BRIEFLY NOTED

Oh BOI: Reforming Financial Reporting

BY THOMAS A. HEMPHILL

In 2021, Congress passed the Corporate Transparency Act (CTA), with the intention of making it harder for criminals to hide behind shell companies and use opaque ownership structures to finance terrorism, launder money, and commit tax and securities fraud. The law includes the Beneficial Ownership Information (BOI) reporting rule that requires firms to disclose to the government what individuals or entities own or control them. The Financial Crimes Enforcement Network (FinCEN), an agency of the US Treasury Department, is responsible for administering the BOI reporting requirements.

Lengthy federal litigation has attempted to stop the implementation of various BOI requirements, with critics claiming they are overly burdensome, unconstitutional, and raise privacy and data security concerns. A 2024 federal district court decision initially blocked enforcement, but a 2025 US Supreme Court ruling (*Texas Cop Shop v. Garland*) allowed the law to go into effect. Subsequent congressional action urged FinCEN to exempt small businesses from having to file ownership information, resulting in FinCEN issuing an interim final rule that removed the requirement for all US companies and persons; instead, the rule focuses on foreign companies registered to do business in the United States. However, FinCEN has solicited public comments on the interim final rule and intends to issue a final rule soon.

Treasury Secretary Scott Bessent, using authority under the interim rule, has declared domestic collection of BOI from US persons and firms would not serve the public interest or provide useful information for national security, intelligence, or law enforcement efforts. Furthermore, under authority granted Treasury under the Bank Secrecy Act, FinCEN will exempt foreign reporting companies from having to report any US persons as beneficial owners, and US persons who are beneficial owners will not be required to report their BOI information to any foreign reporting company. According to a projection in the interim final rule, FinCEN expects approximately 12,000 foreign companies to submit BOI reports, which is down drastically from the nearly 32 million reporting companies that were initially covered in the original BOI reporting rule.

Why the BOI exemption? / BOI reporting requirements have been highly controversial from the initial proposal of CTA legislation in Congress. From a regulatory cost perspective, FinCEN, under requirements set forth in the Paperwork Reduction Act, estimated that "the total cost in Year 1 of initial BOI reports is $21.7 billion, and ... the total cost of initial BOI reports annually in Year 2 and onwards is $3.3 billion." Noteworthy for small business, the FinCEN analysis concluded "that this final rule will have a significant impact on a substantial number of small entities." Regulatory compliance costs are an issue that certainly caught the attention of US business associations, especially the National Federation of Independent Business (NFIB).

The NFIB, the nation's largest business association representing American small businesses, has been lobbying against the BOI reporting mandate since the legislation was initially proposed in Congress six years ago. NFIB leadership argues that the mandate is invasive and unnecessary and jeopardizes 32 million American small business owners who face up to two years in prison and $10,000 in fines if they do not comply with the law. Specifically, regardless of the "good intentions" of the CTA, the NFIB argues that there is no need for American businesses to bear the cost of handing over more of their personal data to the federal government, as most if not all these data are found in existing reports for federal, state, and local agencies. Furthermore, the new BOI database created by the CTA would allow federal regulatory agencies and thousands of law enforcement officers to access it without acquiring a subpoena or warrant, which raises privacy and constitutional litigation issues.

Is BOI de facto eliminated? / While the Trump administration has announced that it will not enforce the BOI reporting requirements on US owners (including for those US persons who presently have FinCEN identifiers, as the interim final rule does not relieve US persons from the requirements related to FinCEN identifiers), the requirement will still legally exist for some future administration to enforce. Moreover, like any other rulemaking of the federal government, the interim final rule—or the final rule—may be challenged in court under the Administrative Procedure Act by a plaintiff having standing, such as, for example, a foreign reporting company arguing that it was placed at a competitive disadvantage by being required to report to FinCEN while other entities do not face that burden.

The original purpose of the CTA is laudable from a public policy perspective: to help in the international fight against serious crimes. To that end, the US government is under international scrutiny—from international crime prevention organizations it participates in, including the global Financial Action Task Force

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(FATF)—to adopt more comprehensive rules for capturing important financial data of corporate and business entities operating in the United States. Other nations that participate in the FATF maintain corporate and business owner information databases similar to the BOI, and US law enforcement and intelligence agencies currently have access to them. These agencies do not want to risk losing access to valuable financial data.

Policy alternatives / There is a dilemma here for the US government. On one hand, the previous FinCEN reporting requirements under the Biden administration were overbroad in their required information reporting by their inclusion of a wide scope of entities that were unlikely to be involved in financial criminal activities. Further, the Treasury Department already has access to data such as income tax filings. On the other hand, Treasury may now have gone too far in the opposite direction. There is ample evidence that domestic entities of various forms and size are widely utilized for money laundering and other illegal activities. The FATF participation requirements are important to maintain for US law enforcement and intelligence agencies' investigation and enforcement activities.

Should—or can—Congress repeal the CTA and BOI reporting requirements permanently? Or is there a "middle ground" where Congress can modify the CTA to maintain this important FATF participation?

The better alternative is to address the latter question, where the Treasury Department utilizes its tax filings to develop a BOI database. Further information collection would be necessary, but using existing data would significantly reduce the regulatory costs for American firms (especially small businesses) and individuals to only costs associated with information unavailable through Treasury or other federal government sources. The same would go for reforming the threat of exiting onerous fines and jail time in the CTA and replacing them with more modest (and reasonable) financial penalties for non-compliance concerning important information not readily available through other government sources.

It would also be helpful to exempt specific types of small businesses or organizations that are highly unlikely to be used as conduits for illicit activities. Congress should also restrict access to BOI information to only those domestic and foreign criminal and intelligence agencies showing convincing "just cause" for such access, interpreted through a clearly developed administrative rubric granting such access (including, if warranted in certain questionable instances, a subpoena).

One thing is clear: There are ample policy alternatives for Congress to consider to make the CTA both effective as a valuable tool for law enforcement purposes while still being cost efficient for the American small business community. *R*

Another Trump Turn from Reaganism

BY ART FRAAS, RANDALL LUTTER, AND W. KIP VISCUSI

Since taking office in January 2025, President Donald Trump and his administration have directed federal agencies to repeal or pare back existing regulations based on whether they are required by statute, without regard to the benefit–cost effects of such actions. This policy represents a major departure from the respect for economic analysis pioneered by Ronald Reagan's first administration and preserved in executive orders for 45 years.

President Reagan's Executive Order 12291 in 1981 directed agencies to regulate only if the economic benefits outweigh the costs of such regulation. EO 12866, signed by President Bill Clinton in 1993, replaced the Reagan order while preserving its essence by asserting that the American people deserve regulations for which the benefits justify the costs. EO 12866 remained in place across later administrations, including the first Trump administration and the Biden administration, and has been formally endorsed by the current administration.

Economic analysis of new regulations—with benefit–cost analysis (BCA) as the core—has served several purposes. Some proponents early in the Reagan administration saw it as a tool to fight the regulatory state, while others—especially later in the 1980s—saw it as essential for good government and wise management of regulatory authority to ensure it does more good than harm. During the Clinton administration, many officials saw it similarly, although some may have viewed it more as a way of providing information to the public than as an essential element of regulatory decision making. In any case, the administrations of five presidents generally respected EO 12866, with its directive that benefits must justify costs, leading regulatory agencies and the Office of Management and Budget (OMB) to develop and issue detailed analyses of the economic effects of regulatory decisions for many major

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rules. These efforts have provided a basic decision framework for policymakers and important information to Congress, the judiciary, and the public, while also offering a principled structure for interested parties to comment on and critique proposed regulations.

Replacing BCA / While the current Trump administration has left EO 12866 in effect, it has adopted new policies that substantially alter its application and impact. Trump signed EO 14192 in January 2025, requiring agencies to "repeal" 10 existing rules for each new one and ensure that the cost savings from the repealed rules more than offset the estimated costs of the new rule. This requirement effectively replaces a benefit–cost test for evaluating new rules with a more limited, stripped-down comparison of costs and cost savings.

Trump's subsequent EO 14219, signed in February 2025, also requires agencies to identify and repeal "unlawful" rules—that is, rules or portions of rules that the implementing agencies determine exceed their authority under existing statutes—without regard to standard procedures (including a BCA) for withdrawing the rules. This order provides a crucial new instrument for the Trump administration's dismantling of the federal regulatory system.

An October 2025 memo from a senior OMB official, Jeffrey Clark, reinforces EO 14219 by short-circuiting the agency's normal regulatory review process. It drops regulatory analysis requirements and adopts a presumptive 14-day review period for "facially unlawful rules" and a 28-day review period for other "deregulatory rules," stating that "where the rule is inconsistent with the 'single, best meaning' of the statute under [the 2024 Supreme Court decision in] *Loper Bright*, direct repeal under the [Administrative Procedure Act]'s 'good cause' exception is appropriate." This more circumscribed review of deregulatory actions matters because OMB is a key entity in the executive branch tasked with independently assessing the economic merits of draft regulations, and such assessments are essential for both informed decisions by senior policymakers and public accountability.

This January, in a final rule limiting nitrogen oxide emissions from gas turbines, the US Environmental Protection Agency declared that it would not be providing quantified and monetized estimates of health benefits, a substantial departure from EPA practice over the last 30 years. The health benefits section of the rule only presents a qualitative discussion of possible health effects. The EPA explained that while committed to its core mission of protecting human health and the environment, it would not be monetizing benefits given the uncertainties in the benefits estimates. The agency pointed out several sources of uncertainty, including uncertainties in concentration-response functions, air quality modeling, and valuation of premature mortality. While the EPA's science advisory panels have, in past years, supported the agency's approaches to uncertainty in quantifying and monetizing health effects, the EPA now intends to investigate its past approach and seek peer review "prior to estimating these impacts in a regulatory analysis even for informational purposes." Failure to quantify and monetize the estimated health and mortality effects of regulations will have the effect of making consideration of health impacts less prominent in any policy evaluation.

The Trump requirement effectively replaces the cost–benefit test with a more limited, stripped-down comparison of costs and cost savings.

The result is an EPA cost analysis that reports small monetized costs and cost savings to businesses without any corresponding quantified information on the health benefits forgone (such as premature mortality, hospitalizations, etc.) with the adoption of the less stringent final rule. This decision effectively excludes the use of BCA for a core set of EPA rules where the agency has statutory authority, and BCA has shown that the benefits of regulation substantially outweigh the costs. This is another blow to BCA and the Executive Order 12866 process.

These actions mean that regulatory policymakers and the public will generally lack detailed analysis of risks to the environment, public health, and safety that may result from the Trump administration's deregulatory program. Admittedly, earlier administrations did not always adhere to the basic principles of the Reagan and Clinton orders. Those orders contain an inherent tension between the development of high-quality policy-neutral analysis to inform policy and the OMB's role in advancing the president's priorities. Where the estimated benefits do not justify the costs of a priority rule—or the cost savings do not cover the lost benefits of a deregulatory rule—the presidential priority may trump the development of high-quality analysis. Thus, given their self-interest in defending priority rules, administrations have issued regulations without adequate BCA. In addition, the Biden administration modified OMB economic analysis guidelines to support its social justice initiatives. The recent Trump administration actions, however, go beyond those bad precedents by undermining the essential role of the oversight and analysis functions established by EO 12291 and EO 12866. These actions may pave the way for future administration rulemakings without consideration or estimation of regulatory costs (or the lost benefits from deregulatory rules).

Restoring BCA / We hope for restoration of regulatory review processes that move the federal government toward an effi-

ciency-based framework for decision making. In the interim, we should do more to protect public understanding about the effects of regulatory decisions—a necessity for public accountability for regulatory policy.

One approach would be for Congress to authorize a congressional agency (such as the Congressional Budget Office or the Government Accountability Office) to estimate the economic effects of major regulations issued by executive branch agencies, including regulatory actions that repeal all or part of existing regulations. A variation of this approach would be for a congressional agency to support genuinely independent and nonpartisan research estimating the benefits and costs of major regulatory and deregulatory actions. The now defunct AEI–Brookings Joint Center for Regulatory Studies is an example of an organization that did such work; no doubt, others would appear (or reappear) if such work were solicited.

Of course, these approaches only address the right-to-know role of regulation BCA. Developing third-party research could also help remedy the self-interest issues with the OMB- and agency-centered analysis framework embedded in the Reagan/Clinton executive orders. By themselves, though, they will not restore a data-driven decision framework for evaluating regulatory actions within the Executive Branch. R

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Improving Energy Assistance Programs

BY KENNETH W. COSTELLO

Affordability is having its moment in the spotlight. According to a November 23, 2025, *Wall Street Journal* headline, "Everyone Is Talking About the 'Affordability Crisis.'" The focus is on lowering the prices of essential goods such as housing, health care, food, and energy, especially for lower-income households.

The recent, rapid rise in electricity prices is a prominent component of the discussion over "affordability." Americans now pay an average power bill of $265 a month, 12 percent more than last year, according to the Century Foundation, a progressive public policy group. Electricity rates have increased 30 percent since 2020, twice the rate of inflation. And many experts predict rates will escalate sharply in the future because of the growth of electricity-hungry artificial intelligence data centers, the pursuit of a clean-energy agenda, and the ongoing, expensive modernization of the power grid.

One quarter of low-income households spend over 15 percent of their income on energy, which is much higher than the percentage for other households, according to the American Council for an Energy-Efficient Economy (ACEEE). Therefore, we should expect utilities to expand their energy assistance (EA) to low-income customers in the future.

What to do? / Three broad approaches to the "energy affordability" problem are possible:

- Increase the incomes of poor households through transfers.
- Reduce the share of the utility bill for which the customer is responsible.
- Reduce the customer's energy usage.

EA initiatives focus on the latter two while cash supplements fall under the first.

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Most economists favor supplementing the income of poor households via cash subsidies or providing in-kind assistance funded through general revenues, for example in the form of "energy stamps" that directly subsidize power use. Such policies are superior from an economic-efficiency perspective to subsidizing the poor through utility rate cross-subsidies, which raises the rates of the non-poor to aid the poor.

While economists' recommendations are consistent with textbook economic theory, the public is less supportive. Thus, public utilities redistribute less visibly, what Richard Posner described as "taxation by regulation." Most customers pay higher rates to subsidize lower-income households. Most EA initiatives reduce energy bills for eligible households either by lowering the effective price of utility service or by reducing energy consumption.

Six criteria for smart EA / Regulators should achieve "affordability" goals with the least possible negative effects on economic efficiency and the utility's financial health.

Six criteria can detect the effectiveness of EA initiatives. Regulators should consider positively any action that satisfies most (if not all) of these criteria, and they should be wary of actions that do not. The six criteria are:

- EA recipients should receive maximum benefits relative to the dollars funded by utility customers.

- Consumer education should make eligible households aware of available assistance and how to reduce their energy bills.
- EA should avoid large efficiency losses and cross-subsidization.
- EA should have reasonable administrative and implementation costs.
- Funding should have a tolerable financial effect on the rates of those who pay the subsidies.
- EA should lower collection costs, service disconnections, arrearages (unpaid balances), and debt write-offs.

Efficiency losses from subsidies arise when the subsidized price lies below the utility's marginal costs, and the benefits to targeted low-income households are less than the subsidy cost funded by the utility or other customers. For example, there are efficiency losses when utility customers pay $12 million to subsidize low-income households that benefit by only $10 million.

Some EA programs are more efficient than others. For example, lump-sum payments are preferable to rate discounts because the latter's discounted price encourages inefficient consumption. Charge the full or cost-based rate to all customers and then transfer some of the revenues to eligible low-income households. Refund amounts can link to a specified income-percentage formula. (States with percentage-of-income plans include Illinois, New Hampshire [a modified version], New Jersey, Ohio, and Pennsylvania.) For example, eligible households should not have to pay more than 10 percent of their monthly income to heat their homes in the winter. Another way to minimize efficiency losses would be to discount the monthly charge (which California recently initiated) or other inframarginal component of the bill.

The principle of "spreading the burden" across many utility customers reduces the financial burden on each funder. This raises some questions:

- Which utility customers should fund the subsidies (e.g., all utility customers, only non-poor residential customers)?
- At what point does the "subsidy" cost become too large for ratepayers?

Some EA actions attempt to induce disconnected customers to settle their arrearages and get reconnected, and delinquent customers to settle their arrearages and stay connected. In most jurisdictions, utilities first try to work out a payment plan with customers supplemented by available outside financial assistance before proceeding to collect any shortfalls (i.e., debt write-offs) from general rates.

Efficiency losses result when the benefits to low-income households are less than the subsidy cost funded by the utility or other customers.

Comparison of different utility programs / *Bill-assistance programs*, as a general rule, distribute lump-sum payments to pay down a customer's utility bill. The income-eligible customer pays the same rates as other residential customers but receives a discount on his total bill. If a customer's utility bill is $200, for instance, an assistance payment of $50 would reduce what the customer pays to $150. A real-world example is California's Alternate Rates for Energy (CARE) program. This program of the state's large utilities provides eligible low-income customers with a 30–35 percent discount on their electric bills. All other utility customers fund the CARE program through a rate surcharge. Some utility programs determine the amounts distributed based on a household's income, the number of people in the household, and a household's utility bill. Because they do not affect a customer's decision to consume electricity at the margin, bill-assistance programs tend to minimize distortions in energy usage. They commonly provide a one-time-only benefit, which may be inadequate when low-income households have an acute ongoing need.

Lifeline rates (or inverted rates) encourage energy efficiency as well as provide customers with lower marginal prices for "essential" electricity use. They feature an inverted tiered rate structure in which consumers pay higher marginal prices at higher tiers of energy consumption. One problem with lifeline rates is that many low-income customers consume above-average amounts of electricity. Many wealthy households also consume a relatively small amount of energy, in part because of their financial ability to invest in energy efficiency and have multiple homes. Ironically, using lifeline rates to assist the poor may be counterproductive in assisting poor households. Non-targeted lifeline rates (i.e., eligibility does not depend on a household's income) can especially benefit high-income, low-energy-use customers. They can therefore result in benefits being accrued randomly across households with wide-ranging incomes. Energy usage varies widely across households, not necessarily because of income differences, but because of other factors such as household size and consumer preferences. Lifeline rates can also increase the risk that a utility will under-recover its fixed cost because it unevenly collects those costs through the higher rate tiers where the greatest amount of usage volatility occurs. Finally, lifeline rates are discriminatory when the different tiers fail to reflect the utility's marginal cost. In California this rate distortion has led to utility customers investing in excessive rooftop solar generation because of the above-cost "top tier" rates they were paying. Low-income as well as other customers had their rates increase to com-

pensate the utility for the lost fixed-cost recovery from solar customers. That perverse outcome is counter to the intent of lifeline rates to benefit low-income households.

Another example of a utility program is a *rate discount*, where eligible low-income households receive a discount of (say) 30 percent on rates the utility charges other customers. If other customers pay a price of 10¢ for each additional kilowatt hour (kWh) consumed, low-income households would pay 7¢. One form of rate discount provides larger discounts for smaller energy use. A household, for example, receives a discount of 40 percent if it consumes fewer than 500 kWh per month, while its discount falls to 30 percent if it consumes more than that amount. From the standpoint of economic efficiency, rate discounts are probably the least desirable form of EA. A better alternative would be to give eligible low-income households monetary assistance in the form of a lump sum or in some other form that leaves unchanged the marginal price.

Common across states is a form of EA that offers customers leniency and flexibility in making payments for overdue accounts. The utility might absolve a customer's arrearages or waive reconnection charges. These *cost waivers*, funded by general ratepayers, reduce the costs of service disconnections. Their major purpose is to help low-income households stay current on their bills and either avoid disconnection or have utility service restored. The underlying premise is that, in the absence of cost waivers, disconnected customers may find it financially impossible to pay all their unpaid bills to have service restored. Some jurisdictions allow forgiveness of all past unpaid bills when a customer makes timely payments over a specified period (commonly one year). One drawback is that, after the utility absolves customers of their past debts, the customers may revert to accumulating unpaid bills in the future, reasoning that they will also be absolved. This reflects what economists call a "moral hazard" problem. Some observers would also consider forgiveness violating principles of personal responsibility and fairness; for example, those low-income customers who fully pay their utility bills on time would pay higher rates.

Takeaway for regulators / Even though economists recommend no-strings cash transfers to the poor rather than cross-subsidies, utilities engage in the latter. Utility EA initiatives should achieve utility-service "affordability" at least cost and with as little efficiency reduction as possible. Lump-sum payments should be the favored utility-initiative EA program, while rate discounts are plagued with efficiency problems and lifeline rates fail to restrict beneficiaries to low-income households and stimulate uneconomic decisions by customers like in California. *R*

There Is No Labor Shortage

BY PIERRE LEMIEUX

The *Wall Street Journal* (*WSJ*) recently ran an interesting story titled "High-Speed Internet Boom Hits Low-Tech Snag: A Labor Shortage" about the high demand for fiber-optic installers (Haggin 2026). They include ditch diggers, horizontal directional drillers, aerial linemen, and splicers. The latter workers' job is to connect cables, each including tens or hundreds of individual strands of optical fiber that must be exactly matched and individually and cleanly connected with the help of a fusion-splicing device. Optical fiber, which is made of fragile glass, must be manipulated carefully.

As high-speed internet spreads, fiber-optic installers are in much demand and thus command high wages, even if their job does not require a college degree or lengthy training. Entry-level jobs pay (with overtime) as much as the US median wage. The jobs attract workers from other industries, including from white-collar occupations. As an indication, the annual median wage of telecommunications line installers and repairers is $70,500, or 40 percent more than the average for all US wage earners. Site superintendents of fiber-optic installers can earn six-figure wages.

The *WSJ* story is sound except for the word "shortage" because high prices or wages are not the same thing as a shortage, at least if one wants to speak technically and unconfusingly. A shortage happens when the quantity demanded (of a good or service, of labor, or of capital for that matter) is higher than the quantity supplied and you can't get it on the market (allowing time for market prices to adjust). For examples of real shortages, think of chronically empty grocery shelves, or of goods that are price-capped during emergencies (in American states with so-called "price gouging" laws). The *WSJ* confuses high prices with shortages. High prices—whether for diamonds or the services of fiber-optic workers—just mean high prices: You can get the good if you are willing to pay the price or, if you bring a large new demand, by bidding up the price.

There can only be a shortage when the price (wage, in this case) is capped—that is, when it cannot be bid up legally. A higher price or wage, when not forbidden, is precisely the mechanism that prevents a shortage. In free countries (or more-free-than-unfree countries), labor wages are seldom capped by government, so we seldom observe a labor

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shortage. (On the contrary, some wages are subject to a floor by government-imposed minimum wages or by government-privileged unions.)

Prices and shortages / We need two expressions for the two different phenomena: high price on one hand and unavailability at any price (except on black markets) on the other. That's what economists do by specifically calling the latter a shortage.

This modeling explains why fiber-optic workers are so expensive—that is, so well remunerated. Employers have bid up, or continue to bid up, their wages. One way they contribute to the bidding is by poaching their competitors' workers with better offers.

It is true that the growth of high-speed internet in peripheral areas, which increases the demand for fiber-optic installers, is mostly generated by federal subsidies from the bipartisan Infrastructure Investment and Jobs Act of 2021. One could argue that the demand for broadband extension is an artificial political demand as opposed to a true consumer demand. But even if one thinks so, it still means that the workers' wages are higher than they would otherwise be, not that there is a shortage. High wages and a labor shortage are two different things.

With or without underlying government subsidies, the reasoning is the same for virtually any free-market labor "shortage" that some employer somewhere complains of. (Workers seldom complain that their wages are too high.) There is no shortage of fiber-optic workers; their wages are high because they are much in demand.

Consider another example: the supposed "shortage" of mechanics at car dealerships, which Ford Motor Company president Jim Farley recently complained about (*Wall Street Journal* 2025). "As of this morning," Farley said in a podcast last November, "we had 5,000 openings, a bay with a lift and tools, and no one to work in it." (By "we," he meant Ford's franchised dealerships in America.)

Why don't the dealerships offer more money for the mechanics they "need"? Presumably because they don't really need them: They believe that many consumers wouldn't want to pay a higher price for servicing and repairing their cars. But this, in turn, means that there is no shortage of mechanics; it is simply that paying higher wages would not be profitable. The mechanics are already paid the maximum compatible with the dealership making a normal return on capital. (If a dealership earns more than that, expect more competitors to enter the market through new car dealerships and compete away the excess.)

Conspiracy against the public / Speaking of shortages only muddies the water or serves special interests looking for government-granted privileges, or both.

A very interesting and more recent *WSJ* article (Otts 2026) suggests that Farley, if he understands well the special interests he represents, probably does not know much about the economic way of thinking. The article shows that the remuneration of mechanics in car dealerships is not, after all, so extraordinarily attractive. These mechanics are as much independent subcontractors as employees. They work under a piece-rate system whereby a particular repair job pays them a fixed amount, whatever time they spend completing it. Mechanics also must buy their own expensive tools, or at least some of them (despite the impression left by Farley). Except for a few stars, in this field as elsewhere these mechanics don't make fortunes with their eyes shut.

There is thus no need to invoke the "shortage" *deus ex machina* to explain why thousands more mechanics don't flock to car dealerships. The remuneration they get is the equilibrium remuneration in that market. Although the *WSJ* reporter does not put it that way, it appears that what Ford would like is for the public education system to train more car mechanics, thus indirectly subsidizing the company.

Car dealerships don't deserve pity (nor do their manufacturers' CEOs). If the customers were willing to pay more for servicing and repairing their cars, the dealerships would bid up the mechanics' remuneration, and the manufacturers would be happy to pay more for warranty repairs. If they don't think that would be profitable, they should stop whining about a shortage that does not exist.

Some politicians as well as other people (not to mention, in another country, the Chinese Communist Party [*The Economist* 2005]) want the education system to offer more vocational training and less abstract education about the fascinating adventure of mankind. It would not be surprising if the largely public education system responded more to political and bureaucratic requirements than to consumer demand (from students and parents). But even if that is true, there is still no shortage *on the labor market*. Perhaps "we" need more fiber-optic installers and car mechanics, at the cost of fewer economists, philosophers, or *Regulation* writers. I am not persuaded of that, but only free markets can—or could—provide a non-arbitrary response.

At least, this is the proper way to look at resource allocation in a free society. The wrong way is the Chinese way: to focus on achieving the objectives of the latest five-year plan. And to think clearly about such matters, non-confused language is a minimum requirement. *R*

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Freedom of Speech and Academic Freedom

BY DENNIS L. WEISMAN

Universities in the United States are in trouble, fighting a multi-front culture war in which they stand accused of wokeism, antisemitism, discriminatory admissions, preferential hiring practices, indoctrination, and lowering academic standards. A recent survey found that "only 28 percent of administrators and support staff working at private four-year institutions strongly agree that their institution's education is worth the cost" (Shaw et al. 2025). A Philadelphia Federal Reserve Bank study reports that up to 80 colleges may close in the next five years (Kelchen et al. 2024). Universities have a serious problem with their value proposition, and their very survival hangs in the balance. Further contributing to the universities' woes are serious concerns about academic freedom. Some 80 percent of college students reportedly self-censor in their interactions with peers and professors (Carrasco 2021). Those findings align with my own experience. I regularly queried my students on the first day of each semester as to whether they felt any pressure to answer in-class discussion or examination questions to appease the political or social leanings of their professors. On average, 85 percent answered this question in the affirmative. There is a certain irony in the fact that academic freedom is under attack by the very professors who claim their First Amendment right to freedom of speech is being violated.

It is common practice for universities to ban certain speakers from campus because they are deemed too controversial and may incite violence. Those concerns may be well-intentioned, but there is a significant risk that they will morph into something more sinister: thinly veiled attempts to control students' thinking and squash unfettered debate.

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Principles / The principle of academic freedom is the time-honored idea that both professors and students should be free to engage in research, critical intellectual discourse, and passionate, reasoned debate on virtually any relevant topic or question without fear of retribution or prejudice. The university is supposed to serve as the intellectual arena that promotes a rigorous, objective, and unabashed contest of ideas.

There are essentially two types of professors: those who educate to develop thought leaders and those who indoctrinate to create uncritical followers. The former understand that learning is a process of *creative destruction* in which new ideas constantly challenge and displace old ones. In 1837, Ralph Waldo Emerson underscored this idea in an oration entitled "The American Scholar" before the Phi Beta Kappa Society of Harvard College:

> Meek young men grow up in libraries, believing it their duty to accept the views which Cicero, which Locke, which Bacon have given, forgetful that Cicero, Locke, and Bacon were only young men in libraries when they wrote these books.

The educational mission is not to produce intellectual clones of professors, but to embolden students with the courage to think rigorously, critically, and objectively in challenging prevailing orthodoxy. John Maynard Keynes described this exercise as "a struggle of escape from habitual modes of thought and expression."

Elusive boundaries / Professors sometimes make divisive statements and universities have struggled with how to deal with the fallout. In a story that attracted national attention, University of Pennsylvania law professor Amy Wax was relieved of teaching a first-year required course, docked half her annual salary, and stripped of her endowed chair because she purportedly made derogatory statements about the ability of black students. In an October 2017 podcast hosted by Brown University economist Glenn Loury, she said, "I don't think I've ever seen a black student graduate in the top quarter of the class, and rarely, rarely, in the top half."

The issue is not whether these statements are protected by the First Amendment; they are. But Penn is not a government institution; it is a private entity that, within certain parameters, sets its own employment policies. Among those policies is granting broad academic freedom to faculty. However, those policies also obligate faculty to respect students' academic freedom. Thus, the issue is whether Wax's statements undermine Penn's educational mission by rendering it virtually impossible for black students to engage in critical discourse in her classroom and still believe they will be objectively evaluated solely on the merits of their performance—that is, whether *their* academic freedom is violated. If it is, then Wax has eclipsed the bounds of academic freedom, and her employment can be jeopardized.

In another high-profile example, Larry Summers was dismissed as Harvard's president after remarks he made at an academic conference were construed to suggest that women have a lower mathematical aptitude than men. (What he actually said was that men are overrepresented in *both* tails of the distribution of mathematical aptitude, and this could be a reason why men outnumber women in elite engineering and science faculty positions.) The response from the academic community was swift and viru-

lent. Summers' remarks may have been phrased insensitively, but they were not purposely malicious. He was specifically asked to address why academia has met with limited success in awarding tenure to women faculty in engineering and the physical sciences despite efforts to balance gender representation.

There is presently a lack of strong empirical support (which is not to say there is no support whatsoever) for Summers's hypothesis and, in particular, whether any such differences that may exist are biological or environmental in nature (Vos et al. 2023). Nonetheless, the conjecture itself is not beyond the pale. Educational psychologists have found that males and females do not necessarily learn in the same way, and this has prompted experimentation with gender-specific schools and classrooms. It is therefore not inconceivable that the relative strengths of men and women may vary across academic disciplines.

All this begs the question whether Summers was removed as Harvard's president because his conjecture did not have strong empirical support or because it was reflexively deemed heretical. Disavowing the possibility that differences exist because such an idea may "offend" is contrary to the academy's purpose, which is to actively engage with difficult (and sometimes uncomfortable) questions. The university should be a sacred place where no question, regardless of its potential to offend, should be considered off limits.

Assuming there are no differences when differences exist can result in an inefficient allocation of society's resources. Universities would naturally default to implementing a uniform percentage of female faculty across academic departments when efficiency may call for a non-uniform percentage. This is the economic *principle of comparative advantage* at work. This is not to suggest that static efficiency should be dispositive, as the weight assigned to role models that foster greater interest in the sciences among women should enter the calculus as well.

A related "free speech" controversy came to the fore in the aftermath of political activist Charlie Kirk's assassination. A Fort Hays State (Kansas) psychology professor, Nuchelle Chance, was suspended after she wrote on Facebook that "White American men are the most dangerous animals on the planet." A University of South Dakota art professor, Phillip Michael Hook, was threatened with termination when he supposedly referred to Kirk as a "hate-spreading Nazi." In a temporary ruling, the judge in the Hook case found that the professor "is entitled to First Amendment protection" and that the school failed to produce "any evidence of disruption" in response to his social media post.

The critical issue for debate is whether professors' unconstrained right to free speech tramples on the academic freedom of their students.

In yet another case, this one indicative of a growing problem with antisemitism on college campuses, a University of Kentucky law professor, Ramsi Woodcock, claimed his First Amendment rights were violated when he was removed from the classroom after publicly calling for military action to terminate Israel's existence. The university counters that it has an obligation under Title VI of the 1964 Civil Rights Act to provide for the safety and well-being of its students and staff.

Universities have not established a litmus test for determining when a professor's exercise of free speech violates the principle of academic freedom, nor is such a test likely forthcoming anytime soon. Nonetheless, it is useful to outline what the broad contours of such a test might look like. The test may commence by inquiring whether there is a high likelihood that the professor's public statements, inclusive of social media posts, place members of the university community at risk or discourage critical discourse and the free exchange of ideas in the classroom in a manner that validates concerns about bias, prejudice, or lack of objectivity in the evaluation of student performance. An affirmative answer to either condition is presumptively disqualifying.

The courts have long struggled to strike the proper balance between protecting free speech and regulating content deemed harmful or inappropriate. In *Jacobellis v. Ohio* (1964), a landmark case on obscenity, Justice Potter Stewart famously conceded that while he may not be able to define obscenity "I know it when I see it." Similar challenges present themselves in the context of constitutionally protected speech and speech that is deemed antithetical to the principle of academic freedom.

Conclusion / The critical issue for debate is not whether professors are entitled to freedom of speech, but whether the unconstrained exercise of that right risks trampling on the academic freedom of their students. A professor who embraces the principle of academic freedom and is fully committed to the educational mission writ large should be willing to self-impose certain limits on his free speech. Admittedly, this is a slippery slope, and society will ultimately have to decide on which side it would prefer to err. *R*

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Buried in Bureaucracy

BY ALEX J. ADAMS AND ADAM N. JONES

Federal grants encourage state and local governments to adopt national priorities. The United States maintains 1,386 federal grant programs, funneling over $1.2 trillion annually to states, municipalities, and other public and nonprofit entities.

Federal grants are about one-sixth of all federal domestic expenditure. For states, these funds represent, on average, more than 30 percent of their annual budgets. For some departments—particularly those in health and human services—federal grants represent the majority of the spending at the state level. Each grant is accompanied by eligibility rules, cost principles, detailed application processes, and oversight regimes that require an army of administrators, accountants, compliance officers, and grant specialists. So, there are considerable costs in exchange for the federal deficits.

To illustrate these challenges from a state perspective, consider the experience of our former agency, the Idaho Department of Health and Welfare (IDHW), a health and human services agency that administers 100 federal grants. In this article, we quantify the cost of administering federal funds—not in abstract terms, but in hours worked, pages filed, committees convened, and dollars matched. We use data reported for each grant in response to Senate Bill 1207, a budget measure that mandates the IDHW report its administrative burden of managing federal grants, as well as data reported on the state's Schedule of Expenditures of Federal Awards. If the administrative burden of federal grants is to be reformed, states must undertake a similar but broader review of that burden.

Architecture of the burden / IDHW is the largest recipient of federal funds in Idaho, receiving $3.9 billion of the $5.6 billion that went to the state's government agencies in FY2023. Of the 100 federal grants managed by IDHW:

- 52 were awarded through competitive processes,
- 72 required formal applications, and
- 40 demanded comprehensive state plans.

Eight of these grants, including Medicaid and the Supplemental Nutritional Assistance Program (SNAP), were "open-ended," meaning they are not subject to appropriation limits. The remaining 92 were "capped" grants, meaning that funding was predetermined regardless of program cost growth. The eight open-ended grants accounted for 86 percent of the federal dollars expended by IDHW. In contrast, the 92 capped grants accounted for just 14 percent of the federal dollars spent at the state level. The number of federal grants managed by IDHW has roughly been constant over time: 93 grants in Fiscal Year 2013 and FY 2018, and 92 non-COVID grants in FY2023. (See Tables 1 and 2.) But inflation-adjusted spending increased from $2.4 billion to $3.6 billion over that period. The growth was mostly in Medicaid, which grew from 66 percent to 82 percent of total IDHW funding. In contrast, the median grant declined by 9 percent during the same period.

Thus, the large grants got larger while IDHW was managing more grants with smaller dollar amounts. The majority (55 percent) of IDHW grants were less than $1 million, or less than 50¢ per capita. The state incurs an administrative burden with these smaller grants disproportional to their award amounts. Capped grants accounted for 88 percent of the paperwork requirements despite accounting for just 14 percent of the funding, with nearly 30,000 staff hours spent administering or delivering services for grants under $100,000.

Quantifying the impact / The administrative costs of federal grants are vast and growing. Managing IDHW's federal grants in FY2023 required over 1,100 full-time-equivalent staff, amounting to more than 2.2 million hours of labor administering or delivering grant services. That's nearly 38 percent of the agency's total workforce dedicated to administration and services from federal funds.

The paperwork burden associated with the FY2023 grants included:

- 6,911 pages of grant applications,
- 3,967 pages of state plans,
- 1,065 pages of grant agreements,
- 5,785 pages of reports,
- 758 pages of implementation reviews,
- 403 pages of committee meeting minutes, and
- 53 pages of waivers.

Altogether, that amounts to 18,942 pages of grant-related documentation.

Staff must also undergo regular training to remain compliant with shifting federal standards. In 2023, 20 grants required over 900 hours of training, and that training was often repetitive, platform-specific, and non-transferable across grants.

Then there are the advisory committees. Some 24 grants mandated formal advisory structures, and one such committee (along with its regional boards) met 84 times in a single year. These meetings require preparation, public notice,

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facilitation, and documentation. The grant that necessitated the 84 meetings yielded just $487k to the state in FY2023.

Compliance and oversight require reports. In FY2023, of the grants requiring ongoing reporting:

- 55 required annual reports,
- 13 required quarterly reports, and
- 32 included special reporting rules.

These reporting requirements are rarely uniform. Each grant may require its own portal, spreadsheet template, metrics, and/or performance narratives. The fragmentation multiplies complexity—and the labor needed to comply.

Pass-through complexity / In FY2023, IDHW passed along $133 million in federal grant funds to external partners, including:

- $58 million to medical facilities such as hospitals, clinics, and federally qualified health centers,
- $28 million to Idaho's public health districts,
- $16.3 million to community action agencies,
- $18.5 million to universities, including at least three out-of-state schools, and
- $13 million to school districts, tribes, counties, and municipalities.

These pass-throughs require another layer of oversight and compliance. The state agency is responsible for ensuring that sub-recipients follow federal rules, meaning that every audit, quarterly report, and spending discrepancy is ultimately the state's responsibility and often requires local-to-state reporting in addition to the state-to-federal reporting. Small nonprofits and local governments often lack the internal capacity to manage federal compliance on their own, forcing state agencies to become both funders and technical support centers, guiding partners through the maze of federal requirements, and requiring time and effort on both sides.

Table 1

Concentration of Spending in IDHW General Grant Spending

Percentage of Total Funding	Spending as a Total of All IDHW Federal Grant Spending		
	FY2013	FY2018	FY2023
Largest Program (Medicaid)	66%	72%	82%
Largest 5 Programs	90%	89%	93%
Remaining Programs	10% (88 grants)	11% (88 grants)	7% (87 grants)

Table 2

Size of IDHW Federal Grants by Fiscal Year

Grant Size	FY2013	FY2018	FY2023
< $100,000	14 (15%)	14 (15%)	14 (15%)
$100,000 to $1 million	42 (45%)	37 (40%)	37 (40%)
$1 million to $10 million	25 (27%)	29 (31%)	27 (29%)
> $10 million	12 (13%)	13 (14%)	14 (15%)
Average Grant Amount	$26,061,218	$25,734,770	$36,357,320
Median Grant Amount	$457,709	$745,486	$419,017

State costs of "free money" / Federal grants are far from "free." In FY2023, IDHW spent $696 million in state and local match obligations for just 27 grants, including a $634 million match for Medicaid alone. Granted, that is a fraction of the $3.9 billion that IDHW received in federal money, but that fraction is substantial: about 18 percent.

Additionally, 14 grants required a "Maintenance of Effort" (MOE)—a mandate that states maintain existing funding levels—totaling $81 million in FY2023. These MOE rules mean that states cannot replace state dollars with federal ones, nor can they reduce baseline funding without risking penalties. That is reasonable during the time of the grant, but these obligations sometimes lock states into commitments that extend beyond the federal grant period.

Hidden regulatory regime / Federal grants often require state regulations. In FY 2023, IDHW oversaw 59 chapters of regulations, spanning 1,266 pages, 60 percent of which were driven by federal grants. Medicaid-specific rules accounted for 438 pages (58 percent) of those federal grant pages. The second largest category pertains to child protective services, comprising 111 pages (15 percent) and mandated by federal programs such as Title IV-E (covering foster care, adoption, guardianship, and family separation prevention) and IV-B (a more flexible funding stream that focuses on prevention, family support, and reunification), the Chafee Foster Care Independence Program, and the Child Abuse Prevention and Treatment Act (CAPTA).

State-level reform strategies / The strongest federal oversight should be applied to "open-ended" grants to ensure that states are using federal funds appropriately. Yet, much of the grant bureaucracy

arises from small, fixed-dollar programs, each with its own compliance regimen.

States should pursue federal grants only if the expected benefits, factoring in the administrative burden, are positive. The decision to pursue a grant should weigh the scope and intensity of the rules that will accompany it. States might evaluate grants using criteria such as:

- **Regulatory intensity:** How complex are the program rules, reporting requirements, and audit risks?
- **Dollar-to-compliance ratio:** How much funding is received per unit of administrative effort? Is the funding received likely to meaningfully address the issue that the grant purports to address?
- **Strategic fit:** Does the grant advance existing state priorities or require the creation of new compliance-heavy programs?
- **Fiscal flexibility:** Are there match or MOE requirements that limit future budgetary discretion? How likely is it that the amount received will accomplish the purpose of the grant?
- **Downstream burden:** Will the grant's rules cascade to sub-recipients, increasing state oversight responsibilities?

Idaho law now requires agencies to have exit strategies and contingency plans for reductions in federal funding. Such plans cannot simply shift federal fund reductions to state taxpayers. Further, all agencies must submit an annual federal funds inventory that collects information on match, MOE, and other information that increases transparency around federal funding.

Conclusion/ States should take a strategic approach to federal funding, considering compliance costs, regulatory constraints, and long-term commitments. They should focus their administrative capacity on the programs that deliver the greatest net benefit. *R*

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Trump's Carbon 'Endangerment Finding' Is a Cautionary Tale

BY DAVID KEMP

For the past two decades, US climate policy has been driven more by legal and administrative maneuvering than by legislative consensus. The result has been regulatory inefficiency, policy whiplash between successive administrations, and little progress toward a durable, politically sustainable approach to managing climate risk.

Despite its prominence in political discourse, climate change has been the focus of relatively little stand-alone legislation. The 2022 Inflation Reduction Act contains the only significant federal climate provision to date, but the majority of its green energy subsidies and tax incentives have since been rolled back (Sidley Austin 2025). Other major economy-wide climate proposals have failed in Congress, and most enacted climate-related measures have been modest provisions embedded within broader infrastructure or energy bills.

On the regulatory front, however, climate policy has been much more active. Over the past two decades, federal agencies have proposed and finalized a wide array of rules governing greenhouse gas (GHG) emissions from vehicles, power plants, and other sources. Many of these rules have been revised or repealed by subsequent administrations. Nearly all of this authority traces back to a 2009 determination by the Environmental Protection Agency that GHGs endanger public health and welfare under the Clean Air Act (CAA).

This finding followed the US Supreme Court's 2007 decision in *Massachusetts v. EPA*, which rejected the Bush administration's claim that it did not have the authority to regulate GHGs and held that GHGs fit the CAA's definition of "air pollutants." The finding required the

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EPA to determine whether GHGs endanger public health and welfare and, if so, to regulate them. In 2009, the Obama administration concluded they do, setting in motion subsequent regulation of GHGs under the CAA.

Given the stakes, the endangerment finding has been contested ever since. On the stump in 2016 and promptly after returning to the presidency in 2025, Donald Trump made clear that repealing it would be a priority of his administration. Accordingly, in February the EPA announced its final decision to repeal the finding. The battle is far from over, however: Environmental groups have filed suit challenging the rescission.

Values and politics / From a political economy perspective, the legal and scientific disputes are largely secondary. For many policymakers and commentators, views about the validity of the endangerment finding tend to track prior beliefs about the severity of climate change and the appropriate policy response. The finding itself represents both those underlying disagreements and Congress's inability or unwillingness to resolve them through legislation. Without a comprehensive climate law, the issue shifted to existing statutory authority and the courts.

The debate over the endangerment finding has therefore played out in legal and scientific terms because those are the channels available under the current framework. But repealing the finding does not resolve the deeper differences in values and priorities that drive conflicting views of climate change. Without a broader shift in political incentives or a willingness to compromise, there is little reason to expect long-term climate policy outcomes to change significantly, with or without the endangerment finding. Democratic administrations will continue to pursue aggressive climate policies where they can; Republican administrations will continue to constrain and dismantle them.

In the meantime, however, this dynamic has real consequences. The CAA was designed to regulate local, conventional air pollutants with scientific characteristics and effects that differ substantially from those of GHGs. This mismatch means that climate regulations within the current statutory framework have imposed significant costs and economic inefficiencies (Lesser et al. 2025) while delivering limited net climate benefits (Loris et al. 2025). Moreover, relying on legal and administrative avenues to implement climate policy makes those policies highly susceptible to shifts in political leadership, allowing them to be repealed almost as easily as they are enacted. The result is substantial policy uncertainty, which discourages long-term investment and complicates economic planning.

Given the stakes, the 2009 endangerment finding has been contested ever since, with the Trump EPA repealing the finding this February. But the battle is far from over.

These downsides should serve as a cautionary tale for both supporters and opponents of the endangerment finding. The finding emerged as a workaround to legislative impasse, stretching existing law to address a new and complex problem. In doing so, it has contributed to regulatory instability and political polarization over climate policy. But repealing the finding does not solve those underlying problems. As easily as one presidential administration can conclude that GHGs do not endanger public health and welfare, the next can conclude the opposite. As legal scholar Jonathan Adler has argued, if the Trump administration truly seeks to remove the EPA's authority to regulate GHGs, it will ultimately require Congress to reform the underlying statutory framework (Adler 2025b).

The key takeaway is that, until Congress confronts climate policy directly, the fight over the endangerment finding—or something like it—will continue. Even if some degree of legislative compromise were possible, disagreements over the proper scope of climate policy will remain. But comprehensive legislation might at least reduce the regulatory inefficiency and uncertainty that stems from repurposing existing laws and relying on executive action alone.

Of course, it is probably unrealistic to expect such a contentious legislative breakthrough anytime soon. In the meantime, policymakers would be better served pursuing incremental improvements in energy and environmental policy, such as reforming permitting processes or advancing policies that spur technological innovation to mitigate and adapt to climate risks. R

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