



January 13, 2015

MEMORANDUM

For: Speaker Boehner, Leader McConnell
From: Matt Kibbe
Subject: A Reform Agenda for the New Congress

Before Republicans in the House and Senate leave for Hershey, PA for a retreat to develop legislative priorities in the new Congress, FreedomWorks has compiled a list of recommended initiatives that liberty Republicans can lead on immediately.

We believe action on these initiatives will go a long way in proving to the American people that small-government Republicans can govern as well as win elections. Small ball reforms like passing the Keystone XL Pipeline and repealing ObamaCare's medical device tax are not good enough to inspire the American people and remind them why they put you in office. It's time to lead, and fix the major issues that are actually hurting American families.

Patient Centered Health Care Reform

In March, the Supreme Court will hear oral arguments in the *King v. Burwell* case, which will expose the fundamentally broken nature of the Patient Protection and Affordable Care Act. Since its implementation, the IRS has been illegally granting subsidies to states that refused to set up their own health insurance exchanges, in direct contradiction to the letter of the law.

If the *King* decision goes as it should, consumers will be exposed to the true cost of ObamaCare's unaffordable health care. There is no fix or patch that can possibly salvage what is an essentially wrongheaded approach to health care reform. However, in the wake of the Supreme Court's ruling, the political pressure for Congress to act will be immense. It is therefore vital that a patient centered alternative to ObamaCare exists, and is on the table at that time. In the absence of such an option, the individual states will rapidly cave in by setting up their own exchanges, and the opportunity to reform the health care system in a positive way will have been missed.

Republicans must prove that they are not the "Party of No" by advancing positive ideas for reform, starting by placing a full repeal of ObamaCare upon the president's desk, and advancing a principles for reform that put patients and consumer choice first.

Civil Liberties Reform

There is a strong bipartisan coalition in Congress ready to restore the right to privacy protected by the Fourth Amendment. With Section 215 of the USA PATRIOT Act (which is being used to justify the NSA's bulk metadata collection program) set to expire in June, Republicans have an opportunity to put their campaign trail promises into action.

The FISA Court has been granted excessive authority to issue general warrants covering thousands of individuals with no suspicion of dangerous activity. The Constitution's Fourth Amendment was designed specifically to prevent this kind of abuse of citizens' privacy. Last year, Sen. Rand Paul introduced The **Fourth Amendment Preservation and Protection Act** to require specific warrants for any government agency seeking personal information about an individual from a third party, such as an internet service provider or telephone company.

In the current global environment, it is easy to allow fear and intimidation to get in the way of doing the right thing. But the appropriate response to cowardly acts of terror is always *more* speech, *more* freedom, not less. We need not weaken our national security protections in order to preserve the rights guaranteed to all Americans by the Constitution, and if Republicans are to regain the trust of the people it is vital that we restore the protections guaranteed by the Fourth and Fifth Amendments, and protect American liberty.

Ending Corporate Cronyism

Political favors should not determine success in America. Republicans should fight corrupt corporate handouts – and can start by ending the Export-Import Bank. Thanks to efforts by fiscal conservatives in Congress and a strong push by the grassroots, there is a possibility that this corporate welfare distribution agency can finally expire at the end of June of 2015. All that is required to end this cronyist program is that Congress do nothing, and not succumb to political pressure from special interest groups to extend the Bank's charter.

The Export-Import Bank remains a small example of cronyism from a dollars and cents perspective, but finally ending it after eight decades would send a powerful message that the new Congress is willing and able to implement change.

Criminal Justice Reform

Our prisons are overcrowded with non-violent offenders while dangerous criminals remain on the loose, terrorizing many communities. Republicans should focus on reforming laws that allow violent offenders to remain on the streets while non-violent offenders serve mandated prison sentences. Bills to reform the criminal justice system have been championed by lawmakers of both parties, and have a real chance of moving forward this year.

One of the most worrisome areas of the criminal justice system is the procedure known as civil asset forfeiture, by which police, or the IRS, can seize private property of suspected criminals without any formal criminal proceedings. Of the 639 times the IRS used this power in 2012, 80 percent of cases were followed by no criminal charges, yet the victims had to sue in order to regain their property, and still were not always successful. Sen. Rand Paul introduced a bill last year, **The FAIR Act**, that would limit law enforcement's ability to seize property without clear and convincing evidence of criminal wrongdoing.

Rand Paul also partnered with Democratic Sen. Cory Booker to introduce **The REDEEM Act**, which would give non-violent criminals a chance to become productive members of society again, allowing them to have their records sealed, and allowing juveniles to expunge records of non-violent offenses.

The issue of mandatory minimum sentences for non-violent offenses was addressed in a bill introduced by Sen. Mike Lee and Sen. Richard Durbin. **The Smarter Sentencing Act** would allow judges more discretion in sentencing non-violent offenders, and freeing up prison space to keep violent criminals off the street.

Criminal justice reform comprises a set of issues that reach across party lines and give the Republican majority a chance to make a real difference this year, in a way that affects the lives of millions of Americans.

Education Reform

Education is a fundamentally state and local issue. The Tenth Amendment dictates that education policy, not being one of the Constitution's enumerated powers of the federal government, be determined by the states, or the people.

Unfortunately, the Obama Administration has repeatedly chosen to ignore these limitations, with a series of proposals that overstep federal authority. Not the least of these are the Common Core education standards that are wreaking havoc all across America's school districts. Though the standards were technically developed by private entities, the federal government has bullied the states into implementing them by tying funding for Race to the Top, as well as the granting of waivers for No Child Left Behind, to their adoption.

This means that the hands of governors and state legislatures are tied. Even in states like Indiana, where lawmakers successfully passed bills to remove Common Core, equivalent standards were necessary for the state to continue to qualify for federal funding. This policy of extortion has elevated a state issue into a federal one. Education reform cannot be fully achieved at the local level without help from Congress.

The same problem exists in higher education, with the president proposing a rating system for colleges and universities that would determine their funding level based on criteria set by the U.S. Department of

Education. This would effectively allow federal regulators to dictate education policy for all the states, using the threat of withheld funding as a lever.

The solution is to decouple federal education funding and waivers from mandates on state standards and curricula. This is an easy fix that could be accomplished through a simple amendment to Title 20 of the U.S. Code, forbidding this kind of federal meddling in education.

Speaker Boehner has been a leader on education reform and school choice in the past, with his championing of the popular D.C. Choice program in the District of Columbia. Now is the time for Republicans to take up that mantle again, and lead on education.

Budget Reform

While the president has boasted of declining budget deficits during his second term in office, he has yet to introduce a budget that balances in the foreseeable future. As we have continuously lurched from one continuing resolution to the next, the threat of government shutdown has cost Republicans bargaining power in demanding real reforms. This has to stop.

As interest on the national debt consumes an ever increasing portion of federal spending, it is vital that we balance the budget sooner, rather than later. The only way to accomplish this is to return to regular order, and stop government by continuing resolution. Once this has been done, a balanced budget would not be difficult to achieve in a reasonable timeframe. For example, Sen. Rand Paul has introduced a budget that would balance in just five years.

The national debt is one of the most serious long-term threats to the country's economy, not to mention national security. It's time to stop kicking the can down the road and deal with this problem today.

Internet Freedom

The internet is the greatest source of innovative freedom the world has ever seen, but this very freedom has caused fear and distrust among regulators who want greater control over online speech, content, and the way internet service is provided.

Last year saw a number of bills introduced in an effort to defend Americans' freedom on the internet, and a permanent ban on the taxation of internet access passed the House only to be stymied by Harry Reid's Senate. With the new Republican majority, it should be a priority to send as many online freedom bills as possible to the president's desk.

Bills of note include the **Email Privacy Act**, which would stop government agencies from reading private citizens' emails without a warrant, and the **Permanent Internet Tax Freedom Act**, which would prevent governments from taxing access to the internet in perpetuity. Also of importance is stopping the

Marketplace Fairness Act, a misleadingly-titled piece of legislation that would allow states to extend their powers of taxation outside of their borders.

Finally, it is time to reform the **Telecommunications Act of 1996**, an archaic law that was never designed to regulate the internet in its current form. As the law stands, the Federal Communications Commission, at the behest of the president, is planning to extend its authority to reclassify the internet as a “common carrier,” which would not only impose significant limitations on providers’ ability to serve their customers, but would also require them to pay fees into a Universal Service Fund, drastically raising the cost of service for consumers. Amending the Telecommunications Act is a way for Congress to stop the FCC in its tracks and protect an unregulated internet for the future.

Executive Branch Scrutiny and Regulatory Reform

The Constitution grants Congress the power of the purse, but over time, executive branch regulatory agencies have gradually usurped Congress’ authority to control government funds.

The REINS Act, introduced by Sen. Rand Paul last year, would give Congress a vote on any economically significant regulation before it could be implemented. America was never designed to be governed by unelected, unaccountable Czars. The REINS Act restores Congress to its rightful place as a check on executive power, and its passage should be a top priority for the new Republican majority.

Another agency that has received too little scrutiny is the U.S. Federal Reserve. With its dual mandate to regulate the money supply and control unemployment, the Fed has immense power to affect our nation’s economy, yet has never been subject to a full and transparent audit. Rep. Thomas Massie has already introduced **The Federal Reserve Transparency Act of 2015**, which has passed the House for two straight years and should be passed as soon as possible in the interest of public accountability.

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The issues outlined in this memo are opportunities for Republicans to prove that they can do the job they were put in office for, and solve the biggest problems facing the country today. In most cases, the legislation already exists. Congress just needs to show that it has the will to act. We understand that politics is a difficult business, and no one is expecting perfection straight out of the gate. We only ask that Republicans do something to show that they are worthy of their responsibilities to the American people.