

BANNING THE PRACTICE OF GOVERNMENT SHUTDOWNS: AN ANALYSIS OF THE END
GOVERNMENT SHUTDOWNS ACT

by
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Abstract

When the United States government undergoes a partial shutdown, millions of Americans are forced to go without pay. In addition to the obvious undue stress this causes American families, the ripple effects of shutdowns include delayed government proceedings and massive economic losses. Partially in response to these losses, sitting politicians often lose credibility and support from the voting public. In wake of the 2018-19 partial government shutdown – the longest in United States history - a plethora of proposals to end government shutdowns emerged.

One such proposal is The End Government Shutdowns Act, which was introduced by Republican Ohio Senator Rob Portman. This act proposes to end partial government shutdowns by implementing an automatic continuing resolution to ensure that a failure to enact appropriations cannot be the impetus for such a shutdown. The resolution would create a 120-day grace period where all programs, projects, and activities were funded at the rate of the previous fiscal year. After the 120 days, there would sweeping 1% cuts to all appropriations provided for by the resolution. Additional 1% cuts would be implemented every succeeding 90-day period until all necessary appropriation legislation was passed for the new fiscal year.

After explaining the causes of government shutdowns and the need for legislation to ban them, this capstone analyzes the potential of The End Government Shutdown Act as a proposed solution. The policy and its political impacts are considered. Ultimately, the 1% budget cuts are deemed to be a fatal flaw of the legislation and it is recommended to not support or pursue the act further.

Advisor: Paul Weinstein

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MEMORANDUM

TO: Senate Majority Leader Mitch McConnell (R)

FROM: John C. Richardson

RE: Ending Partial Government Shutdowns

ACTION FORCING EVENT

In late January 2019, Politico conducted a poll after the US government resumed normal proceedings after the longest shutdown in US history. 58% of voters opposed another government shutdown – with 54% responding that they would blame President Trump and congressional Republicans if the government were to opt for another shutdown.¹

STATEMENT OF THE PROBLEM

Partial government shutdowns cause wide-scale losses in wages and deteriorate the economy – resulting in waning public trust and increased public frustration. The recent shutdown did not yield the intended result of securing funding for a US border wall and resulted in a loss of public support, making it worth considering putting an end to government shutdowns as a political tactic. To grapple with the problem, employment disruptions, humanitarian concerns and economic losses will be considered.

In short, the problem partial government shutdowns create is undue hardships on the American public – especially the working class. The response is typically negative, creating additional difficulties for public officials.

Employment Disruptions

Employment disruptions during the shutdown were far-reaching. Around 800,000

¹ Shepard, Steven, Anita Kumar, David Greenberg, John F. Harris, Joanna Weiss, and Jack Shafer. "Poll: Voters Oppose Another Shutdown, Emergency Declaration." POLITICO. January 30, 2019. Accessed February 10, 2019. <https://www.politico.com/story/2019/01/30/voters-oppose-another-shutdown-emergency-1135962>.

federal employees saw their pay directly impacted due at least in part to the government shutdown.² Of those 800,000 federal employees, 380,000 were placed on furlough and 420,000 had to continue working without pay. In January, 2019, Forbes detailed the ways federal employees were impacted, along with the chain effects that treatment had by decreasing supply and demand.³ The report noted that 4 million contractors were also impacted by the partial government shutdown – further compounding the employment status of nearly 5 million Americans.

Analysis done by the Washington Post found that half of the 800,000 impacted federal workers did not have a college education and nearly one-sixth made less than \$50,000.⁴ It is worth considering where these employees fall on the income spectrum in this country. The typical American earns around \$44,500 a year, with 80% self-identifying as living paycheck to paycheck.⁵ This is common, as America's middle class has been dwindling for decades – now making up about half of the population.⁶ Northwestern Mutual's 2018 Planning and Progress study gave a wide range for the middle class: \$50,000 to \$100,000.⁷ Using this metric, about one sixth of workers that went weeks without payment were considered below middle class. Many of these employees had to turn to lenders offering reduced rate loans as a response to the

² Murphy, Paul P. "Federal Employees Prepare for a Long Shutdown." CNN. January 02, 2019. Accessed February 12, 2019. <https://www.cnn.com/2018/12/28/politics/shutdown-second-week/index.html>.

³ Peck, Liz Frazier. "The Real Financial Impact Of The Government Shutdown On Workers." Forbes. January 14, 2019. Accessed February 11, 2019. <https://www.forbes.com/sites/lizfrazierpeck/2019/01/14/the-real-financial-impact-of-the-government-shutdown-on-workers/#1b93089042b5>.

⁴ Karklis, Laris, Ted Mellnik, and Kevin Schaul. "Federal Workers in Washington Aren't the Only Ones Going Without Pay." The Washington Post. January 07, 2019. Accessed February 11, 2019. <https://www.washingtonpost.com/graphics/2019/politics/shutdown-federal-worker-impact/>.

⁵ Reich, Robert. "Almost 80% of US Workers Live From Paycheck to Paycheck. Here's Why." The Guardian. July 29, 2018. Accessed February 11, 2019. <https://www.theguardian.com/commentisfree/2018/jul/29/us-economy-workers-paycheck-robert-reich>.

⁶ "The American Middle Class Is Losing Ground." Pew Research Center's Social & Demographic Trends Project. December 10, 2015. Accessed February 15, 2019. <http://www.pewsocialtrends.org/2015/12/09/the-american-middle-class-is-losing-ground/>.

⁷ 2018 Planning & Progress Study. PDF. Milwaukee: Northwestern Mutual, 2019.

shutdown.⁸ While this bridged the gap, it unduly created debt for many Americans.

In addition to not being able to pay their own bills, many impacted federal workers had to grapple with decreased savings during the 35 day shutdown. Predictably, they were then less likely to contribute to the service sector economy. Unpaid employees are less likely to employ nannies, visit restaurants, take a cab or move forward with planned construction.⁹ This indicates a ripple effect of lost employment that is not possible to fully measure.

While employment disruptions certainly fit under the umbrella of humanitarian concerns, they were dissonant enough from the following issues that they were considered separately.

Humanitarian Concerns

The US government aids millions by providing low-income housing and food assistance. During the shutdown, federal contracts expired for more than 1,000 properties for low-income renters.¹⁰ Expired contracts put tenants at risk of being evicted and delay repair requests. These properties provide housing for about 60,000 Americans, many of which are elderly or disabled.¹¹ Similarly, millions of Americans rely on the Supplemental Nutritional Assistance Program. If the shutdown continued, benefits would have likely either been cut off or reduced.¹²

Economic Losses

The Congressional Budget Office estimates that the most recent shutdown cost

⁸ Peck, Liz Frazier. "The Real Financial Impact Of The Government Shutdown On Workers." Forbes.

⁹ Peck, Liz Frazier. "The Real Financial Impact Of The Government Shutdown On Workers."

¹⁰ Khimm, Suzy, and Laura Strickler. "Because of the Shutdown, More than 1,000 Affordable Housing Contracts Have Expired." NBCNews.com. January 8, 2019. Accessed February 15, 2019. <https://www.nbcnews.com/politics/white-house/because-shutdown-more-1-000-affordable-housing-contracts-have-expired-n955971>.

¹¹ Section 8 Project-Based Rental Assistance. PDF. Center on Budget and Policy Priorities, November 15, 2017.

¹² Peck, Liz Frazier. "The Real Financial Impact Of The Government Shutdown On Workers." Forbes. January 14, 2019. Accessed February 11, 2019. <https://www.forbes.com/sites/lizfrazierpeck/2019/01/14/the-real-financial-impact-of-the-government-shutdown-on-workers/#1b93089042b5>

the U.S. economy \$11 billion - \$3 billion of which is projected to never be recovered.¹³

Much of the economic loss comes from the furloughed federal workers, their output, delayed federal spending and other disrupted federal contracts.

Consumer spending makes up the majority of US economic activity, so withholding pay creates an economic impediment.¹⁴ Journalist Scott Baker teamed with New York University business professor Constantine Yannelis to examine the economic impact of shutdowns.¹⁵ In the short-term, impacted federal employees cut their spending by 10-20% within days of the shutdown. The rate of reduced spending increases in tandem with the length of a shutdown, though back pay has proven to be a quality option for limiting long-term damage.

During the 2013 government shutdown, the Committee for a Responsible Federal Budget examined the costs of a government shutdown by compiling nine organizations' efforts to quantify economic impact of shutdowns.¹⁶ Although inflation and true fiscal numbers have changed, the speculated percentage impact on GDP is similar now to what it was then.¹⁷ The projected impact of a shutdown up to one month is available below (the most recent was 35 days):

¹³ Davidson, Paul. "Government Shutdown Costs the Economy \$11 Billion, Significantly Dings Q1 GDP Growth, CBO Estimates." USA Today. January 28, 2019. Accessed February 17, 2019. <https://www.usatoday.com/story/money/2019/01/28/government-shutdown-economic-cost-total-11-billion-cbo-says/2700700002/>.

¹⁴ Bureau of Economic Analysis - Selected NIPA Tables. PDF. Washington, D.C.: Bureau of Economic Analysis, October 10, 2017.

¹⁵ Barker, Scott. "What's the Economic Impact of a Government Shutdown?" Fast Company. January 03, 2019. Accessed February 17, 2019. <https://www.fastcompany.com/90287504/whats-the-economic-impact-of-a-government-shutdown>.

¹⁶ "The Economic Cost of the Shutdown." Committee for a Responsible Federal Budget. May 24, 2016. Accessed February 15, 2019. <https://www.crfb.org/blogs/economic-cost-shutdown>.

¹⁷ Tankersley, Jim. "Shutdown's Economic Damage Starts to Pile Up, Threatening an End to Growth." The New York Times. January 16, 2019. Accessed February 17, 2019. <https://www.nytimes.com/2019/01/15/us/politics/government-shutdown-economy.html>.

The Economic Impact of Government Shutdown

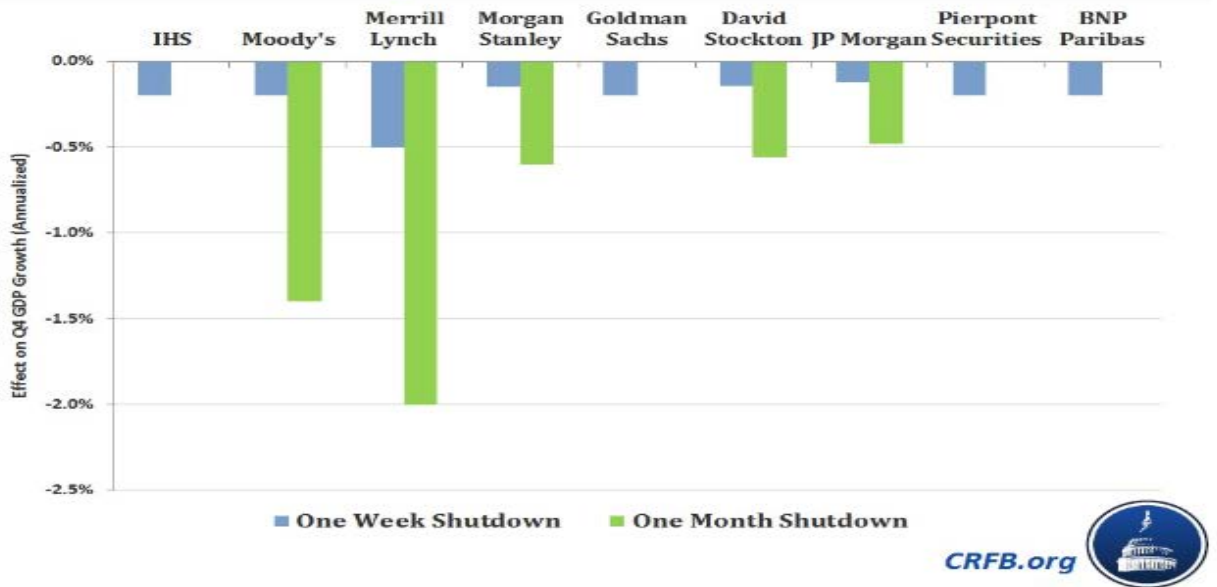


Figure 1. The Economic Impact of Government Shutdown¹⁸

In addition to impact on gross GDP, individual markets are significantly impacted as well – particularly those that are payment-based. The housing market offers a prime example. Zillow issued a press release showing that unpaid federal workers cumulatively owed \$189 million a month in rent and \$438 million in mortgages.¹⁹ Their inability to make payments would have a similar ripple effect as the employment disruptions caused by the shutdown.

Public Support Impact

Employment disruptions, humanitarian concerns and economic losses are only a portion of the problems created by partial government shutdowns. In part due to these factors, the general public's support changes dramatically in response to the hardships brought on by the shutdown. Although political impact will be considered more

¹⁸ "The Economic Cost of the Shutdown." Committee for a Responsible Federal Budget. May 24, 2016. Accessed February 15, 2019. <https://www.crfb.org/blogs/economic-cost-shutdown>.

¹⁹ "Unpaid Federal Workers Owe \$438 Million in Mortgage and Rent Payments This Month." Zillow MediaRoom. January 8, 2019. Accessed February 12, 2019. <http://zillow.mediaroom.com/2019-01-08-Unpaid-Federal-Workers-Owe-438-Million-in-Mortgage-and-Rent-Payments-This-Month>.

thoroughly later in this memo, it is worth noting as a part of the problem as well.

A recent CNN poll indicates that the government shutdown has not had the impact President Trump was hoping for.²⁰ The poll revealed that despite bringing the issue of the wall back to the forefront of national attention, those that oppose the wall still outweigh those that support it. Additionally, despite a recent uptick in those that respond positively to building a US-Mexico border wall, the support still does not match the support level it had in January 2017 - when just over 40% of survey respondents responded that they were in favor of building the wall. The poll seems to indicate that despite some positive growth in support for the border wall, there is a greater trend in reduced support for Republicans and President Trump.

HISTORY AND BACKGROUND

Although Government shutdowns have been a fairly regular occurrence over the last three decades, there were no modern government shutdowns before 1980.²¹ Funding lapses certainly occurred, but actual shutdowns did not exist. Instead, Congress and various agencies continued working at previous funding levels.²² There was a general assumption, which always turned out to be true, that the government would retroactively fund the agencies and its actions. This changed when President Jimmy Carter asked for the opinion of Attorney General Benjamin Civiletti.

Carter asked Civiletti for a legal opinion on what should actually happen when Congress failed to pass a budget by deadline, which it failed to do in each of Carter's

²⁰ Presidential Public Support - SSRS Poll. PDF. Glen Mills: SQL Server Reporting Services (SSRS), January 13, 2019.

²¹ Cohen, Andrew. "The Odd Story of the Law That Dictates How Government Shutdowns Work." The Atlantic. September 29, 2013. Accessed February 27, 2019. <https://www.theatlantic.com/politics/archive/2013/09/the-odd-story-of-the-law-that-dictates-how-government-shutdowns-work/280047/>.

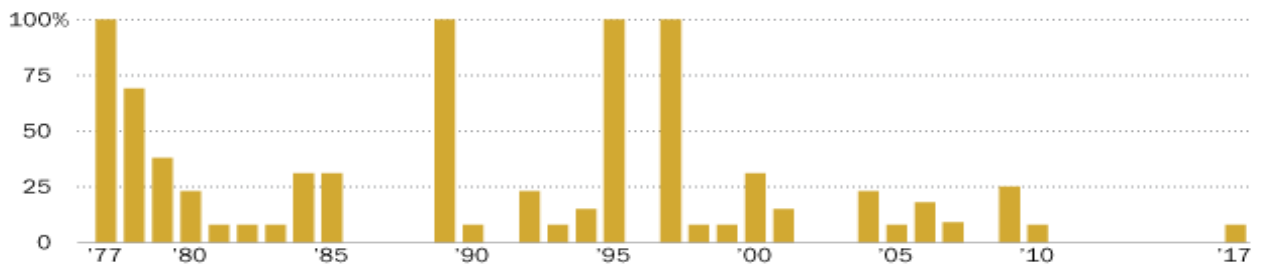
²² Nicks, Denver. "The Man Who Invented the Government Shutdown." Timeinc.net. October 9, 2013. Accessed February 24, 2019. http://amp.timeinc.net/time/5493596/government-shutdown-history?__twitter_impression=true.

years as President. Civiletti noted that Carter’s request apparently represented “the first instance in which this Department has been asked formally to address the problem as a matter of law.” In his response, Civiletti essentially created the modern shutdown and the associated vocabulary.

Despite essentially creating shutdowns, Civiletti had this to say: "I couldn't have ever imagined these shutdowns would last this long . . . and would be used as a political gambit."²³ Indeed, the modern government shutdown has nearly become an annual threat. Congress has only passed all required appropriations three times since 1980: 1989, 1995 and 1997.²⁴ While not all of these failures resulted in shutdowns, it is a startling statistic nonetheless.

U.S. Congress rarely passes spending legislation on time

Percentage of stand-alone appropriations bills enacted on or before Oct. 1 of each fiscal year



Note: Although each fiscal year ends on Sept. 30, bills enacted by or on Oct. 1 are considered to be "on time."
 Source: Pew Research Center analysis of legislative data from Congress.gov; Congressional Research Service.

PEW RESEARCH CENTER

Figure 2. U.S. Congress rarely passes spending legislation on time²⁵

Since Civiletti’s decision, there have been ten government shutdowns that have

²³ Shapira, Ian. "Meet the Democrat Who Paved the Way for Government Shutdowns. Yes, a Democrat." The Washington Post. January 17, 2019. Accessed February 24, 2019. <https://www.washingtonpost.com/amphtml/history/2019/01/17/meet-democrat-who-paved-way-government-shutdowns-yes-democrat/?noredirect=on>.

²⁴ DeSilver, Drew. "Congress Has Long Struggled to Pass Spending Bills on Time." PewResearch.org. January 16, 2018. Accessed February 24, 2019. <http://www.pewresearch.org/fact-tank/2018/01/16/congress-has-long-struggled-to-pass-spending-bills-on-time/>.

²⁵ DeSilver, Drew. "Congress Has Long Struggled to Pass Spending Bills on Time"

included furloughs.²⁶ Of these ten, seven have lasted five days or fewer - still costing millions in lost productivity and wages. The three shutdown that have surpassed five days (1995-1996, 2013 and 2018-2019) have cost the government over \$10 billion. These massive costs are not typically passed on to the decision makers. Instead, they are passed on to workers.

. Budget and regulatory expert and Harvard Law Professor Howell E. Jackson has noted that which employees are directly impacted by a shutdown is not definite. According to Jackson, “[i]t’s complicated . . . where the lines are drawn and sources of legal authority are not precise.”²⁷ Georgetown University Law Professor Timothy Westmoreland also noted that there have been continued reinterpretations of what a shutdown consists of. The continued reinterpretations and inexact science means that thousands of federal employees live a world of uncertainty until a shutdown actually begins. Due to this, working class Americans and their families are unduly put under extraneous and preventable stress due to politicians failing to meet their needs.

Prior Shutdowns

Knowing that much of the cost of shutdowns are passed to working class citizens in lost wages and productivity, it is worth examining the cost of the ten shutdowns that have resulted in furloughs. References have been provided to review tension points that led to the shutdown for consideration in comparison to the millions of American employees that have gone without pay.

²⁶ Cass, Connie. "A Complete Guide To Every Government Shutdown In History." BusinessInsider.com. September 30, 2013. Accessed February 24, 2019. <http://www.businessinsider.com/a-history-of-us-government-shutdowns-2013-9>.

²⁷ Cohen, Andrew. "The Odd Story of the Law That Dictates How Government Shutdowns Work."

Prior U.S. Government Shutdowns: Impacts and Solutions

Year	Length (in days)	Cost to Government	Furloughed Employees	Length of Resolution Bill ²⁸
1980 ²⁹	1	\$600,000	1,600	N/A
1981 ³⁰	1	~\$85 million	241,000	Short-term
1984 ³¹	1	\$65 million ³²	500,000	Full-year
1986 ³³	1	\$62 million	500,000	Full-year
1990 ³⁴	3	\$2.57 million ³⁵	2,800	Short-term
1995 ³⁶	5	\$400 million*	800,000 ³⁷	Short-term
1995-96 ³⁸	21	\$400 million*	284,000	Short-term
2013 ³⁹	3	\$2.1 billion ⁴⁰	800,000	Short-term
2018 ⁴¹	3	Weekend	692,900	Short-term
2018-19 ⁴²	35	\$11 billion	380,000	Short-term

*\$400 million cost is cumulative for both 1995 shutdowns.

Figure 3. Prior U.S. Government Shutdowns: Impacts and Solutions

²⁸ Frazee, Gretchen, and Lisa Desjardins. "How the Government Shutdown Compared to Every Other Since 1976."

²⁹ Cass, Connie. "A Complete Guide To Every Government Shutdown In History."

³⁰ Borowski, Monica. "LOOKING BACK: Previous Government Shutdowns." NYTimes.com. November 11, 1995. Accessed February 26, 2019. <https://www.nytimes.com/1995/11/11/us/looking-back-previous-government-shutdowns.html>.

³¹ Matthews, Dylan. "All 20 Previous Government Shutdowns, Explained." Vox.com. January 12, 2019. Accessed February 26, 2019. <https://www.vox.com/policy-and-politics/2018/1/19/16905584/government-shutdown-history-clinton-obama-explained>.

³² Borowski, Monica. "LOOKING BACK: Previous Government Shutdowns."

³³ Ibid.

³⁴ Frazee, Gretchen, and Lisa Desjardins. "How the Government Shutdown Compared to Every Other Since 1976." PBS.org. December 26, 2018. Accessed February 24, 2019. <https://www.pbs.org/newshour/politics/every-government-shutdown-from-1976-to-now>.

³⁵ Ungar, Bernard. Data on Effects of 1990 Columbus Day Weekend Funding Lapse. PDF. Washington, D.C.: Government Accountability Office, October 19, 1990.

³⁶ Frazee, Gretchen, and Lisa Desjardins. "How the Government Shutdown Compared to Every Other Since 1976."

³⁷ Brass, Clinton T. Shutdown of the Federal Government: Causes, Processes, and Effects.

³⁸ Frazee, Gretchen, and Lisa Desjardins. "How the Government Shutdown Compared to Every Other Since 1976."

³⁹ Ibid.

⁴⁰ Hicks, Josh. "How Much Did the Shutdown Cost the Economy?" The Washington Post. October 18, 2013. Accessed March 2, 2019. https://www.washingtonpost.com/news/federal-eye/wp/2013/10/18/how-much-did-the-shutdown-cost-the-economy/?utm_term=.8b6947377033.

⁴¹ Frazee, Gretchen, and Lisa Desjardins. "How the Government Shutdown Compared to Every Other Since 1976."

⁴² Ibid.

Significant Trends and Takeaways

- The six shutdowns involving furloughs since 1986 have all ended with a short-term funding bill, leaving employees in a state of uncertainty when the government resumes normal operations.
- The government has furloughed employees for a combined 74 days due to shutdowns since 1980, costing the US around \$13.5 billion dollars - mostly in lost wages and productivity.
- Over 4.2 million US Federal Employees have been furloughed since 1980, impacting over 4.2 million US families – and those in the economy that would be the recipient of their earned funds.

Key Figures and Current Attempts to Address Shutdowns

Support

There is data to suggest that we are living under the most partisan Congress “in living memory.”⁴³ As such, it is important to note that there is actually significant bipartisan support for action that would result in an end to future government shutdowns.

Senate

In early January, a group of Republican senators introduced the “End Government Shutdowns Act.”⁴⁴ The legislation would provide a continuing resolution for any appropriations not passed by October 1st, though appropriations would be reduced by 1 percent after 120 days and an additional percent every 90 days until a new budget was

⁴³ Jalan, Akhil. "Political Partisanship: A Look at the Data – Towards Data Science." TowardsDataScience.com. August 03, 2017. Accessed March 03, 2019. https://towardsdatascience.com/political-partisanship-a-look-at-the-data-e71946199586?fbclid=IwAR1gUgv5vnVR974YO_sV_xlQ_OWYNP2aKkdIeJDvxISRy7kVdA7nC97QiDY.

⁴⁴ Segers, Grace. "GOP Senators Introduce Bill to Permanently End Government Shutdowns." CBSNews.com. January 11, 2019. Accessed March 03, 2019. <https://www.cbsnews.com/news/gop-senators-introduce-bill-to-permanently-end-government-shutdowns/>.

passed. Ohio Senator Rob Portman (R) sponsored the bill and Senator and Financial Committee chairman Chuck Grassley (R) has signed on. Portman noted that the legislation would “avoid disruptions that ultimately hurt our economy, taxpayers and working families.” Over 30 GOP Senators have signed on, including Steve Daines of Montana, Lisa Murkowski of Alaska and Mike Lee of Utah.⁴⁵

Republican Senator Rand Paul reintroduced similar legislation that would end government shutdowns forever in “The Government Shutdown Prevention Act.”⁴⁶ Similar to other proposed bills, the bill would slowly reduce funding until a new appropriations bill was passed. Paul reintroduced the bill with the aid of Republican Senators Mike Lee and Joni Ernst (IA).

Senators from across the aisle have also been vocal in their support to permanently end government shutdowns. Virginia Senator and Democrat Mark Warner introduced the “Stop STUPIDITY ACT” to end the current model of government shutdowns.⁴⁷ His proposal would cut funding from the Executive Office of the President and Congress if another shutdown were to occur.

Other notable senators that have made their opposition to partial government shutdowns known include Minnesota Senator Amy Klobuchar (R) and New York Senator and Democrat Senate leader Chuck Schumer.

House of Representatives

Freshmen Democrat Representatives from Minnesota Angie Craig and Dean

⁴⁵ Siegel, Benjamin, and Trish Turner. "Ban Government Shutdowns? Some Republicans and Democrats Want to Make It the Law."

⁴⁶ Pavlich, Katie. "Rand Paul Wants to Banish Government Shutdowns...Forever." Townhall.com. January 17, 2019. Accessed March 03, 2019. <https://townhall.com/tipsheet/katiepavlich/2019/01/17/rand-paul-reintroduces-bill-to-prevent-future-government-shutdowns-n2539167>.

⁴⁷ Anapol, Avery. "Senate Dem Introduces 'Stop Stupidity' Act to End Government Shutdowns." TheHill.com. January 22, 2019. Accessed March 02, 2019. <https://thehill.com/homenews/senate/426459-senate-dem-introduces-stop-stupidity-act-to-end-government-shutdowns>.

Phillips have presented a plan to end government shutdowns.⁴⁸ The primary features of their plan are that the government would continue at previously approved funding levels and the financial burden of shutdowns would be shifted. Rather than dealing with furloughs and working without pay, federal employees would continue reporting to work at their existing pay rate. Members of Congress, the president and his top staff, though, would have to forego pay until a new budget was passed. Minnesota Democrat Representative Collin Peterson publically supported the bill by noting, “[w]e shouldn’t be using our federal employees for leverage.”

Other bills have been introduced by representatives, including the bill sponsored by Pennsylvania Representative Chrissy Houlahan (D) H.R.834 – The Shutdown to End All Shutdowns Act.⁴⁹ The bill has wide support from freshmen representatives in the House.⁵⁰

Democratic House Speaker Nancy Pelosi

Pelosi has offered similar thoughts to your own, stating that she would consider a move to end shutdowns.⁵¹ Specifically, Pelosi publicly expressed support for the 2011 H.R.1471 – Stop Government Shutdowns Act.⁵²

House Minority Leader Kevin McCarthy, California (R)

California Representative and House Minority Leader Kevin McCarthy supports

⁴⁸ Condon, Patrick, and Jim Spencer. "Ban Government Shutdowns? It's On the Table in D.C."

⁴⁹ Houlahan, Chrissy. "H.R.834 - 116th Congress (2019-2020): The Shutdown to End All Shutdowns Act." Congress.gov. January 29, 2019. Accessed March 03, 2019. <https://www.congress.gov/bill/116th-congress/house-bill/834>.

⁵⁰ Siegel, Benjamin, and Trish Turner. "Ban Government Shutdowns? Some Republicans and Democrats Want to Make It the Law."

⁵¹ Condon, Patrick, and Jim Spencer. "Ban Government Shutdowns? It's On the Table in D.C." StarTribune.com. February 03, 2019. Accessed March 03, 2019. <http://www.startribune.com/ban-government-shutdowns-it-s-on-the-table-in-d-c/505253432/>.

⁵² Kildee, Dale E. "H.R.1471 - 112th Congress (2011-2012): Stop Government Shutdowns Act." Congress.gov. April 08, 2011. Accessed March 03, 2019. <https://www.congress.gov/bill/112th-congress/house-bill/1471>.

the “Stop STUPIDITY ACT” from the Senate.⁵³ He supported the Democrat plan by saying “know how you’ll never have a shutdown again? Let’s not pay the members of Congress and Senate.”⁵⁴

Oppose

This is a polarizing issue. Party lines are not necessarily indicative of one’s stance. Those that oppose altering the current model typically cite the idea that it would encourage Congress to become more willing to let deadlines come and go without action.

President Trump

Any action regarding a shutdown will have to consider the current president as a key figure. Before becoming president, Trump indicated that it was the president’s responsibility to broker a deal to prevent shutdowns.⁵⁵ During the most recent shutdown, though, Trump claimed that he could not end the shutdown if he was going to “play politics.”⁵⁶ It is unlikely that President Trump would support an end to shutdowns, as he was threatening them even after the most recent shutdown.⁵⁷

Attorney General William Barr

Attorney General Barr revealed his stance during his own Senate Judiciary Committee confirmation. Barr backed President Trump’s approach and rationale, likely

⁵³ U.S. Appropriations. Congress.gov. 116th Cong. S.198. January 22, 2019. Accessed February 20, 2019. <https://www.congress.gov/bill/116th-congress/senate-bill/198/cosponsors?q=%7B%22search%22%3A%5B%22s.198%22%5D%7D&r=1&s=2>

⁵⁴ Siegel, Benjamin, and Trish Turner. "Ban Government Shutdowns? Some Republicans and Democrats Want to Make It the Law."

⁵⁵ Putterman, Samantha. "Trump Quote Criticizing Obama for 2013 Shutdown Not Far Off." Politifact.com. December 14, 2018. Accessed March 05, 2019. <https://www.politifact.com/facebook-fact-checks/statements/2018/dec/14/blog-posting/did-trump-criticize-obama-during-2013-government-s/>.

⁵⁶ Jackson, David, and Michael Collins. "Donald Trump Defends Government Shutdown to Convention of Hard-hit Farmers." Usatoday.COM. January 17, 2019. Accessed March 02, 2019. <https://www.usatoday.com/story/news/politics/2019/01/14/donald-trump-defends-government-shutdown-group-farmers/2571098002/>.

⁵⁷ Siegel, Benjamin, and Trish Turner. "Ban Government Shutdowns? Some Republicans and Democrats Want to Make It the Law." ABCNews.com. Accessed March 02, 2019. <https://abcnews.go.com/Politics/ban-government-shutdowns-republicans-democrats-make-law/story?id=60724848>.

making him a staunch proponent of maintaining the status quo.⁵⁸

House of Representatives

Minnesota Representative Betty McCollum (D) opposed ending shutdowns with the following statement, “[t]his makes everything an easy out. This is Congress . . . saying . . . if we don’t get our work done, we’ll just get it done later.”⁵⁹ Kentucky Representative Hal Rogers (R) agrees, noting that having automatic appropriations would put a focus on not passing bills.

Other representatives that have made their opposition to ending the practice of shutdowns known include Ilhan Omar (D), Tom Emmer (R), and Pete Stauber (R).

House Majority Leader Steny Hoyer

The Democrat from Maryland has not taken a firm stance to date, but has made it clear that he is “reticent” about any proposal that would automatically fund the government.⁶⁰

Current Policy

What and Why

Both the House and the Senate are responsible for 12 appropriations bills, funding agencies and channeling spending annually.⁶¹ Congress regularly fails to pass them on time, though, so stopgap budgets have become increasingly common. When all else fails, the government enters a partial shutdown – with hundreds of thousands of employees being asked to stay home and agencies ceasing progress on their work.

⁵⁸ Stewart, Emily. "Barr Backs Trump On the Border Wall and Government Shutdown." Vox.com. January 15, 2019. Accessed March 03, 2019. <https://www.vox.com/policy-and-politics/2019/1/15/18184004/william-barr-amy-klobuchar-wall-shutdown>.

⁵⁹ Condon, Patrick, and Jim Spencer. "Ban Government Shutdowns? It's On the Table in D.C."

⁶⁰ Siegel, Benjamin, and Trish Turner. "Ban Government Shutdowns? Some Republicans and Democrats Want to Make It the Law."

⁶¹ Noack, Rick. "Why Other Countries Don't Have Government Shutdowns." The Washington Post. February 9, 2018. Accessed March 10, 2019. <https://www.washingtonpost.com/news/worldviews/wp/2018/01/22/why-other-countries-dont-have-government-shutdowns-2/>.

Part of the issue may lie in the number needed to approve the budget. While many countries only require a simple majority for a new budget to be approved, the American Senate needs a three-fifths majority for appropriations to be approved. This often means that significant bipartisan support is needed, which has become increasingly difficult to come by.⁶²

The current policy that allows for the resulting partial government shutdowns is still based on Civiletti's opinion in 1980. He drew his opinion from the Antideficiency Act of 1870, which prohibited agencies from continuing to spend once its authority to do so lapsed.⁶³ Civiletti noted that "legal authority for continued operations either exists or it does not."⁶⁴ From this interpretation, the modern shutdown was born. Under his initial interpretation, all agencies reliant on appropriations would come to a halt without an approved budget.

Possibly realizing the implications of a full shutdown, he issued a second opinion that gave the president the leeway to make the government "workable," which enables essential personnel to report to work during the shutdown. The only rigid guideline is that workers that continue must be working to address an "imminent threat" to life or property. Georgetown Professor Westmoreland noted that Civiletti's loose definition of "workable" has led to continued reinterpretations that leave thousands of workers uncertain any time a shutdown nears.⁶⁵ Former Attorney General Civiletti is also responsible for the "orderly termination" process, which allows federal employees to

⁶² Jalan, Akhil. "Political Partisanship: A Look at the Data – Towards Data Science."

⁶³ Gray, Gordon. "The Antideficiency Act: A Primer." AmericanActionForum.org. August 3, 2016. Accessed February 24, 2019. <https://www.americanactionforum.org/research/antideficiency-act-primer/>.

⁶⁴ Nicks, Denver. "The Man Who Invented the Government Shutdown."

⁶⁵ Cohen, Andrew. "The Odd Story of the Law That Dictates How Government Shutdowns Work."

work for a short period to prep for the shutdown.⁶⁶ Although administrations have varied in their enforcement Civiletti's interpretations, it is his interpretation that allows for the modern partial government shutdown.

Public Perception

Americans have clearly made their negative feelings known in regard to the use of shutdowns. In a January Pew Research Center survey, almost 60% of American adults called the shutdown a "very serious problem."⁶⁷ 61% of Americans disapproved of how President Trump handled the negotiations, and a majority of Americans felt similarly about how leading Republicans (60% disapprove) and Democrats (53% disapprove) handled their responsibilities. 56% of survey respondents did say Republicans were more to blame than Democrats.⁶⁸ Despite the vast majority of Americans not being directly impacted, these numbers have held fairly steady for each shutdown since 1980. Stated shortly: Americans do not approve of shutdowns.

POLICY PROPOSAL

The goal of the new policy proposal is to ban government shutdowns as a result of not passing a new budget. If the measure is successful, there will be a 100% decline in shutdowns due to Congress failing to approve appropriations.

No other modern government shuts down due to a failure to pass a budget.⁶⁹

Indeed, we must look outside the country for models to follow since even state

⁶⁶ Nicks, Denver. "The Man Who Invented the Government Shutdown."

⁶⁷ DeSilver, Drew. "Americans View This Shutdown Much as They Did Previous Ones – Poorly and With Much Anxiety." Pew Research Center. January 18, 2019. Accessed March 04, 2019. <http://www.pewresearch.org/fact-tank/2019/01/18/americans-view-this-shutdown-much-as-they-did-past-ones-negatively-and-with-much-anxiety/>.

⁶⁸ Quinnipiac University. "QU Poll Release Detail." QU Poll. Accessed March 04, 2019. <https://poll.qu.edu/national/release-detail?ReleaseID=2592>.

⁶⁹ Keating, Joshua E. "Why Don't Other Countries Have Government Shutdowns?" ForeignPolicy.com. April 08, 2011. Accessed March 17, 2019. <https://foreignpolicy.com/2011/04/07/why-dont-other-countries-have-government-shutdowns/>.

governments experience shutdowns.⁷⁰ Constitutions and political systems have been designed with specific preventative measures to avoid situations similar to the U.S. stalemates.⁷¹ Canada, New Zealand, Australia and Bangladesh all have similar mechanisms in place that result in electing a new parliament. Although such an approach may work in parliamentary systems where elections can occur quickly, that would not complement our Federal system.

To prevent the United States from continuing to face partial government shutdowns, the following policy is being proposed: support the “End Government Shutdowns Act” that was introduced in the Senate in January of 2019.⁷²

The bill would stop any government shutdown that currently results from a lack of approved appropriations by creating an automatic continuing resolution (ACR) for all regular appropriation bills not completed by October 1st. There would then be a 120 day grace period for lawmakers to approve new appropriations. The ACR would automatically rollover the approved spending levels from the previous year. After the grace period, across-the-board funding would be reduced by one percent.⁷³ This plan is meant to allow millions of Americans to continue working while motivating lawmakers.

As we know, assuming a 120 day extension would ensure that new appropriations

⁷⁰ Chokshi, Niraj. "State Governments Shut Down, Too." *TheWashingtonPost.com*. September 30, 2013. Accessed April 15, 2019. <https://www.washingtonpost.com/blogs/govbeat/wp/2013/09/30/state-governments-shut-down-too/>.

⁷¹ Noack, Rick. "Why Other Countries Don't Have Government Shutdowns." *The Washington Post*. February 9, 2018. Accessed March 10, 2019. <https://www.washingtonpost.com/news/worldviews/wp/2018/01/22/why-other-countries-dont-have-government-shutdowns-2/>.

⁷² U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman. 116th Cong. S. S.104. Accessed March 10, 2019. *Congress.gov*. <https://www.congress.gov/bill/116th-congress/senate-bill/104/text?q=%7B%22search%22%3A%5B%22end+government+shutdowns+act%22%5D%7D&r=1&s=1>

⁷³ Board, Editorial. "We Don't Need More Shutdowns. But Proposals to Prevent Them Come with Risks." *The Washington Post*. January 28, 2019. Accessed March 23, 2019. https://www.washingtonpost.com/opinions/we-dont-need-more-shutdowns-but-proposals-to-prevent-them-come-with-risks/2019/01/28/517b5246-232d-11e9-90cd-dedb0c92dc17_story.html.

were approved in a timely manner would be folly.⁷⁴ The End Government Shutdowns Act has built-in contingencies for instances when new appropriations are not approved within 210 days (120 grace period + 90 days of initial 1% cuts) of the start of a new fiscal year. Automatic continuing resolution funding would be reduced by another 1% every subsequent 90 days that failed to result in either a new joint resolution or approved appropriations for the new fiscal year.⁷⁵ There is not a cap in 1% reductions.

Demographic Impact

Nearly 5 million Americans.⁷⁶ From those making minimum wage working for a federally-contracted janitorial company, to those making \$35 an hour preserving national parks, to individuals managing departments deemed not vital, nearly 5 million Americans were directly impacted during the most recent partial government shutdown. Nearly 5 million American families went without a paycheck. An exact demographic projection is not possible, as there is no national database for federal contractors.

Federal employees do have advantages over contractors. Federal employees saw Congress and the President work on their behalf throughout the most recent shutdown to ensure they would receive back pay.⁷⁷ There was no such measure for the approximately 4 million federal contractors, however, despite the introduction of the 2019 Low-Wage

⁷⁴ DeSilver, Drew. "Congress Has Long Struggled to Pass Spending Bills on Time." PewResearch.org. January 16, 2018. Accessed February 24, 2019. <http://www.pewresearch.org/fact-tank/2018/01/16/congress-has-long-struggled-to-pass-spending-bills-on-time/>.

⁷⁵ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman. 116th Cong. S. S.104. Accessed March 10, 2019. Congress.gov. <https://www.congress.gov/bill/116th-congress/senate-bill/104/text?q=%7B%22search%22%3A%5B%22end+government+shutdowns+act%22%5D%7D&r=1&s=1>

⁷⁶ Welna, David, and Marisa Peñaloza. "Not Expecting Back Pay, Government Contractors Collect Unemployment, Dip Into Savings." NPR.org. January 07, 2019. Accessed March 17, 2019.

⁷⁷ "It's Official: Furloughed Feds Will Receive Back Pay Once the Shutdown Ends." GovernmentExecutive.com. January 16, 2019. Accessed March 18, 2019. <https://www.govexec.com/pay-benefits/2019/01/its-official-furloughed-feds-will-receive-back-pay-once-shutdown-ends/154222/>.

Federal Contractor Employee Back Pay Act.⁷⁸ The act has still not received a vote, much like similar legislation that was introduced in 2013 never did.⁷⁹ These individuals, their families, and those that would receive their business are all people that this legislation is being considered for.

Cost

The 116th U.S. Congress would be responsible for approving this proposal. This bill would become law immediately if passed, becoming relevant October 1st of the year it was passed. The Congressional Budget Office has not yet issued a cost estimate for this measure.⁸⁰ Assumed costs would be any resulting 1% reductions, which would vary annually.

Policy Authorization Tool

The tool used to authorize this policy would be new legislation. As with all bills introduced in the Senate, the End Government Shutdowns Act would need to pass the Senate with a majority before moving to the House of Representatives. Once the bill received majority support from both the House and Senate, the president would need to either sign this bill into law or veto. If the bill were vetoed by the president, it would need 2/3's approval in Congress to override the president's veto. Only 4% of presidential vetoes are overridden.⁸¹

By turning the "End Government Shutdowns Act" into law, the new legislation would supplant Civiletti's interpretation offered in 1980. The new legislation would not

⁷⁸ U.S. Congress. House. Oversight and Reform. *2019 Low-Wage Federal Contractor Employee Back Pay Act*. 116th Cong., 1st sess. H. H.R.339. Accessed March 17, 2019.

⁷⁹ "It's Official: Furloughed Feds Will Receive Back Pay Once the Shutdown Ends." GovernmentExecutive.com.

⁸⁰ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman. 116th Cong. S. S.104. Accessed March 10, 2019. Congress.gov. <https://www.congress.gov/bill/116th-congress/senate-bill/104/text?q=%7B%22search%22%3A%5B%22end+government+shutdowns+act%22%5D%7D&r=1&s=1>

⁸¹ "Summary of Bills Vetoed." Senate.gov. February 26, 2019. Accessed March 10, 2019. <https://www.senate.gov/reference/Legislation/Vetoes/vetoCounts.htm>.

directly contradict the Antideficiency Act, though. The Antideficiency Act notes that agencies can no longer spend once their authority to do so has lapsed.⁸² Turning the End Government Shutdowns Act into law would create legal authority for all concerned agencies to continue without the need for a partial government shutdown. No existing laws would need to be overturned, negated or eliminated as a result of the passing of this new legislation.

Policy Implementation Tool

The “End Government Shutdowns Act” targets all future members of Congress and presidents. It becoming law works as a motivator for both groups to ensure that the government continually runs at or near optimal capacity. It would ensure that working Americans are not sent home sans pay while Congress and the Executive Branch debate appropriations.

As a policy implementation tool, the “End Government Shutdowns Act” operates as a “stick,” or reprimand. Although the 120 day grace period encourages behavior that is in the public interest, there are no incentives in the bill. The goal is to keep millions of American employed by offering this bill as a rebuke to any Congress that fails to complete the annual appropriations process on time. Reducing the spending of the U.S. Government by billions of dollars every few months would proactively discourage Congress from failing to agree to a new set of appropriations before the next reductions arrived.

POLICY ANALYSIS

End Government Shutdowns Act

⁸² Gray, Gordon. "The Antideficiency Act: A Primer." AmericanActionForum.org. August 3, 2016. Accessed February 24, 2019. <https://www.americanactionforum.org/research/antideficiency-act-primer/>.

The End Government Shutdowns Act would implement an automatic continuing resolution (ACR) during times where the appropriations process is not fulfilled for any fiscal year.⁸³ It would extend “any appropriation measure for a fiscal year . . . not enacted before the beginning of such fiscal year or a joint resolution making continuing appropriations.” After an initial 120 grade period, 1% across-the-board cuts would take effect. Additional 1% cuts would follow every 90 days. These would continue until new appropriations or joint resolutions were passed to create a new budget.⁸⁴

Effectiveness

The End Government Shutdowns Act will be effective if partial government shutdowns no longer happen. In order to evaluate the chances of success and potential effectiveness of this act, examining similar legislation in other countries is an effective gauge of potential success.

There is not a perfect comparison or reference for the End Government Shutdowns Act. Implementing a fallback ACR in case the government cannot come to a satisfactory set of appropriations appears to be a unique proposition. What is not unique about this proposition, though, is that is meant to be used to avoid a government deadlock that results in a shutdown.⁸⁵ What we can gather from the studying solutions that other countries have crafted to prevent a shutdown is whether or not they can successfully prevent shutdowns from happening. With a few exceptions, the answer is a clear and resounding yes.

Germany

Germany may be the best comparison from a government standpoint, as the

⁸³ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman.

⁸⁴ Board, Editorial. "We Don't Need More Shutdowns. But Proposals to Prevent Them Come with Risks."

⁸⁵ Noack, Rick. "Why Other Countries Don't Have Government Shutdowns."

German Basic Law was adopted after World War II and was heavily influenced by occupying nations – especially the United States. The 1949 Constitution governs Germany today, and is a lightly modified version of West Germany’s 1949 Constitution.⁸⁶ Somewhat surprisingly, the possibility of government shutdown does not even make it into the German Basic Law.⁸⁷

Article 111 of the *Basic Law for the Federal Republic of Germany* provides the appropriate actions if a budget for the following fiscal year has not been adopted at the end of the prior fiscal year.⁸⁸ In short, the federal government is granted power to “make all expenditures that are necessary” to maintain established institutions, meet all legal obligations, continue construction and other projects, carry on provisions of other benefits or services and make grants. The only limit placed is that the expenditures cannot exceed the amount appropriated in the budget of the previous year.⁸⁹ To ensure that the German government is able to do this when taxes, duties and other sources may not be enough, the federal government has approval to borrow up to a quarter of the funds needed to fulfill these obligations.

Essentially, Germany’s plan is to revert back to the prior year’s funding levels if there were ever a case in which a budget may not be passed. There is also a clear plan in place to ensure that funding will be available. It is worth noting that Germany has not yet missed a budget deadline, only coming close once (in 2004).⁹⁰

With different terminology, article 111 essentially provides an automatic continuing resolution to ensure that the government will not cease operations in the case

⁸⁶ "Constitutional History of Germany." ConstitutionNet. Accessed April 15, 2019.

<http://constitutionnet.org/country/constitutional-history-germany>.

⁸⁷ Basic Law for the Federal Republic of Germany. PDF. Berlin: German Bundestag - Public Relations Division, 2018.

⁸⁸ Ibid.

⁸⁹ Basic Law for the Federal Republic of Germany. PDF. Berlin: German Bundestag - Public Relations Division, 2018..

⁹⁰ Noack, Rick. "Why Other Countries Don't Have Government Shutdowns."

that a budget deadline is not met. Although the *Basic Law* does not contain a deadline enforced by incremental penalties, it is the closest comparison available for what the End Government Shutdown Act proposes. It has been 100% successful in avoiding shutdowns.

Westminster Parliament Systems

Parliamentary system solutions, where elections can occur quickly, do not align perfectly with our government. But there is valuable information to glean from their solutions.

Australia has had one shutdown (in 1975) since their founding in 1901. The impacts were severe enough that unofficial agreements followed to ensure that one never happens again.⁹¹ In Australia, government budgets are directly tied to the ability of those in power to stay there. Budgets have to be passed or the government is forced to resign and/or Parliament gets dissolved. Even if a budget impasse did occur, there would not be an immediate funding stop. Instead, there would be a delay in planned investments (up to 25% of the annual budget).⁹²

Although not a perfect parallel for the End Government Shutdowns Act, there are clear measures in place to prevent a lapse in funding and a clear funding plan in case one does occur (much like the End Government Shutdowns Act). With only one shutdown in its history, Australia's measures have been remarkably successful.

Canada has a similar system and has never had a shutdown since its founding in

⁹¹ Noack, Rick. "Australia Tried Its Own Government Shutdown in 1975. The Queen Was Not Amused and It Never Happened Again." *The Seattle Times*. January 02, 2019. Accessed April 14, 2019. <https://www.seattletimes.com/nation-world/australia-tried-its-own-government-shutdown-in-1975-the-queen-was-not-amused-and-it-never-happened-again/>.

⁹² Noack, Rick. "Why Other Countries Don't Have Government Shutdowns."

1867. Much like in Australia, passing the budget is considered a vote of confidence.⁹³ If the ruling party cannot pass a budget, it is the equivalent of a non-confidence vote and a new general election is triggered.⁹⁴

Even if a new general election was triggered (which has happened), there would be no gap in government operations. Instead, ministers would remain as caretakers and the governor general would be able to issue a special warrant for funding during the election period. Like the End Government Shutdown Act would introduce, Canada has clear measures in place to deter a failed budget agreement and alternative funding options in case of one.

Of the three countries examined so far, two (Germany and Canada) have been 100% successful in avoiding government shutdowns. The third, Australia, has been over 99% effective.

United States (Pre-1980)

As previously noted, the modern government shutdown was born under President Jimmy Carter with Attorney General Benjamin Civiletti offering his legal opinion based on the 1884 Antideficiency Act.⁹⁵ That does not mean there were no shutdowns, though. In 1974, U.S. Congress revised the budgetary process, created the Congressional Budget Office and regained budgetary authority – all via the Congressional Budget and Impoundment Act of 1974.⁹⁶ That action quickly led to the first government “shutdown,” which resulted from a standoff between Republican President Gerald Ford and a

⁹³ Redekop, John H. "Why Canada Never Has Government Shutdowns." TheRecord.com. January 26, 2019. Accessed April 15, 2019. <https://www.therecord.com/opinion-story/9144355-why-canada-never-has-government-shutdowns/>.

⁹⁴ Campbell, Meagan. "How Canada Avoids U.S.-style Government Shutdowns." Macleans.ca. January 23, 2018. Accessed April 15, 2019. <https://www.macleans.ca/politics/ottawa/how-canada-avoids-u-s-style-government-shutdowns/>.

⁹⁵ Horsley, Scott. "A Short History Of Government Shutdowns." NPR.org. September 30, 2013. Accessed April 15, 2019. <https://www.npr.org/2013/09/30/227292952/a-short-history-of-government-shutdowns>.

⁹⁶ U.S. Congress. House. Rules. *Congress.gov*. 93rd Cong. H. H.R.7130. Accessed April 15, 2019. <https://www.congress.gov/bill/93rd-congress/house-bill/7130>

Democratic Congress in 1976.⁹⁷ Shutdowns quickly became normalized, as there were a total of six before 1980. Each was the result of a lapse in funding, but was largely symbolic. None involved any actual furloughs or closings of departments or offices.

During funding lapses before Civiletti issued his interpretation, the government operated as though it were on a continuing resolution.⁹⁸ Federal offices and employees would operate as usual.⁹⁹ Once spending bills were passed, Congress retroactively funded spending gaps.¹⁰⁰

Although the legality of this course of action was brought into question by Civiletti's interpretation, it was effective in preventing the government from ever truly shutting down. Funding lapses were shutdowns in name only. Public services were not disrupted and Americans did not miss paychecks.¹⁰¹ This is an imperfect comparison, due to the use of retroactive funding rather than continuing resolutions. But it does provide precedence that the American government can run uninterrupted.

Brazil

Like Germany, Brazil's government structure is similar to that of the United States and features a strong executive branch.¹⁰² When Congress rejected President Luiz Inacio Lula da Silva's budget proposal in 2008, there was no disruption in government services.¹⁰³ Instead, the executive branch temporarily saw its power surge while Congress

⁹⁷ Federal Funding Gaps: A Brief Overview. PDF. Washington, D.C.: Congressional Research Service, February 4, 2019.

⁹⁸ Weber, Peter. "Why Other Countries Don't Shut Down Their Governments." *Theweek.com*. October 02, 2013. Accessed April 15, 2019. <https://theweek.com/articles/459377/why-other-countries-dont-shut-down-governments>.

⁹⁹ Waxman, Olivia B. "Why US Government Shutdowns Have Gotten Worse Since 1980." *Time.com*. January 18, 2018. Accessed April 15, 2019. <http://time.com/5107880/government-shutdowns-worse-history/>.

¹⁰⁰ Weber, Peter. "Why Other Countries Don't Shut Down Their Governments."

¹⁰¹ "Before 1980 the Federal Government Did Not Shut Down." *The Economist*. January 10, 2019. Accessed April 15, 2019. <https://www.economist.com/united-states/2019/01/10/before-1980-the-federal-government-did-not-shut-down>.

¹⁰² "Brazil: Government and History." *Scholastic.com*. January 2019. Accessed April 14, 2019. <http://www.scholastic.com/browse/subarticle.jsp?id=944>.

¹⁰³ Keating, Joshua E. "Why Don't Other Countries Have Government Shutdowns?" *ForeignPolicy.com*

composed a new budget.¹⁰⁴ Brazil's approach is quite similar to the approach of the United States prior to 1980 in that Brazil's government behaved as if there were an active continuing resolution - despite there not being one. While this approach would no longer be legal in the United States, it again shows that a government structured similar to ours can run successfully without an approved budget.

Pros and Cons

Incorporating preventative measures and backup plans have been successful in preventing government shutdowns in other countries, including those with governments similar to the United States. Knowing that similar legislation has worked to prevent government shutdowns, the focus shifts to whether or not the End Government Shutdowns Act is the right legislation for the United States. To determine that answers, pros and cons must both be considered.

End Government Shutdowns Act – Pros

-Continuing appropriations, also known as continuing resolutions, can be used to provide both annual appropriations and supplemental appropriations.¹⁰⁵ The End Government Shutdown Act proposes an automatic continuing resolution that would extend the appropriations of the previous fiscal year for 120 days. During the most recent shutdown, an estimated 5 million Americans in 2.2 million households saw their income directly impacted by the shutdown.¹⁰⁶ An additional 120 days of funding would ensure that those millions of American continued to earn income.

-Aside from households continuing to receive income, the 5 million Americans

¹⁰⁴ Weber, Peter. "Why Other Countries Don't Shut Down Their Governments."

¹⁰⁵ Hiniff, Bill, Jr. Basic Federal Budgeting Terminology. PDF. Washington, D.C.: Congressional Research Service, November 26, 2012.

¹⁰⁶ McCarthy, Tom. "America Shuts Down: How the Federal Government Closure Is Impacting Millions." TheGuardian.com. January 12, 2019. Accessed April 15, 2019. <https://www.theguardian.com/us-news/2019/jan/11/america-government-shutdown-trump-federal-workers>.

would also be able to continue being active members of the economy. Due in large part to the ripple effect of nonpayment to millions of Americans, the most recent shutdown had twice the negative impact on the economy relative to what Trump's administration initially estimated.¹⁰⁷ Although this is in part due to their surprising failure to consider that government contractors would not be paid during the shutdown, much of it was attributable to personal impacts of not partaking in restaurant meals, spending on entertainment, paying rent, utilities and other typical spending. The End Government Shutdowns Act would stave off these massive cuts for at least 120 days.

-During the most recent government shutdown, nine federal departments and dozens of agencies were impacted by the lapse of funding.¹⁰⁸ Six other federal departments had their budgets approved prior to the lapse and were not impacted. The End Government Shutdowns Act would address the two problems created by the preceding statements. First, no federal department or agencies would have to shut down due to a total lack of funding.¹⁰⁹ Second, there would be no instance where some departments would receive funding and others would not. Once 1% budget cuts were implemented, they would be applied universally – applying to both defense and non-defense spending.¹¹⁰

-Implementing the End Government Shutdowns Act would actually save

¹⁰⁷ Jones, Chuck. "Shutdown's Economic Impact More Than Double The White House's Original Estimate." *Forbes*. January 21, 2019. Accessed April 15, 2019. <https://www.forbes.com/sites/chuckjones/2019/01/16/white-house-more-than-doubling-the-shutdowns-negative-impact-on-the-economy/#47ea6f5159a1>.

¹⁰⁸ Collins, Michael. "A Look at What Public Services Will – and Won't – Be Interrupted during the Government Shutdown." *USAToday.com*. December 22, 2018. Accessed April 15, 2019.

¹⁰⁹ "As Shutdown Continues, Portman, Senate Colleagues Introduce Bill to Permanently End Government Shutdowns

¹¹⁰ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman.

taxpayers money.¹¹¹ Shutdowns hurt the finances of the United States in several ways, which result in taxpayers bearing the brunt of the cost of shutdowns:¹¹²

+Furloughed workers typically are paid retroactively, meaning taxpayers are paying salaries without receiving work in return.

+Federal workers cumulatively spend thousands of hours preparing the government for a shutdown and reopening the government following a shutdown. While taxpayers are paying for work to be accomplished, it is thousands of paid hours that could be applied elsewhere.

+Museums, national parks, state parks and visitor centers do not collect revenues and fees during shutdowns, meaning their funding must come from taxpayers.

End Government Shutdowns Act – Cons

-The federal government accounts for nearly 20% of spending in the U.S. economy.¹¹³ Planned federal spending in fiscal year 2018 exceeded \$4.1 trillion dollars.¹¹⁴ If the End Government Shutdowns Act were in place and it came time to initiate 1% cuts, at least \$41,000,000,000 fewer dollars would enter the economy.

- President Trump's 2018 proposed budget included projections through 2028. In this proposal, President Trump's team proposed incrementally increasing spending to \$6.1 trillion by 2028 while averaging roughly \$200 billion annual increases.¹¹⁵ If followed and projected incomes were accurate, this plan would nearly halve the deficit by

¹¹¹ Vinik, Danny. "Why the Government Shutdown Actually Costs Money." POLITICO.com. January 21, 2018. Accessed April 15, 2019. <https://www.politico.com/agenda/story/2018/01/21/why-the-government-shutdown-actually-costs-money-000624>.

¹¹² Brass, Clinton T. Shutdown of the Federal Government: Causes, Processes, and Effects.

¹¹³ Malinovskaya, Anna, and Louise Sheiner. "The Hutchins Center Explains: Federal Budget Basics." Brookings.edu. December 13, 2018. Accessed April 15, 2019. <https://www.brookings.edu/blog/up-front/2018/12/13/the-hutchins-center-explains-federal-budget-basics/>.

¹¹⁴ Amadeo, Kimberly. "Compare Congress' Enacted Budget to Trump's Requests." TheBalance.com. February 3, 2019. Accessed April 15, 2019. <https://www.thebalance.com/fy-2018-trump-federal-budget-request-4158794>.

¹¹⁵ *EFFICIENT, EFFECTIVE, ACCOUNTABLE AN AMERICAN BUDGET*. PDF. Washington, D.C.: Office of Management and Budget, February 2018.

2028. Still - federal spending would still make up approximately 18% of the US GDP in 2028. Although President Trump will certainly no longer be in office at that point and plans will likely change, these projections illustrate just how reliant the country's economy has become on federal spending. Any cut to that spending hampers the country's GDP.

-After Senator Portman first introduced this legislation in 2013, the Center on Budget and Policy Priorities (CBPP) did an analysis of his proposal.¹¹⁶ They found that if budget agreements were not met for an extended period and the ACR enacted by the act were in place for years, the impact could be far greater than intended. The 1% cuts in nominal terms are straight-forward, but the CBPP also measured cuts after accounting for projected growth and inflation:



Figure 4. Percent cut in appropriations relative to 2013 post-sequestration level if automatic continuing resolution triggered each year

-When administrations change, the priorities of the newly elected officials change.

¹¹⁶ Kogan, Richard. Portman Proposal for Automatic Continuing Resolutions Would Impede Appropriations Process and Could Produce Very Deep Funding Cuts. PDF. Washington, D.C.: Center on Budget and Policy Priorities, November 12, 2013.

If ACRs were put in place, Congress would be tied to those appropriations and could not adjust spending according to new objectives.¹¹⁷ As a result, new programs would be underfunded and existing/ineffective programs would be overfunded.¹¹⁸

-Although speculative, it is worth noting that many believe the threat of a shutdown is a strong enough factor to pull lawmakers into negotiations.¹¹⁹ Without the threat of a shutdown, some speculate that lawmakers will be less inclined/willing to negotiate new budgets. Some ACR proponents, though, believe that eliminating the threat of a shutdown would encourage more bipartisan appropriations bills discussions and dissuade the practice of using appropriations bills to try to slide legislation through in the last minute.¹²⁰

Efficiency

Following the 2013 shutdown, the Office of Management and Budget released an examination of impacts of the shutdown. The findings included \$2.5 billion in payments for furloughed workers, \$500 million lost in visitor spending and \$11 million lost in revenue due to closed National Parks, stalled U.S. Food and Drug Administration approvals and more.¹²¹ Due to this report and others like it, there are many that believe that a government shutdown is actually more costly long-term than maintaining a fully operational government.¹²² Although there is not a consensus, it warrants pointing out

¹¹⁷ Tollestrup, Jessica. *Automatic Continuing Resolutions: Background and Overview of Recent Proposals*. PDF. Washington, D.C.: Congressional Research Service, August 20, 2015.

¹¹⁸ Board, Editorial. "We Don't Need More Shutdowns. But Proposals to Prevent Them Come with Risks."

¹¹⁹ Zhou, Li. "The Debate Around Putting an End to All Government Shutdowns, Explained." Vox.COM. January 29, 2019. Accessed March 24, 2019. <https://www.vox.com/policy-and-politics/2019/1/29/18202287/ending-government-shutdowns-bills>.

¹²⁰ *REPORT OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE AND ITS SUBCOMMITTEES FOR THE ONE HUNDRED SIXTH CONGRESS*. PDF, p 3.

¹²¹ *Impacts and Costs of the October 2013 Federal Government Shutdown*. PDF. Washington, D.C.: WhiteHouse.Gov, November 2013.

¹²² Carroll, Lauren. "Rand Paul Rightly Says the Government Shutdown Was More Expensive Than Keeping It Open." PolitiFact.com. Accessed March 25, 2019. <https://www.politifact.com/truth-o-meter/statements/2014/aug/07/rand-paul/rand-paul-rightly-says-government-shutdown-was-mor/>.

that most that argue that the government shutdown saves money are Libertarians. Their advocacy for smaller government must be considered.

Much of government shutdown costs come from various payments that must be made. Furloughed workers eventually get paid despite not working, making the cost of a shutdown government more costly.¹²³ Additionally, nearly 70% of federal expenditure is dedicated to entitlement programs.¹²⁴ Recipients of these funds either receive back pay or do not miss a payment. So lost federal income is even more harmful.

The most recent shutdown cost the U.S. economy \$11 billion dollars. The nonpartisan Congressional Budget Office released data in January that detailed the financial impacts of the shutdown.¹²⁵ Although most losses were projected to be recuperated, \$3 billion in losses are considered permanent. Additionally, the economy is expected to be .02% smaller than projected in 2019. Forbes compared the lost money to the amount request by Trump for a border wall:

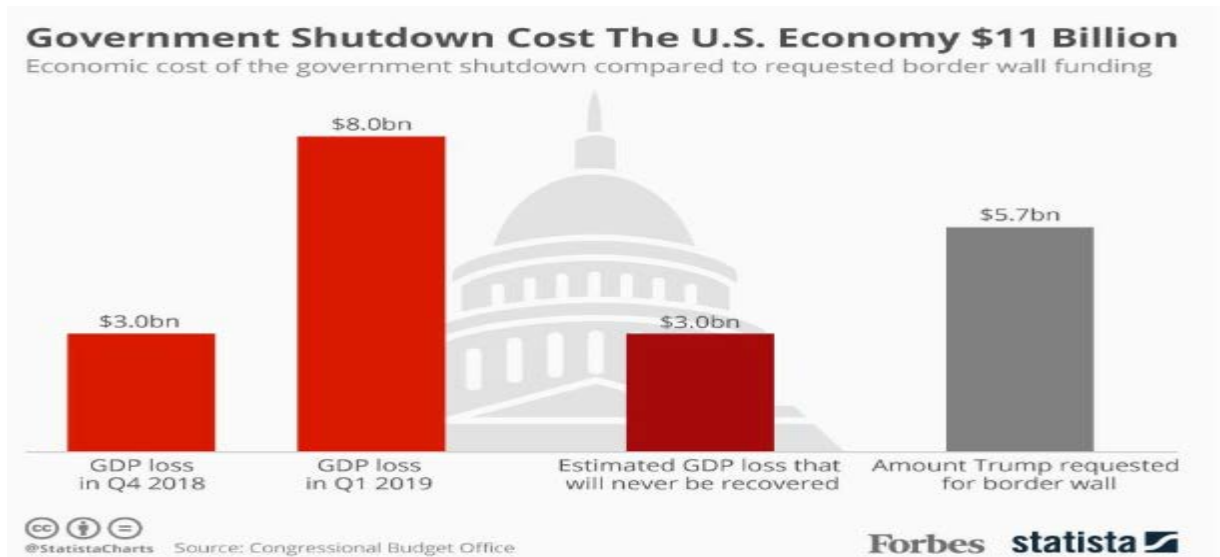
Figure 5. Government Shutdown Cost The U.S. Economy \$11 Billion¹²⁶

¹²³ *Impacts and Costs of the October 2013 Federal Government Shutdown.*

¹²⁴ Miron, Jeffrey. "Some Libertarians Cheer When the Government Shuts Down. Here's Why They Shouldn't." Vox.com. January 21, 2018. Accessed March 24, 2019. <https://www.vox.com/the-big-idea/2018/1/21/16916082/government-shutdown-size-of-government>.

¹²⁵ *The Effects of the Partial Shutdown Ending in January 2019.* PDF. Washington, D.C.: Congressional Budget Office, January 2019.

¹²⁶ McCarthy, Niall. "The Government Shutdown Cost The U.S. Economy \$11 Billion [Infographic]." Forbes. January 30, 2019. Accessed March 25, 2019. <https://www.forbes.com/sites/niallmccarthy/2019/01/30/the-government-shutdown-cost-the-u-s-economy-11-billion-infographic/#19cd13fb260e>.



There is not a consensus on how much the GDP or economy is impacted during a shutdown. As a result, a clear consensus cannot be reached on how much more efficient this policy would be. It can be reasonably concluded, though, that the government saves money and is more efficient when it does not experience shutdowns.¹²⁷

POLITICAL ANALYSIS

When considering the political impact of supporting and passing the “End Government Shutdowns Act,” one must consider stakeholders and their position, the public at large and their position, political benefits and costs, and potential political strategies.

Public Position

Before the December 2018-January 2019 shutdown, voters made their opposition to shutting down the government over funding issues related to the border wall clear by a 62-34 margin.¹²⁸ 51% of voters responded that they would blame President Trump and Republicans in Congress more than Democrats. Only 37% percent of Americans polled

¹²⁷ Tankersley, Jim. "A Shut Down Government Actually Costs More Than an Open One." NYTimes.com. January 09, 2019. Accessed March 25, 2019. <https://www.nytimes.com/2019/01/09/us/politics/shutdown-government-costs.html>.

¹²⁸ U.S. VOTERS SAY NO WALL AND DON'T SHUT DOWN GOVERNMENT, QUINNIPIAC UNIVERSITY NATIONAL POLL FINDS; FOCUS ON ISSUES, NOT IMPEACHMENT, VOTERS TELL DEMS 7-1. PDF. Hamden, CT: Quinnipiac University/Poll, December 18, 2018.

said they would blame Democrats in Congress – with the balance blaming both parties equally. Independent voters reported that they would blame Trump and Republicans more than Democrats 48-39%. Although this data was collected *before* the shutdown as a hypothetical, it provides insight on how American voters respond to the *idea* of a shutdown (as the most recent one has now ended).

Six well-respected polls were released in short succession in mid-January regarding the shutdown. They came from the Pew Research Center, Quinnipiac University, PBS NewsHour/Marist Poll, Gallup, CNN/SSRS and ABC/Washington Post. Each poll had unique components and focuses, but there were some collective conclusions that come into focus when examining them together: Americans dislike shutdowns and largely blamed the White House for the most recent one.

One of the most revealing statistics to come from those polls came from the PBS NewsHour/Marist poll.¹²⁹ 70% of Americans responded that “shutting down the federal government in order to reach an agreement on government policy is a bad strategy,” with only 22% describing such a move as good strategy. The idea that Americans were firmly opposed to shutdowns as a negotiation tool was continuously supported throughout the polls.

In the Gallup poll, a significant number of survey respondents identified the government as the most important problem facing the United States today.¹³⁰ In December, 19% agreed with that statement. After a month of the shutdown, that number rose to 29%.¹³¹ Americans’ frustration with the shutdown was also reflected in their

¹²⁹ PBS NewsHour/Marist Poll National Tables January 10th through January 13th, 2019. PDF. January 14, 2019.

¹³⁰ Younis, Mohamed. "Government Spikes as Key U.S. Problem During Shutdown." Gallup.com. January 16, 2019. Accessed April 6, 2019. <https://news.gallup.com/poll/246050/government-spikes-key-problem-during-shutdown.aspx>.

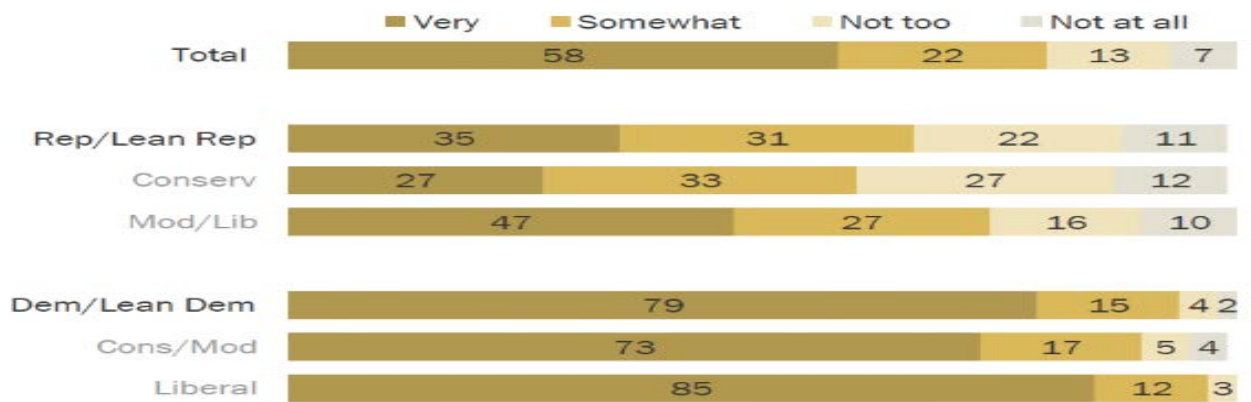
¹³¹ Jones, Jeff, and Lydia Saad. Gallup Poll Social Series: Mood of the Nation. PDF. Gallup News Service, January 11, 2019.

response to being asked if they are satisfied with the “way things are going in the U.S.” In November 2018, 35% of respondents said yes. By January, that number had dropped to 26%.

According to the Pew Research Center poll, only 7% of survey respondents did not view the shutdown as a serious problem for the country.¹³² 80% of respondents described the shutdown as at least “somewhat” of a problem, with 58% of them calling it a very serious problem. Over 50% of every sub-political group identified by Pew responded that the shutdown was at least somewhat of a problem.

Majority of Americans say shutdown is ‘very serious’ problem for the nation

% who say the government shutdown is a ___ serious problem for the country ...



Note: Don't know responses not shown.
Source: Survey of U.S. adults conducted Jan. 9-14, 2019.

PEW RESEARCH CENTER

Figure 6. Majority of Americans say shutdown is ‘very serious’ problem for the nation¹³³

Pew Research Center poll respondents also indicated that they disapproved of how all concerned parties handled shutdown negotiations. 61% of respondents disapproved of how President Trump handled his end, while 60/53% of respondents

¹³² "Most Border Wall Opponents, Supporters Say Shutdown Concessions Are Unacceptable." People-Press.org. February 13, 2019. Accessed April 6, 2019. <https://www.people-press.org/2019/01/16/most-border-wall-opponents-supporters-say-shutdown-concessions-are-unacceptable/>.

¹³³ Most Border Wall Opponents, Supporters Say Shutdown Concessions Are Unacceptable. PDF. Washington, D.C.: Pew Research Center, April 5, 2019.

responded similarly for Congressional Republicans/Democrats, respectively.¹³⁴ While these numbers reflect overall dissatisfaction, the shutdown also became remarkably partisan. Republican voters approved of how Trump and Congressional Republicans handled the shutdown 76% and 93%, respectively.¹³⁵ Democrat voters' disapproval of how President Trump handled the shutdown registered at 93%, while their support for how Democrats handled the shutdowns came in at 71%.¹³⁶

Partisan bias was reflected in other polls as well. 63% of the Quinnipiac University Poll respondents supported a Democratic proposal to reopen parts of the government on January 14th.¹³⁷ 52% of Republican respondents, though, opposed the Democrat plan. Republicans and President Trump received more of the blame for the shutdown from respondents, with 56% of assigning blame to those two groups (only 36% blamed Democrats). This ratio was fairly consistent in similar questions throughout the polls.

Shutdown support and blame being a partisan issue was supported by the CNN/SSRS poll as well.¹³⁸ This poll added the insight that public perception of shutdowns still does not favor Republicans at a time when a Democrat is President. 55% of January 2019 respondents blamed President Trump for the 2018-2019 shutdown, while only 32% of respondents blamed Democrats in Congress. In a very similar poll in October of 2013, only 34% of survey respondents blamed President Obama – while 52% blamed Republicans in Congress.

¹³⁴ Most Border Wall Opponents, Supporters Say Shutdown Concessions Are Unacceptable. PDF.

¹³⁵ Ibid.

¹³⁶ "Most Border Wall Opponents, Supporters Say Shutdown Concessions Are Unacceptable." People-Press.org.

¹³⁷ U.S. VOTERS BACK DEM PLAN TO REOPEN GOVERNMENT 2-1, QUINNIPIAC UNIVERSITY NATIONAL POLL FINDS; MORE U.S. VOTERS SAY TRUMP TV ADDRESS WAS MISLEADING. PDF. Hamden, CT: Quinnipiac University/Poll, January 14, 2019.

¹³⁸ Trump-Shutdown. PDF. Glen Mills, PA: SQL Server Reporting Services (SSRS)/CNN, January 13, 2019.

A Washington Post-ABC News poll from 2013 substantiated these findings with similar results.¹³⁹ In this poll, Americans still placed more of the blame on Congressional Republicans than President Obama. Even more telling is that nearly 60% of Republicans disapproved of how their own party handled the 2013 shutdown. In short: shutdowns have been bad for Republicans.

Public Summary

It is abundantly evident that the American public does not support partial government shutdowns. The polls reviewed also indicate that shutdowns were more harmful to the public's perception of Republicans than they were of Democrats. Supporting a proposal to end government shutdowns, then, would likely gain favor with the American public.

Key Stakeholders

President Trump

President Trump is likely to continue to support partial government shutdowns despite the negative responses from the American public.¹⁴⁰ Even as he received the bulk of blame for the shutdown, President Trump's approval rating was fairly static during the shutdown.¹⁴¹ Voters gave President Trump a negative 39-52 approval rating on December 19, just before the shutdown. In a poll released on January 15, voters gave him a similar score – negative 41-55. Trump's base provides a consistent floor for his approval ratings. Since June 2018, President Trump's approval rating has not risen above

¹³⁹ "October 2013 Post-ABC Poll - Obama, Republicans and Shutdown Fallout." The Washington Post. October 25, 2013. Accessed April 12, 2019. https://www.washingtonpost.com/page/2010-2019/WashingtonPost/2013/10/22/National-Politics/Polling/release_272.xml?tid=a_inl_manual.

¹⁴⁰ Everett, Burgess, Sarah Ferris, and Caitlin Oprysko. "Trump Says He's 'proud' to Shut down Government during Fight with Pelosi and Schumer." POLITICO.com. December 11, 2018. Accessed April 15, 2019. <https://www.politico.com/story/2018/12/11/trump-border-wall-congress-budget-1055433>.

¹⁴¹ January 15, 2019 - Shutdown Does Not Change Trump's Already Bad Grades, Quinnipiac University National Poll Finds; Trump Approval For Handling Economy Down Slightly. PDF. Hamden, CT: Quinnipiac University/Poll, January 15, 2019.

43%, but has also not dipped below 38%.¹⁴²

Shutdown Impact on Congressional Leaders

Before examining specifics, understanding the impact shutdowns have on the approval of Congressional leaders is valuable context.¹⁴³ Democrat Nancy Pelosi (House Speaker) had her highest favorability rating (negative 35-48) since March of 2010. Your own favorability rating improved similarly, with 21% being your highest since November 2010. Chuck Schumer (Senate Minority Leader) saw no major impact on his own favorability rating. House Minority Leader Kevin McCarthy was not considered, as 72% of survey respondents believed that they had not heard enough about him to form an opinion.

Republican Senators

Senator Rob Portman of Ohio would welcome your support. Senator Portman has introduced this legislation during each session of Congress that he has been a part of – back to the 112th Congress.¹⁴⁴ While support for the measure has ebbed and flowed, it has never been stronger than the current proposal, which has 32 cosponsors in the Senate.¹⁴⁵ Senators Michael Enzi (R-WY), James Risch (R-ID), John Barrasso (R-WY), Mike Lee (R-UT), Chuck Grassley (R-IA), Pat Toomey (R-PA), Johnny Isakson (R-GA), Richard Burr (R-NC), John Hoeven (R-ND), John Boozman (R-AR) John Cornyn (R-TX), Ron Johnson (R-WI), and Roger Wicker (R-MS) have all been cosigners since the 2012 edition. While you have refrained from supporting the most recent iteration of this bill,

¹⁴² January 15, 2019 - Shutdown Does Not Change Trump's Already Bad Grades, Quinnipiac University National Poll Finds; Trump Approval For Handling Economy Down Slightly. PDF.

¹⁴³ January 15, 2019 - Shutdown Does Not Change Trump's Already Bad Grades, Quinnipiac University National Poll Finds; Trump Approval For Handling Economy Down Slightly. PDF.

¹⁴⁴"Senator Rob Portman." Congress.gov. Accessed April 12, 2019. [https://www.congress.gov/member/rob-portman/P000449?r=29650&q=%7B%22senate-](https://www.congress.gov/member/rob-portman/P000449?r=29650&q=%7B%22senate-committee%22%3A%22Appropriations%22%2C%22type%22%3A%22all%22%7D)

¹⁴⁵ U.S. Congress. Senate. Appropriations. Congress.gov. 116th Cong., 1st sess. S. S.104. Accessed April 12, 2019. <https://www.congress.gov/bill/116th-congress/senate-bill/104/cosponsors>

you were also a cosponsor of the 2012 introduction of this bill. There are an additional 20 Senate Republicans that could support this bill, but there would likely be a need to recruit Democrat cosponsors – as President Trump is likely an opponent.¹⁴⁶

U.S. House of Representatives

The 116th House of Representatives is made up of 235 Democrats compared to 198 Republicans.¹⁴⁷ Bipartisan support for this proposal would be needed. Many Representatives, including Lloyd Smucker (R-PA), Brendan Boyle (D-PA) and Glenn Grothman (R-WI), have introduced their own version of automatic continuing resolution bills.¹⁴⁸ They could potentially be recruited to support the End Government Shutdowns Act.

Of the 11 cosponsors to the End Government Shutdowns Act House companion bill hr791-116, nine are Republican and two are Democrat.¹⁴⁹ Ohio Republican Representative Troy Balderson introduced the bill. It is encouraging that there is some Democratic support for the bill, but finding more support may prove to be more difficult than a first look would indicate.

In late January, Congress pursued a symbolic resolution naming that shutdowns are “detrimental” and should be prevented.¹⁵⁰ In order for the resolution to pass, two-thirds of the House had to vote in favor. Due to semantics arguments, the show of unity

¹⁴⁶ "U.S. Senate Election Results 2018." NYTimes.com. November 06, 2018. Accessed April 12, 2019. <https://www.nytimes.com/interactive/2018/11/06/us/elections/results-senate-elections.html>.

¹⁴⁷ "116th United States Congress." Ballotpedia.org. Accessed April 13, 2019. https://ballotpedia.org/116th_United_States_Congress.

¹⁴⁸ MacGuineas, Maya. "How to Keep Government Running When Lawmakers Fail to Do Their Job." TheHill.com. January 30, 2019. Accessed April 13, 2019. <https://thehill.com/opinion/finance/427643-how-to-keep-government-running-when-lawmakers-fail-to-do-their-job>.

¹⁴⁹ U.S. Congress. House. Appropriations. *Congress.gov*. By Rob Portman. 116th Cong. H. H.R.791. Accessed April 14, 2019. <https://www.congress.gov/bill/116th-congress/house-bill/791>

¹⁵⁰ Brodey, Sam. "Democrats Tank Bills to Effectively End Government Shutdowns." TheDailyBeast.com. January 31, 2019. Accessed April 13, 2019. <https://www.thedailybeast.com/democrats-tank-bills-to-effectively-end-government-shutdowns?ref=scroll>.

never happened. Many Democrat Representatives, including Pramila Jayapal (D-WA), have announced their opposition to both ACRs and any ACR that would include automatic cuts to spending – in part due to concern that an ACR would discourage compromise in negotiations.

Nancy Pelosi

House Speaker Nancy Pelosi independently offered her support for legislation that would keep government funding at existing spending levels while a new deal was being reached.¹⁵¹ She offered clear support for continuing resolutions as well.¹⁵² Pelosi may ultimately oppose the “End Government Shutdowns Act” due to the automatic cuts that could potentially reduce federal spending. She supported an older automatic continuing resolution that would keep government spending levels constant with no threats of cuts, but this legislation is no longer an active proposal.¹⁵³ She has not offered an opinion on the End Government Shutdowns Act to date.

Chuck Schumer

Senate Minority Leader Chuck Schumer has offered his support for passing a continuing resolution to keep government spending levels current in cases where a new budget cannot be agreed to.¹⁵⁴ Schumer supported the Stop STUPIDITY Act, which cuts funding for the legislative branch and executive office. It maintains all other funding at current levels.

¹⁵¹ Newell, Jim. "Was the Shutdown Painful Enough to Convince Congress to Never Let It Happen Again?" Slate.com. January 29, 2019. Accessed April 13, 2019. <https://slate.com/news-and-politics/2019/01/shutdown-automatic-continuing-resolution-fund-government-budget.html>.

¹⁵² Stein, Sam. "Pelosi Embraces Legislation To Effectively Prevent Future Government Shutdowns." TheDailyBeast.com. January 26, 2019. Accessed April 13, 2019. <https://www.thedailybeast.com/pelosi-embraces-legislation-to-effectively-prevent-future-government-shutdowns>.

¹⁵³ Stein, Sam. "Pelosi Embraces Legislation To Effectively Prevent Future Government Shutdowns."

¹⁵⁴ Samuels, Brett. "Schumer Says Congress Should Make Sure Shutdown 'never Happens Again'." TheHill.com. January 28, 2019. Accessed April 13, 2019. <https://thehill.com/homenews/senate/427206-schumer-backs-bill-to-make-sure-shutdown-never-happens-again>.

Kevin McCarthy

House Minority Leader Kevin McCarthy directly supported passing an automatic continuing resolution as a means to prevent future shutdowns.¹⁵⁵ He also seemingly supported the Democrat-introduced Stop STUPIDITY Act when he said that he would opt to “not pay the members of Congress and Senate” if they could not agree to a new budget.

Nita Lowey

House Appropriations Committee chair Nita Lowey (D-NY) announced that she would oppose any ACR that would place the government on “autopilot.”¹⁵⁶ She also went on to express her belief that any ACR would limit Congressional power of the purse and shift more power to the executive branch. Her skepticism combined with her position as House Appropriations Committee chair significantly reduce the chances of the End Government Shutdowns Act (or any similar legislation) passing through the House.

Steny Hoyer

House Majority Leader Steny Hoyer (D-MD) rejected the idea of an ACR, calling it a bad way to govern.¹⁵⁷ Hoyer expressly rejected Portman’s End Government Shutdown Act, adding that he believed Republicans would like to run the government this way for the next decade to reduce spending.¹⁵⁸ Hoyer also shot down the Stop STUPIDITY Act, saying that withholding pay is “childish” and “un-American.” Hoyer

¹⁵⁵ Todd, Chuck. "Meet the Press - January 27, 2019." NBCNews.com. January 27, 2019. Accessed April 13, 2019. <https://www.nbcnews.com/meet-the-press/meet-press-january-27-2019-n963321>.

¹⁵⁶ U.S. House of Representatives. Committee on Appropriations. "Lowey Statement on Proposals for Automatic Continuing Resolutions." News release, January 29, 2019. House.gov. Accessed April 13, 2019. <https://appropriations.house.gov/news/press-releases/lowey-statement-on-proposals-for-automatic-continuing-resolutions>.

¹⁵⁷ Brodey, Sam. "Democrats Tank Bills to Effectively End Government Shutdowns

¹⁵⁸ McPherson, Lindsey, and Kellie Mejdric. "2 Key Democrats Against Legislation Using Automatic CRs to Prevent Shutdowns." RollCall.COM. January 29, 2019. Accessed April 14, 2019. <https://www.rollcall.com/news/congress/hoyer-lowey-oppose-legislation-using-automatic-crs-prevent-shutdowns>.

theorized that capping the time that Americans had to work during a shutdown at 7 days would be a “wake-up call” to prevent future shutdowns.

Political Benefits and Costs

Benefits

Political Support

Including Senator Portman, there are currently 33 Republican Senators signed on to support the End Government Shutdowns Act.¹⁵⁹ Your support would bring that number to 34, with 19 remaining Republican Senators to recruit. Supporting this bill would be an opportunity to strengthen ties with Senator Portman. Republicans looking for an alternative to Trump’s approach would likely welcome your support and join your cause.

There may also be an opportunity to recruit some Democrats to your side, as there is Democratic support for the idea of an automatic continuing resolution to keep the government running when the appropriations deadline is not met.¹⁶⁰ Senator Warner’s Stop STUPIDITY Act, though, only has two cosigners to this point.¹⁶¹ With some negotiations and compromise, potential may exist to turn this effort into a bipartisan approach.

Additional key Senators in positions of influence that have already signed on as cosponsors of this bill are Senate Finance Chairman Chuck Grassley (R-IA) and GOP

¹⁵⁹ U.S. Congress. Senate. Congress.gov. Appropriations Cong. S. Rept. S.104. Accessed April 14, 2019. <https://www.congress.gov/bill/116th-congress/senate-bill/104/cosponsors>.

¹⁶⁰ "S. 198: Stop the Shutdowns Transferring Unnecessary Pain and Inflicting Damage In The Coming Years Act." GovTrack.us. Accessed April 14, 2019. <https://www.govtrack.us/congress/bills/116/s198/summary>.

¹⁶¹ U.S. Congress. Senate. Appropriations. Congress.gov. 116th Cong., 1st sess. S. S.198. Accessed April 5, 2019. <https://www.congress.gov/bill/116th-congress/senate-bill/198/cosponsors?q=%7B%22search%22%3A%5B%22mark+warner%22%5D%7D&r=11&s=2>

Conference chairman John Barasso (R-WY).¹⁶²

Popular Support

Pew Research compiled polls taken in response to shutdowns dating back to the 1990 shutdown.¹⁶³ There has been one constant in public voice: the public does not like shutdowns. You would likely receive an uptick in public support if you were to support a proposition to end government shutdowns altogether. Offering your support to the End Government Shutdowns Act could serve as a point of unity amongst congressional Republicans, with voters adding in their support as well.

Mixed Impact

If an ACR were in place, it would be easier to reduce the size of the government. Those favoring a reduction in federal spending could simply reject all budget proposals and allow the government to initiate mandatory cuts.¹⁶⁴ Similarly, any President could veto a budget if they preferred existing levels to any new proposal. While this approach would reduce the size of entitlements that you and many of your supporters oppose and could be popular amongst conservative voters, it is not necessarily the intended result of the proposition.¹⁶⁵

Proponents of small government may initially celebrate any opportunity to reduce the size of government, but many small government supporters also favor big defense budgets. If this act were to become law, the Department of Defense would be hit with the

¹⁶² Mui, Ylan. "Lawmakers Offer Proposals to End Government Shutdowns for Good - While the 'Pain Is Fresh'." CNBC.com. January 30, 2019. Accessed April 15, 2019. <https://www.cnbc.com/2019/01/29/lawmakers-offer-proposals-to-end-government-shutdownsfor-good.html>.

¹⁶³ DeSilver, Drew. "Americans View This Shutdown Much as They Did Previous Ones – Poorly and With Much Anxiety"

¹⁶⁴ Kogan, Richard, and Paul N. Van De Water. "Automatic Continuing Resolutions Not a Good Solution for Government Shutdowns." Cbpp.org. January 30, 2019. Accessed April 14, 2019.

<https://www.cbpp.org/research/federal-budget/automatic-continuing-resolutions-not-a-good-solution-for-government>.

¹⁶⁵ Bloomberg. "Mitch McConnell Blames Entitlements, Not GOP, for Rising Deficits." Fortune.com. October 16, 2018. Accessed April 14, 2019. <http://fortune.com/2018/10/16/mitch-mcconnell-us-budget-deficit/>.

same mandatory cuts as the rest of the government. Causing the military to reduce their spending is unlikely to go over well with your supporters and is against your personal stance on the military.¹⁶⁶

Costs

Election Ramifications

By opting to support the End Government Shutdowns Act, you could potentially weaken or threaten alliances with President Trump. As you know from experience, President Trump is not one to refrain from publically expressing displeasure with those that oppose him.¹⁶⁷ With you having an reelection campaign to concern yourself with in 2020, it is worth noting that President Trump carried a higher percentage of votes in Kentucky (62.5%) than either you (56.2%) or fellow Republican Kentucky Senator Rand Paul (57.3%) were able to.¹⁶⁸ ¹⁶⁹Although Kentucky is solidly Republican, Trump's supreme popularity in your state is worth noting.

Weakened Relationships

In addition to Trump, supporting the End Government Shutdowns Act could lead to potential tension with Senator Dr. Rand Paul. Senator Paul reintroduced the Government Shutdown Prevention Act in January 2019.¹⁷⁰ Paul's plan would operate very similarly to the End Government Shutdowns Act, with the key difference being the

¹⁶⁶ Ferrechio, Susan, and J. Scott Applewhite. "Mitch McConnell Sets Up Clash With Democrats on Military Spending." *WashingtonExaminer.com*. January 03, 2018. Accessed April 14, 2019.

<https://www.washingtonexaminer.com/mitch-mcconnell-sets-up-clash-with-democrats-on-military-spending>.

¹⁶⁷ Trump, Donald J. "Can You Believe That Mitch McConnell..." *Twitter.COM*. August 10, 2017. Accessed April 14, 2019. <https://twitter.com/realdonaldtrump/status/895599179522650112?lang=en>.

¹⁶⁸ "Kentucky Election Results 2016." *NYTimes.com*. August 1, 2017. Accessed April 13, 2019. <https://www.nytimes.com/elections/2016/results/kentucky>.

¹⁶⁹ "United States Senate Election in Kentucky, 2020." *Ballotpedia.org*. Accessed April 13, 2019. https://ballotpedia.org/United_States_Senate_election_in_Kentucky,_2020.

¹⁷⁰ U.S. Senate. "Dr. Rand Paul Reintroduces Bill to Prevent Government Shutdowns." News release, January 16, 2019. *Senate.gov*. Accessed April 13, 2019. <https://www.paul.senate.gov/news/dr-rand-paul-reintroduces-bill-prevent-government-shutdowns>.

absence of a 120 day grace period. Senator Paul has had no issue with attacking you in the past, though, so this consideration may be moot.¹⁷¹

There are relationships outside your own party to consider as well. To this point, both you and Nancy Pelosi have refrained from throwing your support behind any of the plethora of bills that propose ways to end the practice of government shutdowns.¹⁷² By opting to support an exclusively Republican-backed End Government Shutdowns Act, a likely response would be Pelosi responding in-kind by supporting an exclusively Democrat-backed plan.

Power Shift

If any automatic continuing resolution were passed to avoid shutdowns, an accompanying shift in power would also result. An ACR would lessen the power of the purse held by Congress by willingly (albeit temporarily) relinquishing the ability to determine the budget. In many cases, Congress also provides explicit directions with appropriated funds – especially defense appropriations.¹⁷³ Congressional directions would no longer constrain appropriation spending under an ACR, though, which would significantly boost the authority of the sitting administration until the appropriations process was completed.

Ameliorating Costs

The costs of supporting the End Government Shutdown Act are potentially steep. Weakening key alliances inside and outside of your own party could prove to be a

¹⁷¹ Clark, Lesley. "Kentucky Senators McConnell and Paul Find Themselves On Opposite Sides. Again." McClatchydc.COM. August 24, 2018. Accessed April 13, 2019. <https://www.mcclatchydc.com/news/politics-government/article217128400.html>.

¹⁷² Wagner, Erich. "The Various Plans to Avert Future Government Shutdowns." GovernmentExecutive.COM. January 31, 2019. Accessed April 14, 2019. <https://www.govexec.com/management/2019/01/various-plans-avert-future-shutdowns/154563/>.

¹⁷³ Kogan, Richard, and Paul N. Van De Water. "Automatic Continuing Resolutions Not a Good Solution for Government Shutdowns."

difficult landscape to navigate, particularly when it comes time to pursue reelection.

The popularity of the End Government Shutdowns Act with your fellow Republican Senators and the desire of the American public to end government shutdowns could swing the balance toward supporting the act. It essentially comes down to priorities. The majority of Republican Senators have supported the End Government Shutdowns Act. The majority of Americans want to put an end to government shutdowns. Supporting the End Government Shutdowns Act is an option to appease the majority in both cases.

Potential Strategies

If you were to opt to support and pursue the End Government Shutdowns Act, there should be a plan in place to pursue its passing. Publically supporting the bill would likely be welcome news from Republican supporters and the Republican Senators already signed on as cosponsors. Supporting the bill would likely be well-received by the conservative American public. This may not be enough to ensure its passing, though.

Working to secure Democratic support for this measure may be the optimal route to ensuring that it is passed. That will not be easy, though, as we are currently living in the most partisan Congress in living memory.¹⁷⁴ Along with a host of others, you declared your support for bipartisan efforts to prevent a future government shutdown.¹⁷⁵ As unlikely as it may be to secure broad Democratic support for the End Government Shutdowns Act, securing some bipartisan support is the optimal route.

RECOMMENDATION

¹⁷⁴ Jalan, Akhil. "Political Partisanship: A Look at the Data." TowardsDataScience.com. August 03, 2017. Accessed April 14, 2019. <https://towardsdatascience.com/political-partisanship-a-look-at-the-data-e71946199586?fbclid=IwAR2WbmG02kLwLpQ8k8Go5NkLjYhHzIuhAanwFwPxY00LaUfu--L0XbSaYAI>.

¹⁷⁵ Caldwell, Leigh Ann, and Alex Moe. "Momentum Grows for Legislation to End Government Shutdowns." NBCNews.com. January 29, 2019. Accessed April 14, 2019. <https://www.nbcnews.com/politics/congress/momentum-grows-legislation-end-government-shutdowns-n964101>.

After analyzing country's response to failing to meet budget deadlines, it is clear that change is needed. The End Government Shutdowns Act offers an attempted solution and is popular within your own party. It is not popular across the aisle, though, having received almost no Democratic support. Both Republicans and Democrats have supported the idea of an automatic continuing resolution in order to end government shutdowns, though.¹⁷⁶

Although there are some in both parties that object to automatic continuing resolutions in principal, the biggest point of dissension has been what factors will be included to motivate Congress to pass a new budget if an automatic continuing resolution is in place. Republican propositions like The End Government Shutdowns Act tend to favor built-in spending cuts, while Democratic propositions tend to favor proposals that keep spending levels current and use tactics like removing Congressional and Executive office funding to motivate lawmakers.^{177 178}

With both sides being willing to support an ACR, the recommendation here is not to overcomplicate the matter. Instead of championing and supporting the End Government Shutdown Act, it would be best to advocate for the creation of a new bipartisan bill that creates an automatic continuing resolution that does not do anything else. No riders, arbitrary cuts, or pay withholdings need to be included. Instead of a battle of diplomatic jockeying to see which side can "win" with their proposal, it makes more sense to do what is in the best interest of the American public by ensuring that the government is no longer susceptible to shutdowns. Nothing more, nothing less.

¹⁷⁶ Gale, William G. "Shutdowns Hurt the People the Government Is Meant to Protect. Here's How to End Them." Brookings.edu. February 13, 2019. Accessed April 21, 2019. <https://www.brookings.edu/opinions/shutdowns-hurt-the-people-the-government-is-meant-to-protect-heres-how-to-end-them/>.

¹⁷⁷ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman.

¹⁷⁸ U.S. Appropriations. Congress.gov. 116th Cong. S.198.

Recommendation Cons

One of the biggest benefits of supporting the End Government Shutdowns Act is its popularity amongst conservatives. By adding your name to those that support the measure, you would be adding your name to a list that is already comprised of 33 Republican Senators.¹⁷⁹ Additionally, your appeal would increase with those that oppose Trump – which admittedly has negative impacts as well. The American public – including conservatives – have expressed their disdain for shutdowns. Opting to support the End Government Shutdowns Act would put you publically in favor of supporting *specific* measures to end shutdowns, rather than strictly theoretical.

By opting not to publically support and push the End Government Shutdowns Act, you would be foregoing the boost in conservative support and opportunity to offer a Republican-conceived solution for the problem of shutdowns. This is less than ideal. There are more persuasive and pervasive factors, though, that make recommending against the End Government Shutdowns Act in favor of a bipartisan ACR bill the optimal choice.

Recommendation Pros

Throughout this memo, a few trends have been established: the American public wants to end to government shutdowns and lawmakers disagree on how to get there – despite also generally agreeing that shutdowns should end. The amount of support needed for a bill to end shutdowns, the impact of the End Government Shutdowns Act and the potential political gains of spearheading a bipartisan bill to end government shutdowns combine to make the recommendation of not supporting the End Government Shutdowns Act the best choice.

¹⁷⁹ U.S. Congress. Senate. Appropriations. End Government Shutdowns Act. By Rob Portman.

Support Needed

As this memo established, President Trump is likely to oppose any measure that leads to an end to government shutdowns. In order to deliver an alternative to government shutdowns, any bill will likely need to be a veto-proof amount of support. The End Government Shutdowns Act is not likely to pass the House of Representatives, much less be veto-proof. The House of Representatives of the 116th Congress is comprised of 235 Democrats, 197 Republicans and three vacancies.¹⁸⁰ In order for the End Government Shutdowns Act House companion bill hr791-116 to pass, all 197 Republicans and 21 Democrats must vote in support.¹⁸¹ Although two of the 11 cosponsors of the bill are Democrats, recruiting 19 more would likely prove difficult – particularly given the shift in Democratic opinions on the End Government Shutdown Act.¹⁸²

Not all Democrats are opposed to ACRs, though. While Democratic ACR proposals have tended to include additional financial motivators (like not paying lawmakers during shutdowns), they have generally also proposed ACRs that basically rollover the spending level of the previous year.^{183 184 185} With some willingness to compromise from both Republican and Democrats, a bill that proposes an automatic continuing resolution (and nothing more) has a much higher chance of garnering enough support to be veto-proof.

Impacts of End Government Shutdown Act

¹⁸⁰ U.S. Congress. House. House.gov. 116th Cong., 1st sess. H. Rept. Accessed April 21, 2019. http://clerk.house.gov/member_info/cong.aspx.

¹⁸¹ U.S. Congress. House. Appropriations. *Congress.gov*. By Rob Portman.

¹⁸² Brodey, Sam. "Democrats Tank Bills to Effectively End Government Shutdowns."

¹⁸³ Mui, Ylan. "Lawmakers Offer Proposals to End Government Shutdowns for Good - While the 'Pain Is Fresh'."

¹⁸⁴ Newell, Jim. "Was the Shutdown Painful Enough to Convince Congress to Never Let It Happen Again"

¹⁸⁵ Condon, Patrick, and Jim Spencer. "Ban Government Shutdowns? It's On the Table in D.C."

Some Republicans may prefer the End Government Shutdown Act due to the steady cuts that are made, which results in a smaller government. But as Democrats have pointed out, even an ACR that keeps appropriations constant is a reduction in government spending power due to not keeping up with inflation, rising wages or a growing population.¹⁸⁶ ¹⁸⁷ Therefore, opting to pursue an ACR that renewed appropriations while freezing spending levels would increase the likelihood of bipartisan support and would still restrict government growth – a conservative priority. Republican lawmakers would still be able to lobby to reduce the size of government in budget appropriations, as they should have the ability to do. This approach, though, does not cause millions of Americans to be sent home without paychecks and waste taxpayer money.

The universal 1% budget cuts every 90 days represent another harmful impact of the End Government Shutdowns Act. They are not ideal for Republicans, Democrats or the American people. For Democrats, they represent an active role in reducing the size of Government. For Republicans, they are a threat to the size of the military and Department of Defense. For the American public, they represent an arbitrary cut that follows a 120 day extension to an annual deadline – with the 120 days being arbitrary as well. When trying to justify the End Government Shutdowns Act, the automatic continuing resolution stands up to scrutiny. Cutting cut the budget by 1% every 90 days after a 120 extension, though, does not stand up to any amount of scrutiny. There is not a strong enough justification when trying to explain why when counterbalanced by the fact that these cuts are harming the very government and workers that the ACR is supposed to be in place to protect.

¹⁸⁶ Brodey, Sam. "Democrats Tank Bills to Effectively End Government Shutdowns

¹⁸⁷ Kogan, Richard, and Paul N. Van De Water. "Automatic Continuing Resolutions Not a Good Solution for Government Shutdowns."

Potential Political Gains

While you may not be interested in the Presidency, you are keenly aware of your 2020 reelection campaign – extensively prepping for it all the way back in mid-2018.¹⁸⁸ Despite your efforts to provide legislation that helps the residents of your home state, your approval ratings there have been relatively lagging. Although Kentucky remains a fairly solid Republican state, a primary threat remains. Leading the charge in pursuing a bill that enacts an ACR could be incredibly beneficial to your own reelection campaign in 2020 – as well as for Republicans.

In the 1990s, the Democratic Party underwent a renaissance of sorts – spearheaded by the “New Democrats.” A large part of their revolution was comprised of their efforts to reach the seemingly forgotten middle in American politics. As extreme right and left candidates are becoming normal, you could lead the charge for the Republican Party in reestablishing the new normal. A new normal where bipartisan efforts lead to legislation that is in the best interest of the people. Such a movement would certainly boost your reelection odds, as well as the strength of the Republican Party in the coming years.

Final Reflections

When tasked with analyzing the End Government Shutdowns Act, the initial thought was that it would be a routine exercise that led to an obvious recommendation: support a bill that has over 30 other Republican Senators on board. The recommendation is indeed to pursue an ACR – just not the End Government Shutdowns Act. As your hesitancy to support it has already shown, you are aware that this act has risks and flaws

¹⁸⁸ Isenstadt, Alex. "McConnell Zeroes in on Election - His Own." POLITICO.com. June 15, 2018. Accessed April 20, 2019. <https://www.politico.com/story/2018/06/15/mitch-mcconnell-2020-reelection-campaign-647081>.

that have thus far inhibited you from supporting it. It is my recommendation that the 1% budget cuts are a fatal flaw in the legislation, and you should not put your considerable political influence behind it.

Curriculum Vitae

Born in Winchester, Tennessee in November 1988, John Charles Richardson is the second son of Clark and Cheryl Richardson. He is the second of four siblings – Benjamin, John Charles, Josiah and Abigail.

John started his postsecondary education at East Mississippi Community College and is a community college advocate. He continued his education at The University of Mississippi in Oxford, MS, receiving a Bachelor of Arts in Secondary Education. In his fifth year of working as a public school teacher in the Mississippi Delta, John began his studies at Johns Hopkins University.

After starting his studies at Johns Hopkins, John moved to Brooklyn, New York – where he currently resides. He continues to work in education in various capacities with local charter schools and founded one of the first charter school football programs in the area.