

# Research Report for McConnell Office Visit – July 21, 2017

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July 16,

#1. President Trump has claimed that 75% of regulations can be eliminated (maybe more) without affecting society negatively. **Do you believe 3/4<sup>th</sup> or more of all regulations can be eliminated without having an appreciably negative impact on society? If not, what percent of all regulations do you feel are unnecessary?**

- Trump states he wants to cut regulations massively. He claims we will have regulation, and that it will be just as good, just as strong and just as protective of the people as the regulations we have right now. Trump tells business leaders he wants to cut regulations by 75% or ‘maybe more’. **CNBC Jan 23, 2017.** <http://www.cnbc.com/2017/01/23/trump-tells-business-leaders-he-wants-to-cut-regulations-by-75-percent-or-maybe-more.html>
- Significant federal regulations have slowed almost to a halt under Trump. Just 15 regulations were approved by the Office of Information and Regulatory Affairs, compared to 93 under Obama’s first 4 months and 114 under Bush during his first 4 months in office. The FAA has not released a drone rule governing commercial drones over people. Pharmaceutical distributors are still awaiting a rule by the FDA to address conflicting state policies regarding their business. The EPA’s failure to issue a rule on mercury disposal for dentists leaves them in limbo with regard to how they are expected to deal with mercury waste associated with amalgam fillings. Many rules have statutory deadlines, agencies also have statutory mandates such as transportation safety or environmental protection which make them obligated to issue rules in the face of social concerns or problems. **Under Trump, regulation slows to a crawl. D. Vinik, Politico, Jun 7, 2017.** <http://www.politico.com/agenda/story/2017/06/07/trump-regulation-slowdown-000446>
- Executive Order 13771 signed by Trump on Jan. 30, 2017 “Reducing Regulation and Controlling Regulatory Costs” directs agencies to repeal two existing regulations for every new regulation, and to do so in such a way that the total cost of regulations does not increase. [https://en.wikipedia.org/wiki/Executive\\_Order\\_13771](https://en.wikipedia.org/wiki/Executive_Order_13771)
- Much of the regulatory cutting is being done behind the scenes by political appointees with deep industry ties and potential conflicts of interest. Some political appointees are reviewing regulations their previous employers sought to weaken or kill. These include lawyers who represented businesses against government regulators, staff members of political dark money groups, employees of industry funded organizations opposed to environmental rules and lobbyist for industries. Some agencies have refused to disclose who is in charge of the review. In many cases, responses to public records requests have been denied, delayed or severely redacted. **Trump has secretive teams to roll back regulations, led by hires with deep industry ties. R. Faturechi, ProPublica and D. Ivory, The New York Times, July 11, 2017.** <https://www.propublica.org/article/trump-teams-rolling-back-regulations-led-by-hires-with-deep-industry-ties>
- Federal agencies have shifted from writing regulations to getting rid of them. Congress got rid of 14 regulations under the Congressional Review Act. Many others are going under the knife inside the Departments in which they were written. Although eliminating existing

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rules is just as laborious as writing new ones, an additional problem exists when agencies throughout the Federal Government decide their focus is not to write regulations, but just to get rid of them and given enough time their efforts could have serious consequences for Americans. **Under Trump, focus shifts to scrapping regulations.** L. Wheeler, *The Hill*, June 17, 2017. <http://thehill.com/regulation/administration/338216-under-trump-focus-shifts-to-scrapping-regulations>

- Congress and Trump have rolled back 14 regulations of the Obama administration that were designed to protect the health and safety of the public and the environment. The stream protection rule was designed to protect streams from coal mining pollution and required coal companies to restore the ecosystem after mining ceased. The restricting firearm sales was to prevent people classified as having severe mental illness from purchasing firearms. The internet privacy rule standards was designed to make internet service providers responsible to notify customers if their data was hacked and if customers wish to have their private data tracked and collected with regard to online and app activity. The fiduciary rule requires financial advisors to ensure the advice they provided their clients was in the client's best interests, not the financial advisors best interest. Companies no longer have to keep a five year record of workplace injuries, only 6 month records, making potentially serious safety problems harder to identify. States can drug test applicants for unemployment compensation. **13 ways Trump has rolled back Government regulations in his first 100 days.** R. del Guidice, *The Daily Signal*, Apr. 23, 2017.

<http://dailysignal.com/2017/04/23/11-ways-trump-has-rolled-back-government-regulations-in-his-first-100-days/> AND **Trump boasts about dumping many Obama-era regulations. Here's a look at some.** L. Rosenblatt, *Los Angeles Times*, Jun. 28, 2017. <http://www.latimes.com/politics/la-na-pol-congressional-review-regulations-20170628-htmstory.html>

- Trump promised to roll back burdensome government regulations affecting banks. **Trump tells community bankers he wants to cut government regulations.** D. Jackson, *USA Today*, May 1, 2017. <https://www.usatoday.com/story/news/politics/2017/05/01/donald-trump-community-banks-spending-bill-mike-pence/101158540/>

- Trump complained about the regulatory permitting process for a highway, and that he was committed to shortening the regulatory and permitting process from 10 to 20 years down to just a year. He stated, "we're going to be able to get rid of 90-85% of that and still have the same kind of protection" he said, referring to environmental concerns. "We are going to cut a lot of the red tape" he promised. **Donald Trump vows massive regulatory cuts and \$1 trillion infrastructure spending.** *Breitbart*, Apr. 4, 2017.

<http://www.breitbart.com/big-government/2017/04/04/donald-trump-vows-massive-regulatory-cuts-and-1-trillion-infrastructure-spending/>

- Regulations also have benefits, and why they are written in the first place. The lack of regulations, or the lack of enforcement of regulations, can result in a cost savings for businesses who don't have to comply. However, this simply cost shifts the costs and consequences onto workers or the public. The rule governing silica exposure is a case in point. It took 45 years before the regulation that affects some 2.3 million workers were

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finally approved in June 2016. The new regulations were expected to cut down silica exposure and prevent 600 deaths annually providing benefits to workers of \$7.7 billion annually versus an annual cost to employers of \$511 million. The Trump administration has placed it on hold. ***The human cost of Trump's rollback on regulations. D. Jamieson, Huffingtonpost, Apr. 16, 2017.*** [http://www.huffingtonpost.com/entry/trump-rollback-regulations-cost\\_us\\_58f1375be4b0bb9638e3f72c](http://www.huffingtonpost.com/entry/trump-rollback-regulations-cost_us_58f1375be4b0bb9638e3f72c)

#2. You have voted to eliminate state sponsored retirement plans for non-government employees, the Interior Department stream protection rule and its methane rule. The Department of Education Teacher Preparation and Accountability rule and the FCC broadband privacy rule among others. All these protections require considerable time from their initial proposal to their final publication and virtually all were shown to provide greater benefits to society than costs to business. ***Please justify your voting against protections for your constituents that primarily lower business costs by eliminating social benefits, responsibilities and obligations to others in society.***

- Regulations have not been found, on balance, to alter the number of jobs in our society. Thus the excuse of cutting regulations to increase job growth is not borne out by what is known. Some industries may lose jobs, but often others will be created. ***Do Regulations really kill jobs? A. Semuels, The Atlantic, Jan. 19, 2017.***

<https://www.theatlantic.com/business/archive/2017/01/regulations-jobs/513563/>

- Regulations are not written out of public view or by civil servants (bureaucrats) with nothing better to do than create another hoop for businesses to jump through. It is a long (average 3-4 year) process and sometimes longer, that involves 8 steps. There are checks and balances within and after a regulation is written to make sure it is not capricious, arbitrary or an abuse of power. Congress has an opportunity to weigh in on every regulation written as do the courts. Even if a Federal Agency decides to write a regulation, it may take years before it is completed as was the case with the silica exposure in workers (45 years), passive restraints and air bags in cars (10 years), the Health and Human Services regulation regarding reporting of social security recipients with serious mental disorders for inclusion in the NICS databank for gun background checks (8 years). All major rules (costing \$100 million/yr or more) must be first reviewed by the President and the Office of Information and Regulatory Affairs (OIRA) before any final regulation can be issued. The OIRA will look at costs and benefit assessments and public comments to determine if any less costly solutions could be used. Before a major regulation can take effect, it is sent to Congress and the Government Accountability Office (GAO) for further review. Even after a regulation is finalized, it can be challenged in Federal courts and set aside if the courts deem the regulation is "arbitrary, capricious or an abuse of discretion or otherwise not in accordance with the law. Finally, Congress also has the right through the Congressional Review Act to review and repeal any Agency Regulation it deems inappropriate within 60 days of its enactment. ***A guide to the Rulemaking Process. Federal Register, 2011.***

[https://www.federalregister.gov/uploads/2011/01/the\\_rulemaking\\_process.pdf](https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf)

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firearms. The internet privacy rule standards was designed to make internet service providers responsible to notify customers if their data was hacked and if customers wished to have their private data tracked, collected and used with regard to online and app activity. Companies no longer have to keep a five-year record of workplace injuries, only 6 month records. States can now go ahead and drug test applicants for unemployment compensation. **13 ways Trump has rolled back Government regulations in his first 100 days.** *R. del Guidice, The Daily Signal, Apr. 23, 2017.* <http://dailysignal.com/2017/04/23/11-ways-trump-has-rolled-back-government-regulations-in-his-first-100-days/> AND **Trump boasts about dumping many Obama-era regulations. Here's a look at some.** *L. Rosenblatt, Los Angeles Times, Jun. 28, 2017.* <http://www.latimes.com/politics/la-na-pol-congressional-review-regulations-20170628-htmllstory.html>

- In the absence of regulations and protections, the cost to business is lower. It is often argued by the GOP lowering business costs will stimulate economic growth. However, what those lower costs do, is shift the benefits of the regulations/protections from the public to businesses, while transferring the cost of not regulating a problem/issue from business to the public. If costs were equal or less than the benefits, one might argue that would be a reasonable trade off. But, the most recent GAO study covering 2005-2015 shows the benefits of regulations far outweigh their costs to business. **2016 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act.** *Office of Management and Budget, 2016.*

[https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/draft\\_2016\\_cost\\_benefit\\_report\\_12\\_14\\_2016\\_2.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/draft_2016_cost_benefit_report_12_14_2016_2.pdf)

- There are Federal Commissions (FTC, FEC, FCC, CFTC, CPSC, FERC, NRC, SEC, FDIC) with politically appointed boards that are not required by law to perform a cost-benefit analysis prior to promulgating new rules and regulations along with the Federal Reserve and the CFPB (which is part of the Federal Reserve) that are also exempt. Rule-making by these 10 agencies are often used to justify GOP complaints about all Departments of the Executive Branch (which are required to do a cost-benefit analysis prior to implementing major rules; those costing business \$100 million or more annually) writing costly business rules that need to be repealed.

- **The stream protection rule repeal was justified by McConnell because it would cost coal jobs.**

However, a detailed study of the cost from the stream protection rule shows the total cost of implementing this rule would be between \$52-55 million/yr add a cost of less than \$0.50 per million metric tons of coal in Eastern Kentucky to comply. A million metric tons of coal currently costs between \$32-\$42. An estimated 4 miles of streams would be protected annually and 29 stream miles will be restored annually and 2,811 acres of forest would be restored annually. It would improve the health of people, reduce environmental damage and enhance the visual beauty of blighted coal mining areas. McConnell's vote appears to reflect the \$834,000 he has received from coal companies over the last 16 years, rather than the interests or needs of his constituents. **Regulatory Impact Analysis of the Stream Protection Rule.** *Office of Surface Mining and Reclamation, US Department of Interior. July 2015.*

<https://www.osmre.gov/programs/RCM/docs/sprRIA.pdf>

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• ***Inclusion of names of social security recipients with serious mental disorders in the NICS database was repealed by McConnell.*** A basic protection of society from people obtaining guns requires not selling them to those who are considered a harm to themselves, others or who lack the mental ability to conduct or manage their affairs. This regulation was required by a previous law from 2007. The rule would have required the inclusion of names of individuals on social security disability or supplemental security income who are found mentally impaired or medically meet impairment requirements in the National Instant Check System (NICS) on a quarterly basis. Individuals would have been notified both orally and in writing of their possible prohibition from possessing or receiving firearms and the potential consequences for violation of this prohibition and the process by which this ruling can be adjudicated. This ruling was a requirement of NICS Improvement Amendments Act of 2007. It is restricted to persons who have been found by a court, board, commission or other lawful authority to result from marked subnormal intelligence, or mental illness, incompetency, or mental illness, condition or disease and considered to be a danger to themselves or others, or who lacks the mental capacity to conduct or manage his or her own affairs. No medical details are provided to NICS, only the name. This regulation took 1.5 years to develop. Involved over 91,000 public comments and was written with respect to established law and requirements to identify individuals who are sufficiently mentally impaired to meet the legal requirements for being identified in the NICS database. Yet, it was rejected by McConnell, in favor of NRA wishes. Gun rights groups have donated over \$120,000 to McConnell over the last 16 years and appears to have more impact on McConnell's vote than his responsibility to the safety of his constituents. <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30407.pdf>

• ***The FCC regulation on protecting the privacy of customers of broadband and other Telecommunications Services was rejected by McConnell.*** This regulation required telecommunication companies to protect the confidentiality of customer proprietary information. Had the protection gone into effect, it would have required broadband providers provide transparency, customer choice and data security to achieve 5 things. Respect the privacy rights of customers. To inform customers about their right to opt in or out of use or sharing of their confidential information. Required broadband providers to adopt security and breach notification to customers and law enforcement if they are hacked and confidential customer data is stolen. Prohibited broadband service providers from surrendering privacy rights of customers. Required disclosure, consent and financial incentives before a provider had a right to use a customer's confidential information. The denial of this protection means the customer has no right to privacy or protection of their confidential information once it is in the hands of a broadband provider. The public cannot expect the broadband provider to notify them or even be responsible for security of their confidential information. If the public uses broadband, anything they share via telecommunications no longer belongs to them and loss or use of that information is their problem, not the broadband provider who may store and use their private data as they see fit. They are not responsible for notifying the public in case of hacking or liable even for ensuring security of their customer's confidential information. This includes the use of stolen information for identity theft, credit card information and financial theft or other economic harm. This rule required 1.5 years to formulate and led to more than 275,000 comments from consumers, broadband and voice providers and their associates, public interest groups, academics, federal, state and local governments before the rule was finalized. ***The interests of broadband providers***

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*proved more relevant to McConnell than the interests of his constituents.*

<https://www.gpo.gov/fdsys/search/pagedetails.action?granuleId=2016-28006&packageId=FR-2016-12-02&acCode=FR&collectionCode=FR>

#3. Fewer rules, regulations and protections, mean less trust and confidence in others we must deal with, and in the government upon we depend for ensuring our trust. **Describe why you think a loss of social trust due to the absence of protections will not negatively impact economic growth and expansion in the US.**

- A number of studies have found social trust is important determinant of economic growth. The rule of law (regulations/protections) furthers social trust, which in turn fosters business investment which improves labor productivity and GDP. **How Does Social Trust Affect Economic Growth? C. Bjornskov, Feb. 9, 2006 (and references therein).** [http://busieco.samnet.sdu.dk/politics/nyheder\\_og\\_begivenheder/bjoernskov.pdf](http://busieco.samnet.sdu.dk/politics/nyheder_og_begivenheder/bjoernskov.pdf)
- Innovation created in a high-trust environment contributes more to long term economic growth. Prof. Zhang suggests that governments should help create an environment for cultivation of social trust. Social equality will help enhance social trust as well. **How Trust Affects a Country's Economic Growth through Innovation. W. Zhang. China University Hong Kong Business School, Jan. 5, 2017.** <http://www.bschoool.cuhk.edu.hk/faculty/cbk/article.aspx?id=70106406>
- The civil servants who write regulations are less the problem for society since those regulations/protections are not written for their personal benefit or without checks and balances, on their efforts. Yet, the GOP and McConnell in particular, demonize civil servants as being out of control and responsible for **job killing regulations**.
- McConnell has raised over \$68 million in campaign contributions from major industries like coal, Wall Street financial interests, Healthcare and Gun Rights and business groups. <https://www.opensecrets.org/politicians/contrib.php?cycle=Career&cid=N00003389&type=I>. He has also more often voted and sponsored specific legislation that favor these special interests over the interests of his own constituents. Tax cuts for wealthy donors over the healthcare needs of his constituents (BCRA 2017), or just tax breaks for the wealthy (Death Tax Repeal Act of 2017 and 2015). Wall Street interests over those of his own constituent's retirement funds (S.J. Res. 33 disapproving the fiduciary rule by the Dept. of Labor). Pollution by coal producers and power plants over the health and protection of his constituent (Stream protection rule repeal) or just more lax standards in general for water polluters (Defense of Environment and Property Act of 2015). Oil and gas interests over the protection of the environment and the public (repeal efforts regarding Carbon emission guidelines for electric utility generating units, SJ Res. 23 and 24 in 2016). Telecommunication and broadband over the protection of his constituents (Repeal of Broadband privacy rights regulation by FCC). NRA interests over the safety and protection of his



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own constituents (Repeal of Health and Human Services rule related to reporting of individuals with severe mental illness to the NICS database). He has also supported business interests in union busting over those of workers and his broader constituent base (National Right-to-Work Act).

[www.Congress.gov](http://www.Congress.gov)

- Regulations cost money, but if regulations only cost money and provided no substantial benefit to society they would never be finalized by those writing them. Businesses have opposed regulations when they increase their cost of doing business. But, the absence of adequate regulations led to the financial collapse of 2008 and the Enron disaster in 2001. Lack of regulations resulted in lead poisoning and deaths from tetraethyl lead gasoline. Pulp and paper mills produced acid rain, smog and created asthma problems and deaths prior to regulation of their emissions. The public may ultimately pay regardless, but they pay far more both directly (health and safety) and indirectly (environment and quality of life) when civil servants don't address problems with rules.

#4. Your recent efforts to promote the Better Care Reconciliation Act is a prime example of legislation designed primarily by you and your colleagues to reward the wealthiest Americans with lower taxes and less social obligations at the expense of the majority of constituents in your own state. ***Please explain to the hundreds of thousands of your constituents who would have lost their health care under your BCRA solution why their health care concerns are less relevant than allowing the wealthiest Americans to keep even more of their very large annual incomes.***

- BCRA limited tax credits for lower income Americans unlike the tax subsidies in the PPACA that provided help based on income. ***(Blumberg)***
- BCRA phased on taxes on the wealthiest Americans used to support the PPACA ***(Blumberg)***
- BCRA eliminated cost sharing subsidies after 2020 that many individuals above the poverty level used so they could afford health insurance through the ACA. ***(Blumberg)***
- BCRA Eliminated the tax penalty on employers of over 50 people for not purchasing health insurance, for their employees, and the individual mandate. Both these actions decrease the insured population and place the onus on the individual to get health insurance. ***(Blumberg)***
- BCRA allowed Essential Health Benefits to be waived by states, reducing the access of the public to critical health resources. ***(Blumberg)***
- BCRA eliminated Medicaid expansion and thus access of millions of Americans to essential health care needs. ***(Blumberg)***
- BCRA would have resulted in between 22-24 million Americans losing their health insurance by 2026. ***(Blumberg)***
- Healthcare is expensive, more expensive in the US than any country on earth at an estimated \$3.35 trillion/2016, or about \$10,345/person. ***\$10,345 per person: U.S. Health care spending reaches new peak. R. Alonso-Zaldivar, Associated Press. www.pbs.org/newshour/rundown/new-peak-us-health-care-spending-10345-per-person/***
- For all the money spent, our healthcare outcomes rank at the bottom of the industrialized world. Shorter life spans, higher infant mortality rates, more chronic health problems. ***Infographic: How does US health care stack up to the developed world? R. Gramer, Mar. 24, 2017, Foreign Policy. <http://foreignpolicy.com/2017/03/24/infographic-u-s-health-care-compared-to-the-rest-of-the-world-not-pretty-trump-care-paul-ryan-affordable-healthcare-act/> AND *United States comes in last again on health, compared to other countries. M. Fox. NBC****

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**News, Nov. 16, 2016.** <http://www.nbcnews.com/health/health-care/united-states-comes-last-again-health-compared-other-countries-n684851>

- In the short term, the issue is not about decreasing healthcare costs in the US. It is about who pays for it. McConnell and the GOP have decided it won't be those with the largest annual incomes helping those with less disposable income. It will be a buy it yourself or forget it, leaving tens of millions of Americans without any health coverage at all.
- The new McConnell healthcare plan currently awaiting a vote looks to do little more than create the appearance of concern, by addressing some issues while ignoring others. There will be an eventual loss of American health care coverage and raising health insurance costs on those least able to afford it, and insurance plans that do not cover medical needs. The end result, millions of Americans will lose health coverage. ***What the latest GOP healthcare Reform plan means for you.***

**D. Rosato, Consumer Reports, July 13, 2017.** <http://www.consumerreports.org/health-insurance/what-the-latest-gop-healthcare-reform-plans-means-for-you/>

### ***Reference:***

***State-by-State Coverage and Government Spending Implications of the American Health Care Act.*** L. Blumberg et al., June 28, 2017. [www.urban.org](http://www.urban.org)