent? Is that close?

Mr. VOUGHT. That is close.

Senator BRAUN. And spending is structurally mostly through the entitlement programs that I think all of us are interested in figuring out how to rein in. So when we are up nearly 4 percent and the economy was growing close to 3 percent, I have to agree with Senator Toomey—and I would know. I have just come from a Main Street business that has been there 37 years. It was the best period of economic growth. We were seeing wages rise for those that were most in need of it. So is it a revenue problem or is it a spending problem when we are actually generating revenues faster than the growth of the economy?

Mr. VOUGHT. We believe it is largely a spending problem, and one of the things that we have pointed to not just in terms of the revenues that continue to come in, but just as a percentage of GDP, what is the revenue as a percent of GDP, 17 percent, compared to spending, which has been 19 percent, 20 percent, 21 percent in the last 10 years. So we actually maintain the same percent of GDP in the President's proposed budget that we have had over the last 40 years. What we change is the spending—

Senator BRAUN. Is that roughly 17.5 percent regardless of the tax rate or system that has been in place?

Mr. VOUGHT. That is precisely correct. And so what we have tried to do is change the spending trajectory over time to be able to begin to balance our budget, extended period of time, 15 years. But we think that conversation was an important one to have.

Senator BRAUN. By the way, Congressman Brady and I have a bill that would peg it at 17.5 percent, and it would be of the potential GDP, to where when you are not there, you could spend up to it, when you are above it you start to rein it in.

Mr. VOUGHT. I am happy to take a look at that bill, sir.

Senator BRAUN. Thank you.

Chairman ENZI. Thank you, Senator Braun, and thank you for filling in while I went to vote.

Senator BRAUN. You are welcome.

Chairman ENZI. Senator Kaine.

Senator KAINE. Thank you, Mr. Chair, and thank you, Mr. Vought.

Mr. Vought, a couple of particulars. There are fiscal year 2020 funds in the budget for the production of a 12th cutter for the Coast Guard. Those funds were appropriated but have not yet been released. Cutters are a really important part of our defense infrastructure, and they also support construction jobs in communities that build the cutters, and it is an important time to keep those jobs going. Those funds have not been released. Would you commit to looking into that funding and reporting—

Mr. VOUGHT. Absolutely.

Senator KAINE [continuing]. Back to the Committee about the timing of the release of those funds?

Mr. VOUGHT. Yes, sir.

Senator KAINE. A second issue that I am going to submit for the record, but I just want to queue it up for you. You guys recently issued OMB an important guidance under Section 3610 of the CARES Act about how agencies should reimburse contractors for paid sick leave, and there was sort of a standard that you put out there. It did not really speak to contractors that do their contracts under time and materials contracts, and so some of them are trying to figure out what that means. I will put that in writing. I would appreciate it if you could provide some guidance about how those principles apply to time and materials.

Mr. VOUGHT. Happy to do that.

Senator KAINE. You are familiar with the Paycheck Protection Program (PPP) program that was part of the CARES Act?

Mr. VOUGHT. Yes.

Senator KAINE. Were you involved at OMB in giving advice about how that program was put together?

Mr. VOUGHT. It was largely implemented between Small Business Administration (SBA) and the Treasury Department. We tried to move as quickly as possible with forms and with credit subsidy rates and things of that nature to help them be able to stand it up as quickly as possible. But I would generally defer to those two agencies for specific questions.

Senator KAINE. It is a program that I think has been, you know, very helpful. We were all moving quickly. I think there is a bill to fix some technical aspects of it.

In Virginia, in the first round of funding, and then we sort of refilled the bucket at the end of April, for example, about 100,000 businesses or nonprofit organizations, 501(c)(3)s, received commitments of about \$12 billion, and quickly. It was a hard program to stand up quickly. The reason that that PPP program was provided was because businesses were losing so much revenue during the collapse occasioned by COVID, and there was a decision by Congress and the administration that we needed to backstop those lost revenues so they would not see layoffs. In a time of crisis, do you find that to be a legitimate objective?

Mr. VOUGHT. I do. I believe that it was an important aspect of the program, and as one of your constituents, I think, you know, to the extent that it has helped Virginia businesses, it has been a very, very important program.

Senator KAINE. Another aspect of the CARES program that also had to be refilled in April was funds to hospitals. I think it was about \$100 billion in the first CARES Act and then another \$75 billion to hospitals at the end of April. And, again, those were dollars designed to deal with some excess expenses by COVID, but also largely to deal with loss of revenues. Hospitals were having to cancel elective surgeries, cancel clinic visits, and so hospitals were losing revenues, and we backstopped the lost revenues because we did not want them laying off health care workers when they might see a surge of COVID cases. And I assume you also think that is a legitimate objective in a challenging time.

Mr. VOUGHT. The administration has supported those funding programs. We are trying to execute them as fast as we can, and it is something that particularly when we put a hold on elective surgeries, it had some significant implications on health care providers across the country.

Senator KAINE. I am going to give the administration two compliments. I have been really critical of the mismanagement of the public health crisis. I do not think we need to have 100,000 deaths. I do not think we need to be near the top of the world in deaths per capita. However, my two compliments: I do think the White House's negotiation with the Democratic and Republican House up here to try to do big things quickly has been very notable. I give Secretary Mnuchin a lot of credit for that. I also just want to praise the Federal agencies. When we have run into implementation glitches here or there, wait, that is not really what we meant, to the greatest extent possible, Agriculture, Social Security, Internal Revenue Service (IRS), Department of Education, we in my office at least have felt very satisfied with the desire to try to make this work.

I want to just make one last point. If it was a good idea to provide dollars to backstop hospital revenues so they would not lay people off, if it was a good idea to backstop lost revenues for businesses so they would not lay people off, we ought to let State and local governments use the dollars that were provided in the CARES Act to backstop lost revenues. Those funds were restricted in

March so the State and locals cannot use them to backstop lost revenues.

You backstop lost revenues so you do not have to do layoffs—800,000 layoffs of local government employees in April and likely to be a similar number. I know your mother was a high school teacher, and you are proud of that, and I would be, too, if I were you, and I am sure she is proud of you. But if we do not want to lay off big layoffs in the private sector, big layoffs in hospitals, I think this is the wrong time to be laying off State and local government employees, especially since the overwhelming predominance of first responders work for State and local governments, and during a global health pandemic, I just think it is the wrong time to do it.

I hope my colleagues might join with me in allowing greater flexibility in use of those funds. That is on us.

We have to fix that in the bill. I hope we will do that.

Thank you very much.

Mr. VOUGHT. Thank you, Senator.

Chairman ENZI. Thank you.

Senator SCOTT.

Senator SCOTT. First, Mr. Chairman, thank you for having this meeting, and I want to thank Mr. Vought for all his hard work. I know that you, like me, are very concerned about the amount of Federal debt we have, the deficit we are running. You know, I am very concerned about what is going to happen to interest rates going forward, and if we do see an upturn in interest rates, what impact that will have on our ability to fund the programs that we think are important to be funding, whether it is making sure we have a strong military or making sure we have a Social Security program, Medicare program, and Medicaid program.

How much concern do you have of what would happen to the Federal budget if we start seeing an uptick in interest rates?

Mr. VOUGHT. Thank you, Senator Scott, for the question. It would have a profound impact, in the trillions of dollars, if interest rates were to go up. We do not have any evidence of that right now, and it is giving a moment in time for us to be able to take extraordinary actions as an administration, as a Congress, to be able to deal with this once-in-a-generation fiscal and public health shock. But the idea that this will always be the case is not something that you see ever in history. These things can change, and they can change quickly, and that is one of the reasons why this administration has tried to tackle fiscal responsibility. And even though it is hard to put forward budgets that get to balance some time, 15 years, and to be able to focus on mandatory and discretionary spending, to be able to bring back a conversation of fiscal responsibility on the spending side.

And so, you know, I do not have a specific calculation for you, and interest rates going up would certainly impact our fiscal path.

Senator SCOTT. Thank you. My colleague from Virginia talked about giving States more flexibility. I am very concerned about Florida taxpayers paying for the budgets of other States. I was a Governor, and I had to balance my budget. I paid down debt. I have watched New York—Governor Cuomo got elected when I did, and in his 8 years versus my 8 years, I paid down debt; he in-

creased it. We dramatically passed him as far as population, so that when I left, I think we had about 2.5 million more people, and his budget was almost double ours.

We have given the States \$50 billion for Medicaid, and everything I have been told, Medicaid costs were down. We have given them \$30 billion for education costs; they are down. We have allocated \$175 billion for health care, and in contrast, what happens with hurricanes—we have covered 100 percent of the cost, any cost with regard to coronavirus, and that is not what happens with hurricanes.

So I hope the administration will make sure we continue to watch how all this money is spent and we do not go bail out bad management or pension plans from States that do not want to live within their means.

Mr. Vought, one thing that I think we can do that would have—it is a two-fer. As we know, Communist China has been a real problem. They steal jobs, technology. They take away rights like they are doing in Hong Kong. They put people in prison for their religion. One thing that we could be doing—and they were not transparent with this coronavirus—is make sure that, one, we do not buy things from Communist China, and the best way to do that is buy things from America. Are there things that you could be doing to help promote—or the administration could be doing to help promote buying American products?

Mr. VOUGHT. Yes, sir, and it is one of the things that we are working on right now in revising some of the supply chain rules and updating them to increase the Buy America requirements for the first time in, I believe, a number of decades. We also have work vis-a-vis the supply chain effort to make sure that we know exactly what is coming into our supply chain, where it comes from, and is it safe or not. Congress has given us a number of mandates for OMB to work with the Acquisition Council to ensure that we are taking steps to make sure that no covered entities can be contracting with the Federal Government. And so those are all priorities of this administration.

Senator SCOTT. Thank you. What is your role versus the Inspector General's (IG) to make sure the CARES Act—or all dollars are spent in the manner that they were—that Congress passed them and not wasted and abused?

Mr. VOUGHT. If I could do it succinctly, it would be to say that OMB is providing guidance based on the statute as written on how agencies should allocate and the kinds of considerations they should think through and also be a cheerleader for transparency and oversight. And then IGs have the money that Congress has appropriated for them to be able to find the actual issues of concern, to make sure we can make improvements to these programs and ferret anything out that was not intended.

Senator SCOTT. I am very appreciative of your hard work, so thank you very much.

Thank you, Mr. Chairman.

Chairman ENZI. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman.

I want to ask about a couple of documents I have. One is a document dated January 16th, GAO—

Chairman ENZI. Is your microphone on?

Senator VAN HOLLEN. Can you hear me now?

Chairman ENZI. Thank you.

Senator VAN HOLLEN. Okay. So I am going to ask you, Mr. Vought, about two documents I have. One is dated January 16th. It is a GAO finding. I am looking at the conclusion section, and the first sentence is, "OMB violated the Impoundment Control Act." It goes on to say, "This impoundment budget authority was not a programmatic delay."

That finding was made under your watch, was it not?

Mr. VOUGHT. We disagree with that finding—

Senator VAN HOLLEN. I am just asking you a simple question, Mr. Vought. Was that while you were Acting Director of OMB?

Mr. VOUGHT. It was.

Senator VAN HOLLEN. Okay. So let me ask you about another letter that you received from GAO. This is a letter dated November 25, 2019. It is addressed to you and the OMB General Counsel from Thomas Armstrong, the General Counsel of GAO. Question No. 4, "Please explain why the funds were made unavailable for obligation and include documentation supporting this rationale." Apart from the apportionment schedules, which were in response to a different question, has OMB ever provided the documentation that GAO requested supporting this rationale?

Mr. VOUGHT. We have a disagreement with GAO. I cannot speak to that specific document request. I am happy to take that back and figure out where it is and—

Senator VAN HOLLEN. Mr. Vought, this was a big issue for the country. This is a letter—

Mr. VOUGHT. I am well aware of that, Senator.

Senator VAN HOLLEN. This is a letter that was addressed to you from the GAO General Counsel, and you cannot tell me today whether or not OMB provided documents in response to that request?

Mr. VOUGHT. No. What I am responding to is figuring out the extent to what was our concern with why we could not produce documents. Obviously, this was a heavily contested issue between the two branches. We spent months of this country's time, both in the House and the Senate, considering it.

Senator VAN HOLLEN. So is it your—again, you were in charge.

Mr. VOUGHT. Yes.

Senator VAN HOLLEN. You were in charge, right, at OMB at the time. And you cannot tell me today why you did not respond to this document request. That is what you are telling me today.

Mr. VOUGHT. I am telling you that to the extent that we did not respond to a document request that GAO was provided, it was because we had particular reasons that—

Senator VAN HOLLEN. Right, but you cannot tell me today—you do not know what those were. Is that your testimony?

Mr. VOUGHT. I would need to check as to the specific document—

Senator VAN HOLLEN. You do not know today what the answer to that question is.

Mr. VOUGHT. As to the particular document you are referring to.

Senator VAN HOLLEN. Okay. Mr. Vought, I am now looking at your opening statement from today. You talk about how your mantra at OMB has been “One OMB,” right?

Mr. VOUGHT. Yes, sir.

Senator VAN HOLLEN. Team approach, is that right?

Mr. VOUGHT. Yes, sir.

Senator VAN HOLLEN. Okay. So wouldn't that be the case then that the senior OMB official in charge of defense funding for Ukraine would know why the Ukraine DOD funding had been withheld?

Mr. VOUGHT. I do not understand your question, sir.

Senator VAN HOLLEN. Mr. Sandy was the person at OMB most directly overseeing the issue of Ukraine military funding. Isn't that true?

Mr. VOUGHT. He was the Deputy Associate Director in charge of those funds, yes.

Senator VAN HOLLEN. He was the career person in charge, correct?

Mr. VOUGHT. Career. Yes.

Senator VAN HOLLEN. And so my question is: Given your team approach that you say you have, One OMB, wouldn't that person have knowledge of why the funds were being withheld from Ukraine?

Mr. VOUGHT. Senator, I am not going to get into who had knowledge about what. It was a deliberative process. It is one that is important to be adhered to to ensure that the President has the appropriate counsel and free thinking. And I am not going to get into that—

Senator VAN HOLLEN. It was a deliberative process. You say a collaborative process. Are you familiar with Mark Sandy's testimony under oath before the House?

Mr. VOUGHT. Yes.

Senator VAN HOLLEN. Do you know that he testified during the impeachment inquiry that he only learned about a possible rationale for holding Ukraine's security assistance in early September after months of confusion about why the funds were being withheld?

Mr. VOUGHT. Again, I am not going to get into—

Senator VAN HOLLEN. I am just asking are you familiar with the testimony of one of the senior officials in OMB.

Mr. VOUGHT. I am familiar with the testimony.

Senator VAN HOLLEN. Okay. This does not comport with your notion of a collaborative process, does it?

Mr. VOUGHT. We can disagree on that. I believe that the process—

Senator VAN HOLLEN. So give me an argument—give me an argument for why the OMB official most directly responsible for DOD Ukraine military funding did not know why the monies were being withheld if you have a collaborative process. Just explain a theory of the case.

Mr. VOUGHT. Senator, I am not going to provide the details of what a deliberative process is within the executive branch because I do not think it is appropriate.

Senator VAN HOLLEN. Okay. All right. Mr. Chairman, I just find it extraordinary that the administration is asking us to make permanent a Director of OMB that GAO, which is our congressional watchdog, has found was in charge at a time when OMB, to just cite their letter, "violated the Impoundment Control Act." I just find that extraordinary.

Thank you, Mr. Chairman.

Chairman ENZI. Thank you.

Senator Kennedy.

Senator KENNEDY. Mr. Director, welcome. As I think you know, after Hurricane Katrina, the American taxpayer funded a flood control system for Louisiana, and by flood control, I mean it is sort of a circle of levees and flood walls and pumps to make our city safer. And, of course, the money was appropriated by Congress, but it belongs to the taxpayers. And we are very grateful for that, by the way. Louisiana had to put up—has to put up its share of the cost. The Federal Government paid for most of it. All of it, of course, is taxpayer money. And I think our share is—"our" meaning Louisiana State share—\$3 billion. We are supposed to pay it back \$100 million a year for 30 years, and there is interest. I do not recall the interest rate.

In February, I want to say of this year, you had a meeting about this subject with a number of Louisiana officials to talk about paying that money back. Can you tell me about that meeting and who was there?

Mr. VOUGHT. I believe it was the Governor—

Senator KENNEDY. Could you pull that mic closer?

Mr. VOUGHT. Sure. I believe it was the Governor of Louisiana and two of the House Members, Mr. Scalise and one other.

Senator KENNEDY. Okay. And what did you discuss? What were the proposals you discussed? What did you agree to?

Mr. VOUGHT. I would have to go back and check my notes, Senator, but I think we agreed to work with them on the legislative fix that would be necessary to be able to move forward so that Louisiana has some relief in this particular instance.

Senator KENNEDY. What was the request? I was not at the meeting. What was the request that was made of you?

Mr. VOUGHT. Again, I would have to go back and check my notes. The request was to work with them, work with the delegation, and to be able to review legislation that the delegation might consider, in this particular case, Mr. Graves and Mr. Scalise, and we were happy to do that, and we are happy to do that with you, Senator.

Senator KENNEDY. And what would the legislation that you all discussed do?

Mr. VOUGHT. Again, I would have to check—I would have to go and check my notes to recall that, Senator.

Senator KENNEDY. Okay. I understand that a proposal was made to you to—well, let me back up. The money that the State owes, the \$100 million a year for 30 years, \$3 billion, obviously we are paying interest on that. And I understand a proposal was made to you to have the State pay down some of the principal; in other words, give you a lump sum to reduce the principal, which would, therefore, reduce the interest. Is that accurate?

Mr. VOUGHT. Again, I would have to go back and check my notes. I do think that it sounds familiar, but I would have to go back and check.

Senator KENNEDY. Okay. And I understand—and I am going to ask you to check your notes and write me a letter, if you would, Mr. Director. And I understand that, again, the proposal was, okay, the interest is killing us here, so we are going to take a big chunk of money, and we cannot pay the full principal, but we are going to pay a big portion of the principal to reduce the interest. And that raises a question, of course. Where is the State of Louisiana going to get a big chunk of money? And that a proposal was made to issue bonds to borrow that big chunk of money to give to the Federal Government to pay down the principal, and that the State would service the principal and interest on those bonds through our BP money and through the money we get from Gulf of Mexico Energy Security Act (GOMESA). Is that accurate?

Mr. VOUGHT. I do not recall the details of what you just mentioned being any part of the conversation, but that is because when people come into your office and provide a description broadly of what they are working on, you often do not get the level of granularity that you are asking with regard to.

Senator KENNEDY. Would that be in your notes, Mr. Director?

Mr. VOUGHT. I can certainly check.

Senator KENNEDY. Were there other people from your office in the meeting?

Mr. VOUGHT. Yes, sir. I do not know off the top of my head who was there, but we did have our staff there.

Senator KENNEDY. Okay. Would they have taken notes?

Mr. VOUGHT. I certainly can check.

Senator KENNEDY. Okay. I want to tell you why I raise this. I do not raise it to criticize anybody. We use our GOMESA money to try to keep our coastline from washing away.

So any proposal to take our GOMESA money and our BP money and use it to pay down the principal on the debt for the flood control system, as you might understand, is not going to be a unanimous decision in Louisiana. It is going to be very controversial because that GOMESA money is keeping us from drowning. And I would like to be kept apprised of any proposals like this, any decisions made by your office. I hate surprises, and especially when it involves GOMESA. And if you could keep me posted on all the details of that so that we can all get together in my State with my Governor and my colleagues in the House and my senior Senator and our legislators and our football coaches and everybody so we can talk about it and try to all be on the same page.

And I am way over. I am sorry, Mister—send me a letter answering my questions. I am really sorry, Mr. Chairman.

Mr. VOUGHT. I will do that, and I will commit to working with you as we have in the past.

Senator KENNEDY. I would just like to know what was discussed.

Mr. VOUGHT. You bet.

Chairman ENZI. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Vought, my understanding is there was some earlier discussion about vote by mail, absentee ballots, and I would like to start

by saying the question I want to get into is supposing the President actually directs you to cut aid to States sending out absentee ballot applications. Would you do it?

Mr. VOUGHT. Senator, my approach to doing this job has been and will be to accomplish the President's objectives consistent with the law, and so I would take a review of programs and what discretionary authority that we had, but I would do it within the bounds of the law. And that would be how we approach it, but, again, the President has not made any kind of decision on that front.

Senator WYDEN. Under what authority would you do it if the President directs you to do it?

Mr. VOUGHT. Again, Senator, each one of these appropriations accounts has their own statute, has their own flexibilities, and we have not done a review, and so I cannot walk through with you what would be such a list because we do not have that list.

Senator WYDEN. What you are talking about, Mr. Vought, basically tramples all over Article I of the Constitution, which gives the power of the purse to the Congress, and Congress has enacted legislation to determine the new priorities, and the President cannot arbitrarily just order cuts in those priorities. And I have listened to your views both today and on this topic elsewhere, and I think you are really talking about ominous stuff, because Article I of the Constitution was one of the most important priorities, one of the most important priorities of our first leaders, and it gave the power of the purse to the Congress. And you are basically saying that anytime anybody is going to assert that power, any Member of Congress is going to assert that power, you are going to say, "Well, we will see if we are going to go along with your spending decisions, but basically do not count on it." I think you are trampling all over what the Constitution is all about in terms of giving the Congress the power of the purse.

Thank you, Chairman Enzi.

Mr. VOUGHT. No, sir. That is not our view. That is not my view. "Consistent with the law" means that when Congress has appropriated something, it needs to be spent by the end of the fiscal year, and that a review of that sort would have to take account of all the laws that are on the books, appropriations, reprogramming authority, all of the items that Congress puts into their statutes when they give the administration the flexibility to faithfully execute the laws of the country.

Senator WYDEN. Mr. Chairman, I have said my piece. I think that this individual is talking about fundamental changes in a sacred section of the Constitution that deals with congressional powers and the power of the purse, and he can try to put lipstick on this somehow, but that is what he is saying, and it is dangerous stuff indeed.

Chairman ENZI. Thank you.

Senator Cramer.

Senator CRAMER. Thank you, Mr. Chairman. Mr. Vought, good to see you.

First of all, I want to just say thank you for your very swift work on the 45Q rulemaking. When it came to your desk, you moved it along quickly, and I appreciate that.

You know, we have been urging, as you know, Treasury and the IRS for some time to get the regulations out and ensure that they get it right for maximum utilization. And as you know, we estimate billions of dollars of investment waiting on the sidelines for these rules to finally be ready so that they can invest in truly clean energy solutions.

The current proposal, as you know, is not perfect. They rarely are perfect. It has got work to do, but it is a big step in the right direction. And when we spoke a couple of weeks ago, we discussed the importance of getting it done and, of course, getting it done right. So thanks for being so responsive and not further delaying the progress of this important rule.

As the administration accepts comments on the proposed rule, I hope and I know, but I really hope your office and Treasury will continue to listen to many people, including the North Dakotans who have provided some very good and highly technical comments to the final rule. So I hope I can count on that.

Mr. VOUGHT. Absolutely.

Senator CRAMER. Thank you.

Also, in January, OMB requested information on improving and reforming regulatory enforcement and adjudication, and this is one of my passions in this job as I have watched the unfortunate overreach of a huge bureaucracy. So I applaud your effort to rein it in, and I encourage you to see it all the way through, and I am behind you all the way when you do that.

Now, there are many examples of the cumbersome bureaucracy, the struggle between Federal agencies, landowners, farmers, ranchers, especially over water management, and it continues to be very frustrating for our landowners. One example that we discussed was a technical and often overlooked issue with the U.S. Department of Agriculture (USDA). Agency bureaucrats ignore National Appeals Division (NAD) decisions in enforcement and adjudications of planting violations against third-party exempted operators when they have nothing to do with the original wetland complaint against the landowner. The Department of Agriculture's regulations specifically provide an exemption to the farmer in this instance, and despite NAD cases upholding it, agency staff seemingly shrug it off.

In short, farmers are following the agency rules, but the agency is not. This is one of many examples that North Dakota stakeholders sent to OMB during the comment period, and we discussed these comments when we spoke. And I would like to ask unanimous consent, Mr. Chairman, that the comments be entered into the record.

Chairman ENZI. Without objection.

[The information follows:]



North Dakota Soybean Growers Association
 4852 Rocking Horse Circle South, Fargo, ND 58104
 (701) 566-9300 | www.ndsoygrowers.com

March 16, 2020

Mr. Russell T. Vought
 Acting Director
 Office of Management and Budget
 725 17th Street Northwest
 Washington, DC 20503

SUBMITTED VIA FEDERAL RULEMAKING PORTAL

**Re: Comments in Response to Request for Information on Improving and/or Reforming
 Regulatory Enforcement and Adjudication
 Docket ID No. OMB-2019-0006**

Dear Acting Director Vought,

We thank you for this opportunity to respond to your request for information identifying reforms that will help ensure adequate due process in regulatory enforcement and adjudication.

While a presumption of innocence is a time-honored protection in American rule of law, the regulated community knows agencies often zealously take positions that place the burden on those subject to enforcement to prove their compliance or innocence.

Principles of American law against double jeopardy are often violated in the administrative appeals processes within the United States Department of Agriculture ("USDA"). For example, the adjudicative branch of the USDA, the National Appeals Division ("NAD") has the authority to conduct appeals hearings of adverse program decisions issued by the Farm Service Agency ("FSA"), the Natural Resources Conservation Service ("NRCS"), and other USDA agencies. NAD hearing officers and the Director determine if the agency decision was made in error. The NAD does not, however, have authority to reform or correct the decision. Instead, appeals determined in the farmer's favor are remanded to the agency for further proceedings, which oftentimes results in the agency taking a "second bite at the apple" to bolster its record and defend the same decision previously challenged. In some cases, the cost of defending against an adverse USDA decision two, three, or more times prohibits the farmer from proceeding with their appeal, and the case is conceded to the agency.

In the prairie pothole region (North Dakota, South Dakota, and western Minnesota), farmers, ranchers, and landowners encounter regulatory restrictions on water management practices that require coordination with agencies implementing the Clean Water Act,¹ the wetland

¹ 33 U.S.C. § 1251 et seq. (1972).

conservation compliance provisions for farm program benefits and federal crop insurance participants under the Food Security Act of 1985,² property rights issues related to the federal government's ownership of waterfowl production area easements managed by the U.S. Fish and Wildlife Service,³ and state regulations pertaining to the construction of surface and subsurface water management systems⁴ and preservation of wetlands.⁵

Contrary to what is often heard or read about wetland conservation compliance in the prairie pothole region of the United States, our producers are not opposed to conservation of wetland resources. Farmers are the best stewards of their land and understand its importance to the vitality of their livelihood.

In support of those statements, we'd like to highlight findings from the 2012 National Resources Inventory report conducted by the USDA-NRCS and the Center for Survey Statistics and Methodology at Iowa State University.⁶ This report notes that the period between 1997 and 2007 was the first decade in modern history that saw a nationwide increase in palustrine and estuarine wetlands. It concludes that most of those gains in wetlands were found in the highly agricultural central region of the U.S.: North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Illinois, Indiana, Missouri, Kansas, Oklahoma, and Texas.

Notably, the Northeast region of the U.S. was reported to have experienced a gradual loss of over 100,000 acres of palustrine and estuarine wetlands between 1992 and 2010. The Southeast Region, while experiencing a modest gain, still lost over 200,000 acres of palustrine and estuarine wetlands during this same time period. The report notes these losses are attributable primarily to urban development – not agricultural drainage.

² 16 U.S.C. §§ 3801 et seq. (commonly known as “Swampbuster”).

³ National Wildlife Refuge System Administration Act, Pub. L. No. 89-669, §§ 4 and 5, 80 Stat. 927 (codified at 16 U.S.C. §§ 668d-668ee, *as amended* Pub. L. No. 105-57).

⁴ See N.D.C.C. §§ 61-32-03 & 61-32-03.1 (requiring surface permits in North Dakota for surface drains with a watershed of 80 acres or more and tile systems with a footprint of 80 acres or more); Minn. Stat. § 103D.341 (authorizing Minnesota watershed districts to establish rules, including a permitting program, for drains); S.D.C.L. ch. 46A-10A (authorizing county boards to adopt certain drainage ordinances or official drainage controls).

⁵ Minn. Stat. § 103G.201 et seq. (Minnesota Public Waters Law) & § 103G.222 (Minnesota's Wetland Conservation Act).

⁶ U.S. Department of Agriculture. 2015. Summary Report: 2012 National Resources Inventory, Natural Resources Conservation Service, Washington, D.C., and Center for Survey Statistics and Methodology, Iowa State University, Ames, Iowa.

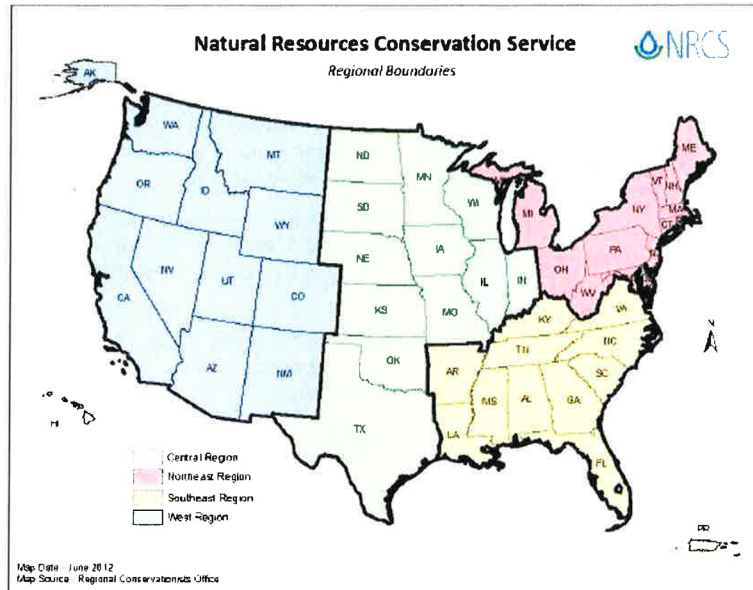


Figure 1. NRCS regional boundaries.

Those who assert farmers in the central region, and primarily the prairie pothole region to the north, are depleting the nation's wetlands by regularly engaging in construction, improvement, and maintenance of water management infrastructure, and are ignoring facts in independent studies such as the 2012 National Resources Inventory conducted by NRCS.

Our producers are proof that farmers can profitably lead the nation in production of corn, soybeans, wheat, sorghum, sugar beets and many other crops, while preserving (and even improving) our nation's wetland resources.

However, the importance of streamlined and certain regulatory processes for wetland conservation compliance cannot be stressed enough. We offer the following examples of ways that administrative enforcement and adjudication can be improved for farmers with respect to the regulation of water management.

Prior to the initiation of an adjudication, what would ensure a speedy and/or fair investigation? What reform(s) would avoid a prolonged investigation? Should investigated parties have an opportunity to require an agency to "show cause" to continue an investigation?

NRCS Whistleblower Complaints

The NRCS is a branch of the USDA which is primarily responsible for identifying and delineating wetlands that are protected under the wetland conservation compliance provisions of the Food Security Act of 1985 ("Swampbuster"). The Act and Swampbuster regulations require farmers who receive federal farm program payments or federal crop insurance premium subsidies to comply with certain regulations aimed at preserving the nation's wetlands. The regulations governing NRCS's responsibilities can be found primarily in 7 C.F.R. § 12.30.

USDA policies governing handling of reports of possible noncompliance (referred to as "whistleblower complaints") are so lax that the process easily allows for false reports to be made and requires that all reports be investigated. According to USDA policy in Paragraph 520.3(A) of the National Food Security Act Manual (5th ed.):

NRCS shall investigate possible noncompliance or deficiencies and document the findings. Sources of information about possible noncompliance or deficiencies are as follows:

- (i) Observations by NRCS or USDA employees;
- (ii) Referrals from FSA on Form FSA-569; and
- (iii) Reports by the public (whistleblowers).

Paragraph 520.3(D) of the National Food Security Act Manual mentions:

- (1) The name of a confidential source shall not be entered in the case file but should be maintained in the 'Report of Possible Noncompliance' register. Assume that the person who provided the report expects confidentiality unless specifically stated otherwise. The following noncompliance report records are not available to the public:
 - (i) Register of Reports of Possible Noncompliance.
 - (ii) Report of possible noncompliance provided to NRCS by a confidential source.
- (2) These records are protected under the Freedom of Information Act (FOIA), exemption 7(D).

The fact that any member of the public or an NRCS or USDA employee can anonymously report a possible noncompliance issue to NRCS without any level of proof has become a serious issue. Farmers have fallen victim to lengthy and stressful whistleblower complaint investigations that often yield no violations because of false or unfounded information provided in the complaint. When a whistleblower complaint is investigated, the cost of such investigation and disruption to the farming operation falls solely on the individual being investigated, regardless of whether the alleged noncompliance has occurred.

We recommend the following improvements to the USDA's current whistleblower complaint processes. First, the complainant should be required to provide evidence when reporting a possible wetland violation. By simply requiring a whistleblower complaint to submit evidence with their claim, the ongoing problem of false reports would likely be resolved completely. Giving NRCS the opportunity to review substantive evidence of the alleged wetland violation would: (1) save farmers from false accusations; (2) save NRCS personnel's time and resources, allowing them to focus on continued improvement of wetlands; and (3) allow public tax dollars to be used on matters of substance, instead of entertaining false reports.

When do multiple agencies investigate the same (or related) conduct and then force Americans to contest liability in different proceedings across multiple agencies? What reforms would encourage agencies to adjudicate related conduct in a single proceeding before a single adjudicator?

Wetland Delineations Across Federal Agencies

We support a unified approach by all federal agencies to each agencies' wetland delineations, determinations, and mitigation requirements.

The largest generator of distrust by property owners, farmers, and the regulated community is the failure of each federal agency to recognize and support each other's wetland determinations and mitigation requirements. In the prairie pothole region, landowners and farmers deal frequently with USDA's NRCS and FSA branches under the provisions of the Food Security Act of 1985, the U.S. Department of Interior's U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration and Duck Stamp Acts on lands burdened by waterfowl production area easements, and the EPA and Army Corps under the Clean Water Act. While the laws administered by each agency are different, each with varying objectives, all agencies use or have used the *Corps of Engineers Wetlands Delineation Manual of 1987*.⁷

The lack of communication, understanding, and agreement between federal agencies on wetland delineation determinations adds time, cost, and undue burdens to the permitting process of each

⁷ Prior to 1986, no manual existed for government agency reference to delineate wetlands. In 1987, the Army Corps and in 1988, the EPA, released their own versions of delineation manuals, each relying on the presently used parameters of (1) hydrophytic vegetation; (2) hydric soils; and (3) sufficient periods of hydrology to establish wetland boundaries. After several years of field-testing, a 1989 revised manual was released and agreed to by all four federal agencies: the NRCS; the Corps; the EPA; and U.S. Fish and Wildlife Service. In 1991, public concerns that the 1989 manual resulted in over-delineation of wetlands led to review of the 1989 manual, with revisions proposed in August of 1991. In response to comments received during the public comment period, the EPA responded by withdrawing the proposed manual. In 1992, Congress appropriated funds to commission the National Academy of Science to study wetland delineation. Congress prohibited the Army Corps from using the 1989 manual during the interim study period. The Army Corps returned to use of the 1987 manual.

project. In addition, it seems the internal policy of our federal agencies is to “wait and see” what the other agencies do before issuing their own determinations or delineations, thus resulting in further delay while no agency is willing to act first. Each agency then issues a different mitigation requirement which makes it difficult for proponents of water management projects to plan and keep projects on schedule.

Projects are often delayed years by this process. A unified approach by all agencies of the Federal Government to wetland identification, delineation, and mitigation would decrease the burden on regulatory agencies, save administrative costs to the agencies and the regulated community, and help bring clarity and trust back to the administrative process.

We recommend the agencies amend the definition of “wetlands” to include acceptance of wetland delineations conducted by the USDA. We further encourage the EPA and the Army Corps to enter into a Memorandum of Agreement with USDA and the Department of Interior concerning delineation of wetlands for purposes of the Clean Water Act, Food Security Act, and management of waterfowl production area easements under the National Wildlife Refuge System Act.

Prior-Converted Cropland & Non-Wetland Exclusion from WOTUS

We strongly support the alignment of the Clean Water Act’s Section 404 program with the wetland conservation compliance provisions of the Food Security Act (Swampbuster) implemented by the USDA. We strongly support the exclusion of prior-converted cropland, as defined and determined by the NRCS, from the definition of the waters of the United States.

NRCS regulations define “prior-converted cropland” as “a converted wetland where the conversion occurred prior to December 23, 1985, an agricultural commodity had been produced at least once before December 23, 1985, and as of December 23, 1985, the converted wetland did not support woody vegetation and did not meet the hydrologic criteria for farmed wetland.”⁸

We strongly oppose the notion that prior-converted cropland loses its exempt status if wetland characteristics return due to lack of maintenance of the drainage manipulation. We encourage the EPA and Army Corps to adopt the “once prior-converted cropland, always prior-converted cropland” exemption employed by the USDA.

We encourage the EPA and Army Corps to clarify that prior-converted cropland which presently meets wetland criteria is only considered “abandoned” and potentially subject to inclusion within the definition of WOTUS if the area or field in which the prior-converted cropland is contained is no longer used for the production of an agricultural commodity, aquaculture, grasses, legumes, or pasture. Whether the prior-converted cropland itself has been used for production of an agricultural commodity should not be relevant.

⁸ 7 C.F.R. § 12.2, *wetland determination*.

Would applying the principle of res judicata in the regulatory context reduce duplicative proceedings? How would agencies effectively apply res judicata?

Certification of Adjudicated Pre-November 28, 1990 NRCS Wetland Determinations

We believe that the equitable principles of res judicata, and the principal of collateral estoppel, should be applied in the context of regulatory proceedings. An excellent example of this principle is the evaluation of NRCS by wetland determinations issued under the Food Security Act between December 23, 1985 and November 28, 1990.

The Food Security Act requires NRCS to delineate, determine, and certify wetlands located on land on a farm or ranch subject to the wetland conservation compliance provisions in order to establish a producer's eligibility for certain USDA program benefits. Wetland certification provides USDA program participants certainty with respect to the areas on their operations that are subject to the wetland conservation compliance provisions.

Beginning with the Act's adoption in 1985, NRCS completed and distributed wetland determinations and maps to producers based on the best technology and reference data available at the time they were produced. 1990 amendments to the Act required the Secretary of Agriculture to certify wetland delineation maps as "sufficient for the purpose of making determinations of ineligibility for program benefits" and to provide a producer an opportunity to appeal such determination prior to making such certification final. Certification of wetland determinations was further refined by amendments to the wetland conservation compliance provisions in 1996.

Considerable confusion was added to the certification issue due to a memorandum of agreement between the Departments of the Army, Agriculture, Interior, and the Environmental Protection Agency that specified the manner in which determinations made by USDA could be relied upon for purposes of section 404 of the Clean Water Act between January 1994 and February 2005. From 2010 until January of 2017, USDA policy had been that determinations conducted prior to July 3, 1996 were "considered certified if they met the procedural (appeal rights) and quality mandates as provided in 7 CFR Section 12." No specific criteria to evaluate appeal rights or quality had been provided, however.

In its December 2018 interim-final rule, NRCS clarified the procedural and quality criteria missing from previous agency guidance. Seven C.F.R. § 12.30(c)(1) now clarifies the certification of wetland determinations made after November 28, 1990:

Certification of a wetland determination means that the wetland determination is of sufficient quality to make a determination of ineligibility for program benefits under § 12.4. In order for a map to be of sufficient quality to determine ineligibility for program benefits, the map document must be legible to the extent that areas that are determined wetland can be discerned in relation to other ground features. NRCS may certify a wetland determination

without making a field investigation. NRCS will notify the person affected by the certification and provide an opportunity to appeal the certification prior to the certification becoming final. All wetland determinations made after July 3, 1996, will be done on a field or sub-field basis and will be considered certified wetland determinations.

Determinations made after November 28, 1990, and before July 3, 1996, are considered certified if the determination was issued on the June 1991 version of form NRCS-CPA-026 or SCS-CPA-026, the person was notified that the determination had been certified, and the map document was of sufficient quality to determine ineligibility for program benefits. If issued on a different version of the form, a determination will be considered certified if there is other documentation that the person was notified of the certification, provided appeal rights, and the map document was of sufficient quality to make the determination.

The 2018 clarification by USDA ignores wetland determinations that were issued prior to November 28, 1990. The Act took effect on December 23, 1985, and many wetland determinations were made to farmers and ranchers in the prairie pothole region during the first 5 years of the program's enforcement. Under existing USDA regulations and policies, if a farmer received a wetland determination prior to November 28, 1990 from NRCS (then known as the Soil Conservation Service) and appealed that determination, the result of the appeal is, by current rule and policy, virtually useless. If water management decisions were made prior to November of 1990 based on the map generated as a result of the appeal, those investments in the land are potentially subject to challenge as the map is not considered by USDA to be "certified." Applying the principles of res judicata, and even collateral estoppel where appropriate, would protect the farmer from the agency later issuing a wetland conservation compliance violation determination based on decisions that, prior to November 1990, complied with the agency's own wetland determination maps.

In the regulatory/civil context, when does an American have to prove an absence of legal liability? Put differently, need an American prove innocence in regulatory proceeding(s)? What reform(s) would ensure an American never has to prove the absence of liability? To the extent permissible, should the Administration address burdens of persuasion and/or production in regulatory proceedings? Or should the scope of this reform focus strictly on an initial presumption of innocence?

USDA Ignores Congress' Directive to Exempt Activities that have Minimal Effects on Wetlands

In the 1990 Farm Bill, Congress exempted activities that have minimal effects on wetland functions and values from the wetland conservation compliance provisions of the Food Security Act. The Act prohibits recipients of federal farm program payments and premium subsidies on

federal crop insurance policies from “convert[ing] a wetland by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland”⁹ Frequently, the Natural Resources Conservation Service issues technical determinations to farmers for any manipulation or work done in or near a wetland without evaluating whether the manipulation or work actually had the effect of making crop production possible on the wetland. Instead, the burden is on the farmer to demonstrate that the manipulation or work did not, in fact, impact the wetland’s functions and values.

In December of 2018, NRCS worked on strengthening the application of the minimal effect exemption to wetland determinations by including language in the interim rule that strengthens the agency’s ability to make these exemption determinations off-site.¹⁰ However, we believe the revised 7 C.F.R. § 12.31(e)(1) (formally section 12.31(d)) in the interim rule continues to violate the mandate included in the 1990 farm bill that the agency is to exempt those activities which have a minimal effect on wetland functions and values in all circumstances.

The violating language of 7 C.F.R. § 12.31(e)(1) states:

A request for [a minimal effect exemption] will be made prior to the beginning of activities that would convert the wetland. If a person has converted a wetland and then seeks a determination that the effect of such conversion on wetland was minimal, the burden will be upon the person to demonstrate to the satisfaction of NRCS that the effect was minimal.

Since 1990, Congress has stated that those activities which have a minimal effect on wetland functions and values shall be exempt. The timing of the potential conversion activities should have no bearing on the determination by the Secretary as to a violation or conversion of a wetland.

The Food Security Act of 1985 authorized the Secretary of Agriculture to exempt activities associated with the production of an agricultural commodity on converted wetland if the effect of such action on the hydrological and biological aspect of wetlands was minimal.¹¹ In 1987, the Secretary adopted final rules mandating that a request for a Minimal Effects determination be made prior to the operator beginning activities that would convert the wetland. If an agricultural operator converted a wetland and then sought a determination that the effect of such conversion on wetlands was minimal, the burden was on the operator to demonstrate to the satisfaction of SCS (currently NRCS) that the effect was minimal.¹²

⁹ 16 U.S.C. § 3821(d)(1).

¹⁰ 83 Fed. Reg. 63,052 (Dec. 7, 2018).

¹¹ Section 1222(c) of Pub. L. No. 99-198, 99 Stat. 1354, 1508 (Dec. 23, 1985).

¹² 52 Fed. Reg. 35059, 35208 (Sept. 17, 1987) (codified at 7 C.F.R. 12.31(d) (1987)).

In 1990, Congress strengthened the minimal effect exemption in statute by mandating the Secretary exempt actions that will have a minimal effect on the functional hydrological and biological value of the wetland.¹³ No limitation was included on the application of the Minimal Effects exemption to requests made before water management activities commenced. To increase certainty about whether an activity would qualify for a minimal effect exemption and to reduce the need for site-specific determinations, Congress required the Secretary in the 1996 Farm bill to promulgate a regulation identifying categories of activities determined to have Minimal Effects on wetland functions and values.¹⁴

The Secretary's federal regulations on minimal effects, however, have remained largely unchanged since the first rules were adopted in 1987. Today, 7 C.F.R. section 12.31(e)(1) still contains the original 1987 provisions that place the burden on the operator to demonstrate to the satisfaction of NRCS that the effect on wetlands of activities already commenced meets the Minimal Effects exemption.

In 1996, the Secretary adopted regulations providing a process whereby the NRCS State Conservationist, in consultation with the NRCS State Technical Committee, must identify categories of conversion activities and conditions which are routinely determined by NRCS to have minimal effects on wetland functions and values and, after evaluation by the Chief of NRCS, publish those exemptions in the Federal Register. Unfortunately, we are not aware that North Dakota, like most states, has published any minimal effect categorical exemptions. On the ground, many wetland determinations are issued in response to reports of potential noncompliance where the water management activities have already taken place. To expect agricultural operators to demonstrate qualification for the Minimal Effects exemption when the procedures of making such a determination and categories of activities that meet the exemption are unwritten is impracticable.

We urge the USDA to apply the Minimal Effects exemption to all wetland determinations, regardless of whether the potential conversion activities have already occurred. In addition, we urge the Secretary to require each state NRCS Department in 2020 to identify categories of activities and conditions that have a minimal effect on wetland functions and values.

Eliminate use of Pre-Selected Comparison Sites for Establishing Presence of Hydrophytic Vegetation on NRCS Wetland Determinations

We recommend eliminating NRCS's use of pre-selected comparison sites based upon Major Land Resource Areas to support the finding of hydrophytic vegetation when delineating wetlands. The establishment of hydrophytic vegetation shall be based upon methods in the 1987 Army Corps of Engineers Wetland Delineation Manual "on the ground methodology" located at paragraph 73, 74-77. NRCS shall use the standard of examining "adjacent vegetation" rather than examining

¹³ Section 1422 of Pub. L. No. 101-624, 104 Stat. 3359, 3573 (Nov. 28, 1990).

¹⁴ Section 322(c) of Pub. L. No. 104-127, 110 Stat. 888, 990 (Apr. 4, 1996).

a comparison site “in the local area,” for example. NRCS shall eliminate this variant as described in the 2010 Circular to the NFSAM.

We recommend amending 7 C.F.R. § 12.31(b)(2)(ii) as follows: “In the event the vegetation on such land has been altered or removed, NRCS will determine if a prevalence of hydrophytic vegetation previously occurred on the site.” ~~typically exists in the local area on the same hydroic soil map unit under non-altered hydrologic conditions.~~

Should agencies be required to produce all evidence favorable to the respondent? What rules and/or procedures would ensure the expedient production of all exculpatory evidence?

We recommend requiring all agencies to provide a full and complete copy of the agency record when an adverse decision is issued. In the context of wetland conservation compliance with the USDA, for example, we recommend the NRCS immediately provide a copy of the entire agency record, including electronically stored information relied upon by the agency in making its determination, to a participant when requested with the preliminary technical determination, or in all cases, immediately upon receipt of a request for reconsideration of a preliminary technical determination.

Do adjudicators sometimes lack independence from the enforcement arm of the agency? What reform(s) would adequately separate functions and guarantee an adjudicator’s independence?

Expand NAD Authority to Correct Agency Action

We recommend expanding the authority of the National Appeals Division (“NAD”) so that NAD hearing officers and the NAD director have the authority to correct USDA determinations where appropriate, rather than remand cases back to the agency for a “second bite at the apple.”

For example, if a NAD adjudication determines the label of “wetland (W)” is not correct, NAD should have the authority to order the NRCS to relabel the area as “non-wetland (NW)” or “prior-converted cropland (PC)” where the adjudicated facts establish that those labels are correct.

If a NAD adjudication determines the label “converted wetland+YEAR (CW+YR)” is not correct, NAD should be allowed to order NRCS to re-label as “wetland (W),” “farmed wetland (FW),” “converted wetland technical error (CWTE),” or “non-wetland (NW),” etc, as applicable. Alternatively, NAD jurisdiction should be expanded to allow the hearing officer or director to retain jurisdiction over the matter until NRCS implements the NAD’s decision. Further appeals or pleas for failure of NRCS to implement a decision shall be actionable by NAD.

When do regulatory investigations and/or adjudications coerce Americans into resolutions/settlements? What safeguards would systemically prevent unfair and/or coercive resolutions?

Farm Service Agency Withholds Farm Program Payments from Farmers Before Administrative Appeals Have Been Completed

Farmers enrolled in USDA federal farm programs should remain eligible for program benefits until all administrative appeal rights have been exhausted. USDA policies instruct the NRCS to communicate that a wetland has been determined as converted to the FSA using form FSA-569. Presently, the NRCS completes FSA-569 Forms and returns them to the FSA while administrative determinations challenging a converted wetland are still under appeal, in some circumstances. The result is that the USDA withholds farm program payments from participants even though their appeal rights have not yet been exhausted.

The NRCS and FSA branches of the USDA interpret Paragraph 517.12.B.(3) of the National Food Security Act Manual as instruction to NRCS to give FSA a completed FSA-569 Form “when the NRCS technical determination becomes final.” Federal regulation states that NRCS technical determinations become final “upon receipt by the participant.”¹⁵ Even though the participant can appeal the adverse determination to the FSA County Committee or to the National Appeals Division and overturn the alleged violation, USDA policy treats the appeal determination as if it is already “final” before the appeals process is complete.

This could be easily remedied by USDA through amending the National Food Security Act Manual policy in paragraph 518.12.B.(3) to state “The completed Form FSA-569 will be provided to the FSA County Office when all appeal rights to the NRCS technical determination have been exhausted.” By withholding the FSA-569 form until all appeals have expired, FSA would not treat an appealed converted wetland determination as “final” and start withholding benefits during an active appeal.

We recommend that USDA policies be revised so that ineligibility for farm program benefits is not withheld until all of a producer’s appeal rights have been exhausted and the determination is administratively final.

Are agencies and agency staff accountable to the public in the context of enforcement and adjudications? If not, how can agencies create greater accountability?

USDA Agency Staff Ignore Precedence of National Appeals Division Cases in Enforcement and Adjudications of Alleged Wetland Conversions on Highly Erodible Land and Cropland.

In enforcement of wetland conservation compliance provisions of the Food Security Act of 1985 (“Swampbuster”), there are examples where the Natural Resources Conservation Service and Farm Service Agency ignore precedence established by the National Appeals Division hearing officers and directors that interpret statutes, federal regulations, and policies impacting farmers.

The Food Security Act conditions eligibility for farm program benefits, including premium subsidies on federal crop insurance policies, on certain wetland conservation and highly erodible land conservation compliance rules. Enrolled participants farming highly erodible land must

¹⁵ 7 C.F.R. 614.7(c).

employ an NRCS prescribed conservation plan and must not drain or convert wetlands to make crop production possible. The Act defines “converted wetland” as:

Wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose or to have the effect of making the production of an agricultural commodity possible if:

- (i) such production would not have been possible but for such action; and
- (ii) before such action –
 - a. such land was a wetland; and
 - b. such land was neither highly erodible land nor highly erodible cropland.¹⁶

The key definitional provision is “such land was neither highly erodible land nor highly erodible cropland.” In the consolidated National Appeals Division cases 2012W000523 & 2012W000525, a North Dakota landowner appealed a determination by NRCS that he had converted wetlands by arguing that the drained wetlands could not meet the statutory definition of “converted wetland” since the land was highly erodible. The NAD Hearing Officer rejected NRCS’ argument that draining of wetlands on highly erodible land was only allowed when the drainage was necessary to comply with the highly erodible land conservation plan.

As the law stands today, 16 U.S.C. § 3801(j)(7)(A) states that a “converted wetland” cannot exist on land that is highly erodible land or highly erodible cropland. Because the NAD’s ruling was an interpretation of the unambiguous statutory language in 16 U.S.C. § 3801(a)(7)(A), the outcome of the ruling cannot be modified without Congress amending the Food Security Act provisions.

Despite this case, NRCS issued a National Instruction Policy to all State Conservationists on September 26, 2017 that requires wetlands drained on HEL cropland to be labeled as “converted wetlands+YEAR” or “CW+YEAR” unless the wetland was converted as a result of installation of required water erosion control practices.¹⁷ The policy ignores the Food Security Act statute and the Hearing Officer’s NAD ruling.

USDA Agency Staff Ignore National Appeals Division Precedence in Enforcement and Adjudications of Planting Violations Against Third-Party Exempted Operators/Tenants.

Longstanding FSA policy states that an “operator of a farm is considered to be in general control of the farm and, therefore, shall also be included as a person determined responsible for converting a wetland unless relief is approved by [the Deputy Administrator of Farm Programs]

¹⁶ 16 U.S.C. § 3801(a)(7)(A).

¹⁷ See National Instruction 190 Part 312 – Wetland Determination and Labels, *available at* <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=39898>.

DAFP.”¹⁸ Therefore, the FSA presumption is that an operator is ineligible for USDA federal farm program benefits and federally subsidized crop insurance premiums even if the landowner commits a wetland violation without the operator’s involvement.

Fortunately, FSA policy allows for the presumption of responsibility to be rebutted through an application for “Operator Relief.”¹⁹ Despite Operator Relief being granted, FSA still considers tenants and operators as violators of Swampbuster if the tenant or operator has planted or will plant an agricultural commodity within the areas converted by the tenants landlord. This especially creates a hardship for new tenants who began renting cropland long after a wetland was converted but before a technical determination was made by NRCS.

7 C.F.R. § 12.4(a)(2) states: “Except as provided in [§] 12.5 . . . a person shall be ineligible for all or a portion of USDA program benefits listed in this section if . . . [t]he person produces an agricultural commodity on a wetland that was converted after December 23, 1985” (emphasis added). This is commonly referred to as a “planting violation.” Before a planting violation can be issued, the agency must look at 7 C.F.R. section 12.5 to determine if any exemptions apply.

Seven C.F.R. section 12.5 provides exemptions to determinations of planting violations, however, 7 C.F.R. § 12.5(b)(1)(vii)(D) reads:

Exemptions for wetlands and converted wetlands – General exemptions. A person shall not be determined to be ineligible for program benefits under § 12.4 as the result of the production of an agricultural commodity on converted wetland or the conversion of wetland if . . . [t]he land is determined by NRCS to be . . . [a] wetland converted by actions of persons other than the person applying for USDA program benefits or any of the person’s predecessors in interest after December 23, 1985, if such conversion was not the result of a scheme or device to avoid compliance with this part In applying this paragraph, a converted wetland shall be presumed to have been converted by the person applying for USDA program benefits unless the person can show that the conversion was caused by a third party with whom the person was not associated through a scheme or device as described under § 12.10 of this part.

The “Third-Party Exemption” protects tenant/operators from being ineligible for planting an agricultural commodity on wetlands converted by their landlords when those conversion activities were outside of the operator’s control.

¹⁸ FSA Handbook 6-CP (Rev. 4), Par. 602(B).

¹⁹ FSA Handbook 6-CP (Rev. 4), Par. 602(C).

Recently, national FSA staff in the prairie pothole region have instructed State and County FSA staff not to apply the Third-Party Exemption to operators when it comes to potential planting violations. FSA asserts the Third-Party Exemption only applies when the wetland was converted by someone that does not currently or did not ever previously have any control over the land. This narrow interpretation of the 7 C.F.R. 12.5 exemption is based on outdated FSA Handbook policy guidance which has been reviewed and rejected by National Appeals Division hearing officers on at least two occasions, most recently in NAD Case No. 2015E000173.

In that case, FSA argued the same narrow position it is attempting to apply today – that the phrase “predecessors in interest” as used in 7 C.F.R. 12.5(b)(1)(vii)(D) refers to a group of people that includes the operator’s landlord. In a 2015 case, an operator appealed an adverse decision by the FSA that the operator planted an agricultural commodity on converted wetlands. The operator argued that it did not conduct or participate in the conversion and did not in any way act in concert with the landowner who caused the conversion. The FSA ignored substantial evidence that the conversion activities were paid for and completed under the direction of the landowner, arguing on the basis of the same policy provisions referenced by FSA today that an operator is not eligible for the Third-Party Exemption when the wetland was converted by the operator’s landlord.

The NAD Hearing Officer ruled that FSA’s narrow interpretation of “predecessor in interest” in its handbook violated the USDA’s own regulation in 7 C.F.R. 12.5. FSA Handbook provisions cannot overrule federal agency regulation or statute. In fact, the NAD also granted the participant’s application for attorneys’ fees under the Equal Access to Justice Act, which required NAD to find that FSA’s position that the Third-Party Exemption did not protect the operator was not substantially justified.

The Third-Party Exemption regulation in 7 CFR 12.5 addressed by NAD in 2015 has not changed since that case. Only a change in regulation can achieve the position FSA’s National Office seeks to enforce. FSA’s National Office concludes that the Third-Party Exemption applies “to the land” and that NRCS would have to conclude that someone other than a predecessor in interest to the land converted the wetland for the exemption to apply to the land itself. This directly contradicts NAD’s interpretation of that phrase in 7 CFR 12.5 and NAD’s ruling that such a narrow interpretation had no substantial justification.

Agency staff should be accountable when applying legal positions or theories that have already been rejected by the adjudication branch of an agency.

Conclusion

We commend the OMB for looking into improving the transparency and fairness of the civil administrative enforcement and adjudication process as it impacts our nations farmers and

ranchers. If you would like further examples or information regarding these comments, please do not hesitate to contact the NDSGA president listed below.

Sincerely,

North Dakota Soybean Growers Association

Joe Ericson, *President*

701-251-8087

Joe.ericson@ndsga.com

Mission: "Creating partnerships to proactively improve the profitability and representation of all North Dakota soybean growers and to develop community leaders."

cc: The Honorable Senator Kevin Cramer
The Honorable Senator John Hoeven
The Honorable Representative Kelly Armstrong

Senator CRAMER. So my question to you, Mr. Vought, is—you know these are highly technical comments, but they have to be addressed. Would you commit to personally review them and challenge the status quo on this?

Mr. VOUGHT. I will definitely look into them and see where we are with those comments, sir.

Senator CRAMER. With that, thank you for your willingness to take on this challenge. You are doing a fine job, a great job, and I look forward to supporting you.

Mr. VOUGHT. Thank you, Senator.

Senator CRAMER. I yield, Mr. Chairman.

Chairman ENZI. Thank you.

Senator Warner.

Senator WARNER. I want to go back to some of your answers to Senator Wyden. Am I coming through?

Chairman ENZI. Yes, you are. You were.

Mr. VOUGHT. I did not hear the first part, Senator.

Senator WARNER. Give me a minute. Mr. Vought, can you hear me now?

Mr. VOUGHT. Yes, sir.

Senator WARNER. Mr. Vought, I am also really, really concerned about your answers to Senator Wyden and your comments that you would follow the President's directives about voting. I say that as a United States Senator. I say that as a former Governor. I say that as somebody who has a lot of respect for so many of my Republican colleagues who talk about the fact that State elections are the State's responsibility. I know in late May the President tweeted twice at you, threatening to hold up funding if States were to adopt vote by mail, saying that there would be evidence that there would be cheating, somewhat ironic since my understanding is the President himself votes by mail.

Can you explain to me—you have answered Senator Wyden if the President directs you to carry out those policies, you are going to carry them out. What kind of statutory or constitutional or where in the heck do you think you have authority as OMB to interfere or curtail an election process that is going on in the States?

Mr. VOUGHT. Again, Senator, I have a profound respect for Congress. I have a profound respect for Article I and the power of the purse that Congress holds. As it pertains to the question that Senator Wyden asked, I responded by saying "accomplish the President's objectives consistent with the law." That is how I—

Senator WARNER. Do you think the President's objectives of calling out States that adopt vote by mail in the period of a pandemic, an action that the President of the United States has practiced himself, that he then threatens arbitrarily cutting off funding, he directs you to cut off that funding, are you going to carry out that order?

Mr. VOUGHT. Again, Senator, my job is to accomplish the objectives of the President consistent with the law. He has not—

Senator WARNER. Do you think—he has raised these charges in public tweets to you. Did you follow up on those tweets? Did you take any action based upon his public admonitions to you in his tweets in late May?

Mr. VOUGHT. Again, I am aware of the tweets. I am not going to get into my conversations with the President.

Suffice it to say—

Senator WARNER. These were obviously not private conversations. The President tweeted at you. My understanding is that is the way he gives a lot of directions as President. If he is directing you to take actions to hold States accountable because they might be cheating using a process that he and his family use to vote, did you take any action? Did you respond to the President's tweets, his public tweets to you?

I am not asking you to relay your private conversations.

But the President publicly directed you to do something.

Did you take action?

Mr. VOUGHT. I have not, sir.

Senator WARNER. Thank you for that.

One last question, Mr. Vought. I have a whole lot of Federal employees in the greater capital area, as you know. I have been very concerned. I hear on a regular basis from Federal employees about the guidance that OMB and Office of Personnel Management (OPM) put together on April 20th about when to return. Did you involve public health officials in your April 20th guidance? And is there any kind of coordinated interagency approach about tracking the spread of the virus? And then, finally, one of the things I am gravely concerned about is that we do not seem to have a centralized Federal employee testing site, at least that I am aware of. Maybe there is at this point. But could you address some of those issues going back to April 20th and actions since then?

Mr. VOUGHT. You bet, Senator. We did have our public health experts review the guidance. The task force was involved with that guidance, and we believe that we have given the appropriate flexibility to each agency to be able to work with the public health officials in the localities in which their offices are operating. This cannot be just a command-and-control set of instructions. It has to be decentralized. These decisions are being made by 50 different reopening plans, and so that has been the grid by which that we have constructed it, and we have also ensured the agencies know that they do not need to bring folks back if they are not ready to have them, if the personal protection equipment (PPE) is not there that has been resourced and appropriated by Congress.

So, again, we believe that we have done everything we can and should do to protect the workforce and to be able to reopen the public-facing aspects of the Federal Government as we begin to reopen the country.

Senator WARNER. I know my time has expired, but I would simply ask about the greater Washington area. If you can get back to me in writing on some level of the interagency process and what specific action items you have taken towards making sure our Federal employees get access to adequate testing.

Thank you, Mr. Chairman, for the extra minute of time.

Chairman ENZI. Sure. Thank you.

I think that concludes the people that wanted to ask questions. I want to thank Mr. Vought for appearing before the Committee today. Mr. Vought, your full statement will be included in the record.

I ask for unanimous consent to enter into the record letters of support for Mr. Vought's nomination, particularly from Concerned Women for America, Legislative Action Committee, and Americans for Tax Reform. Without objection, so ordered.
[The letters follow:]

CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

June 2, 2020

The Honorable Mike Enzi
Chairman
United States Senate Budget Committee
Washington, DC 20510

Dear Chairman Enzi,

I am writing on behalf of the hundreds of thousands of supporters of Concerned Women for America Legislative Action Committee with a strong endorsement for Russ Vought to be Director of the Office of Management and Budget (OMB). There is no question that Mr. Vought is highly and uniquely qualified for this position. He should be confirmed without delay.

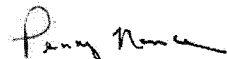
Mr. Vought has done an excellent job as acting director of OMB. The president nominated him because of his impeccable experience and distinguished qualifications to lead the agency responsible for the federal budget and regulations. Before OMB, he spent over 12 years working on budgetary issues on Capitol Hill, serving as policy director for the House Republican Conference, and then executive director of the Republican Study Committee.

However, the treatment Russ Vought received in the Senate Budget Committee in 2017, the last time he appeared before you for confirmation, was shocking. It was a shameful display of religious bigotry. It was unfair to the nominee and was a violation of decency in the confirmation process. It was an outright insult to anyone willing to offer themselves for public service. Such bigotry is not only immoral, it is unconstitutional. Article VI of the U.S. Constitution makes it clear that "no religious test shall ever be required as a qualification to any office or public trust under the United States."

Mr. Vought's faith, no doubt, has guided him throughout his career, for which we are grateful. But it is not the reason for his nomination. By appointing him, President Trump is willing to fight for the liberties of all Americans, regardless of faith, and he is offering for service a person superbly qualified to be at the helm of the federal budget agency at this crucial, unprecedented time in our nation's history.

We urge members of this committee to report Mr. Vought's nomination swiftly to the full Senate.

Sincerely,



Penny Young Nance
CEO and President



AMERICANS for TAX REFORM

June 1, 2020

The Honorable Mike Enzi
United States Senate
379A Russell Senate Office Building
Washington, D.C. 20510

The Honorable Ron Johnson
United States Senate
328 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson and Chairman Enzi:

I write in support of Russ Vought's nomination to become the Director of the Office of Management and Budget (OMB).

Russ Vought has been a champion of pro-growth, fiscally responsible regulatory reform, spending reform, and tax reform. He is the perfect choice to permanently lead the Office of Management and Budget and shepherd through policies that address Washington's overspending problem and grow the economy.

The OMB is in charge of promulgating the President's budget, supervising agency performance, and implementing the President's regulatory vision.

While serving as Acting OMB Director since January 2019, Vought has been a leader in addressing Washington's overspending problem and cutting the red tape that inhibits economic growth.

Throughout this tenure, Vought has overseen some of the most fiscally conservative Presidential budgets in history. For instance, President Trump's Fiscal Year 2021 budget balances in 15 years, [calls for](#) making the middle class tax cuts permanent, and includes \$4.6 trillion in deficit reduction.

Vought has also been a key player in developing and implementing Trump's deregulatory agenda, which kickstarted one of the strongest economies in American history before the pandemic hit. In the first two years alone, the Trump Administration [reduced](#) regulatory costs by \$33 billion.

More recently, the President signed [two executive orders](#) designed to make federal agencies more accountable to the taxpayer. Trump's "Transparency and Fairness" order prohibits agencies from enforcing rules that have not been made public in advance. Trump's "Bringing Guidance Out of The Darkness" order stops agencies from enforcing informal guidance documents that have not gone through public review.

Importantly, the administration has made deregulation a centerpiece of the response to COVID-19, leading to the suspension of [nearly 600](#) rules and regulations across the country. Trump's [most recent](#) deregulatory executive order authorizes agencies to permanently repeal regulations waived during the pandemic if agencies determine they were never necessary in the first place.

As Acting Director of OMB, Russ Vought has accumulated an impressive record of advancing free market policies. Moving forward, Director Vought's leadership on deregulation, tax reform, and spending reduction will be key to ensuring the U.S. recovers from the economic damage caused by the Coronavirus pandemic. Senators should support his nomination and vote to confirm him as Director of OMB.

Onward,

Grover Norquist
President, Americans for Tax Reform

722 12th Street N.W.

Fourth Floor

Washington, D.C.

20005

T (202) 85-0260

F (202) 85-0261

www.ATR.org

Chairman ENZI. I have some other questions, but I will submit those, as others on the Committee can do.

As information to all Senators, questions for the record are due by 12:00 p.m. tomorrow with signed hard copies delivered to the Committee clerk in Dirksen 624. Under our rules, Mr. Vought will have 7 days from receipt of those questions to respond with answers.

With no further business to come before the Committee, this hearing is adjourned.

[Whereupon, at 4:22 p.m., the Committee was adjourned.]

United States Senate

COMMITTEE ON THE BUDGET
ROOM SD-624
(202) 224-0642

WASHINGTON, D.C. 20510-6250

**STATEMENT OF BIOGRAPHICAL AND
FINANCIAL INFORMATION REQUESTED OF
PRESIDENTIAL NOMINEES**

A. BIOGRAPHICAL INFORMATION

1. **Name:**
Russell Thurlow Vought
2. **Position to which nominated:**
Director, Office of Management and Budget
3. **Date of nomination:**
5/4/2020
4. **Address:** (List current place of residence and office addresses, information will not be made available for public inspection.)
(REDACTED)
5. **Date and place of birth:**
3/26/76 (Mount Vernon, NY)
6. **Marital status:** (Include name of spouse.)
(REDACTED)
7. **Names and ages of children:** (information will not be made available for public inspection)
(REDACTED)
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.
The George Washington University Law School, September 2000-May 2004, JD, 5/23/04
Wheaton College, September 1994-May 1998, BA, 8/31/98

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

Office of Management and Budget (Jan. 17- Present)
Office of Management and Budget, Acting Director (most recent)
Washington, DC

Heritage Action for America (Aug. 2010-Jan. 2017)
Vice President, Grassroots Outreach & Policy Initiatives (most recent)
Washington, DC

House Republican Conference (Jan. 2009-Jul. 2010)
Policy Director
Washington, DC

Republican Study Committee (May 2004-Dec. 2008)
Executive Director (most recent)
Washington, DC

Rep. Jeb Hensarling (Feb. 2003-Dec. 2006)
Policy Director
Washington, DC

Senator Chuck Hagel (Sep. 2002-Jan. 2003)
Legislative Assistant
Washington, DC

Senator Phil Gramm (Jan. 1999-Aug. 2002)
Legislative Assistant (most recent)
Washington, DC

B. Dalton Bookseller (Sep. 1998-Dec. 1998)
Book Seller
Washington, DC

Senator Dan Coats (Jul. 1998 Est-Dec. 1998)
Staff Assistant (most recent)
Washington, DC

Rep. Chris Shays (May 1998-Jul. 1998)
Intern
Washington, DC

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

None

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

None

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.
- Cherrydale Baptist Church, Member (2011-Present), Elder, and Deacon (2011-2019)
 Capitol Hill Baptist Church, Member (2002-2011)
 Army Navy Country Club (2019-Present)
13. **Political affiliations and activities:**
- (a) List all offices with a political party which you have held or any public office for which you have been a candidate.
- None
- (b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
- None
- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.
- Cordasco for Delegate, \$300 (2016)
 Cordasco for James City Supervisor, \$200 (2015)
 Scalley for Delegate, \$200 (2014)
 Mike Lee (via Senate Conservative Fund), \$100 (2015)
14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.
- The Heritage Foundation Leadership Development Program, 2016
 Lincoln Fellowship, The Claremont Institute, 2011
 Kingsmen Alumni Award, Christian Heritage School, 2007
15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.
- [Real Clear Politics: Trump Takes Aim at Bureaucratic Bullying](#)
February 21, 2020
 - [Daily Wire: The Most Pro-Life President In History](#)
January 22, 2020
 - [USA Today: Booming Trump economy is right time for able-bodied adults to trade foodstamps for jobs](#)
December 11, 2019
 - [Fox New: Trump keeps promise to tame bureaucracy that runs roughshod over Americans](#)
October 9, 2019
 - [Wall Street Journal: The White House Announces Its Rescission Package](#)
May 7, 2019
 - [Real Clear Politics: Congress Must Join the President in Cutting Spending](#)
February 25, 2019

- [Fox News: Spending Addiction Threatens American Economic Resurgence](#)
January 9, 2019
- [RedState: House Republicans Need A Bold Spending Proposal](#)
August 2, 2010
- [RedState: Time To Go After Democrats On Repeal Of Obamacare](#)
August 3, 2010
- [RedState: "Historic" And "Bipartisan" Normally Means It's Bad](#)
August 9, 2010
- [RedState: Walt Minnick Is Not Willing To Repeal Obamacare](#)
August 9, 2010
- [RedState: Senate Republicans Getting Played On The Russian-Friendly Strategic Arms Treaty](#)
August 16, 2010
- [RedState: Congress Needs Reforms, But Committees Don't Need More Power](#)
September 6, 2010
- [RedState: Only 31 House Democrats Willing To Offer Soft Support For Small Businesses](#)
September 16, 2010
- [RedState: Who Dares To Be The Next Democrat Defection On Obamacare Repeal?](#)
September 16, 2010
- [RedState: Senator Bob Corker. Unacceptable.](#)
September 17, 2010
- [RedState: Idaho Congressman Misleads Constituents On Repeal...Again](#)
September 29, 2010
- [RedState: It's Time To Make GOP Leadership Less Powerful](#)
October 26, 2010
- [RedState: Mike Pence Is Ready For The Next Fight](#)
November 3, 2010
- [RedState: Senate Republicans Must Not Use National Security As A Bargaining Chit](#)
December 1, 2010
- [RedState: Bowles-Simpson Is A Massive Tax Hike](#)
December 2, 2010
- [RedState: Stop START: Whip List](#)
December 3, 2010
- [RedState: Senate Republicans And The Lost Art Of Negotiation](#)
December 6, 2010
- [RedState: House Rules Package Is A Nice First Step To Control Spending](#)
December 30, 2010
- [RedState: The Return Of The Lunch Bunch](#)

January 19, 2011

- [RedState: YouCut Can't Cut A \\$100 Billion?](#)
January 31, 2011
- [RedState: House Republicans Attempt To Extend "Stimulus" Trade Benefits](#)
February 7, 2011
- [RedState: How House Leadership Can Fix Their Mess](#)
February 9, 2011
- [RedState: Movement Towards \\$100 Billion, But Not There Yet](#)
February 10, 2011
- [RedState: Parsing The Pledge, House Leadership Still Not Compliant](#)
February 10, 2011
- [RedState: Speaker Boehner Throws Down The Gauntlet](#)
February 18, 2011
- [RedState: House Leadership Let Obamacare Expansion Pass](#)
March 9, 2011
- [RedState: Rep. Tim Huelskamp Stands Tall In Budget Showdown](#)
March 12, 2011
- [RedState: The Problem With One Last Vote For A Flawed Strategy](#)
March 14, 2011
- [RedState: This Is What Leadership Looks Like](#)
March 15, 2011
- [RedState: The Strategy Of Short-Term CR Opponents: A Response To Keith Hennessey](#)
March 16, 2011
- [RedState: Stop The Natural Gas Streaker!](#)
May 11, 2011
- [RedState: Corporate Welfare Gets New Life In The House](#)
July 5, 2011
- [RedState: Message to RSC Members: Get In Or Get Out](#)
July 27, 2011
- [RedState: House Republicans Ram Highway Bill Through Without a Roll Call Vote](#)
September 13, 2011
- [RedState: Darrell Issa And The Ongoing Fight Against Postal Bailouts](#)
September 14, 2011
- [RedState: The Crusade To Cave](#)
September 15, 2011
- [RedState: Reid Goes Nuclear To Block The President's Stimulus Plan](#)
October 6, 2011

- [RedState: House Republicans Set To Again Violate Their Pledge To America](#)
November 15, 2011
 - [RedState: Debunking The Election Myths of the Republican Establishment](#)
December 6, 2011
 - [RedState: Ramesh Ponnuru Moves The Goal Posts](#)
December 7, 2011
 - [RedState: House Conservatives Need To Block The Coming Highway Bailout](#)
January 30, 2012
 - [RedState: Why Every House Conservative Should Oppose The Highway Bill](#)
February 14, 2012
 - [RedState: Incrementalism Doesn't Work for The Right. Look At The Food Stamp Bill](#)
July 12, 2012
 - [Heritage Action: Defunding Obamacare: Questions & Answers, Excuses & Responses](#)
July 12, 2013
 - [Daily Signal: Our Daughter Was Born With Cystic Fibrosis. We Can't Imagine Life Without Her.](#)
July 30, 2014
 - [Resurgent: Wheaton College and the Preservation of Theological Clarity](#)
January 17, 2016
16. **Speeches:** Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.
17. **Selection:**
- (a) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?
- I have nearly twenty years of public policy experience with a specific emphasis in budgetary policy. Since 2017, I have served at OMB, as Senior Advisor, Deputy Director and most recently Acting Director. In my most recent role, I have led the agency for over a year. I was the Budget Director for the RSC, before going on to be its Executive Director and the Republican Conference's Policy Director.
- (b) Were any conditions, expressed or implied, attached to your nomination? If so, please explain.
- No
- (c) Have you made any commitments with respect to the policies and principles you will attempt to implement in the position for which you have been nominated? If so, please identify such commitment(s) and all persons to whom such commitment(s) have been made.
- No

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?
N/A
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain.
No
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? If so, please explain.
No
4. Has anybody made a commitment to employ your services in any capacity after you leave government service? If so, please identify such person(s) and commitment(s) and explain.
No
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, please explain.
Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain.
No
2. Identify and describe all investments, obligations, liabilities, business relationships, dealings, financial transactions, and other financial relationships which you currently have or have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute a possible conflict of interest in the position to which you have been nominated.
None
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

Although I was not a registered federal lobbyist, I spent seven years engaged in grassroots lobbying at Heritage Action for America for the purpose of directly influencing the passage, defeat, and modification of a wide array of legislation based on the research of The Heritage Foundation.
4. Do you agree to have written opinions provided to the Committee the ethics officer of the Office of Management and Budget and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?
Yes

5. Explain how you will resolve potential conflicts of interest, including any disclosed by your responses to the above questions.

I will work closely with the appropriate ethics officials and will follow their legal advice.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Yes. I was sued in September, 1999, after a motor vehicle accident. It was settled in February, 2000. The litigation took place in the Circuit Court of the 18th Judicial Circuit, Dupage County, IL.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

1. If confirmed, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If confirmed, are you willing to provide such information as may be requested by any committee of the Congress?

If confirmed, I will work to ensure that OMB provides Congress with the information it needs to carry out its essential oversight functions.

F. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection, with the exception of income tax returns.)

1. Please provide personal financial information not already listed on the SF 278 Financial Disclosure form that identifies and states the value of all:
 - (a) assets of \$10,000 or more held directly or indirectly, including but not limited to bank accounts, securities, commodities futures, real estate, trusts (including the terms of any beneficial or blind trust of which you, your spouse, or any of your dependents may be a beneficiary), investments, and other personal property held in a trade or business or for investment other than household furnishings, personal effects, clothing, and automobiles; and
 - (b) liabilities of \$10,000 or more including but not limited to debts, mortgages, loans, and other financial obligations for which you, your spouse, or your dependents have a direct or indirect liability or which may be guaranteed by you, your spouse, or dependents; and for each such liability indicate the nature of the liability, the amount, the name of the creditor, the terms of the payment, the security or collateral, and the current status of the debt payment. If the aggregate of your consumer debts exceeds \$10,000, please include the total as a liability. Please include additional information, as necessary, to assist the Committee in determining your financial solvency. The Committee reserves the right to request additional information if a solvency determination cannot be made definitively from the information provided.

(REDACTED)
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, executory contracts and other future benefits which you expect to derive from current or previous business relationships, professional services and firm memberships, employers, clients and customers. If dates or amounts are estimated, please so state. Please only include those items not listed on the SF 278 Financial Disclosure form.

(REDACTED)
3. Provide the identity of and a description of the nature of any interest in an option, registered copyright, or patent held during the past 12 months and indicate which, if any, from which you have divested and the date of divestment unless already indicated on the personal financial statement.

(REDACTED)
4. Provide a description of any power of attorney which you hold for or on behalf of any other person.

(REDACTED)
5. List sources and amounts of all gifts exceeding \$500 in value received by you, your spouse, and your dependents during each of the last three years. Gifts received from members of your immediate family need not be listed.

(REDACTED)
6. Have you filed a Federal income tax return for each of the past 10 years? If not, please explain.

(REDACTED)
7. Have your taxes always been paid on time including taxes paid on behalf of any employees? If not, please explain.

(REDACTED)

8. Were all your taxes, federal, State, and local, current (filed and paid) as of the date of your nomination? If not, please explain.

(REDACTED)

9. Has the Internal Revenue Service or any other state or local tax authority ever audited your Federal, state, local, or other tax return? If so, what resulted from the audit?

(REDACTED)

10. Have any tax liens, either federal, State, or local, been filed against you or against any real property or personal property which you own either individually, jointly, or in partnership? If so, please give the particulars, including the date(s) and the nature and amount of the lien. State the resolution of the matter.

(REDACTED)

11. Provide for the Committee copies of your Federal income tax returns for the past 3 years. These documents will be made available only to Senators and staff persons designated by the Chairman and Ranking Minority Member. They will not be available for public inspection.

12. Have you ever been late in paying court-ordered child support? If so, provide details.

(REDACTED)

13. Have you ever filed for bankruptcy or been a party to any bankruptcy proceeding? If so, provide details.

(REDACTED)

AFFIDAVIT

Russell T. Vought being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this

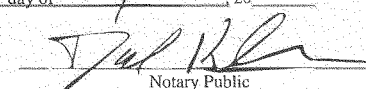
10th

day of

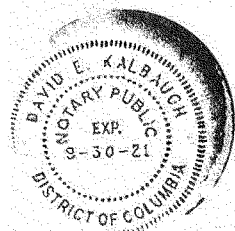
May

20

20

Notary Public



**Nomination of the Hon. Russell Vought, of Virginia,
to be Director of the Office of Management and Budget**

Pre-Hearing Questions from Senator Grassley

Question #1: The CFO Act of 1990 established OMB's authority and responsibility to direct federal financial management, establish government-wide financial management requirements and policies, and monitor the operations and establishment of financial management systems. Thirty years later, the Department of Defense is the only agency that has not earned a clean audit opinion. The DOD's financial management systems are one obstacle preventing a clean opinion. As the Director of OMB, what steps would you take to ensure that DOD implements reforms to their financial management processes and systems?

Answer: OMB supports DOD's efforts to continue annual audits and use the resulting recommendations to implement corrective actions towards achieving a clean audit opinion for the entire Department. OMB will continue to engage with DOD's senior leadership on the status of the audit and DOD components' efforts to address findings. DOD currently relies on approximately 300 financial management systems used to capture information. OMB recognizes that reducing this number is critical to DOD's future success in achieving an unqualified opinion. An issue identified from the DOD/GAO engagement is the need for a systems rationalization plan which identifies systems and decommissioning dates. We expect to see demonstrable progress by the end of FY 2021 in closing prior year audit findings with the goal of increasing the number of components with clean audit opinions. Overall, the audit process has created opportunities for DOD to improve decisionmaking, transparency and accountability, as well as identify cost savings.

Question #2: In 1996, Congress passed the Federal Financial Management Improvement Act (FFMIA). This legislation established uniform requirements for federal financial management, standards, and reporting. FFMIA requires auditors to report whether those agencies' financial management systems substantially comply with federal financial management systems requirements, federal accounting standards, and the federal government's U.S. Standard General Ledger at the transaction level. In 2019, eight of the 24 agencies covered by the CFO Act were reported as non-compliant in at least one of these categories. Why are these agencies unable to come into compliance FFMIA, and what steps will you take to ensure greater compliance?

Answer: OMB is aware of the challenges agencies are facing related to systems compliance with FFMIA. The primary reasons that agencies are unable to come into compliance include non-integrated financial management systems, inadequate reconciliation procedures, lack of timely and accurate reporting, noncompliance with the SGL, lack of adherence to federal accounting standards, and weak security over information systems. OMB believes agencies that embrace the President's Management Agenda and its Cross Agency Priority Goal 5 around Shared Services will make great strides in fixing underlying problems in core financial systems to help bring them into compliance with FFMIA. OMB supports agencies' efforts to achieve compliance through regular interaction through the

CFOC and individual engagements. To the extent practicable, OMB leverages the oversight work of the IG community on more specific root-causes of issues of non-compliance.

Question #3: The DOD does not have a plan to deploy a modern, transaction-generated U.S. Standard General Ledger. Do you think that it is possible for the DOD to obtain a clean audit opinion without a transaction-generated USSGL?

Answer: DOD is responsible for addressing the obstacles preventing a clean opinion and OMB recognizes DOD is making progress in this area but will not be able to resolve all obstacles overnight. While it is admittedly more difficult and costly, it is not impossible, to obtain a clean audit opinion without a transaction-based USSGL. Additionally, we would note that there are areas within DOD components that use transaction-based USSGL systems. We believe if DOD works towards the adoption of Shared Services and consolidating their approximately 300 financial management systems, they will be able to more efficiently obtain a clean opinion. If confirmed, I will ensure that OMB continues to support DOD as it works toward obtaining a full financial statement audit and a clean opinion for all of its components and the Department as a whole. OMB staff will continue to work with DOD as it implements the auditors' recommendations to correct numerous audit findings and OMB senior leadership will continue to engage with DOD's senior leaders on the status of the audit and the components' efforts to address findings.

Question #4: The CARES Act allocates approximately \$24.5 Billion to the U.S. Department of Agriculture. Unlike other federal agencies, USDA has yet to make any direct assistance to farmers or producers through USDA's Coronavirus Food Assistance Program. Producers need assistance now or they risk going out of business.

Why is this program taking so long to get up and running and where is this in the rulemaking process; what has been OMB's role to date in the rulemaking for the Coronavirus Food Assistance Program; and what can you do to expedite this rulemaking?

Answer: OMB has cleared the USDA rule ("Coronavirus Food Assistance Program") that will distribute \$9.5 billion in CARES Act funding and \$6.5 billion from CCC for direct payments to a wide range of farmers and ranchers for estimated price losses incurred between January 15 and April 15, 2020. USDA will provide payments in two tranches to ensure program spending will not exceed funds available.

Pre-Hearing Questions from Senator Sanders

I. Medicare, Medicaid, and Social Security

Question #1: In the President's budget request for Fiscal Year 2021 – a budget you took the lead in writing – President Trump called for a 10-year, \$500 billion cut to Medicare, a \$900 billion cut to Medicaid, and a cut of up to \$71 billion to Social Security.

As long as you continue to serve as this President's budget director, will you continue to advocate for massive cuts to these vital programs?

Answer: The President has made clear we will protect Social Security and Medicare beneficiaries, and there are no spending cuts proposed to these programs in the President's budget. Under the President's FY2021 Budget, Medicare spending grows each and every year, by an average of 6 percent annually. The President's budgets have proposed good government reforms that would, for instance, reduce the costs of prescription drugs in Medicare, lower Part D premiums, and rationalize the way we pay for care through site-neutral payments. Similarly, the President's FY2021 Budget calls for reforms to Medicaid to prioritize resources for the most vulnerable and to restore balance, flexibility, integrity, and accountability to the State-Federal partnership. Medicaid had \$57 billion in improper payments last year, and HHS lacks the statutory tools to recoup most of these. The President's Budget would provide such authority while giving states the option of a block grant or per capita payment. Medicaid spending increases each and every year under our budget, by more than 3 percent annually on average.

Question #2: On January 22, The New York Times reported the following:

President Trump suggested on Wednesday that he would be willing to consider cuts to social safety-net programs like Medicare to reduce the federal deficit if he wins a second term, an apparent shift from his 2016 campaign promise to protect funding for such entitlements.

The president made the comments on the sidelines of the World Economic Forum in Davos, Switzerland. Despite promises to reduce the federal budget deficit, it has ballooned under Mr. Trump's watch as a result of sweeping tax cuts and additional government spending.

Asked in an interview with CNBC if cuts to entitlements would ever be on his plate, Mr. Trump answered yes.

"At some point they will be," Mr. Trump said, before pointing to United States economic growth. "At the right time, we will take a look at that."

Mr. Trump suggested that curbing spending on Medicare, the government health care program for the elderly, was a possibility.

"We're going to look," he said.

Although cuts to Medicare, Medicaid, and Social Security Disability have been part of each of President Trump's budget requests, these comments seemed to indicate that they would be made a priority in a second term if the President is re-elected.

If President Trump were re-elected, would you choose to prioritize cuts to Medicare, Medicaid, and Social Security in a second term?

Answer: The President has made clear that he will protect Social Security and Medicare. All four of his budgets have done so and future ones will as well. The President is committed to ensuring all these programs are properly equipped to serve current and future populations.

II. Fiscal Stimulus vs. Austerity

Question #3: On May 13, Federal Reserve Chair Jerome Powell stated that “the scope and speed of this downturn are without modern precedent, significantly worse than any recession since World War II.” As such, Chairman Powell stated that “Additional fiscal support could be costly, but worth it if it helps avoid long-term economic damage and leaves us with a stronger recovery.”

With this in mind, speaking of an attempt to reduce the debt relative to the size of the economy, Chairman Powell stated, “Now, when we are facing the biggest shock that the economy has had in modern times, is, for me, not the time to prioritize considerations like that.”

a) Do you agree with Chairman Powell that addressing the certain near-term economic catastrophe that the COVID-19 pandemic has wrought is a more important concern than dealing with the highly-uncertain future problems that the national debt could one day cause down the road?

Answer: This Administration responded rapidly to this crisis, providing unprecedented support to American families and businesses. At the same time, we must be careful to support smart policies that do not unnecessarily burden future generations. The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations.

b) Is Chairman Powell correct in saying that if we fail to right our economy soon it will have long-term implications on economic growth, potentially worsening those highly-uncertain potential future problems caused by the debt?

Answer: A prolonged economic downswing would certainly harm the prospects for recovery and worsen the pernicious effects of runaway debt. That is why the Administration responded with unprecedented fiscal support to stabilize markets and strengthen the economy, paving the way for a strong recovery. That is also why we must avoid inefficient government spending that risks worsening long-term fiscal sustainability, increasing borrowing costs, and worsening inflation prospects.

Question #4: On May 10, The Washington Post (The Post) reported that “Senior Trump administration officials are growing increasingly wary of the massive federal spending to combat the economic downturn and are considering ways to limit the impact of future stimulus efforts on

the national debt.” You were prominently named to be a member of this group of senior administration officials.

a) The Post’s story claims, “Vought also has voiced concerns about the growing fiscal impact and wants to focus on constraining the long-term deficit.” Is this accurate?

Answer: The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support those efforts. More specifically, however, I cannot discuss deliberative conversations with White House officials.

b) The Post’s story claims, “White House officials have discussed including measures in the next relief package that would trigger automatic spending reductions once the economy improves.” Are you among these officials? Do you believe that automatic spending reductions are a good idea in the near-term?

Answer: The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support those efforts. More specifically, however, I cannot discuss deliberative conversations with White House officials.

c) The Post’s story claims, “Senior White House economic officials also are exploring a proposal floated by two conservative scholars that would allow Americans to choose to receive checks of up to \$5,000 in exchange for a delay of their Social Security benefits.” Are you among these officials? Do you believe this is a good idea?

Answer: The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support those efforts. More specifically, however, I cannot discuss deliberative conversations with White House officials.

d) The Post’s story claims, “Senior administration officials have discussed the ‘Eagle Plan,’ a 29-page memo that called for an overhaul of federal retirement programs in exchange for upfront payments to some workers.” Are you among those officials? Do you believe this is a good idea?

Answer: The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support those efforts. More specifically, however, I cannot discuss deliberative conversations with White House officials.

Question #5: On April 24, the Congressional Budget Office (CBO) released preliminary economic and budgetary projections for this year and next. CBO envisions the unemployment rate to remain nearly 10 percent at the end of 2021.

This is a “current law” projection, meaning that it incorporates no further federal stimulus spending. No further federal stimulus spending means that millions of the unemployed will have had their unemployment benefits expire. It would mean that states and localities will have

massively cut services to meet depressed revenues. It would mean the Paycheck Protection Program and other business supports will have run dry, bankrupting small businesses from coast to coast. It would mean tens of millions of people would be receiving insufficient nutrition assistance from SNAP (i.e., food stamps).

In your opinion, would this be an acceptable outcome if it were to mean we would not further increase the federal deficit?

Answer: The President has signed into law historic legislation since the pandemic began, which have included enhanced unemployment benefits, over \$500 billion for state and local governments, the establishment of the Paycheck Protection Program, and enhanced SNAP benefits. The Administration will continue monitoring these programs and the underlying economic conditions. The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support these efforts

Question #6: Under its April projections, CBO now foresees that the “interest rate on 10-year Treasury notes at the end of 2021 would be roughly 1.6 percentage points lower than the rate in CBO’s economic projection produced in January 2020.”

With projected interest rates declining and inflation nowhere to be seen (according to the Bureau of Labor Statistics, our main inflation index just experienced “the largest monthly decline since December 2008”), it appears that there is ample room to continue large-scale deficit spending over the near-term in order to stave off a massive economic depression. We will be able to borrow money essentially for nothing, and without fear of inflation.

Do you agree with that analysis?

Answer: We cannot assume that low inflation rates and low nominal interest rates are permanent. American taxpayers will have to repay the principal and interest on new debt. Today’s borrowing is not free for tomorrow’s taxpayers. America’s spending problem reduces economic prosperity. It fuels higher trade deficits as foreigners buy debt, and it hurts exporters. I do not agree that we can continue indefinitely with unbalanced budgets, borrowing hundreds of billions a year (now trillion) without any negative consequences.

Question #7: On May 13, CBO published the following:

State and local governments will collect less revenue because of the sudden drop in economic activity and resulting fall in taxable income in 2020. It is unclear how large those shortfalls will be.

At the same time, demand for social services provided by state and local governments will increase. In the 2007-2009 recession and subsequent recovery, state and local governments similarly experienced fiscal pressure. They responded mainly by reducing

spending on education, health, and social services. Some of those reductions were achieved by cutting public-sector employment.

The Trump Administration seems extraordinarily reluctant to send federal dollars to states and localities as part of a potential next stimulus package, even if it means states will be “reducing spending on education, health, and social services.”

Is this a position you hold? How is this a tenable position?

Answer: The Administration has secured over \$500 billion for State, local, tribal, and territorial governments since the public health emergency began. This corresponds to roughly 25% of all State operating budgets combined. We continue to monitor and evaluate the spending of currently appropriated funds to make the best possible assessment regarding any future spending proposals.

Question #8: In 2011, Mark Zandi, an economist respected on both sides of the aisle, published estimates of the one-year dollar change in GDP for every dollar spent on specific policies. Mr. Zandi estimated that this “bang-to-buck ratio” was 1.71 for a temporary increase in food stamps (meaning every dollar spent returned \$1.71 to the economy). The ratio was 1.55 for extending unemployment benefits and 1.37 for “general aid to states.”

Meanwhile, Mr. Zandi estimated that making permanent capital gains tax cuts had a bang-to-buck ratio of 0.39 and a cut in the corporate rate a ratio of just 0.32.

Do you agree with this analysis of what kind of spending would best help the economy during a severe recession?

Answer: Dr. Zandi was writing for an entirely different situation. The current scenario is not a financial crisis that will require years of deleveraging and unwinding. It is a supply shock, followed by a public safety response, and the corresponding government economic policy response must be different.

Helping the vulnerable during this crisis is a top priority for this Administration. The government also needs to be careful that it creates the right incentives for sustainable and equitable growth, and that people benefit from when they work and create. To achieve a strong recovery, we need strong incentives for investment so that we can create the capital that will be used by the workers of tomorrow. An effective corporate tax policy will help maintain the competitiveness of American companies in the world marketplace.

Question #9: President Trump, as well as some of his top economic advisers, have been pushing for a payroll tax cut as an important part of a stimulus package.

However, 36 million people have filed for unemployment benefits over the last eight weeks, according to the Department of Labor. Kevin Hassett, a top White House economic adviser, projects that the unemployment will be “north of 20 percent” in the coming months. Moreover, according to a forthcoming report by the Federal Reserve, almost 40 percent of people who were

working in February and were members of households making less than \$40,000 a year had lost their jobs in March.

As a payroll tax will do nothing to help the tens of millions of Americans who are no longer on payrolls – a group that disproportionately includes lower-earning workers who would be most likely to spend the extra money – do you really believe that a payroll tax cut would be effective economic stimulus in this environment?

Answer: Unemployment benefits provide relief, but encouraging work is key to recovering lost output. As part of the CARES Act, Unemployment Insurance pays out an additional \$600 a week until July 31. In the depths of a recession and pandemic, when no jobs are available, the expanded UI benefit provides support to Americans who are no longer on payrolls.

However, the longer workers are unemployed, the harder it is to return to work with the same level of earnings. As jobs become available, it is important to create the incentives to get America working again as quickly as possible. Recovering from this recession will require that the vast majority of workers return to their jobs as soon as it is safe to do so, and we need to carefully consider the best way to once again achieve full employment and strong economic growth.

III. Funding for Public Health

Question #10: The President’s budget request for Fiscal Year 2021 included massive cuts to global and public health programs. These included:

- A \$167 million cut to the Assistant Secretary for Preparedness and Response for FY21;
- A \$175 million cut to the Centers for Disease Control and Prevention (CDC) for FY21 and a \$23 billion cut over 10 years; and
- A nearly \$3 billion cut to the National Institutes of Health (NIH) for FY21 and a \$77 billion cut over 10 years.

These cuts would be disastrous enough during normal times, but your budget request was issued in February, after the COVID-19 outbreak had started in China and after government experts had warned about potential outbreaks here in the United States.

What’s worse, on March 10, with stay-at-home orders appearing shortly thereafter, in testimony before a House Appropriations subcommittee, you held firm to that request to cut \$175 million from the CDC. You testified that Congress had “passed an \$8.5 billion supplemental that provides all the necessary resources that we’re going to need. The president signed it into law.”

With the benefit of hindsight, would you still claim today that the budget request for the CDC should not be amended? Do you believe that the first emergency supplemental was large enough to provide “all the necessary resources that we’re going to need”?

Answer: The Administration amended its FY 2021 request for CDC, for a total level that is \$635 million above FY 2020 Enacted (+8%). The 2021 amended request includes \$4.8 billion for CDC's infectious disease and emergency preparedness activities, an increase of 15% compared to the FY 2020 level for these activities. From the beginning, we have brought all resources to bear to respond to the pandemic and we will continue to do this with the supplemental resources Congress has appropriated. We are focused currently on using these resources to maximize the response. If confirmed, I will continue to work with Congress on resources as necessary.

IV. Puerto Rico

Question #11: Appropriated funding designated to help the people of Puerto Rico recover from Hurricane Maria in 2017 was slow-walked by the Trump Administration. Personnel from the Department of Housing and Urban Development (HUD) have blamed OMB for the delayed release of funding, curtailing the agency's ability to even request funding for this purpose.

However, after a recent review of the Puerto Rican government's recovery operations, Coast Guard Admiral Peter J. Brown – President Trump's Special Representative for Puerto Rico's Disaster Recovery – reported on February 26, 2020 that the pace of recovery efforts has "accelerated dramatically" and that Puerto Rico's "reputation seems to lag the reality" because Puerto Rico's government has implemented "very strong internal control mechanisms to counter any attempts at corruption or diversion of funds."

Admiral Brown further indicated that, after reporting his findings to President Trump, he hopes the administration will be convinced that federal money is being spent wisely in Puerto Rico and that the federal government and the government of Puerto Rico have established a new atmosphere of cooperation and trust.

a) Is it true that OMB impinged upon HUD's right to request funding?

Answer: Under President Trump, Puerto Rico is set to receive an historic \$91 billion – close to ten times its annual budget. The Administration has not requested additional funding from Congress because we do not believe additional disaster recovery funding is necessary. Further, OMB has not stopped HUD from requesting an apportionment – I note that all HUD disaster recovery funds for Puerto Rico provided by Congress are currently apportioned.

b) Were you directed by President Trump or anyone else to slow funding appropriated for Puerto Rico's recovery effort?

Answer: This question seeks the substance of communications with the White House and OMB, the disclosure of which would reveal confidential, deliberative and internal Executive Branch information. The money was not purposely delayed. Puerto Ricans have been dealing with a government beset with corruption and political instability. To ensure this money reached Puerto Rican citizens—to provide that relief to them—OMB worked

with HUD to put the proper guardrails in place to help ensure that money wasn't being funneled away from the Puerto Rican people, and was being used for the purpose that Congress intended.

c) With Admiral Brown's statements in mind, will you commit to OMB releasing all appropriated aid to Puerto Rico's recovery effort as quickly as possible?

Answer: I am pleased that Admiral Brown has seen Puerto Rico implement improved internal financial controls. The Administration will continue to work across Federal agencies to support recovery efforts in Puerto Rico while providing oversight to prevent fraud, waste, and abuse, in order to protect taxpayer funds and ensure that Federal funds are used to benefit the people of Puerto Rico.

V. Testifying Before Congress

Question #12: In the pre-hearing questionnaire given to you by this Committee during your confirmation process to be OMB Deputy Director in 2017, you were asked, "If confirmed, are you willing to provide such information as may be requested by any committee of the Congress?" In response, you answered simply, "Yes." Similarly, when Mick Mulvaney was asked this question upon being nominated to the OMB Director position in 2017, he answered, "As appropriate, yes."

However, when asked the identical question this month after being officially nominated to Director position, you instead answered, "If confirmed, I will work to ensure that OMB provides Congress with the information it needs to carry out essential oversight functions."

It appears that you have decided to pick and choose when to be cooperative – or even responsive – to a request from a Congressional committee.

Why did you change how you answered this question?

Answer: My wording may have changed but the intent remains the same. Similar to the position that Executive Branch officials have taken from both parties for decades if not longer, I commit to provide information to Congress, consistent with the constitutional principles of separation of powers and deliberative process.

VI. Ukraine Affair / Withholding Appropriated Funds

Question #13: In June and July 2019, President Trump ordered that OMB place a hold on Congressionally appropriated funds to Ukraine. At the President's direction, OMB first blocked a Congressional notification which prevented the State Department from releasing \$141 million to Ukraine. OMB then implemented a hold on approximately \$250 million in Department of Defense funds to Ukraine.

a) When did you first learn that President Trump wanted a hold on aid to Ukraine?

Answer: The question is asking about deliberative conversations with White House officials. I cannot discuss deliberative conversations with White House officials.

b) Who told you?

Answer: It was an Administration directive.

c) What reason was provided?

Answer: I cannot disclose deliberative conversations with White House officials, but I will note that OMB's apportionment language explained that the pause was to allow for an interagency process to determine the best use of such funds.

d) Were you aware at the time that President Trump and his associates were trying to convince Ukraine to announce an investigation into Joe Biden and 2016 election interference?

Answer: I disagree with the premise of the question. The President was concerned with corruption in Ukraine, a long-running concern that the U.S. government has had about Ukraine, and that European nations were not paying their fair share to support Ukraine.

Question #14: When OMB announced the President's hold at an interagency meeting in mid-July 2019, the State Department (State), the Department of Defense (DOD), and all of the other policy experts present at the meeting opposed the hold because it was not in the national interests of the United States. In fact, the only agency that advocated for the hold was OMB.

a) Why did OMB advocate for the hold?

Answer: OMB works to achieve the President's priorities within the scope of its authorities. Toward that end, OMB paused the money to allow a policy process to run, to ensure the funds were being spent appropriately, consistent with the law, and in accordance with the President's priorities.

b) Did OMB believe the hold was in the national interests of the United States, despite the contrary position of all the policy experts?

Answer: OMB paused the money to allow a policy process to run, to ensure the funds were being spent appropriately, consistent with the law, and in accordance with the President's priorities.

Question #15: On or about August 7, 2019, OMB's National Security Division, International Affairs Division, and Office of Legal Counsel sent you a memo on Ukraine security assistance. That memo recommended that the hold be lifted because (1) the assistance was consistent with

the national security strategy in terms of supporting a stable, peaceful Europe; (2) the aid countered Russian aggression; and (3) there was bipartisan support for the program.

a) Did you agree with the recommendations of your staff to lift the hold?

Answer: This question asks for information containing internal deliberations. Past administrations, including the last one, have consistently protected these type of internal deliberations to prevent the chilling effect on future deliberations.

b) At any time, did you recommend to President Trump or anyone else at the White House to lift the hold?

Answer: The question is asking about deliberative conversations with the President. I cannot discuss deliberative conversations with the President. My role as Acting Director is to ensure that OMB is working to achieve the President's priorities within the scope of our authorities.

c) If so, what was their reaction?

Answer: See Question 15b.

Question #16: OMB implemented the hold through a series of apportionment documents. The first of those documents was approved, on July 25, 2019, by a career OMB employee, Mark Sandy. Several days later, you took that authority away from Mr. Sandy and gave it to Michael Duffey, a political appointee. Mr. Duffey signed every apportionment document thereafter (eight in total). Mr. Sandy was not aware of any prior instance when a political appointee assumed this kind of funding approval authority.

Was Mr. Sandy's approval authority revoked because he raised concerns about the legality of the hold?

Answer: No. In fact, Mr. Sandy did not refuse to sign any apportionment. After OMB's Office of General Counsel reviewed and approved its legality, Mr. Sandy signed the first apportionment on July 25. He did not object to signing it nor any other apportionments. The apportioning authority is entrusted to the OMB Director, and it was my view that this authority would be more appropriate to be delegated to a more senior OMB official, Mr. Duffey, who is Mr. Sandy's supervisor. And as you know, Mr. Duffey signed his first apportionment on pausing several foreign aid accounts in the State Department, not on the Ukraine USAI funds.

Question #17: Mr. Sandy wasn't the only person at OMB who raised concerns about the legality of the hold. An OMB attorney resigned because of concerns about the way in which OMB was implementing the hold.

a) Were you aware at the time that some of your staff believed the hold was illegal?

Answer: I disagree with your statement that an OMB official resigned because of our Ukraine work. OMB experienced regular agency turnover before, during, and after this period of time. To my knowledge, no one resigned from OMB because of this pause.

b) What did you do to ensure that OMB implemented the hold legally?

Answer: OMB acted legally and within the scope of its apportionment authority in pausing the Ukraine funds through a programmatic delay. OMB fully explained its legal views on this matter in an opinion issued by our General Counsel, which is available on OMB's website at https://www.whitehouse.gov/wp-content/uploads/2020/01/response_to_gao_re_b-331564.pdf.

Question #18: Based on witness testimony as well as documents released by the administration pursuant to FOIA litigation, it is clear that DOD had escalating concerns about the hold. Specifically, DOD officials were concerned that they would not be able to spend the funds before the end of the fiscal year. And in fact, we now know that those fears were well-founded: DOD was unable to spend all the money before the clock ran out. And yet, in a December 11, 2019 letter to GAO, OMB General Counsel stated that “at no point during the pause in obligations did DOD OGC indicate to OMB that, as a matter of law, the apportionments would prevent DOD from being able to obligate the funds before the end of the fiscal year.”

Given everything that has since become public in the FOIA litigation and the impeachment investigation, do you still stand by this statement? Explain.

Answer: Yes. What OMB has consistently said—including in its letter to GAO — is that we confirmed with DOD OGC that OMB's apportionment and the flexibilities the apportionment includes would not preclude the timely obligation of funds. OMB worked closely with DOD throughout this time period to ensure that, if the decision was made to release the Ukraine funds, those funds would be obligated before the end of the fiscal year. OMB's apportionment permitted DOD to engage in any needed activities up to the point of obligation. But based on communications with several DOD officials, a review of the facts, the way we designed the footnote to allow for all preparatory work, and the planned time frame for obligating these funds, we were confident that DOD would have enough time to obligate these funds.

Question #19: On January 16, 2020, GAO issued a decision holding that OMB's hold on the DOD-administered aid to Ukraine was illegal because it violated the Impoundment Control Act.

a) What are you doing to make sure that this never happens again?

Answer: OMB disagrees with GAO's opinion. GAO's opinion is flawed, especially in its view that OMB does not have the power to pause funding to make sure the best policy is being carried out within the scope of the law. OMB regularly pauses funding to ensure

agencies are spending funds efficiently and appropriately, and has done so across administrations of both parties. OMB acted appropriately and legally as we explained in our opinion (see link in answer to 17b).

b) More generally, do you accept that using the apportionment process to delay federal outlays beyond their period of availability and thus effectively impounding the funds is illegal under the Impoundment Control Act?

Answer: See Question 17b.

c) Similarly, will you abide by GAO's December 10, 2018 legal opinion that the Impoundment Control Act "does not permit the withholding of funds through their date of expiration"?

Answer: OMB disagrees with GAO's current position, which is a reversal of the position it has held since 1975. See GAO B-115398 (December 15, 1975). The text of the ICA places no limit on how late in the fiscal year a President may propose funds for rescission or withhold funds pending Congressional consideration of a rescission proposal. Moreover, there is bipartisan historical precedent for budget authority being withheld late in the fiscal year pursuant to an ICA rescission proposal, including withholding such amounts through the end of the fiscal year. In an 1975 opinion, GAO noted that this was permissible under the ICA, and recommended that Congress enact legislation to address this issue. Congress never did.

As OMB explained in a legal opinion sent to GAO in November 2018 (available at <https://www.whitehouse.gov/wp-content/uploads/2019/11/Letter-to-GAO-on-Rescissions.pdf>), OMB agrees with the legal conclusion that GAO held from 1975 until it reversed itself in December 2018 that the ICA does, in fact, permit the withholding of funds through their date of expiration in certain circumstances.

Question #20: GAO faulted OMB for failing to fully cooperate with GAO, particularly with regard to the State-administered aid to Ukraine.

a) Did anyone at the White House ever tell you not to cooperate with GAO?

Answer: No. Regarding GAO's assertion that OMB failed to provide the information they requested, specifically with regard to the FMF funds, OMB provided all the information GAO requested, including the State-administered aid to Ukraine. The information about the FMF funds is on the bottom of page 2 onto page 3 of OMB's response to GAO and included in the attachment to GAO. If OMB inadvertently missed something that GAO requested, GAO did not follow up to request any information prior to issuing its opinion. As a result, OMB had no reason to believe that that we had not provided all information requested.

b) Is OMB now cooperating with GAO on this matter?

Answer: Yes, we will continue to provide information to GAO, consistent with the constitutional principles of deliberative process and separation of powers.

c) If confirmed, will you commit that OMB will cooperate with any and all GAO requests or engagements?

Answer: See Question 20b.

Question #21: President Trump abruptly lifted the hold on September 11, 2019, after the hold became public and after the House publicly announced an investigation into the President's Ukraine affair.

a) Were you told why the hold was being lifted?

Answer: Yes.

b) If so, who told you that?

Answer: The question is asking about deliberative conversations with White House officials. I cannot discuss deliberative conversations with White House officials.

c) What circumstances had changed since June or July that justified lifting the hold on September 11?

Answer: With the end of the fiscal year approaching, a policy decision was made, at which point, OMB removed its footnote releasing the funds for obligation.

Question #22: It seems implausible that you alone were responsible for the delay in apportioning the Ukraine security assistance funding.

a) At any time, did you personally speak with President Trump about the hold on security assistance to Ukraine?

Answer: The question is asking about deliberative conversations with the President. I cannot discuss deliberative conversations with the President.

b) Similarly, did you speak about the hold on security assistance with Ambassador John Bolton, Mick Mulvaney, Robert Blair, and/or anyone else from the White House?

Answer: The question is asking about deliberative conversations with White House officials. I cannot discuss deliberative conversations with White House officials.

c) If so, when, with whom, and what was discussed?

Answer: See Question 22b.

d) Did anyone ever tell you, at any time, that President Trump ordered the hold for any reason related to the 2016 Presidential election, conspiracy theories surrounding the cybersecurity firm CrowdStrike or the security breach of the Democratic National Committee's server, or the relationship between Vice President Biden's son Hunter Biden and the Ukrainian energy firm Burisma?

Answer: No.

Question #23: Did anyone at the White House ever provide you any directive on how to respond to the House impeachment inquiry, including directing you not to appear for a deposition or otherwise cooperate?

Answer: Per White House Counsel Pat Cipollone's October 8, 2019, letter, the President instructed his Administration not to comply with the subpoenas because the House of Representatives' inquiry lacked due process protections for the President and his Administration officials.

The House of Representatives refused to allow me to have my agency counsel present at the deposition. The Department of Justice Office of Legal Counsel determined it was an unconstitutional infringement on the President's authority to supervise Executive Branch officials to force Executive branch witnesses to appear without agency counsel. OLC opinions are binding on the Executive Branch.

Pre-Hearing Questions from Senator Van Hollen

I asked GAO to conduct an investigation into whether the withholding of vitally needed security assistance for Ukraine violated the Impoundment Control Act. GAO found that the withholding of Department of Defense (DOD) funds for Ukraine violated the law, and is continuing to investigate whether the withholding of State Department Foreign Military Financing (FMF) funds for Ukraine also broke the law. As part of this inquiry, GAO sent an inquiry letter to OMB that was addressed to you as Acting Director and to OMB General Counsel Mark Paoletta, to which Mr. Paoletta responded on behalf of OMB on December 11, 2019.

GAO also sent inquiry letters to the White House, DOD, and the State Department regarding this issue. The White House, in a letter from Brian Miller, refused to provide a separate response and referred instead to the OMB response. When I asked Mr. Miller about this issue, he stated, “I do not know the facts or the law regarding this issue. OMB is the budget office within the Executive Office of the President. Please direct any budget inquiries to OMB.”

Here are my questions:

Question A: The OMB response stated that, “It was OMB’s understanding that a brief period was needed, prior to the funds expiring, to engage in a policy process regarding those funds.” Will you personally affirm that this “policy process” was the only reason for the hold on Ukraine security assistance, since this is the sole reason identified by OMB?

Answer: Yes, I stand by that statement.

Question B: The GAO inquiry asked OMB for documentation that would substantiate the OMB’s stated reason for holding Ukraine security assistance funding. OMB’s response provided no such documentation on the stated reason for the hold. Please state whether OMB has any such documentation in its possession, and if so, please provide it.

Answer: OMB provided GAO with an explanation for the hold as well as the complete set of apportionments, including footnotes, for the relevant accounts.

Question C: Are you aware of any communications or documents that indicate a “policy process” was not the sole reason for withholding security assistance for Ukraine? If so, please provide them.

Answer: No.

Question D: The OMB response stated that, “In fact, at no point during the pause in obligations did DOD OGC indicate to OMB that, as a matter of law, the apportionments would prevent DOD from being able to obligate the funds before the end of the fiscal year.” Will you personally affirm that this statement represents the full and complete truth?

Answer: Yes, I stand by that statement.

Question E: GAO stated that, “OMB and State have failed, as of yet, to provide the information we need to fulfill our duties under the ICA regarding potential impoundments of FMF funds.” GAO further stated that, “We consider a reluctance to provide a fulsome response to have constitutional significance.” As OMB Director, will you commit to providing a fulsome response to GAO’s ongoing inquiry into this matter?

Answer: Yes, we will continue to provide information to GAO, consistent with the constitutional principles of deliberative process and separation of powers. Regarding GAO’s assertion that OMB failed to provide the information they requested, specifically with regard to the FMF funds, OMB provided all the information GAO requested, including the State-administered aid to Ukraine. The information about the FMF funds is included in OMB’s response to GAO and included in the attachment to GAO. If OMB inadvertently missed something that GAO requested, GAO did not follow up to request any information prior to issuing its opinion. OMB believed we provided all the information GAO requested.

Question F: DOD did not provide a substantive reply to GAO, and explained that it could not do so, “In light of the interagency equities at issue.” Did you or any other OMB officials take any action to prevent DOD from providing a substantive reply?

Answer: No.

Responses to

Questions for the Congressional Record

U.S. Senate Committee on the Budget

For the Nomination hearing of

the Honorable Russell T. Vought to be

Director, Office of Management and Budget

Questions for the Record
 From Senator Michael B. Enzi
 For the Honorable Russell T. Vought
 Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
 June 3, 2020
 Senate Budget Committee

1. Over the past ten years, we have had statutory caps in place. How important is it that Congress abide by these caps? Do you have concerns about circumventing these caps as a means to increase spending?

Throughout my career, I have always kept a watchful and critical eye on increased government spending. And, as I noted in my testimony before your Committee, I measure the value of government spending by the impact it has on everyday Americans. The budget caps have played an important role in restraining rising deficits, debt, and government spending. The current spending limits are the product of a bipartisan negotiation between Congress and the Administration that culminated in two years' worth of spending certainty.

2. In 2012, the Government Accountability Office found duplication and overlap across 160 programs and activities. Since then I asked departments and agencies about this, and have been told this is not the case. As part of your management role, will you commit to having OMB report back to determine where there is such overlap?

Yes, the President's FY2021 Budget included several provisions to reduce duplication, overlap, and fragmentation in government programs that leads to inefficient and ineffective government and wastes taxpayer dollars. I refer you the chapter in the President's Budget, *Stopping Wasteful and Unnecessary Spending*, for examples. This is a priority for the Administration and OMB will be happy to work with Congress to address this important issue.

Rural Housing assistance is an important issue to Wyoming, but even in such a focused area of federal assistance there is likely to be programmatic overlap with other initiatives. In 2018, in recognition of such overlap, the Administration proposed moving certain USDA housing programs to the Department of Housing and Urban Development, but that hasn't happened. Can you please commit to looking into this issue, and report back to me and my staff within 30 days, regarding the status of this particular effort?

Congress has not provided authority to move USDA programs to HUD, as described in the reorganization proposal. However, the Administration continues to be committed to making progress to reduce program overlap and inefficiencies. For example, the 2021 Budget proposes IT enhancements for USDA to better align programs and support a more consistent single family housing loan guarantee platform across USDA, HUD, and VA.

3. This past November, this Committee reported out the Bipartisan Congressional Budget Reform Act on a strong bipartisan vote. I am proud that many Members of this Committee are cosponsors. We worked hard to reach across the aisles, and incorporate ideas that will produce

real reforms. Clearly, with a national debt and deficits that continue to climb and climb, something needs to be done. Can you please speak to the need for budget process reform?

I applaud efforts to keep government spending in check and government budgeting responsive to the people. Today's and tomorrow's taxpayers deserve no less than our most innovative and resourceful thinking on these issues. And, I look forward to working with the Committee on budget reform.

Questions for the Record
 From Senator Chuck Grassley
 For the Honorable Russell T. Vought
 Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
 June 3, 2020
 Senate Budget Committee

1. The recently enacted CARES Act is the largest relief package ever passed, with trillions of dollars of aid.

You issued an April 10 memorandum for heads of departments and agencies on implementation guidance for supplemental funding provided in response to COVID-19, including guidance on reporting uses of funds made available to departments and agencies in the CARES Act.

Included in the guidance are steps departments and agencies should take to prevent and detect waste, fraud, and abuse. Could you discuss what OMB's role will be in ensuring that the public is aware of how COVID-19 response funds are being used, while also ensuring that COVID-19 related work receives high priority?

Per OMB Memorandum M-20-21, monthly reporting will begin for the month of June, to be displayed and reported by the end of July on USASpending.gov. Notably, while the CARES Act required obligation or outlays, because of our commitment to transparency, accountability, and stewardship of taxpayer dollars, OMB took the more aggressive posture for transparency reporting by requiring outlays.

2. During your nomination hearing, a question was posed regarding the net operating loss (NOL) provisions that were included in the CARES Act. Despite the suggestion that these provisions were slipped in at the last minute for nefarious purposes, they were in fact included in the original bill introduced by Majority Leader McConnell on March 19, 2020 (S. 3548) and were part of the bipartisan discussions that ensued in the few days. Those discussion, and the resulting legislation that included the NOL provisions, led up to the Senate's passage of the bill on March 25, 2020, by a vote of 96-0, which included the Senator posing the initial question.

The NOL provisions were included first and only to provide a tool for businesses to access liquidity to keep the doors open and employees on payroll to the greatest extent possible under the stay-at-home and shut-down order. Additionally, allowing businesses to carryback NOLs to the prior five taxable years is a well-tested, anti-recessionary fiscal policy that Congress has employed in 2002 after 9/11, in 2005 for taxpayers affected by Hurricane Katrina, and again in 2009 after the financial crisis. And, in the last instance, it was enacted when Democrats controlled both houses of Congress as well as the presidency.

My question, Mr. Vought, is whether the administration viewed the NOL provisions as anything other than an important option for businesses to access liquidity to keep the doors open and employees on payroll to the greatest extent possible under the stay-at-home and shut-down orders?

No, the Administration agrees that this provision is an important option for businesses to access liquidity and keep their doors open and employees on payroll while the nation worked to flatten the curve during this pandemic.

3. I've heard some people say that the President's budgets have involved "cuts" to Social Security. There are program integrity measures in the budgets, and proposals to test new approaches to increase labor force participation, but there are no proposals to change how Social Security retirement or disability benefits are calculated, as far as I can tell.

Several of the program integrity proposals in the President's budget were also proposed in budgets from President Obama. Things like using death data to prevent improper payments. The only things to cut there are improper payments.

President Obama's budgets claimed budget savings from those types of provisions, on the order of tens of billions of dollars. Yet, during hearings on President Obama's budgets, I didn't hear much of anything from either side calling them cuts, or claiming that President Obama was out to cut Social Security or destroy its programs.

Instead, I heard that the proposals were designed for program integrity. For example, in a hearing before the Senate Finance Committee President on Obama's fiscal-year 2015 budget, which included some of the same proposals on Social Security that are in President Trump's fiscal-year 2021 budget, then-Treasury Secretary Lew said:

"...what our budget does is, it lays out a program of program integrity to make sure that people who apply for disability are eligible for it, and we would work together with the kinds of changes we need to protect that critically important program..."

I disagree with people calling things cuts now that were not regarded to be cuts when a Democrat was in the White House.

Are there Social Security program-integrity proposals in President Trump's fiscal-year 2021 budget that are the same or substantively similar to any proposed in past budgets by President Obama?

Do any of the proposals in President Trump's fiscal-year 2021 budget entail any changes in how Social Security retirement or disability benefits for eligible beneficiaries are calculated that lead to cuts in those benefits that are determined by statutory formulae?

The President's Budget does not cut Social Security, but it does include program-integrity reforms, as you note. Administrative policies under consideration are focused on overdue and much needed reforms to disability programs to ensure that taxpayer dollars are targeted to those who are truly unable to work due to their disability and to encourage people who can work back into the workforce. In addition, the Budget includes legislative proposals that would avert approximately \$12.6 billion in improper payments in Social Security over 10 years and details administrative actions to reduce improper payments that result in \$11 billion in outlay savings over 10 years.

Questions for the Record
From Senator John Kennedy
For the Honorable Russell T. Vought
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. Improper Payments

A GAO report from March estimated \$175 billion in improper payments for fiscal year 2019. A number of these payments, like Social Security benefits are paid to deceased individuals – and I can only imagine how many improper economic impact rebate payments went out because of the CARES Act. OMB has the power to require other federal agencies share their master death data with each other, will you commit to me here today to make it a priority that this data is shared to help reduce these improper payments?

Yes, solving cross-cutting problems, like data access, is a priority for this Administration. The Getting Payments Right Cross Agency Priority Goal is a key part of the President’s Management Agenda, published during my tenure at OMB. Progress toward this goal has paved the road for improved prevention of improper payments by: (1) improving the transparency of payment integrity data on <https://paymentaccuracy.gov>; (2) identifying 160 new data sets currently being used by Federal programs for pre-check of payment eligibility; (3) identifying root causes of monetary losses across 57 programs; and (4) identifying 8 mitigation strategies with potential for broad impact across multiple programs.

2. Disaster Payment Questions

1. Over a year ago, South Louisiana fisheries suffered a disaster after the Army Corps opened Bonnet-Carre Spillway twice, decimating traditional fishing areas. Commerce had \$100 million available, yet only allocated \$88 million, Louisiana only received \$58 million – roughly 33 percent of the estimated losses. Do you think Louisiana got a bad deal here?

Based on our calculations, Louisiana received 66 percent of the funds allocated for this disaster. Alabama received about 10 percent and Mississippi received about 24 percent. In addition, NOAA allocated \$14.7 million CARES Act funds to Louisiana.

However, it is our understanding that NOAA Fisheries continues to evaluate several additional fishery disaster requests that could be eligible for funding under this appropriation if approved. The FY19 appropriations language did not direct NOAA’s allocation of funds to specific fishery disasters, and NOAA used its discretion to retain \$12 million for future eligible fisheries.

2. While the \$58 million allocated to Louisiana helps – though addressing only one-third of the losses – the state’s fishing industry is still in dire straits. However, it’s within OMB’s power to approve direct payment authority so we can get the money directly in the hands of these hardworking folks. Will you commit to approving direct payment authority for Louisiana so that

these men and women can finally begin putting their livelihoods back together?

Direct payments are an allowed use of the Bonnet Carre disaster funds, as well as the CARES Act funds. Louisiana is currently drafting its spend plan for these funds for review by NOAA and we can commit to working with the State on this important matter.

Questions for the Record
 From Senator Kevin Cramer
 For the Honorable Russell T. Vought
 Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
 June 3, 2020
 Senate Budget Committee

1. Director Vought, I appreciate your work in moving along the proposed rulemaking on 45Q when it reached your office. With that being said, as the comment period remains open for 60 days and closes on August 3, 2020, will you commit to working with Treasury to get the final rules completed by the 3rd quarter or early 4th quarter of this year?

Yes, I will commit to working with Treasury to move to a final rule as expeditiously as possible.

2. At a time of high unemployment and increasing deficits, we must take particular care to ensure we are not needlessly increasing the burden on federal programs. To that end, I believe that now more than ever we must increase the availability of charitable assistance for health care premiums. Charitable premium assistance can provide the short-term fix needed to allow Americans to keep their health insurance without forcing them onto a government program.

Can you provide my office with an update on the Medicare Conditions for Coverage Third Party Payer rule? Is OMB still reviewing this proposed rule? Will this rule allow fair access to charitable premium assistance? What role should private sector charitable premium play in keeping struggling Americans insured?

Yes, OMB is reviewing the referenced proposed rule. Under the terms of EO 12866, I cannot discuss the content of rules under OIRA review.

3. There is ~\$39 Billion dollars under the Air Force budget that Air Force leadership has no ability to obligate, monitor or audit. The Army and Navy also have unaccountable budget lines for other agencies. This “pass through” is a relic of pre-9/11 commission when the Air Force owned these missions and when even the name of the National Reconnaissance Office (NRO) was classified. None of this is true anymore, except that the Servicers are still tied to this hidden, unaccountable bureaucracy budget line. Why does the NRO’s budget belong within the Air Force budget?

Air Force and other DOD organizations have obscured particularly sensitive activities for decades, allowing the nation to develop and preserve notable advantages over our adversaries. Funding for these activities is overseen by the Executive Branch through the Office of the Director of National Intelligence and the Legislative Branch through the Intelligence Committees. If confirmed, I would be willing to review proposals to change this longstanding practice as long as it permits continued funding and support to these important sensitive activities.

4. On October 9, 2019, the Trump Administration issued an Executive Order on Promoting the Rule of Law through Transparency and Fairness in Civil Administrative Enforcement and Adjudication (Executive Order 13892). In order to properly facilitate the Executive Order (EO) the Office of Management and Budget (OMB) requested comments to receive public guidance. Nearly every farm advocacy group in North Dakota participated in comments to the OMB, including issues with the U.S. Department of Agriculture (USDA) related to Swampbuster provisions in the Farm Bill.

In 2018, the Natural Resources Conservation Service (NRCS) clarified the certification of wetland determinations made after November 28, 1990, but ignored wetland determinations issued before that, even though Swampbuster provisions took effect in 1985. If a farmer received a wetland determination prior to 1990 from the NRCS and appealed that determination, the result of the appeal is, by current rule and policy, worthless. Every year, a number farmers who constructed drainage projects based upon maps issued by the NRCS between 1985 and 1990 are prosecuted for converting wetlands. The safe harbor of certified wetlands during this time period has been inextricably pulled out from under my constituents feet, subsequently requiring them and the agency to go through the expensive and time consuming process to adjudicate Swamp buster violations. Under the auspices of this EO and the general pursuit of this administration for regulatory reform, will you commit to working with me, USDA and my constituents to rectify this issue?

Under Swampbuster regulations "operator relief" can exempt a producer from a wetland drainage violation in instances where the landowner they rent from converted wetlands without any knowledge of the landowner doing so. Even when "operator relief" is granted, USDA's Farm Service Agency (FSA) will still threaten a producer with ineligibility of farm program benefits if they have planted or will plant within the areas converted (i.e., a planting violation). This, despite the fact that USDA regulations provide a "third-party exemption" to protect a producer from such a planting violation if they can prove they were not part of a scheme with the landlord to convert the wetlands in question. Despite the exemption, FSA has refused to recognize it, even after they lose before the National Appeals Division (NAD) on the issue. In one case, a NAD Hearing Officer ruled FSA's interpretation of the exemption in its handbook violated USDA's regulations and even granted the operator attorney's fees under the Equal Access to Justice Act, further demonstrating the erroneous implementation of its own rules. Will you commit to working with me, USDA and my constituents to rectify this issue?

This Administration is committed to regulatory fairness for the American people, farmers and ranchers, and businesses, as demonstrated not only by EO 13892 but also the more recent EO 13924, which includes a regulatory bill of rights. I will work with the USDA and your office to address these issues.

5. On October 9, 2019, the Trump Administration issued an Executive Order on Promoting the Rule of Law Through Agency Guidance Documents (Executive Order 13891). I understand you were very involved in the creation of this EO which I believe, if implemented correctly, will be a valuable tool in peeling back bureaucratic abuses. I would like to bring one piece of guidance to your attention issued by the U.S. Army Corps of Engineers titled "Real Estate Policy Guidance Letter No. 26." It was issued in 2008 without any public input or review and fundamentally shifted the process for water withdrawals from Corps reservoirs. I've spoken with the Corps about it because the new policy has led to excessive delays for water withdrawals and even outright deterred others from seeking approval. The Corps has confirmed to me the guidance is being reviewed under the President's EO. Western states believe it should be withdrawn. Will you commit to working with me and my constituents to ensure the Corps completes this review and seriously considers withdrawing this harmful guidance?

This Administration is committed to regulatory fairness for the American people, farmers and ranchers, and businesses, as demonstrated not only by EO 13892 but also the more recent EO 13924, which includes a regulatory bill of rights. I will review this particular guidance and work with the Army Corps.

Questions for the Record
From Senator Bernard Sanders
For the Honorable Russell Vought, of Virginia,
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. According to a Washington Post report published on April 4, on February 4 – while the coronavirus was spreading, undetected, throughout our country – you asked Secretary of Health and Human Services Secretary Alex Azar to propose a supplemental appropriations request to deal with the coming epidemic. The next day, Secretary Azar submitted a \$4 billion proposal, which, according to the Post, “OMB officials and others at the White House greeted as an outrage” for being so large.

The Post’s story goes on to say: “The OMB team whittled Azar’s demands down to \$2.5 billion, money that would be available only in the current fiscal year.” Of that \$2.5 billion, only half of it was new money – the other half was to come from taking money from programs such as the Low Income Home Energy Assistance Program.

Also in February, with a pandemic right around the corner, the President’s budget request, which you oversaw, was released. It called for a \$175 million cut to the Centers for Disease Control and Prevention (CDC) for next year alone and a \$23 billion cut over 10 years.

A month later, on March 10, you testified before a House Appropriations Subcommittee that you would not amend the proposed budget cut to the CDC. In response to a question, you said, “If you’re asking if I’m sending up a budget amendment, no, I’m not sending up a budget amendment.”

Exactly one week later, you did send up a budget amendment, increasing the FY21 request for the CDC by \$1.3 billion.

- a) Mr. Vought, in February, were you so concerned about the deficit that \$4 billion to fight a pandemic seemed like too much to spend to keep our friends and neighbors safe and healthy?
- b) If it only took one week for your definitive claim that you would not send up a budget amendment to be overcome by events, why should we trust your judgment?

Under any circumstances, but particularly for quickly developing circumstances such as these, the Administration maintains an agile posture in order to respond as quickly, efficiently, and effectively as possible for the American people.

2. Mr. Vought, for the first time since at least the 1970s, the OMB will not update its economic projections in its statutorily-required Mid-Session Review. While I understand that economic conditions are changing rapidly and that no ten-year projection will be perfect, that is not an excuse for OMB to not fulfill its obligation. Indeed, the Congressional Budget Office has already updated its projections twice – once in April and once again in May.

Earlier this week, at my request, CBO produced an analysis that said the pandemic has lowered projected GDP by nearly \$16 trillion over the next 10 years. Knowing the size of the economy the pandemic has created would seem like a pretty important thing for an OMB director to know. And yet, OMB is not going to produce a number like this – a number that makes our economy look bad in the run-up to an election.

- a) Mr. Vought, how can you justify your decision, in a time of such economic uncertainty and crisis, to not produce new economic projections this summer?

b) It appears that not updating your economic projections may violate the law that governs the delivery to Congress and the American people of the Mid-Session Review, which states that it “shall include ... substantial changes in or reappraisals of estimates of expenditures and receipts.” How can OMB legally fulfill this legal obligation to do that without an economic forecast?

OMB will release the Mid-Session Review (MSR) this year and meet all its statutory requirements.

3. Mr. Vought my first two written questions for you leading up to this hearing concerned Medicare, Medicaid, and Social Security – three programs that are of vital importance to the wellbeing of Americans.

Your answers to both questions included the phrase, “The President has made clear that he will protect Social Security and Medicare” – conspicuously leaving out Medicaid.

According to the American College of Physicians, if President Trump’s Fiscal Year 2021 Budget were signed into law, “Medicaid would be cut by \$920 billion over 10 years through limiting eligibility, imposing work requirements and offering states waivers to curtail Medicaid spending.

The American Hospital Association has stated that the Medicaid cuts in the Trump budget “would further cripple Medicaid financing in many states and jeopardize access to care for the 75 million Americans who rely on the program as their primary source of health coverage.”

The Association of American Medical Colleges has stated that “the massive cuts to Medicaid included in this budget request, in addition to the administration’s recent proposals to scale back Medicaid coverage, would result in reductions in coverage, access, and high-quality care for the millions of vulnerable patients who rely on this program to receive the health care they need.

The Federation of American Hospitals released a statement in response to the Trump budget in February stating: “The arbitrary cuts to health care programs envisioned in the budget will make the job of America’s caregivers much more difficult. This proposal combined with already issued regulations will result in a reduction in coverage, putting the health care of millions of patients at risk. This is no time to cut the Medicare and Medicaid programs that so many Americans depend on.”

The Catholic Health Association has stated that the Trump budget seeks billions of dollars in cuts to programs that Americans who are poor and vulnerable rely on, including Medicaid and nutrition assistance ... For the millions of Americans who rely on Medicaid and other health care programs, as well as housing and nutrition programs that promote healthier lives, cuts to these programs will have devastating consequences.”

Yet incredibly, during yesterday’s hearing, you claimed that the Trump budget would not cut Medicaid.

Why do you believe that you are right and the Catholic Health Association, the Federation of American Hospitals, the Association of American Medical Colleges, the American Hospital Association, the American College of Physicians and dozens of other healthcare organizations are wrong when they state that the Trump budget would lead to massive cuts to Medicaid that would be devastating to millions of Americans?

Under the President’s Budget, Medicaid will grow more than 3% on average, which is higher than the rate of inflation. Further, the Budget makes improvements to the program to help funding get to those who truly need it. For instance, Medicaid had \$57 billion in improper payments last year, and HHS lacks the statutory tools to recoup most of these. This Budget would provide such authority while giving states the option of a block grant or per capita payment.

4. At yesterday’s hearing, you were asked by Sens. Wyden, Stabenow, and Warner about President Trump’s threats to withhold federal funding from states headed by Democratic governors who have moved to make

voting by mail easier for their states' residents. You repeatedly answered that if the President made good on these threats and directed you to do so, you would determine how to comply with this directive within the bounds of the law.

Withholding state funds – in the middle of a pandemic whose economic fallout has crated massive holes in state budgets, threatening public services at a time when people need them the most – would be cruel, and an economic disaster, even if we leave out that the reason for doing so is to help people exercise their right to vote safely. Moreover, as Sen. Stabenow said, the threat was only given to states with Democratic governors, not other states that have made the exact same decisions but happen to be run by Republican governors.

- a) Under what legal authority would you have to withhold federal funding to states that moved to ensure that all of their citizens could vote safely by mail during this horrific pandemic?
- b) Please provide me with a list of all the federal programs and funding you believe you would be able to legally withhold to states that moved to a vote by mail system?
- c) Do you have a moral and ethical obligation not to follow a presidential order to retaliate against states that make it easier for citizens to exercise their right to vote as safely as possible?
- d) The president claims that vote by mail would lead to massive fraud, despite all of the evidence to the contrary. What evidence do you have to backup the President's unfounded assertion?

OMB has not conducted any legal analysis of its authorities or compiled a list of all federal programs and funding with regard to this matter. I would refer you to the U.S. Department of Justice for evidence or analysis on voter fraud.

5. On Monday, President Trump ordered federal law enforcement officials to attack peaceful protestors near the White House so that he could take a walk to a church for a photo-op. It has been reported that federal law enforcement officials used tear gas, pepper spray, and rubber bullets to remove these peaceful protestors. There were also reports that a low-flying military helicopter was used against these peaceful protestors.

How much federal funding was used to remove peaceful protestors from Lafayette Square and the surrounding areas in Washington, D.C. on June 1st? Was any defense spending used to remove these peaceful protestors? If so, how much?

OMB has done no such analysis.

Questions for the Record
From Senator Patty Murray
For the Honorable Russell T. Vought
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. Next month, the short-term, emergency unemployment insurance benefits established by Congress, and led by my colleague, Senator Wyden, to respond to the pandemic and help families will expire. This is terrifying news to tens of millions of families who have lost jobs through zero fault of their own. Do you support extending this vital financial help through the end of this year to families struggling as a result of the pandemic?

The President has signed into law historic legislation since the pandemic began, which have included an estimated \$185 billion in additional unemployment benefits and a new program to cover gig workers and others not traditionally covered by unemployment insurance. The Administration will continue monitoring these programs and the underlying economic conditions. The Administration is working every day to facilitate economic recovery while not placing an unsustainable debt burden on future generations, and I support these efforts.

2. I am deeply concerned by OMB's politicization of the coronavirus response, including the reported slow-walking and blocking of CDC guidance. As states like mine grappled with outbreaks of COVID-19, workplaces, schools, and child care centers were left for far too long to navigate the pandemic without federal guidance. And much more guidance is still needed. While I appreciate the value in the OMB review process, it is reckless for the office to needlessly delay and inject politics into critical public health guidance. When faced with public health experts on one side and political pressure on the other, what do you believe is the appropriate role for OMB?

With regard to news stories referring to the CDC guidance, Dr. Redfield has publicly disputed your premise and stated a final version of the CDC's guidance had not yet circulated for a policy process. OMB will continue to play its role in facilitating interagency processes in the same way regardless of the underlying subject matter; that is, by convening meetings of interested agencies, ensuring all federal partners are heard, and identifying and discussing points of disagreement.

3. In the midst of the COVID-19 pandemic, OMB has continued to review regulations that are not only unrelated to the public health or economic responses, but will also undermine protections for populations who routinely face barriers to accessing health care and economic assistance. This has included:

- A final rule entitled, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," that will weaken protections for student survivors of sexual harassment and assault;
- A final rule entitled, "Nondiscrimination in Health and Health Education Programs or Activities," that will undermine protections against discrimination in the health care system, particularly for communities of color, LGBTQIA+ people, and people with disabilities who already face barriers to care;
- A final rule entitled, "Health and Human Services Grants Regulation," that will remove nondiscrimination protections in HHS grant programs, including foster care, child care, and elder abuse prevention, among others, and will allow federally funded grantees to deny qualified applicants based on their religion or sex (including sexual orientation and gender identity); and

- A proposed rule entitled, “Improving Investment Advice for Workers & Retirees Exemption,” that is predicted to undermine protections for retirees and limit the obligation of financial advisors to put their clients’ best interests before their own.

Do you believe the middle of the COVID-19 pandemic is an appropriate time to advance rules that undermine and dismantle health and economic protections, particularly for woman, communities of color, LGBTQIA+ people, and people with disabilities?

It is important for agencies to continue to carry out their statutory missions to serve the American people in all regards, even while prioritizing time-sensitive responses to this pandemic.

4. Over the course of his term, I have been alarmed by the Trump Administration’s interest in privatizing the United States Postal Service (USPS). USPS provides reliable and affordable mail delivery services to every address in America, guaranteeing access to prescription drugs, ballot delivery, packages, and communication. Privatization would decimate USPS, and would result in thousands of lost jobs, higher prices for consumers and reduced essential services that millions of Americans rely on. As OMB Director, would you oppose privatization of USPS?

As a member of the President’s Task Force on the United States Postal System, OMB along with Treasury and the Office of Personnel Management, was involved in the formulation of recommendations for reform of the U.S. Postal Service informed by a thorough examination of financial data and extensive outreach to a wide range of stakeholders. Additionally, opportunities for reform were summarized in OMB’s 2018 Reform Plan and Reorganization Recommendations. Each year, OMB re-evaluates policy recommendations and budget projections based on the most recently available financial information provided by the USPS and emerging market trends. The Major Savings and Reforms Volume of the President’s Budget for FY2021 includes a summary of the Administration’s current proposal to provide the best possible service to the American people.

5. Former Speaker Paul Ryan and I co-wrote the Foundations for Evidence-Based Policymaking Act of 2018 (P.L. 115-435, Evidence Act). Title I of Foundations established an Advisory Committee on Data for Evidence Building and directs the Director of OMB, or their appointee, to review, analyze, and make recommendations on how to promote the use of Federal data for evidence building. The Evidence Act requires the appointment of 22 members from a range of backgrounds and positions to the Advisory Committee. The request for nominations to serve on the Advisory Committee was printed in the Federal Register in late 2019. What is the reason for the delay in announcing the selections, when can Congress expect that announcement to be made, and when should Congress expect the Advisory Committee to first meet?

Given the importance of the Evidence Act, including its incorporation into the President’s Federal Data Strategy, how is OMB ensuring agencies continue to build evaluation capacity and make headway on implementing the Evidence Act in the midst of the COVID-19 pandemic?

How do you see the Evidence Act, and evidence-based policymaking in general, helping in collecting and gathering lessons learned for future use for this and other pandemics?

Many of the Act’s requirements have been implemented already, including the first meeting of the newly formed Chief Data Officer Council on January 31. For deadlines that have not yet been met, we are working with agencies in the context of competing demands on Administration resources, including the COVID-19 response and the need to jumpstart the economy to put millions of Americans back to work. The Department of Commerce, under authority delegated by OMB, issued a Federal Register notice in November 2019 seeking non-Federal nominations to serve on a Federal Advisory Committee. A separate process solicited Federal

employees. OMB has selected members based on nominations received and they will be asked to confirm their willingness to accept an appointment soon.

Questions for the Record
From Senator Sheldon Whitehouse
For the Honorable Russell T. Vought
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. In your written testimony, you state the following:

"I have spent my entire career caring about taxpayers and their families. I have fought to save them money and ensure that their tax dollars are well spent. I come from a blue-collar family, the son of an electrician and a school teacher. I know what they went through to balance their budget and save for the future. My parents worked long, hard hours to put me through school. They worked long, hard hours to pay for the government in their lives. I have often wondered what else they would have been free to build and give without such a high burden.

My parents represent the forgotten men and women of this country. They have always been the yardstick by which I have tested government spending."

The CARES Act included two provisions, Sections 2303 and 2304, which provide tax breaks for corporations and wealthy Americans by allowing them to use losses in certain years to avoid paying taxes in others. The Joint Committee on Taxation estimates these provisions will cost \$160 billion.

a. Given your support for middle-class families, how do you justify the net operating loss tax provisions included in the CARES Act?

The Administration considers these provisions to be an important option for businesses to access liquidity and keep their doors open and employees on payroll while the nation addresses this pandemic.

b. Wouldn't that money be better suited to help families struggling to get through this difficult time?
By helping businesses access liquidity to keep their doors open and employees on payroll, these provisions help struggling families.

c. Did you or anyone else at the Office of Management and Budget have any input into the inclusion of Sections 2303 and 2304 in the CARES Act?

These provisions were included in the original bill introduced by Majority Leader McConnell on March 19, 2020 (S. 3548) and were part of the bipartisan discussions that led to the final bill.

d. Do you know of other Executive Branch officials that were involved in the inclusion of sections 2303 and 2304 in the CARES Act?

To my knowledge, these were a part of the bipartisan discussions that led to the final bill.

e. Will any executive branch officials or their family members directly benefit from sections 2303 or 2304 of the CARES Act?

I have no personal knowledge of any.

2. The COVID-19 pandemic has hit many small businesses and nonprofit organizations very hard, and many have relied on programs like the Paycheck Protection Program and Economic Injury Disaster Loan (EIDL) program. We have heard from our constituents that the EIDL program has been plagued with issues including processing backlogs, reductions in the maximum loan amount, and a lack of transparency and poor communication with applicants.

a. What can OMB do to ensure that the EIDL program is working better for borrowers?

EIDL is a program of the Small Business Administration, and OMB will provide support as appropriate.

b. Do you acknowledge that the EIDL program needs improvement and will you commit to working with SBA on solutions that make the EIDL program function better for borrowers?

See Question 2a.

c. What resources does SBA need to improve transparency in the application process and better assist applicants?

That question is more appropriately asked of the SBA.

d. Has SBA requested additional assistance to improve the administration of the EIDL program?

I am not aware of any requests for additional authorities.

Questions for the Record
From Senator Mark Warner
For the Honorable Russell Vought, of Virginia,
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. As we discussed at your confirmation hearing, I was incredibly concerned by the supposed guidance that OMB and OPM provided to federal agencies on April 20th about when and how to return federal employees to work safely in the midst of the COVID-19 pandemic.

I've heard virtually the same thing from countless constituents who are federal employees: they don't have confidence in the steps their agency is taking to protect them. They're not receiving timely information when there's a confirmed case at their workplace. And, they don't see consistency in their agency's response after a potential or confirmed case.

As we discussed, I would appreciate further clarity from you on the following items related to ensuring federal employees' safety, as well as any other specific information you would like to share:

- How much were public health officials – including local authorities – involved in crafting your joint April 20th memo with OPM?
- Why has there not been a coordinated interagency approach to tracking cases?
- Why has there not been a coordinated interagency approach to making testing widely available to federal employees who are called back to work?
- Why has there not been a coordinated interagency approach to establishing procedures following a potential or confirmed case?
- Why has there not been a coordinated interagency approach to preventing retaliation against people who report unsafe working conditions?

The Acting Deputy Director for Management and I have each authored guidance to the federal workforce concerning response to COVID-19. The health and safety of our Federal workforce has always been a priority, and continues to be now, as evidenced by the over 30 memos, guidance, and FAQs put forward by both OMB and OPM to leverage all available flexibilities to support our workforce. Through the guidance and engagements with agencies we continually reinforced the need to utilize these flexibilities and for agencies to continue prioritizing the health and safety of their employees. In developing guidance in this area, OMB consults with relevant agencies as applicable, including, but not limited to, HHS, CDC, OPM, and DHS. OMB also references agency guidance where applicable, e.g., CDC guidance, and advises agencies to consult with state and local public health officials in making decisions that could impact employee health. To the extent possible, we have worked to make the guidance consistent across government, while allowing agencies to develop individualized responses that take into account local conditions, such as local re-opening rules, the types of jobs in which the agency staff are engaged, local transit and childcare availability, etc. Whistleblower protections are a statutory right for federal workers.

2. In a letter dated May 16, 2019, you outlined to Congress a proposal to transfer the “vast majority” of OPM’s current mission to GSA. At that time I raised concerns about the potential mission impact of the merger proposal, as well as the risk that it could subject dedicated career civil servants to the political impulses of this, or future, Administrations.

GAO just recently released a report looking at the merger proposal, which highlighted many of the same concerns I raised to you one year ago.

One of the issues GAO flagged was strategic workforce planning and employee engagement.

- What steps is the Administration taking to ensure that stakeholder and employee concerns are given serious consideration in this process?

The National Academy of Public Administration is currently engaged in a statutorily-required study of your proposal. Despite the requirement that the study be completed and delivered to Congress before the proposal may be acted upon, the Administration's most recent budget put forth a joint request for OPM and GSA funding.

- Does the Administration believe that there are actions they can take related to the proposal prior to completion of the NAPA study and authorization from Congress?

OMB is foregoing any further actions on this matter until the results of the congressionally-mandated NAPA study are published.

3. Virginia has one of the fastest growing veteran populations in the country, particularly in the Hampton Roads area, and in order to serve those veterans the VA needs additional facilities. I worked for a long time to get lease projects approved for Fredericksburg and Hampton Roads as part of a larger package of 28 leases that Congress approved in 2017. Getting their authorization approved was incredibly difficult due to a budget technicality related to scoring the leases.

Unfortunately, we found out that the work was far from over when we approved those leases in 2017. The process to get these facilities built has been extremely frustrating and slow. One hurdle that required my direct intervention was to get OMB to approve the prospectus documents for the leases. This document is only a few pages long and details things like the area where the project will be and total square footage, but OMB's approval is necessary for GSA to post the lease project publicly.

For the Hampton Roads project, the GSA submitted the lease prospectus on May 8th but OMB did not approve the prospectus until late July after I personally called then-OMB Director Mulvaney.

- Our government must be faster in authorizing VA major medical facility leases, and we need to be more agile in getting these facilities built. Can you give me your thoughts on how we could expedite these types of lease projects so it doesn't take almost a decade to authorize and then build a facility for our veterans?

These two projects in Virginia will not be the last new VA facilities built and I do not want the veterans in my state to wait for new facilities again because of inexplicable delays.

I share your interest in ensuring that VA Medical Clinics are made available to our nation's veterans as quickly as possible. In the past, the Congressional Budget Office evaluated VA leases and believed they should have been classified as capital transactions, rather than operating leases. Given that, and to ensure the Government is not overpaying with taxpayer dollars, GSA now reviews all VA lease scoring materials prior to submission to OMB. Since last summer, OMB has worked with GSA and VA to make sure that future leases are more transparent and all assumptions validated. I believe this will help all three agencies do their work more effectively and efficiently while ensuring veterans receive the care they deserve as quickly as possible.

4. Under your leadership as Acting Director, in May 2019, OMB published a request for comment on updating the consumer price indexes used to calculate the Official Poverty Measure. This was widely seen as a move to

use chained CPI when annually adjusting the Official Poverty Measure. I joined almost all of my Democratic colleagues in voicing serious concern about how such a move would harm our most vulnerable citizens.

According to an estimate by Brookings, chained CPI would leave the poverty line 2.4 percent lower 10 years from now than it would otherwise be; after 20 years, the difference would be 4.8 percent. As the growth of the poverty rate slows, fewer and fewer families would be eligible to receive means tested benefits that rely on the poverty guidelines to determine eligibility, such as SNAP and Medicaid.

- I sincerely hope that OMB has shelved this misguided line of inquiry given the devastating health and economic crises we currently find ourselves in. Can you confirm that to be the case?

In its role as coordinator of the federal statistical system under the Paperwork Reduction Act, OMB, among other responsibilities, is required to ensure the system's efficiency and effectiveness. To meet this responsibility, OMB promulgates, maintains, and oversees the government-wide principles, policies, standards, and guidance concerning the development, presentation, and dissemination of federal statistical products. Accordingly, OMB sought public comment on the application of a number of consumer inflation measures to the Official Poverty Measure. The public comments received in response to our Federal Register Notice, will be taken into consideration during OMB's deliberations.

Questions for the Record
From Senator Tim Kaine
For the Honorable Russell T. Vought
Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
June 3, 2020
Senate Budget Committee

1. Director Vought, OMB released guidance on April 17, 2020 (OMB Memorandum M-20-22) related to section 3610 of the CARES Act on how agencies should reimburse contractors for paid leave that enables them to remain in a state of readiness during the crisis. The guidance deviates from the CARES Act language to reimburse contractors at applicable contract billing rates, and fails to account for time & materials contracts, in which is often impossible to break out costs in order to isolate profits. In effect, this has made it impossible for many small contractors to access this important source of support, and for prime contractors to access it on behalf of their smaller subcontractors. What can be done to adapt the guidance to ensure that all eligible contractors are able to receive the support that Congress intended, to ensure that these workers are ready to continue to support America's national security objectives?

OMB worked with DOD and other agencies to construct guidance to reimburse contractors at "minimal applicable contract billing rates," as stated in the CARES Act. OMB is crafting a set of FAQs that will specifically address time and materials (T&M) contracts as well as orders under multiple award contracts which often are used to transact with small businesses. Also, it is our belief that agencies have the flexibility to allow contracting officers to determine a "profit decrement" and apply that decrement across billing rates.

Questions for the Record
 From Senator Chris Van Hollen
 For the Honorable Russell Vought, of Virginia,
 Nomination of Mr. Russell T. Vought for Director, Office of Management and Budget
 June 3, 2020
 Senate Budget Committee

1. Prior to the hearing, I asked you about OMB's refusal to provide GAO with documentation that would substantiate OMB's stated reason for holding Ukraine security assistance funding, as requested by GAO in its letter to you and OMB General Counsel Mark Paoletta dated November 25, 2019. Your prehearing response did not answer my question, and instead referred to apportionment documents that OMB provided in response to a separate question from GAO, which do not substantiate OMB's stated reason for the hold.

Even though I asked this question well in advance of the hearing, when I asked the same question at the hearing, you stated that you did not even know the reason that OMB refused to provide GAO any documentation to substantiate OMB's stated reason for holding Ukraine security assistance funding.

Please answer the following questions:

A. List any emails, communications, notes, or other documents in OMB's possession that are responsive to GAO's request for documentation to substantiate OMB's stated reason for holding Ukraine security assistance funding, including the date each document was created. Please note that this part of the question can be answered without disclosing the contents of these documents.

OMB did not refuse to provide information to GAO's November 25 request. On December 11, 2019, OMB provided the information that GAO needed, including OMB's legal analysis and all of its apportionments related to this matter, which included the amounts and dates of OMB's apportionments. OMB's December 11, 2019, letter also explained:

The pause in obligations of the Ukraine funds at issue here is an example of programmatic delay. By its terms, OMB's apportionment footnote expressly provided that DOD could continue all necessary activities—short of the final action obligating the funds—until there was a policy decision on the use of the funds. The statutory language of the USAI and FMF appropriations provided the Executive branch broad discretion to determine how these particular funds should be spent. It was OMB's understanding that a brief period was needed, prior to the funds expiring, to engage in a policy process regarding those funds. OMB took appropriate action, in light of the pending policy process, to ensure that funds were not obligated prematurely in a manner that could conflict with the President's foreign policy.

Because OMB's letter provide the rationale for our actions, we believe we met GAO's request. Further, after receiving OMB's December 11 response, GAO did not follow up with any additional requests to OMB prior to issuing its January 16, 2020 opinion.

B. For each document listed above, please provide the reason that OMB refused to provide this document to GAO in response to their inquiry.

See Question 1A.

C. For each document listed above, please provide this document to Congress. For any document not provided to Congress, please provide the reason that OMB is refusing to provide the document.

See Question 1A.

2. Please explain why Mark Sandy, the senior career official at OMB responsible for the Ukraine Security Assistance Initiative, did not even know the reason that funds for this program were being withheld until September 2019, when the hold began in July 2019. If there was really a policy process regarding these funds, as OMB claims, Mr. Sandy's expertise would certainly have been relevant to that.

To be clear, this question is not asking you to disclose the content of any Administration deliberations regarding these funds. I am simply asking why Mr. Sandy did not know the reason that the funds were held, given your mantra of "One OMB" where collaboration is encouraged to ensure that the best expertise is heard.

I spoke on a regular basis about this issue with Michael Duffey, the Program Associate Director for the National Security Division, who is Mr. Sandy's supervisor and the senior OMB official responsible for the Ukraine Security Assistance Initiative. I do not recall speaking with Mr. Sandy about this issue, and therefore, I cannot speak for Mr. Sandy's knowledge or understanding during this time period.

3. As OMB Director, will you commit to providing a full and complete response to the questions asked by GAO in carrying out its statutory role to enforce the Impoundment Control Act?

As OMB Director, I will maintain OMB's practice to provide information to GAO, consistent with protecting the deliberative process.

4. Will you commit to following GAO rulings on the Impoundment Control Act and the Anti-Deficiency Act?

While OMB is respectful of GAO's work, GAO is not part of the Executive Branch, and as such, its rulings are not binding on Executive Branch agencies. The Department of Justice Office of Legal Counsel held in a 2005 legal opinion—that disagreed with GAO's interpretation of appropriations law and reminded Executive Branch agencies that GAO's opinion is not controlling on the Executive Branch—that "[b]ecause GAO is part of the Legislative Branch, Executive Branch agencies are not bound by GAO's legal advice."

5. Will you commit to promptly notifying Congress of future Administration actions to withhold funding, as required under the rescission and deferral provisions of the Impoundment Control Act?

Consistent with past practice and the law, OMB will notify Congress if it withholds funding under the ICA's rescission and deferral provisions.

6. OMB has published a request for public comments on a proposal to change the measure of inflation used to index the official poverty thresholds. This change would lower the poverty measure and thereby curtail eligibility for Medicaid, SNAP, and other benefits.

The coronavirus pandemic has exposed and increased our nation's economic, health, and racial disparities. Especially at this time, further lowering the poverty line makes little sense. Families at the poverty line are often unable to make ends meet, and many experts and the public agree that the poverty line is already too low.

How do you respond to the many critical comments that have been submitted about changing the poverty thresholds, and will OMB reconsider the proposal?

In its role as coordinator of the Federal statistical system under the *Paperwork Reduction Act*, OMB, among other responsibilities, is required to ensure the system's efficiency and effectiveness. To meet this responsibility, OMB promulgates, maintains, and oversees the Government-wide principles, policies, standards and guidance concerning the development, presentation, and dissemination of Federal statistical products. Accordingly, OMB is seeking public comment on the strength, weaknesses, and best practices for the application of a number of consumer inflation measures to the Official Poverty Measure.

The public comments received in response to our Federal Register Notice have been and will continue to be taken into consideration during OMB's deliberations.

7. It is my understanding the Department of State and the U.S. Agency for International Development have discussed with OMB the need for additional funds for an overseas COVID-19 response, which is vital to defeating this global pandemic. Will OMB submit an official request to Congress for additional emergency supplemental funds to respond to COVID-19 overseas?

OMB has been and will continue to work with agencies to review their needs, funding currently available, and additional funds required to ensure that resources are not an obstacle to an effective USG COVID response. Additional emergency supplemental funding will be requested if there is a determination that they are needed.

8. OMB has previously contemplated rescissions to Congressional appropriations, including portions of foreign assistance. Both years, Congress pushed back in a bipartisan manner to support previously passed appropriations measures. Is OMB contemplating another round of rescissions this year even in light of the fact that U.S. global leadership and investments in poor and vulnerable communities are needed now more than ever to ensure stability, foster good will, and advance U.S. interest?

OMB has no plans to do a rescission package at this time. Consistent with past practice and the law, OMB will continue to notify Congress if it withholds funding under the ICA's rescission and deferral provisions.

9. Federally-funded research is a huge economic driver in Maryland and throughout the country, and it's effectively been shut down in almost every area except COVID-19 research. Labs are just starting to open back up in a limited capacity, recognizing the need to follow safety protocols. OMB issued guidance on March 19, 2020 (M-20-17) to allow federal agencies to provide flexibilities for federally funded researchers, including continued salary support during the pause.

Given that states and localities are reopening for research on varied timetables and in a phased manner, and the potential that research may have to wind down again should there be new surge in COVID-19 cases, grantees are going to need that flexibility to continue. However, the flexibilities provided by OMB are time-limited, and the guidance states that these flexibilities will be reassessed 90 days after OMB issued the guidance.

Will you commit to extending these flexibilities beyond the 90-day period provided in the OMB guidance to cover all of fiscal year 2020, and will the Administration direct agencies to provide these flexibilities in order to ensure uniform implementation?

OMB is already reviewing this issue and we are committed to working with Congress and the affected agencies regarding these flexibilities.

**EXECUTIVE BUSINESS MEETING TO CON-
SIDER THE NOMINATION OF THE HONOR-
ABLE RUSSELL T. VOUGHT, OF VIRGINIA,
TO BE DIRECTOR OF THE OFFICE OF MAN-
AGEMENT AND BUDGET**

THURSDAY, JUNE 11, 2020

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to notice, at 12:38 p.m., in Room SR-301, Russell Senate Office Building, Hon. Michael B. Enzi, Chairman of the Committee, presiding.

Present: Senators Enzi, Grassley, Crapo, Graham, Toomey, Johnson, Perdue, Braun, Scott, Kennedy, Cramer, Van Hollen, and Kaine.

Staff Present: Doug Dziak, Majority Staff Director; and Warren Gunnels, Minority Staff Director.

OPENING STATEMENT OF CHAIRMAN MICHAEL B. ENZI

Chairman ENZI. I call this meeting to order. Good afternoon. The Budget Committee will meet to vote on the nomination of Russell Vought to be the Director of the Office of Management and Budget. It is Committee practice and precedent to allow for statements from the Chair and Ranking Member. I will be brief.

This nomination has also been referred to the Homeland Security and Governmental Affairs Committee, or HSGAC. Yesterday HSGAC voted to favorably report Mr. Vought's nomination. I supported this nomination during that vote, and I will do so again today. I hope others will as well.

Senator Sanders is not here. Were you going to speak?

Senator VAN HOLLEN. Mr. Chairman, I have a very few comments.

Chairman ENZI. Okay.

OPENING STATEMENT OF SENATOR CHRIS VAN HOLLEN

Senator VAN HOLLEN. Thank you, Mr. Chairman and members of the Committee. I will be brief, and I am not going to go over all the huge policy differences many of us have with the budgets that have been championed by Mr. Vought. But I would think that all of us, Republicans and Democrats, would think hard before we make permanent as the head of OMB the person who was found by GAO, our congressional watchdog, to have violated the law.

They found, and I quote, "OMB violated the Impoundment Control Act." That is the act, of course, that we use to make sure that executives, regardless of what party they are, follow the law and appropriate funds as the Congress has directed. And Mr. Vought was the guy in charge. He was Acting Director of OMB at the time. And as the GAO also indicated, he refused to cooperate in their investigation, covered up documents.

So I will just say, Mr. Chairman, it seems to be a metaphor for this administration that they would submit to this Senate as their nominee to head OMB the person who our congressional watchdog concluded violated the law. And it will be a metaphor for this Congress abdicating its responsibilities with respect to the executive branch if we approve the nomination of the person found to have violated the law that Congress enacted to protect our powers of the purse. So I urge a no vote.

Chairman ENZI. Thank you for being the Acting Ranking Member.

Recognizing members have busy schedules, we will move directly to the vote. Committee members may also submit statements for the record.

I note for the record a quorum is present. The clerk will call the roll.

The CLERK. Mr. Grassley.

Senator GRASSLEY. Aye.

The CLERK. Mr. Crapo.

Senator CRAPO. Aye.

The CLERK. Mr. Graham.

Senator GRAHAM. Aye.

The CLERK. Mr. Toomey.

Senator TOOMEY. Aye.

The CLERK. Mr. Johnson.

Senator JOHNSON. Aye.

The CLERK. Mr. Perdue.

Senator PERDUE. Aye.

The CLERK. Mr. Braun.

Senator BRAUN. Aye.

The CLERK. Mr. Scott.

Senator SCOTT. Aye.

The CLERK. Mr. Kennedy.

Senator KENNEDY. Aye.

The CLERK. Mr. Cramer.

Senator CRAMER. Aye.

The CLERK. Mr. Sanders.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Mrs. Murray.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Mr. Wyden.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Ms. Stabenow.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Mr. Whitehouse.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Mr. Warner.

Senator VAN HOLLEN. No, by proxy.

The CLERK. Mr. Merkley.
 Senator VAN HOLLEN. No, by proxy.

The CLERK. Mr. Kaine.
 Senator Kaine. No.

The CLERK. Mr. Van Hollen.
 Senator VAN HOLLEN. No.

The CLERK. Ms. Harris.
 Senator VAN HOLLEN. No, by proxy.

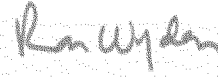
The CLERK. Chairman Enzi.
 Chairman ENZI. Aye.

The CLERK. Mr. Chairman, the yeas are 11, and the nays are 10.

Chairman ENZI. The nomination is reported favorably. As a reminder, statements for the record must be submitted to the Committee clerk by 12:00 p.m. tomorrow. Emailed copies will be accepted due to our current conditions.

Thank you. The Committee stands adjourned. Thanks for your help.

[Whereupon, at 12:42 p.m., the Committee was adjourned.]




Senator Wyden Statement for the Record
Russell Vought Nomination for OMB Director

Article I of the Constitution expressly gives Congress the power of the purse — Congress appropriates funding for the government and the President signs it into law. The Congressional Budget and Impoundment Control Act of 1974 reasserted Congress' power of the purse. That law established procedures to prevent the President and other government officials from unilaterally substituting their own funding decisions for those of the Congress.

In January of 2020, the Government Accountability Office (GAO) determined that OMB, under Mr. Vought's leadership, broke the law when it withheld military aid to Ukraine in 2019. To my knowledge, Mr. Vought has not held one single individual responsible for violating the law. Zero accountability.

I raise GAO's findings to demonstrate that the Trump Administration illegally withholding funding is not just some academic prospect. It has happened before. Now, President Trump is demanding that states stop trying to make it easier and safer for their citizens to vote during a global health pandemic. In a tweet, he essentially asked Mr. Vought to find a way to "hold up funds" to states that have legally sent out applications for vote by mail and absentee ballots to their citizens.



Donald J. Trump 
 @realDonaldTrump

Michigan sends absentee ballot applications to 7.7 million people ahead of Primaries and the General Election. This was done illegally and without authorization by a rogue Secretary of State. I will ask to hold up funding to Michigan if they want to go down this Voter Fraud path!

2:13 PM - May 20, 2020 · Twitter for iPhone



Donald J. Trump 
 @realDonaldTrump

State of Nevada "thinks" that they can send out illegal vote by mail ballots, creating a great Voter Fraud scenario for the State and the U.S. They can't! If they do, "I think" I can hold up funds to the State. Sorry, but you must not cheat in elections. @RussVought45 @USTreasury

9:11 AM - May 20, 2020 · Twitter for iPhone

When I questioned Mr. Vought at his June 3 confirmation hearing before the Budget Committee, he said he would have OMB comply with the President's demands and look for ways "consistent with the law" to hold up funds. I noted that Mr. Vought's response was ominous because it appeared to disregard Congress' power of the purse under Article I of the Constitution, and bolstered by the Impoundment Control Act. Again, to restate, GAO agreed that OMB violated the Impoundment Control Act when OMB withheld military assistance to Ukraine, so Mr. Vought's assurance that he would work "consistent with the law" is not comforting.

The President cannot use OMB to undo spending bills to withhold federal aid when it suits his whims. I fear that Mr. Vought may nonetheless aid the President in such an endeavor. I voted against Mr. Vought's nomination because he has proven his willingness to place loyalty to party and Donald Trump above his responsibility to the country and the Constitution.