

Dangerous Roads Paved by the 2025 Government Shutdown Regarding the Government Employee Fair Treatment Act of 2019

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This paper reviews how the circumstances of the 2025 government shutdown led to the Trump Administration's actions regarding the Government Shutdown Regarding the Government Employee Fair Treatment Act of 2019 (GEFTA), and the impact it may have on federal workers. In addition, it covers the conflict behind the shutdown in brief.

Article

As uncompensated value from the work of impoverished working-class citizens fell into the gaping maw of the stagnant government, only token action had been taken to resolve the conflict behind its root. With the 2025 government shutdown being the longest ever in American history, its ramifications extended beyond just the deadlocked national budget. With the House having been closed preemptively by Speaker Mike Johnson, a lack of cross-party negotiations was notable, only gaveling back into session after a long eight weeks of recess.¹ In the words of Donald Trump in a 2011 interview on Today Exclusive, “I hear the Democrats are going to be blamed, and the Republicans are going to be blamed. I actually think the President would be blamed... If there is a shutdown.”² In notable contrast to his past statements, on Tuesday, September 23rd, 2025, President Trump cancelled a meeting with Senate and House Minority leaders Chuck Schumer and Hakeem Jeffries, only a week from when a shutdown seemed inevitable.³ He claimed that their opposition to the proposed Republican-sponsored spending bill in order to cancel draconian budgetary cuts and extend healthcare provisions were “unserious and ridiculous.”⁴

With the Republican Party holding the majority in Congress over both the House and the Senate, as well as the Presidency, they hold much of the legislative power. Although only a simple majority is required to pass a bill under regular procedure, a supermajority of 60 votes is required to counter a filibuster in the Senate— or in the case of the highly contentious spending bill— the threat of one. A filibuster is an informal parliamentary procedure of a marathon speech that stems from the Senate’s tradition of unlimited debate. It is often used for delaying a vote on

¹ Lisa Mascaro, *Johnson calls House back into session after refusing to convene during shutdown*, PBS NEWS (Nov. 11, 2025, 1:17 PM), <https://www.pbs.org/newshour/politics/johnson-calls-house-back-into-session-after-refusing-to-convene-during-shutdown>.

² WUSA9, *#OffScriptOn9: Trump blamed Obama for potential government shutdowns*, YOUTUBE, (Jan. 19, 2018), <https://www.youtube.com/watch?v=uA2QQZTJ50o>.

³ Ben Johansen & Meredith Lee Hill, *Trump cancels meeting with Schumer and Jeffries*, POLITICO (Sep. 23, 2025, 4:51 PM), <https://www.politico.com/news/2025/09/23/trump-cancels-meeting-schumer-jeffries-00576176>.

⁴ Donald Trump (@realDonaldTrump), TRUTHSOCIAL <https://truthsocial.com/@realDonaldTrump/posts/115253901757845391>.

a measure, with the longest marathon speech being over 25 hours long.⁵ The Republican Party of the current Congress, does not hold the aforementioned supermajority, hence the shutdown occurring due to a lack of bipartisan support.

The primary issue behind why the proposed budget had such difficulty passing the Senate regards the expiration of the Affordable Care Act (ACA), on December 31st, 2025, which is similar to the conflict surrounding the continuing resolution (CR) which passed – with difficulty – on March 14th, 2025.^{6 7} With 14 failed attempts to reopen the government, and the 15th successful vote only occurring 42 days into the shutdown, it seemed that good faith negotiations were in short order.⁸ Beyond the unprecedented actions taken during the past fiscal year – which was only funded through a series of stopgap bills instead of a recalculated annual appropriations bill based on up to date agency needs – several of the actions taken by the current Trump Administration have also had a dubious base in legality. One of these many actions is related to the fair compensation of federal employees for the duration of the 2025 government shutdown.

This government shutdown began on October 1st 12:01 P.M. EDT, after the previous appropriations from the 2025 fiscal year ran out on September 30th. During this time, no appropriations were passed. Due to orders codified in the Anti-Deficiency Act, when the federal government goes into shutdown, all services deemed non-essential to the preservation of life and property must be halted.⁹ Notably, this is the third government shutdown under a Trump Administration, with the previous 2019 shutdown and the current shutdown also holding records for the second longest and longest government shutdowns respectively.^{10 11} Additionally, since no money can be withdrawn from the Federal Reserve during this time, government workers cannot be paid. As such, government workers fall into three categories: exempted, excepted, and furloughed. This is where the legal basis for the current Trump administration's actions come into question.

The first category of workers are the ones exempted from the impact of the shutdown, as they continue to work and be paid regularly. The services that fall under this category are in

⁵ *About Filibusters and Cloture*, United States Senate, (2025) <https://www.senate.gov/about/powers-procedures/filibusters-cloture.htm>.

⁶ Bernadette Fernandez, *Enhanced Premium Tax Credit Expiration: Frequently Asked Questions*, Library of Congress, (Sep. 24, 2025), <https://www.congress.gov/crs-product/R48290>.

⁷ Emma Beavins & Dave Muoio, *House votes to extend telehealth for 6 months, sends funding bill to Senate*, FIERCE HEALTHCARE, (Mar. 11, 2025, 5:48 PM), <https://www.fiercehealthcare.com/regulatory/house-extends-telehealth-six-months>.

⁸ Kaia Hubbard & Stefan Becket, *Senate advances funding measure with backing of 8 Democrats, moving a step closer to ending shutdown*, CBS NEWS, (Nov. 9, 2025, 11:16 PM), <https://www.cbsnews.com/live-updates/government-shutdown-latest-senate-weekend-session/>.

⁹ Brass, Clinton T. et al, *Shutdown of the Federal Government: Causes, Processes, and Effects*, Library of Congress, (Dec. 10, 2018), <https://www.congress.gov/crs-product/RL34680>.

¹⁰ The New York Times, *Government Shuts Down as Bill to Extend Funding Is Blocked; Senate Adjourns for the Night*, NEW YORK TIMES, (Jan. 19, 2018), <https://www.nytimes.com/2018/01/19/us/politics/government-shutdown.html>.

¹¹ Joel Rose, *The Border Wall Isn't The Only Reason Democrats Oppose Plan To End The Shutdown*, NATIONAL PUBLIC RADIO, (Jan. 22, 2019, 8:54 PM), <https://www.npr.org/2019/01/22/687516967/the-border-wall-isnt-the-only-reason-democrats-oppose-plan-to-end-the-shutdown>.

some way non-reliant on annual appropriations, through either self-funding or through a revolving fund. An example of the former would be the United States Postal Services, as it is entirely self-funded and currently operating as normal.¹² These services, however, are not immune to the shutdown as many operate at varying levels due to partial reliance on annual appropriations or collaboration with other agencies that are not financially self-sustaining.

Under the second category—excepted—services such as inpatient and emergency medical care, air traffic control, law enforcement, border security, disaster aid, and power grid maintenance have been deemed essential, and therefore must work without pay. The factors of deeming a service essential are that they are necessary to perform activities expressly authorized by the law, activities necessarily implied by the law, necessary to the discharge of the President’s constitutional duties and powers, and necessary to protect life and property. However, a national service that is funded by annual appropriations and is still being forced to stay open against the recommendations of conservationists, are the National Parks.¹³ Some of the major concerns regarding this decision are due to significant monetary losses of an estimated 41 million dollars, but also with concern to human life. Since January of 2025, a significant reduction had been made in the National Parks personnel, leading to staffing issues regarding healthcare and safety issues such as bear jams, illegal BASE jumping, and difficulties in emergency personnel response that were further exacerbated by the reduced workforce that occurs during shutdowns.¹⁴ This action was also taken during the 2018-2019 shutdown under the first Trump Administration, and was deemed an illegal use of funds after the fact by the Government Accountability Office, however, this determination has not prevented the administration from repeating the action.¹⁵

Under the last category of workers, the furloughed employees are put on leave, therefore neither working nor being paid. During this shutdown, approximately half of all government workers have been furloughed, putting approximately 700,000 workers without pay for over a month.¹⁶ Their reinstatement is guaranteed upon the government reopening and, historically, furloughed employees have also received backpay for the duration of shutdown. For the 2025 shutdown, however, the latter point seems to be in conflict.

One of the key impacts of the shutdown is the financial loss and instability created through the delayed paychecks of government employees. As of March 31st, 2025, the government employs 2,289,472 federal civilian employees, and 1.32 million active-duty military personnel. These military personnel often serve as the primary income provider for their families

¹² *Do my tax dollars pay for the Postal Service?*, United States Postal Service Office of Inspector General, (2025), <https://www.uspsoig.gov/focus-areas/did-you-know/do-my-tax-dollars-pay-postal-service>.

¹³ Erin Alberty, *Why conservationists want Utah national parks to close during shutdown*, AXIOS, (Oct. 2, 2025), <https://www.axios.com/local/salt-lake-city/2025/10/02/utah-national-parks-shutdown-vandalism-arches-zion-bryce>.

¹⁴ John Garder, *The Longest Government Shutdown in US History Has Ended. What's Next for National Parks?*, NATIONAL PARKS CONSERVATION ASSOCIATION, (Nov. 24, 2025), <https://www.npca.org/articles/11212-the-longest-government-shutdown-in-us-history-has-ended-what-s-next-for>.

¹⁵ *Department of the Interior—Activities at National Parks during the Fiscal Year 2019 Lapse in Appropriations*, U.S. Government Accountability Office, (Sep. 5, 2019), <https://www.gao.gov/products/b-330776>.

¹⁶ Andy Sullivan, *US government shutdown: Who is still working and who has been furloughed?*, REUTERS, (Oct. 8, 2025, 3:19 PM), <https://www.reuters.com/legal/litigation/who-is-still-working-who-has-been-furloughed-us-government-shutdown-2025-10-07/>.

as it is difficult for military spouses to find reliable and consistent work due to frequent relocation.^{17 18} Approximately half of the federal civilian employees are furloughed, and all active military personnel are required to serve without salary.¹⁹ In past government shutdowns, all workers—excepted and furloughed—received backpay for the duration of the shutdown. On January 16th, 2019, this tradition was codified into law through the passing of the Government Employee Fair Treatment Act of 2019 (GEFTA), amending the Anti-Deficiency Act.²⁰ Objections to this payment, however, seemed to arise when on October 3rd, 2025, a memorandum response from Mark Paoletta – general counsel to the Office of Management and Budget (OMB) – contained considerations for the abstinence of paying workers during this period, especially the furloughed workers.

In summary, they stated that the GEFTA-amended sections of the Anti-Deficiency Act created no obligation to deliver on the backpay. This response is based on the implication that, based on the specific language of the amendment, it only granted the government the authority without the obligation to carry out the backpay at their discretion.²¹ Despite this novel interpretation, the government does seem to already hold this power, as the current 2025 government shutdown is the first to occur after the passage of this amendment, and all prior shutdowns had been able to provide back pay to all federal employees regardless of working status. Specifically, the referenced section of the ADA by the memorandum reads: “Each employee of the United States Government or of a District of Columbia public employer furloughed as a result of a covered lapse in appropriations shall be paid for the period of the lapse in appropriations, and each excepted employee who is required to perform work during a covered lapse in appropriations shall be paid for such work, at the employee's standard rate of pay, at the earliest date possible after the lapse in appropriations ends, regardless of scheduled pay dates, and subject to the enactment of appropriations Acts ending the lapse.” The excepted and furloughed employee are equally mentioned as candidates to receive backpay, a consideration that the OMB does not seem to consider. Paoletta argues that “the government does not incur obligations for furloughed employees’ salaries, because they are not performing services for the government while furloughed.”

While it is not untrue that furloughed employees do not work for the duration of the shutdown, this is beyond the control of the individual worker and is instead part of an

¹⁷ *New Data Shows Trump Administration’s Progress in Right-Sizing the Federal Bureaucracy*, U.S. Office of Personnel Management, (July 1, 2025), <https://www.opm.gov/news/new-data-shows-trump-administration%CA%BCs-progress-in-right-sizing-the-federal-bureaucracy/>.

¹⁸ Jenn Hatfield, *6 facts about the U.S. military*, PEW RESEARCH CENTER (June 6, 2025), <https://www.pewresearch.org/short-reads/2025/06/06/6-facts-about-the-us-military/>.

¹⁹ Aaron Till & Fredrick Hernandez, *Who Is Missing Paychecks in the 2025 Shutdown—When and Where?*, BIPARTISAN POLICY CENTER, (Nov. 5, 2025), <https://bipartisanpolicy.org/explainer/who-is-missing-paychecks-in-the-2025-shutdown-when-and-where/>.

²⁰ S.24 — 116th Congress (2019) <https://www.congress.gov/bill/116th-congress/senate-bill/24/all-actions>.

²¹ Mark R. Paoletta, *MEMORANDUM FOR THE OMB DIRECTOR; Effect of the 2019 Antideficiency Act Amendments on Furloughed Employees’ Back Pay*, U.S. Office of Management and Budget, (Oct. 3, 2025), https://www.washingtonpost.com/documents/dfe00e6b-396e-453f-91a8-8809f074281a.pdf?itid=lk_inline_manual_5.

overarching agency plan. Despite this, the proposal to withhold backpay from furloughed workers seems to be corroborated on the White House website. As of October 7th, 2025, the language under Section VII. Entitlement to Payment for Excepted Work reads, “All excepted employees are entitled to receive payment for their performance of excepted work during the period of the appropriations lapse when appropriations for such payments are enacted.”²² This wording seems to agree with the OMB memorandum in the exclusion of compensation for furloughed workers. However, prior to this recent change, within the version of this document last updated September 30th, the section guaranteeing both excepted and furloughed worker pay previously stating, “The Government Employee Fair Treatment Act of 2019 (Public Law 116-1) provides that upon enactment of appropriations to end a lapse, both furloughed and excepted employees will be paid retroactively as soon as possible after the lapse ends, regardless of scheduled pay dates” had been removed.²³

Furthermore, the term furlough is markedly different from layoff in the sense that while both decisions are due to economic burden, a furloughed employee continues being a government employee and carries the expectation that his employment would be fully restored after the conclusion of the shutdown, which would include backpay. This opinion is additionally supported by another OMB memorandum sent on January 23rd, 2019, after the passage of the GEFTA Amendment.²⁴ Sent from Margaret M. Weichert, the acting director of the Office of Personnel Management at the time, the memorandum stated “the nonpay status” of “furlough periods are converted to pay status periods with the payment of retroactive pay for those periods.” This confirms the status of furloughed time as equivalent to work time. It continues, “For the purpose of any pay, leave, or benefit entitlements, furlough hours for which retroactive pay is received are considered paid hours of work. Rules related to periods of nonpay status are not applicable.” It is clear, therefore, that furloughed hours should be considered equivalent to excepted hours in paid status. This inconsistency and quiet silencing of critical legal information is an incredibly alarming action for the administration to take during these unprecedented times. In regard to the judgement that it is the federal government’s responsibility to fairly compensate all workers, president and CEO of the Partnership for Public Service, Max Stier said, “Thousands of federal employees did not choose to be furloughed from their jobs during this completely avoidable government shutdown. Denying these workers back pay would be dubious, contradictory and immensely cruel.”²⁵

²² *Frequently Asked Questions During a Lapse in Appropriations*, The White House, (Oct. 3, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/09/Frequently-Asked-Questions-During-a-Lapse-in-Appropriations.pdf>.

²³ *Frequently Asked Questions During a Lapse in Appropriations*, The White House, (Archived Sep. 30, 2025), <https://web.archive.org/web/20251001000739/https://www.whitehouse.gov/wp-content/uploads/2025/09/Frequently-Asked-Questions-During-a-Lapse-in-Appropriations.pdf>.

²⁴ Margaret M. Weichert, *MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES: Government Employee Fair Treatment Act of 2019*, U.S. Office of Personnel Management, (Jan. 23, 2019), https://www.opm.gov/chcoc/transmittals/2019/government-employee-fair-treatment-act-2019_508.pdf.

²⁵ Robin Bravender, *White House floats not paying furloughed feds*, POLITICO, (Oct. 7, 2025, 1:27 PM), <https://www.eenews.net/articles/white-house-floats-not-paying-furloughed-feds/>.

Perhaps a strong factor in considering this decision was rooted in the financial burden predicted in the reopening of the government. According to the White House's Council of Economic Advisers, a weekly loss of 15 billion is forecasted, and the Congressional Budget Office forecasts a permanent economic loss of 7 to 14 billion.^{26 27} In total, the shutdown had lasted a record 43 days.²⁸ For comparison, past shutdowns averaged a length of three days, notwithstanding the few notably long outliers.

However, the federal government isn't the only entity facing financial loss. According to data analysis from the Bipartisan Policy Center, about 1.4 million federal employees just missed their first full paychecks on October 24th, with half of them still having to work without pay. Robyn Kehoe, the executive director of the Federal Employee Education and Assistance (FEEA) Fund, makes the statement that many more workers seem to be affected by the shutdown this time than in the Trump Administration's first government shutdown in 2019, as "At this point in the previous shutdown, we knew that we were moving towards a solution, [but] I think right now, nobody really knows when this might end."²⁹

The FEEA Fund, which was founded in 1986 as a 501c3 nonprofit in order to provide emergency financial assistance, is one of the key resources provided as support to federal employees in financial aid.³⁰ However, as of October 30th, 2025, FEEA announced that it would no longer be accepting new applications for financial assistance as they were nearing their fund's limit due to the overwhelming volume of applications caused by the shutdown. It's estimated that over 1 million dollars will be given out because of the shutdown, with the average yearly income of the applicants being less than 50,000. These grants are in the form of a one-time grant of 150 dollars.

With the potential threat of approximately half of all civilian federal employees, or roughly 700 thousand workers not receiving backpay, the financial and legal consequences are larger than ever. Beyond the already unprecedented move regarding GEFTA, the Trump Administration has also begun mass firings of thousands of federal workers at agencies that support more Democratic focuses, such as at the Department of Energy and EPA, the Minority Business Development Agency, and the Cybersecurity and Infrastructure Security Agency.³¹ Actions such as these target programs that support more Democratic investments, and had mostly

²⁶ *Economic Consequences of a Government Shutdown*, The White House, (Oct. 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/10/Economic-Consequences-of-a-Government-Shutdown-4.pdf>.

²⁷ Mary Cunningham, *Government shutdown costing the economy billions of dollars each week*, CBS NEWS, (Nov. 7, 2025, 3:00 PM), <https://www.cbsnews.com/news/government-shutdown-economy-billions/>.

²⁸ *Government Shutdown Clock*, The White House, (last visited Dec. 1, 2025), <https://www.whitehouse.gov/government-shutdown-clock/>.

²⁹ Drew Friedman, *External financial support options for federal employees starting to run thin*, FEDERAL NEWS NETWORK, (Oct. 28, 2025, 5:16 PM), <https://federalnewsnetwork.com/government-shutdown/2025/10/external-financial-support-options-for-federal-employees-starting-to-run-thin/>.

³⁰ *About Us*, FEDERAL EMPLOYEE EDUCATION & ASSISTANCE FUND, (last visited Nov. 10, 2025), <https://feea.org/about/>.

³¹ Irie Sentner, *White House: Shutdown layoffs will be 'north of 10,000'*, POLITICO, (Oct. 15, 2025, 3:25 PM), <https://www.politico.com/news/2025/10/15/shutdown-layoffs-10-000-00609830>

been undertaken through executive orders and Administration agencies, bypassing Congress.³² Many of these reductions in force were taken under the suggestion of the Department of Government Efficiency (DOGE), formed January 20th, 2025, and as early as June of 2025, seemed to be disbanded less than a year into its charter. The influence behind this short-lived agency had been South African tech billionaire Elon Musk.³³ California U.S. District Judge Susan Illston made the statement that the current administration has “taken advantage of the lapse in government spending and government functioning to assume that all bets are off, that the laws don’t apply to them anymore and that they can impose the structures that they like” after a hearing regarding the legality of mass layoffs during the shutdown.³⁴

In seeming corroboration, President Trump had made the statement that the shutdown has given his administration the ability to “to do things that we were unable to do before.”³⁵ Ultimately, this extended shutdown is a dangerous hotbed for crossing legal boundaries. From violations of the Hatch Act on federal websites to pushback against federal judge orders for SNAP distribution, the Trump Administration's actions regarding the Government Employee Fair Treatment Act of 2019 is only one of the many taken during this uncertain time.^{36 37} According to Lisa Bilmes, the Daniel Patrick Moynihan Senior Lecturer in public policy and a leading expert on budgetary and public financial issues, government shutdowns lead to the degradation of the public’s trust in the function of the government. She states, “It is pernicious because over time, these government shutdowns and ‘almost-shutdowns’ and ‘almost-defaults’ lead to a loss of public confidence in the ability of the government to function and to get things done.”³⁸ After a full fiscal year without an adjusted annual appropriations bill, these unprecedented times and potentially unlawful actions taken by the Trump Administration during this shutdown paves way for dangerous legal precedent.

Although little time has passed between the end of the shutdown and the writing of this article, the beginning of some of these effects have already begun to be seen. With many of the mass firings still in place, federal workers continue to suffer the impacts. The continuing resolution passed with difficulty on November 9th, 2025, only created temporary guardrails for

³² *Reductions in Force (RIF)*, US Office of Personnel Management, (2025) <https://www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force-rif/>.

³³ Sophia Cai & Daniel Lippman, *Inside the DOGE Succession Drama Elon Musk Left Behind*, POLITICO, (Nov. 21, 2025, 10:01 AM), <https://www.politico.com/news/magazine/2025/11/21/doge-elon-musk-succession-00641110>.

³⁴ Hassan Ali Kanu, *Judge blocks Trump admin from laying off federal workers during government shutdown*, POLITICO, (Oct. 15, 2025, 9:17 PM), <https://www.politico.com/news/2025/10/15/trump-administration-layoffs-order-00609833>.

³⁵ Ben Johansen, *White House to ax more ‘egregious’ programs Friday*, POLITICO, (Oct. 14, 2025, 4:05 PM), <https://www.politico.com/news/2025/10/14/white-house-to-ax-more-egregious-programs-friday-00608022>.

³⁶ *Hatch Act Overview*, U.S. Office of Special Counsel, (last visited Nov. 10, 2025), <https://osc.gov/Services/pages/hatchact.aspx>.

³⁷ David A. Lieb & Geoff Mulvihill, *Trump administration renews Supreme Court appeal to keep full SNAP payments frozen*, PBS, (Nov. 10, 2025, 2:49 PM), <https://www.pbs.org/newshour/politics/trump-administration-renews-supreme-court-appeal-to-keep-full-snap-payments-frozen>.

³⁸ Nora Delaney, *Explainer: Why government shutdowns keep happening in the United States*, Harvard Kennedy School, (Oct. 8, 2025), <https://www.hks.harvard.edu/faculty-research/policy-topics/democracy-governance/explainer-why-government-shutdowns-keep>.

federal workers. With a rapidly approaching expiry of January 30th, 2026, on the CR, its protections of invalidating actions related to reductions in force (RIF) during the shutdown, and imposing a moratorium on additional RIFs only creates a brief pause on the current Trump Administration's objectives.³⁹ With an extension of the ACA still balancing on a knife's edge, and increasing political polarization, the threat of another government shutdown looms near. Many issues have yet to be reported on, but still, the development of this shutdown's consequences will surely be felt for a long time.

³⁹ Nick Bednar, *The Shutdown Is Over, but Federal Workers Aren't Out of the Woods*, THE LAWFARE INSTITUTE, (Nov. 18, 2025, 1:00 PM), <https://www.lawfaremedia.org/article/the-shutdown-is-over--but-federal-workers-aren-t-out-of-the-woods>