Ryan Alexander:

And I think what's really important about oversight right now is that, it's a really kind of pressing and challenging problem that there are a bunch of areas where people don't agree on facts. Where they can say, "you can't tell me I'm not seeing what I'm seeing." When people on the other side, they're like, "well, actually we can, we have a lot of evidence to the contrary."

Ben Eikey:

Welcome to Oversight Matters, podcast that gives you a behind the scenes look at legislative investigations around the country and the people involved. This is Ben Eikey and I am your host. This podcast is brought to you by the Levin Center at Wayne Law in Detroit.

Ben Eikey:

On this episode of Oversight Matters, my guest is Ryan Alexander. Ryan served as president of Taxpayers for Common Sense for 14 years. Taxpayers for Common Sense is a nonpartisan nonprofit focused on ensuring responsible use of taxpayer dollars, and that government operates within its means. They conduct their own robust investigations and issue their own reports, an interesting example of oversight by a nonprofit. Ryan has worked with allies all across the political spectrum to get things done. And has testified to Congress on a wide range of topics related to federal spending, subsidies, and fiscal policy. Her perspective on oversight is one of someone who conducted oversight not from a position in Congress, nor from a state legislature, but as a nonprofit seeking to inform the public and equip decision makers with facts. Ryan co-founded Appalachian Mountain Advocates, which she continues to chair, and sits on the board of directors of the Fund for Constitutional Government, Project on Government Oversight, and R Street Institute.

Ben Eikey:

Together, we discuss habitual oversight by the GAO's high risk list and oversight on a wide range of topics, including oil and gas and cybersecurity. I enjoyed this conversation and I hope you all do as well.

Ben Eikey:

I'm excited to talk about oversight that may or may not have occurred over the last year and ways to, going into the future and make sure that we're trying to not just make the money [inaudible 00:02:02].

Ryan Alexander:

Right. Right. Well, thinking about kind of oversight of spending in particular, I think there are a few background and habitual tools that are just good to know about though. Because when I think about what's been the most effective oversight that I've been involved in on spending, a lot does go back to there's a buy-in or report by the general accountability office called the high risk list. And it is, there's definitely things that show up on it year after year. And you're like, wow, still high risk is that, does that feel meaningful? But things have gotten better. And there are some things that have gone away as a result of GAO kind of highlighting it, adding numbers to what we're losing. Not just, not saying this is corrupt, this was bad. This is stupid, which it could be, but also saying this just isn't working.

Ryan Alexander:

And I think having a list that includes, that comes from a relatively trusted source, a neutral party, GAO has been really helpful. It's interesting every single year, it has over payments for Medicare or Medicaid and improper payments that are paying twice or paying to somebody. And those things make people insane, understandably, and it is something that should be focused on, but it's also because of the high risk report, it gets highlighted again every two years and every few years something gets better. So there are some habitual oversight things that happen and it's not always dramatic change, but it matters.

Ryan Alexander:

With these gigantic stimulus bills that we're seeing now. And when we think back 12 years ago, what was remarkable, I want to go back to those bills in 2008 and 9, the kind of TARP and the Recovery Act, both of those had a couple of really important components in them that made it a little easier to provide oversight. Really good transparency. At Taxpayers for Common Sense on the bank bailouts in TARP, we did little profiles of hundreds and hundreds of banks that got money. And what the size of their business was, what they were losing. And it made it much easier for the public to track what was getting paid back. And because the public was being able to track what was getting paid back, I think Congress was on top of that too, because there were, we definitely had like bloggers who had their 10 followers in one place really watching their one bank.

Ryan Alexander:

But that's what gets to a member of Congress. Is that they've got that one really active guy in their district. So that key component of transparency. And for the Recovery Act in 2009, they did a really important thing, which they haven't done consistently since then, which was, they set up a coding system for spending. So you could track the actual money from the Recovery Act because you know, money is fungible. You get money in account. Some people are like, oh, well now I have the cash. So I can do this project that it is authorized, but I might be using somebody else's cash for it. And, you know, we all,

Ben Eikey:

And if I don't have that window of opportunity into the future, that cash could lapse. We ran into that a lot at the state level as well, where it was like, well, we could save for a couple of years to be able to pay for a larger program that we want to fund, but we're not going to do that because then it will be perceived, as a legislature, as well, if you're not going to this money, we're going to take it back and give it to somebody that will.

Ryan Alexander:

Right. I think the other place for spending oversight, and I think this is something where I know that the Levin Center's done a bunch of work in, is just kind of the inspector general system and how it interacts with the appropriations committees. I think it's been really interesting in the last month to see that it's appropriations committees that are doing oversight hearings of what happened on January 6th. And some of that's because I think they just could do it. They were ready to kind of call witnesses. And there's a lot of people jurisdiction on who can do that. But it is kind of, how do we spend our money, how to get spents. Did Congress, when you're talking about the Capitol police it's kind of hard to point the finger at the administration for how they spend the money. So looking at, on that sense, I was really glad to see it being appropriations. Because I feel like it's Congress looking at things that Congress, both priorities, they said and had to administer.

Ben Eikey:

It was a reality check. I mean, horrible way to be able to lead to that reality check to happen. But I did thought it was interesting as well, the mechanisms that were used from using it through appropriations. As an appropriations person, I thought that was a really interesting maneuver.

Ryan Alexander:

Yeah. Yeah. And I'm not sure,

Ben Eikey:

You're right, because we're in the right place, right time. I mean, the committee was there. They were able to bring people in and it wasn't some sort of a willful decision. It was just right place, right time to be able to do this.

Ryan Alexander:

Right. Right. And it's not the only hearing. There's going to be more. But it's important that they had that. I think that's an important element of looking at where there's a big failure or a big question of what happened if you leave the spending piece out. I think that you're automatically missing an important element. So I'm glad to see on that one, they didn't leave it out from the start.

Ben Eikey:

To summarize Ryan and I just discussed the importance of routine oversight, like the GAO high-risk list. This list details government programs and operations vulnerable to waste, fraud, abuse, or mismanagement. Organizations like Taxpayers for Common Sense can look to the high risk list for opportunities to share their expertise on what could be strategies for improvements. And the public can also view the high-risk list to encourage their member of Congress, to conduct oversight, where there appears to be a critical need.

Ben Eikey:

Ryan and I also talked about how a coding system, like the one used in the American Recovery and Reinvestment Act of 2009, or ARRA, made it easier to track where money actually went. The spending piece is essential to good oversight and connecting the dots between where money is supposed to go, where it actually went, and how effective the spending was towards the completion of objectives is essential. To make that relevant to today, appropriations committees have been doing the January 6th hearings as they have the authority via spending tracking. Next, oversight of oil and gas and of cybersecurity measures.

Ryan Alexander:

The oil and gas leasing system and the natural resources on public lands is all run by the Department of the Interior, which is just a gigantic agency that is responsible for a gigantic amount of land and the resources on them. And the mission of the Department of Interior is land use for multiple purposes, preservation, development, and protecting taxpayers. And for the oil and gas industry, oil, gas, coal, uranium, hard rock minerals, all those things are developed on public lands. Hard rock minerals, the royalty rate of zero was set in 1872 and has not been changed since then. So there's that. But on oil and gas it's, again, this has been an industry that is unbelievably influential and has been good at influence for a hundred years.

Ryan Alexander:

And so the leasing system has had all sorts of opportunities for gamesmanship. There's an example that was, Taxpayers for Common Sense worked with the New York Times on an investigation of how a certain lease played out. The process has been, that the Department of Interior identifies a set of parcels of land that they will put up for auction, for lease, for oil and gas development. And those parcels are often identified by developers. So they get to draw the lines and say, I think you should put this particular area up for auction. So they've identified it. Its possible that it's adjacent to the lands they already have a lease on. Maybe not, but just, they've identified it as an area that interests. They'll go up for auction. There will be no bids. And so once, if there are no bids, then people can come in the next day and get it at the statutory minimum.

Ryan Alexander:

And so the company that identified the parcel of land and said, this should go for bid, doesn't bid on day one, comes in on day two, and gets it at the statutory minimum bit. Or there are auctions where there's no competition and there's one bid on everything. So everything, why are we putting so much up that there's no competition when it's clearly supposed to be a competitive process? And that I think in the last administration there was an affirmative drive to get leases on the books. So there wasn't concern about there being a glutton market. There wasn't a concern about that because it was a kind of, if we get leases on the books, our legacy will be that we opened up as much land for development as we could.

Ryan Alexander:

And as a result, now the Biden administration is, when they put a pause on oil and gas leasing, it's in the context of having more acres leased in the last, like two years than any other two year period. So it's not like oil and gas has nothing to do, but that system where the developers are allowed to identify the land they want, often get it at bargain basement prices, without the kinds of incentives that are in place to make sure the taxpayers are compensated is an area where there's some easy answers, but there are other areas where there's not easy answers. And a kind of more thorough oversight by Congress will paint a path forward. Or could paint a path forward. Even if that path forward is regulatory and something that the Department of Interior can do with that legislation.

Ryan Alexander:

So that's, and it's also just a huge, after minerals are developed or oil and gas is developed, we have very old, old laws in place to make sure that the land is cleaned up. So the bonding requirements are very low and it's really easy for one of the gas companies to walk away and coal companies to walk away from messes. And then that comes back to the taxpayers. Either it doesn't get cleaned up and it gets worse and causes, and there compound problems with water tables and other things. But that's another area where the Department of Interior has employees all over the west, and who's making what decision? In another oil and gas area that we've done, we, Taxpayers for Common Sense, which I formerly led, but still am associated with, did a lot of investigations on what was happening with wasted methane. Because when you do fracking in particular, but other kinds of oil and gas extraction, one of the byproducts is that methane will come out and methane, is a very dangerous greenhouse gas.

Ryan Alexander:

It is more damaging than just burning oil. To the climate. For, in terms of, [inaudible 00:14:06]. And there are different kinds of, if you're developing, if you have a well, there's what they call allowable losses. Which were essentially, the developer would say, I think there's going to be some methane. I'm just going to tell you that. And then you wouldn't have to pay a royalty for it. So, who was making that decision? The people in the Bureau of Land Management, the guidance was very old. And we looked at an eight year period from 2006 to 2014 to just see, how much were we losing? And in South Dakota, seven times more methane was released to the atmosphere with no royalty, and was just released, then was brought to market. And, in that timeframe, there were also places in the Dakotas that couldn't get fuel to heat their homes.

Ryan Alexander:

It could have powered so many things. So there's just these absurd things where it's like step back, figure out how to capture that. And from the perspective of taxpayers, if you have to pay for it, you're going to figure out a way to be more efficient. That's just all there is to it. So, there are a lot of opportunities for making sure, but again, it's, when we first started doing that investigation in like 2012 and doing the, kind of, getting FOIA documents and talking to different people. The initial numbers, we just couldn't really believe them. They didn't really look like they made sense. And when we got them all together, we were like, they don't make sense because they don't make sense. This is not how you should do it.

Ryan Alexander:

One big project that we did, that was one of the most difficult oversight examples I can think of, is we worked to create a database of all of the cybersecurity, unclassified cybersecurity, spending across the federal government. And our conclusion was that there's no one in the federal government who can tell you the answer to that question. Like at all. It was really, every single agency called some things, had a different terminology for what they were calling. There were kind of fashion, in terms of, we were going back 10 years. So for one year everything had one name and three years later it was called something else because that sounded better. And that constantly evolving, really, really important area is something that, it was just clear that there wasn't anybody in Congress, GAO, in the National Security Agencies I don't know that they really could even do the oversight of important civilian agencies they had. The Army Corps of Engineers needs to have good cybersecurity.

Ryan Alexander:

There's lots of agencies that you don't think about that really need to be protected.

Ben Eikey:

Yeah, absolutely.

Ryan Alexander:

And some of that was just everybody was kind of asking for money for things that they saw as they went along. There wasn't whole of government approach to, how are we going to know that this works? How are we going to know that our technology is keeping up? And that is something where it was so depressing to see how hard it was to figure out what the answers to these questions were.

Ryan Alexander:

And we would check with people in the military and people who had been at OMB and various people and they were like, yeah, you're right. No, I don't know that. I don't know that. And I think that since then, I think the agencies that have classified budgets have gotten, I think they are on top of it because they need to be. It didn't become an ongoing project that we kept updating because it was so clear that the data was so bad. But it's an area that I think there's more room obviously to do better oversight, but it was just such a good example of if people aren't asking questions, there's no way to know whether or not you can get the answer.

Ryan Alexander:

And that was one of those things where I think everybody kind of thought, and when we would meet with people in Congress and they're like that can't be, I'm like, no, look at this. You know?

Ben Eikey:

It can be, here it is.

Ryan Alexander:

Yeah, it can be. For me, that was, even though it was, in many ways, it was not the most successful project because we couldn't answer that many questions with the data that we did uncover. But it just pointed out how important it is to ask questions. And make sure that the people who actually make the decisions in Congress and in agencies see, understand, what questions can't be answered.

Ben Eikey:

To summarize, Ryan and I discussed oil and gas oversight followed by cybersecurity oversight. Specifically, the struggles to ensure a competitive bidding process for public land mineral rights, companies polluting the environment and walking away from their messes without reasonable accountability, and a chronic failure to accurately capture or impose charges for companies releasing inordinate amounts of methane. These are all critical oversight topics showing how oversight can also help protect the environment and hold bad actors accountable.

Ben Eikey:

Then cybersecurity was discussed, specifically the need for whole of government legislative oversight on the state of cybersecurity and the bureaucracy. Questions ought to be raised on the security classifications of sensitive information across the federal government, and then develop solutions to enhance cybersecurity processes.

Ben Eikey:

Thanks again, Ryan, for an engaging, informative discussion. On the next episode of Oversight Matters, the youth in government oversight exercise shall be discussed. I hope you can tune in.

Ben Eikey:

Thanks for listening. Oversight matters is available anywhere you get your podcasts. Subscribe, rate, review, and share with others interested in oversight and good governance. Again, my name is Ben Eikey, Oversight Matters is the product of the Levin Center at Wayne Law in Detroit.