

A black and white photograph of the United States Capitol building. The dome is prominent on the left side, and the main building extends across the frame. A large, dark tree is in the foreground on the right. The sky is filled with clouds. The title text is overlaid on the upper half of the image.

# Changing the Conversation

ANNUAL REPORT 2017-08/2018

NISKANEN  
C E N T E R





NISKANEN  
C E N T E R

The Niskanen Center opened its doors in January 2015, convinced that the libertarian community was suffering from a lack of direct and sustained engagement with legislators, congressional staff, and the informal but powerful policy networks of civil servants and NGOs in Washington, D.C. Policy change, we believed, was largely determined by the choices and decisions made within these small but porous communities of political and administrative insiders, and libertarians were doing their cause no favors by ignoring the nuts and bolts of real-time policymaking.

We quickly discovered that we were more correct than we could have imagined. Legislators, staff, and executive branch regulators were starved of academically reliable and trustworthy policy analysis relevant to the pressing issues of the day. We found—as we suspected—that there was political demand for our work that was being unmet.

In this first annual report, you'll see the "legislative subsidy"<sup>1</sup> we focus on providing at the Niskanen Center has quickly made us an influential player in the governing networks of Washington, D.C. Working with members on both sides of the aisle, we've helped move legislation into law and had our fingerprints on significant regulatory initiatives to advance our agenda. Just as importantly, we've found that even legislators and staff who are unsympathetic to our cause routinely reach out to us to better inform their thinking on a myriad of issues—a powerful sign of the respect we've built on Capitol Hill.

The election of President Donald Trump, however, posed a significant challenge to the Niskanen Center. If the Republican Party went too far down an ethnonationalist, hard-right path, most of our major legislative priorities—immigration reform; rapid decarbonization of the energy economy; a more robust social safety net; universal catastrophic health care; a peaceful, stable international order; and eliminating regressive rent-seeking, market-rigging operations—would find little traction. Moreover, the president's naked hostility to pluralism and his demagogic attacks on an open society suggested to us that (small-r) republican government was potentially at risk if Trump's policies and behavior took permanent hold over the Republican Party.

Many right-leaning organizations refrained from actively cheerleading what has been going on, but stayed on the sidelines, out of the fight. We found this shortsighted. An open society is a political public good sustained by vigilant advocacy and defense. If (small-l) liberal institutions in the United States were to degrade, or even collapse, all political and policy actors committed to an open society—to say nothing of society as a whole—would suffer.

We launched the Open Society Project in early 2017, and I am extremely proud of the fact that the Niskanen Center has since become the center of gravity of the resistance within the GOP. To our surprise, this has not hurt our relationships with Republican members of the House and Senate or their senior staff, most of whom privately share our concerns. As you'll see in this annual report, Niskanen scholars have been among the most penetrating critics of Trumpism and the most insightful thinkers about what it will take to revitalize the open society in American politics.

Since the Center's founding, my fellow libertarian expatriates and I at Niskanen found our old creeds too dogmatic and too constraining for the contemporary policy challenges at hand. We slowly left what G.K. Chesterton aptly called the "clean and well-lit prison cell of one idea," and discovered that our commitment to individual liberty and autonomy were best realized through what might be called moderate (small-r) republicanism. While the Niskanen Center remains nonpartisan, that tradition was best reflected in the Republican Party of Abraham Lincoln, Theodore Roosevelt, Dwight Eisenhower, Nelson Rockefeller, and John McCain. It is a tradition we hope to revive and strengthen in American politics, and the ideas that once animated that tradition now animate the policy work of the Niskanen Center.

We've accomplished a lot in nearly four years, but there is obviously a lot more work to be done. Thank you for your support.

#### **JERRY TAYLOR**

Co-founder and President, Niskanen Center

1. Richard Smith, "Advocacy, Interpretation, and Influence in the U.S. Congress," *American Political Science Review* 78, no. 1 (1984): 44-63.



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## President's Letter

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# Chairman's Letter

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The Board of the Niskanen Center has been newly reconstituted, and I have been nominated to chair the Board, a position I look forward to holding going forward.

Like many young start-ups, the Niskanen Center has benefitted from having a strong leader with a clear vision. Jerry Taylor has developed his intellect and leadership skills over several decades at the Cato Institute, and while he was there, I met Jerry in 2012. I was a retired Goldman Sachs partner who had headed risk management for the firm. I became deeply interested in the issue of how to price carbon emissions when I realized that it was a complex asset-pricing problem, a topic in which I had developed expertise during my years as a Wall Street quant. I wanted to fully understand all of the issues, and when I inquired of Cato's President Ed Crane whom I might talk to about the topic, he directed me to Jerry. It turned out Jerry knew a lot more about this topic than I did, and we agreed on the critical issue of risk management and the need to consider worst-case scenarios. I explained my views about the implications of uncertainty on pricing emissions, and Jerry agreed to publish them, which he did in Cato's publication, *Regulation*.

My interaction with Jerry has been an ongoing education, initially from Jerry, and now from the Niskanen Center more broadly, on how policy gets made in Washington. In my case, there has been a particular focus on my primary interest, getting carbon tax legislation through Congress, but of course there are many other topics of keen interest that are also a focus of the Niskanen Center, ranging from health care to defense, from immigration to free speech, and from cybersecurity to supersonic transport. These topics are always approached with clear thinking and a commitment to free markets and a free and open society.

The role of the Board in a successful start-up, such as Niskanen, is mostly to stay out of the way, and so far we have. But as an organization begins to mature, as Niskanen has, the Board can play, and has a responsibility to play, important roles in governance, leadership, and oversight; in fundraising; and in developing topics and communications. I am honored to take on this position of Board Chair, and look forward to working with the other Board Members to continue to further the Niskanen mission.

## **BOB LITTERMAN**

Chairman, Risk Committee, Kepos Capital



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# Niskanen Board of Directors

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*Co-founder and President, Niskanen Center*



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# About the Niskanen Center

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The Niskanen Center is a nonpartisan public policy think tank that works within the governing networks of American politics to advance policies and politics animated by a spirit of moderation. We do so because we are deeply committed to an open society, which requires political compromise, respect for pluralism, and a resistance to ideological extremism.

Beyond providing for public goods and correcting for market failures, we believe that government should reduce the extremes of human suffering, protect people from being dominated by arbitrary or uncontrolled power, but otherwise leave the largest number of people alone to live as they wish. We are not doctrinaire in our policy work because we are not convinced that any one ideological creed offers a reliable blueprint for achieving those ends in every single policy arena.

Our policy advocacy is informed by a commitment to equality, freedom, community, and justice. Unlike most ideologues—who hold one or another of those considerations as more important than the rest—we believe that each of

those considerations are important. We appreciate, however, that they cannot all be fully realized at the same time in every policy context. Simple, principled answers to policy problems are thus elusive. Ethically difficult trade-offs are necessary, and those trade-offs should be transparently weighed and considered on a case-by-case basis.

We seek not to displace principled disagreement, but to temper it. Sharp clashes of ideologies breed mutual contempt, while democracy demands trust and affection for one's fellow citizens and a decent respect for those who disagree about the relative weight of values and the best means to achieve agreed-upon ends. We thus seek to counterbalance ideological extremism and intolerance while opposing policies that aim to silence, suppress, or disempower minority communities or perspectives, no matter how morally just the cause might appear to be.

The moderation we embrace is not a synonym for moral relativism or political timidity; it is a fighting, nonconformist creed that puts an emphasis on empiricism and places the health of the republic above party or cause.



# Open Society Project

## Defending Democracy


President Donald Trump's unexpected election and the surge of populist nationalism across Europe revealed flagging faith in liberal-democratic government and grave vulnerabilities in political systems. The Niskanen Center responded swiftly to the alarm, launching the Open Society Project in November 2016 to analyze the deteriorating political situation and mount an intellectual and political defense of the open society. Since then, Niskanen has produced a stream of research and analysis illuminating the principles, values, norms, and institutions of liberal democracy, supplying a rigorous intellectual basis for their protection. Our voice has won a prominent place in the conversation, and we have shaped the debate over illiberal populism and the future of the open society through op-eds, essays, policy studies, speaking engagements, and media appearances.



However, Niskanen's founding insight is that ideas need to be backed by action to make a real difference. That's why we established the "Meeting of the Concerned"—a network of center-right intellectuals, former officials, and political operatives opposed to the influence of Trumpist nationalism. This effort also has flourished. Our biweekly, invitation-only meetings quickly became a critical venue for activists on the center-right to make connections, pool intelligence, and develop new initiatives. For example, Republicans for the Rule of Law, an organization to protect special counsel Robert Mueller's investigation, grew from these meetings. The influence of the Meeting of the Concerned has been recognized by *The New York Times*, which noted the "sense of urgency and intellectual vitality" that has animated our efforts, as well as our success in forging a network of transpartisan alliances to combat executive overreach. Looking ahead, a conference on

the future of the political right after Trump will bring members of the Meeting of the Concerned together with leading political theorists and practitioners from the United States and Europe, extending our network, encouraging new alliances, and consolidating the best ideas and strategies in defense of open, liberal-democratic societies.

On another front, we recently led a coalition of more than 40 individuals and organizations in opposing new restrictions on protests in Washington, D.C. In a comment letter, we criticized a pair of proposals from the National Park Service. One would require permits for all political demonstrations, mandating that protesters pay for the privilege of exercising their First Amendment rights. The second would bar all demonstrations on the White House sidewalk — one of the nation's most iconic forums for political expression.



"In a dark and gloomy period in Washington, D.C., the Niskanen Center really has been a beacon of light. Niskanen has spoken up for the principles and norms of a free society at a time when many have been relatively silent. And the scholars at Niskanen have been writing thoughtfully and creatively about public policy at a time when such engagement has been all too rare."

**WILLIAM KRISTOL**

Editor at large, *The Weekly Standard*

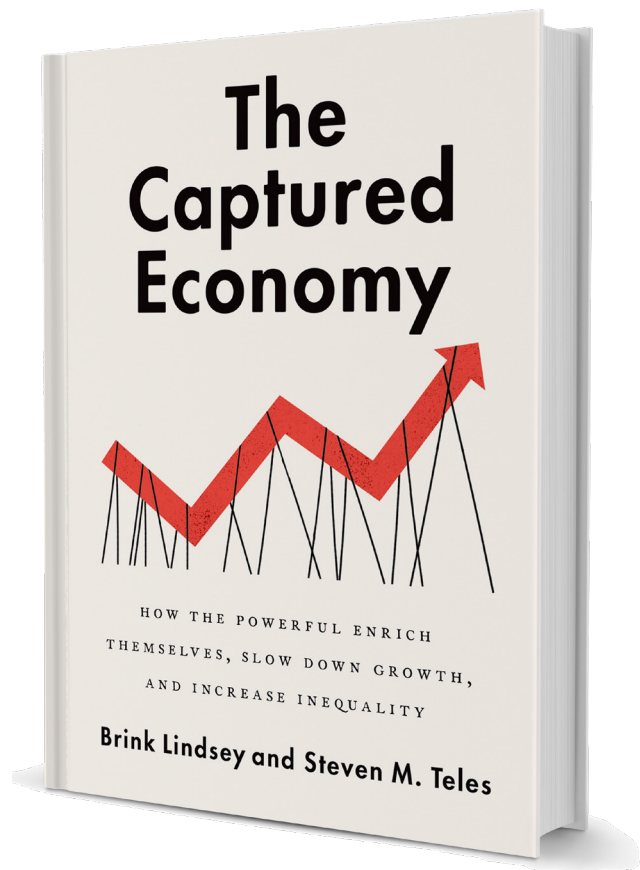


# Captured Economy

## Fighting Regressive Regulation

In their book, *The Captured Economy*, Brink Lindsey, Vice President for Policy, and Steven Teles, Senior Fellow, argue that two of America's biggest economic problems—stagnating growth and expanding inequality—share a common, underlying cause: government regulations that entrench the privileged by subverting market competition. Published in November 2017 by Oxford University Press, *The Captured Economy* has made a major impact, drawing widespread attention that has already altered the terms of the policy debate around growth, inequality, and the unrigging of the American economy.


Reviews have appeared in *The Washington Post*, *The Economist*, *The Atlantic*, and *Washington Monthly*. Spinoff articles by Lindsey and Teles have been featured in *The New York Times*, *National Review*, and *The Nation*, and excerpts of the book were published by ProMarket.org, the blog of the University of Chicago's Stigler Center. The authors have delivered talks at the Brookings Institution, the Roosevelt Institute, Dartmouth College, Harvard University, Stanford University, The University of Chicago, and Apple Inc., among other notable venues. Lindsey and Teles have been interviewed in *The Washington Post* and *New York*



magazine, have appeared as guests on numerous high-profile podcasts, and were invited to speak privately about *The Captured Economy* with two members of the House and a U.S. senator.

A follow-up project, [www.CapturedEconomy.com](http://www.CapturedEconomy.com), launched in June 2018. The website is a major resource for news and research on “regressive regulation.” The four main issues discussed in the book—financial regulation, intellectual property, occupational licensing, and land-use regulation—are covered extensively, with additional topics planned for the future. The site also offers a unique reference library containing over 1,000 pieces of academic literature condensed into brief summaries—a useful resource for students and scholars who wish to explore and extend the research program of *The Captured Economy*. Frequent blog posts highlight new studies and are compiled into a weekly newsletter.



A photograph of two men standing side-by-side against a vibrant, abstract background of splattered colors including red, blue, and orange. The man on the left is older, with grey hair and glasses, wearing a black blazer over a pink and white striped shirt. The man on the right is younger, with a beard and glasses, wearing a light blue button-down shirt. In the upper right corner, there is a dark teal rectangular box containing a quote and the name of the man on the right.

“Niskanen consistently provides thoughtful, timely research that helps my legislative work, forces me to question key assumptions underlying policy debates, and creates opportunities for transpartisan collaboration.”

REP. MIKE GALLAGHER (R-WI)





# Immigration

## Standing Up for Principles and Productivity

### A REALISTIC DREAMER FIX

Securing the status of Dreamers, undocumented U.S. residents who were brought to the country as minors, has been a major priority for the Niskanen Center. When Congress was debating possible legislative approaches, our immigration policy team worked with Republican lawmakers and organizations to promote GOP-led legislation that would have secured legal status for the majority of Dreamers. During this effort, we played an important coordinating role in a coalition of politicians, businesses, advocacy groups, colleges and universities, and Republicans which sought to make the case for a solution to their constituencies.

Our frequent individual and small-group meetings with legislators and their staffs made us a nerve center for Hill officials seeking a viable Dreamer fix. We were deeply involved with efforts in the House to craft and then promote the *Recognizing America's Children Act* (RAC Act) and, in the Senate, the *Solution for Undocumented Children through Careers, Employment, Education and Defending our Nation Act* (SUCCEED Act), which was endorsed by *The Washington Post* editorial board and received largely favorable bipartisan coverage and support.









“While working to craft big, sober ideas to some of our nation’s greatest policy challenges, it’s essential to have access to a wide array of research and policy expertise. I’m thankful to the Niskanen Center for their willingness to inform and support many of these forward-thinking ideas in a bipartisan, thoughtful way.”

**REP. CARLOS CURBELO (R-FL)**





To educate lawmakers, the Niskanen Center authored two economic studies: one on the RAC Act and one on the SUCCEED Act. The offices of Sens. Thom Tillis (R-NC) and James Lankford (R-OK) cited our research in informational materials they circulated about the SUCCEED Act.

## DEFENDING LEGAL IMMIGRATION

When the White House announced its “four pillars” immigration proposal that included an end to both “chain migration” and the Diversity Visa program, we were already informed and prepared, putting us a step ahead of other organizations. This allowed us to immediately fight back against the wave of misinformation about both avenues of legal immigration. We developed an authoritative overview of family-based (chain) migration and coupled that analysis with an economic model that forecasts how various policy options would affect overall immigration levels.

While staunchly defending family migration and the Diversity Visa, we recognized the need to speak to lawmakers about what to do if hardliners were to insist on changing those programs before they could provide a pathway to citizenship for the Dreamer population. We initiated the first meaningful debate about replacing visa slots that might be slashed from the family and Diversity programs with new slots in employment- or skills-based categories, ensuring the overall level of legal immigration would remain stable.

Both Republicans and Democrats relied on our expertise on family-based migration. During the final month of negotiations, our team was contacted virtually every day to run different chain migration scenarios by a number of key staffers who were leading the behind-the-scenes drafting of various bills that were aimed at fixing this issue.

We played defense as well. In response to the introduction of the Securing America’s Future Act of 2018 by Rep. Bob Goodlatte (R-VA), we published original research that provided a review of the key provisions in each section of the bill and broke down its devastating economic impacts on a state-by-state basis. This state-specific information was sent far and wide across Capitol Hill.

## PAVING A ROAD FOR FUTURE HUMANITARIAN IMMIGRATION

Across the board, President Donald Trump’s administration is chipping away at legal immigration. Administrative changes and deliberate obstacles continue to stymie visa applications from students, tourists, businesspersons, and workers.

Recipients of humanitarian visas are most vulnerable to the administration’s anti-immigration crusade. In April 2018, we published original research on how the administration has undercut the U.S. refugee resettlement program, in part by processing applications from favored regions of the world while neglecting others—a discrepancy we were the first to report. We are working with former Office of Refugee Resettlement officials and representatives from a number of nonprofit agencies to explore community co-sponsorship as a complement to traditional federal refugee resettlement avenues.

In cooperation with Professor Idean Salehyan of the University of North Texas, we wrote a paper on “The Strategic Case for Refugee Resettlement.” An accompanying Hill event laid out a strong case for national security hawks to protect refugee programs. We organized a group of center-right allies to speak at the event, and we’re seeking a Senate Republican to champion elements of our proposal for the private sponsorship of refugee resettlement.

This fall, we will release a creative proposal to reinvent the way we look at the Diversity Visa by transforming it to complement a merit-based system.





# Poverty and Welfare

Making Markets That  
Work for All



## **PUSHING CHILD ALLOWANCES INTO THE PUBLIC DEBATE**

One-third of all people in America below the federal poverty line are younger than 18 years old. Some progress has been made, but America's rate of child poverty remains unacceptably high. Niskanen's Poverty and Welfare policy team has been working to combat child poverty by advocating for a new child allowance policy, which would provide a periodic, per-child cash transfer directly to families, regardless of income. In 2016, we developed a proposal for converting the existing Child Tax Credit (CTC) into a child allowance funded through the consolidation of the potpourri of existing in-kind federal programs. In 2017, Director of Poverty and Welfare Policy Samuel Hammond laid out a libertarian case for child allowances at a Brookings Institution event on the subject. Hammond's presentation attracted interest on Capitol Hill, which led to a collaboration with the offices of Sens. Michael Bennet (D-CO) and Sherrod Brown (D-OH) that resulted in the American Family Act of 2017. This bill, the first of its kind, would transform the CTC into a true child allowance. Niskanen is driving the conversation around child allowances and reshaping the debate among policy professionals, while making the case in congressional offices on both sides of the aisle.

## **EXPANDING THE CHILD TAX CREDIT TO LOW-INCOME HOUSEHOLDS**

The Niskanen Poverty and Welfare team played a critical role in doubling the CTC in the GOP tax bill, including a significant expansion in the refundable portion of the credit (the amount that can be paid out to taxpayers with zero income tax liability). Our efforts began nearly a year before the Tax Cuts and Jobs Act was signed into law. Through a close and productive collaboration with Sen. Marco Rubio's (R-FL) office, we worked to educate dozens of members of Congress as well as key White House economic policy advisors about the importance of the CTC to comprehensive tax reform. Once it appeared likely that the CTC could be expanded, we established the CTC Working Group, a transpartisan coalition of progressive and pro-family advocates, which met periodically to discuss developments and coordinate efforts. Our meetings led to the creation of [ExpandTheChildTaxCredit.com](http://ExpandTheChildTaxCredit.com), a statement in support of a significantly larger and more refundable CTC, endorsed

by more than a dozen consequential organizations and individuals. In the final hours of negotiation over the tax bill, Niskanen supported an amendment introduced by Rubio to revise the bill's cut in the corporate tax rate by one point to finance a substantial boost to CTC refundability. The amendment failed, but the debate ultimately pushed leadership to cede an additional \$40 billion over 10 years to the refundable portion of the CTC—a major win for antipov-erty advocates, and one of our most significant legislative achievements to date.

## **FINDING COMMON GROUND IN THE HEALTH CARE DEBATE**

Niskanen Center Senior Fellow Ed Dolan spent the past year tirelessly making the case for Universal Catastrophic Coverage (UCC) as a good, bipartisan solution to health care reform. In a diverse array of publications, including *The New York Times*, *Vox*, the *Washington Examiner*, and the *Milken Institute Review*, Dolan has appealed to the progressive goal of universality, arguing that no one should be denied essential medical care just because they can't afford it. Yet UCC also has a fine conservative and libertarian pedigree, Dolan has observed, and represents an efficient, market-friendly, fiscally conservative path forward for health care reform. In a series of policy articles and short pieces, Dolan has fleshed out the technical details of a practical UCC policy while drawing out its advantages over rival ideas on both the left and right.

Future health care reform is unlikely to win the political buy-in it needs to succeed if, like the Affordable Care Act, it is delivered without bipartisan support. Niskanen's UCC advocacy offers a way to break the current partisan impasse on health care with a broadly appealing, effectively communicated, evidence-based policy.

## **A NEW VISION FOR SOCIAL WELFARE POLICY**

The Niskanen Center is dedicated to modernizing the U.S. social insurance system to better buffer Americans from economic shocks resulting from open trade, rapid technological change, and the day-to-day volatility of dynamic market economies. A major paper on these themes by Samuel Hammond, "The Free-Market Welfare State: Pre-

serving Dynamism in a Volatile World,” published in May 2018, advances a set of empirical and theoretical arguments in defense of the proposition that economic freedom and robust social insurance systems are natural complements. The paper outlined a set of principles for a “free-market welfare state” research and reform agenda. The report has generated significant debate across the ideological spectrum, meeting our near-term goal of disrupting the polarized ideological assumptions of the social policy debate and reinforcing Niskanen’s reputation as an epicenter of fresh, practical ideas.

#### **PROMOTING MEDICAL ACCESS AND INNOVATION THROUGH DEREGULATION**

In 2017, we provided critical assistance to Sens. Elizabeth Warren (D-MA) and Chuck Grassley’s (R-IA) effort to deregulate the market for hearing aids. Their bill created a new Food and Drug Administration category for over-the-counter hearing aids, removing artificial barriers to access and innovation created by state-level audiology boards. The legislation was threatened by a last-minute attempt by industry-funded opposition groups to derail it. Through meetings with congressional staff, op-eds, and a coalition letter, we mounted an effective defense of the measure on free-market grounds, supplying conservative members of the Senate Committee on Health, Education, Labor and Pensions (HELP) with the cover they needed to resist pressure to remove the provision from the larger legislative package that ultimately passed.

#### **LIBERALIZING COMPENSATION FOR BONE MARROW DONORS**

In 2011, a federal court ruled that compensating donors of bone marrow stem cells extracted from the bloodstream was comparable to compensating plasma and whole-blood donors, and therefore legal. In response, the U.S. Health Resources and Services Administration (HRSA) issued a rulemaking that would have superseded the court and violated congressional intent, banning compensation to bone marrow donors under the National Organ Transplant Act. After writing an original white paper on the issue, “Bone Marrow Mismatch,” we directly engaged HRSA’s Director of Transplants and hosted an expert panel to brief the Senate HELP

committee. Our work, in collaboration with the Institute for Justice, forced HRSA to back down and withdraw its rulemaking in August 2017. Our influence was validated by private correspondence indicating our white paper was pivotal to the decision-making process.


#### **FIGHTING THE PUNITIVE POLITICS OF WELFARE REFORM**

Poverty programs, as policies designed by the powerful on behalf of the disempowered, always run the risk of becoming tools of social control rather than of empowerment. This was seen clearly in the first year of the Trump administration, which featured several attempts to further undermine America’s already fragmented social welfare system and left antipoverty advocates playing defense. Along the way, the Niskanen Center provided penetrating policy commentary, calling out both sides of the aisle when the evidence demanded it. Our analysis of the right’s ill-advised push for work requirements in food stamps and Medicaid, and our case for the infeasibility of the left’s push for job guarantees and new public housing projects, have cemented our reputation as a formidable, clear-eyed champion for the poor and disadvantaged.

“Working families expect to see real benefits from tax reform, and an expanded Child Tax Credit is one of the best ways to target relief for those who need it most. The Child Tax Credit coalition’s clear voice on the topic is crucial in ensuring that our families aren’t simply an afterthought in tax reform.”

**SEN. MIKE LEE (R-UT)**





“Expanding the child tax credit is the number one thing we can do to enact a tax cut for working American families. Pro-family organizations have long been essential partners for this priority, and [Expandthechildtaxcredit.com](http://Expandthechildtaxcredit.com) will help us ensure the tax reform package Congress considers puts working families first in line for relief.”

SEN. MARCO RUBIO (R-FL)





# Technology

## Paving the Way for Progress

### MAKING AMERICA BOOM AGAIN

In *The Wall Street Journal* op-ed, a Mercatus Center research paper, and a dedicated website (SupersonicMyths.com), Samuel Hammond laid out a set of reforms to pave the way for the return of supersonic aviation. This research and advocacy directly contributed to legislation, championed by Rep. Mark Sanford (R-SC), and Sens. Mike Lee (R-UT) and Cory Gardner (R-CO), to begin the process of lifting the 1973 ban on supersonic travel over the continental United States. The legislation also directs the Federal Aviation Administration to investigate practical noise standards for supersonic flight, both for overland and on landing and takeoff, while committing the United States to a leadership role on the global stage. With the farsighted support of allies in the Department of Transportation and Office of Science and Technology Policy, our supersonic initiative went from a white paper to the White House. The Federal Aviation Administration Reauthorization signed into law this fall represents the first legislation on civil supersonic aviation in nearly 60 years—a massive win for the Niskanen Center and all those fighting to accelerate the United States into the future.


### CULTIVATING THE INTERNET OF THINGS

In January 2017, the Department of Commerce released a green paper articulating its new policy approach to the Internet of Things. The paper reaffirmed the department's commitment to the principles of the 1997 Framework for Global Electronic Commerce, which established a pro-market, pro-innovation regulatory stance toward the emerging Internet, setting the stage for its explosive growth. This move was a direct result of regulatory comments submitted by Niskanen Senior Fellow Ryan Hagemann, Senior Director for Policy, to the department in spring 2016, and it marks the first time in 20 years that the government has officially reaffirmed its commitment to the Framework.

### 21ST CENTURY REGULATION FOR 21ST CENTURY TECHNOLOGY

Following on the Department of Commerce's reaffirmation of the principles of the Framework for Global Electronic Commerce, Ryan Hagemann has continued to lay the groundwork for a new regulatory framework for emerging technologies. In a pair of law journal articles, he has made the case that a flexible, permissive, "soft law" approach to new technology is the best way to protect the public interest at a time of rapid, unpredictable innovation. One of these papers, "Soft Law for Hard Problems: The Governance of Emerging Technologies in an Uncertain Future," coauthored with Adam Thierer and Jennifer Skees, was featured in *The Future of Regulation: Principles for Regulating Emerging Technologies*, a report from the Deloitte Center for Government Insights, and has received praise from policymakers, academics, industry, and former government officials. Hagemann spoke about this regulatory approach in a number of invited talks, most notably at the Spring 2018 Governance of Emerging Technologies and Science Conference at Arizona State University's Sandra Day O'Connor College of Law.





“The United States has always been the world leader in advancing aerospace innovation, and thanks to the work of the team at the Niskanen Center, that will remain true well into the supersonic era.”

**REP. MARK SANFORD (R-SC)**





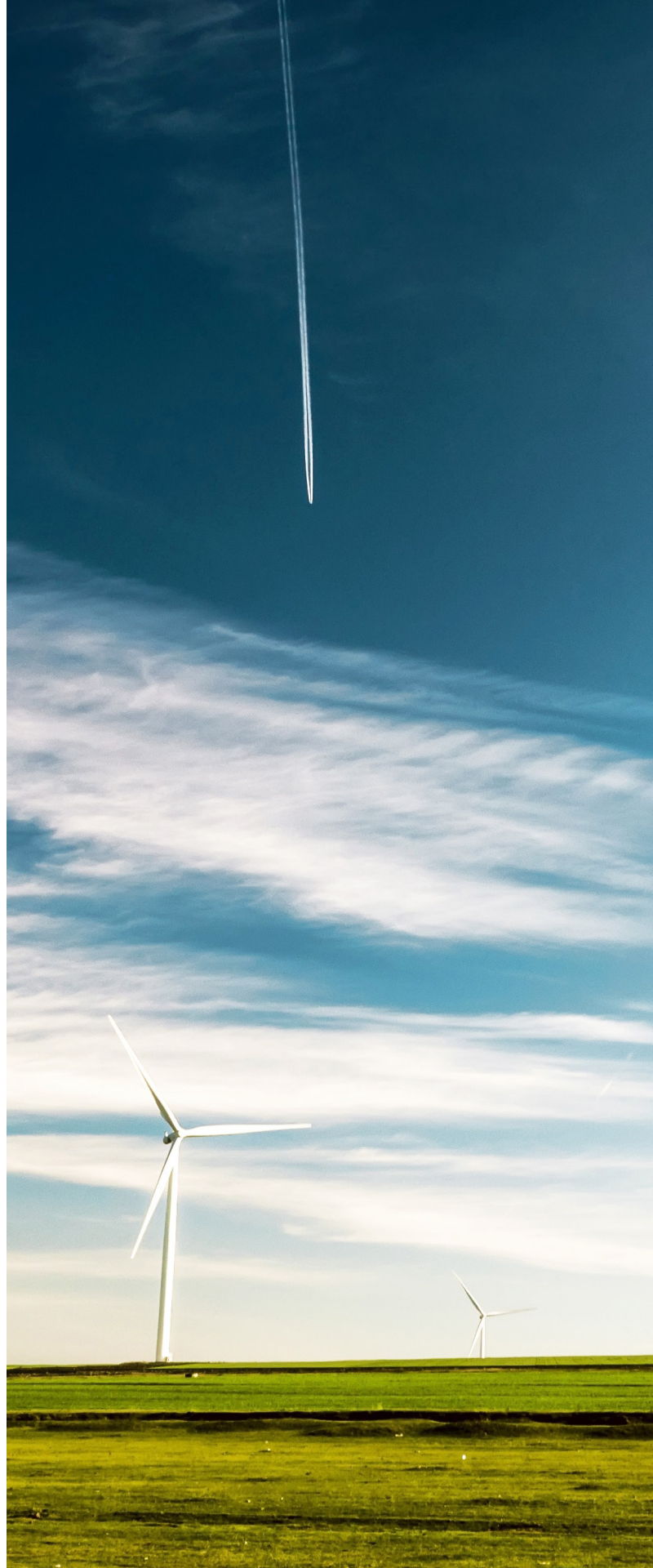
# Climate

## Opening Minds to Action on Climate Change

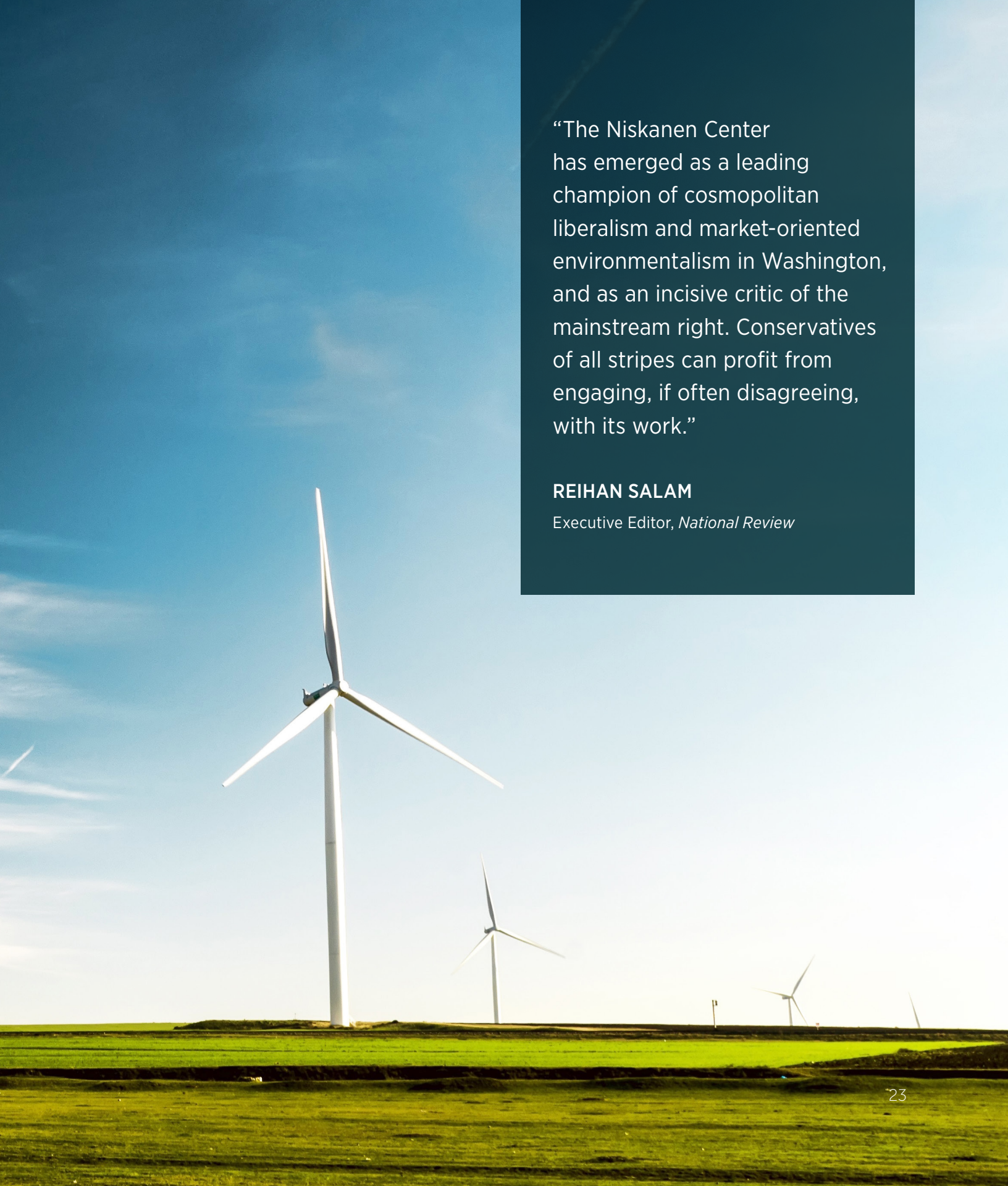
### PUTTING A CARBON TAX ON THE TABLE

The depth of the Niskanen Center’s analytical work—combined with the breadth of staff experience in science, law, and economics—offers policymakers much needed information and insight, as well as thoroughly vetted, practicable proposals. Legislators have taken note. In July 2018, Rep. Carlos Curbelo (R-FL) introduced the MARKET CHOICE Act, a bill that would establish an economy-wide tax on carbon emissions and allocate the revenue primarily to infrastructure upgrades. While drafting his proposal, Curbelo reached out for policy analysis and advice from the Niskanen Center. In particular, we assisted in shaping the bill’s approach to swapping Environmental Protection Agency regulations for a carbon tax, which offers a route to seriously tackling climate change that appeals to Republican interests. Curbelo introduced the legislation at a press event co-hosted by the Niskanen Center and the Center on Global Energy Policy at Columbia, which also featured an expert panel on the design of the bill moderated by Niskanen’s Director of Climate Policy Dr. Joseph Majkut.

Curbelo’s bill is an exciting development, but it’s just the beginning. Niskanen has changed the conversation on carbon







“The Niskanen Center has emerged as a leading champion of cosmopolitan liberalism and market-oriented environmentalism in Washington, and as an incisive critic of the mainstream right. Conservatives of all stripes can profit from engaging, if often disagreeing, with its work.”

**REIHAN SALAM**

Executive Editor, *National Review*

pricing legislation and is pushing forward with innovations in policy design, expert empirical analysis, and intensified engagement with lawmakers.

### EDUCATING POLICYMAKERS ON CLIMATE SCIENCE

Educating policy elites on the reality and nature of climate risks is one of our top priorities. We are especially focused on changing opinions and attitudes about climate science on the right. Some conservative policy actors don't know that there is an overwhelming consensus that climate change is human-caused and presents compelling risks, and many have come to accept empirically weak or outrightly fraudulent claims about climate science spread by ideological allies. That's why Niskanen has established itself as a voice of reason in the climate debate, producing sharp, expert media commentary, as well as targeted custom materials sensitive to conservative priorities and responsive to the messages right-leaning elites get from skeptical activist groups and conservative media.

In August 2017, we launched Climate Unplugged ([www.ClimateUnplugged.com](http://www.ClimateUnplugged.com)) as the go-to resource for Capitol Hill staff and policy analysts on the main points of contention around climate science. Our written work and Hill advocacy have placed Niskanen on the short list of groups that can offer credible, rigorous, nonpartisan analysis and information on climate science. Joseph Majkut's testimony to the House Science Committee in November 2017 on the science of climate change and geoengineering technologies is just one example of our increasing influence.

### MAKING THE CONSERVATIVE CASE FOR CLIMATE ACTION

Moving Republicans toward supporting climate action is absolutely critical if the United States is to adopt necessary policies and maintain them for the decades it will take to reduce greenhouse gas emissions. Even if Democrats make incredible electoral gains for a time, it will be nearly impossible to create durable climate policy without some GOP buy-in. Partisan polarization on climate has made it more important to press the conservative case for climate action.

Jerry Taylor, President of the Niskanen Center, has established himself as a leading voice on this issue. In January 2017, he published "A Conservative Carbon Tax" in the *Milken Institute Review*, making arguments that appeal to conservative values and address legitimate concerns about the economic costs and increasing scope of government authority that could come with climate policy. Between January 2017 and July 2018, Taylor gave 25 invited lectures on topics that included why he moved away from climate skepticism, current issues in environmental and energy policy, and the conservative case for climate action.

"The Niskanen Center has blazed an important new trail through the policy thicket with thoughtful commentary, sophisticated political strategy, and remarkable leadership. Free-marketers can now feel responsibly represented in Washington by an organization that not only takes its libertarian roots seriously, but also grapples with the most critical market failures of our time."

**ADELE C. MORRIS, PH.D.**

Senior Fellow and Policy Director, Climate and Energy Economics Project, Brookings Institution





Left: John Hood, from the John Locke Foundation.  
Right: Joseph Majkut, Director for Climate Policy,  
Niskanen Center





## Litigation

### Holding Power to Accountability

#### **HOLDING BIG ENERGY RESPONSIBLE FOR CLIMATE NUISANCE**

Niskanen is representing Boulder County, San Miguel County, and the City of Boulder in one of the handful of climate nuisance cases across the nation. Similar to suits brought by New York City, San Francisco, and Baltimore, ours seeks to hold fossil fuel producers liable for the costs their products are imposing on local governments. However, ours is the first such case focusing on climate impacts beyond sea-level rise. Coping with drought, increased wildfires, flooding from extreme precipitation, and other climate effects will be massively expensive. The defendants, we argue, produced and sold fossil fuels knowing their effects on the climate, but failed to disclose what they knew and at times actively misled the public. After finally admitting that climate change is caused almost entirely by their products, they have now announced plans to produce and sell even more of them. We believe that fossil fuel producers should bear the costs of adapting to climate change, and not local taxpayers. In addition to our role in this suit, we are consulting two other legal teams who are handling all of the other climate nuisance cases across the country, and we have filed an amicus brief in the New York City case.

#### **PROTECTING PROPERTY OWNERS FROM PIPELINE EMINENT DOMAIN**

Niskanen has launched an eminent domain litigation project to protect landowners' property rights from abuse by oil and gas pipeline companies that seek to seize land for their projects. We began by filing an amicus brief in the Iowa Supreme Court in a case challenging the notorious Dakota Access Pipeline, focusing on the proper interpretation of the Takings Clause in the Iowa Constitution. We argued in support of landowners that the general economic benefits that would accrue to the state from the pipeline fail to meet the Iowa Constitution's requirement that private property be taken only for "public use." We followed by consulting with lawyers involved in a related array of federal court challenges to eminent domain abuses by the Federal Energy Regulatory Commission (FERC) in approving natural gas pipelines, and we have filed the only amicus brief in support of the landowners in one such case in the U.S. Court of Appeals for the District of Columbia Circuit.

Niskanen is also involved in other natural gas pipeline issues. We have drafted legislative text in an effort to move Congress to address problems with FERC's implementation of eminent domain authority for gas pipelines, and we have been meeting with lawmakers and their staffs to educate them about the issue and encourage the introduction of a bill. On the regulatory side, FERC recently responded to mounting criticism of its gas pipeline permitting process by seeking public input. We filed 35 pages of comments describing how various FERC practices violated the Fifth Amendment's Due Process and Takings Clauses, and coauthored—with Robert McNamara from the Institute for Justice—a related op-ed that appeared in *The Wall Street Journal*.

#### **FIGHTING THE CORRUPTION OF THE NATIONAL COAL COUNCIL**

The National Coal Council (NCC) is a federal advisory committee established under the Federal Advisory Committee Act. However, Niskanen discovered the disturbing fact that the coal industry has incorporated the NCC as a private entity and provides all of its funding. The NCC has thus become a mouthpiece for the coal industry, clothed in the garb of a federal advisory committee. We sought



records relating to the NCC's funding, citing the Freedom of Information Act, and the Department of Energy (DOE) responded by saying it either didn't have, or could not provide, any of that information. We have filed suit in federal district court for an order compelling DOE to produce the required information.

We are awaiting the judge's decision.

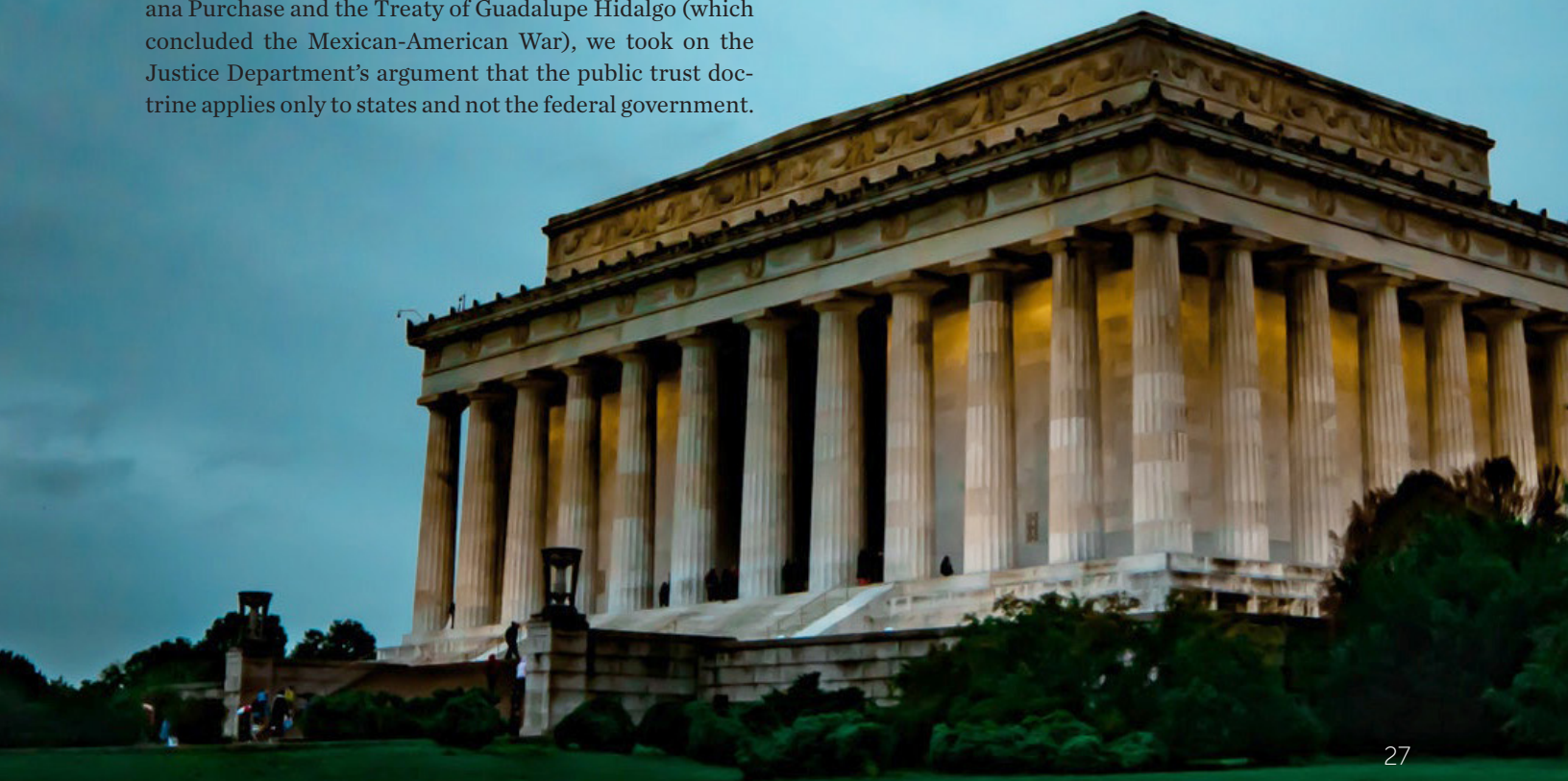
### **HOLDING GOVERNMENT TO ITS CLIMATE OBLIGATIONS**

A major piece of climate litigation is pending in federal district court in Oregon, where a group of children have claimed that the federal government has violated their constitutional right to a climate "capable of sustaining human life" and should be compelled to take regulatory measures to reduce emissions. Niskanen assisted with an amicus brief on a collateral claim more legally promising than a new constitutional right: The federal government has a "public trust" responsibility to protect the environmental integrity of the atmosphere. Relying on 19th-century Supreme Court cases dealing with the federal government's trust responsibilities for tidelands acquired in the Louisiana Purchase and the Treaty of Guadalupe Hidalgo (which concluded the Mexican-American War), we took on the Justice Department's argument that the public trust doctrine applies only to states and not the federal government.

### **FIGHTING THE PRESIDENT'S UNCONSTITUTIONAL EMOLUMENTS**

The Emoluments Clause of the Constitution (Article I, Section 9, Clause 8) provides that "no Person holding any Office of Profit or Trust ... shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." The Niskanen Center became involved in one of the two cases that have been filed against the president on the grounds that he is accepting illegal emoluments from foreign governments through diplomats patronizing the Trump International Hotel in Washington, D.C., which President Donald Trump owns.

The Justice Department has taken the position that the Emoluments Clause does not apply to any of Trump's private business dealings, but only to his actions as president. In *CREW v. Trump*, we filed an amicus brief in the U.S. Court of Appeals for the 2nd Circuit pointing out the constitutional consequences of an approach that would allow, for example, the Russian government to pay \$5 million a month for a broom closet at the Trump International Hotel. We are awaiting the court's decision.







# Defense and Foreign Policy Studies



## Standing Up for American Engagement

President Donald Trump's assault on U.S. alliances, free trade agreements, and other international institutions is weakening the American-led postwar order. The relative global stability and peace that brought the world a half-century of rising prosperity and social progress is at risk. That's why the Niskanen Center is forwarding a fresh case for American engagement and global leadership to center-right audiences.

In a major paper released in late 2017, Senior Fellow Matthew Fay argued that a free society—and an open, liberal international order—is best served by a grand strategy of American engagement. Such a strategy counsels that the United States maintain many of its current alliances, and much of its forward deployment of military forces. Withdrawal would risk inducing military buildups among current allies and countries now deterred by an American presence and could lead to wasteful arms races or spiral into wars. Continued engagement, in contrast, maintains the incentives for international cooperation and positive-sum economic exchange.

However, forward military deployment tempts American leaders to undertake costly and counterproductive military interventions. Over the past year, Fay's writings—including an extended essay for the influential website *War on the Rocks*—have emphasized the need for a special-purpose tax to pay for the use of military force. Such a tax would increase the political salience of elective wars with American voters, forcing leaders to think twice before launching them. Fay's other work over the past year has focused on civil-military relations and Trump's troubling insistence on politicizing the military. In an essay in *National Review*, Fay argued that the U.S. military strikes on Syria in April of this year were merely a symbolic assertion of American power unlikely to change the Syrian regime's willingness or capability to commit atrocities.







## Podcast

### Staying at the Cutting Edge of Political Science Research

The Niskanen Center's strategy is rooted in social-scientific evidence about how politics really works. To better inform our understanding of what's going on in American politics and how we might best advance our agenda on constantly evolving political terrain, late last year we launched "Political Research Digest," a biweekly podcast produced by political scientist and Niskanen Senior Fellow Matt Grossmann.

"Political Research Digest" features top researchers delivering fresh insights on major trends influencing American politics and policy. By moving beyond superficial punditry to data-driven understanding, "Political Research Digest" serves as a vital bridge between academia and political elites, illuminating the dynamics of democratic policymaking and the political landscape upon which the struggle between open and closed societies is being fought.



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# POLITICAL RESEARCH DIGEST

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**“POLITICAL RESEARCH DIGEST” HAS FEATURED  
DISCUSSIONS ABOUT A WIDE RANGE OF TOPICS:**

- The political power and influence of Fox News;
- The implications of the gender gap in American politics;
- The messaging that moves conservatives to embrace climate policy;
- What makes for a successful congressional voting bloc;
- How the House Freedom Caucus exerts power in Congress;
- How the politics of gun control have contributed to political polarization;
- The nature of the multiracial electoral coalitions that form around minority candidates;
- The implications of the increasing use of the Senate filibuster;
- How and why both political parties use tax credits and deductions to secure policy objectives;
- The means by which party establishments fight insurgent candidacies;
- The nature of the anti-Trump resistance and its effectiveness;
- The source of the public’s distrust of government;
- The rise of tribalism and identity politics;
- The success states have had in making state policies more “red” or “blue”;
- The degree to which racial stereotypes have motivated voters over the course of the last few presidential election cycles;
- How debt financing leads to war and higher defense spending;
- Whether the GOP’s anti-immigration stance threatens to make California’s past the Republican Party’s future;
- Whether the decline of labor unions drives inequality;
- The rise of the use of genetic explanations to account for liberal and conservative worldviews;
- Whether the left or the right is more hostile to democracy;
- The impact of Facebook on political polarization and misinformation;
- Whether the nationalization of the media signals the death of local politics;
- How the Federalist Society has changed the Supreme Court vetting process;
- The degree to which campaign money has affected elections both before and after the Citizens United decision.





The Niskanen Center has swiftly emerged as an influential voice shaping the conversation about American politics and policy. Over the past 18 months, the Niskanen Center was featured in print, online, and broadcast media 1,033 times, increasing media engagement from our first 18 months by more than 300 percent. The Niskanen Center and its scholars have been featured in coverage by a wide range of influential outlets including *The New Yorker*, *The Washington Post*, *The New York Times*, *The Wall Street Journal*, the *Financial Times*, *The Atlantic*, *USA Today*, *Politico*, the *Chicago Tribune*, *Bloomberg*, *Reuters*, and *Vox*. Niskanen's presence in key Capitol Hill publications has been especially impressive. We chalked up 31 appearances in *Politico*, 22 in *The Hill*, and 23 in *Axios*, which was launched last year by former *Politico Playbook* author Mike Allen. Niskanen's policy experts also have been featured in broadcast media, appearing on PBS, CNN, MSNBC, C-SPAN, CBS radio, and BBC radio, as well as a number of popular podcasts.

Niskanen Center policy experts have written 178 opinion pieces over this period in prominent publications such as *The Wall Street Journal*, *The New York Times*, *The Washington Post*, *Foreign Policy*, *National Review*, the *Los Angeles*

*Times*, the *Chicago Tribune*, and the *Washingtonian*. Since April, Vice President for Research Will Wilkinson has been a contributing opinion writer for *The New York Times*, bringing Niskanen's perspective to the pages of America's newspaper of record each month.

Niskanen's relevance and reputation have been cemented by prominent columnists and reporters—Steve Chapman of the *Chicago Tribune*, Jodi Kantor and Ross Douthat of *The New York Times*, Robert Samuelson and Jennifer Rubin of *The Washington Post*, Jonathan Rauch of *The Atlantic*, and Evan Osnos of *The New Yorker*—who have reached out to the Niskanen Center over the past 18 months and/or featured us in their widely read and circulated pieces. Niskanen President Jerry Taylor was the subject of a feature in *The Intercept*, and a segment on the Niskanen Center is currently in the works for HBO's "Vice News Tonight."

Our relationships with media outlets have been amplified by our growing digital and social media footprint. From the beginning of 2017 to the present, we've gained over 2,000 new followers, including many influential individuals, on Twitter and Facebook, earning a large and growing rate of high-quality likes, comments, and shares. This has driven an increasing number of individuals to the Niskanen Center website. Over the past 18 months, we've had 1,104,480 unique visitors, compared with 567,452 unique visitors during our first 18 months.

"Within a few short years, the Niskanen Center has become a thought leader, not just for Washington, but also for the world."

**TYLER COWEN**

Director, Mercatus Center,  
George Mason University





Reihan Salam, *National Review*, Nicholas Kristof, *New York Times* and Linda Chavez, Niskanen Center with Fareed Zakaria on CNN



Kristie De Peña, Director for Immigration Policy, Niskanen Center; Mark Krikorian, Center for Immigration Studies; Heather McDonald, Manhattan Institute; and the moderator; Reihan Salam, *National Review*.



David Bookbinder, Chief Counsel, Niskanen Center

**NATIONAL  
REVIEW** **WASHINGTONIAN**

**Chicago Tribune**

**Los Angeles Times**

 **REUTERS**

**FINANCIAL TIMES**

**THE WALL STREET JOURNAL.**

**Bloomberg**

**THE NEW YORKER** **Vox**

**The New York Times**

*The Atlantic*

 **USA TODAY™**



## Moving Forward

The Niskanen Center is now a recognized and respected player in the public sphere in Washington, D.C., and beyond. Our strong relationships with D.C.-focused publications and reporters have been solidified. Most gratifying, we appear to have captured the attention of a broader audience, including some of the most influential intellectuals in the country and reporters from a mix of respected, traditional outlets as well as outlets on the rise with younger audiences. Evidently, people are interested in hearing our story, reading our analyses, and turning to us when they want to make sense of what is happening in politics.

In 2018 and beyond, we will maintain our strong relationships with influential columnists, reporters, and editors and cultivate new ones while extending the reach of our work through social media. But while our proactive outreach efforts continue, this past year demonstrates a marked shift in which outlets are more frequently *approaching us*. This indicates that the Niskanen Center has overcome one of the most challenging hurdles any young organization faces: gaining recognition and respect from influential peer organizations and the media.











# Transparency

While the IRS allows 501(c)(3) think tanks like the Niskanen Center, and its related 501(c)(4), the Niskanen Center for Public Policy, to keep the sources of its financial support confidential, we've decided to embrace donor transparency (a case well made by, among others, On Think Tanks and Transparify). We are disclosing all donations of more than \$5,000 per year on our website, and, moreover, which policy departments or operations those donations are meant to support (if any). This list includes all donations that contribute to our current operating budget and will be updated on our website as new donations arrive. Exceptions are made for those donors who wish to remain anonymous.

There are good reasons for donor transparency. The reputation of think tanks is degrading due to suspicions that they are naked lobbying operations for corporate interests. And those suspicions are not always unwarranted, as suggested in a series of recent media reports in *The New York Times*, *The New Republic*, and *The Nation* about undue corporate influence. Related concerns about foreign governments buying think tank influence are also rising. With the increasing unease about foreign money flooding the U.S. political system—money that may serve as a means of political entry for foreign governments—transparency is in the public interest.

A lack of transparency also suggests that a think tank might have something to hide. We don't.

Obviously, donors who give to the Niskanen Center do so because they agree with what we stand for, what we're arguing in the policy arena, and how well we're advancing our case. While transparency does not necessarily extinguish suspicions that a think tank is taking position X because of money from donors A or B, it is certainly the case that transactional relationships are easier to execute without financial transparency. And if you've been following the Niskanen Center and its staff members over time, you'll probably have a hard time believing that our opinions can be bought.

The Niskanen Center is proud to be associated with the individuals and foundations that provide the financial resources necessary for us to do our work.

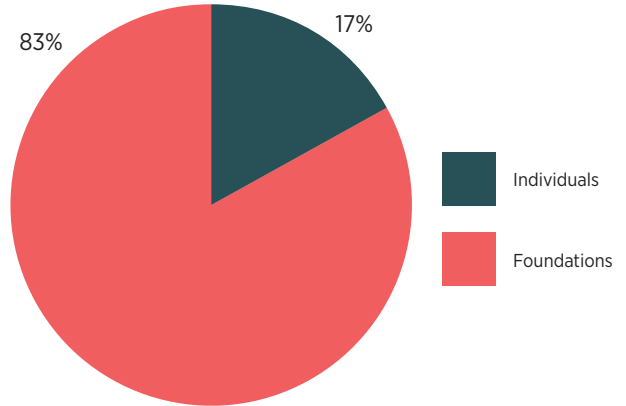
We invite you to join them.



# Financials

## NISKANEN CENTER FOR PUBLIC POLICY 2017 REVENUE

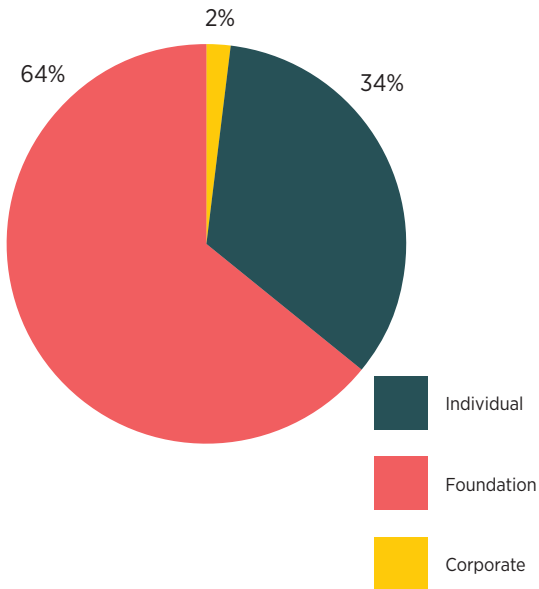
Total Revenue:  
\$600,000



The Niskanen Center for Public Policy is an affiliated 501(c)(4) organization that engages in even more direct political action to advance our agenda.

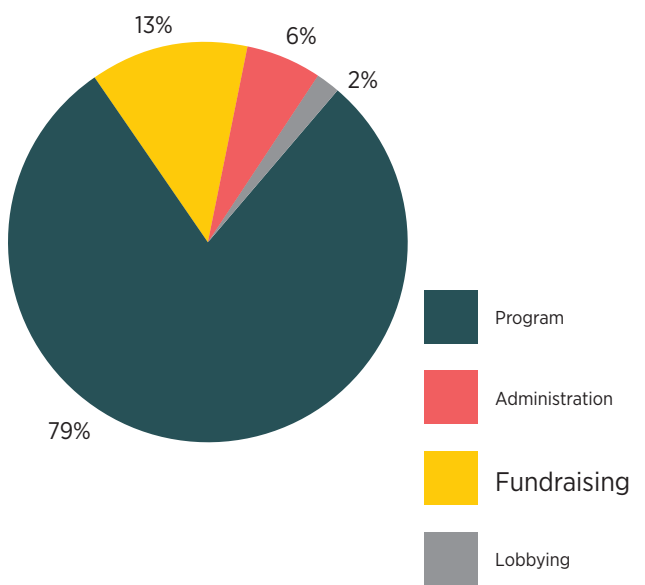
## NISKANEN CENTER 2017 REVENUE SOURCES

Total Revenue:  
\$3,529,677



## NISKANEN CENTER 2017 EXPENSES

Total Expenses:  
\$3,281,090





## Call to action

With President Donald Trump throwing his phone through every trophy case in the museum of American norms, a retreat to orthodoxy may seem to offer a respite.

Indeed, the left is coalescing around ever more radical positions, while the right is splitting into two camps. One tolerates the president for what it views as the greater cause of advancing its long-held ideological goals. The other has converted wholly to the religion of Trump. Each group is talking more and more to itself, and less and less to the others.

The Niskanen Center is offering a different conversation.

It's a conversation where alliances can be scrambled. Where old ideas can be challenged. Where creative thinking and pragmatism matter more than branding. Where we step out of our corners and face the reality that we don't just have a hole in the roof of our democracy—we need a new foundation.

Niskanen was founded in 2015 to give supporters of free markets and open societies a way to break free of old orthodoxies about how to achieve their goals and get to work

building the evidence, ideas, and networks they need to succeed. That mission is more vital than ever.

At the Niskanen Center, we are confronting the crisis of liberal democracy. We are diagnosing the ills of our system and defending the ideals of the open society. We are organizing dissident center-right intellectuals and policymakers to protect our democracy and uphold the rule of law.

All the while, we've doubled down on our stunningly rare style of hands-on, in-the-trenches policy advocacy. In the last year, we helped to increase the size of the Child Tax Credit, pushing the GOP's tax bill in a more family-friendly direction. We worked directly with Republican legislators to protect Dreamers, resist family separation, and push for popular, moderate reforms to our broken immigration system. And we played a critical role in getting a serious Republican bill on climate change introduced in Congress.

We're just getting started. Niskanen's credibility and influence within the halls of Congress are on the rise, and our constructive, practical, cutting-edge ideas are constantly heard in the pages of opinion-shaping publications such as *The New York Times*, *The Washington Post*, and *The Economist*.

Niskanen is changing the conversation. We are launching debates in which the goal is to persuade, not land punches. We are imagining a Republican Party that is committed to achieving its founding ideals, not to passing an increasingly ill-advised purity test. We are cultivating a democracy that is not just about talking, but also listening—to good ideas, to new evidence, and to people with whom we disagree.

Help us spread the word.



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