

A black and white photograph of the U.S. Capitol building, showing the iconic dome on the left and the main facade with columns and a wide staircase in the center. The sky is filled with large, dramatic clouds. The text is overlaid on the upper right portion of the image.

Changing the Conversation

ANNUAL REPORT 2018-09/2019

NISKANEN
C E N T E R

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C E N T E R

The Niskanen Center is in the policy change business. But so are a lot of people. Unlike many of them, we embrace evidence-based theories of policy change and marry theory with practice. As this annual report demonstrates, this approach has served us well.

Think tank work is hard for many people to wrap their minds around. At Niskanen, it's quite straightforward. We produce gold-standard policy analyses, use those analyses to better educate legislators and staff, and help them translate good insights and ideas into politically compelling legislative initiatives. All the while, we work closely within the governing networks of Washington. We mobilize support for our proposals, build transpartisan advocacy coalitions to advance them, and make the case for our ideas in the most influential media outlets in the country.

We do this because good ideas are not self-executing. The best means of exercising influence in lawmaking comes from providing political actors with two critical resources they need: information and networks. By doing that via regular and sustained engagement on Capitol Hill, the Niskanen Center has quickly earned a remarkable degree of trust and influence on both sides of the aisle.

Given the hyperpartisan stalemate in Washington at present, some might consider this work a waste of time. But that would be wrong. Successful legislative initiatives — and the transpartisan coalitions required to advance them — take years to build, and they cannot be built on the fly. We know that windows of political opportunity for climate action, immigration reform, etc. will eventually open. And when they do, we need to be ready, because windows of opportunity don't stay open for long.

The Niskanen Center works on both sides of the political aisle for two reasons. First, our ideas have purchase in both political parties. We believe that the free market and the welfare state are not in tension with one another. On the contrary, they are mutually reinforcing. The same can be said of individual liberty and social justice, cultural health and social pluralism, and economic well-being and environmental protection. Accordingly, the Niskanen Center is not reliably found on either side (or even in the center) of American politics. We have allies on at least some issues in virtually every corner of the political scene.

The second reason that we work with both parties is that bipartisan support is necessary to achieve consequential reform in Washington. Attempting to govern with just the votes of a single party is a recipe for political failure, partisan gridlock, and policy inaction. Ideologically-driven partisans have crashed on the shoals of this reality over and over again. The outer bounds of what is politically possible are largely dictated by the degree to which causes can find meaningful support on both sides of the aisle.

Hence, the Niskanen Center is nonpartisan in both form and function. We raise our banner, forward our causes, and welcome all who flock to our side. As you'll see in these pages, our call for "radical moderation" has captured the imagination of public intellectuals and political elites who are weary of ossified ideological dogmatism and fearful about what Manichean political struggle is doing to our country.

Among the outstanding academics and policy experts who've joined Niskanen as senior fellows this year are Sarah Anzia (Professor of Public Policy and Political Science at the University of California, Berkeley), James Bessen (Executive Director of the Technology & Policy Research Initiative at Boston University School of Law), Rachel Bitecofer (Assistant Director of the Wason Center for Public Policy at Christopher Newport University and Professor of Political Science), Aurelian Craiutu (Professor of Political Science at Indiana University, Bloomington), Laura Field (Scholar in Residence at the School of International Service at American University), Jeffrey Flier (Professor of Medicine and Neurobiology and former Dean at Harvard Medical School), David Gray (former Acting Assistant Secretary for Policy at the U.S. Department of Labor), Nathan Jensen (Professor in the Department of Government at the University of Texas-Austin), Monica Prasad (Professor of Sociology and Faculty Fellow at the Institute for Policy Research at Northwestern University), Idean Salehyan (Professor of Political Science at the University of North Texas), David Schleicher (Professor of Law at Yale Law School), Richard Schmalensee (former Dean of the MIT Sloan School of Management), David Schoenbrod (Trustee Professor of Law at New York Law School), Gabriel Schoenfeld (columnist at USA Today and a contributing editor at The American Interest), and Andrew Weiss (Emeritus Professor of Economics at Boston University).

I would like to extend my heartfelt gratitude to all of you who have supported our work. As I hope you'll agree, this year's annual report demonstrates that we have accomplished a great deal together in extremely challenging circumstances. I'm confident that, with your continued support, our tomorrows will be brighter than our present.

President's Letter

JERRY TAYLOR

Co-founder and President, Niskanen Center



Chairman's Letter

“Vibrant.” “Compelling.” “Creative.” “Indispensable.” “Important.” These are just a few of the adjectives that have been used by leading public intellectuals and writers in praising the Niskanen Center this past year.

As one of Niskanen’s founding board members of course I am biased, but hearing such ringing endorsements from some of America’s most esteemed thought leaders is nothing short of exhilarating — particularly since very few organizations manage to earn such accolades at all, let alone just a few short years after opening for business.

In my humble opinion, the Niskanen Center, especially as such a young organization, is well-deserving of this praise. In the five years since Jerry Taylor and his then-small team launched Niskanen, it has become one of the most compelling, innovative, and influential think tanks in Washington, D.C.

It has done so by accomplishing what it initially set out to do: capturing the attention of policymakers and other political elites with smart, pragmatic, and principled arguments. Across the political spectrum, the Niskanen Center has established itself as a one-stop shop for ideas and expertise. Both Republicans and Democrats, and conservatives and progressives alike, are increasingly turning to Niskanen when crafting legislative and regulatory solutions to complicated problems. As such, I couldn’t be more proud of the important work that Jerry and his staff do, and of the positive impact of their efforts on people across the United States.

In addition to its legislative, regulatory, and litigation successes, the Niskanen Center has also created a community of academics, policy experts, journalists, politicians, and philanthropists who are energized by the Center’s vision of “radical moderation.” In these hyperpolarized political times, Niskanen identified the necessity of fostering a community that recognizes the importance of maintaining and strengthening an open society, which is currently under threat from dogmatism, demagoguery, hyperpartisanship, and political malfeasance.

I am heartened by the Niskanen Center’s singular ability to appeal to individuals of diverse ideological and political persuasions who, despite their differences, all find value in Niskanen’s work on issues ranging from immigration policy to regressive regulation, climate to health care, and poverty to the defense of the fundamental institutions of the liberal order. The stakes are high, and Niskanen’s success on these fronts is important.

I hope you’ll read further to learn about the many things that the Niskanen Center has achieved in the past year. As chairman of the board, a financial supporter, and an admirer, I encourage you to sign up for Niskanen’s newsletters, join us at our upcoming events, and get to know who we are, what we do, and why we are worthy of your attention and support. Our community is only getting larger — and we’d be thrilled to welcome you into it.

BOB LITTERMAN

Chairman, Niskanen Center

Chairman, Risk Committee, Kepos Capital



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JERRY TAYLOR

Co-founder and President, Niskanen Center

About the Niskanen Center

The Niskanen Center is a nonpartisan public policy think tank that works within the governing networks of Washington 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. In short, it requires a spirit of moderation.

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 elevate one of these considerations above the others — we believe that each is equally 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 tradeoffs are necessary, and those tradeoffs should be transparently weighed and considered on a case-by-case basis.

“Far and away the most interesting ideas factory on the right these days is the Niskanen Center.”

JENNIFER RUBIN
Washington Post

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 other 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 fearless, nonconformist creed that puts an emphasis on empiricism and places the health of the republic above party or cause.

Open Society Project

Defending Democracy

As liberal-democratic governments continue to be under threat all over the world, the Niskanen Center's Open Society Project has carried on its ringing intellectual and political defense of the open society. We have produced an increasing volume of research and analysis illuminating the principles, values, norms, and institutions of liberal democracy, supplying a rigorous intellectual basis for their protection and advancement. We have gained widening public recognition and have shaped the debate over illiberal populism and the future of the open society through our op-eds, essays, policy studies, conferences, speaking engagements, and media appearances.


The Open Society Project's "Meeting of the Concerned" — a network of center-right intellectuals, commentators, former officials, and political operatives opposed to the influence of Trumpist populism — has flourished and given the force of action to our ideas. Our biweekly, invitation-only meetings have continued to function as the center-right's critical venue in which to forge connections, pool intelligence, and develop new initiatives. These meetings have been instrumental in the formation of center-right endeavors such as Republicans for the Rule of Law and the online

publication *The Bulwark*, and helped facilitate the formation of Checks and Balances, an organization of conservative lawyers who strive to defend the rule of law and the independence of the judiciary and law enforcement.

The Open Society Project has also continued to provide intellectual leadership on the center-right through widely read publications such as "The Center Can Hold," which offers Niskanen's case for the kind of public policy that would follow from our radical moderation, and Brink Lindsey's "Republicanism for Republicans," calling for republicanism — a commitment to self-government and civic virtue — to supplant conservatism as an intellectual organizing principle for the political right. In addition, the Niskanen Center has teamed up with the Washington Post to co-sponsor a series of op-eds on policy ideas that can attract support from both the left and the right, thereby helping to bridge our ever-widening political divides.

We have also received national attention for a pair of high-profile conferences that drew hundreds of attendees. "Starting Over: The Center-Right After Trump" inquired how the center-right and Republican Party could achieve a break with Trumpian populism and develop a productive vision for the future. "Beyond Left and Right: Reviving Moderation in an Era of Crisis and Extremism" was an intellectually rigorous and searching examination of moderation as a political phenomenon. Both conferences attracted major media attention both for the high public profile of their speakers — including Maryland Governor Larry Hogan and former British Prime Minister Tony Blair — and for the energy and excitement they sparked among defenders of the open society.

Looking ahead, we anticipate another conference, to be held in Europe, that will compare the common threats to the political center shared by most developed countries. Through this and other initiatives over the next year, we will continue to bring together leading political theorists and practitioners from across the globe, extend our network, encourage new alliances, and consolidate the best ideas and strategies in defense of open, liberal-democratic societies.

A photograph of the Lincoln Memorial in Washington, D.C., taken at sunset. The memorial is a large, classical building with many columns, situated on a hill. In front of it is a large body of water, the Reflecting Pool, which perfectly reflects the memorial and the sky. The sky is filled with soft, orange and pink clouds, and the sun is low on the horizon, creating a warm, golden light. The overall scene is peaceful and majestic.

“(A centrist GOP)...can only happen after today’s Republican Party is destroyed, rendered incapable of wielding power at the national level, and its governing philosophy discredited completely. The Niskanen Center is the one institution planning for what can follow after the cleansing fire.”

JONATHAN CHAIT
New York Magazine



The Captured Economy project is changing the narrative surrounding economic growth, inequality, and government regulation. Following the success of Niskanen Vice President Brink Lindsey and senior fellow Steven Teles' 2017 book *The Captured Economy*, the Niskanen Center launched CapturedEconomy.com, a companion website to the book. Our aim with this website is to highlight the many areas where government regulation and other forms of intervention — generally opposed by the political right — result in lower growth and higher inequality — a focus of the political left. To address these problems, CapturedEconomy.com — which is run and maintained by regulatory policy fellow Daniel Takash — promotes ideas that make the market fairer by making it freer.

The site features an ever-growing reference library of academic research on the problems of rent-seeking and regressive regulations in intellectual property, financial regulation, occupational licensing, and land-use regulation. This research, now totaling over 1,000 pieces, is also covered in regular commentaries and updates that are posted on the website's blog, Rent Check, and Twitter. Our weekly

"Rent-Seeking Roundup" newsletter also has a dedicated following of regular readers, including congressional staffers, academics, and employees of various think tanks, who receive the content produced by authors on the site. In this way, we have kept our followers informed on news, research, and legislation related to the policy areas we focus on.

In addition, as a part of the larger Captured Economy project, we are assembling a group of eminent scholars to affiliate with Niskanen and contribute to our research and education efforts. Affiliated scholars include Anat Admati, professor of finance and economics at the Stanford Graduate School of Business (member of the Niskanen advisory board and an expert on financial regulation); James Bessen, executive director of the Technology & Policy Research Initiative at Boston University School of Law (a senior fellow and an expert on intellectual property); John Cochrane, senior fellow at the Hoover Institution (a member of the Niskanen advisory board and an expert on financial regulation); Brad DeLong, professor of economics at the University of California, Berkeley (a member of the Niskanen advisory board and an expert on economic history and financial regulation); Nathan Jensen, professor of government at the University of Texas, Austin (a senior fellow and an expert on company-specific economic development incentives); Monica Prasad, professor of sociology at Northwestern University (a senior fellow and an expert on the political economy of financial regulation); and David Schleicher, professor of law at Yale Law School (a senior fellow and an expert on land-use regulation).

We have also begun publishing white papers that address key issues in this policy space. Initial papers include a review of the tradeoff between social insurance and financial-sector expansion by senior fellow Monica Prasad and a critique of the moral defense of intellectual property protection by Brink Lindsey and Daniel Takash.





Climate

Opening Minds to
Action on Climate
Change

Through public engagement and an active Capitol Hill presence, the Niskanen Center has established itself as a leading voice for climate action and a source of expert analysis, insightful commentary, and innovative policy design.

BUILDING SUPPORT FOR A CARBON TAX

Our long-term objective is to convince legislators that economywide carbon taxes are the best policy available to address greenhouse gas emissions. Carbon pricing must be the centerpiece of mitigation strategies if economywide decarbonization is to prove effective and affordable. As the recipient of the 2018 Nobel Prize in economics, William Nordhaus, put it: “If we don’t have carbon pricing, we will never solve this problem.” 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 on proposals for establishing a carbon tax in the United States.

In July 2018, Rep. Carlos Curbelo (R-Fla.) introduced the MARKET CHOICE Act, a bill to establish an economywide tax on carbon emissions and allocate the revenue primarily to infrastructure upgrades. While drafting his proposal, Rep. Curbelo reached out to the Niskanen Center for policy analysis and advice, and Niskanen subsequently played a key role in the development of the language and rollout of that proposal. In the year since, other Republicans in the House of Representatives and the Senate have introduced or co-sponsored similar bills. As a consequence, four bipartisan carbon tax bills were circulating the halls of Congress in fall 2019.

With multiple members of Congress introducing their own proposals, the Niskanen Center will now aim to help lawmakers understand the tradeoffs involved in levying a carbon price and examine how particular design choices (e.g., the rate of the carbon tax, how revenue is spent, how imports and exports are assigned or rebated a carbon price at the border, or how regulatory authority will be used in the presence of the carbon price) fit their priorities and those of coalitional allies.

The Niskanen Center also strives to build functional coalitions that can actively support carbon pricing. To that end,

this year we produced analyses comparing carbon pricing options, hosted briefings for congressional staff, and held direct educational meetings with legislators. We also worked regularly with environmental organizations and interested parties in labor, industry, and at think tanks to vet the array of carbon pricing options on the table and discover routes to increase support in the future. While this work is slow and laborious, we believe these coalitional activities are critical in preparing for the next moment of opportunity for comprehensive climate legislation.

PROMOTING CLIMATE SCIENCE

Educating policy elites on the nature of climate risks is one of our top priorities. We are especially focused on changing attitudes about climate science on the right, where there has been a large gap between scientific opinion on the causes of recent global warming and elected and elite opinion. Encouragingly, we are beginning to see cracks in the wall of skepticism. Members of Congress and leading thinkers on the right are increasingly (and publicly) signaling acceptance of the scientific findings regarding the influence of industrial emissions on the climate and the desirability of reducing emissions.

In February 2019, Niskanen’s director of climate policy, Dr. Joseph Majkut, was the sole Republican-invited witness in the first hearing of the House Committee on Science, Space, and Technology in the new Congress. Majkut’s testimony focused on lessons from the Fourth United States National Climate Assessment and the Intergovernmental Panel on Climate Change’s Special Report on Global Warming of 1.5C. The hearing was widely reported to be the first in years featuring a full panel of scientific experts offering constructive and informative testimony consistent with mainstream climate science.

In addition to our work promoting mainstream climate science, the Niskanen Center continued to produce a high volume of commentary and analysis on the falling costs of low-carbon energy, the manageable costs of decarbonization, and the economic and public health benefits that will accompany meaningful climate action. All of these factors are important considerations for the development of climate policies.

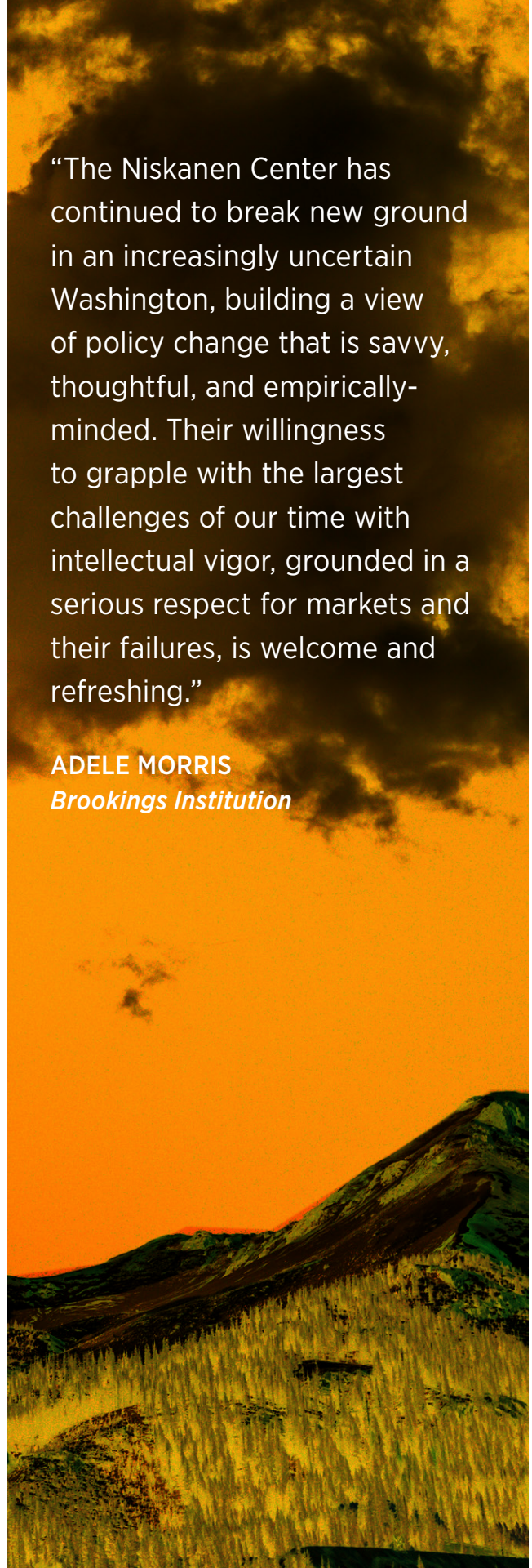
ENCOURAGING MODERATION IN THE AGE OF THE GREEN NEW DEAL

Even as climate action and a carbon tax gain traction with Republicans, rising partisanship and a perceived new urgency to address climate change are moving actors on the left away from carbon pricing and the pursuit of bipartisan models of policy change. One of the most striking developments of the past year was the political rise of the Green New Deal, a broad proposal to link an ambitious climate agenda to a progressive economic and social justice agenda. To hold the center against increasing polarization, the perspective of moderate organizations like the Niskanen Center is particularly important, as we can appreciate both the urgency of taking action on the climate and the reluctance to do so through a comprehensive restructuring of the economy.

Our work in this area has been widely recognized. Niskanen President Jerry Taylor wrote the definitive case against the strategy being employed by the architects of the Green New Deal. We have also leveraged the Center's work with bipartisan and moderate activists to identify and promote credible, attainable, and meaningful climate policy with new audiences. For example, in the past year Niskanen has hosted or helped moderate policy forums at the StandUp Ideas Conference in Washington, D.C., and the New Way California Policy Conference in Sacramento, California.

"The Niskanen Center has continued to break new ground in an increasingly uncertain Washington, building a view of policy change that is savvy, thoughtful, and empirically-minded. Their willingness to grapple with the largest challenges of our time with intellectual vigor, grounded in a serious respect for markets and their failures, is welcome and refreshing."

ADELE MORRIS
Brookings Institution





Immigration

Bringing Moderates to the Table

The Niskanen Center, working alongside partners on both the center-right and center-left, has been an influential contributor to every major immigration discussion over the past few years. Our expertise was evidenced by the regulatory comments Niskanen filed on the impacts of the ill-considered “public charge” rule — which expands inadmissibility and tightens access to green cards for people who rely on public assistance — as well as our input on the litigation strategy to challenge it. We also weighed in on issues such as the legality of including a citizenship question on the census; the impact of the International Entrepreneur Rule on entrepreneurs and innovators; work authorization for asylum seekers; and the imprudent changes to the Flores Settlement Agreement, which governs the way we treat children in immigration detention.

We have also engaged in crafting new policy ideas with legislative allies. Niskanen has worked closely with senior congressional committee staff to advise lawmakers on short- and long-term refugee and asylum reforms. Niskanen's analysis of the current bills proposed on asylum reform — and the development of our own reform framework — guided legislative discussions on protections for asylum-seekers, the expansion of refugee processing in Central America, and the impacts of the annual presidential refugee determination on the resettlement process.

Our policy publications demonstrate our growing portfolio of expertise in immigration law and policy. In the past year, we have released briefs on the economic benefits of the Diversity Visa lottery; the U visa for crime victims and witnesses; and the Optional Practical Training (OPT) program for foreign students. The OPT publication presented original findings from a 2018 FOIA request made by Niskanen and informed an amicus brief filed in a related case. Our Hill briefing on the OPT issue — sponsored by Sen. Jerry Moran (R-KS) — was moderated by Niskanen's Matthew La Corte and featured both a former congressman and Niskanen's Jeremy L. Neufeld in a standing-room-only event.

In September 2019, the Niskanen Center released its latest paper by senior fellow Idean Salehyan, which details his findings from interviews with 15 experts in refugee resettlement. The themes of their collective experiences under both Republican and Democratic administrations were discussed in depth. We then hosted an event centered around the paper, featuring both Dr. Salehyan and Jim Purcell, the former director of refugee programs for President Reagan.

Amplifying the voices of moderates requires an innovative approach to policy change. This is why Niskanen continues working towards building bipartisan support for changes to immigration policy that protect work authorization for dependents of high-skilled H-1B workers; reform the immigration courts; improve U.S. Citizenship and Immigration Services processing times; expand protections for those who have served honorably in our military or in support thereof; increase community support for refugees; and define guidelines for future national emergencies. We are also deeply invested in reinvigorating conversations to introduce new legislation to protect the Dreamer population.

By engaging in individual and small-group meetings with lawmakers, senior staff, and key political and policy actors, we have developed a thorough understanding of how to present information and proposals to individual offices and to aid them in communicating their policies.

THE NEW COMPREHENSIVE IMMIGRATION REFORM

In the near future, Niskanen will publish principles that we believe should guide comprehensive immigration reform. These principles break from traditional reform rhetoric and provide a jumping-off point for our comprehensive immigration framework, which will follow in 2020.

Our principles and the emergent policy framework differ from the stale proposals that have long been floated on Capitol Hill. After years of coordination, research, and collaboration with policy experts on Capitol Hill and many partner organizations, Niskanen will finalize our immigration reform proposal — one that will spur economic development; provide for the safety and security of both foreign nationals and Americans; streamline processes for our overburdened courts; improve enforcement tactics; provide necessary labor; and properly protect and prioritize humanitarian aid.

Immigration reform will positively impact every defining American characteristic our country has come to embrace: leadership in innovation and technology; entrepreneurial opportunity; advancements in math, science, and medicine; global humanitarian influence; military strength and national security; and the promotion of diversity, human rights, and the individual. With an eye toward the future, Niskanen will continue to identify new champions on Capitol Hill, develop and amplify the best policy proposals, and work with our partners to prepare for the coming legislative campaigns.



Litigation

Holding Power to Account

Niskanen's litigation department is involved in upholding the rule of law by; compelling fossil fuel companies to take financial responsibility for the climate-related costs they are imposing on municipal governments; and by protecting the property rights of landowners who are unfairly subjected to eminent domain claims made by oil and gas pipeline companies.

FIGHTING THE PRESIDENT'S UNCONSTITUTIONAL BORDER WALL ACTIONS

Following the president's proclamation of a "National Emergency" on the U.S.-Mexico border in February 2019 — in which he said that, because Congress had refused to fund the border wall, he would use money expressly appropriated by Congress for other purposes to build it anyway — the Niskanen Center partnered with a coalition of lawyers to represent El Paso County and the Border Human Rights network, pro bono. We sued in federal district court in Texas, claiming that the president's actions violated the Constitution's Appropriations Clause, the National Emergencies Act, and other statutory and constitutional provisions.

We subsequently achieved a landmark success on October 11, 2019, when the court ruled that President Trump violated the law by declaring a national emergency in order to build a border wall. The judge's decision that the president cannot take money Congress has appropriated and spend it for purposes Congress specifically rejected was a resounding victory for the rule of law.

The case will now be taken to the U.S. Court of Appeals for the 5th Circuit, presumably followed by a trip to the Supreme Court. The Niskanen Center will continue to work vigorously with our partners on this issue.

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 (FACA). After Niskanen discovered that the coal industry incorporated the NCC as a private entity and provided all of its funding, we successfully sued under the Freedom of Information Act for the documents demonstrating this relationship. Based on the court's holding that NCC, Inc. was a "corporate fiction," and that "there is no meaningful distinction between" NCC and NCC, Inc., we will be bringing a case under FACA seeking the reform or dissolution of the NCC.

HOLDING GOVERNMENT TO ITS CLIMATE OBLIGATIONS

The "children's climate case" (*Juliana v. United States*), where we filed an amicus brief, awaits a decision from the 9th Circuit following oral argument in June.

FIGHTING THE PRESIDENT'S UNCONSTITUTIONAL EMOLUMENTS

We have filed amicus briefs in two of the Emoluments Clause cases alleging that the president is accepting illegal "emoluments" from foreign governments through diplomats patronizing the Trump International Hotel in Washington, D.C. The 4th Circuit dismissed one of those cases on standing grounds, but on September 13, 2019,

the 2nd Circuit reversed a lower-court decision dismissing the other case and sent it back for further proceedings.

HOLDING BIG ENERGY RESPONSIBLE FOR CLIMATE NUISANCE

Niskanen is representing, on a pro bono basis, Colorado's Boulder County, San Miguel County, and the city of Boulder in one of 14 climate nuisance cases across the nation seeking to hold fossil fuel producers liable for the costs their products impose on local governments. On October 8, 2019, our case was the first to get sent back from federal court to state court. This is significant in that state courts are far more favorable venues for such claims. The defendants are now requesting that the 10th Circuit bring it back to federal court for the second time.

PROTECTING PROPERTY OWNERS FROM PIPELINE EMINENT DOMAIN

Niskanen's eminent domain litigation project — which aims to protect landowners' property rights from abuse by oil and gas pipeline companies that seek to seize land for their projects — is now active in cases across the country. The first case we participated in was the Dakota Access case in the Iowa Supreme Court. In May 2019, we were pleased to learn that the justices agreed with our position that under the Iowa Constitution, "economic development" does not justify the use of eminent domain. The court found that "if economic development alone were a valid public use, then instead of building a pipeline, Dakota Access could constitutionally condemn Iowa farmland to build a palatial mansion, which could be defended as a valid public use so long as 3,100 workers were needed to build it, it employed twelve servants, and it accounted for \$27 million in property taxes."

We have since filed amicus briefs in two D.C. Circuit challenges to Federal Energy Regulatory Commission (FERC) decisions granting permission for natural gas pipelines (Mountain Valley and PennEast) to use eminent domain. In addition, the 3rd Circuit cited an amicus brief from Niskanen in ruling that the 11th Amendment does not permit pipelines to use eminent domain authority to take state property (in a case also involving PennEast). We filed another amicus in a case asking the U.S. Supreme Court to

take up the issue of whether pipeline companies can take property, but not pay for it until years later. Similarly, we will also file an amicus in a New York state case addressing whether a pipeline company can exercise eminent domain before it has obtained all the permits necessary to build the proposed project.

However, the biggest development is that Niskanen is now representing landowners on a pro bono basis in like eminent domain cases: two landowners in the D.C. Circuit are challenging FERC's approval of the Atlantic Coast Pipeline, and two dozen landowners challenging FERC's administrative proceedings concerning the proposed Pacific Connector Pipeline in Oregon. (If FERC approves this project, we will then represent them in challenging that approval.) We are also consulting with the lawyers who are asserting a state constitutional challenge to the Permian Highway Pipeline in Texas.

Finally, we have filed two Freedom of Information Act cases against FERC after the commission refused to release the lists of landowners whom the pipeline companies supposedly notified about their applications to FERC. The commission outsources to the pipeline companies its Due Process obligations to provide such notice to every landowner, and we are seeking these lists in order to ascertain whether the companies actually sent notices to all landowners whose property they are trying to take. We are currently in the process of summary judgment briefing in each case.

Niskanen is also involved in other natural gas pipeline issues. We have drafted proposed amendments to the federal Natural Gas Act that would eliminate many of the worst eminent domain problems. We have also been meeting with lawmakers and their staff — specifically Republicans — to educate them about the issue and encourage the introduction of legislation. Finally, we are working to have FERC fix some of these problems on its own by bringing in landowners to share their personal stories in individual meetings with each of the FERC commissioners.



Poverty and Welfare



Established on the theory that free and dynamic markets work best when complemented by robust forms of social insurance, the Niskanen Center's Poverty and Welfare department aims to foster a proactive agenda on issues of economic security. Our Poverty and Welfare program expanded significantly in 2019, both in personnel and policy focus, and surpassed expectations in both media engagement and legislative success.

CHILD ALLOWANCES

Following our work supporting the 2017 expansion to the Child Tax Credit (CTC), the Niskanen Center worked with Sens. Michael Bennet (D-Colo.) and Sherrod Brown (D-Ohio) to develop the American Family Act (AFA) — a bill to transform the CTC into a fully-refundable credit of \$300 per month for every child under the age of 6 and \$250 per month for children ages 6 to 17. The bill was reintroduced in February 2019 with 184 House co-sponsors and 37 Senate co-sponsors, indicating that child allowances have become a consensus policy within the Democratic Party. Niskanen supported its reintroduction with a distributional analysis that found the AFA would reduce child poverty by 40 percent and cut deep child poverty in half.

Meanwhile, our work with Sens. Marco Rubio (R-Fla.) and Mike Lee (R-Utah) on the CTC transitioned to the issue of paid family leave. Niskanen's work has focused on shaping a version of paid leave spearheaded by Sen. Rubio and Rep. Ann Wagner (R-Mo.). The Rubio-Wagner approach resembles a temporary child allowance: Both parents can collect up to 3 monthly payments with a choice of whether to take time off work. Payments are set according to the formula used for Old Age Social Security, which is significantly more progressive for low-wage workers than a traditional wage replacement. The legislation was reintroduced as the New Parents Act in March 2019 by Sens. Rubio and Mitt Romney (R-Utah) and Reps. Wagner and Dan Crenshaw (R-Texas).

THE STRUGGLING REGIONS INITIATIVE

In May 2019, thanks to a new partnership with the Rockefeller Foundation, Niskanen launched the Struggling Regions Initiative (SRI). This marked the expansion of the poverty department's purview, from the big and universal

matter of social insurance to the targeted and particular consideration of industrial policy. It also supported the hiring of Robert Orr as a full-time welfare policy associate.

The SRI aims to address the long-run, structural crises of our time — economic stagnation and regional inequality — by filling the policy void created by the contemporary protectionist moment. Its areas of research and advocacy include reforms to America’s system of fiscal federalism, strategies to combat wasteful firm-specific tax incentives, a baseline evaluation of Opportunity Zones, and a proposal for an Office of Struggling Regions to enhance regional coordination.

The pending reauthorization of the Small Business Administration (SBA) provided an opportunity for us to implement our ideas. As one of a small number of close advisors to the Senate Committee on Small Business and Entrepreneurship, the Niskanen Center helped draft reforms designed to shift the focus of the SBA’s loan and venture-capital programs towards high-productivity firms with growth potential. This includes enhancing support for businesses engaged in the commercialization of new technologies and a new Innovation Growth Loan program for young, R&D-intensive manufacturers looking to rapidly scale up operations.

UNIVERSAL CATASTROPHIC COVERAGE

The 2018 midterm elections revealed the need for a strong center-right plan for addressing the poor performance of the U.S. health care system in a way that transcends hollow opposition to the Affordable Care Act. As such, we prioritized the publication of a major white paper by senior fellow Ed Dolan detailing a comprehensive reform framework known as Universal Catastrophic Coverage (UCC), released in June 2019.

UCC is a cousin to reform approaches based on achieving universal coverage through “high-risk pools” and reinsurance, but in a way that addresses their well-known shortcomings. UCC would cover medical expenses in full for people below a low-income threshold, while asking those who can afford it to pay their fair share through income-based premiums, deductibles, and coinsurance. The cost-sharing

“The Struggling Regions Initiative’s focus on how strategic policy choices can promote American innovation and industrial strength is what our national conversation needs right now. The Initiative is doing essential work exploring the community and social distress that results from the weakening of American industry, and developing creative policy proposals to address it.”

SEN. MARCO RUBIO

features of UCC provide ample scope for the use of incentives to improve quality, transparency, and access to preventive health care while stabilizing the market for private health insurance.

MEDICAL WORK SCOPE OF PRACTICE

The high cost and restricted supply of skilled labor is one of the primary drivers of rising health care costs in the United States. Reforming scope of practice (SOP) rules to allow nonphysicians to provide routine primary care thus offers a promising avenue for expanding access to health care in underserved communities. To better understand the issue, the Niskanen Center made over 100 FOIA requests to state licensure boards across the country, which enabled us to compile a first-of-its-kind dataset on the nursing professions over time and by state. The richness of our dataset means we are in a unique position to provide novel insights into the effects of SOP reforms on the supply of primary care throughout the country.

Podcast



The Niskanen Center's strategy is rooted in social-scientific evidence about how politics really works. Our biweekly podcast, "The Science of Politics," hosted by political scientist and Niskanen senior fellow Matt Grossmann, seeks 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.

"The Science of Politics" features top researchers delivering fresh insights on major trends influencing American politics and policy. By moving beyond superficial punditry

to data-driven understanding, the podcast 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.

"The Science of Politics" this year has featured discussions about a wide range of topics:

**“THE SCIENCE OF POLITICS” THIS YEAR HAS FEATURED DISCUSSIONS
ABOUT A WIDE RANGE OF TOPICS:**

- The importance of primary states in determining future presidents
- The historical impact of impeachment on political parties
- How the Trump administration politicized refugee policy
- Whether federal agencies can make good policy
- How presidential debates influence voters
- Whether the state of the economy guarantees Trump a second term
- How urbanization has changed the American political climate
- Whether advancing diversity and social welfare at the same time is possible
- Whether political parties prefer white male candidates
- Whether moderates or ideologues are more electable
- How Medicaid and the Marketplace drive voting
- Why housing costs are so high
- The types of climate policy that are most likely to succeed
- Whether higher education is an engine of social mobility or a driver of inequality
- Whether white identity is causing backlash on immigration
- How philanthropy diverts social movements
- Ways that governments increase inequality
- How online media polarizes voters
- Whether diversity in Congress translates into actual representation for minorities
- Whether Chinese trade competition increased nativism
- Whether divided governments are the cause of delays and shutdowns
- How the government intentionally segregated American homeowners

THE SCIENCE OF POLITICS



Communications

The Niskanen Center has established itself as an increasingly influential voice in shaping the conversation about American politics and policy. Over the past year, we have been featured in print, online, and broadcast media outlets over 800 times. Among the outlets in which Niskanen and its policy experts have been cited: The New Yorker, The Washington Post, The New York Times, The Wall Street Journal, The Economist, the Financial Times, The Atlantic, New York magazine, Bloomberg, and Reuters. Niskanen also maintains its strong presence in key Capitol Hill publications, including National Journal, Roll Call, Politico, The Hill, and Axios.

In addition, the past year also saw a marked uptick in broadcast outlets seeking Niskanen's expertise. Niskanen policy experts have appeared on television and radio shows and podcasts from outlets including CNN, BBC, NPR, C-SPAN, MSNBC, Bloomberg, Slate, Vox, and Al-Jazeera.

Niskanen Center policy experts have written over 120 opinion pieces for a number of prominent publications in the past year, including The New York Times, The Wall Street



Vice President for Research Will Wilkinson on CNN Right Now with Brianna Keilar



Chris George, Executive Director, Integrated Refugee and Immigrant Services; Jennifer Bond, Chair, Global Refugee Sponsorship Initiative; Chris Gersten, Director Department of Health and Human Services, Office of Refugee Resettlement; Matthew La Corte, Government Affairs Manager, Immigration Policy, Niskanen Center



Joseph Majkut, Director of Climate Policy, Niskanen Center

Journal, The Washington Post, Foreign Policy, National Review, Politico, and The Guardian.

Vice President for Research Will Wilkinson continues to be a prolific 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 columnists and reporters who have all prominently featured us in their widely read and circulated pieces, including Jane Meyer of The New Yorker, David Brooks, Ross Douthat, and Michelle Goldberg of The New York Times, Greg Sargent and Jennifer Rubin of The Washington Post, and Jonathan Chait of New York magazine.

DIGITAL AND SOCIAL MEDIA

Our relationships with media outlets are supported and amplified by our growing digital and social media footprint. In particular, Twitter has become an important vehicle for reaching journalists, policymakers, and other thought leaders with our ideas and commentary.

The last year saw our most significant spike in Twitter followers to date. Among our most visible new followers are Anne Applebaum (Pulitzer Prize winner); E.J. Dionne (author of *One Nation Under Trump*); S.E. Cupp (CNN host); Jason Grumet (president of the Bipartisan Policy Center); The Heritage Foundation; the House Committee on Science, Space, and Technology (Republicans); and Human Rights Watch.

As we have gained more followers, we have seen exponential growth in our reach and engagement, manifested by a marked uptick in high quality retweets, impressions, replies, and link clicks over the past year. This has been particularly the case when we announce new research or news. Our most successful tweet broke the news of our federal district court win challenging the Trump administration's national emergency declaration. It reached over 300,000 people and received 1,900 retweets, many of them by prominent journalists, activists, and political figures — including Sen. Patrick Leahy; America's Voice; Scott Hechinger; the Refugee and Immigrant Center for Education and Legal



Services (RAICES); April Reign; Caitlin Dickerson of The New York Times; Vox's David Roberts; United We Dream; and Julio Ricardo Varela.

Our Facebook page has also enjoyed significant growth in followers over the past year. Our continued success on the platform speaks to both the quality of our content and the quality of the audience that we have cultivated.

We have also diversified our social media reach by building a small but active presence on Instagram over the past year. We now have over 500 followers, many of whom are in the public policy and media spaces.

Call to action

The Niskanen Center has demonstrated that, in the course of advancing its agenda, it can appeal to, and work productively with, just about every faction in American politics. Our larger project, however, is to provide new life for (radical) moderation in American politics.

Both the center-left and center-right are back on their heels and flailing for a positive, compelling agenda, crippling their ability to compete in an increasingly polarized political environment. Tectonic plates, however, are shifting beneath the political landscape, and the dry, dogmatic ideological ground on the left and right has been turned into wet clay. The Niskanen Center is taking the lead in building the political vision and the policy agenda to help shape that wet clay before it hardens.

We suspect that in the aftermath of the 2020 elections, the conditions will be ripe for the emergence of organized factions of moderates in both political parties. The Republicans will likely have a predominantly Trumpist, populist-nationalist faction rooted in rural America, and a smaller “liberal-conservative” faction where orthodox Trumpism cannot

compete. This liberal-conservative faction will likely arise in suburbia, primarily exercising strength in the Acela corridor and the West Coast. Meanwhile, the Democrats are likely to fracture into an intensely mobilized democratic-socialist faction especially powerful with organized labor, universities, and parts of big cities, and a moderate faction with particular strength in the suburbs, where the democratic-socialist faction cannot exert much power.

If this comes to pass, neither party’s leaders will be able to marshal enough intraparty support to insist upon the kind of ruthless control of the legislative agenda we have seen in the last few years. Politically heterogeneous factions are loath to surrender too much power to party leadership given the fear that said power will be used against them in intraparty disputes. As a consequence, Congress will become more chaotic, with more factional autonomy. We’ll likely see more policy initiatives advanced by one-off coalitions driven by political entrepreneurs, rather than leadership-mandated, top-down coalitions.

The Niskanen Center will be especially important in this world, since it can provide the ideas and the networks spanning multiple party factions that will be necessary to piece together strange-bedfellow coalitions. In addition, we can provide the animating political philosophy that will tie together both the moderate wing of the Democrats and the liberal-conservative wing of the Republicans, just as progressivism did in the early decades of the 20th century.

Accordingly, we’re planning to expand our scope of policy operations to engage in the critical political fights of the next decade. We hope to soon begin work in five new areas:

- **Industrial Policy**—Advancing the case for strategic investment in critical industries and national infrastructure, with special attention on revitalizing the economies of struggling regions. Neoliberals, we maintain, are wrong to dismiss industrial policy as dubious exercises in central planning.
- **Labor & Employment**—Advancing the case for tight and inclusive labor markets, and promoting a policy infrastructure to facilitate labor market flexibility and security in a dynamic market economy.

- **Fiscal Policy**—Forwarding ideas for tax reform to accommodate the revenue increases necessary to finance new social spending while also restraining the growth of U.S. debt levels, which are scheduled to explode in the mid-2020s.
- **Criminal Justice Reform**—Promoting comprehensive reforms to address law, policing, sentencing, rehabilitation, and the reintegration of felons into society. Relatedly, we would like to use the CJR context to forward policy reforms addressing controlled substances and gun violence.
- **Pro-Democracy Reform**—Arguing the case for increasing the institutional capacity of the legislative branch of government, reforming the administrative state to reduce the degree of delegation to the executive branch, and promoting electoral reforms to reduce hyperpartisanship, dysfunction, the power of minority extremists, and inequities regarding electoral power, all while facilitating greater mass electoral engagement. We would also focus on reforming federal/state/local relationships to reduce governmental dysfunction.

Our plans are big, but so are the nation's challenges. With your support, however, we are optimistic that the Niskanen Center will help America rise to the occasion.

"The Niskanen Center ... has become one of the most creative think tanks in America today."

DAVID BROOKS,
New York Times



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 their financial support confidential, we've decided to embrace donor transparency (the case for which is well made by online initiatives such as On Think Tanks and Transparify). We are disclosing all donations of more than \$5,000 per year on our website and indicating 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 is updated on our website as new donations arrive. Exceptions are made for those few 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.

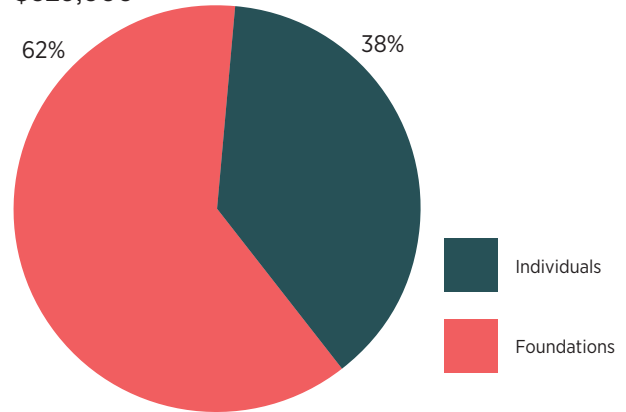
Obviously, donors who give to the Niskanen Center do so because they agree with what we stand for, what we're arguing for in the policy arena, and how well we're advancing our case. While transparency does not necessarily extinguish suspicions that a think tank is taking position X because of money from 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 2018 REVENUE

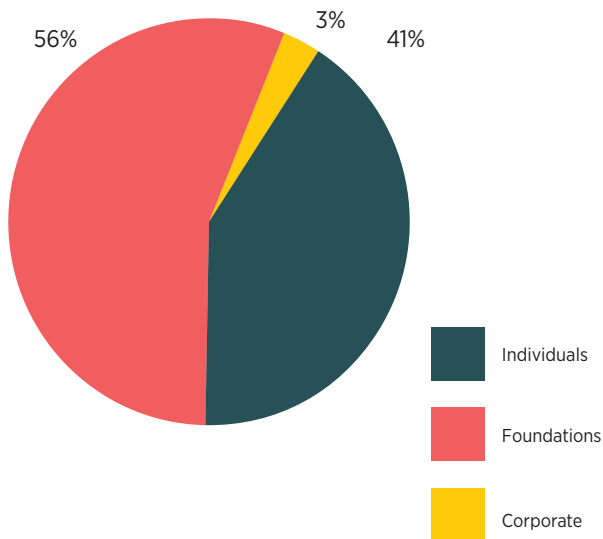
Total Revenue:
\$529,000



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.

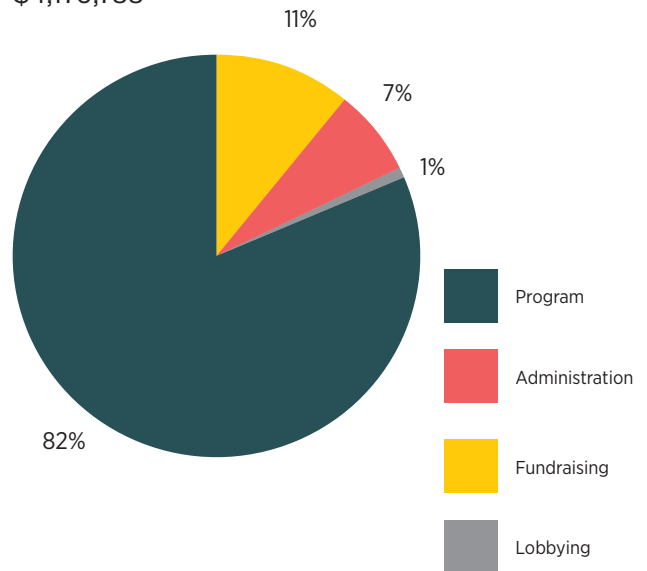
NISKANEN CENTER 2018 REVENUE SOURCES

Total Revenue:
\$4,349,043



NISKANEN CENTER 2018 EXPENSES

Total Expenses:
\$4,170,788



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“The Niskanen Center is a bold, effective, and imaginative beacon of ideas. The Niskanen Center’s mission is exciting, as it is single-handedly creating a new class of thought leaders willing to whisk away stale ideologies to bring new coalitions together to usher in solutions to our world’s most urgent challenges.”

AMANDA CARPENTER
*CNN contributor, author, and
former communications director for
Sen. Ted Cruz (R.-Texas).*

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