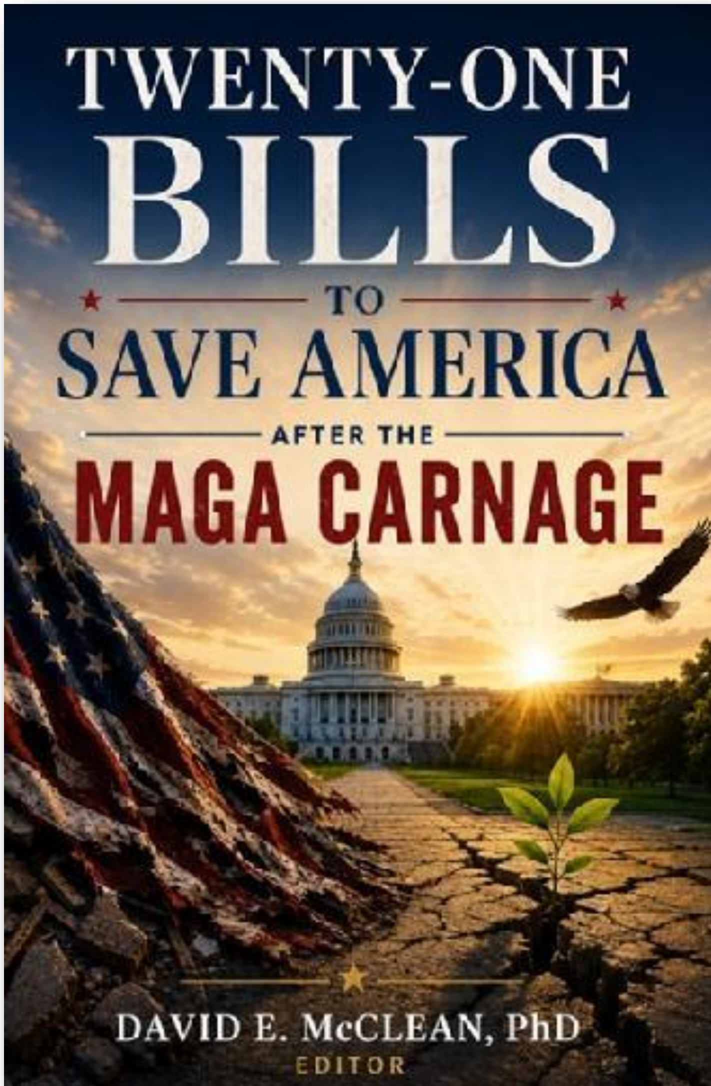
TWENTY-ONE
BILLS
TO
SAVE AMERICA
AFTER THE
MAGA CARNAGE
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Twenty-One Bills

to Save America after the MAGA Carnage

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Editor and Publisher

Note: The draft bills and analyses were prepared from existing public documents and with the aid of large language models, edited as needed in view of the legislative and policy intent.

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Introduction

After the Carnage: Why These Bills and Why Now

The referenced bills were not prepared under normal circumstances. We are approaching the end of a “phase” in the American experiment. We will have a better grasp of the state of the republic soon after the 2026 mid-term elections, although the mid-terms alone will not be definitive.

I give the word “phase” the meaning that W.E.B. Du Bois gave it in *The Souls of Black Folk*. There the term was used in its older, broader sense, i.e. an aspect, manifestation, or dimension of a larger reality—not a chronological *stage*. Du Bois referred to “the problem of the color line” as a phase, or manifestation, of a larger, transmutable problem or condition. While “the problem of the color line” has a good deal to do with the current and regrettable state of American politics (and that is, perhaps, an understatement), the phase of the American experiment that I am referencing is broader, deeper, and more complex than that problem, and it involves how Americans understand political economy, international relations, the natural environment, and the role of the country in the community of nations.

Drafting the bills was not conceived as an academic exercise or project, nor are the bills a collection of legislative thought experiments. Rather, the bills emerged from a conviction that the constitutional system of the United States has entered a period of profound vulnerability—one in which many of the assumptions that guided American government for generations can no longer safely be taken for granted. The draft bills collected herein are offered as responses to that reality.

Some readers will regard the proposals as bold. Others will regard them as controversial. A few may consider them radical. Such reactions are understandable. Yet the circumstances that gave rise to these proposals are themselves extraordinary. Extraordinary circumstances often require the reexamination of institutions, assumptions, and legal structures that, under more stable conditions, might otherwise remain unquestioned. Unfortunately, very few things can remain unquestioned—or simply assumed. Perhaps in the future that will change, though more than likely it will not.

This collection proceeds from a simple proposition: democracies do not generally collapse because constitutions disappear. They deteriorate because constitutional norms cease to function as intended. Formal institutions remain. Elections continue. Courts still convene. Legislatures still meet. Yet the practical restraints that once prevented abuses of power become increasingly ineffective. The appearance of constitutional order remains even as its substance is gradually hollowed out. Many observers across the ideological spectrum have warned that the United States may be approaching precisely such a moment. Thus, it may be entering a new phase.

Among the most notable recent contributions is Barbara McQuade's book, *The Fix*, which discusses the nature, forms, and enactments of corruption across the federal government, largely emanating from the Oval Office. Similarly, Steven Levitsky and Daniel Ziblatt argued in *How Democracies Die* that democratic systems rarely collapse through dramatic coups. More often, they erode incrementally through the weakening of institutions, the normalization of misconduct, and the gradual concentration of power in individuals and movements unwilling to accept meaningful limits upon their authority.

Democracies do not generally collapse because constitutions disappear. They deteriorate because constitutional norms cease to function as intended.

The concerns explored in these and many other works are not theoretical. They are rooted in events that have occurred in the United States during the past decade.

The rise of the Trump-MAGA movement (a radical rather than a conservative movement, despite the party that it has claimed and infected) has generated one of the most significant constitutional stress tests in modern American history. Its defenders view it as a populist corrective to entrenched political institutions. Its critics view it as a movement characterized by hostility toward constitutional constraints, expertise, professional administration, independent oversight, and pluralistic democracy itself. At worst, perhaps, it is an ethnonationalist movement, one that even flirts quite openly with the establishment of a state religion, Christianity. (Whose version of Christianity remains somewhat of a mystery, once one surveys the most prominent MAGA leaders, who range from cultural Christians, to cultish Catholics, to fundamentalist Protestants).

The legislative proposals are premised upon the belief that the Trump-MAGA coalition and important elements of its associated political, media, financial, and ideological networks have exposed serious weaknesses in American institutions and norms. Those weaknesses were not created by Donald Trump. Most predated him. Yet his rise revealed them, accelerated them, and in many cases exploited them.

The purpose of the collection is not merely to criticize a political movement. Political criticism alone accomplishes very little. The purpose is instead to ask a more difficult question: *What legal and institutional reforms would be necessary if one concluded that existing safeguards have proven inadequate?*

That question animates every bill.

The reader will quickly notice that these proposals vary significantly in subject matter. Some concern presidential authority. Others concern administrative agencies. Others address conflicts of interest, corruption, foreign influence, artificial intelligence, campaign finance, federal personnel systems, civil rights enforcement, institutional restoration, ethics, accountability, and democratic governance. Despite their diversity, however, they share a common premise. The premise is that modern American government contains too many areas in which constitutional expectations depend upon voluntary compliance rather than enforceable legal obligations.

Throughout much of American history, informal norms compensated for this weakness. Presidents generally released tax returns. Officials generally avoided obvious conflicts of interest. Agencies generally respected scientific and professional expertise. Inspectors General generally enjoyed a measure of independence. Public officials generally avoided conduct that would plainly undermine confidence in democratic institutions. Yet norms are effective only when political actors choose to honor them. When norms collapse, the question becomes whether legal institutions possess sufficient resilience to preserve constitutional government without them.

The bills represent one possible answer.

Some readers will object that legislation cannot solve fundamentally political problems. That criticism contains considerable truth. Laws cannot create civic virtue. Statutes cannot manufacture wisdom. Regulations cannot eliminate corruption, dishonesty, extremism, or demagoguery.

Nevertheless, *laws shape incentives, establish boundaries, alter calculations, and influence behavior*. The history of democratic reform demonstrates that legal structures matter. Anti-corruption laws matter. Civil-service protections matter. Transparency requirements matter. Independent oversight matters. Ethics laws matter. Electoral rules matter. It is true that good institutions cannot guarantee good outcomes. Yet weak institutions virtually guarantee bad ones. For that reason, the principal objective is institutional rather than partisan. Its concern is not merely who occupies power today, but rather its concern is who may occupy power tomorrow. Any authority that can be abused by one administration can be abused by another. Any loophole available to one political faction is available to its opponents once power changes hands. Any constitutional weakness tolerated for temporary advantage eventually becomes a permanent vulnerability.

A recurring theme throughout the collection is therefore *reciprocity*. Readers should ask themselves a simple question while evaluating each proposal: *Would I support this institutional safeguard if my political opponents controlled the government?*

If the answer is no, caution is warranted.

If the answer is yes, the proposal may deserve serious consideration, even if the specific draft is flawed. On that point, the bills are not offered as a final legislative program. They are offered as a starting point for discussion and will likely be discussed alongside others. Indeed, some of the proposals contained herein are intentionally drafted in aggressive terms. That decision was deliberate. Too often, reform proposals are weakened before debate even begins. Advocates negotiate against themselves. They anticipate objections, dilute their proposals, eliminate controversial provisions, and ultimately present reforms already stripped of much of their practical effect. I have chosen not to follow that approach, in most instances.

Several bills press constitutional boundaries. Some likely contain provisions that courts would reject in their present form. Others would require substantial revision before enactment. Still others may prove politically unattainable. That is not a defect of the project. It is one of its purposes.

Each bill therefore contains not only proposed statutory language but also a constitutional and administrative law analysis. Those analyses, which are typical, identify vulnerabilities, legal obstacles, implementation concerns, separation-of-powers questions, due-process issues, First Amendment concerns, nondelegation problems, federalism issues, and other matters likely to arise during legislative consideration. The analyses are intended to perform the work ordinarily undertaken by congressional counsel, committee staff, executive agencies, litigants, scholars, and courts.

The reader should therefore understand the bills and analyses as functioning together. The bill represents the objective. The analysis represents reality. The distance between the two reveals the work that would be required *to transform aspiration into law*. In this respect, the collection mirrors the actual legislative process.

No significant reform emerges from Congress exactly as originally proposed. Bills are amended. Compromises are negotiated. Constitutional concerns are addressed. Administrative details are refined. Political coalitions are assembled. Judicial precedents are considered. Legislation evolves. The bills presented here are therefore best understood as opening positions in an ongoing constitutional conversation. They are designed to provoke discussion concerning what democratic self-government requires at a moment when many Americans increasingly doubt the capacity of existing institutions to protect it. Underlying every proposal is a larger question: *What does it mean to preserve a constitutional republic in an age of democratic erosion?*

The answer cannot be nostalgia or magical thinking. The answer cannot be passive faith that institutions will somehow repair themselves. Nor can the answer be resignation. The American constitutional tradition has never been static. It has repeatedly adapted to crises that earlier generations could scarcely imagine. Reconstruction, the Progressive Era, the New Deal, the Civil Rights Movement, Watergate reforms, and post-Cold War institutional changes each reflected efforts to reconcile inherited constitutional principles with emerging realities.

Our generation faces its own set of challenges. Some are technological. Some are political. Some are economic. Some are cultural. Many are constitutional.

Artificial intelligence, disinformation, political polarization, concentrated wealth, attacks upon expertise, foreign influence operations, environmental instability, institutional distrust, and the normalization of corruption all present challenges that existing legal frameworks were not designed to address. Whether one agrees with every proposal is ultimately beside the point. No reader should.

The purpose of democratic deliberation is not unanimous agreement. It is thoughtful disagreement conducted within a constitutional framework. If these proposals encourage *serious reflection* about the future of democratic institutions, they will have served their purpose. If they generate debate about how constitutional government should respond to emerging threats, they will have served their purpose. If they inspire better proposals, more carefully crafted legislation, and more durable reforms, they will have served their purpose.

The stakes could hardly be higher. The central question facing the United States is not whether constitutional government will survive the challenges of the present moment. Constitutions are remarkably durable documents. The question is whether constitutional government will remain sufficiently robust to protect liberty, accountability, competence, equality before the law, and democratic self-government in the decades ahead.

The twenty-one bills you will find at the website linked above, prepared by one concerned citizen, constitute one attempt to answer that question. They are offered not as final answers, but as invitations to begin the work, or to join others doing similar work.

Very likely, twenty-one more are needed, and a few Constitutional amendments to accomplish what legislation won't.

D.E.M.

Long Island, New York

Summer 2026

1.

"Department of Government Efficiency Review Act of 2029"

H.R. _____

A BILL

To establish an independent Commission to review the activities, authorities, and operations of the Department of Government Efficiency, to examine compliance with Federal laws governing privacy, information security, records management, and access to Government information systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Department of Government Efficiency Review Act of 2029."**

Congress finds that—

(1) Congress possesses constitutional authority to investigate the administration of Federal law and to conduct oversight of executive departments, agencies, offices, and instrumentalities;

(2) public confidence in the administration of the Federal Government depends upon transparency, accountability, and faithful compliance with laws governing privacy, cybersecurity, records management, and governmental ethics;

(3) allegations concerning access to Government information systems, personally identifiable information, confidential records, and other protected information warrant comprehensive factual review where appropriate; and

(4) Congress has a substantial legislative interest in determining whether statutory reforms concerning information security, privacy, governmental organization, procurement, ethics, records management, and oversight are necessary.

The purposes of this Act are—

(1) to conduct an independent review of the activities of the Department of Government Efficiency;

(2) to determine whether existing laws governing Federal information systems, privacy, cybersecurity, procurement, records management, and governmental administration were faithfully observed;

(3) to evaluate the adequacy of existing statutory safeguards governing access to Federal information systems;

(4) to recommend legislative and administrative reforms; and

(5) where appropriate, to refer evidence to authorities possessing lawful investigative or prosecutorial jurisdiction.

There is established an independent legislative commission to be known as the **Department of Government Efficiency Review Commission** ("Commission").

The Commission shall consist of fifteen members appointed as follows—

(A) three appointed by the Speaker of the House of Representatives;

(B) three appointed by the Minority Leader of the House of Representatives;

(C) three appointed by the Majority Leader of the Senate;

(D) three appointed by the Minority Leader of the Senate; and

(E) three jointly appointed by the Comptroller General of the United States and the Inspectors General Council.

Appointments shall, to the maximum extent practicable, include individuals possessing demonstrated expertise in—

(A) constitutional law;

(B) criminal law;

(C) cybersecurity;

(D) privacy law;

(E) information technology;

(F) records management;

(G) Federal procurement;

(H) governmental ethics;

(I) forensic accounting;

(J) certified public accounting;

(K) digital forensics;

(L) information governance;

(M) intelligence oversight; and

(N) Federal administrative law.

Members shall include current or former Federal officials together with individuals from outside the Federal Government possessing substantial professional expertise in the disciplines described above.

The Commission shall elect a Chair and Vice Chair, who shall not be members of the same political party.

The Commission shall investigate—

(1) the statutory authority under which the Department operated;

(2) access to Federal databases and information systems;

(3) categories of information accessed;

(4) access to personally identifiable information;

(5) access to confidential financial, tax, medical, personnel, national security, procurement, intelligence, or law-enforcement information;

(6) downloading, copying, transferring, transmitting, storing, or uploading Government records or information;

(7) cybersecurity practices;

(8) records retention;

(9) compliance with the Privacy Act of 1974, the Federal Information Security Modernization Act, the Federal Records Act, the E-Government Act, applicable criminal statutes, and other Federal laws governing information security and privacy;

(10) contractual relationships with private entities;

(11) use of contractors or temporary personnel;

(12) procurement practices;

(13) governmental ethics compliance;

(14) financial expenditures;

(15) organizational authority;

(16) compliance with Executive Orders and applicable regulations; and

(17) any other matter substantially related to the Commission's legislative purposes.

The Commission may—

(1) conduct hearings;

(2) administer oaths;

(3) issue subpoenas in accordance with applicable law;

(4) compel the production of books, records, electronically stored information, and other evidence;

(5) retain counsel;

(6) employ investigators, forensic accountants, certified public accountants, digital forensic specialists, cybersecurity experts, and other consultants;

(7) obtain technical assistance from Federal agencies;

(8) receive classified information consistent with applicable law; and

(9) adopt such procedural rules as are necessary to carry out its duties.

The Commission shall afford any individual whose conduct is the subject of proposed findings—

(A) reasonable notice;

(B) an opportunity to submit documentary evidence;

(C) representation by counsel during testimony;

(D) an opportunity to submit a written response to proposed findings; and

(E) such additional procedural protections as the Commission determines appropriate.

Not later than one year after the appointment of all members, the Commission shall submit a preliminary report to the House of Representatives, the Senate, and the President.

Not later than twenty-four months after the appointment of all members, the Commission shall submit a final report.

The reports shall include—

(A) findings of fact;

(B) minority views;

(C) recommendations for legislation;

(D) recommendations concerning privacy protections;

(E) recommendations concerning cybersecurity;

(F) recommendations concerning governmental organization;

(G) recommendations concerning records management;

(H) recommendations concerning procurement and contracting reforms;

(I) recommendations concerning ethics and accountability; and

(J) recommendations concerning referrals to the Department of Justice, Inspectors General, or other governmental authorities possessing lawful jurisdiction where credible evidence suggests further investigation may be warranted.

The Commission may transmit evidence to the Attorney General, appropriate Inspectors General, agency heads, or other Federal or State authorities possessing lawful jurisdiction.

Any referral under this Act shall not constitute a determination of criminal liability, civil liability, or administrative wrongdoing.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The Commission shall terminate ninety days after submission of its final report.

Nothing in this Act shall—

(1) authorize the Commission to adjudicate criminal guilt or civil liability;

(2) impair any constitutional privilege or right;

(3) supersede the authority of any Inspector General;

(4) impair the authority of the Executive Branch to investigate or prosecute violations of law; or

(5) create any private right of action.

This Act shall take effect immediately upon enactment.

Constitutional and Administrative Law Analysis
Department of Government Efficiency Review Act of 2029

Executive Summary

The **Department of Government Efficiency Review Act of 2029** establishes an independent legislative commission to investigate the organization, authority, and activities of the Department of Government Efficiency ("DOGE"), with particular emphasis on its access to federal databases, information systems, records management, cybersecurity practices, privacy protections, procurement activities, and compliance with applicable federal law. The Commission is empowered to conduct hearings, issue subpoenas, employ experts, receive classified information consistent with law, and publish preliminary and final reports containing legislative recommendations and, where appropriate, referrals to existing law-enforcement or administrative authorities.

As drafted, the Commission performs a **legislative oversight and fact-finding function**, not a prosecutorial or adjudicative one. That distinction is constitutionally significant. Congress has long exercised broad investigatory powers in aid of legislation, and the Supreme Court has repeatedly recognized that the authority to investigate is an implied but indispensable incident of Article I legislative power.

The constitutional basis for this bill is therefore substantial. The principal legal issues involve:

1. Congress's Article I investigatory authority;
2. separation of powers;
3. executive privilege;
4. privacy and access to protected information;
5. subpoena authority;
6. due process protections for affected individuals;
7. administrative coordination with existing Inspectors General and executive agencies.

Properly administered, the Commission would resemble earlier congressional investigative bodies such as the Senate Watergate Committee, the National Commission on Terrorist Attacks Upon the

United States, and numerous congressional commissions established to examine governmental misconduct and recommend legislative reforms.

I. Article I Investigatory Authority

A. Constitutional Basis

The Constitution does not expressly grant Congress investigative authority.

Nevertheless, the Supreme Court has consistently held that investigation is an implied component of legislative power.

The foundational decision remains:

McGrain v. Daugherty

The Court explained that Congress cannot legislate intelligently without gathering facts concerning the operation of government.

The present Act identifies multiple legislative purposes, including evaluation of:

- privacy statutes;
- cybersecurity laws;
- records management statutes;
- procurement laws;
- ethics requirements;
- governmental organization;
- information governance.

These purposes plainly relate to prospective legislation.

B. Legitimate Legislative Purpose

Congressional investigations must pursue legitimate legislative objectives.

Important precedents include:

- Watkins v. United States
- Barenblatt v. United States

Those decisions require that investigations not become purely punitive or conducted solely to expose individuals for political purposes.

The current draft substantially satisfies this requirement by emphasizing:

- legislative recommendations;
- institutional reform;
- statutory evaluation;
- oversight.

II. Separation of Powers

A. Investigative Versus Executive Functions

The principal constitutional distinction is between:

- investigating; and
- prosecuting.

The Constitution assigns criminal prosecution to the Executive Branch.

The Commission appropriately avoids exercising prosecutorial authority.

Instead:

it may only transmit evidence to existing authorities.

Accordingly:

the bill does not intrude upon Article II charging discretion.

B. Executive Privilege

The Commission may seek:

- White House communications;
- agency memoranda;
- classified materials;
- internal deliberations.

The Executive may invoke executive privilege.

The governing precedent remains:

United States v. Nixon

Executive privilege is qualified rather than absolute.

Historically, disputes concerning congressional access have generally been resolved through negotiation and accommodation.

The Act appropriately avoids purporting to override valid constitutional privileges.

III. Privacy and Information Security

The proposed investigation focuses heavily upon:

- personally identifiable information;
- confidential governmental databases;
- cybersecurity.

Congress possesses substantial authority to investigate these matters because they directly concern:

- administration of Federal law;
- possible statutory reform;
- appropriations;
- governmental accountability.

Nevertheless:

the Commission must itself safeguard confidential information.

Recommendation

The bill should expressly require adoption of procedures governing:

- classified information;
- Privacy Act material;
- tax information;

- grand jury material;
- medical records;
- intelligence information.

Such procedures would materially strengthen the legislation.

IV. Due Process

Although the Commission cannot impose sanctions, public reports may significantly affect reputational interests.

Accordingly:

procedural fairness is important.

The bill already provides:

- notice;
- representation by counsel;
- documentary submissions;
- responses to proposed findings.

These provisions compare favorably with prior congressional commissions.

Additional Recommendation

Permit individuals specifically identified in proposed reports to submit written rebuttals for publication as appendices.

This would further strengthen procedural fairness.

V. Subpoena Authority

The Commission possesses subpoena authority.

Congressional subpoenas have repeatedly been upheld where reasonably related to legitimate legislative purposes.

Important decisions include:

- Eastland v. United States Servicemen's Fund

- Trump v. Mazars USA, LLP

Mazars requires careful balancing where presidential records are involved.

The Commission should therefore:

- tailor requests narrowly;
- explain legislative necessity;
- avoid unnecessary intrusion.

VI. Administrative Law Considerations

Legislative Branch Status

The Commission is established within the Legislative Branch.

Consequently:

the Administrative Procedure Act generally does not govern its investigative activities.

Its procedures derive from congressional authority.

Coordination With Existing Agencies

The Commission operates alongside:

- Inspectors General;
- the Government Accountability Office;
- executive agencies.

The bill expressly preserves their jurisdiction.

This substantially reduces institutional conflict.

Classified Information

Receipt of classified information should occur only pursuant to:

- existing security statutes;
- congressional intelligence procedures;

- nondisclosure requirements.

The Act already contemplates compliance with applicable law.

Further procedural detail would improve implementation.

VII. Potential Criminal Referrals

The bill authorizes referrals.

It does not authorize findings of guilt.

This distinction is constitutionally important.

The Executive retains:

- investigative discretion;
- prosecutorial discretion;
- charging authority.

Accordingly:

the Commission does not exercise executive power.

VIII. Potential Constitutional Challenges

Challenge 1

The Commission is politically motivated.

Likely Response

Courts generally decline to examine legislative motives where Congress possesses an objectively legitimate legislative purpose.

Here:

evaluation of privacy, cybersecurity, procurement, records management, and statutory reform plainly satisfy that requirement.

Challenge 2

The Commission interferes with ongoing executive investigations.

Likely Response

The Act expressly preserves executive investigative authority.

Accommodation between branches remains available.

Challenge 3

Subpoenas violate executive privilege.

Likely Response

Executive privilege remains available.

Courts would evaluate specific disputes under established constitutional doctrine.

Challenge 4

Publication of findings violates due process.

Likely Response

The procedural protections incorporated into the bill substantially reduce this concern.

Additional publication of rebuttal statements would further strengthen the Act.

IX. Administrative Strengths

One of the strongest features of the legislation is its multidisciplinary composition.

Including:

- certified public accountants;
- criminal lawyers;
- cybersecurity experts;
- digital forensic specialists;
- constitutional scholars;
- privacy experts;

greatly enhances the credibility of the investigation.

The Commission also avoids duplication by preserving:

- Inspector General authority;
- Department of Justice authority;
- agency investigative authority.

Recommendations for Strengthening Constitutional Defensibility

Several refinements would further strengthen the legislation:

1. **Expressly require written procedures governing sensitive information.** The Commission should be directed to adopt rules for the handling, storage, and disclosure of classified information, Privacy Act records, tax return information, medical records, intelligence materials, and other protected information. This would reinforce statutory compliance and reduce litigation risk.

2. **Provide a formal process for responses to proposed findings.** Require that any individual or entity identified by name in a draft report receive reasonable notice of the proposed findings and an opportunity to submit a written response, with such responses included as an appendix to the final report where appropriate.

3. **Clarify subpoena standards.** Specify that subpoenas shall issue only upon a determination that the requested information is reasonably necessary to accomplish a legislative purpose and cannot reasonably be obtained through less intrusive means, particularly when presidential communications or privileged materials are involved.

4. **Coordinate with ongoing investigations.** Add a provision directing the Commission, to the extent practicable, to consult with the Department of Justice and relevant Inspectors General before publicly disclosing information that could materially interfere with active criminal or civil investigations.

5. **Require information-security protocols.** Because the Commission itself will likely receive sensitive information, require compliance with applicable federal cybersecurity standards and establish secure facilities and procedures for handling electronic records and classified materials.

6. **Clarify interaction with existing statutory authorities.** State expressly that nothing in the Act limits the independent statutory responsibilities of Inspectors General, the Government

Accountability Office, or executive agencies, thereby minimizing institutional conflict and reinforcing the Commission's advisory role.

Conclusion

The **Department of Government Efficiency Review Act of 2029** represents a well-grounded exercise of Congress's Article I oversight authority. By establishing an independent legislative commission to investigate matters directly relevant to potential legislation—including information security, privacy, records management, procurement, ethics, and governmental organization—the Act fits comfortably within the Supreme Court's long-recognized understanding of Congress's investigative power.

The bill is strengthened by its careful limitation of the Commission's authority to fact-finding, legislative recommendations, and referrals, rather than adjudication or prosecution. It also incorporates meaningful procedural protections for affected individuals and preserves the constitutional prerogatives of the Executive Branch. With the recommended additions concerning sensitive information, subpoena procedures, and coordination with existing investigations, the Act would present a constitutionally robust and administratively practical framework for congressional oversight of significant questions involving the operation of federal government information systems and the lawful exercise of executive authority.

2.

“Civil Rights Clarification and Restoration Act of 2027”

H.R. _____

A BILL

To clarify the meaning of the term "discrimination" in federal civil rights laws as referring to invidious discrimination, to reaffirm the validity of disparate-impact analysis under federal law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Civil Rights Clarification and Restoration Act of 2027."**

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) **Findings.—** Congress finds the following:

1. Federal civil rights statutes, including but not limited to the **Civil Rights Act of 1964**, the **Voting Rights Act of 1965**, the **Fair Housing Act of 1968**, and related enactments, were adopted to combat and dismantle **invidious discrimination** directed against individuals and groups based on race, color, national origin, sex, religion, and other protected characteristics.
2. The legislative debates, committee reports, and contemporaneous public understanding at the time of enactment reflect that the term **"discrimination"** in these statutes was understood and intended to refer to **invidious discrimination**—that is, unjust, prejudicial, exclusionary, or subordinating treatment, with an intent to harm and/or deny certain classes of citizen the exercise of their civil rights and/or the fair pursuit of opportunities that should be available to all citizens—rather than all forms of differential treatment *simpliciter*.
3. Congress recognizes that invidious discrimination can occur through **intentional discriminatory acts** as well as through **neutral-appearing policies and practices** that

have the effect of perpetuating, reinforcing, or reproducing historical patterns of exclusion and subordination, as set forth, *supra*.

4. The Supreme Court in **Griggs v. Duke Power Co., 401 U.S. 424 (1971)**, and subsequent decisions, has recognized that civil rights statutes reach practices that are fair in form but discriminatory in operation, and that **<u>disparate impact</u>** may be probative of unlawful discrimination where policies significantly disadvantage members of a protected class without substantial justification and where less discriminatory alternatives are available.

5. In **United Steelworkers v. Weber, 443 U.S. 193 (1979)**, and related cases, the Court has acknowledged that remedial and race-conscious measures, when properly tailored, are consistent with the remedial purposes of federal civil rights statutes and do not constitute invidious discrimination.

6. In **Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015)**, the Court recognized the validity of disparate-impact claims under the Fair Housing Act, emphasizing the importance of rooting out policies that unjustifiably perpetuate segregative effects.

7. Recent interpretations and applications of civil rights laws have, in some instances, construed "discrimination" in an unduly <u>*abstract*, generic</u>, and <u>ahistorical</u> manner, as though the statutes forbid any and all distinctions or race-conscious interventions, without regard to context, historical inequities, remedial purpose, or disparate impact.

8. Such interpretations risk undermining the **original remedial and anti-subordination purposes** of federal civil rights laws by treating efforts to address inequality as if they were equivalent to the practices that created and perpetuated such inequality.

(b) **Purpose.—**
The purposes of this Act are—

1. to **clarify** that the term **"discrimination"** in federal civil rights statutes is best understood as referring to **<u>invidious discrimination</u>**;

2. to **reaffirm** that **disparate-impact analysis** is an appropriate and important method of identifying invidious discrimination, consistent with Supreme Court precedent;

3. to **confirm** that remedial, race-conscious and gender-conscious measures designed to address the present effects of past and ongoing invidious discrimination are permissible under federal law; and

4. to **restore and reinforce** the anti-subordination and remedial aims that motivated the enactment of federal civil rights statutes.

SEC. 3. DEFINITIONS.

For purposes of this Act and, unless otherwise expressly specified, for purposes of interpreting the term "discrimination" in federal civil rights statutes and attendant regulations:

1. **Invidious discrimination.—** The term "invidious discrimination" means discrimination that is unjust, exclusionary, prejudicial, harmful, or subordinating toward individuals or groups based on their membership in a protected class, and includes—
   (A) discrimination motivated by explicit prejudice, animus, or stereotypes; and
   (B) facially neutral policies or practices that, in operation, **foreseeably** and **significantly** disadvantage members of a protected class and thereby perpetuate or reinforce historical patterns of exclusion, subordination, or inequality, where such policies or practices are not justified by substantial, legitimate, and nondiscriminatory objectives, or where less discriminatory alternatives are reasonably available.

2. **Discrimination simpliciter.—** The term "discrimination simpliciter" means any differential treatment or classification **without regard to context, historical inequity, remedial purpose, or impact**, and does not itself constitute invidious discrimination absent the elements described in paragraph (1).

3. **Protected class.—** The term "protected class" means, as applicable under the relevant statute, individuals or groups defined by race, color, religion, sex (including pregnancy, sexual orientation, and gender identity where so recognized), national origin, disability, age, familial status, or any other category expressly protected by federal civil rights law.

SEC. 4. CLARIFICATION OF "DISCRIMINATION" IN THE CIVIL RIGHTS ACT OF 1964 AND RELATED STATUTES.

(a) **Civil Rights Act of 1964.—**
In interpreting Titles II, III, IV, VI, and VII of the **Civil Rights Act of 1964**, the term "discrimination" shall be construed to mean **invidious discrimination** as defined in section 3, and not discrimination simpliciter.

(b) **Voting Rights Act of 1965.—**
Section 2 of the **Voting Rights Act of 1965** and other provisions prohibiting discrimination in voting shall be interpreted to prohibit:

1. voting practices or procedures adopted or maintained with the intent to cause invidious discrimination; and

2. voting practices or procedures that, in their totality and in light of social, historical, and political conditions, result in a **disparate impact** on members of a protected class by

perpetuating or worsening barriers to equal political participation, where such practices are not justified by substantial, legitimate, and nondiscriminatory objectives, or where less discriminatory alternatives exist.

(c) **Other federal civil rights statutes.—**
Unless a statute expressly provides otherwise, any reference to "discrimination" in federal civil rights laws—including but not limited to the **Fair Housing Act**, **Title IX of the Education Amendments of 1972**, the **Americans with Disabilities Act**, and **Section 504 of the Rehabilitation Act**—shall be construed in a manner consistent with the definitions and clarifications set forth in this Act.

SEC. 5. REAFFIRMATION OF DISPARATE-IMPACT ANALYSIS.

(a) **Recognition.—**
Congress reaffirms that **disparate-impact analysis** is a legitimate and necessary interpretive tool under federal civil rights statutes for identifying invidious discrimination, consistent with Supreme Court precedents including, but not limited to—

1. Griggs v. Duke Power Co., 401 U.S. 424 (1971);
2. Albemarle Paper Co. v. Moody, 422 U.S. 405 (1975);
3. Dothard v. Rawlinson, 433 U.S. 321 (1977);
4. Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989) (as subsequently modified by statute); and
5. Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015).

(b) **Application.—**
Courts and agencies applying federal civil rights statutes shall consider evidence of disparate impact where:

1. a policy, practice, or standard produces significant adverse effects on members of a protected class compared to others;
2. those adverse effects perpetuate or exacerbate patterns of historical invidious discrimination; and
3. there exist reasonably available alternative policies, practices, or standards that would serve substantially similar legitimate objectives with less discriminatory effect.

(c) **Intent and effect.—**
Nothing in this section shall be construed to preclude proof of intentional discrimination; rather, disparate-impact evidence may be used alongside or independently of proof of intent as appropriate under the applicable statute.

SEC. 6. PERMISSIBLE REMEDIAL AND RACE-CONSCIOUS MEASURES.

(a) **Remedial measures.—**
Consistent with the remedial purposes of federal civil rights statutes, it shall not constitute invidious discrimination under federal law for a covered entity to adopt race-conscious, gender-conscious, or otherwise class-conscious policies or practices that are:

1. designed and reasonably tailored to **remedy** the present effects of past invidious discrimination;
2. intended to **prevent the perpetuation** of such discrimination; or
3. structured to **ensure equal access** to opportunities in employment, education, housing, voting, public accommodations, and federally assisted programs where persistent disparities rooted in historical discrimination are demonstrated.

(b) **Limits.—**
Remedial or race-conscious measures that inflict unjust, arbitrary, or disproportional harm on persons in a manner that cannot be justified by their remedial objectives may themselves be subject to challenge as invidious discrimination.

(c) **No presumption of illegality.—**
The mere fact that a policy takes account of race, sex, or other protected characteristics **for remedial purposes** shall not by itself create a presumption of illegality under federal civil rights statutes.

SEC. 7. RULE OF CONSTRUCTION; CONSTITUTIONAL AUTHORITY.

(a) **Rule of construction.—**
Nothing in this Act shall be construed to:

1. limit Congress's authority under Section 2 of the Thirteenth Amendment or Sections 5 of the Fourteenth and Fifteenth Amendments;
2. supersede any provision of federal law that provides broader substantive protection against discrimination; or

3. narrow existing protections for individuals or groups under federal civil rights statutes.

(b) **Constitutional authority.—**
Congress enacts this Act pursuant to its powers under the **Thirteenth, Fourteenth, and Fifteenth Amendments**, the **Spending Clause**, and the **Commerce Clause** of the Constitution.

SEC. 8. IMPLEMENTATION AND RULEMAKING.

(a) **Agency regulations.—**
Not later than 18 months after the date of enactment of this Act, the Attorney General, the Equal Employment Opportunity Commission, the Department of Education, the Department of Housing and Urban Development, and any other relevant federal agencies shall promulgate regulations or issue guidance as necessary to implement and harmonize their enforcement policies with this Act.

(b) **Guidance.—**
Such regulations and guidance shall, as appropriate—

1. incorporate the definitions of invidious discrimination and disparate-impact analysis set forth in this Act;
2. provide illustrative examples of practices that may constitute invidious discrimination;
3. clarify the conditions under which remedial, race-conscious, or gender-conscious measures are permissible; and
4. ensure that enforcement policies remain consistent with the remedial and anti-subordination purposes of federal civil rights law.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all actions, proceedings, and enforcement matters pending or commenced on or after such date, to the maximum extent permitted by the Constitution.

2. COMPANION SENATE BILL

(S. ____ – same substance, Senate formatting)

____TH CONGRESS
1ST SESSION
S. ____

To clarify the meaning of the term "discrimination" in federal civil rights laws as referring to invidious discrimination, to reaffirm the validity of disparate-impact analysis under federal law, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr./Ms. _______ introduced the following bill; which was read twice and referred to the Committee on _______

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[Text of the bill is identical to H.R. __ above, mutatis mutandis.]

You can literally paste the House text into the Senate bill, adjusting only the header/intro lines and any committee references.

3. FULL COMMITTEE REPORT

(House Committee on the Judiciary – Example)

What follows is a **substantive, multi-section report**. In Word, this would reasonably run **12–20 pages** depending on formatting (double-spaced, margins, etc.).

______CONGRESS
1ST Session

HOUSE OF REPRESENTATIVES
REPORT

CIVIL RIGHTS CLARIFICATION AND RESTORATION ACT OF 2027

December __, 2027.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr./Ms. ______, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. ____]

CONTENTS

11. Federal Mandates Statement
12. Performance Goals and Objectives
13. Advisory Committee Statement
14. Applicability to Legislative Branch
15. Duplication of Federal Programs
16. Disclosure of Directed Rulemakings
17. Section 102(b)(3) of the Congressional Budget Act
18. Changes in Existing Law
19. Minority / Additional Views (if any)

I. PURPOSE AND SUMMARY

H.R. ____ , the **"Civil Rights Clarification and Restoration Act of 2027"**, clarifies that the term **"discrimination"** in federal civil rights statutes is properly understood to mean **invidious discrimination—**unjust, exclusionary, and subordinating treatment directed at individuals and groups based on protected characteristics—and not discrimination in the abstract or "discrimination simpliciter."

The bill further **reaffirms disparate-impact analysis** as an essential tool for identifying invidious discrimination, particularly where apparently neutral policies perpetuate historical patterns of inequality, and confirms that **remedial race-conscious and gender-conscious measures** consistent with the anti-subordination purposes of civil rights laws are permissible under federal law.

By doing so, the bill seeks to **restore and codify** the longstanding understanding of federal civil rights statutes that prevailed for decades after enactment, and to **prevent misinterpretations** that would treat efforts to remedy discrimination as equivalent to the discriminatory practices they are meant to dismantle.

II. BACKGROUND AND NEED FOR THE LEGISLATION

A. Historical Context of Federal Civil Rights Statutes

The Civil Rights Act of 1964, the Voting Rights Act of 1965, and subsequent legislation were enacted in response to pervasive systems of racial and sex-based hierarchy. Congress understood that

formal equality alone—mere neutrality in legal language—would not dismantle entrenched patterns of segregation, exclusion, and subordination.

Legislators, courts, and agencies all recognized that discrimination could be **subtle, structural, and systemic**, manifesting through neutral-appearing rules that effectively barred historically disadvantaged groups from equal access to employment, education, housing, and political participation.

B. Invidious Discrimination vs. Discrimination Simpliciter

Federal civil rights statutes focus on **invidious discrimination**—discrimination that arises from prejudice, stereotypes, hierarchical assumptions, or practices that perpetuate such structures. The statutes were not designed to prohibit all instances in which decisionmakers notice or classify individuals by race or sex; rather, they were designed to address **unjust and harmful uses** of those classifications.

Over time, some arguments and decisions have tended to collapse this distinction, treating **any** race-conscious policy as presumptively suspect or equivalent to the conduct that civil rights laws were enacted to prevent. This drift risks undermining remedial policies, including outreach, targeted recruitment, or narrowly tailored inclusive practices that respond to continuing inequalities.

C. Disparate Impact as a Diagnostic Tool

In **Griggs v. Duke Power Co. (1971)**, the Supreme Court held that Title VII of the Civil Rights Act of 1964 reaches practices that are "fair in form, but discriminatory in operation." Employment tests and diploma requirements that were unrelated to job performance but disproportionately excluded African American applicants violated Title VII, even without a showing of subjective animus.

Subsequent cases, including **Albemarle Paper Co. v. Moody** and **Inclusive Communities Project**, confirmed that **disparate-impact analysis** is a lawful and important means of uncovering practices that perpetuate historic discrimination. Sometimes, discrimination is best understood not by explicit slurs or overt barriers, but by the **patterns of exclusion** produced by neutral-looking rules.

Without explicit statutory clarification, there is a risk that courts or agencies may narrow or misinterpret the role of disparate impact, undermining a central pillar of civil rights enforcement.

D. Need for Clarifying Legislation

Given recent debates and evolving jurisprudence, Congress finds it necessary to **restate clearly** that:

1. “Discrimination” in these statutes means **invidious discrimination**, not all differential treatment in the abstract;

2. **Disparate impact** remains a valid sign and measure of invidious discrimination; and

3. **Remedial, race-conscious and gender-conscious interventions**, appropriately tailored to address persistent inequities, are consistent with the remedial purposes of the law.

Clarification at the statutory level will help ensure **consistency and fidelity** to the original purposes of federal civil rights laws and provide clear guidance to courts, agencies, and regulated entities.

III. LEGISLATIVE HISTORY

H.R. ____ was introduced on _________, 2027, by Representative ________, and referred to the **Committee on the Judiciary**. The Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a hearing on the bill on ________, 2027.

At that hearing, the Committee received testimony from civil rights scholars, former and current federal enforcement officials, and practitioners representing affected communities and regulated entities. Witnesses discussed:

- the historical understanding of “invidious discrimination”;
- the role of disparate-impact analysis;
- the ongoing need for remedial and inclusive measures; and
- the potential harms of adopting a purely formal, “color-blind” but context-insensitive understanding of discrimination.

Following the hearing, the Subcommittee marked up the bill and ordered it favorably reported to the full Committee, with amendments. On ________, 2027, the Committee on the Judiciary met to consider H.R. ___, adopted a substitute amendment, and ordered the bill favorably reported by a vote of **–**.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title
Provides the short title “Civil Rights Clarification and Restoration Act of 2027.”

Section 2. Congressional Findings and Purpose
Summarizes the historical and jurisprudential context of federal civil rights law and states

Congress's intent to reaffirm anti-subordination principles and clarify the meaning of "discrimination."

Section 3. Definitions
Defines "invidious discrimination," "discrimination simpliciter," and "protected class" for purposes of the Act and as interpretive guidance for other civil rights statutes.

Section 4. Clarification of "Discrimination" in the Civil Rights Act of 1964 and Related Statutes
Directs courts and agencies to interpret "discrimination" in key statutes (including the Civil Rights Act and Voting Rights Act) as referring to invidious discrimination and clarifies that practices with unjustifiable disparate impacts are within the ambit of these laws.

Section 5. Reaffirmation of Disparate-Impact Analysis
Codifies, in general terms, the disparate-impact framework derived from cases such as **Griggs** and **Inclusive Communities Project**, and directs courts and agencies to consider disparate impact in appropriate cases.

Section 6. Permissible Remedial and Race-Conscious Measures
Affirms that narrowly tailored remedial and inclusive policies designed to address the present effects of past discrimination or persisting inequities are consistent with the statutes' anti-subordination purposes and are not, merely by virtue of being race-conscious, unlawful.

Section 7. Rule of Construction; Constitutional Authority
Specifies that the Act is not intended to narrow existing rights and is enacted pursuant to Congress's powers under the Thirteenth, Fourteenth, and Fifteenth Amendments, as well as the Commerce and Spending Clauses.

Section 8. Implementation and Rulemaking
Requires relevant federal agencies to issue regulations and guidance consistent with the Act.

Section 9. Severability
Includes a standard severability clause to preserve the remainder of the Act if any portion is invalidated.

Section 10. Effective Date
Provides that the Act takes effect upon enactment and applies to pending and future matters to the extent constitutionally permissible.

V. CONSTITUTIONAL AUTHORITY STATEMENT

Article I, Section 8 (Commerce Clause and Necessary and Proper Clause), Section 2 of the Thirteenth Amendment, Section 5 of the Fourteenth Amendment, and Section 2 of the Fifteenth

Amendment provide authority for the enactment of this legislation. These provisions empower Congress to enforce civil rights protections and to remedy the effects of past and ongoing discrimination.

VI. COMMITTEE CONSIDERATION

On ________, 2027, the Committee on the Judiciary met in open session, considered H.R. ___, adopted an amendment in the nature of a substitute, and ordered the bill reported favorably by a recorded vote of **–**.

VII. COMMITTEE VOTES

[List of votes, including any amendments offered and recorded votes; for drafting purposes you can add placeholders.]

VIII. OVERSIGHT FINDINGS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee has oversight responsibility for civil rights enforcement and the judiciary. The Committee finds that clarification of the meaning of "discrimination" and reaffirmation of disparate-impact analysis are necessary to ensure the effective enforcement of federal civil rights law.

IX. NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The bill is not expected to create substantial new budget authority or tax expenditures. Implementation is expected to be carried out within existing agency budgets, with possible modest administrative costs associated with issuing guidance and training personnel.

X. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

[In actual practice, this would be filled with a formal CBO estimate. For drafting, note that the bill primarily clarifies interpretation rather than creating new entitlement programs.]

XI. FEDERAL MANDATES STATEMENT

The bill does not impose intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 beyond existing obligations under federal civil rights law.

XII. PERFORMANCE GOALS AND OBJECTIVES

The central performance goal of this legislation is to **enhance the effectiveness and clarity** of civil rights enforcement by:

1. providing clear statutory guidance on the meaning of "invidious discrimination";
2. ensuring that enforcement agencies appropriately consider disparate impact; and
3. preserving and encouraging targeted, lawful remedial efforts.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of the Federal Advisory Committee Act are created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The legislation does not specifically address employment practices of the legislative branch. Any such coverage would be mediated through existing mechanisms such as the Congressional Accountability Act.

XV. DUPLICATION OF FEDERAL PROGRAMS

The Committee finds that this bill does not create new federal programs that substantially duplicate or overlap existing programs; it clarifies interpretation and enforcement of statutes already in place.

XVI. DISCLOSURE OF DIRECTED RULEMAKINGS

The bill requires federal agencies to issue regulations and guidance consistent with the Act, as described in Section 8.

XVII. SECTION 102(b)(3) OF THE CONGRESSIONAL BUDGET ACT

The Committee finds that this legislation does not contain provisions inconsistent with Section 102(b)(3) of the Congressional Budget Act.

XVIII. CHANGES IN EXISTING LAW

In a final version, this section would set forth, in comparative print or statutory format, how the Act modifies existing civil rights statutes by addition or clarification. For drafting purposes, the substantive change is interpretive: “discrimination” is clarified to mean **invidious discrimination**, and disparate-impact analysis is reaffirmed as a valid tool for identifying such discrimination.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
CIVIL RIGHTS CLARIFICATION AND RESTORATION ACT OF 2027

I. INTRODUCTION

The Civil Rights Clarification and Restoration Act of 2027 ("the Act") seeks to clarify that the term "discrimination" in federal civil rights statutes refers to "invidious discrimination" rather than "discrimination simpliciter," to reaffirm disparate-impact analysis as an important enforcement tool, and to permit certain remedial race-conscious and gender-conscious measures.
The legislation would significantly influence judicial interpretation of numerous federal statutes, including:

- Titles II, III, IV, VI, and VII of the Civil Rights Act of 1964;
- the Voting Rights Act of 1965;
- the Fair Housing Act;
- Title IX;
- the Americans with Disabilities Act; and
- Section 504 of the Rehabilitation Act.

The bill rests upon substantial constitutional authority, particularly Congress's enforcement powers under the Reconstruction Amendments and its authority to amend and clarify statutory law. However, several provisions—especially those concerning race-conscious measures and reinterpretation of existing antidiscrimination statutes—would likely generate substantial constitutional litigation.

II. CONGRESSIONAL AUTHORITY TO ENACT THE LEGISLATION

A. Authority to Define Statutory Terms

Congress possesses broad authority to define terms used in federal statutes and to amend previously enacted legislation.

As a general matter, Congress may:

- define statutory language;
- alter judicially created statutory interpretations;
- codify or reject judicial constructions of statutes; and
- establish interpretive rules for future litigation.

Because the legislation principally concerns the meaning of statutory terms, much of the bill falls squarely within ordinary legislative authority.

Congress routinely overrides judicial interpretations through legislation, as illustrated by:

- the Civil Rights Act of 1991;
- the Lilly Ledbetter Fair Pay Act of 2009; and
- amendments to the Voting Rights Act.

Consequently, the proposed definitional provisions are, in principle, constitutionally permissible.

B. Reconstruction Amendments

Section 2 of the Thirteenth Amendment, Section 5 of the Fourteenth Amendment, and Section 2 of the Fifteenth Amendment authorize Congress to enact legislation enforcing constitutional guarantees against discrimination. The bill expressly invokes these powers.

These provisions constitute the strongest constitutional basis for the legislation.

However, under modern Supreme Court doctrine, Congress's enforcement legislation must exhibit "congruence and proportionality" between identified constitutional harms and the statutory remedies adopted.

Accordingly, congressional findings documenting continuing discrimination would significantly strengthen the bill.

III. CONSTITUTIONAL ISSUES RELATING TO DEFINING "DISCRIMINATION"

A. Congressional Authority to Reject Purely Formal Equality

The bill rejects the notion that all differential treatment constitutes unlawful discrimination and instead defines discrimination as "invidious discrimination."

Congress generally possesses authority to define statutory prohibitions more narrowly or more broadly than constitutional minimums.

Because many civil rights statutes are creatures of statute rather than direct constitutional commands, Congress may ordinarily determine:

- what constitutes unlawful discrimination;
- what evidentiary standards apply; and
- what defenses are available.

Courts would likely uphold this general definitional approach.

B. Potential Equal Protection Concerns

The principal constitutional challenge concerns Section 6, which provides that race-conscious and gender-conscious measures undertaken for remedial purposes shall not constitute invidious discrimination.

The Supreme Court currently subjects governmental racial classifications to strict scrutiny.

Consequently, Congress cannot by statute exempt governmental racial classifications from constitutional review.

A federal statute may provide that certain race-conscious measures do not violate statutory law, but it cannot eliminate constitutional scrutiny under the Equal Protection Clause.

Thus, Section 6 is constitutionally defensible only if interpreted as follows:

"Such measures are not unlawful under federal statutory law, provided they otherwise satisfy constitutional requirements."

Without such clarifying language, courts could conclude that the provision attempts impermissibly to supersede constitutional equal protection doctrine.

IV. RACE-CONSCIOUS MEASURES AFTER RECENT SUPREME COURT DECISIONS

The Supreme Court's recent jurisprudence significantly constrains race-conscious governmental decision-making.

Governmental programs that expressly classify individuals by race remain subject to strict scrutiny and generally must demonstrate:

1. a compelling governmental interest; and
2. narrow tailoring.

Private entities receiving federal funds may likewise face statutory constraints under Title VI.

The bill's endorsement of race-conscious measures designed to address historical inequities therefore would almost certainly be litigated.

Section 6 would be strengthened by incorporating language such as:

"Nothing in this Act shall be construed to exempt any governmental action from otherwise applicable constitutional requirements."

V. DISPARATE-IMPACT ANALYSIS

A. Congressional Authority to Codify Disparate Impact

Section 5 expressly reaffirms disparate-impact analysis and directs courts and agencies to consider disparate impact in specified circumstances.

Congress unquestionably possesses authority to codify disparate-impact standards in statutory law.

Congress previously did so in the Civil Rights Act of 1991 after Supreme Court decisions narrowed Title VII disparate-impact doctrine.

Therefore, Section 5 rests upon strong constitutional footing.

B. Constitutional Limits on Disparate-Impact Regimes

Although Congress may authorize disparate-impact liability, constitutional concerns arise when disparate-impact regimes pressure public or private actors to adopt explicit racial preferences.

The Supreme Court has expressed concern that disparate-impact liability may create incentives for decisionmakers to engage in race-based balancing.

Consequently, courts reviewing the Act likely would require that:

- statistical disparities alone not establish liability;
- defendants retain substantial opportunity to demonstrate legitimate objectives; and
- race-neutral alternatives remain central to the analysis.

The bill's current requirement that legitimate objectives and less discriminatory alternatives be considered substantially strengthens its constitutional position.

VI. VOTING RIGHTS ACT PROVISIONS

Section 4(b) would require courts to evaluate voting practices in light of social, historical, and political conditions and would preserve disparate-impact concepts within voting law.

Congress possesses broad authority under the Fifteenth Amendment to enact voting-rights protections.

Nevertheless, modern Supreme Court decisions require Congress to establish a sufficient evidentiary record demonstrating ongoing discrimination.

A comprehensive legislative record documenting contemporary voting discrimination would therefore be critical.

VII. RETROACTIVITY ISSUES

Section 10 provides that the Act applies to pending proceedings to the maximum extent constitutionally permissible.

Retroactive application raises important constitutional concerns.

Congress generally may alter procedural and remedial rules applicable to pending civil litigation.

However, retroactive legislation affecting vested rights, final judgments, or completed transactions may implicate:

- due process concerns;
- separation-of-powers principles; and
- Article III limitations.

The phrase "to the maximum extent permitted by the Constitution" substantially mitigates these concerns, but litigation should nonetheless be expected.

VIII. ADMINISTRATIVE LAW ANALYSIS

A. Rulemaking Authority

Section 8 directs multiple agencies to promulgate regulations and guidance implementing the Act.

This delegation is constitutionally unproblematic.

The statute supplies sufficiently intelligible principles, including:

- definitions of invidious discrimination;
- disparate-impact standards;
- remedial objectives; and
- anti-subordination principles.

The legislation therefore presents minimal nondelegation concerns.

B. Administrative Procedure Act

Agency regulations implementing the Act would generally constitute legislative rules requiring notice-and-comment rulemaking under the Administrative Procedure Act.

Agencies adopting regulations inconsistent with statutory directives would likely face challenges under APA § 706 as:

- arbitrary and capricious;
- contrary to law; or
- in excess of statutory authority.

C. Judicial Deference

Because the legislation supplies detailed definitions, judicial deference to agencies may become less significant.

Courts likely would interpret many provisions independently because the Act itself furnishes extensive interpretive guidance.

IX. FEDERALISM CONSIDERATIONS

Much federal civil rights law applies to states and local governments.

Congress may impose such obligations pursuant to:

- the Commerce Clause;
- the Spending Clause; and
- the Reconstruction Amendments.

Nevertheless, certain applications to state governments may trigger sovereign immunity issues.

Congress should therefore consider expressly stating whether abrogation of state sovereign immunity is intended and identify the constitutional authority supporting such abrogation.

X. LIKELY JUDICIAL DISPOSITION

Provisions Likely to be Upheld

Courts would likely uphold:

- the definitional provisions;
- codification of disparate-impact doctrine;
- agency rulemaking requirements;
- interpretive guidance concerning federal statutes; and
- congressional findings concerning anti-subordination purposes.

Provisions Most Vulnerable to Challenge

The most vulnerable provisions are:

- Section 6 concerning race-conscious measures;

- retroactive application to pending cases;
- any interpretation appearing to displace constitutional equal protection standards; and
- applications that effectively require race-based balancing.

XI. RECOMMENDED REVISIONS

To improve constitutional durability, Congress should consider adding:

1. Constitutional Savings Clause

"Nothing in this Act shall be construed to authorize conduct inconsistent with the Constitution of the United States."

2. Equal Protection Clause Savings Provision

"Governmental actions otherwise subject to constitutional equal protection requirements shall remain subject to such requirements."

3. Evidentiary Findings

Expand congressional findings documenting:

- persistent discrimination;
- continuing disparities;
- voting barriers;
- housing segregation;
- educational disparities; and
- labor market inequities.

4. Clarify Section 6

Specify that race-conscious measures must be:

- narrowly tailored;
- supported by documented remedial objectives; and
- consistent with constitutional requirements.

XII. CONCLUSION

The Civil Rights Clarification and Restoration Act of 2027 is principally an exercise of Congress's well-established authority to define, amend, and clarify federal statutory law.

Most provisions—particularly those codifying disparate-impact doctrine and defining statutory discrimination—rest upon strong constitutional foundations.

However, provisions authorizing race-conscious measures will likely face substantial constitutional challenge under current equal protection jurisprudence. The bill would be significantly strengthened by explicit constitutional savings clauses and by clarifying that statutory authorization does not displace constitutional limitations.

Overall, the legislation would likely survive constitutional scrutiny in substantial part, although Section 6 and certain applications of the Act would almost certainly become subjects of extensive litigation.

3.

“Presidential Integrity and Public Trust Act of 2028”

H.R. ___

A Bill

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Presidential Integrity and Public Trust Act of 2028."**

SEC. 2. TABLE OF CONTENTS.

TITLE I—PRESIDENTIAL CONFLICT-OF-INTEREST STANDARDS

SEC. 101. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) Public confidence in democratic institutions depends upon the integrity and impartiality of public officials.

(2) Federal conflict-of-interest laws are designed to prevent self-dealing, corruption, undue influence, and the misuse of public office.

(3) Existing Federal law imposes conflict-of-interest restrictions upon executive branch officers and employees, including restrictions codified in chapter 11 of title 18, United States Code.

(4) The President and Vice President exercise governmental authority affecting financial interests of domestic and foreign persons and entities.

(5) Congress has a compelling interest in ensuring that holders of the Nation's highest offices remain accountable to standards of ethical conduct consistent with constitutional governance.

(6) The appearance of corruption can be as damaging to public trust as actual corruption.

SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to clarify the applicability of Federal conflict-of-interest laws to the President and Vice President;

(2) to establish an independent oversight mechanism for reviewing allegations of presidential conflicts of interest;

(3) to provide Congress and the public with reliable information concerning presidential ethics compliance;

(4) to deter self-dealing, undisclosed conflicts, and pay-to-play arrangements; and

(5) to strengthen public confidence in Federal institutions.

SEC. 103. APPLICABILITY OF CONFLICT-OF-INTEREST STATUTES.

(a) IN GENERAL.—For purposes of sections 201, 203, 205, 208, and 209 of title 18, United States Code, and any successor provisions, the President and Vice President shall be considered officers and employees of the United States.

(b) MATERIAL FINANCIAL INTERESTS.—The President and Vice President shall not knowingly participate personally and substantially in any governmental matter having a direct and predictable effect upon a material financial interest held by—

(1) the President or Vice President;

(2) a spouse;

(3) a dependent child;

(4) a controlled business entity;

(5) a trust, partnership, or other beneficial ownership arrangement.

(c) PAY-TO-PLAY PROHIBITION.—No President or Vice President shall knowingly participate in official action in exchange for, or conditioned upon, any direct or indirect thing of value.

TITLE II—OFFICE OF THE PRINCIPAL INSPECTOR GENERAL

SEC. 201. ESTABLISHMENT.

(a) There is established in the legislative branch an independent office to be known as the Office of the Chief Inspector General.

(b) The Office shall be headed by a Chief Inspector General appointed pursuant to this title.

SEC. 202. APPOINTMENT.

(a) The Chief Inspector General shall be appointed by concurrent resolution adopted by—

(1) two-thirds of the Members duly chosen and sworn of the Senate; and

(2) a majority of the Members of the House of Representatives.

(b) The Chief Inspector General shall serve a single term of six years.

(c) No person may serve more than one term.

SEC. 203. QUALIFICATIONS.

The Chief Inspector General shall possess demonstrated expertise in—

(1) constitutional law;

(2) public corruption investigations;

(3) governmental ethics;

(4) Federal criminal law; or

(5) financial regulation.

[Additional sections continue through Titles III–VI.]

HOUSE COMMITTEE REPORT

REPORT OF THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

PURPOSE AND SUMMARY

H.R. ___, the Presidential Integrity and Public Trust Act of 2028, clarifies that the President and Vice President are subject to Federal conflict-of-interest standards applicable to other Federal officers and establishes an independent mechanism for reviewing allegations of conflicts of interest involving those offices.

The bill establishes the Office of the Chief Inspector General, creates annual ethics certification requirements, and authorizes investigations and reporting to Congress.

BACKGROUND AND NEED FOR LEGISLATION

Federal ethics statutes reflect a longstanding congressional determination that public officials should not participate in governmental matters in which they possess disqualifying financial interests. Although Congress has enacted a comprehensive framework governing executive branch ethics, uncertainty has persisted regarding the extent to which certain conflict-of-interest statutes apply to the President and Vice President.

The Committee believes that public confidence is strengthened when ethics obligations are clearly defined and transparently administered.

HEARINGS

The Committee held hearings on the following dates:

- March 12, 2028
- April 7, 2028
- April 21, 2028

Witnesses included former Inspectors General, constitutional scholars, former Attorneys General, and representatives of public integrity organizations.

COMMITTEE CONSIDERATION

On May 3, 2028, the Committee met in open session and ordered the bill favorably reported, as amended, by a recorded vote of 29 yeas and 18 nays.

COMMITTEE OVERSIGHT FINDINGS

The Committee finds that enhanced ethics transparency and conflict-of-interest oversight promote public trust and improve governmental accountability.

CONSTITUTIONAL AUTHORITY STATEMENT

Congress acts pursuant to Article I, section 8, including its authority to enact laws necessary and proper for carrying into execution Federal governmental powers, conduct oversight, regulate Federal offices, appropriate funds, and exercise impeachment authority.

SECTION-BY-SECTION ANALYSIS

Section 101 establishes congressional findings concerning public integrity and ethics compliance.

Section 102 identifies the purposes of the legislation.

Section 103 clarifies the applicability of Federal conflict-of-interest statutes to the President and Vice President.

Sections 201 through 299 establish the Office of the Chief Inspector General and prescribe appointment, powers, duties, reporting obligations, and funding.

[Analysis continues for each section of the bill.]

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS PRESIDENTIAL INTEGRITY AND PUBLIC TRUST ACT OF 2028

Executive Summary

The Presidential Integrity and Public Trust Act of 2028 represents one of the more ambitious federal ethics proposals that Congress could enact. It attempts to accomplish two principal objectives:

1. expressly subject the President and Vice President to federal conflict-of-interest statutes; and
2. establish an independent Office of the Chief Inspector General to investigate and report upon alleged presidential ethical misconduct.

The legislation is supported by significant constitutional authority under the Necessary and Proper Clause, Congress's oversight authority, the Appropriations Clause, the Impeachment Clauses, and Congress's longstanding authority to regulate executive branch administration.

Nevertheless, several provisions would likely face substantial constitutional challenge. The principal constitutional vulnerabilities concern:

- separation of powers;
- the Appointments Clause;
- congressional appointment of executive officers;
- possible interference with the President's Article II authority;
- criminal application of conflict-of-interest statutes to a sitting President.

Many of these concerns can be substantially reduced through relatively modest revisions without sacrificing the legislation's underlying objectives.

I. Congressional Authority

Congress possesses several independent sources of constitutional authority supporting this legislation.

A. Necessary and Proper Clause

Article I, §8 authorizes Congress to enact laws "necessary and proper" for carrying into execution federal governmental powers.

The Supreme Court has interpreted this authority broadly.

Congress has repeatedly enacted statutes governing:

- ethics
- financial disclosures
- bribery
- procurement integrity
- Inspectors General
- whistleblower protections
- campaign finance
- federal employment

This proposal fits comfortably within that tradition.

B. Oversight Authority

Congress possesses broad implied authority to investigate matters affecting federal governance.

Cases including

- *McGrain v. Daugherty*,
- *Watkins v. United States*,
- *Eastland v. United States Servicemen's Fund*

recognize extensive congressional investigative authority.

Because the President controls enormous financial and regulatory powers, Congress has a compelling legislative interest in understanding whether those powers are exercised consistently with federal ethics laws.

C. Impeachment Power

The Constitution gives the House the sole power of impeachment.

That authority necessarily includes authority to gather evidence relevant to possible impeachable offenses.

The proposed investigative office substantially assists Congress in exercising that constitutional responsibility.

II. Title I—Application of Conflict-of-Interest Laws

This is the most legally significant portion of the legislation.

Existing Law

Current federal conflict statutes—including 18 U.S.C. §208—generally apply to executive officers.

Historically, however, the Department of Justice's Office of Legal Counsel has interpreted §208 not to apply to the President because:

- the President occupies a unique constitutional office;
- conflicts between statutory recusals and presidential duties could impair Article II functions.

Notably, this exemption is administrative rather than constitutional. Congress has never expressly exempted the President by statute.

Congressional Authority to Clarify Coverage

Congress may define statutory terms.

The bill expressly provides that:

the President and Vice President shall be considered officers and employees for purposes of specified criminal conflict statutes.

This represents a legislative clarification rather than judicial reinterpretation.

Such clarification is generally within Congress's authority.

Constitutional Objection

Opponents would argue that:

mandatory recusals could interfere with

- Commander in Chief powers;
- foreign affairs;
- appointments;
- veto authority;
- execution of laws.

Suppose, for example,

a President owned:

- defense companies;
- energy firms;
- banking interests.

Mandatory recusal from national decisions might prevent effective execution of Article II responsibilities.

That argument derives principally from:

Myers v. United States,

Seila Law LLC v. CFPB,

and broader unitary executive jurisprudence.

Likely Judicial Approach

The Court would probably distinguish between:

ordinary ethics regulation

and

regulation preventing the President from exercising constitutionally assigned powers.

Therefore, a blanket application of §208 may not survive.

More Defensible Alternative

Rather than automatic criminal disqualification,

Congress could require:

- public disclosure;
- written ethics determinations;
- independent review;
- congressional notification;
- expedited judicial review.

Those measures burden Article II less severely while promoting transparency.

III. Pay-to-Play Prohibition

Section 103(c) largely mirrors existing federal bribery principles.

Unlike mandatory recusals,

prohibiting official acts exchanged for things of value closely parallels:

- 18 U.S.C. §201

- Honest Services Fraud statutes
- constitutional anti-corruption jurisprudence.

Supreme Court decisions such as:

- *McDonnell v. United States*
- *Snyder v. United States*

limit definitions of "official act" and corruption.

The bill should therefore define:

- official act
- thing of value
- quid pro quo

using established statutory language.

Doing so would significantly strengthen constitutional defensibility.

IV. Office of the Chief Inspector General

This portion presents the greatest constitutional concern.

Congressional Appointment

The bill presently provides appointment by concurrent resolution of Congress.

That mechanism is almost certainly unconstitutional.

The Appointments Clause provides only four methods:

- Presidential appointment with Senate confirmation;
- appointment by the President alone (where authorized);
- appointment by courts;
- appointment by heads of departments.

Congress itself may not appoint executive officers.

The Supreme Court made this unmistakably clear in

Buckley v. Valeo.

Accordingly,

Section 202 would almost certainly be struck down.

Legislative Branch Placement

The bill places the Chief Inspector General within the Legislative Branch.

That raises an additional question.

If the office merely:

- investigates;
- audits;
- reports;

then legislative placement is likely permissible.

Examples include:

Government Accountability Office and the Congressional Budget Office.

If, however,

the office:

- prosecutes,
- issues binding orders,
- enforces criminal law,

it becomes an executive officer.

That would violate separation of powers.

Recommended Revision

The office should expressly possess only:

- investigative authority;
- subpoena authority;

- audit authority;
- reporting authority;
- referral authority.

It should possess no prosecutorial authority.

Criminal referrals should instead be transmitted to the Department of Justice or, where applicable, any lawfully appointed independent prosecutor.

V. Annual Ethics Certification

Annual certification requirements appear constitutionally sound.

Congress has long required:

- financial disclosures;
- ethics filings;
- campaign reports;
- executive branch certifications.

The Ethics in Government Act provides substantial precedent.

The principal constitutional limitation is that certification requirements cannot effectively prevent a President from serving after election.

Disclosure is generally permissible.

Disqualification is not.

VI. Congressional Reporting

Mandatory reports to Congress generally present little constitutional difficulty.

Congress routinely requires:

- Inspectors General;
- agencies;
- independent commissions

to submit reports.

However,

executive privilege remains applicable.

The bill should expressly preserve:

- attorney-client privilege;
- executive privilege;
- classified information protections;
- ongoing criminal investigation exceptions.

VII. Criminal Enforcement

Application of criminal statutes to a sitting President raises unresolved constitutional questions.

The Supreme Court has never decided whether Congress may criminally prosecute a sitting President.

The Department of Justice has long maintained internal opinions that a sitting President should not be criminally prosecuted while in office.

Those opinions are not binding on courts.

Recent presidential immunity decisions also complicate this issue.

The legislation should clarify:

- investigation may occur during office;
- indictment follows applicable constitutional law;
- impeachment remains unaffected.

Such language reduces constitutional conflict.

VIII. Due Process

The bill should include explicit procedural protections:

- written notice;

- right to counsel;
- production of evidence;
- hearing procedures;
- written findings;
- judicial review.

Those protections strengthen both fairness and constitutional defensibility.

IX. Administrative Law Issues

Several administrative law considerations arise.

A. Nondelegation

The bill contains sufficiently intelligible principles.

No serious nondelegation concerns appear.

B. Judicial Review

Title VI should expressly provide:

- final agency action;
- review under the Administrative Procedure Act where appropriate;
- expedited review by a three-judge district court if constitutional questions arise.

C. Rulemaking

The legislation should authorize implementing regulations, preferably by:

- Office of Government Ethics;
- the new Inspector General;
- the Attorney General,

depending upon the subject matter.

Clear rulemaking authority reduces implementation uncertainty.

X. Separation of Powers Assessment

Provision	Constitutional Risk	Assessment
Application of ethics statutes	Moderate	Defensible if interpreted narrowly
Financial disclosure	Low	Strongly supported
Pay-to-play prohibition	Low	Consistent with anti-corruption jurisprudence
Investigative authority	Low	Clearly permissible
Congressional reports	Low	Well established
Legislative appointment of Chief Inspector General	Very High	Likely unconstitutional under the Appointments Clause
Legislative-branch prosecutorial powers	Very High	Would violate Article II
Criminal prosecution implications	Moderate to High	Depends on interaction with presidential immunity and DOJ policy

XI. Recommended Revisions

To maximize the bill's likelihood of surviving constitutional review, Congress should:

1. Replace appointment by concurrent resolution with presidential appointment by and with the advice and consent of the Senate, while retaining strong qualifications, fixed tenure, and removal protections consistent with current Supreme Court precedent.
2. Clarify that the Office of the Chief Inspector General exercises only investigative, auditing, and reporting functions, with no independent prosecutorial authority.
3. Replace mandatory recusal requirements with a system of mandatory disclosure, written ethics determinations, and public reporting where a recusal would materially interfere with constitutionally assigned presidential duties.

4. Define "official act," "thing of value," and "material financial interest" using established statutory language and Supreme Court precedent to reduce vagueness challenges.
5. Include explicit due process protections, preservation of executive privilege where constitutionally applicable, and a carefully crafted judicial review provision.

Overall Assessment

The Presidential Integrity and Public Trust Act of 2028 addresses a genuine structural gap in federal ethics law by seeking to establish enforceable standards for the President and Vice President and by creating an independent mechanism for investigating alleged conflicts of interest. Its core policy objectives—enhancing transparency, deterring corruption, and supporting Congress's oversight and impeachment responsibilities—are well grounded in Congress's Article I powers.

The bill's principal constitutional weakness lies not in its ethics requirements, but in its institutional design. The proposed appointment of the Chief Inspector General by concurrent resolution would almost certainly fail under the Appointments Clause, and any exercise of executive enforcement authority by a legislative-branch office would raise serious separation-of-powers concerns. With those structural issues corrected and with more carefully tailored provisions governing presidential conflicts of interest, the legislation would stand on considerably firmer constitutional footing while preserving its central purpose of promoting integrity and public confidence in the Nation's highest offices.

4.

“Natural Resources Legacy Act of 2028”

H.R. _______

A BILL

To preserve the natural resources, ecosystems, habitats, biodiversity, and biotic communities of the United States in response to the climate emergency, to establish a national transition away from fossil fuels, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Natural Resources Legacy Act of 2028".**

SEC. 2. TABLE OF CONTENTS.

Sec. 15. Judicial review.

Sec. 16. Severability.

SEC. 3. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the United States possesses unique natural resources, ecosystems, habitats, species, watersheds, forests, wetlands, grasslands, coastal resources, and other components of the biotic community that constitute an irreplaceable national heritage;

(2) climate change poses substantial risks to biodiversity, ecosystem integrity, public health, food security, water resources, infrastructure, national security, and economic stability;

(3) scientific evidence demonstrates that increasing atmospheric concentrations of greenhouse gases contribute to global warming, sea-level rise, ecosystem disruption, species loss, and other adverse impacts;

(4) preservation of biodiversity and ecological resilience is essential to safeguarding the welfare of present and future generations;

(5) Federal, State, Tribal, territorial, and local governments share responsibility for protecting natural resources and addressing climate-related risks; and

(6) a coordinated national transition away from fossil fuels is necessary to mitigate climate-related harms and preserve ecological systems.

(b) Purposes.—The purposes of this Act are—

(1) to establish preservation of biodiversity and ecological integrity as a national priority;

(2) to support the restoration and protection of ecosystems and habitats throughout the United States;

(3) to facilitate a transition away from fossil fuel dependency;

(4) to provide assistance to States, Indian Tribes, territories, local governments, and regional organizations in addressing climate-related challenges;

(5) to ensure that Federal climate policy is informed by the best available scientific evidence; and

(6) to preserve a sustainable natural-resource legacy for future generations.

SEC. 4. DEFINITIONS.

In this Act:

(1) BIODIVERSITY.—The term “biodiversity” means the variability among living organisms and ecological complexes, including diversity within species, between species, and among ecosystems.

(2) BIOTIC COMMUNITY.—The term “biotic community” means the interconnected assemblage of plants, animals, fungi, microorganisms, and ecological relationships occupying a given ecosystem.

(3) CLIMATE EMERGENCY.—The term “climate emergency” means the conditions arising from anthropogenic climate change that threaten human communities, ecosystems, biodiversity, natural resources, and economic stability.

(4) FOSSIL FUEL.—The term “fossil fuel” means coal, petroleum, natural gas, shale oil, tar sands, and any derivative fuel derived primarily from such sources.

(5) IPCC.—The term “IPCC” means the Intergovernmental Panel on Climate Change.

(6) SCIENTIFIC CONSENSUS.—The term “scientific consensus” means the findings, conclusions, assessments, projections, and synthesis reports regarding climate change, global warming, sea-level rise, biodiversity impacts, ecological impacts, and related subjects adopted by the IPCC through its Assessment Reports, Synthesis Reports, Special Reports, and successor reports.

SEC. 5. NATIONAL POLICY FOR PRESERVATION OF NATURAL RESOURCES AND BIODIVERSITY.

It is the policy of the United States—

(1) to preserve, restore, and enhance biodiversity;

(2) to maintain the integrity, resilience, and functioning of ecosystems;

(3) to conserve habitats necessary for native species;

(4) to prevent avoidable species extinction and ecosystem collapse;

(5) to promote sustainable land and water use;

(6) to maintain ecological connectivity among habitats;

(7) to protect the interests of future generations in the Nation’s natural heritage; and

(8) to manage Federal lands and resources in a manner consistent with the preservation of the biotic community.

SEC. 6. CLIMATE SCIENCE STANDARDS FOR FEDERAL POLICYMAKING.

(a) General Rule.—In developing, implementing, revising, or evaluating any Federal policy, regulation, guidance, program, environmental review, climate assessment, or funding decision relating substantially to climate change, greenhouse gases, biodiversity impacts, sea-level rise, ecosystem impacts, or climate adaptation, each Federal agency shall rely upon the scientific consensus.

(b) Exclusion of Non-Consensus Assumptions.—No Federal agency may base a climate-related policy determination primarily upon assumptions, projections, conclusions, or methodologies materially inconsistent with the scientific consensus unless—

(1) the agency demonstrates through clear and convincing evidence that such assumptions are supported by subsequent peer-reviewed research of comparable authority; and

(2) the agency publishes a detailed explanation of the basis for such departure.

(c) Construction.—Nothing in this section shall prohibit agencies from considering scientific research more recent than the most recent IPCC report, provided that such consideration is consistent with or strengthens the scientific consensus.

SEC. 7. NATIONAL BIODIVERSITY AND ECOSYSTEM PRESERVATION STRATEGY.

(a) Establishment.—Not later than 2 years after enactment, the President shall establish a National Biodiversity and Ecosystem Preservation Strategy.

(b) Contents.—The Strategy shall include—

(1) national biodiversity goals;

(2) ecosystem restoration priorities;

(3) habitat connectivity objectives;

(4) species recovery priorities;

(5) climate adaptation objectives;

(6) watershed protection initiatives;

(7) coastal resilience initiatives; and

(8) measurable benchmarks and reporting requirements.

(c) Updates.—The Strategy shall be revised not less frequently than every 5 years.

SEC. 8. FEDERAL-STATE CLIMATE AND NATURAL RESOURCES PARTNERSHIP PROGRAM.

(a) Establishment.—The Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture, shall establish a grant and technical assistance program.

(b) Eligible Recipients.—Eligible recipients include—

(1) States;

(2) Indian Tribes;

(3) territories;

(4) units of local government;

(5) regional planning organizations; and

(6) conservation districts.

(c) Authorized Activities.—Funds may be used for—

(1) habitat restoration;

(2) biodiversity conservation;

(3) climate adaptation planning;

(4) wildfire resilience;

(5) coastal protection;

(6) reforestation;

(7) carbon sequestration projects;

(8) ecological monitoring; and

(9) public education initiatives.

SEC. 9. NATIONAL FOSSIL FUEL TRANSITION PROGRAM.

(a) National Goal.—The United States shall undertake a phased transition from fossil-fuel-dependent systems to sustainable and renewable energy systems.

(b) Agency Planning.—Each Federal agency shall prepare transition plans identifying measures necessary to reduce fossil fuel consumption within agency operations.

(c) National Benchmarks.—The President shall establish interim national reduction targets for the years 2035, 2040, and 2045.

SEC. 10. MORATORIUM ON FOSSIL FUEL USES BEGINNING IN 2048.

(a) General Rule.—Beginning on January 1, 2048, no Federal agency may authorize, permit, lease, fund, subsidize, or directly engage in the extraction, combustion, transportation, sale, or use of fossil fuels within the United States except as provided in subsection (b).

(b) Exceptions.—The President may authorize limited fossil fuel uses where necessary for—

(1) national defense;

(2) emergency response;

(3) critical infrastructure reliability;

(4) public health emergencies; or

(5) purposes for which no technologically feasible non-fossil-fuel alternative exists.

(c) Review.—Any exception granted under subsection (b) shall be reviewed annually.

SEC. 11. FEDERAL ACQUISITION AND CONSERVATION PRIORITIES.

The Secretary of the Interior and the Secretary of Agriculture shall prioritize—

(1) acquisition of ecologically significant lands;

(2) protection of migration corridors;

(3) restoration of degraded ecosystems;

(4) protection of wetlands, forests, grasslands, and coastal habitats; and

(5) enhancement of biodiversity on Federal lands.

SEC. 12. RESEARCH, MONITORING, AND PUBLIC REPORTING.

(a) Research Program.—Federal agencies shall conduct and support research concerning—

(1) climate impacts;

(2) biodiversity loss;

(3) ecosystem resilience;

(4) species migration;

(5) adaptation strategies; and

(6) restoration techniques.

(b) Annual Report.—The President shall submit to Congress an annual report describing—

(1) progress under this Act;

(2) biodiversity trends;

(3) climate impacts;

(4) ecosystem conditions; and

(5) progress toward fossil fuel transition goals.

SEC. 13. ENVIRONMENTAL JUSTICE AND COMMUNITY RESILIENCE.

Federal agencies shall prioritize assistance to communities disproportionately affected by—

(1) climate impacts;

(2) pollution burdens;

(3) ecosystem degradation;

(4) sea-level rise;

(5) drought; and

(6) wildfire risk.

SEC. 14. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal years 2029 through 2050.

SEC. 15. JUDICIAL REVIEW.

Any person adversely affected by final agency action taken under this Act may seek judicial review in accordance with chapter 7 of title 5, United States Code.

SEC. 16. SEVERABILITY.

If any provision of this Act, or application thereof to any person or circumstance, is held invalid, the remainder of the Act and its application to other persons or circumstances shall not be affected thereby.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE NATURAL RESOURCES LEGACY ACT OF 2028

I. INTRODUCTION

The Natural Resources Legacy Act of 2028 ("NRLA") would establish a national policy of preserving biodiversity, ecosystems, habitats, and natural resources; require federal agencies to formulate climate-related policies with reference to the scientific consensus reflected in reports of the Intergovernmental Panel on Climate Change ("IPCC"); create a Federal-State partnership for climate adaptation and biodiversity protection; and establish a phased transition culminating in a broad federal moratorium on fossil fuel uses beginning January 1, 2048.

The legislation rests principally upon Congress's powers under Article I, Section 8 of the Constitution, including the Commerce Clause, Spending Clause, Property Clause, Treaty-related powers, and the Necessary and Proper Clause. Nevertheless, several provisions would likely face substantial constitutional and administrative-law challenges.

The most vulnerable provisions are:

(1) the requirement that federal policymaking rely upon IPCC consensus findings;

(2) restrictions on agency consideration of scientific views outside the IPCC consensus;

(3) the nationwide fossil fuel moratorium;

(4) potential delegation concerns involving future IPCC determinations; and

(5) federalism objections arising from the Act's effect on state energy policy.

II. CONGRESSIONAL AUTHORITY

A. Commerce Clause

Article I, Section 8 grants Congress authority to regulate interstate commerce.

Climate change, energy production, emissions, interstate transportation, electricity generation, pipelines, and natural-resource extraction are all activities with substantial interstate and international effects.

The Supreme Court has repeatedly upheld federal regulation of environmental matters under the Commerce Clause.

Key precedents include:

• Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981);

• Gonzales v. Raich, 545 U.S. 1 (2005);

• United States v. Darby, 312 U.S. 100 (1941).

Because fossil-fuel production and consumption are among the largest sectors of interstate commerce, Congress possesses substantial authority to regulate or prohibit such activities.

Accordingly, the fossil-fuel phaseout provisions would likely fall within Congress's Commerce Clause authority.

B. Property Clause

Article IV, Section 3 authorizes Congress to regulate federal property.

Federal lands comprise roughly twenty-eight percent of the nation's land area.

Congress therefore possesses near-plenary authority to:

• prohibit fossil fuel leasing on federal lands;

• preserve biodiversity on federal lands;

• establish conservation corridors;

• regulate federal forests, parks, and refuges.

The Property Clause provides one of the strongest constitutional foundations for the Act.

C. Spending Clause

Congress may condition federal grants upon compliance with national objectives.

The Supreme Court generally permits such conditions if:

• they are unambiguous;

• related to federal interests;

• not independently unconstitutional; and

• not coercive.

South Dakota v. Dole, 483 U.S. 203 (1987).

Accordingly, the Act's grants to states and local governments for biodiversity and climate resilience would likely be constitutional.

D. Necessary and Proper Clause

Congress may enact laws reasonably adapted to executing its enumerated powers.

The Act's scientific standards, planning requirements, reporting obligations, and conservation programs are likely supportable under this authority.

III. FEDERALISM ISSUES

A. Anti-Commandeering Doctrine

The Tenth Amendment prohibits Congress from requiring states to administer federal regulatory programs.

Key precedents:

• New York v. United States, 505 U.S. 144 (1992);

• Printz v. United States, 521 U.S. 898 (1997).

The NRLA largely avoids this problem because it relies on incentives rather than commands.

States remain free to reject federal grants.

Accordingly, most federalism challenges would likely fail.

B. State Energy Policy

Opponents would argue that a national fossil-fuel moratorium effectively dictates state energy policy.

Supporters would respond that Congress is regulating economic activity directly rather than commanding states.

Modern Commerce Clause doctrine generally favors the latter view.

IV. DELEGATION ISSUES

A. Traditional Nondelegation Doctrine

The Constitution vests legislative power in Congress.

Under existing doctrine, Congress may delegate authority if it supplies an "intelligible principle."

J.W. Hampton, Jr. & Co. v. United States, 276 U.S. 394 (1928).

The NRLA contains extensive standards and policy goals.

Under current law, most provisions would likely survive traditional nondelegation review.

B. Dynamic Incorporation of IPCC Findings

The more difficult question concerns incorporation of future IPCC conclusions.

The IPCC is not a federal agency.

It is an international scientific body operating under United Nations auspices.

Critics would argue:

Congress cannot effectively allow future policy standards to be determined by an external international organization.

The Act may improperly transfer federal policymaking authority to entities not accountable under the Constitution.

Supporters would argue:

The Act does not delegate lawmaking authority to the IPCC.

Rather, Congress itself defines "scientific consensus" and uses IPCC findings merely as evidence of that consensus.

This issue has never been squarely resolved by the Supreme Court.

A court could view mandatory reliance upon future IPCC assessments as constitutionally problematic.

V. MAJOR QUESTIONS DOCTRINE[1]

A. Overview

The Supreme Court has increasingly required clear congressional authorization for regulations of vast economic and political significance.

Key precedents:

• West Virginia v. EPA, 597 U.S. 697 (2022);

• Biden v. Nebraska, 600 U.S. 477 (2023).

B. Application to the NRLA

The Act would likely satisfy the Major Questions Doctrine because Congress itself would expressly enact:

• climate objectives;

• fossil-fuel phaseout requirements;

• biodiversity mandates;

• scientific standards.

Unlike the agency actions invalidated in West Virginia, the NRLA would represent a direct congressional decision.

Therefore, major-questions concerns are substantially reduced.

VI. THE SCIENTIFIC CONSENSUS PROVISION

A. Constitutional Strengths

Congress routinely directs agencies to rely upon scientific evidence.

Examples include:

• Clean Air Act provisions requiring use of scientific findings;

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[1] The "Major Questions Doctrine" restricts agency authority on very significant matters. U.S. administrative law holds that federal agencies require explicit congressional authorization to address major policy questions.

• Endangered Species Act requirements that decisions be based on the "best available scientific data";

• Food and Drug Administration scientific review standards.

Thus Congress may generally instruct agencies to consider scientific consensus.

B. Constitutional Weaknesses

The NRLA goes beyond requiring consideration of science.

It directs agencies to rely upon a specified external source and discourages reliance on contrary scientific conclusions.

Opponents could argue:

(1) agencies are deprived of independent scientific judgment;

(2) future scientific developments may be ignored;

(3) policymaking authority is effectively transferred to an international body.

Courts may be particularly skeptical if agency decisions become automatic implementations of future IPCC reports.

C. Recommended Revision

The strongest constitutional formulation would replace:

"Federal agencies shall rely upon the scientific consensus as reflected in IPCC reports"

with:

"Federal agencies shall give substantial weight to the best available scientific evidence, including findings reflected in reports of the Intergovernmental Panel on Climate Change."

Such language would preserve congressional intent while reducing constitutional vulnerability.

VII. FOSSIL FUEL MORATORIUM

A. Commerce Clause Analysis

The moratorium would likely be defended as regulation of economic activity substantially affecting interstate commerce.

Under current doctrine, Congress possesses broad authority to prohibit commercial activities.

Examples include:

• controlled substances;

• endangered wildlife commerce;

• certain labor practices.

B. Takings Clause Issues

Owners of fossil-fuel assets may argue that the moratorium constitutes a regulatory taking.

Relevant precedents include:

• Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978);

• Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992).

A blanket prohibition eliminating all economic value from particular property interests could generate substantial takings claims.

These claims could expose the federal government to significant compensation liability.

C. Due Process Challenges

Economic substantive due process challenges would likely fail because environmental protection constitutes a legitimate governmental purpose.

VIII. FIRST AMENDMENT ISSUES

The Act does not directly regulate speech.

However, challenges may arise if agencies are perceived as suppressing scientific viewpoints inconsistent with IPCC findings.

Such concerns become stronger if grants, contracts, or advisory participation are conditioned upon adherence to approved scientific conclusions.

Careful implementation would be necessary.

IX. INTERNATIONAL LAW CONSIDERATIONS

The Act references an international scientific body but does not directly implement a treaty.

Therefore:

- the Treaty Clause is not implicated;
- Senate treaty consent is unnecessary;
- sovereignty objections are primarily political rather than constitutional.

X. SEVERABILITY

The Act's severability clause substantially strengthens its legal position.

For example, if a court invalidated the IPCC-consensus provision, the following provisions could remain operative:

- biodiversity preservation programs;
- grants to states;
- conservation initiatives;
- federal land protections;
- fossil-fuel transition planning.

XI. OVERALL ASSESSMENT

Likelihood of surviving constitutional challenge:

National biodiversity policy: Very High.

Federal conservation programs: Very High.

Federal grant programs: Very High.

Federal land protections: Very High.

Climate research requirements: Very High.

Fossil-fuel transition planning: High.

2048 fossil-fuel moratorium: Moderate to High.

Mandatory reliance on IPCC consensus: Moderate.

Binding incorporation of future IPCC findings: Moderate to Low.

The legislation's strongest constitutional foundations lie in the Commerce Clause, Property Clause, Spending Clause, and Necessary and Proper Clause. The most significant litigation risks arise from the Act's incorporation of future IPCC conclusions as governing standards for federal decision-making and from potential Takings Clause claims associated with the fossil-fuel moratorium.

5.

"Science and Knowledge Restoration Act of 2028"

H.R. ________

A BILL

To protect the integrity, accessibility, preservation, and dissemination of federally funded scientific research and technical information, to restore public access to scientific materials removed from public availability without lawful justification, to establish standards for scientific integrity throughout the Federal Government, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Science and Knowledge Restoration Act of 2028".**

SEC. 2. FINDINGS.

Congress finds the following:

(1) The advancement of scientific knowledge is essential to the health, safety, prosperity, security, and welfare of the United States.

(2) Congress annually appropriates billions of dollars to support scientific research conducted by Federal agencies, federally funded laboratories, universities, contractors, and research institutions.

(3) Scientific findings funded by the taxpayers of the United States constitute a public resource and should be made available to the public except where restricted by law.

(4) Public access to scientific research promotes transparency, accountability, innovation, and informed democratic decision-making.

(5) Scientific integrity requires that research findings be communicated accurately and without political interference.

(6) Suppression, removal, alteration, censorship, concealment, or destruction of scientific information undermines public confidence in government and impedes evidence-based policymaking.

(7) Scientific information concerning climate change, environmental conditions, energy systems, public health, gun violence, natural resources, biodiversity, weather, oceans, agriculture, and technological risks is of substantial public importance.

(8) Congress has a compelling interest in ensuring that scientific information generated through federally funded activities remains available to policymakers, researchers, and the public.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to restore and preserve public access to federally funded scientific information;

(2) to protect scientific research from political interference;

(3) to establish government-wide standards of scientific integrity;

(4) to prohibit unauthorized suppression of scientific findings;

(5) to ensure the permanent preservation of federally funded scientific records;

(6) to strengthen Congressional oversight of scientific information management; and

(7) to limit the authority of executive branch officials to remove or suppress federally funded scientific information except as expressly authorized by law.

SEC. 4. DEFINITIONS.

In this Act:

(1) FEDERAL SCIENTIFIC INFORMATION.—The term "Federal scientific information" means any scientific, technical, engineering, statistical, environmental, medical, public-health, climate, energy, social-science, or research information generated, funded, commissioned, collected, or maintained in whole or in part through Federal appropriations.

(2) SCIENTIFIC RESEARCH.—The term "scientific research" means systematic investigation designed to develop or contribute to generalizable knowledge.

(3) SUPPRESSION.—The term "suppression" means the removal, concealment, alteration, deletion, withholding, obstruction of publication, or restriction of public access to scientific information.

(4) SCIENTIFIC INTEGRITY OFFICER.—The term means an official designated pursuant to section 8.

SEC. 5. RESTORATION OF PUBLIC ACCESS.

(a) Inventory Required.—

Not later than 18 months after enactment, each Federal agency engaged in scientific activities shall conduct an inventory of scientific information that—

(1) was removed from public access;

(2) was substantially altered;

(3) was withdrawn from publication;

(4) was archived in a manner rendering it inaccessible to the public; or

(5) was otherwise restricted from public availability,

during the period beginning January 20, 2017, and ending January 20, 2029.

(b) Restoration.—

Except where prohibited by law, classified pursuant to statute, protected by national security requirements, or restricted by legitimate privacy concerns, agencies shall restore public access to materials identified under subsection (a).

(c) Congressional Notification.—

Agencies shall submit reports to Congress identifying—

(1) restored materials;

(2) materials not restored;

(3) the legal basis for non-restoration.

SEC. 6. PROTECTION OF FEDERALLY FUNDED SCIENTIFIC INFORMATION.

(a) General Rule.—

No officer or employee of the Executive Branch may direct, compel, or induce the suppression of Federal scientific information except as expressly authorized by Federal statute.

(b) Prohibited Actions.—

No officer or employee of the Executive Branch may—

(1) order the removal of scientific information from public websites for political purposes;

(2) alter scientific conclusions for political purposes;

(3) prevent publication of completed scientific research for political purposes;

(4) destroy or conceal scientific records;

(5) interfere with peer review processes; or

(6) retaliate against scientists for communicating scientific findings through authorized channels.

(c) Construction.—

Nothing in this section shall prohibit classification, protection of national security information, protection of proprietary information, protection of personally identifiable information, or compliance with any other lawful confidentiality requirement.

SEC. 7. PRESUMPTION OF PUBLIC ACCESS.

(a) General Rule.—

Federal scientific information shall be presumed to be publicly accessible.

(b) Burden of Justification.—

Any restriction on public access shall require a written determination identifying the legal authority supporting such restriction.

(c) Public Registry.—

Each agency shall maintain a public registry identifying scientific materials removed from public access and the legal basis for such removal.

SEC. 8. SCIENTIFIC INTEGRITY OFFICERS.

(a) Designation.—

Each covered agency shall designate a Scientific Integrity Officer.

(b) Duties.—

Such officer shall—

(1) investigate allegations of scientific suppression;

(2) review restrictions on publication;

(3) report annually to Congress;

(4) oversee agency scientific-integrity policies;

(5) receive complaints from employees and contractors.

(c) Independence.—

Scientific Integrity Officers may be removed only for inefficiency, neglect of duty, malfeasance, or incapacity.

SEC. 9. NATIONAL SCIENTIFIC ARCHIVE.

(a) Establishment.—

The Archivist of the United States shall establish a National Scientific Archive.

(b) Purpose.—

The Archive shall preserve copies of federally funded scientific information and technical records.

(c) Public Access.—

Materials preserved in the Archive shall be publicly available unless restricted by law.

SEC. 10. LIMITATION ON PRESIDENTIAL AUTHORITY.

(a) Restriction.—

No President, Vice President, White House office, Executive Office of the President, or political appointee may direct the suppression of Federal scientific information unless—

(1) authorized by an Act of Congress; or

(2) necessary to protect national security information classified pursuant to law.

(b) Written Determination Required.—

Any directive restricting public access to scientific information shall—

(1) be in writing;

(2) identify the statutory authority relied upon;

(3) be transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate within 30 days.

(c) Publication.—

Except where prohibited by law, such determinations shall be published in the Federal Register.

SEC. 11. WHISTLEBLOWER PROTECTION.

(a) Protected Activity.—

Disclosure of information concerning suppression of scientific information shall constitute protected whistleblower activity.

(b) Remedies.—

Employees subjected to retaliation may seek relief under applicable Federal whistleblower laws and additional remedies established by the Office of Special Counsel.

SEC. 12. PRIVATE RIGHT OF ACTION.

Any person adversely affected by a violation of this Act may seek declaratory or injunctive relief in the United States District Court for the District of Columbia.

SEC. 13. INSPECTOR GENERAL REVIEW.

Each Inspector General of an agency conducting scientific research shall conduct periodic audits concerning compliance with this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 15. SEVERABILITY.

If any provision of this Act or the application thereof is held invalid, the remainder of the Act and its application shall not be affected.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE SCIENCE AND KNOWLEDGE RESTORATION ACT OF 2028

I. INTRODUCTION

The Science and Knowledge Restoration Act of 2028 ("SKRA") is designed to protect federally funded scientific research and technical information from political suppression, ensure public access to scientific information, restore access to previously removed materials, preserve scientific records, strengthen scientific integrity policies, and limit the authority of executive branch officials to suppress scientific information except where authorized by law.

The Act responds to concerns that scientific information relating to climate change, public health, energy policy, gun violence, environmental protection, and related subjects has at times been altered, removed, withheld, or otherwise suppressed for political reasons. The Act seeks to establish a statutory framework protecting scientific integrity across the Federal Government.

The principal constitutional questions raised by the Act involve:

(1) Congress's authority to regulate the management and dissemination of federally funded scientific information;

(2) separation-of-powers limitations on Congress's ability to restrict presidential supervision of executive agencies;

(3) presidential control over executive branch personnel;

(4) statutory restrictions on removal or suppression of information;

(5) public-access mandates and transparency requirements; and

(6) judicial review and enforcement mechanisms.

Although many provisions are likely to withstand constitutional scrutiny, several provisions would face significant challenges under modern separation-of-powers doctrine.

II. SOURCES OF CONGRESSIONAL AUTHORITY

A. Spending Clause

The strongest constitutional basis for the Act is the Spending Clause.

Article I, Section 8 authorizes Congress to appropriate funds and establish conditions governing the expenditure of federal funds.

The Supreme Court has repeatedly recognized Congress's authority to determine how federal appropriations are spent and how federally funded programs operate.

Because the Act governs information generated through federal appropriations, Congress possesses broad authority to establish requirements concerning:

- publication;
- preservation;
- archiving;
- dissemination;
- reporting;
- scientific integrity policies; and
- public accessibility.

Federal scientific research funded through congressional appropriations falls squarely within Congress's authority.

B. Necessary and Proper Clause

Congress may enact laws necessary and proper for carrying into execution its enumerated powers.

Scientific reporting requirements, record-retention obligations, and public-access provisions are reasonably related to Congress's power to oversee agencies and evaluate the effectiveness of federally funded research.

The Necessary and Proper Clause therefore provides substantial support for the legislation.

C. Oversight and Information-Gathering Functions

The Supreme Court has long recognized that Congress possesses implied authority to obtain information necessary to legislate effectively.

Preservation and accessibility requirements strengthen Congress's ability to monitor executive agencies and evaluate federally funded research.

The Act may therefore be defended as facilitating Congress's constitutional oversight functions.

III. RESTORATION OF PREVIOUSLY REMOVED SCIENTIFIC INFORMATION

A. Constitutional Basis

Section 5 requires agencies to inventory and restore scientific materials removed from public access during a specified period.

Congress generally possesses authority to direct executive agencies to preserve and disclose records created using federal funds.

Such requirements are analogous to:

• Federal Records Act requirements;

• Freedom of Information Act obligations;

• National Archives preservation requirements;

• government transparency statutes.

B. Retroactivity Concerns

The restoration requirement is primarily administrative rather than punitive.

Because the Act does not impose criminal penalties for past conduct, retroactivity objections are likely weak.

Courts generally permit Congress to require agencies to reexamine prior administrative actions.

Accordingly, restoration provisions are likely constitutional.

IV. SCIENTIFIC INTEGRITY REQUIREMENTS

A. General Constitutionality

Congress routinely directs agencies to employ scientific standards.

Examples include:

• Clean Air Act provisions;

• Endangered Species Act requirements;

• Food and Drug Administration scientific review standards;

• National Institutes of Health research standards.

The Act's requirement that agencies adopt scientific-integrity procedures is therefore unlikely to present constitutional difficulties.

B. Political Interference Restrictions

Congress may prohibit executive officials from falsifying, destroying, concealing, or altering federally funded scientific records.

Such provisions resemble existing criminal and civil statutes governing federal records.

The Constitution does not confer a presidential power to alter scientific findings.

Accordingly, restrictions on manipulation of scientific results are likely valid.

V. PRESIDENTIAL AUTHORITY AND SEPARATION OF POWERS

A. The Core Constitutional Issue

The most significant constitutional challenge concerns Section 10, which restricts presidential authority to direct suppression of scientific information.

The Constitution vests executive power in the President.

Article II provides that:

"The executive Power shall be vested in a President of the United States."

Modern Supreme Court decisions emphasize presidential control over executive branch operations.

B. Youngstown Framework

The governing framework remains:

Youngstown Sheet & Tube Co. v. Sawyer,
343 U.S. 579 (1952).

Under Justice Jackson's influential concurrence:

Category One:

President acts pursuant to congressional authorization.

Category Two:

Congress is silent.

Category Three:

President acts contrary to congressional direction.

The SKRA would place presidential suppression of scientific information into Category Three.

Presidential authority would therefore be at its constitutional minimum.

This strengthens the Act's position.

C. Presidential Objections

Opponents would argue:

(1) scientific information management is an executive function;

(2) Congress cannot dictate internal executive decision-making;

(3) the President must retain supervisory authority over agency communications.

Supporters would respond:

Congress is regulating the *disposition* of federally funded records and information, not exercising executive power.

The Act regulates *public records* rather than presidential policymaking.

A court would likely uphold many of these restrictions, though not necessarily all.

VI. THE UNITARY EXECUTIVE THEORY

A. Modern Supreme Court Jurisprudence

Recent decisions have strengthened presidential control over executive officials.

Important cases include:

Myers v. United States,
272 U.S. 52 (1926);

Seila Law LLC v. CFPB,
591 U.S. 197 (2020);

Collins v. Yellen,
594 U.S. 220 (2021).

These cases emphasize presidential supervision of executive officers.

B. Scientific Integrity Officers

Section 8 provides for Scientific Integrity Officers removable only for cause.

This provision is constitutionally vulnerable.

Opponents would argue:

The officers exercise executive authority and therefore must remain accountable to the President.

Supporters would argue:

The officers are *primarily investigative and advisory*.

Nonetheless, recent Supreme Court precedent suggests courts may invalidate for-cause removal protections.

This provision represents one of the Act's most vulnerable features.

VII. PUBLIC ACCESS REQUIREMENTS

A. Constitutional Strengths

Congress possesses broad authority to require disclosure of government records.

Examples include:

• Freedom of Information Act;

• Government in the Sunshine Act;

• Federal Records Act;

• Open Government Data Act.

The Act's presumption of public access is consistent with longstanding federal practice.

B. National Security Exception

The Act properly preserves exceptions for:

• classified information;

• national security matters;

• privacy protections;

• proprietary information.

These exceptions substantially strengthen the legislation's constitutional position.

VIII. LIMITATIONS ON SUPPRESSION OF SCIENTIFIC INFORMATION

A. Congressional Authority

Congress may criminalize or prohibit:

• destruction of federal records;

• obstruction of federal reporting requirements;

• concealment of agency information;

• misuse of appropriated funds.

The SKRA largely operates within this framework.

B. Potential Executive Privilege Claims

The President may assert:

• executive privilege;

• deliberative process privilege;

• national security privilege.

The Act cannot eliminate constitutional privileges recognized by the courts.

Therefore, courts would likely interpret the Act to coexist with legitimate claims of executive privilege.

IX. FIRST AMENDMENT CONSIDERATIONS

A. Government Speech Doctrine

Federal scientific publications generally constitute government speech.

The government may choose what positions to communicate.

Accordingly, executive officials may argue that publication decisions involve protected governmental speech.

B. Congressional Response

Congress may define how federally funded programs operate and what information must be disclosed.

The Supreme Court has repeatedly upheld congressional conditions on federally funded programs.

Accordingly, First Amendment challenges would likely face substantial obstacles.

X. FEDERAL RECORDS AND ARCHIVAL REQUIREMENTS

A. Constitutional Support

The National Scientific Archive established by the Act closely resembles existing federal archival systems.

Congress possesses broad authority to regulate preservation of federal records.

Such provisions are likely among the strongest portions of the Act.

B. Records Destruction Restrictions

Prohibitions on destruction of scientific records are highly likely to survive constitutional challenge because similar requirements already exist throughout federal law.

XI. PRIVATE RIGHT OF ACTION

A. Judicial Review

Section 12 authorizes lawsuits by persons adversely affected by violations.

Congress generally possesses authority to create causes of action.

B. Standing Issues

The principal limitation will be Article III standing requirements.

Plaintiffs must still demonstrate:

• injury in fact;

• causation;

• redressability.

Courts may narrowly interpret standing in some cases involving generalized public interests.

XII. WHISTLEBLOWER PROTECTIONS

Whistleblower protections are well-established throughout federal law.

The Constitution presents little obstacle to Congress protecting employees who disclose improper suppression of scientific information.

These provisions are likely constitutional.

XIII. OVERALL CONSTITUTIONAL ASSESSMENT

Likelihood of surviving constitutional challenge:

Federal records preservation requirements: Very High.

National Scientific Archive: Very High.

Public access requirements: Very High.

Scientific integrity policies: Very High.

Whistleblower protections: Very High.

Restoration of removed scientific materials: High.

Congressional reporting requirements: High.

Restrictions on destruction or concealment of records: High.

Presidential notification requirements: Moderate to High.

Private right of action: Moderate to High.

Restrictions on presidential suppression authority: Moderate.

For-cause removal protection for Scientific Integrity Officers: Low to Moderate.

XIV. RECOMMENDED REVISIONS

To strengthen the Act's constitutional durability, Congress should consider:

(1) replacing for-cause removal protections for Scientific Integrity Officers with fixed-term appointments and mandatory reporting requirements;

(2) expressly preserving legitimate assertions of executive privilege and national security authority;

(3) clarifying that the Act regulates federally funded scientific information and records rather than presidential policy communications;

(4) requiring congressional notification rather than attempting to prohibit all presidential involvement in publication decisions; and

(5) tying restoration and publication requirements directly to Congress's appropriations authority.

XV. CONCLUSION

The Science and Knowledge Restoration Act of 2028 rests on strong constitutional foundations arising from Congress's powers over appropriations, federal records, government transparency, and legislative oversight. Most provisions concerning preservation, dissemination, restoration, and protection of scientific information would likely survive judicial review.

The principal constitutional risks arise from modern separation-of-powers doctrine, particularly provisions restricting presidential control over executive branch officials and communications. If revised to accommodate recent Supreme Court decisions concerning presidential authority, the Act would likely stand as a robust and constitutionally defensible framework for protecting the integrity and accessibility of federally funded scientific knowledge.

6.

"Abortion and Medical Non-Interference Act of 2029"

H.R. ____

A BILL

To protect access to abortion services, safeguard interstate medical care and commerce, promote evidence-based public health policymaking, and preempt certain State restrictions inconsistent with Federal law.

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Abortion and Medical Non-Interference Act of 2029".**

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) access to reproductive healthcare is an important component of public health and individual liberty;

(2) medical decisions should be made by patients and healthcare professionals in accordance with accepted standards of medical practice;

(3) interstate travel for lawful medical services is protected by the Constitution of the United States;

(4) the movement of pharmaceuticals through interstate commerce is subject to the authority of Congress under Article I, Section 8 of the Constitution;

(5) public health policy is most effective when based upon reliable scientific and medical evidence;

(6) Congress possesses authority under the Commerce Clause, the Spending Clause, and Section 5 of the Fourteenth Amendment to protect interstate medical services and access to federally approved pharmaceuticals; and

(7) inconsistent state restrictions on interstate medical services substantially burden interstate commerce.

(b) Purposes.—The purposes of this Act are—

(1) to prohibit Federal interference with certain abortion services;

(2) to ensure that public health policies adopted by the Federal Government are substantially based upon scientific and medical consensus;

(3) to protect interstate travel for reproductive healthcare;

(4) to protect access to federally approved abortion medications distributed through interstate commerce;

(5) to preempt certain State laws that burden interstate reproductive healthcare services; and

(6) to provide uniform national protections concerning access to abortion services during early pregnancy.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORTION.—The term "abortion" means any medical or pharmaceutical intervention intended to terminate a pregnancy.

(2) EARLY GESTATION PERIOD.—The term "early gestation period" means the period ending 95 days after fertilization, as determined by the treating physician's good-faith medical judgment.

(3) MEDICAL CONSENSUS.—The term "medical consensus" means conclusions substantially supported by the prevailing body of peer-reviewed scientific and medical evidence and reflected in the recommendations, guidance, or position statements of nationally recognized scientific and medical organizations.

(4) FDA-APPROVED ABORTION MEDICATION.—The term means any drug approved by the Food and Drug Administration for use in terminating a pregnancy.

SEC. 4. FEDERAL NON-INTERFERENCE WITH EARLY PREGNANCY ABORTION SERVICES.

(a) General Rule.—

No department, agency, instrumentality, officer, or employee of the United States shall prohibit, interfere with, condition, restrict, or otherwise impede the provision of abortion services during the early gestation period.

(b) Medical Judgment.—

Determinations concerning gestational age and medical necessity shall be made in the good-faith professional judgment of the treating physician or other licensed healthcare professional acting within the scope of applicable law.

(c) Construction.—

Nothing in this section shall be construed to require the provision of abortion services by any healthcare provider.

SEC. 5. EVIDENCE-BASED FEDERAL PUBLIC HEALTH POLICY.

(a) General Rule.—

Any public health policy, recommendation, guidance, directive, educational campaign, regulatory action, or official public-health communication issued by the Federal Government concerning—

(1) vaccines;

(2) vaccine schedules;

(3) pharmaceuticals;

(4) mental health therapies;

(5) public-health interventions;

(6) biomedical research; or

(7) scientific research programs,

shall be based substantially upon medical consensus.

(b) Departure from Consensus.—

A Federal agency may adopt a policy materially inconsistent with the medical consensus only if—

(1) the agency publishes a detailed written explanation;

(2) the agency identifies the scientific evidence supporting such departure; and

(3) the agency certifies that the decision is supported by substantial peer-reviewed evidence.

(c) Judicial Review.—

Agency actions under this section shall be reviewable pursuant to chapter 7 of title 5, United States Code.

SEC. 6. PROTECTION OF INTERSTATE TRAVEL FOR REPRODUCTIVE HEALTHCARE.

(a) General Rule.—

No State or political subdivision thereof may impose criminal or civil liability upon any person solely because such person—

(1) traveled to another State;

(2) traveled to a foreign country; or

(3) assisted another person in traveling to another State or foreign country

for the purpose of obtaining abortion services lawfully available in the jurisdiction where such services were obtained.

(b) Extraterritorial Enforcement Prohibited.—

No State may investigate, prosecute, penalize, extradite, or otherwise impose liability based solely upon conduct occurring wholly outside that State where such conduct was lawful in the jurisdiction in which it occurred.

SEC. 7. PROTECTION OF INTERSTATE DISTRIBUTION OF FDA-APPROVED ABORTION MEDICATIONS.

(a) Interstate Commerce Protection.—

No State or political subdivision thereof may prohibit, criminalize, restrict, interfere with, or impose liability upon any person for receiving, prescribing, dispensing, delivering, mailing, transporting, or using an FDA-approved abortion medication that has moved in interstate commerce.

(b) Preemption.—

Any State law inconsistent with this section is preempted and shall have no force or effect.

(c) Postal Services.—

No State may impose criminal or civil liability based solely upon the receipt or transmission through the mails of any FDA-approved abortion medication.

SEC. 8. PREEMPTION OF STATE REGULATION OF ABORTION PROVIDERS DURING EARLY GESTATION PERIOD.

(a) General Rule.—

No State or political subdivision thereof may impose criminal penalties, professional sanctions, civil liability, licensure restrictions, or other penalties upon a physician, pharmacist, nurse practitioner, physician assistant, healthcare facility, or other licensed healthcare professional solely for providing, prescribing, dispensing, facilitating, or assisting in the provision of abortion services during the early gestation period.

(b) Supremacy.—

This section shall supersede any contrary provision of State law.

(c) Limitation.—

Nothing in this section shall prohibit States from enforcing generally applicable medical licensing standards that are unrelated to the provision of abortion services.

SEC. 9. CIVIL ACTION.

(a) Cause of Action.—

Any person aggrieved by a violation of this Act may bring a civil action in an appropriate United States district court.

(b) Relief.—

The court may grant—

(1) declaratory relief;

(2) injunctive relief;

(3) compensatory damages;

(4) reasonable attorney's fees; and

(5) such other relief as justice may require.

SEC. 10. ATTORNEY GENERAL ENFORCEMENT.

The Attorney General may bring a civil action against any State, political subdivision, or person violating this Act.

SEC. 11. SEVERABILITY.

If any provision of this Act or its application to any person or circumstance is held invalid, the remainder of the Act and the application of the remaining provisions shall not be affected.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE ABORTION AND MEDICAL NON-INTERFERENCE ACT OF 2029

I. INTRODUCTION

The Abortion and Medical Non-Interference Act of 2029 ("AMNIA") seeks to establish federal protections for abortion services during the first ninety-five days of gestation, protect interstate travel for reproductive healthcare, safeguard access to FDA-approved abortion medications moving through interstate commerce, require evidence-based federal public-health policymaking, and preempt certain State laws imposing liability upon patients and healthcare providers.

The legislation is intended to respond to the constitutional landscape created by Dobbs v. Jackson Women's Health Organization, 597 U.S. 215 (2022), in which the Supreme Court held that the Constitution does not itself confer a right to abortion and returned primary regulatory authority over abortion to the elected branches of government.

Dobbs did not hold that Congress lacks authority to legislate concerning abortion. Rather, Dobbs addressed only whether the Fourteenth Amendment itself protects a constitutional right to abortion.

Consequently, the principal constitutional question is not whether abortion is constitutionally protected, but whether Congress possesses sufficient enumerated powers to enact the protections contained in the Act.

The strongest constitutional foundations for the legislation arise from:

(1) the Commerce Clause;

(2) the Necessary and Proper Clause;

(3) the Supremacy Clause;

(4) federal authority over interstate travel and interstate commerce;

(5) federal regulation of pharmaceuticals; and

(6) Congress's authority to regulate federal agencies.

The most significant constitutional vulnerabilities concern:

(1) broad federal preemption of State abortion laws;

(2) Congress's power under Section 5 of the Fourteenth Amendment after Dobbs;

(3) anti-commandeering objections;

(4) federalism concerns involving traditional State police powers; and

(5) the "medical consensus" requirements imposed upon federal agencies.

II. DOBBS AND THE POST-DOBBS CONSTITUTIONAL LANDSCAPE

A. Scope of Dobbs

Dobbs held that:

"The Constitution does not confer a right to abortion."

The Court therefore overruled:

• Roe v. Wade (1973);

• Planned Parenthood v. Casey (1992).

The Court emphasized that abortion regulation should generally be returned to:

"the people's elected representatives."

Importantly, the Court did **not** decide:

• whether Congress may **legislate concerning abortion**;

• whether Congress may **preempt** State abortion restrictions;

• whether interstate abortion **travel** may be regulated;

• whether Congress may protect abortion medications moving through **interstate commerce**.

B. Implications for Federal Legislation

Dobbs leaves open the possibility that Congress may legislate using its enumerated powers.

Consequently, the constitutionality of AMNIA depends primarily upon Congress's affirmative constitutional powers rather than any judicially recognized abortion right.

III. COMMERCE CLAUSE ANALYSIS

A. Constitutional Foundation

Article I, Section 8 grants Congress authority:

"To regulate Commerce … among the several States."

Healthcare constitutes one of the largest sectors of interstate commerce.

The Act regulates:

• interstate travel;

• interstate pharmaceutical distribution;

• interstate medical services;

• communications and transactions crossing state lines.

Each falls within traditional Commerce Clause authority.

B. Interstate Travel for Abortion Services

Section 6 prohibits States from imposing liability upon individuals who travel to other jurisdictions to obtain lawful abortion services.

Congress may argue:

Interstate travel is inherently interstate activity.

The Supreme Court has repeatedly recognized a constitutional right to interstate movement.

Important authorities include:

Edwards v. California, 314 U.S. 160 (1941);

Saenz v. Roe, 526 U.S. 489 (1999).

Congress may reasonably determine that State efforts to punish citizens for lawful conduct occurring elsewhere substantially burden interstate commerce and interstate travel.

This provision likely possesses substantial constitutional support.

C. Extraterritorial State Regulation

The Supreme Court has long been skeptical of State laws attempting to regulate conduct occurring beyond State borders.

Section 6 largely reflects that principle.

This provision is among the strongest portions of the Act.

IV. FDA-APPROVED ABORTION MEDICATIONS

A. Federal Authority

Congress possesses broad authority over:

- drugs;
- pharmaceuticals;
- interstate shipments;
- the mails.

The Federal Food, Drug, and Cosmetic Act is grounded in the Commerce Clause.

Federal regulation of pharmaceuticals has repeatedly been upheld.

B. Preemption Analysis

Section 7 provides that States may not prohibit receipt or use of FDA-approved abortion medications moving through interstate commerce.

Supporters would argue:

Congress has occupied the field concerning approval, safety, labeling, and distribution of pharmaceuticals.

Opponents would argue:

FDA approval establishes a floor, not a ceiling.

States traditionally regulate medical practice.

This issue is currently the subject of active litigation and academic debate.

Nonetheless, Commerce Clause authority strongly supports congressional action.

C. Postal Power

Article I expressly grants Congress authority over postal services.

Federal protection of medication transmitted through the mails is likely constitutional.

V. FEDERAL PREEMPTION OF STATE ABORTION RESTRICTIONS

A. Supremacy Clause

Federal law validly enacted pursuant to enumerated powers **preempts** conflicting State law.

The critical question is whether Congress possesses an independent constitutional basis for the legislation.

If such authority exists, preemption generally follows.

B. Section 8 Provider Protections

Section 8 broadly prohibits States from imposing penalties upon providers performing abortions during the early gestation period.

This provision presents the most difficult constitutional question in the Act.

Supporters would argue:

Healthcare services, pharmaceuticals, insurance, and medical transactions substantially affect interstate commerce.

Opponents would argue:

Regulation of medical practice is a traditional State police power.

Dobbs expressly returned abortion regulation to the political process.

States will contend that Congress lacks authority to create a national abortion regime.

C. Current Judicial Climate

A modern Supreme Court may view broad provider immunity provisions skeptically.

The Court has recently emphasized limits on federal authority in areas historically governed by States.

Accordingly, Section 8 represents the provision most vulnerable to constitutional challenge.

VI. FOURTEENTH AMENDMENT ANALYSIS

A. Section 5 Authority

Congress may enforce the Fourteenth Amendment through appropriate legislation.

However, Congress may not redefine constitutional rights.

City of Boerne v. Flores, 521 U.S. 507 (1997).

B. Post-Dobbs Constraints

Because Dobbs held that abortion is not a Fourteenth Amendment right, Congress cannot rely upon Section 5 to recreate Roe or Casey by statute.

Therefore:

Section 5 provides only limited support for the legislation.

The primary constitutional basis must be the **Commerce Clause** rather than the Fourteenth Amendment.

VII. ANTI-COMMANDEERING DOCTRINE[2]

A. Governing Principles

The Tenth Amendment prohibits Congress from requiring States to administer federal programs.

Important precedents include:

New York v. United States, 505 U.S. 144 (1992);

Printz v. United States, 521 U.S. 898 (1997).

B. Application to the Act

[2] The anti-commandeering doctrine is a constitutional principle that prohibits the federal government from forcing states to implement federal laws or regulations. The doctrine is rooted in the Tenth Amendment, which emphasizes the powers reserved to the states.

AMNIA does not require States to perform abortions.

It does not compel State officials to administer federal programs.

Instead, it **preempts** conflicting State laws.

The Supreme Court has consistently distinguished ***permissible preemption*** from ***impermissible commandeering***.

Accordingly, anti-commandeering challenges are likely weak.

VIII. THE RIGHT TO INTERSTATE TRAVEL

A. Constitutional Recognition

Although not expressly stated in the Constitution, the right to interstate travel has repeatedly been recognized by the Supreme Court.

B. State Efforts to Restrict Travel

Several post-Dobbs proposals sought to impose liability upon individuals seeking abortions in other jurisdictions.

Congress may argue that such restrictions burden:

• interstate commerce;

• interstate travel;

• national unity.

Section 6 is therefore likely among the strongest provisions in the legislation.

IX. MEDICAL CONSENSUS REQUIREMENTS

A. Constitutional Basis

Congress possesses broad authority to regulate federal agencies.

Congress routinely requires agencies to rely upon:

• scientific evidence;

• expert findings;

• peer-reviewed research.

Examples include:

• Clean Air Act;

• Endangered Species Act;

• FDA review processes.

B. Administrative Law Concerns

The phrase "medical consensus" could generate litigation.

Questions include:

Who determines consensus?

How much agreement is required?

What organizations qualify?

To reduce uncertainty, Congress should define consensus more precisely.

C. Separation of Powers

The Act regulates federal agencies rather than private conduct.

Consequently, constitutional concerns are limited.

Most challenges would arise under administrative law rather than constitutional law.

X. MAJOR QUESTIONS DOCTRINE

A. Overview

Recent Supreme Court decisions require clear congressional authorization for actions of extraordinary economic and political significance.

Examples include:

West Virginia v. EPA (2022);

Biden v. Nebraska (2023).

B. Application

Unlike those cases, AMNIA itself would be a direct act of Congress.

Therefore:

Major Questions objections are substantially weaker.

Congress would be making the policy decision itself.

XI. NONDELEGATION ISSUES

The Act contains sufficient policy guidance.

Congress identifies:

• gestational limits;

• agency obligations;

• preemption rules;

• medical-consensus standards.

Accordingly, traditional nondelegation challenges are unlikely to succeed.

XII. JUDICIAL REVIEW

Section 9 creates a federal cause of action.

Congress possesses authority to create statutory causes of action.

The principal limitation remains Article III standing.

Plaintiffs must still demonstrate:

• injury;

• causation;

• redressability.

Courts may narrowly construe standing in some circumstances.

XIII. OVERALL CONSTITUTIONAL ASSESSMENT

Likelihood of surviving constitutional challenge:

Federal non-interference provisions (Section 4): Very High.

Evidence-based federal policymaking (Section 5): Very High.

Protection of interstate travel (Section 6): High.

Protection of mailed FDA-approved medications (Section 7): High.

Civil enforcement provisions (Sections 9–10): High.

Preemption of State liability for out-of-state abortions (Section 6): Moderate to High.

Federal protection of abortion providers against State sanctions (Section 8): Moderate.

Reliance on Fourteenth Amendment authority: Low.

XIV. CONCLUSION

The strongest constitutional foundations of the Abortion and Medical Non-Interference Act of 2029 are Congress's powers over interstate commerce, interstate travel, pharmaceuticals, postal services, and federal agency administration. The legislation is most likely to survive judicial review when framed as protecting interstate transactions, interstate movement, and federally regulated pharmaceutical distribution.

The greatest litigation risk arises from the effort to preempt State authority over the licensing, regulation, and criminal prosecution of healthcare providers performing abortions. Following Dobbs, a reviewing court may conclude that such matters remain within the traditional police powers of the States unless Congress can demonstrate a sufficiently strong connection to interstate commerce.

Accordingly, Sections 6 and 7 would likely represent the strongest and most defensible portions of the Act, while Section 8 would almost certainly become the focal point of constitutional litigation.

7.

"Academic Non-Interference Act of 2028"

H.R. ________

A BILL

To protect the institutional autonomy and academic freedom of institutions of higher education, to prohibit unwarranted Federal interference in the internal governance of colleges and universities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Academic Non-Interference Act of 2028".**

SEC. 2. FINDINGS.

Congress finds the following:

(1) Institutions of higher education have historically served as centers of intellectual inquiry, scientific investigation, civic education, and the advancement of knowledge.

(2) The freedom of institutions of higher education to govern their internal affairs without undue governmental coercion is essential to the preservation of academic freedom and the free exchange of ideas.

(3) The Supreme Court of the United States has repeatedly recognized a constitutionally protected sphere of academic freedom and institutional autonomy under the First Amendment.

(4) Excessive or politically motivated Federal interference in the governance, administration, curricula, or composition of institutions of higher education threatens academic freedom and the independence of institutions of higher education.

(5) The Federal Government possesses a compelling interest in preventing unlawful discrimination and in protecting the national security of the United States.

(6) Except where necessary to redress unlawful discrimination, enforce generally applicable laws, or address activities posing a clear and present danger to the national interest, decisions concerning governance, curriculum, administration, and admissions policies should remain principally within the authority of institutions of higher education.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to safeguard the autonomy of institutions of higher education;

(2) to prohibit Federal officials from coercing or compelling institutions of higher education to adopt particular policies concerning governance, curricula, administration, or student composition;

(3) to preserve the authority of the Federal Government to enforce laws prohibiting unlawful discrimination; and

(4) to preserve the authority of the Federal Government to address activities constituting a clear and present danger to the national interest.

SEC. 4. DEFINITIONS.

In this Act:

(1) **ACCREDITED INSTITUTION OF HIGHER EDUCATION.**—The term "accredited institution of higher education" means any institution of higher education located in the United States that—

(A) is accredited by an accrediting agency or association recognized by the Secretary of Education; and

(B) awards associate, baccalaureate, graduate, professional, or post-graduate degrees.

(2) **FEDERAL OFFICIAL.**—The term "Federal official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee of the executive branch; and

(D) any person acting under the authority or direction of any person described in subparagraphs (A) through (C).

(3) **INVIDIOUS DISCRIMINATION.**—The term "invidious discrimination" means discrimination prohibited by the Constitution of the United States or by Federal statute. [Preferably, the definition

will be as provided in the “Civil Rights Restoration Act of 2027,” a bill proposed in this series. If that Act becomes law, that definition should obtain herein, as well as in all other federal civil rights legislation and regulations.]

(4) **NATIONAL INTEREST.**—The term "national interest" means the protection of the national security, territorial integrity, defense capabilities, or critical infrastructure of the United States.

(5) **CLEAR AND PRESENT DANGER TO THE NATIONAL INTEREST.**—The term "clear and present danger to the national interest" means conduct that presents a direct, immediate, and substantial threat to the national security of the United States, including espionage, sabotage, material support to foreign adversaries, unlawful transfer of controlled technologies, or conduct otherwise prohibited by Federal law relating to national security.

SEC. 5. PROHIBITION ON FEDERAL INTERFERENCE WITH INSTITUTIONAL AUTONOMY.

(a) **General Rule.**—Except as provided in section 6, no Federal official may, directly or indirectly—

(1) require, compel, coerce, direct, condition, threaten, penalize, or otherwise seek to influence an accredited institution of higher education to adopt, repeal, modify, or administer any policy relating to—

(A) institutional governance;

(B) the appointment, retention, or removal of officers, administrators, faculty, or governing board members;

(C) academic curricula, instructional content, scholarly programs, or research agendas;

(D) admissions criteria or student body composition;

(E) student disciplinary procedures or codes of conduct; or

(F) any other matter traditionally reserved to institutional self-governance;

where the activities of such institution do not pose a clear and present danger to the national interest.

(b) **Federal Funds.**—No Federal official may condition, suspend, terminate, reduce, or threaten to condition, suspend, terminate, or reduce Federal financial assistance in order to compel compliance with any demand prohibited by subsection (a).

(c) **Informal Coercion Prohibited.**—No Federal official may employ public threats, informal pressure, investigatory demands lacking statutory authority, or other coercive means designed to circumvent the prohibitions established under this section.

SEC. 6. EXCEPTIONS.

Nothing in this Act shall be construed to—

(1) prohibit the enforcement of Federal laws prohibiting unlawful discrimination, including enforcement actions undertaken to remedy invidious discrimination;

(2) prohibit the enforcement of generally applicable Federal criminal, civil, labor, tax, immigration, public health, or environmental laws;

(3) prohibit actions authorized by law that are necessary to address a clear and present danger to the national interest;

(4) prohibit lawful investigations by Congress or Federal agencies conducted pursuant to statutory authority;

(5) prohibit conditions on Federal grants, contracts, or cooperative agreements that are expressly authorized by statute and are reasonably related to the purposes for which such funds are provided; or

(6) impair the authority of an institution voluntarily to adopt policies or reforms consistent with its own governance procedures.

SEC. 7. PRIVATE RIGHT OF ACTION.

(a) **Civil Action Authorized.**—Any accredited institution of higher education aggrieved by a violation of this Act may bring a civil action in an appropriate United States district court against the responsible Federal official in such official's official capacity.

(b) **Relief.**—In an action brought under this section, the court may award—

(1) declaratory relief;

(2) preliminary or permanent injunctive relief;

(3) such equitable relief as the court determines appropriate; and

(4) reasonable attorney's fees and costs to a prevailing plaintiff.

(c) **Expedited Review.**—Actions brought under this Act shall be expedited by the district court to the greatest extent practicable.

SEC. 8. WAIVER OF SOVEREIGN IMMUNITY.

The United States hereby waives sovereign immunity for actions seeking declaratory or injunctive relief under this Act.

SEC. 9. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to diminish any rights secured by the Constitution of the United States;

(2) to create a right to engage in unlawful discrimination;

(3) to limit Congress's authority under Article I of the Constitution; or

(4) to prevent the Federal Government from acting pursuant to lawful national security authorities expressly conferred by statute.

SEC. 10. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect 90 days after the date of enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
ACADEMIC NON-INTERFERENCE ACT OF 2028

I. Introduction

The proposed Academic Non-Interference Act of 2028 ("ANIA") would prohibit the President, Vice President, and executive branch officers and employees from directing, coercing, or conditioning federal benefits in order to influence the governance, curricula, administration, or student body composition of accredited colleges and universities, except to remedy unlawful discrimination or address activities posing a "clear and present danger to the national interest."

The legislation raises substantial constitutional questions involving:

1. Congress's authority to regulate executive branch conduct;
2. Separation of powers between Congress and the President;
3. The constitutional status of academic freedom;

4. The Spending Clause and conditional federal funding;
5. Delegation and vagueness doctrines;
6. Sovereign immunity and judicial review; and
7. Administrative law implications under the Administrative Procedure Act.

Overall, most provisions of the Act would likely be constitutionally defensible if carefully drafted, although several provisions would invite litigation and could be narrowed by judicial interpretation.

II. Congressional Authority to Enact the Legislation

A. Necessary and Proper Clause

Congress possesses broad authority under Article I, section 8, clause 18 to enact laws "necessary and proper" for carrying into execution both its own powers and those vested in the Government of the United States.

Because Congress creates executive departments, appropriates funds, establishes grant programs, and defines the legal authority of executive agencies, Congress generally may regulate how executive officials administer statutory programs.

The Supreme Court has repeatedly recognized that Congress may structure the administration of federal programs and may impose procedural and substantive limitations on executive officers.

Consequently, Congress likely possesses authority to prescribe rules governing how executive officials interact with federally funded institutions of higher education.

B. Spending Clause Authority

Article I, section 8 grants Congress power to spend for the general welfare.

Most federal influence over higher education occurs through:

- student aid programs;
- research grants;
- institutional grants;
- contracts; and
- tax benefits.

Congress may therefore specify the permissible and impermissible conditions attached to such funding.

The Act effectively states that executive officials may not invent or impose additional conditions concerning governance, curriculum, or administration absent express statutory authorization.

Such restrictions fall comfortably within Congress's traditional power to define the terms under which federal funds are distributed.

III. Separation of Powers Analysis

A. Executive Power Concerns

The most significant constitutional challenge concerns Article II.

The President possesses:

- the executive power;
- supervisory authority over executive officers; and
- responsibility to "take Care that the Laws be faithfully executed."

Opponents would argue that the Act impermissibly intrudes upon presidential supervision of executive agencies.

Argument Supporting Constitutionality

Supporters would argue that:

1. Congress is not removing executive officers.
2. Congress is not appointing officers.
3. Congress is not exercising executive power itself.
4. Congress is merely defining the substantive limits of executive authority.

Congress routinely limits executive discretion through statute.

Examples include:

- civil rights laws;
- appropriations restrictions;
- ethics statutes;

- Inspector General laws;
- procurement statutes; and
- numerous administrative procedures.

The Act resembles these statutes because it limits how federal officials may exercise otherwise discretionary powers.

Argument Against Constitutionality

Critics would contend that:

- the President must retain sufficient authority to supervise agencies;
- broad prohibitions on executive persuasion or pressure impair the President's constitutional role; and
- restrictions on informal communications between executive officials and universities interfere with the President's ability to implement federal policy.

A reviewing court likely would uphold most restrictions directed at agency action while scrutinizing restrictions that prohibit purely advisory or persuasive presidential speech.

B. Presidential Speech Issues

A provision barring "public threats" or "informal pressure" raises additional constitutional concerns.

The President possesses independent First Amendment interests and significant constitutional authority to advocate public policies.

A statute prohibiting presidential criticism of universities could be held unconstitutional.

Accordingly, language should distinguish between:

Protected Presidential Activity

- public advocacy;
- speeches;
- recommendations;
- policy proposals; and
- expressions of opinion.

Prohibited Conduct

- coercive funding threats;
- unlawful agency action;
- regulatory retaliation;
- unauthorized investigations; and
- conditions imposed outside statutory authority.

Limiting the prohibition to coercive governmental acts would substantially improve constitutional durability.

IV. Academic Freedom and Institutional Autonomy

A. Constitutional Basis

The Supreme Court has long recognized academic freedom as a First Amendment value.

Although the Court has never articulated a comprehensive doctrine of institutional autonomy, several decisions identify constitutional protection for:

- freedom of inquiry;
- teaching;
- scholarship;
- faculty expression; and
- institutional decision-making.

Courts frequently describe universities as possessing a constitutionally protected sphere of autonomy.

These precedents provide substantial support for congressional findings emphasizing institutional independence.

B. Limits of Academic Freedom

Academic freedom is not absolute.

Universities remain subject to:

- generally applicable laws;
- civil rights statutes;
- labor laws;
- criminal laws;
- tax laws;
- immigration laws; and
- public health regulations.

Courts would almost certainly construe the Act not to exempt universities from generally applicable legal obligations.

The inclusion of explicit statutory exceptions is therefore essential.

V. Spending Clause Considerations

The Supreme Court has recognized that Congress may attach conditions to federal funds if those conditions satisfy constitutional requirements.

Conditions generally must:

1. promote the general welfare;
2. be unambiguous;
3. relate to federal interests;
4. not require unconstitutional conduct; and
5. not be coercive.

The proposed Act does not eliminate Congress's ability to impose funding conditions.

Instead, it limits unilateral executive modification of funding conditions.

Accordingly, the legislation is strongest when it expressly preserves conditions enacted directly by Congress.

Recommended language:

"No provision of this Act shall prohibit enforcement of conditions expressly established by Act of Congress."

Without such language, courts might interpret the statute as improperly constraining future congressional enactments.

VI. National Security Exception

The "clear and present danger to the national interest" exception presents both strengths and weaknesses.

Strengths

The exception:

- preserves federal authority over espionage;
- protects export controls;
- addresses foreign influence operations; and
- safeguards national security.

Weaknesses

The phrase "clear and present danger" historically arose in First Amendment jurisprudence and may be viewed as imprecise in this context.

Courts could find the standard unduly vague.

More defensible alternatives include:

- "compelling national security interest";
- "substantial threat to national security"; or
- "specific and articulable national security risk."

Statutory definitions should include examples such as:

- espionage;
- sabotage;
- unlawful technology transfer;
- sanctions violations; and
- material support for foreign adversaries.

VII. Vagueness and Due Process

Under the Fifth Amendment, statutes must provide reasonably clear standards.

Potentially vague phrases include:

- "informal pressure";
- "student body composition";
- "institutional governance";
- "coercive influence"; and
- "clear and present danger."

Courts generally uphold civil statutes despite some ambiguity, but precision remains desirable.

Detailed definitions would significantly strengthen the Act.

VIII. Administrative Law Implications

A. Administrative Procedure Act

The Act would likely be enforceable through the Administrative Procedure Act.

Agency actions inconsistent with ANIA could be challenged as:

- arbitrary and capricious;
- contrary to law;
- in excess of statutory authority; or
- unconstitutional.

Universities could seek:

- declaratory relief;
- injunctive relief; and
- vacatur of unlawful agency actions.

B. Judicial Review

Federal courts generally presume reviewability of agency action.

The statute should expressly authorize judicial review and identify:

- standing;
- available remedies;
- venue; and
- standards of review.

Providing a private right of action would reduce uncertainty.

C. Sovereign Immunity

If Congress intends private lawsuits against the United States or executive agencies, the statute should contain an unequivocal waiver of sovereign immunity.

Limiting relief to declaratory and injunctive remedies would likely avoid significant constitutional concerns.

IX. Equal Protection and Civil Rights

The exception permitting federal intervention to remedy unlawful discrimination is constitutionally important.

Absent such an exception, opponents could argue that the statute impairs enforcement of:

- Title VI;
- Title VII;
- Title IX;
- the Americans with Disabilities Act;
- the Rehabilitation Act; and
- constitutional equal protection requirements.

Preserving these authorities materially strengthens the bill.

X. Likely Judicial Outcome

A reviewing court would likely:

Uphold:

- congressional restrictions on unauthorized executive conditions attached to grants;
- protections for institutional autonomy;
- preservation of academic freedom;
- private rights of action for equitable relief; and
- exceptions preserving civil rights enforcement.

Closely Scrutinize:

- restrictions on presidential speech;
- prohibitions on informal communications;
- vague standards concerning coercion; and
- broad limitations affecting national security authority.

Potentially Invalidate:

- provisions restricting purely expressive presidential advocacy;
- vague prohibitions lacking objective standards; and
- provisions interpreted to impair core Article II powers.

XI. Conclusion

The proposed Academic Non-Interference Act rests upon substantial constitutional foundations rooted in Congress's spending power, its authority to structure executive administration, and longstanding constitutional commitments to academic freedom.

With careful drafting—particularly narrowing restrictions on presidential speech, clarifying standards for coercion, preserving congressional funding conditions, and refining national security exceptions — the legislation would possess a significant likelihood of surviving constitutional challenge, although substantial litigation concerning separation of powers and the scope of executive authority should be expected.

8.

"United States Agency for International Development Restoration Act of 2028"

H. R. ____

A Bill

To restore the United States Agency for International Development as an independent establishment of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"United States Agency for International Development Restoration Act of 2028".**[3]

SEC. 2. FINDINGS.

Congress finds the following:

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[33] The U.S. Agency for International Development (USAID) served as the lead international humanitarian and development arm of the U.S. government. It was established in 1961, pursuant to Executive Order (E.O.) 10973, to implement components of the Foreign Assistance Act of 1961 (FAA). Congress codified USAID in statute in Section 1413 of the Foreign Affairs Reform and Restructuring Act of 1998 (Division G of P.L. 105-277; 22 U.S.C. 6563). Section 1522 of that law states, "The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State." Secretary of State Marco Rubio announced on July 1, 2025, that "as of July 1st, USAID will officially cease to implement foreign assistance." According to the statement, "Foreign assistance programs that align with administration policies—and which advance American interests—will be administered by the State Department." [Source: Congressional Research Office, 9/5/2025.] This decision greatly negatively affected many aid programs around the world, leading, by some estimates, to thousands of deaths globally. In addition, the USAID to project soft power was obliterated. Beyond that, thousands of knowledgeable and dedicated development professions were summarily thrown out of their jobs, and America has lost their millions of person hours of experience; the costs are incalculable. Read an account of the damage done in the book *Into the Wood Chipper: A Whistleblower's Account of How the Trump Administration Shredded USAID,* by Nicholas Enrich.

(1) The United States has long advanced its national interests through foreign assistance, humanitarian relief, development assistance, democracy promotion, public health initiatives, and economic development programs.

(2) The United States Agency for International Development (in this Act referred to as "USAID") has historically served as the principal civilian agency of the United States Government responsible for administering foreign development and humanitarian assistance.

(3) The effective administration of foreign assistance programs requires continuity of operations, professional expertise, institutional independence, and long-term strategic planning.

(4) Congress has a substantial interest in ensuring that United States foreign assistance programs are administered in a manner consistent with the foreign policy, humanitarian, and national security interests of the United States.

(5) It is in the national interest of the United States to restore USAID as an independent agency of the Federal Government.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to restore USAID as an independent establishment of the Federal Government;

(2) to provide for an orderly transition to independent agency status;

(3) to ensure the continuity of foreign assistance, humanitarian, and development programs during such transition; and

(4) to provide Congress with flexibility to determine the funding, staffing, organizational priorities, and programmatic structure of the restored agency in light of prevailing circumstances.

SEC. 4. RESTORATION OF USAID AS AN INDEPENDENT ESTABLISHMENT.

(a) **Restoration Required.**—Not later than 24 months after the effective date of this Act, the President shall restore the United States Agency for International Development as an independent establishment within the executive branch.

(b) **Status.**—Upon restoration pursuant to subsection (a), USAID shall—

(1) possess all authorities conferred by statute upon the Agency as of January 1, 2025, except as otherwise provided by subsequent Act of Congress;

(2) exercise such additional authorities as Congress may subsequently provide by law; and

(3) operate independently of any executive department, except as expressly provided by law.

(c) **Administrator.**—USAID shall be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate.

SEC. 5. TRANSITION PLAN.

(a) **Submission of Plan.**—Not later than 180 days after enactment of this Act, the President shall submit to Congress a comprehensive transition plan for restoring USAID as an independent establishment.

(b) **Contents.**—The transition plan shall include—

(1) a proposed organizational structure for the restored agency;

(2) recommendations regarding personnel transfers, hiring, training, and retention;

(3) recommendations concerning the transfer, restoration, or continuation of programs, offices, contracts, grants, and cooperative agreements;

(4) recommendations concerning information technology, records management, facilities, and administrative support services;

(5) estimated costs associated with restoration and transition;

(6) recommendations concerning continuity of humanitarian, development, and foreign assistance programs during the transition period; and

(7) any legislative recommendations deemed appropriate by the President.

SEC. 6. CONGRESSIONAL DETERMINATION OF FUNDING, STAFFING, AND PROGRAM PRIORITIES.

(a) **Congressional Authority Preserved.**—Congress shall determine, through the regular authorization and appropriations processes, the timetable, extent, and manner of—

(1) funding and refunding programs and activities of USAID;

(2) restoring staffing levels;

(3) reestablishing offices, bureaus, and missions;

(4) establishing, modifying, or terminating programs and activities; and

(5) setting priorities for foreign assistance, humanitarian relief, development assistance, and related agency activities.

(b) **Consideration of Current Circumstances.**—In carrying out subsection (a), Congress shall take into account the facts and circumstances existing at the time restoration decisions are made, including—

(1) the foreign policy interests of the United States;

(2) humanitarian needs;

(3) national security considerations;

(4) fiscal constraints;

(5) operational requirements; and

(6) the effectiveness of existing programs and activities.

SEC. 7. CONTINUITY OF OPERATIONS.

(a) **General Rule.**—During the transition period, all programs, authorities, grants, contracts, cooperative agreements, obligations, and proceedings lawfully in effect on the date of enactment shall continue in effect unless modified, superseded, terminated, or otherwise altered pursuant to law.

(b) **Protection of Beneficiaries and Contractors.**—Nothing in this Act shall be construed to impair the rights or obligations of any person, contractor, grantee, recipient, or employee arising under any agreement or legal instrument entered into before the completion of the transition.

SEC. 8. TRANSFER OF PERSONNEL, ASSETS, AND RECORDS.

(a) **Authority to Transfer.**—The President may transfer personnel, property, records, unobligated balances, contracts, and other assets necessary to carry out this Act.

(b) **Protection of Employees.**—Employees transferred pursuant to this Act shall retain all rights, protections, benefits, and status otherwise provided by law.

(c) **No Reduction in Force Required.**—Nothing in this Act shall be construed to require a reduction in force.

SEC. 9. REPORTS TO CONGRESS.

(a) **Quarterly Reports.**—Beginning 90 days after enactment and continuing until completion of the restoration process, the President shall submit quarterly reports to the Committees on Foreign Affairs and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate describing progress toward implementation of this Act.

(b) **Contents.**—Each report shall include—

(1) milestones achieved;

(2) expenditures incurred;

(3) staffing changes;

(4) operational challenges encountered; and

(5) recommendations for additional legislative action.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to diminish the constitutional authority of the President in the conduct of foreign affairs;

(2) to impair Congress's constitutional authority over appropriations, authorizations, and oversight; or

(3) to authorize the expenditure of funds except as provided in advance in appropriations Acts.

SEC. 11. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS:
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT RESTORATION ACT OF 2028

I. INTRODUCTION

The proposed **United States Agency for International Development Restoration Act of 2028** ("USAID Restoration Act" or "Act") would require the restoration of the United States Agency for International Development ("USAID") as a separate executive branch agency within twenty-four months of enactment.

The legislation would further require the President to prepare a transition plan while preserving Congress's authority to determine the pace, scope, funding, staffing levels, and programmatic priorities of the restored agency.

The principal constitutional and administrative law questions raised by the Act concern:

1. Congress's authority to create and structure executive agencies;
2. The separation of powers between Congress and the President;
3. Presidential authority over foreign affairs;
4. Congress's appropriations authority;
5. Appointments Clause considerations;
6. Delegation and implementation issues; and
7. Administrative law issues arising during agency restoration and transition.

The proposed legislation rests upon substantial constitutional foundations. Congress historically has possessed broad authority to establish, reorganize, fund, and abolish executive agencies. Most provisions of the Act would likely withstand constitutional scrutiny, although certain implementation details could generate litigation concerning presidential foreign affairs powers and executive supervision.

II. CONGRESSIONAL AUTHORITY TO RESTORE USAID

A. Authority to Create and Organize Executive Departments and Agencies

Article I grants Congress broad authority to establish governmental institutions.

Congress has repeatedly:

- created executive departments;
- abolished agencies;
- transferred functions among agencies;
- reorganized administrative structures; and
- prescribed the duties of executive officers.

Examples include:

- creation of the Departments of Education, Homeland Security, Veterans Affairs, and Energy;
- establishment of numerous independent agencies;
- transfer of immigration functions among agencies; and
- creation of the Department of Homeland Security through the Homeland Security Act of 2002.

The Supreme Court has consistently recognized that executive offices are creatures of statute.

Congress therefore plainly possesses authority to reestablish USAID as a distinct executive agency.

B. Necessary and Proper Clause

Article I, section 8, clause 18 authorizes Congress to enact laws "necessary and proper" for carrying into execution both its own powers and those vested in the Federal Government.

Because Congress appropriates foreign assistance funds, establishes aid programs, and oversees their administration, Congress may determine the institutional mechanisms through which such programs are administered.

The restoration of USAID falls comfortably within this authority.

III. APPROPRIATIONS POWER

A. Congressional Control of Federal Spending

The Constitution provides:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

Congress therefore possesses primary constitutional authority over federal expenditures.

Because USAID programs are overwhelmingly funded through annual appropriations, Congress may determine:

- whether programs are funded;
- funding levels;
- staffing ceilings;
- program priorities; and
- conditions governing expenditure.

The proposed Act's statement that Congress shall determine the timetable for refunding and restaffing the agency is therefore strongly supported by Article I.

B. Anti-Deficiency Act Implications

The Act properly recognizes that restoration activities remain subject to future appropriations.

Absent appropriated funds, executive officials could not obligate or expend funds for restoration activities.

Implementation legislation and appropriations measures would therefore likely be required throughout the restoration process.

IV. SEPARATION OF POWERS ANALYSIS

A. General Principles

The principal constitutional question is whether Congress may require restoration of USAID while preserving executive discretion in foreign affairs.

The Supreme Court has long recognized that Congress may structure executive agencies.

However, Congress may not exercise executive power directly or unduly interfere with the President's ability to supervise executive officials.

B. Presidential Supervision of USAID

The President possesses constitutional authority under Article II to:

- supervise executive officers;
- remove most executive officers;
- execute federal law; and
- conduct foreign affairs.

The proposed Act does not appear to restrict these powers.

The legislation:

- does not limit presidential removal authority;
- does not insulate the Administrator from presidential supervision;
- does not create a multi-member independent commission; and
- does not require congressional approval for executive decisions.

Consequently, the Act is unlikely to violate separation-of-powers principles.

C. Congressional Micromanagement Risks

Potential constitutional concerns could arise if future legislation were to prescribe in excessive detail:

- staffing decisions;
- mission assignments;
- diplomatic activities; or
- day-to-day operational decisions.

Courts generally permit substantial congressional direction regarding appropriated funds but are more skeptical when Congress attempts to manage executive operations directly.

Accordingly, broad statutory guidance is constitutionally preferable to highly detailed operational mandates.

V. FOREIGN AFFAIRS POWERS

A. Presidential Foreign Affairs Authority

The President possesses significant constitutional authority over:

- diplomacy;
- recognition of foreign governments;
- treaty negotiation;
- communications with foreign states; and
- national security.

Opponents could argue that restoration of USAID as an independent agency interferes with the President's conduct of foreign affairs.

This argument is unlikely to prevail.

Congress historically has played a major role in foreign assistance policy and has repeatedly created institutions exercising foreign affairs functions.

B. Shared Powers in Foreign Assistance

Foreign assistance represents an area of overlapping constitutional authority.

Congress possesses authority over:

- appropriations;
- foreign commerce;
- conditions on aid;
- creation of agencies; and
- oversight.

The President possesses authority concerning:

- diplomacy;
- negotiations;
- implementation; and
- execution of foreign policy.

Because foreign assistance has traditionally involved substantial congressional participation, courts would likely view the legislation as an exercise of shared constitutional authority.

VI. APPOINTMENTS CLAUSE ISSUES

Article II requires principal officers of the United States to be appointed by the President with Senate confirmation.

The Act appropriately provides for a Senate-confirmed Administrator.

Constitutional concerns would arise only if Congress attempted to:

- appoint agency leadership itself;
- reserve removal authority;
- participate directly in administration; or
- retain veto authority over executive decisions.

The current draft avoids such concerns.

VII. NONDELEGATION ISSUES

The Act provides that Congress shall determine future funding, staffing, and priorities through ordinary legislation.

Consequently, the statute delegates relatively little policymaking authority.

To the extent discretion is delegated to executive officials during restoration, courts would likely find ample "intelligible principles" guiding implementation.

Modern nondelegation doctrine presents little risk to the Act.

VIII. ADMINISTRATIVE LAW IMPLICATIONS

A. Administrative Procedure Act Requirements

Restoration of USAID would likely involve numerous agency actions subject to the Administrative Procedure Act ("APA").

Examples include:

- organizational regulations;
- personnel rules;
- procurement regulations;

- grant administration procedures;
- delegations of authority; and
- transfer regulations.

Such actions generally would be subject to APA procedural requirements.

B. Rulemaking

The restored agency likely would need to promulgate regulations concerning:

- organizational structure;
- procurement;
- grants administration;
- ethics;
- personnel administration;
- assistance programs; and
- internal procedures.

Legislative rules ordinarily would require notice-and-comment rulemaking.

Procedural, interpretive, and internal management rules may be exempt.

C. Judicial Review

Agency actions implementing restoration could be challenged under the APA as:

- arbitrary and capricious;
- contrary to law;
- procedurally defective;
- exceeding statutory authority; or
- unconstitutional.

Potential plaintiffs include:

- employees;

- contractors;
- grant recipients;
- nongovernmental organizations; and
- affected institutions.

IX. FEDERAL PERSONNEL ISSUES

Restoration will implicate extensive civil service protections.

Affected employees may possess rights under:

- Title 5 of the United States Code;
- civil service regulations;
- collective bargaining agreements;
- veterans' preference statutes; and
- reduction-in-force procedures.

The legislation's preservation of employee rights substantially reduces litigation risk.

X. CONTRACTS, GRANTS, AND TRANSITIONAL OBLIGATIONS

Existing contracts and grants remain legally binding unless lawfully modified or terminated.

Failure to preserve such obligations could produce:

- Contract Disputes Act litigation;
- bid protests;
- grant disputes; and
- claims under the Tucker Act.

The continuity provisions contained in the Act therefore significantly strengthen its legal defensibility.

XI. INSPECTOR GENERAL AND OVERSIGHT ISSUES

Congress may constitutionally require:

- periodic reporting;
- audits;
- Inspector General oversight; and
- expenditure reporting.

However, Congress may not reserve for itself ongoing executive functions or approval authority over individual agency decisions.

Quarterly reporting requirements are constitutionally unproblematic.

XII. LITIGATION RISK ASSESSMENT

A. Provisions Likely To Be Upheld

Courts would likely uphold:

- restoration of USAID as an independent agency;
- congressional determination of appropriations and staffing levels;
- transition planning requirements;
- reporting obligations;
- preservation of employee rights; and
- continuity provisions.

B. Provisions Potentially Subject to Challenge

Challenges could arise regarding:

- statutes perceived as excessively restricting presidential diplomatic authority;
- detailed congressional direction concerning agency operations;
- limitations affecting presidential supervision of the Administrator; and
- future appropriations restrictions affecting diplomatic flexibility.

Such challenges would likely fail unless Congress attempted to exercise executive authority directly.

XIII. CONCLUSION

The proposed USAID Restoration Act rests upon exceptionally strong constitutional foundations.

Congress possesses broad authority to create, structure, fund, reorganize, and oversee executive agencies. The Act largely regulates matters traditionally entrusted to Congress, including agency organization and appropriations.

Provided the statute preserves presidential authority to supervise executive officials and conduct diplomacy, the legislation would likely survive constitutional challenge. Most implementation disputes would arise under ordinary administrative law principles rather than under the Constitution itself.

Accordingly, the proposed legislation is best understood as a conventional exercise of Congress's Article I powers in an area—foreign assistance administration—historically characterized by substantial interbranch cooperation and shared constitutional authority.

9.

"Presidential Prosecution Act of 2029"

H.R. ______

A BILL

To prohibit any policy, rule, protocol, directive, memorandum, or practice of the Department of Justice that categorically precludes the criminal investigation or prosecution of a sitting President or Vice President of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Presidential Prosecution Act of 2029".**

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Constitution of the United States establishes a government of laws and not of men.

(2) No person in the United States is above the law.

(3) The faithful execution of the criminal laws requires that criminal investigations and charging decisions be based upon the facts, evidence, and applicable law.

(4) Internal policies of the Department of Justice are intended to guide prosecutorial discretion and do not possess the force of statutory law.

(5) The Constitution does not expressly grant immunity from criminal investigation or prosecution to a sitting President or Vice President.

(6) It is in the public interest that allegations of criminal conduct by any Federal official be evaluated under uniform legal standards.

(7) Congress possesses authority to regulate the organization, powers, duties, and procedures of executive departments created by statute.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that criminal investigations and charging decisions concerning the President or Vice President are governed by law rather than categorical internal executive branch policies;

(2) to prohibit Department of Justice policies that categorically preclude the investigation or prosecution of a sitting President or Vice President;

(3) to preserve prosecutorial discretion based upon the facts and circumstances of individual cases; and

(4) to promote public confidence in the equal application of the law.

SEC. 4. PROHIBITION ON CATEGORICAL IMMUNITY POLICIES.

(a) General Rule.—Notwithstanding any other policy, memorandum, directive, protocol, guidance document, or internal practice of the Department of Justice, no officer, employee, component, office, or division of the Department of Justice may maintain, enforce, rely upon, or give effect to any policy that categorically precludes—

(1) the criminal investigation of a sitting President of the United States;

(2) the criminal investigation of a sitting Vice President of the United States;

(3) the criminal prosecution of a sitting President of the United States; or

(4) the criminal prosecution of a sitting Vice President of the United States.

(b) Individualized Determinations Required.—Any decision whether to investigate, seek an indictment, initiate a prosecution, defer prosecution, or decline prosecution involving a President or Vice President shall be based upon an individualized assessment of the facts, evidence, applicable law, constitutional considerations, national security concerns, and the interests of justice.

(c) No Presumption.—No presumption shall exist within the Department of Justice that a sitting President or Vice President is immune from criminal investigation or prosecution solely by virtue of holding such office.

SEC. 5. RESCISSION OF INCONSISTENT POLICIES.

(a) Rescission Required.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall identify and formally rescind any Department of Justice policy, memorandum, opinion, directive, protocol, or guidance inconsistent with this Act.

(b) Publication.—The Attorney General shall publish in the Federal Register a notice identifying all policies rescinded pursuant to subsection (a).

SEC. 6. SPECIAL COUNSEL AUTHORITY PRESERVED.

Nothing in this Act shall be construed to limit the authority of the Attorney General to appoint a Special Counsel or other prosecutor pursuant to applicable law and regulations.

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to require the investigation or prosecution of any person;

(2) to diminish any constitutional rights possessed by any criminal defendant;

(3) to impair the constitutional powers of the President under Article II of the Constitution;

(4) to authorize criminal proceedings that are otherwise prohibited by the Constitution of the United States; or

(5) to predetermine any constitutional question concerning the criminal liability of a sitting President or Vice President.

SEC. 8. REPORT TO CONGRESS.

Not later than 180 days after enactment, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report describing actions taken to implement this Act.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS PRESIDENTIAL PROSECUTION ACT OF 2029

I. Introduction

The proposed **Presidential Prosecution Act of 2029** would invalidate any Department of Justice policy, protocol, memorandum, rule, or directive that categorically precludes the investigation or prosecution of a sitting President or Vice President, or of a President-elect or Vice President-elect.

The bill does not itself require prosecution. Rather, it prohibits a categorical internal executive-branch rule of non-prosecution and requires individualized legal and factual assessment.

The principal legal issues are:

1. Congress's authority to regulate the Department of Justice;
2. Article II separation-of-powers concerns;
3. presidential immunity doctrine;
4. prosecutorial discretion;
5. impeachment and criminal accountability;
6. administrative law implications; and
7. justiciability and enforceability.

II. Congressional Authority

Congress has strong authority to create, structure, fund, and regulate executive departments, including the Department of Justice.

Because DOJ exists by statute, Congress may prescribe duties, procedures, reporting requirements, appropriations restrictions, and limits on internal policies. Congress may also override internal executive-branch guidance that conflicts with statutory policy.

The bill is strongest if characterized as a rule about **departmental policy**, not as a congressional command that prosecutors must indict or prosecute any particular person.

Thus, Congress may likely say:

DOJ may not maintain a categorical internal rule that a President or Vice President is immune from investigation or prosecution.

Congress may not constitutionally say:

DOJ must prosecute the President whenever probable cause exists.

The former regulates agency policy; the latter would intrude more directly into prosecutorial discretion.

III. Article II and Separation of Powers

The principal constitutional objection would be that criminal prosecution of a sitting President could impair the President's ability to discharge Article II responsibilities.

The executive branch has historically taken the position that indictment or prosecution of a sitting President would unduly interfere with the Presidency. That position has generally rested on functional separation-of-powers reasoning, not on explicit constitutional text.

Supporters of the bill would argue that:

- the Constitution contains **<u>no express criminal immunity for a sitting President</u>**;
- impeachment is **<u>not expressly made the exclusive remedy</u>**;
- **<u>internal DOJ memoranda</u>** **<u>cannot bind Congress or the courts</u>**;
- the President has a duty to take care that the laws be faithfully executed; and
- **<u>categorical immunity undermines the rule of law</u>**.

Opponents would argue that:

- prosecution could distract, disable, or subordinate the President;
- criminal litigation could be used for partisan or institutional warfare;
- courts should avoid entanglement with ongoing presidential duties; and
- the Constitution provides impeachment as the principal mechanism for addressing presidential misconduct while in office.

The bill therefore raises a serious but not insurmountable separation-of-powers issue.

IV. Presidential Immunity

The Supreme Court recognizes substantial immunity for presidential official acts, but presidential immunity is not unlimited.

The strongest constitutional distinction is between:

1. **official acts**, which receive substantial constitutional protection; and
2. **private or unofficial conduct**, which receives far less protection.

A constitutionally durable version of the Act should make clear that it does not eliminate any immunity recognized by the Constitution or by the Supreme Court.

Recommended language:

Nothing in this Act shall be construed to authorize criminal investigation or prosecution in a manner inconsistent with constitutionally recognized presidential immunity.

Without such a savings clause, opponents could argue that Congress is attempting to override constitutional immunity by statute.

V. Vice Presidential Prosecution

The case for applying the Act to the Vice President is stronger than for the President.

Although the Vice President holds a constitutional office, the Vice President does not possess the full Article II executive authority vested in the President. A categorical DOJ policy barring prosecution of a sitting Vice President would therefore have weaker constitutional support.

Congress may more readily require DOJ to make individualized decisions concerning a Vice President or Vice President-elect.

VI. President-Elect and Vice President-Elect

The bill's application to a person "about to assume office" is constitutionally important.

A President-elect is not yet vested with Article II executive power. Therefore, separation-of-powers objections are weaker before inauguration.

However, prosecution of a President-elect could still raise serious practical and constitutional concerns concerning transition, democratic legitimacy, and orderly succession.

A defensible formulation would require individualized assessment of:

- timing;
- public interest;
- national security;
- transition concerns;
- availability of deferred proceedings; and
- risk of interference with constitutional functions.

VII. Prosecutorial Discretion

The bill should preserve prosecutorial discretion.

DOJ must remain free to decline prosecution based on:

- insufficient evidence;
- privilege issues;
- constitutional immunity;
- national security risks;
- prudential concerns;
- statute of limitations issues;
- evidentiary problems; and

- interests of justice.

The bill is most defensible if it only invalidates **categorical no-prosecution rules**, while allowing case-specific decisions.

VIII. Impeachment Clause Issues

The Constitution provides that a party convicted upon impeachment remains liable to indictment, trial, judgment, and punishment according to law.

Opponents may argue that this implies criminal prosecution follows impeachment and removal.

Supporters will respond that the text does not say impeachment is a prerequisite to prosecution. It merely confirms that impeachment does not displace criminal liability.

The better reading is that impeachment and prosecution are separate mechanisms. Still, courts may be cautious in allowing prosecution of a sitting President where impeachment has not occurred.

IX. Administrative Law Analysis

A. DOJ Internal Policies

The Act directly targets DOJ internal policies, including memoranda, protocols, directives, and guidance.

Because such policies are generally internal management documents, they often do not require notice-and-comment rulemaking. Congress may nevertheless require their rescission or prohibit reliance upon them.

B. APA Review

The Administrative Procedure Act generally excludes criminal prosecutorial decisions from ordinary judicial review, especially where decisions are committed to agency discretion by law.

Thus, courts are unlikely to review individual charging decisions under the APA.

However, a categorical DOJ policy contrary to the Act could be challenged as:

- contrary to law;
- ultra vires;

- arbitrary and capricious; or
- an unlawful withholding of statutory duty.

C. Enforcement Problem

The bill should identify who may enforce it.

Possible enforcement mechanisms include:

- congressional oversight;
- required Attorney General certification;
- Inspector General review;
- reporting to the Judiciary Committees;
- judicial review by Congress or an affected party;
- mandamus in limited circumstances.

A private right of action would be controversial and should be drafted narrowly.

X. Nondelegation and Vagueness

The bill presents little nondelegation risk because it does not delegate major policymaking authority.

Vagueness risk is moderate unless terms such as "about to assume office," "protocol," "directive," and "precludes" are defined.

Recommended definitions:

- "Covered official" means the President, Vice President, President-elect, or Vice President-elect.
- "Covered DOJ policy" means any written or unwritten rule, memorandum, opinion, directive, guidance, practice, or protocol relied upon by DOJ personnel.
- "Categorically precludes" means bars investigation or prosecution solely because of the person's present or imminent constitutional office, without individualized legal and factual assessment.

XI. Likely Judicial Outcome

A court would likely uphold provisions that:

- prohibit DOJ from treating internal memoranda as binding law;
- require individualized assessment;
- preserve prosecutorial discretion;
- preserve constitutional immunity;
- require reporting to Congress; and
- rescind inconsistent internal DOJ policies.

A court would scrutinize provisions that:

- appear to require prosecution;
- disregard presidential immunity;
- interfere with Article II functions;
- authorize judicial supervision of charging decisions; or
- attempt to eliminate constitutional defenses.

The Act's likelihood of survival depends heavily on whether it is framed as a statute governing DOJ policy rather than a mandate to prosecute.

XII. Recommended Strengthening Amendments

The bill should include:

1. **Constitutional savings clause**
   "Nothing in this Act shall be construed to authorize any action prohibited by the Constitution."
2. **Presidential immunity savings clause**
   "Nothing in this Act shall be construed to alter any immunity recognized by the Constitution or by the Supreme Court of the United States."
3. **Prosecutorial discretion clause**
   "Nothing in this Act shall require investigation, indictment, prosecution, or conviction in any particular case."

4. **Individualized assessment standard**
   DOJ may consider constitutional function, national security, evidence, official-act immunity, timing, and the interests of justice.
5. **Reporting mechanism**
   The Attorney General should certify rescission of inconsistent policies to the House and Senate Judiciary Committees.

XIII. Conclusion

The **Presidential Prosecution Act of 2029** would rest on a defensible constitutional foundation if carefully **limited to invalidating categorical DOJ non-prosecution policies**.

Congress may regulate DOJ and may prohibit internal executive-branch rules that purport to create categorical immunity not found in statute or constitutional text. However, Congress may not eliminate constitutionally recognized presidential immunity, compel prosecution, or unduly interfere with the President's Article II functions.

With appropriate savings clauses preserving constitutional immunity and prosecutorial discretion, the Act would likely survive in substantial part, though any actual prosecution of a sitting President would generate major constitutional litigation.

10.

"Presidential Family Exclusion Act of 2029"

H.R. ___

A Bill

Presidential Family Exclusion Act of 2029

To promote public confidence in the integrity of the Executive Branch by establishing restrictions and enhanced review procedures governing the appointment of close relatives of the President or Vice President to positions within the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

Mr./Ms. ________ introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on the Judiciary, House Administration, and such other committees as may have jurisdiction over provisions of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Presidential Family Exclusion Act of 2029."**

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

1. Public confidence in democratic institutions depends upon the appearance and reality of impartial governmental decision-making.
2. The appointment of relatives of the President or Vice President to positions within the Executive Branch may create actual, potential, or perceived conflicts of interest.
3. The concentration of governmental authority within familial networks may undermine principles of merit-based public service and equal opportunity.

4. Existing statutory restrictions on nepotism have been subject to differing interpretations regarding their applicability to positions within the Executive Office of the President and other components of the Federal Government.
5. Congress possesses constitutional authority to establish qualifications, conditions, and procedures governing offices created by Federal law and to enact measures necessary and proper for protecting the integrity of Federal institutions.
6. Enhanced congressional oversight of appointments involving close relatives of the President or Vice President serves a compelling governmental interest in preserving public trust and preventing corruption or the appearance thereof.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(a) Covered Relative.

The term "covered relative" means any individual who is related to the President or Vice President by blood, marriage, adoption, domestic partnership recognized under applicable law, or affinity, including—

1. spouse;
2. parent;
3. child, including an adopted child;
4. grandparent;
5. grandchild;
6. sibling;
7. aunt;
8. uncle;
9. niece;
10. nephew;
11. first cousin;
12. son-in-law;

13. daughter-in-law;
14. father-in-law;
15. mother-in-law;
16. brother-in-law;
17. sister-in-law;
18. stepchild;
19. stepparent;
20. stepsibling; and
21. any individual residing in the same household as the President or Vice President who is not otherwise excluded under this subsection.

(b) Federal Government.

The term "Federal Government" means any department, agency, establishment, commission, board, office, instrumentality, government corporation, or other entity of the Executive Branch of the United States Government.

(c) Officer.

The term "officer" includes—

1. any officer of the United States within the meaning of Article II of the Constitution;
2. any employee occupying a position in the Executive Branch;
3. any advisor exercising substantial authority on behalf of the United States;
4. any Special Government Employee as defined in section 202(a) of title 18, United States Code;
5. any consultant, contractor, fellow, volunteer, detailee, or temporary appointee who performs governmental functions or exercises governmental authority; and
6. any individual serving in a de facto capacity whose duties substantially resemble those of an officer or employee of the United States.

(d) De Facto Officer.

The term "de facto officer" means any individual who, whether formally appointed or not, regularly participates in governmental decision-making, policy formation, diplomatic engagement, regulatory activity, intelligence matters, procurement decisions, personnel decisions, or other official functions on behalf of the United States Government.

SEC. 4. RESTRICTIONS ON APPOINTMENT OF COVERED RELATIVES.

(a) General Rule.

Notwithstanding any other provision of law, no covered relative of the President or Vice President may be appointed, employed, designated, retained, assigned, detailed, or permitted to serve as an officer or de facto officer of the Federal Government unless the requirements of subsection (b) have been satisfied.

(b) Required Approvals.

A covered relative may serve only if—

1. the Senate Committee on Ethics approves the appointment by a majority vote of its members;
2. the Committee on Ethics of the House of Representatives approves the appointment by a majority vote of its members; and
3. the Senate confirms or authorizes such appointment by an affirmative vote of two-thirds of the Members duly chosen and sworn.

(c) Public Disclosure.

Not later than 30 days before any vote under subsection (b), the President shall submit to Congress a report containing—

1. the name of the proposed appointee;
2. the nature of the familial relationship;
3. the proposed duties and authority of the position;
4. any financial interests relevant to the position;
5. any potential conflicts of interest;
6. any ethics agreements entered into by the proposed appointee; and
7. a justification for the appointment.

SEC. 5. PROHIBITION ON CIRCUMVENTION.

(a) De Facto Service.

No covered relative may perform governmental duties, receive classified briefings, participate in official diplomatic engagements, direct Federal personnel, represent the United States before foreign governments, or otherwise exercise governmental authority except in compliance with this Act.

(b) Compensation Not Required.

The prohibitions of this Act apply regardless of whether service is compensated.

(c) Contractual Arrangements.

No covered relative may evade the requirements of this Act through a consulting agreement, advisory contract, fellowship, volunteer position, unpaid designation, temporary appointment, or any substantially similar arrangement.

SEC. 6. ENFORCEMENT.

(a) Voidability.

Any appointment made in violation of this Act shall be void ab initio.

(b) Injunctive Relief.

The Attorney General, the Office of Government Ethics, or any Member of Congress shall have standing to seek declaratory or injunctive relief in an appropriate United States district court.

(c) Inspector General Review.

The Inspector General of the affected agency shall investigate any alleged violation and provide findings to Congress.

(d) Reporting Requirement.

The Comptroller General shall submit an annual report to Congress identifying any covered relatives serving in Executive Branch positions and evaluating compliance with this Act.

SEC. 7. RELATIONSHIP TO OTHER LAWS.

The provisions of this Act shall supplement and not replace—

1. section 3110 of title 5, United States Code (Federal anti-nepotism law);
2. Federal conflict-of-interest statutes;
3. ethics requirements administered by the Office of Government Ethics; and
4. any other applicable provision of Federal law.

SEC. 8. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of its remaining provisions shall not be affected.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after enactment and shall apply to any appointment, designation, employment, retention, or service occurring on or after that date.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS PRESIDENTIAL FAMILY EXCLUSION ACT OF 2029

Overview

The bill seeks to strengthen federal anti-nepotism restrictions by imposing extraordinary procedural barriers before relatives of the President or Vice President may serve in Executive Branch positions. It is principally directed at concerns arising from appointments of family members to senior advisory roles, including unpaid positions and Special Government Employee appointments.

Strongest Constitutional Arguments Supporting the Bill

Congress clearly possesses authority to create, abolish, and regulate statutory offices and to establish qualifications for offices it creates. The Supreme Court has long recognized that Congress may define eligibility criteria for federal employment and impose ethics requirements designed to prevent corruption and conflicts of interest.

The bill also builds upon existing **anti-nepotism legislation**, particularly **5 U.S.C. § 3110**, demonstrating that familial relationship restrictions are not novel to federal law. Congress may reasonably conclude that close relatives of the President and Vice President present unique conflict-of-interest concerns warranting heightened scrutiny.

The reporting, disclosure, ethics review, and Inspector General provisions would likely be upheld as valid exercises of Congress's oversight and transparency powers.

Most Significant Constitutional Vulnerability

The requirement that both congressional ethics committees approve appointments, and that the Senate approve them by a two-thirds vote even where the Constitution otherwise provides only ordinary Senate confirmation, raises serious constitutional concerns.

Under decisions such as *INS v. Chadha*, Congress generally cannot reserve for itself a continuing role in the execution of laws except through constitutionally prescribed legislative processes.

Moreover, where the Constitution specifies appointment procedures in the Appointments Clause, Congress may not substantially alter those procedures.

A court could conclude that requiring approval by House and Senate ethics committees effectively creates an additional constitutional appointment mechanism not authorized by Article II.

House Ethics Committee Approval Issue

The House of Representatives has no constitutional role in the appointment of Executive Branch officers. Consequently, the requirement for House Ethics Committee approval is the provision most vulnerable to constitutional challenge.

A court could find that Congress may establish qualifications for office, but may not give one House of Congress—or one of its committees—a veto over Executive appointments.

Two-Thirds Senate Vote Requirement

The Constitution generally requires only Senate advice and consent by majority vote unless a higher threshold is expressly specified elsewhere in the Constitution. Requiring a two-thirds Senate vote for a specific category of appointees would likely provoke litigation and could be characterized as an unconstitutional alteration of the Appointments Clause.

De Facto Officer Provisions

The provisions covering unpaid advisers, consultants, and individuals exercising governmental authority are more likely to survive review. Courts have historically recognized congressional authority to regulate access to classified information, federal facilities, compensation, ethics obligations, and official governmental functions.

Possible Revision to Improve Constitutionality

The bill would be considerably more defensible if it:

1. imposed a categorical prohibition on appointments of covered relatives;
2. created only a statutory waiver process administered by the Office of Government Ethics;
3. required public disclosure and congressional notification;
4. preserved ordinary Senate confirmation procedures where otherwise required by law; and
5. removed House Ethics Committee approval and supermajority Senate voting requirements.

11.

“Agency Restoration Act of 2029”

H.R. ____

A BILL

To restore the operational capacity of Federal departments and agencies that have been decommissioned, defunded, or rendered incapable of carrying out their primary statutory functions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Agency Restoration Act of 2029."**

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.

Congress finds the following:

1. The Constitution vests in Congress the authority to establish executive departments and agencies, to define their powers and duties, and to appropriate funds for their operation.
2. Numerous Federal departments, agencies, offices, bureaus, programs, and instrumentalities have been created by Act of Congress to carry out responsibilities assigned by statute.
3. Congress possesses a substantial interest in ensuring that Federal entities established by law remain capable of carrying out their legislatively assigned functions unless Congress affirmatively determines otherwise.
4. The decommissioning, defunding, abolition, restructuring, or functional incapacitation of Federal departments or agencies may impair the execution of laws enacted by Congress.
5. Congress retains authority to restore, reorganize, fund, and oversee Federal departments and agencies established pursuant to Federal law.

(b) Purpose.

The purpose of this Act is—

1. to restore the operational capacity of Federal departments and agencies that have been decommissioned, defunded, abolished, materially impaired, or rendered incapable of carrying out their primary statutory functions;
2. to ensure the faithful execution of laws enacted by Congress;
3. to provide an orderly framework for restoration and reconstitution of affected agencies; and
4. to preserve congressional authority over Federal organization, appropriations, and administration.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) Agency.

The term "agency" means any executive department, independent establishment, government corporation, bureau, office, administration, commission, board, service, or other Federal entity established or authorized by Federal law.

(2) Affected agency.

The term "affected agency" means any agency that, after January 20, 2025—

(A) was abolished, terminated, decommissioned, consolidated, or substantially reorganized;

(B) experienced reductions in appropriations, personnel, facilities, contracts, or operational resources sufficient to materially impair the agency's ability to carry out its primary statutory functions;

(C) had statutory functions transferred, suspended, or discontinued in a manner that materially impaired execution of Federal law; or

(D) was otherwise rendered incapable of carrying out its principal responsibilities under Federal law.

(3) Restoration.

The term "restoration" means the reestablishment, reauthorization, reorganization, staffing, funding, and operational reconstitution of an affected agency sufficient to enable such agency to carry out its primary statutory functions.

(4) Department of Government Efficiency.

The term "Department of Government Efficiency" includes any office, initiative, task force, advisory body, or organizational unit commonly known by that designation, whether formally established by statute, Executive Order, administrative action, or otherwise.

SEC. 4. RESTORATION OF AFFECTED AGENCIES.

(a) General Rule.

Not later than 24 months after the effective date of this Act, each affected agency shall be restored to a level sufficient to permit the agency to carry out its primary statutory responsibilities as determined by Congress.

(b) Scope.

Restoration under this section may include—

1. reestablishment of abolished offices, divisions, or programs;
2. restoration of personnel levels;
3. restoration of facilities and operational infrastructure;
4. reinstatement or replacement of contracts, grants, cooperative agreements, and administrative support functions;
5. restoration of regulatory, enforcement, adjudicatory, scientific, research, service-delivery, or administrative capabilities; and
6. such additional measures as Congress determines necessary to restore the agency's lawful functions.

(c) No Automatic Restoration of Particular Organizational Structures.

Nothing in this Act shall require Congress to restore any agency in precisely the organizational form existing before its impairment, provided that any alternative structure adequately enables execution of the agency's primary statutory duties.

SEC. 5. CONGRESSIONAL RESTORATION PLAN.

(a) Development of Restoration Plan.

Not later than 180 days after enactment of this Act, the Committees on Appropriations, Oversight and Government Reform, and any other committees of jurisdiction of the House of Representatives and Senate shall develop a restoration framework for affected agencies.

(b) Elements.

The framework shall include—

1. identification of affected agencies;
2. assessment of operational deficiencies;
3. recommended staffing levels;
4. estimated appropriations requirements;
5. restoration priorities;
6. implementation milestones; and
7. such additional matters as Congress determines appropriate.

(c) Prioritization.

In establishing restoration schedules, Congress may consider—

1. threats to public health or safety;
2. national security concerns;
3. statutory mandates requiring immediate execution;
4. economic and financial stability;
5. protection of civil rights and liberties;
6. scientific and research capacity; and
7. any other relevant facts and circumstances existing at the time of restoration.

SEC. 6. REPORTS TO CONGRESS.

(a) Initial Report.

Not later than 120 days after enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress a report identifying all affected agencies and describing the extent of operational impairment suffered by each agency.

(b) Quarterly Reports.

Beginning 180 days after enactment and continuing until completion of restoration activities, the Director of the Office of Management and Budget shall submit quarterly reports to Congress describing—

1. restoration progress;
2. expenditures made pursuant to this Act;
3. staffing levels;
4. remaining operational deficiencies; and
5. recommendations for further congressional action.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall—

1. be construed to create any private right of action;
2. impair Congress's authority to modify, reorganize, consolidate, or abolish agencies by subsequent Act of Congress; or
3. require the continuation of any program that Congress has expressly terminated by statute.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

Constitutional and Administrative Law Analysis
The Agency Restoration Act of 2029

Executive Summary

The proposed **Agency Restoration Act of 2029** is likely to rest upon substantial constitutional authority. Congress possesses broad powers to create, fund, organize, regulate, and, when necessary, reconstitute federal agencies and departments. To the extent that the Act seeks to restore agencies that continue to possess statutory responsibilities enacted by Congress, the legislation would be supported by Congress's Article I powers and by the constitutional principle that the Executive Branch must faithfully execute federal law.

The bill is strongest when understood as requiring restoration of the federal government's capacity to carry out existing statutory mandates. It is potentially more vulnerable if interpreted as compelling restoration of specific organizational structures, personnel, programs, or funding levels that Congress itself has not separately authorized through appropriations legislation.

The principal constitutional issues involve:

1. Congressional authority over agencies and appropriations.
2. Separation of powers.
3. The President's authority to supervise the Executive Branch.
4. The Appointments Clause.
5. The Take Care Clause.
6. Administrative-law questions concerning implementation and judicial review.

I. Constitutional Authority for the Legislation

A. Necessary and Proper Clause

Congress's strongest constitutional basis is the Necessary and Proper Clause.

Article I, Section 8, Clause 18 authorizes Congress:

"To make all Laws which shall be necessary and proper for carrying into Execution" federal powers and all powers vested in the federal government.

Federal agencies exist because Congress created them through statute.

Examples include:

- the Department of Education;
- the Environmental Protection Agency;
- the Consumer Financial Protection Bureau;
- the Securities and Exchange Commission;
- the Federal Trade Commission;
- USAID (when separately established);
- numerous commissions and boards.

Because Congress created these entities, Congress may determine that they must remain capable of carrying out statutory responsibilities.

The Supreme Court has repeatedly recognized Congress's broad discretion in structuring federal administration.

Notable precedents include:

- McCulloch v. Maryland
- United States v. Comstock

Both decisions endorse broad congressional discretion under the Necessary and Proper Clause.

Effect on the Bill

Section 4's restoration mandate would likely be upheld as a valid exercise of Congress's authority to ensure execution of federal statutes.

B. Spending Clause

Congress possesses exclusive authority to appropriate federal funds.

Article I, Section 9 provides:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

Because agencies depend upon appropriations:

- Congress may increase funding;
- Congress may restore funding;
- Congress may direct restoration efforts through appropriations legislation.

The bill's provision authorizing "such sums as may be necessary" falls comfortably within established congressional authority.

Strength

Very strong constitutional footing.

C. Oversight and Structural Authority

Congress possesses long-recognized authority to:

- create agencies;
- modify agencies;
- merge agencies;
- abolish agencies;
- assign agency responsibilities.

The converse proposition follows naturally:

Congress may restore agencies previously diminished by executive action.

The Supreme Court has repeatedly characterized federal agencies as creatures of statute.

Examples include:

- Humphrey's Executor v. United States
- Morrison v. Olson

II. Separation of Powers Issues

A. Presidential Control of the Executive Branch

The principal constitutional objection would likely come from a future President arguing that the Act interferes with executive management authority.

Article II vests executive power in the President.

The President may argue:

- staffing decisions are executive functions;
- internal agency management is executive;

- Congress cannot micromanage administration.

Recent Supreme Court decisions have strengthened presidential control over the Executive Branch.

Important examples include:

- Seila Law LLC v. Consumer Financial Protection Bureau
- Collins v. Yellen

Analysis

The current draft largely avoids this problem because it does not:

- require specific personnel appointments;
- require specific office holders;
- dictate day-to-day management.

Instead it establishes a restoration objective.

Courts generally allow Congress to establish objectives while leaving implementation to the Executive Branch.

Risk Level

Low to moderate.

B. Anti-Commandeering of the President

Congress cannot simply order the President to exercise discretionary powers in a particular way.

The Supreme Court has repeatedly emphasized that Congress may not directly assume executive functions.

The bill **wisely delegates** implementation to ordinary executive mechanisms and congressional appropriations processes.

Because the Act **does not** require the President personally to perform specific actions, constitutional concerns are reduced.

III. Take Care Clause Considerations

Article II requires the President to:

"take Care that the Laws be faithfully executed."

This provision may actually support the bill.

Congress could argue:

1. Agencies were created by law.
2. Statutory duties remain in force.
3. Eliminating operational capacity effectively suspends federal law.
4. Congress may therefore require restoration.

A central argument would be:

Congress is not creating new duties; it is ensuring execution of existing duties.

This rationale would likely resonate with courts.

IV. Appointments Clause Issues

The bill avoids major Appointments Clause problems.

The Act does not:

- appoint officers;
- require appointment of named individuals;
- bypass Senate confirmation procedures.

If future restoration efforts require:

- new agency heads;
- commissioners;
- inspectors general;

those appointments would still proceed under Article II.

Consequently, Appointments Clause concerns are minimal.

V. Administrative Law Analysis

A. Nondelegation Doctrine

The bill authorizes Congress to determine:

"the timetable to fund, staff, and set priorities."

A nondelegation challenge is **unlikely**.

Congress is not delegating authority to a private actor.

Congress is retaining authority.

The Supreme Court has historically upheld far broader delegations.

Examples include:

- Yakus v. United States
- Whitman v. American Trucking Associations

B. Administrative Procedure Act

Restoration actions would likely involve:

- regulations;
- personnel actions;
- grant programs;
- procurement contracts.

Agency actions implementing restoration would therefore remain subject to:

- the Administrative Procedure Act;
- notice-and-comment requirements where applicable;
- judicial review.

The Act does not exempt agencies from the APA.

Accordingly, ordinary administrative-law safeguards would continue to apply.

C. Judicial Review

The bill partially limits judicial review by denying a private right of action.

Courts generally respect such provisions.

However, agency actions implementing the Act would still likely be reviewable under the APA unless Congress expressly precludes review.

Thus:

Not reviewable:

- generalized complaints that Congress has not restored agencies quickly enough.

Potentially reviewable:

- specific agency implementation decisions.

VI. Potential Litigation Challenges

Challenge 1:

"Congress cannot force the President to recreate agencies."

Response:

Congress created the agencies and may direct that appropriated funds be used to restore statutory functions.

Likely outcome:

Congress prevails.

Challenge 2:

"Congress is intruding on executive personnel management."

Response:

The bill establishes goals, not specific hiring decisions.

Likely outcome:

Congress prevails.

Challenge 3:

"The bill is too vague."

Response:

The definitions section provides objective standards:

- abolished;
- materially impaired;
- incapable of carrying out primary statutory functions.

Likely outcome:

Challenge likely fails.

Challenge 4:

"The Act violates the unitary executive theory."

This argument would rely on recent Supreme Court opinions favoring presidential control.

However, the Act **does not create independent officers insulated from removal nor limit presidential supervision**.

Likely outcome:

Challenge likely fails.

VII. Recommendations for Strengthening the Bill

The legislation would be constitutionally stronger if it included explicit congressional findings such as:

1. Congress alone creates federal agencies and statutory mandates.
2. Executive action may not effectively repeal laws through administrative incapacitation.
3. Restoration is necessary to preserve faithful execution of federal law.

4. Nothing in the Act requires restoration of any agency structure that Congress subsequently modifies by statute.

5. Restoration shall occur consistent with appropriations enacted by Congress.

Additionally, Congress could direct the Government Accountability Office to prepare a formal inventory of affected agencies and provide restoration recommendations, thereby creating a more robust legislative record.

Conclusion

The Agency Restoration Act of 2029 would likely rest on a substantial constitutional foundation grounded in Congress's Article I powers over appropriations, agency creation, and governmental structure. The strongest argument for constitutionality is that Congress is not creating new executive obligations but ensuring that agencies established by statute remain capable of carrying out duties that federal law already requires.

While separation-of-powers objections could be raised under modern unitary-executive theories, the current draft largely avoids direct interference with presidential supervision and appointments. Consequently, the bill would probably survive constitutional challenge if implemented through ordinary appropriations and administrative processes and if understood as restoring the government's capacity to execute existing law rather than mandating any particular organizational form or personnel configuration.

12.

"Emoluments Accountability and Congressional Review Act of 2029"

H.R. ___

A BILL

To establish mandatory investigative, disclosure, referral, and congressional review procedures concerning substantial emoluments received by certain senior Federal officials, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Emoluments Accountability and Congressional Review Act of 2029."**

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.

Congress finds that—

1. the Constitution prohibits certain Federal officials from accepting emoluments from foreign states without congressional consent;
2. the receipt of substantial financial benefits, gifts, or other things of value by senior government officials may undermine public confidence in the integrity and impartiality of government;
3. Congress possesses constitutional authority to investigate official misconduct and to determine whether such misconduct warrants impeachment;
4. Inspectors General play an essential role in identifying misconduct, corruption, conflicts of interest, and abuse of office; and
5. public confidence in government is enhanced when allegations involving substantial emoluments are reviewed through transparent and orderly congressional procedures.

(b) Purposes.

The purposes of this Act are—

1. to establish mandatory investigative procedures concerning substantial emoluments received by senior government officials;
2. to require public reporting of findings;
3. to require congressional review of substantiated findings;
4. to ensure that allegations involving substantial emoluments receive formal consideration by the House of Representatives; and
5. to preserve the constitutional discretion of the House of Representatives and the Senate concerning impeachment.

SEC. 3. DEFINITIONS.

(a) Covered Official.

The term "covered official" means—

1. the President;
2. the Vice President;
3. any Cabinet Secretary;
4. the White House Chief of Staff;
5. the National Security Advisor;
6. the Director of National Intelligence;
7. the Director of the Office of Management and Budget;
8. any officer compensated at Executive Schedule Level I or Level II; and
9. any other officer designated by Act of Congress as a senior government official.

(b) Emolument.

The term "emolument" means any profit, gain, compensation, salary, fee, gift, gratuity, payment, business opportunity, financial benefit, preferential treatment, forgiveness of debt, contractual advantage, favorable transaction, or other thing of value received directly or indirectly.

(c) Item of Value.

The term "item of value" means any tangible or intangible property, service, right, privilege, financial instrument, investment opportunity, contractual benefit, loan, extension of credit, or other thing possessing economic value.

(d) Indirect Receipt.

The term "indirect receipt" includes receipt through—

1. a spouse;
2. a dependent;
3. a trust;
4. a partnership;
5. a corporation;
6. a limited liability company;
7. a foundation;
8. a controlled affiliate; or
9. any person or entity acting for the benefit of a covered official.

(e) Inspector General.[4]

The term "Inspector General" includes any Inspector General established under the Inspector General Act of 1978 and any successor office established by law.

SEC. 4. INVESTIGATION OF SUBSTANTIAL EMOLUMENTS.

(a) Mandatory Investigation.

[4] Another bill in this series calls for the establishment of an office of "Chief Inspector General." If that bill becomes law, the language should be "Chief Inspector General" rather than Inspector General herein.

Whenever an Inspector General receives credible evidence that a covered official has received, directly or indirectly, an emolument or item of value having an aggregate value of $10,000 or more, as reasonably determined, the Inspector General shall initiate an investigation.

(b) Standards.

The Inspector General shall determine—

1. the nature and value of the emolument;
2. the source of the emolument;
3. whether the emolument was received directly or indirectly;
4. whether applicable constitutional, statutory, regulatory, or ethics provisions were implicated; and
5. any other facts relevant to congressional review.

SEC. 5. REPORT OF FINDINGS.

(a) Report.

Upon completion of an investigation, the Inspector General shall issue a written report containing—

1. findings of fact;
2. supporting evidence;
3. valuation methodology;
4. legal and ethics analysis;
5. conclusions; and
6. recommendations.

(b) Referral Threshold.

If the Inspector General finds by a preponderance of the evidence that a covered official received, directly or indirectly, an emolument or item of value having an aggregate value of $10,000 or more, as reasonably determined, the report shall be referred pursuant to subsection (c).

(c) Congressional Referral.

The report shall be transmitted to—

1. the Speaker of the House of Representatives;
2. the Minority Leader of the House;
3. the Chair and Ranking Member of the House Committee on the Judiciary;
4. the Majority and Minority Leaders of the Senate; and
5. the Chair and Ranking Member of the Senate Committee on the Judiciary.

(d) Public Disclosure.

Except where classified information, grand jury material, or protected national security information is involved, the report shall be made publicly available within 14 days after transmission to Congress.

SEC. 6. MANDATORY JUDICIARY COMMITTEE REVIEW.

(a) Automatic Referral.

Upon receipt of a report under section 5(c), the matter shall automatically be referred to the House Committee on the Judiciary.

(b) Hearings.

The Committee shall conduct one or more public hearings regarding the report not later than 90 days after referral, except where classified information requires closed proceedings.

(c) Committee Investigation.

The Committee may conduct additional investigations, issue subpoenas, receive testimony, and gather evidence.

SEC. 7. PREPARATION OF ARTICLES OF IMPEACHMENT.

(a) Drafting Requirement.

Not later than 120 days after receiving a report under section 5(c), the House Committee on the Judiciary shall prepare proposed Articles of Impeachment addressing the conduct described in the report.

(b) Alternative Recommendation.

The Committee may also prepare alternative recommendations, including censure, referral for criminal investigation, ethics referrals, legislative reforms, or no further action.

SEC. 8. PUBLIC COMMITTEE VOTE.

(a) Vote Required.

Following consideration of the proposed Articles of Impeachment and any alternative recommendations, the House Committee on the Judiciary shall conduct a recorded public vote.

(b) Committee Report.

The Committee shall issue a written report setting forth—

1. its findings;
2. the results of its vote;
3. the views of the majority; and
4. any dissenting or supplemental views.

SEC. 9. HOUSE CONSIDERATION.

The Committee's report, together with any Articles of Impeachment approved by the Committee, shall be transmitted to the House of Representatives for consideration pursuant to the Rules of the House.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall—

1. require the House of Representatives to approve any Article of Impeachment;
2. require the Senate to convict any impeached official;
3. alter the constitutional powers of either House of Congress;
4. create a criminal offense;
5. establish a presumption of guilt; or

6. limit the authority of Congress to pursue any other remedy permitted by law.

SEC. 11. SEVERABILITY.

If any provision of this Act, or its application to any person or circumstance, is held invalid, the remainder shall not be affected.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
EMOLUMENTS ACCOUNTABILITY AND CONGRESSIONAL REVIEW ACT OF 2029

Executive Summary

This version is strong because it does not attempt to compel the House of Representatives to impeach or otherwise predetermine the exercise of Congress's impeachment authority. The Act creates a mandatory investigative and review framework while preserving the independent constitutional judgment of both Houses of Congress.

I. House Impeachment Power

Article I, Section 2, Clause 5 of the Constitution provides that the House of Representatives shall have the **"sole Power of Impeachment."**

The principal weakness of the original proposal was that it effectively required impeachment whenever an Inspector General made specified findings. Such a mandate would likely be challenged as an impermissible attempt by one Congress to bind future Houses in the exercise of a constitutional power.

The revised bill avoids that problem.

The Act requires:

- investigation,
- referral,

- hearings,
- drafting of Articles of Impeachment,
- a committee vote, and
- reporting to the House.

The Act does **not** require the House to approve Articles of Impeachment.

Accordingly, the ultimate impeachment decision remains with the House, consistent with Article I.

II. Senate Trial Power

Article I, Section 3 grants the Senate the **sole Power to try all Impeachments**.

The revised bill imposes no obligations on the Senate beyond receipt of information.

Because the legislation does not require a trial outcome, conviction, acquittal, or procedural rule, it does not materially interfere with Senate constitutional authority.

III. Congressional Rulemaking Authority

Article I, Section 5 provides that each House may determine the rules of its proceedings.

This provision presents the strongest remaining constitutional challenge.

Although Congress routinely enacts statutes establishing reporting obligations and referral mechanisms, a future House could argue that statutory requirements governing committee hearings, votes, and impeachment procedures intrude upon its constitutional rulemaking authority.

However, courts have traditionally treated internal congressional procedural disputes as nonjusticiable political questions.

As a practical matter, a future House could waive, suspend, modify, or repeal these procedures through its own rules.

Consequently, the legislation would likely be viewed as expressing a standing congressional policy rather than creating judicially enforceable procedural commands.

IV. Inspector General Investigations

Congress plainly possesses authority to require Inspectors General to investigate misconduct and provide reports to Congress.

The Inspector General Act of 1978 already establishes extensive reporting and oversight mechanisms.

The investigative provisions of this bill therefore rest on strong constitutional footing.

V. Emoluments and Anti-Corruption Powers

The Constitution itself contains multiple anti-corruption provisions, including the Foreign Emoluments Clause and the Domestic Emoluments Clause.

Congress may enact legislation designed to facilitate oversight and enforcement of those constitutional restrictions.

The bill does not redefine constitutional prohibitions or impose criminal sanctions. Instead, it creates mechanisms to identify potential violations and bring them before Congress.

This significantly strengthens its constitutional position.

VI. Due Process Considerations

The bill employs a "preponderance of the evidence" standard for Inspector General findings.

Because the legislation does not create criminal penalties, civil liability, disqualification from office, or automatic impeachment consequences, this standard is likely constitutionally sufficient.

The affected official retains opportunities to:

- provide evidence,
- testify,
- submit written responses,
- participate in congressional proceedings, and
- defend against any impeachment charges that may subsequently be considered.

VII. Judicial Review

The bill expressly avoids inviting judicial intervention into impeachment proceedings.

This approach is consistent with Supreme Court precedent, particularly Nixon v. United States, which emphasized the political-question character of impeachment proceedings.

Federal courts would likely regard disputes arising from congressional consideration of reports under this Act as nonjusticiable.

VIII. Overall Assessment

The bill is:

1. preserves House discretion over impeachment;
2. preserves Senate discretion over conviction;
3. relies on Congress's established oversight powers;
4. employs existing Inspector General mechanisms;
5. promotes transparency and accountability; and
6. avoids creating a statutory "automatic impeachment" process.

Its strongest constitutional basis lies in **Congress's powers of investigation, oversight, anti-corruption legislation, and information gathering**. Its principal remaining vulnerability is that one Congress cannot permanently bind the internal procedures of future Houses. That concern, however, affects only the procedural provisions and would be unlikely to invalidate the investigative and reporting framework that forms the core of the Act.

13.

"National Historic Federal Facilities Review and Restoration Act of 2030"

H.R. _______

A Bill

To establish a comprehensive process for the review, evaluation, preservation, restoration, modification, or removal of major federal construction, renovation, monument, memorial, and landscape projects undertaken on nationally significant federal properties between January 20, 2025, and January 20, 2029, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"National Historic Federal Facilities Review and Restoration Act of 2030."**

SEC. 2. PURPOSES.

The purposes of this Act are—

1. to preserve the historical, architectural, cultural, commemorative, and civic integrity of nationally significant federal properties;
2. to provide a uniform process for evaluating substantial alterations to such properties;
3. to ensure that major federal construction and renovation projects undertaken on nationally significant federal properties are reviewed according to objective criteria;
4. to provide Congress with sufficient information to determine whether restoration, preservation, modification, or retention of such projects serves the public interest;
5. to preserve the constitutional prerogatives of the Legislative and Executive Branches with respect to federal property and governmental operations; and

6. to ensure that decisions affecting nationally significant federal properties are supported by a comprehensive administrative record.

SEC. 3. CONGRESSIONAL FINDINGS.

Congress finds that—

1. nationally significant federal properties serve unique historical, constitutional, civic, commemorative, educational, and cultural functions;
2. Congress possesses broad authority under Article IV, Section 3, Clause 2 of the Constitution to regulate and make rules respecting property belonging to the United States;
3. Congress possesses authority under Article I of the Constitution to determine the appropriation and expenditure of federal funds;
4. major construction, renovation, demolition, landscaping, and commemorative projects may substantially alter the historic character and public use of nationally significant federal properties;
5. restoration, preservation, or modification decisions should be based upon objective findings concerning historical integrity, governmental functionality, public use, cost, feasibility, and safety;
6. decisions concerning nationally significant federal properties should be informed by expert analysis and public participation; and
7. the public interest is best served by establishing a neutral and comprehensive review process rather than relying upon ad hoc determinations.

SEC. 4. DEFINITIONS.

For purposes of this Act:

(a) Commission.

The term "Commission" means the Federal Facilities Restoration Commission established pursuant to section 5.

(b) Covered Project.

The term "covered project" means any federal construction, renovation, demolition, landscaping, monument, memorial, commemorative, or architectural project—

1. commenced between January 20, 2025, and January 20, 2029;
2. undertaken on nationally significant federal property; and
3. involving expenditures exceeding $10,000,000 or such other amount as the Commission may establish by regulation.

(c) Nationally Significant Federal Property.

The term "nationally significant federal property" includes—

1. the White House Complex;
2. the Executive Residence grounds;
3. the National Mall;
4. federal memorials;
5. federal monuments;
6. properties designated as National Historic Landmarks;
7. properties listed on or eligible for listing on the National Register of Historic Places; and
8. such additional properties as the Commission may designate.

(d) Restoration.

The term "restoration" means returning a property, structure, facility, monument, memorial, landscape, or architectural feature to substantially the condition existing immediately prior to commencement of a covered project.

(e) Historical Integrity.

The term "historical integrity" shall have the meaning established by the Secretary of the Interior pursuant to applicable federal preservation standards.

SEC. 5. FEDERAL FACILITIES RESTORATION COMMISSION.

(a) Establishment.

There is established an independent commission to be known as the **Federal Facilities Restoration Commission.**

(b) Membership.

The Commission shall consist of—

1. the Architect of the Capitol, or designee;
2. the Archivist of the United States, or designee;
3. the Chair of the Advisory Council on Historic Preservation, or designee;
4. the Director of the National Park Service, or designee;
5. one architect appointed by the Speaker of the House of Representatives;
6. one architect appointed by the Minority Leader of the House of Representatives;
7. one preservation historian appointed by the Majority Leader of the Senate;
8. one preservation historian appointed by the Minority Leader of the Senate;
9. one engineer with expertise in federal construction appointed jointly by the Speaker and Minority Leader of the House of Representatives; and
10. one representative of the public appointed jointly by the Majority and Minority Leaders of the Senate.

(c) Political Balance.

Not more than one-half of the appointed members shall be affiliated with the same political party.

SEC. 6. REVIEW OF COVERED PROJECTS.

(a) Inventory.

Not later than 180 days after enactment, each federal agency shall submit to the Commission a complete inventory of covered projects.

(b) Evaluation.

The Commission shall evaluate each covered project and determine whether—

1. the project materially altered the historical integrity of a nationally significant federal property;
2. restoration is technically feasible;
3. restoration would improve historical integrity;
4. restoration would serve the public interest;

5. restoration costs are justified by anticipated public benefits;
6. restoration would not materially impair governmental operations;
7. restoration would not create unreasonable public safety risks; and
8. restoration is consistent with applicable federal preservation and environmental laws.

(c) Public Hearings.

The Commission shall conduct public hearings regarding projects under review.

(d) Administrative Record.

The Commission shall compile a written administrative record supporting each recommendation.

SEC. 7. SPECIAL REVIEW OF EXECUTIVE BRANCH FACILITIES.

(a) White House Facilities.

Where a covered project affects the White House Complex, Executive Residence, East Wing, West Wing, grounds, or other facilities utilized by the President in carrying out constitutional duties, the Commission shall specifically determine whether restoration would materially impair the performance of such duties.

(b) Limitation.

No restoration recommendation concerning such facilities may be approved unless the Commission expressly finds that restoration would not materially interfere with the President's constitutional responsibilities.

SEC. 8. REPORTS AND RECOMMENDATIONS.

(a) Final Report.

Not later than two years after enactment, the Commission shall submit to Congress a final report containing—

1. findings concerning each covered project;
2. recommendations for restoration, preservation, modification, or retention;
3. cost estimates;
4. historical assessments;

5. environmental assessments;
6. operational impact assessments; and
7. supporting documentation.

(b) Publication.

The report shall be made publicly available.

SEC. 9. CONGRESSIONAL APPROVAL REQUIRED.

(a) No Automatic Restoration.

No covered project shall be restored, removed, demolished, modified, or materially altered pursuant to this Act unless specifically authorized by a subsequent Act of Congress.

(b) Project-Specific Authorization.

Any Act approving restoration shall identify with specificity—

1. the affected property;
2. the approved scope of restoration;
3. appropriated funds;
4. implementation deadlines; and
5. any conditions imposed by Congress.

SEC. 10. COMPLIANCE WITH OTHER FEDERAL LAW.

Nothing in this Act shall be construed to supersede, waive, or modify requirements under—

1. the National Environmental Policy Act;
2. the National Historic Preservation Act;
3. the Archaeological Resources Protection Act;
4. any applicable federal procurement law;
5. any applicable labor law; or
6. any other federal law governing federal property.

SEC. 11. PROTECTION OF CONTRACTUAL RIGHTS.

(a) Existing Contracts.

Nothing in this Act shall be construed to invalidate, impair, or abrogate any vested contractual right.

(b) Termination Costs.

Congress recognizes that implementation of restoration recommendations may require payment of lawful contract termination costs, equitable adjustments, or other compensation authorized by law.

(c) Tucker Act.

Nothing in this Act shall be construed to limit remedies otherwise available under federal law.

SEC. 12. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

1. to express approval or disapproval of any particular President, administration, political party, public official, or governmental policy;
2. to impose punishment upon any person;
3. to create any presumption that a covered project should be restored;
4. to require restoration where preservation, modification, or retention better serves the public interest; or
5. to authorize interference with the constitutional functions of any branch of the Federal Government.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS: THE AGENCY RESTORATION ACT OF 2029

Executive Summary

The proposed **Agency Restoration Act of 2029** is likely to rest upon substantial constitutional authority. Congress possesses broad powers to create, fund, organize, regulate, and, when necessary, reconstitute federal agencies and departments. To the extent that the Act seeks to restore agencies that continue to possess statutory responsibilities enacted by Congress, the legislation would be supported by Congress's Article I powers and by the constitutional principle that the Executive Branch must faithfully execute federal law.

The bill is strongest when understood as requiring restoration of the federal government's capacity to carry out existing statutory mandates. It is potentially more vulnerable if interpreted as compelling restoration of specific organizational structures, personnel, programs, or funding levels that Congress itself has not separately authorized through appropriations legislation.

The principal constitutional issues involve:

7. Congressional authority over agencies and appropriations.
8. Separation of powers.
9. The President's authority to supervise the Executive Branch.
10. The Appointments Clause.
11. The Take Care Clause.
12. Administrative-law questions concerning implementation and judicial review.

I. Constitutional Authority for the Legislation

A. Necessary and Proper Clause

Congress's strongest constitutional basis is the Necessary and Proper Clause.

Article I, Section 8, Clause 18 authorizes Congress:

"To make all Laws which shall be necessary and proper for carrying into Execution" federal powers and all powers vested in the federal government.

Federal agencies exist because Congress created them through statute.

Examples include:

- the Department of Education;
- the Environmental Protection Agency;
- the Consumer Financial Protection Bureau;
- the Securities and Exchange Commission;
- the Federal Trade Commission;
- USAID (when separately established);
- numerous commissions and boards.

Because Congress created these entities, Congress may determine that they must remain capable of carrying out statutory responsibilities.

The Supreme Court has repeatedly recognized Congress's broad discretion in structuring federal administration.

Notable precedents include:

- McCulloch v. Maryland
- United States v. Comstock

Both decisions endorse broad congressional discretion under the Necessary and Proper Clause.

Effect on the Bill

Section 4's restoration mandate would likely be upheld as a valid exercise of Congress's authority to ensure execution of federal statutes.

B. Spending Clause

Congress possesses exclusive authority to appropriate federal funds.

Article I, Section 9 provides:

"No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

Because agencies depend upon appropriations:

- Congress may increase funding;
- Congress may restore funding;

- Congress may direct restoration efforts through appropriations legislation.

The bill's provision authorizing "such sums as may be necessary" falls comfortably within established congressional authority.

Strength

Very strong constitutional footing.

C. Oversight and Structural Authority

Congress possesses long-recognized authority to:

- create agencies;
- modify agencies;
- merge agencies;
- abolish agencies;
- assign agency responsibilities.

The converse proposition follows naturally:

Congress may restore agencies previously diminished by executive action.

The Supreme Court has repeatedly characterized federal agencies as creatures of statute.

Examples include:

- Humphrey's Executor v. United States
- Morrison v. Olson

II. Separation of Powers Issues

A. Presidential Control of the Executive Branch

The principal constitutional objection would likely come from a future President arguing that the Act interferes with executive management authority.

Article II vests executive power in the President.

The President may argue:

- staffing decisions are executive functions;
- internal agency management is executive;
- Congress cannot micromanage administration.

Recent Supreme Court decisions have strengthened presidential control over the Executive Branch.

Important examples include:

- Seila Law LLC v. Consumer Financial Protection Bureau
- Collins v. Yellen

Analysis

The current draft **largely avoids this problem** because it does not:

- require specific personnel appointments;
- require specific office holders;
- dictate day-to-day management.

Instead it establishes a restoration objective.

Courts generally allow Congress to establish objectives while leaving implementation to the Executive Branch.

Risk Level

Low to moderate.

B. Anti-Commandeering of the President

Congress cannot simply order the President to exercise discretionary powers in a particular way.

The Supreme Court has repeatedly emphasized that Congress may not directly assume executive functions.

The bill wisely delegates implementation to ordinary executive mechanisms and congressional appropriations processes.

Because the Act does not require the President personally to perform specific actions, constitutional concerns are reduced.

III. Take Care Clause Considerations

Article II requires the President to:

"take Care that the Laws be faithfully executed."

This provision may actually support the bill.

Congress could argue:

5. Agencies were created by law.
6. Statutory duties remain in force.
7. Eliminating operational capacity effectively suspends federal law.
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A central argument would be:

Congress is not creating new duties; it is ensuring execution of existing duties.

This rationale would likely resonate with courts.

IV. Appointments Clause Issues

The bill avoids major Appointments Clause problems.

The Act does not:

- appoint officers;
- require appointment of named individuals;
- bypass Senate confirmation procedures.

If future restoration efforts require:

- new agency heads;
- commissioners;
- inspectors general;

those appointments would still proceed under Article II.

Consequently, Appointments Clause concerns are minimal.

V. Administrative Law Analysis

A. Nondelegation Doctrine

The bill authorizes Congress to determine:

"the timetable to fund, staff, and set priorities."

A nondelegation challenge is unlikely.

Congress is not delegating authority to a private actor.

Congress is retaining authority.

The Supreme Court has historically upheld far broader delegations.

Examples include:

- Yakus v. United States
- Whitman v. American Trucking Associations

B. Administrative Procedure Act

Restoration actions would likely involve:

- regulations;
- personnel actions;
- grant programs;
- procurement contracts.

Agency actions implementing restoration would therefore remain subject to:

- the Administrative Procedure Act;
- notice-and-comment requirements where applicable;
- judicial review.

The Act does not exempt agencies from the APA.

Accordingly, ordinary administrative-law safeguards would continue to apply.

C. Judicial Review

The bill partially limits judicial review by denying a private right of action.

Courts generally respect such provisions.

However, agency actions implementing the Act would still likely be reviewable under the APA unless Congress expressly precludes review.

Thus:

Not reviewable:

- generalized complaints that Congress has not restored agencies quickly enough.

Potentially reviewable:

- specific agency implementation decisions.

VI. Potential Litigation Challenges

Challenge 1:

"Congress cannot force the President to recreate agencies."

Response:

Congress created the agencies and may direct that appropriated funds be used to restore statutory functions.

Likely outcome:
Congress prevails.

Challenge 2:

"Congress is intruding on executive personnel management."

Response:

The bill establishes goals, not specific hiring decisions.

Likely outcome:
Congress prevails.

Challenge 3:

"The bill is too vague."

Response:

The definitions section provides objective standards:

- abolished;
- materially impaired;
- incapable of carrying out primary statutory functions.

Likely outcome:
Challenge likely fails.

Challenge 4:

"The Act violates the unitary executive theory."

This argument would rely on recent Supreme Court opinions favoring presidential control.

However, the Act does not create independent officers insulated from removal nor limit presidential supervision.

Likely outcome:
Challenge likely fails.

VII. Recommendations for Strengthening the Bill

The legislation would be constitutionally stronger if it included explicit congressional findings such as:

6. Congress alone creates federal agencies and statutory mandates.
7. Executive action may not effectively repeal laws through administrative incapacitation.
8. Restoration is necessary to preserve faithful execution of federal law.
9. Nothing in the Act requires restoration of any agency structure that Congress subsequently modifies by statute.
10. Restoration shall occur consistent with appropriations enacted by Congress.

Additionally, Congress could direct the Government Accountability Office to prepare a formal inventory of affected agencies and provide restoration recommendations, thereby creating a more robust legislative record.

Conclusion

The Agency Restoration Act of 2029 would likely rest on a substantial constitutional foundation grounded in Congress's Article I powers over appropriations, agency creation, and governmental structure. The strongest argument for constitutionality is that Congress is not creating new executive obligations but ensuring that agencies established by statute remain capable of carrying out duties that federal law already requires.

While separation-of-powers objections could be raised under modern unitary-executive theories, the current draft largely avoids direct interference with presidential supervision and appointments. Consequently, the bill would probably survive constitutional challenge if implemented through ordinary appropriations and administrative processes and if understood as restoring the government's capacity to execute existing law rather than mandating any particular organizational form or personnel configuration.

14.

"Technology Regulation and National Security Act of 2028"

H.R. ____

A BILL

To establish the Department of Technology Regulation and Oversight, to regulate certain artificial intelligence systems and artificial intelligence infrastructure according to risk-based classifications, to protect the national security, economic security, public safety, and constitutional liberties of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I — SHORT TITLE; FINDINGS; PURPOSES

SEC. 101. SHORT TITLE.

This Act may be cited as the **"Technology Regulation and National Security Act of 2028."**

SEC. 102. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) National Security Risks.

Artificial intelligence systems are increasingly capable of performing tasks previously requiring human expertise, including—

(A) cyber operations;

(B) military planning;

(C) intelligence analysis;

(D) biological research;

(E) chemical research;

(F) advanced engineering design;

(G) autonomous operational decision-making.

(2) Strategic Competition.

Advanced artificial intelligence technologies are likely to become essential components of geopolitical competition among nation-states.

(3) Weapons Development Risks.

Artificial intelligence systems may materially increase the ability of state and non-state actors to develop chemical, biological, radiological, cyber, and other weapons capabilities.

(4) Critical Infrastructure Risks.

Artificial intelligence systems may affect the security and reliability of critical infrastructure sectors including—

(A) energy;

(B) communications;

(C) finance;

(D) transportation;

(E) water systems;

(F) healthcare.

(5) Economic Security Risks.

Concentration of advanced computational resources and artificial intelligence capabilities may create systemic risks affecting economic stability and market competition.

(6) Foreign Adversary Access.

The unrestricted transfer of advanced artificial intelligence systems or infrastructure to foreign adversaries may threaten national security.

(7) Constitutional Interests.

The regulation of artificial intelligence must remain consistent with constitutional protections including freedom of speech, due process, equal protection, and protection from unreasonable governmental intrusion.

(8) Need for Regulatory Clarity.

Congress finds that statutory standards governing agency authority are necessary to ensure predictable and lawful administration.

SEC. 103. PURPOSES.

The purposes of this Act are—

1. to promote the safe development of artificial intelligence;
2. to protect national security;
3. to preserve economic competitiveness;
4. to protect constitutional liberties;
5. to establish a transparent regulatory framework;
6. to ensure democratic accountability for the regulation of emerging technologies.

TITLE II — DEPARTMENT OF TECHNOLOGY REGULATION AND OVERSIGHT

SEC. 201. ESTABLISHMENT.

There is established an executive department known as the **Department of Technology Regulation and Oversight ("DTRO").**

SEC. 202. SECRETARY.

The Department shall be headed by a Secretary appointed by the President, by and with the advice and consent of the Senate.

TITLE III — DEFINITIONS

(Definitions from the prior draft retained and expanded.)

Additional definitions:

Frontier Artificial Intelligence System.

A system exceeding computational, capability, autonomy, or operational thresholds established by Congress or by regulation pursuant to the standards established in this Act.

High-Consequence Capability.

A capability reasonably expected to enable—

1. offensive cyber operations;
2. weapons design;
3. autonomous military operations;
4. critical infrastructure disruption;
5. large-scale deception operations;
6. biological or chemical agent development.

TITLE IV — INTELLIGIBLE PRINCIPLES GOVERNING AGENCY ACTION

SEC. 401. LIMITATION ON REGULATORY AUTHORITY.

The Department may regulate artificial intelligence systems only where necessary to address one or more of the following interests:

1. national security;
2. public safety;
3. critical infrastructure protection;
4. protection against substantial economic disruption;
5. protection against unlawful foreign acquisition of covered technologies;
6. prevention of catastrophic technological risks.

SEC. 402. PROHIBITION ON VIEWPOINT REGULATION.

Nothing in this Act shall authorize regulation of speech, expression, or viewpoints based solely upon political, ideological, religious, or cultural content.

SEC. 403. LEAST RESTRICTIVE REGULATORY MEANS.

In promulgating regulations, the Department shall adopt the least restrictive means reasonably available to achieve the statutory objective.

SEC. 404. EVIDENTIARY REQUIREMENTS.

The Department may impose significant restrictions only upon a determination supported by substantial evidence demonstrating—

1. a material risk;
2. a substantial probability of harm; and
3. a reasonable connection between the proposed regulation and mitigation of such risk.

TITLE V — RISK-BASED REGULATORY FRAMEWORK

SEC. 501. ESTABLISHMENT OF RISK CATEGORIES.

Artificial intelligence systems shall be classified according to four categories.

Category I — Minimal Risk Systems.

Includes systems used primarily for:

- consumer assistance;
- translation;
- educational support;
- productivity enhancement.

Such systems shall generally not require licensing.

Category II — Moderate Risk Systems.

Includes systems affecting:

- employment decisions;
- lending decisions;

- housing decisions;
- insurance underwriting;
- educational admissions.

Such systems may be subject to transparency requirements.

Category III — High Risk Systems.

Includes systems used in:

- critical infrastructure;
- defense applications;
- law enforcement;
- healthcare diagnostics;
- financial market operations.

Such systems may require registration and certification.

Category IV — Frontier Systems.

Includes systems capable of:

- recursive self-improvement;
- autonomous strategic planning;
- offensive cyber operations;
- weapons design assistance;
- operation exceeding capability thresholds established under this Act.

Such systems shall require licensing.

SEC. 502. PERIODIC REVIEW.

Risk classifications shall be reviewed every three years.

TITLE VI — LICENSING OF FRONTIER SYSTEMS

SEC. 601. LICENSE REQUIREMENT.

No person shall deploy a Category IV Frontier System without a license issued pursuant to this Act.

SEC. 602. LICENSING CRITERIA.

The Department shall evaluate:

1. technical safeguards;
2. security controls;
3. incident response plans;
4. governance structures;
5. misuse mitigation procedures;
6. national security implications.

SEC. 603. LICENSE DURATION.

Licenses shall remain valid for five years unless revoked or suspended.

TITLE VII — PROCEDURAL SAFEGUARDS

SEC. 701. NOTICE OF ADVERSE ACTION.

Prior to denial, suspension, or revocation of a license, the Department shall provide written notice stating—

1. the factual basis for the proposed action;
2. applicable statutory provisions;
3. evidence supporting the action.

SEC. 702. OPPORTUNITY TO RESPOND.

The affected party shall have not fewer than sixty days to respond.

SEC. 703. ADMINISTRATIVE HEARING.

The affected party shall be entitled to a hearing before an Administrative Law Judge.

SEC. 704. BURDEN OF PROOF.

The Department shall bear the burden of proving the necessity of suspension or revocation by a preponderance of the evidence.

SEC. 705. EMERGENCY ORDERS.

(a) Immediate Threat Standard.

The Department may issue an emergency suspension order only upon a finding that:

1. an imminent threat exists;
2. substantial harm is likely to occur absent immediate action.

(b) Judicial Review.

Emergency orders shall be subject to expedited judicial review.

TITLE VIII — NATIONAL SECURITY AND EXPORT CONTROLS

SEC. 801. INTERAGENCY REVIEW BOARD.

There is established an Artificial Intelligence National Security Review Board consisting of representatives from:

- Department of Defense;
- Department of Commerce;
- Department of Energy;
- Department of Homeland Security;
- the intelligence community.

SEC. 802. EXPORT RECOMMENDATIONS.

The Board shall provide recommendations concerning:

1. export controls;
2. foreign licensing;
3. foreign ownership restrictions;
4. strategic technology transfers.

TITLE IX — CIVIL LIBERTIES PROTECTIONS

SEC. 901. FIRST AMENDMENT PROTECTIONS.

Nothing in this Act shall be construed—

1. to authorize prior restraint;
2. to regulate protected speech based upon content or viewpoint;
3. to restrict lawful scientific inquiry except as expressly authorized herein.

SEC. 902. PRIVACY PROTECTIONS.

The Department shall minimize collection of personally identifiable information.

SEC. 903. INSPECTOR GENERAL REVIEW.

The Inspector General of the Department shall conduct annual reviews concerning civil liberties impacts.

TITLE X — CONGRESSIONAL OVERSIGHT

SEC. 1001. ANNUAL REPORTS.

The Secretary shall submit annual reports to Congress describing:

1. licenses issued;
2. licenses denied;

3. enforcement actions;
4. emerging risks;
5. international developments;
6. recommendations for statutory changes.

SEC. 1002. CLASSIFIED ANNEX.

Where necessary, reports may include classified annexes.

SEC. 1003. GAO REVIEW.

The Government Accountability Office shall conduct a comprehensive review every four years.

SEC. 1004. CONGRESSIONAL REAUTHORIZATION REVIEW.

Not later than eight years after enactment, Congress shall conduct a comprehensive review of this Act and the Department.

The Department shall submit recommendations concerning continuation, modification, or termination of authorities established under this Act.

TITLE XI — SUNSET OF CERTAIN AUTHORITIES

SEC. 1101. AUTOMATIC SUNSET.

The following authorities shall expire ten years after enactment unless reauthorized by Congress:

1. Category IV licensing authority;
2. emergency suspension authority;
3. export-control authorities established solely under this Act.

SEC. 1102. CONTINUING AUTHORITIES.

The establishment of the Department and reporting obligations shall continue unless otherwise provided by law.

TITLE XII — JUDICIAL REVIEW

SEC. 1201. REVIEW OF FINAL AGENCY ACTION.

Final agency action shall be reviewable under chapter 7 of title 5, United States Code.

SEC. 1202. SUBSTANTIAL EVIDENCE STANDARD.

Agency findings under this Act shall be supported by substantial evidence contained in the administrative record.

SEC. 1203. EXPEDITED REVIEW.

Challenges involving emergency orders shall receive expedited consideration in the United States Court of Appeals for the District of Columbia Circuit.

TITLE XIII — AUTHORIZATION OF APPROPRIATIONS

Such sums as may be necessary are authorized to be appropriated.

TITLE XIV — EFFECTIVE DATE

This Act shall take effect 180 days after enactment.

Constitutional and Administrative Law Analysis
Technology Regulation and National Security Act of 2028

Executive Summary

The Technology Regulation and National Security Act of 2028 would establish a new executive department—the Department of Technology Regulation and Oversight ("DTRO")—with authority to regulate certain categories of artificial intelligence systems, artificial intelligence infrastructure, and related technology transfers. The Act is structured around a risk-based framework, procedural safeguards, interagency consultation, judicial review, and periodic congressional oversight.

The principal constitutional foundations for the Act are Congress's powers under the Commerce Clause, Foreign Commerce Clause, Spending Clause, Necessary and Proper Clause, national defense authorities, and authority over foreign affairs and export controls. Because artificial intelligence systems implicate speech, information dissemination, scientific research, interstate commerce, critical infrastructure, national security, and international technology transfers, the Act touches several constitutional doctrines that have generated substantial litigation in other regulatory contexts.

The Act's most significant constitutional strengths are its use of objective risk classifications, explicit statutory findings, procedural protections, judicial review provisions, congressional reporting requirements, and sunset mechanisms. These features significantly reduce potential vulnerabilities under the nondelegation doctrine, the Due Process Clause, and separation-of-powers principles. The most significant litigation risks are likely to arise under the First Amendment, administrative law doctrines governing agency action, and challenges to the regulation of highly expressive generative artificial intelligence systems.

I. Constitutional Authority

A. Commerce Clause

Constitutional Text

Article I, Section 8, Clause 3 provides:

"Congress shall have Power ... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

The development, training, deployment, licensing, operation, and distribution of artificial intelligence systems are quintessentially interstate and international economic activities.

The Act regulates:

- software development;
- cloud computing services;
- data center operations;
- semiconductor infrastructure;
- technology exports;
- interstate technology markets.

These activities fall squarely within modern Commerce Clause jurisprudence.

The Supreme Court has repeatedly recognized broad congressional authority over interstate economic activity, including:

- Wickard v. Filburn
- Gonzales v. Raich

Artificial intelligence development and deployment involve interstate networks, interstate commerce, and national markets. Accordingly, Congress possesses substantial authority to regulate such activities.

B. Foreign Commerce Clause

The Constitution grants Congress especially broad authority regarding commerce with foreign nations.

The Act's provisions concerning:

- exports,
- foreign licensing,
- foreign ownership restrictions,
- technology transfers,

rest upon one of Congress's strongest constitutional powers.

Courts historically have afforded Congress and the Executive substantial deference in matters involving strategic technologies and foreign commerce.

C. National Security and War Powers

Constitutional Basis

The Act's provisions addressing:

- military applications,
- critical infrastructure,
- foreign adversaries,

- cyber operations,
- strategic technologies,

derive additional support from Congress's authority to:

- provide for the common defense;
- raise and support armies;
- maintain a navy;
- regulate military forces.

Artificial intelligence increasingly affects defense and intelligence functions.

Courts traditionally afford the political branches substantial discretion when national-security interests are implicated.

D. Necessary and Proper Clause

Constitutional Text

Article I, Section 8, Clause 18 authorizes Congress:

"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers."

The creation of DTRO constitutes a textbook exercise of Congress's authority to establish administrative mechanisms necessary to implement its constitutional powers.

The Supreme Court has long recognized congressional authority to create administrative agencies and departments implementing federal statutes.

II. Nondelegation Doctrine

A. Constitutional Standard

The nondelegation doctrine prohibits Congress from transferring legislative power without supplying an intelligible principle.

The leading cases include:

- J.W. Hampton Jr. & Co. v. United States

- Whitman v. American Trucking Associations
- Gundy v. United States

Historically, the Court has upheld broad delegations where Congress provides meaningful guidance.

B. Application to the Act

The Act contains numerous features designed to satisfy the intelligible-principle requirement.

These include:

Explicit Regulatory Objectives

The Department may regulate only to advance:

1. national security;
2. public safety;
3. critical infrastructure protection;
4. protection against substantial economic disruption;
5. prevention of catastrophic technological risks.

Risk Categories

The Act establishes:

- Category I systems;
- Category II systems;
- Category III systems;
- Category IV Frontier Systems.

These categories constrain agency discretion and provide objective statutory boundaries.

Evidentiary Requirements

The Department must demonstrate:

- material risk;
- substantial probability of harm;

- reasonable connection between regulation and risk mitigation.

These requirements strengthen the statute against nondelegation challenges.

III. First Amendment Analysis

A. Generative AI and Speech

The most significant constitutional issue concerns generative artificial intelligence.

Many AI systems produce:

- text;
- images;
- audio;
- video;
- software code.

These outputs often contain expressive content.

Courts increasingly treat software and algorithmic outputs as possessing First Amendment dimensions.

Relevant precedents include:

- Sorrell v. IMS Health Inc.
- Brown v. Entertainment Merchants Association

Although AI-generated content presents novel questions, courts are likely to view restrictions on expressive outputs with caution.

B. Strengths of the Act

The Act expressly provides:

- no viewpoint regulation;
- no content-based regulation;
- no authorization for prior restraint;

- preservation of lawful scientific inquiry.

These provisions substantially improve constitutional defensibility.

C. Potential Challenges

Challenges may arise if regulations:

- indirectly suppress speech;
- restrict publication of model outputs;
- regulate expressive content rather than technological risks.

Future regulations will likely determine the scope of First Amendment litigation.

IV. Due Process

A. Procedural Due Process

The Fifth Amendment requires fair procedures before deprivation of protected interests.

The Act provides:

- notice;
- disclosure of evidence;
- opportunity to respond;
- administrative hearing;
- judicial review.

These protections closely resemble procedural safeguards traditionally approved by courts.

B. Licensing Regimes

Licenses to operate Frontier Systems may create significant property and liberty interests.

The Act's hearing and review provisions substantially reduce due-process vulnerabilities.

C. Emergency Suspension Orders

Emergency orders present the greatest due-process risk.

The Act addresses this by requiring:

- imminent threat findings;
- expedited review;
- judicial oversight.

Courts have frequently upheld temporary emergency actions when prompt post-deprivation review is available.

V. Equal Protection

The Act regulates technologies rather than protected classes.

Accordingly, most classifications would be reviewed under rational-basis scrutiny.

Congress can readily articulate rational reasons for distinguishing among:

- low-risk systems;
- moderate-risk systems;
- high-risk systems;
- frontier systems.

Such classifications are likely to survive constitutional review.

VI. Separation of Powers

A. Executive Authority

The Act creates an executive department headed by a Senate-confirmed Secretary.

This structure aligns with traditional executive-branch administration.

The President retains supervisory authority over the Department.

Accordingly, the Act does not appear to raise substantial Article II concerns.

B. Congressional Oversight

The Act requires:

- annual reports;
- GAO reviews;
- reauthorization review;
- sunset provisions.

These mechanisms constitute permissible oversight rather than unconstitutional legislative control.

Unlike statutes invalidated in:

- INS v. Chadha

the Act does not authorize congressional vetoes or unilateral legislative intervention after enactment.

VII. Appointments Clause

The Secretary and Deputy Secretaries are appointed through presidential nomination and Senate confirmation.

This structure complies with the Appointments Clause.

The Technology Regulation Advisory Commission and National Security Review Board are advisory bodies rather than entities exercising final governmental authority.

Consequently, Appointments Clause challenges are unlikely to succeed.

VIII. Federalism Considerations

The Act principally regulates interstate commerce and federal licensing.

It does not compel states to enact laws, administer federal programs, or enforce federal regulations.

Accordingly, the statute appears consistent with:

- the Tenth Amendment;
- anti-commandeering doctrine;

- state sovereignty principles.

Cases such as:

- Printz v. United States
- Murphy v. NCAA

would likely present little obstacle.

IX. Administrative Law Analysis

A. Administrative Procedure Act

The Act expressly subjects agency action to judicial review under the Administrative Procedure Act.

This provision is important because it ensures:

- transparency;
- accountability;
- judicial supervision;
- procedural regularity.

B. Arbitrary and Capricious Review

The principal APA standard derives from:

- Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.

The Act strengthens agency defensibility by requiring:

- evidentiary findings;
- risk assessments;
- articulated reasoning;
- administrative records.

These requirements closely mirror the factors courts expect under State Farm.

C. Major Questions Doctrine

Emerging Consideration

The Supreme Court's recent decisions suggest heightened scrutiny where agencies assert authority over matters of vast economic and political significance.

Cases include:

- West Virginia v. EPA
- Biden v. Nebraska

Because artificial intelligence may affect trillions of dollars in economic activity, future regulations could implicate the Major Questions Doctrine.

Strengths of the Act

The Act addresses this concern by:

1. expressly **creating the Department**;
2. **expressly authorizing regulation of AI systems**;
3. **expressly authorizing licensing of Frontier Systems**;
4. **expressly defining covered technologies**;
5. requiring periodic congressional review.

These provisions help establish the "clear congressional authorization" required by recent Supreme Court precedent.

D. Judicial Review Provisions

The Act expressly provides:

- review of final agency action;
- substantial-evidence review;
- expedited review of emergency actions.

These provisions strengthen the statute by promoting consistency and reducing uncertainty.

X. Export Controls and Foreign Affairs

The Act's export-control authorities are likely among its most defensible provisions.

Historically, courts grant extraordinary deference where Congress and the Executive regulate:

- strategic technologies;
- foreign adversaries;
- national-security exports.

Challenges to these provisions would likely face a difficult standard of review.

XI. Sunset and Reauthorization Mechanisms

The Act requires:

- four-year GAO reviews;
- eight-year congressional review;
- ten-year sunset of key authorities.

These provisions serve several constitutional and administrative purposes:

1. they ensure continuing democratic accountability;
2. they reduce concerns regarding indefinite delegation;
3. they create opportunities for legislative correction;
4. they permit periodic reassessment of technological developments.

Courts often view such mechanisms favorably because they demonstrate continuing congressional engagement.

Potential Litigation Risks

The most significant legal challenges are likely to involve:

1. First Amendment claims concerning generative AI outputs;
2. challenges to agency definitions of Frontier Systems;
3. Major Questions Doctrine challenges to expansive regulations;

4. due-process challenges involving emergency suspensions;
5. APA challenges alleging insufficient evidentiary support.

The Act's procedural safeguards significantly improve its prospects of surviving such challenges but cannot eliminate them entirely.

Conclusion

The Technology Regulation and National Security Act of 2028 is grounded principally in Congress's Commerce Clause, Foreign Commerce Clause, national-security, and Necessary and Proper Clause authorities. Its risk-based regulatory framework, explicit statutory findings, intelligible-principle limitations, procedural protections, judicial-review provisions, congressional reporting requirements, and sunset mechanisms collectively place it on substantially firmer constitutional footing than many broad modern regulatory statutes.

Although future litigation is likely—particularly regarding the First Amendment, the Major Questions Doctrine, and the regulation of frontier generative AI systems—the Act has been structured to address the principal constitutional and administrative-law objections that courts have increasingly raised against expansive delegations of regulatory authority. As a result, it would likely stand a stronger chance of surviving judicial scrutiny than a more open-ended AI regulatory framework lacking these safeguards.

15.

"Impeachment Act of 2028"

H.R. ____

A BILL

To establish procedures requiring consideration of impeachment proceedings concerning certain Federal elected officials following specified criminal convictions and civil judgments, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the ***"Impeachment Act of 2028."***

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) public confidence in constitutional government depends upon the integrity of elected officials;

(2) the Constitution entrusts the House of Representatives with the sole power of impeachment;

(3) criminal convictions and substantial civil judgments involving fraud, corruption, abuse of public trust, sexual misconduct, tax-related offenses, and related misconduct may constitute evidence relevant to the House's exercise of its impeachment authority;

(4) Congress possesses authority to establish internal procedures governing the consideration of impeachment matters; and

(5) prompt consideration of impeachment-related matters promotes governmental accountability and public confidence.

(b) Purpose.—The purpose of this Act is to establish procedures requiring the House of Representatives to consider whether Articles of Impeachment should be presented concerning certain elected officials who have been the subject of specified criminal convictions or civil judgments.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) COVERED OFFICIAL.—The term "covered official" means—

(A) the President of the United States;

(B) the Vice President of the United States;

(C) a Senator of the United States; or

(D) a Representative in Congress.

(2) QUALIFYING FELONY CONVICTION.—The term "qualifying felony conviction" means a final judgment of conviction entered by a court of competent jurisdiction for—

(A) fraud;

(B) bribery;

(C) embezzlement;

(D) money laundering;

(E) tax evasion;

(F) racketeering;

(G) campaign-finance crimes punishable as felonies;

(H) wire fraud;

(I) securities fraud;

(J) bank fraud; or

(K) any other felony involving dishonesty, corruption, abuse of public office, or financial misconduct.

(3) QUALIFYING SEXUAL OFFENSE.—The term means a final criminal conviction for sexual assault, aggravated sexual abuse, rape, or a substantially similar offense under Federal or State law.

(4) QUALIFYING CIVIL JUDGMENT.—The term means a final civil judgment, settlement approved by a court, or administrative order requiring payment of not less than $10,000 in fines, penalties, restitution, damages, disgorgement, or other monetary relief arising from—

(A) fraud;

(B) financial misconduct;

(C) sexual assault or sexual abuse;

(D) tax violations;

(E) campaign-finance violations;

(F) abuse of fiduciary duty; or

(G) corruption-related conduct.

(5) FINAL.—A conviction, judgment, or order shall be deemed final when all direct appeals have been exhausted or the period for filing such appeals has expired.

SEC. 4. MANDATORY REVIEW OF COVERED OFFICIALS.

(a) Triggering Event.—Whenever a covered official has, within the preceding twenty-four months—

(1) sustained a qualifying felony conviction;

(2) sustained a qualifying sexual-offense conviction; or

(3) become subject to a qualifying civil judgment,

the procedures established by this Act shall apply.

(b) Applicability to Newly Elected Officials.—The procedures of this Act shall apply regardless of whether the triggering conduct occurred before or after election to office.

SEC. 5. INTRODUCTION OF ARTICLES OF IMPEACHMENT.

(a) House Action.—Not later than the first legislative day following the swearing-in, installation, or commencement of service of a covered official described in section 4, the Committee on the Judiciary shall prepare and introduce Articles of Impeachment for consideration by the House.

(b) Form.—The Articles shall set forth—

(1) the underlying conviction, judgment, or order;

(2) the factual basis for the conviction, judgment, or order;

(3) the constitutional grounds upon which impeachment may be warranted; and

(4) any mitigating or aggravating circumstances identified by the Committee.

(c) Committee Report.—The Committee shall simultaneously file a report explaining the legal and factual basis supporting consideration of impeachment.

SEC. 6. EXPEDITED HOUSE CONSIDERATION.

(a) Referral.—Articles introduced pursuant to this Act shall be immediately referred to the Committee on the Judiciary.

(b) Hearing.—The Committee shall conduct hearings not later than thirty days after referral.

(c) House Vote.—The House shall vote on whether to adopt the Articles of Impeachment not later than sixty days after committee reporting.

SEC. 7. PRESENTATION TO THE SENATE.

If one or more Articles of Impeachment are approved by the House of Representatives, House Managers shall be appointed and the Articles shall be transmitted to the Senate in accordance with the Constitution and the Rules of the House.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to limit the sole constitutional power of impeachment vested in the House of Representatives;

(2) to require the House to approve any Article of Impeachment;

(3) to limit the sole power of the Senate to try impeachments;

(4) to establish that any conviction or civil judgment automatically constitutes a high Crime or Misdemeanor; or

(5) to impair any constitutional right possessed by any covered official.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of the remaining provisions shall not be affected.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

Constitutional and Administrative Law Analysis
Impeachment Act of 2028

Executive Summary

The Impeachment Act of 2028 seeks to require the initiation of impeachment proceedings concerning a President, Vice President, Senator, or Representative who, within the preceding twenty-four months, has sustained specified criminal convictions or civil judgments. The legislation attempts to establish a mandatory procedural framework under which Articles of Impeachment are introduced and considered by the House of Representatives following the commencement of service by such officials.

The constitutional difficulties presented by this legislation are substantial. Unlike many federal statutes that regulate executive agencies or private conduct, impeachment is a constitutional mechanism expressly committed to Congress by Article I of the Constitution. Consequently, any statute purporting to compel the House of Representatives to exercise its impeachment power in a particular manner raises serious constitutional questions concerning separation of powers, congressional rulemaking authority, and the nature of impeachment itself.

The strongest version of the Act is one that does not require impeachment, does not predetermine the outcome of impeachment proceedings, and does not attempt to deprive either House of Congress of its constitutional discretion. Instead, the Act is most defensible when viewed as establishing procedures requiring consideration of impeachment under specified circumstances.

I. Constitutional Framework

A. Impeachment Clauses

House of Representatives

Article I, Section 2, Clause 5 provides:

"The House of Representatives shall have the sole Power of Impeachment."

The word "sole" is constitutionally significant.

The Framers deliberately vested the impeachment function exclusively in the House rather than in the Executive, Judiciary, or any combination thereof.

The Supreme Court has consistently recognized that impeachment is a uniquely political and constitutional process rather than a judicial proceeding.

The Act therefore implicates one of Congress's most constitutionally protected functions.

Senate

Article I, Section 3, Clauses 6 and 7 provide:

"The Senate shall have the sole Power to try all Impeachments."

The Act does not directly regulate Senate proceedings.

Nevertheless, because impeachment in the House necessarily affects subsequent Senate proceedings, courts may examine whether Congress has attempted to alter the constitutional structure established by the Impeachment Clauses.

B. Nature of Impeachment

The Constitution does not require:

- criminal conviction;
- civil liability;
- indictment;
- judicial findings.

Likewise, the Constitution does not prohibit impeachment absent criminal wrongdoing.

Historical practice demonstrates that impeachment is fundamentally a political and constitutional remedy rather than a criminal sanction.

The Framers intentionally selected the phrase:

"Treason, Bribery, or other high Crimes and Misdemeanors"

rather than limiting impeachment to criminal offenses.

Accordingly, a felony conviction may constitute strong evidence supporting impeachment, but it is not constitutionally equivalent to impeachment.

II. House Rulemaking Authority

A. Article I, Section 5

Article I, Section 5 provides:

"Each House may determine the Rules of its Proceedings."

This provision creates one of the most significant constitutional issues affecting the Act.

The House possesses constitutional authority to establish its own internal procedures.

The Supreme Court has repeatedly recognized substantial congressional autonomy in matters involving internal legislative procedure.

Relevant cases include:

- United States v. Ballin
- Nixon v. United States

B. Binding Future Houses

One Congress generally cannot permanently bind future Congresses concerning internal legislative procedures.

As a result, a statute that purports to require future Houses to initiate impeachment proceedings presents constitutional difficulties.

A future House retains authority to:

- amend its rules;
- suspend its rules;
- disregard statutory procedural directives concerning internal proceedings.

Consequently, portions of the Act that attempt to mandate House action may ultimately be viewed as advisory or procedural rather than legally enforceable.

III. Separation of Powers

A. Judicial Findings as Impeachment Triggers

The Act relies upon:

- criminal convictions;
- civil judgments;

- administrative penalties.

These determinations originate primarily within the Judicial Branch.

A constitutional question arises:

May Congress effectively transform judicial findings into mandatory impeachment triggers?

The strongest argument supporting the Act is that judicial findings merely trigger consideration, not impeachment itself.

The weakest version of the Act would require impeachment automatically upon conviction or judgment.

Such a system would arguably transfer part of the impeachment function from Congress to the courts.

B. Preservation of Legislative Judgment

The Act avoids some constitutional concerns because it provides:

- committee review;
- hearings;
- House debate;
- House voting.

These provisions preserve legislative discretion.

The House remains free to reject Articles of Impeachment.

That feature is likely essential to the Act's constitutionality.

IV. High Crimes and Misdemeanors

A. Constitutional Standard

The Constitution does not define "high Crimes and Misdemeanors."

Historical sources indicate that the phrase encompasses:

- abuses of public trust;
- corruption;

- serious misconduct;
- constitutional violations;
- conduct incompatible with public office.

Authorities frequently consulted include:

- Alexander Hamilton
- James Madison

B. Relationship to Criminal Convictions

A felony conviction may support impeachment but is not constitutionally required.

Historically:

- some impeached officials were never criminally convicted;
- some criminally convicted officials were never impeached.

Accordingly, the Act's reliance upon criminal convictions is constitutionally permissible only if such convictions are treated as evidence relevant to impeachment rather than conclusive proof requiring impeachment.

C. Civil Judgments

The Act's inclusion of civil judgments creates a more difficult constitutional issue.

Civil liability is established under a lower burden of proof than criminal liability.

Many civil judgments involve negligence, contractual disputes, regulatory violations, or other conduct not ordinarily associated with impeachable offenses.

A court or constitutional scholar may question whether a monetary threshold alone adequately correlates with the constitutional concept of high Crimes and Misdemeanors.

Consequently, the provisions concerning civil judgments are more vulnerable to criticism than those concerning felony convictions.

V. Bill of Attainder Analysis[5]

A. Constitutional Standard

Article I prohibits Bills of Attainder.

A Bill of Attainder generally involves:

1. specification of affected persons;
2. punishment;
3. absence of judicial trial.

Key precedents include:

- United States v. Brown
- Nixon v. Administrator of General Services

B. Application

The Act does not target identified individuals.

Instead, it establishes prospective criteria applicable to all covered officials.

Moreover, impeachment itself is constitutionally authorized.

Accordingly, a Bill of Attainder challenge would likely face substantial obstacles.

VI. Due Process Considerations

A. Reliance on Final Judgments

The Act limits triggering events to final judgments and convictions.

This feature strengthens constitutional defensibility because:

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[5] A bill of attainder is an act of a legislature declaring a person, or a group of people, guilty of some crime, and providing for a punishment, often without a trial. As with attainder resulting from the normal judicial process, the effect of such a bill is to nullify the targeted person's civil rights, most notably the right to own property (and thus pass it on to heirs), the right to a title of nobility, and, in at least the original usage, the right to life itself.

- judicial proceedings provide procedural protections;
- appellate review is available;
- factual findings have already been tested through adversarial proceedings.

B. Additional Procedural Protections

The Act further requires:

- committee review;
- hearings;
- debate;
- voting.

These procedures reduce concerns regarding arbitrary governmental action.

VII. Justiciability and Political Question Doctrine

A. Political Question Doctrine

Perhaps the most important constitutional consideration is whether courts would review disputes arising under the Act at all.

The Supreme Court's decision in:

- Nixon v. United States

held that many impeachment-related questions are nonjusticiable political questions.

The Court concluded that impeachment procedures are often constitutionally committed to Congress.

B. Practical Consequences

If the House failed to comply with the Act, courts might refuse to intervene.

A court could conclude that:

- impeachment procedures are committed to Congress;

- enforcement presents a political question;
- no judicially manageable standards exist.

Consequently, many provisions of the Act may be politically enforceable but not judicially enforceable.

VIII. Administrative Law Analysis

A. Applicability of the Administrative Procedure Act

The Act primarily governs congressional procedures.

Congress is expressly excluded from the definition of "agency" under the Administrative Procedure Act.

Accordingly:

- the House Judiciary Committee is not an agency;
- impeachment proceedings are not agency actions;
- APA review is unavailable.

Thus, traditional administrative-law doctrines have limited direct application.

B. Congressional Committees

Because the Act operates through congressional committees rather than executive agencies:

- notice-and-comment rulemaking does not apply;
- arbitrary-and-capricious review does not apply;
- substantial-evidence review does not apply.

Instead, constitutional analysis focuses on congressional authority and legislative procedure.

C. Executive Branch Implementation

To the extent executive agencies are required to provide information concerning convictions or judgments, such activities would likely be ministerial.

Those activities would not create substantial administrative-law concerns.

IX. Potential Constitutional Vulnerabilities

The Act's most significant vulnerabilities include:

1. House Rulemaking Authority

A future House may argue that Congress cannot statutorily dictate internal impeachment procedures.

2. Civil Judgment Provisions

The use of civil judgments as impeachment triggers may be criticized as insufficiently related to the constitutional standard of high Crimes and Misdemeanors.

3. Mandatory Language

Any language requiring impeachment rather than requiring consideration of impeachment substantially increases constitutional risk.

4. Judicial Non-Enforceability

Courts may conclude that disputes concerning compliance with the Act are political questions beyond judicial review.

Most Defensible Alternative Structure

The strongest constitutional version of the legislation would:

1. operate as a standing Rule of the House rather than an ordinary statute;
2. require automatic referral to the House Judiciary Committee;
3. require committee investigation;
4. require a committee report;
5. require House consideration;
6. preserve complete House discretion concerning whether to approve Articles of Impeachment;

7. limit triggering civil judgments to findings involving fraud, corruption, abuse of office, sexual assault, or analogous misconduct;
8. expressly state that no conviction or judgment constitutes conclusive evidence of impeachable conduct.

Conclusion

The Impeachment Act of 2028 rests upon Congress's constitutional authority over impeachment and internal legislative procedures. However, because impeachment is expressly committed by the Constitution to the House and Senate, the Act cannot constitutionally transform criminal convictions or civil judgments into automatic grounds for impeachment. Its strongest constitutional footing lies in requiring investigation and consideration rather than mandating impeachment itself.

The most substantial challenge to the Act is not that it exceeds congressional power, but that it may impermissibly attempt to constrain the constitutional discretion of future Houses of Representatives. For that reason, the Act would likely be most defensible if construed as a procedural mechanism for mandatory review and consideration rather than a legally binding command that impeachment proceedings result in a particular outcome.

16.

"Invidious Discrimination Claimants Act of 2029"

H.R. _____

A BILL

To provide a temporary cause of action for Federal officers, employees, and members of the Armed Forces who suffered adverse personnel actions resulting from unlawful invidious discrimination disguised as the elimination or implementation of "Diversity, Equity, and Inclusion" initiatives or other similarly situated personnel policies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **"Invidious Discrimination Claimants Act of 2029."**[6]

SEC. 2. FINDINGS.

Congress finds the following:

1. The Constitution guarantees equal protection of the laws through the Due Process Clause of the Fifth Amendment.
2. Federal law prohibits discrimination in Federal employment on the basis of race, color, religion, sex, national origin, age, disability, and other protected characteristics.
3. Congress has enacted comprehensive merit-system principles governing personnel actions within the Federal Government.
4. Personnel decisions that are motivated by unlawful discrimination, regardless of the terminology or administrative initiative under which such decisions are undertaken, undermine public confidence in the impartial administration of the Federal Government.

[6] The term "invidious discrimination" should take the meaning found in the proposed "Civil Rights Restoration Act of 2027," a bill in this series, should that bill become law.

5. No employee should suffer adverse employment consequences because of race, color, religion, sex, national origin, age, ethnicity, sexual orientation, gender identity, or other constitutionally or statutorily protected characteristic.
6. Congress finds that individuals who suffered unlawful adverse personnel actions should have a meaningful opportunity to seek judicial and administrative relief.

SEC. 3. PURPOSES.

The purposes of this Act are—

1. to provide a temporary and uniform remedial framework;
2. to ensure that unlawful discriminatory personnel actions may be fully remedied;
3. to reaffirm the Federal merit system;
4. to restore public confidence in the neutrality of Federal employment practices; and
5. to supplement existing statutory remedies without limiting any rights otherwise available under Federal law.

SEC. 4. DEFINITIONS.

For purposes of this Act:

(1) Covered employee.

The term "covered employee" means—

(A) any civilian officer or employee of the United States Government;

(B) any applicant for Federal employment;

(C) any member of the Armed Forces; and

(D) any former officer, employee, applicant, or service member otherwise eligible under this Act.

(2) Adverse personnel action.

The term includes—

(A) removal;

(B) termination;

(C) involuntary retirement;

(D) demotion;

(E) reduction in grade;

(F) reduction in pay;

(G) reassignment to materially less favorable duties;

(H) denial of promotion;

(I) cancellation of promotion;

(J) denial of hiring;

(K) adverse performance evaluation materially affecting employment;

(L) suspension;

(M) separation from military service; or

(N) any materially adverse employment action recognized under Federal employment discrimination law.

(3) Invidious discrimination.

The term "invidious discrimination" means intentional discrimination based upon—

(A) race;

(B) color;

(C) religion;

(D) sex;

(E) pregnancy;

(F) sexual orientation;

(G) gender identity;

(H) national origin;

(I) ethnicity;

(J) age;

(K) disability; or

(L) any other characteristic protected by Federal law.

(4) Covered policy.

The term "covered policy" means any Executive Order, departmental directive, memorandum, guidance, personnel policy, reduction-in-force initiative, reorganization, or administrative action that—

(A) expressly targeted Diversity, Equity, and Inclusion programs;

(B) purported to eliminate or reduce such programs; or

(C) otherwise served as the asserted basis for the challenged personnel action.

SEC. 5. CAUSE OF ACTION.

(a) Right of Action.

A covered employee who establishes that an adverse personnel action was taken because of invidious discrimination shall have a cause of action against the United States.

(b) Burden of Proof.

The claimant shall establish, by a preponderance of the evidence, that—

1. an adverse personnel action occurred;
2. the claimant was qualified for the position, promotion, or continued employment;
3. unlawful discrimination was a motivating factor in the challenged action; and
4. the asserted administrative rationale was pretextual or otherwise unlawful.

(c) Evidence.

Relevant evidence may include—

1. personnel records;
2. performance evaluations;
3. comparative treatment of similarly situated employees;
4. official memoranda;

5. electronic communications;
6. sworn testimony;
7. statistical evidence; and
8. any other admissible evidence recognized under Federal law.

SEC. 6. AVAILABLE RELIEF.

Upon a finding of liability, a court may award one or more of the following:

1. reinstatement;
2. restoration of grade;
3. restoration of seniority;
4. promotion;
5. appointment or reappointment;
6. correction of personnel records;
7. restoration of retirement benefits;
8. restoration of leave balances;
9. back pay;
10. front pay where reinstatement is impracticable;
11. compensatory damages as otherwise authorized by Federal law;
12. reasonable attorney's fees and litigation expenses; and
13. such equitable relief as the court determines appropriate.

SEC. 7. WAIVER OF SOVEREIGN IMMUNITY.

The United States hereby waives sovereign immunity solely for actions authorized under this Act to the extent necessary to permit the relief authorized herein.

SEC. 8. RELATIONSHIP TO OTHER FEDERAL LAW.

Nothing in this Act shall—

1. diminish any remedy otherwise available under—

(A) Title VII of the Civil Rights Act of 1964;

(B) the Age Discrimination in Employment Act;

(C) the Rehabilitation Act;

(D) the Civil Service Reform Act;

(E) the Uniformed Services Employment and Reemployment Rights Act;

(F) chapter 71 of title 5, United States Code; or

(G) any other Federal statute;

2. require a claimant to elect between remedies unless otherwise required by Federal law;
3. create liability for lawful personnel decisions supported by legitimate, nondiscriminatory reasons.

SEC. 9. STATUTE OF LIMITATIONS.

(a) An action authorized under this Act shall be commenced not later than **December 31, 2032**.

(b) The limitations period established by subsection (a) shall apply notwithstanding any shorter limitations period otherwise applicable under Federal law, except where a final judgment on the merits has already been entered by a court of competent jurisdiction.

SEC. 10. EXCLUSIVE JURISDICTION.

The United States district courts shall possess original jurisdiction over civil actions brought under this Act.

SEC. 11. NO PRESUMPTION OF LIABILITY.

Nothing in this Act shall be construed—

1. to presume that any Executive Order, agency policy, or personnel initiative is unlawful;

2. to establish liability solely because an adverse personnel action occurred contemporaneously with a governmental reorganization or policy change;

3. to relieve a claimant of proving unlawful discrimination; or

4. to limit the authority of Federal agencies to make lawful personnel decisions based upon merit, qualifications, misconduct, performance, budgetary necessity, or organizational restructuring.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE INVIDIOUS DISCRIMINATION CLAIMANTS ACT OF 2029

Executive Summary

The **Invidious Discrimination Claimants Act of 2029** would create a temporary statutory cause of action permitting current and former federal civilian employees, applicants for federal employment, and members of the Armed Forces to seek judicial relief for adverse personnel actions allegedly motivated by unlawful invidious discrimination, including discrimination allegedly carried out under the pretext of eliminating or implementing Diversity, Equity, and Inclusion ("DEI") initiatives or similar personnel policies.

Unlike some of the more aggressive legislative proposals in this series, this bill rests upon **well-established constitutional foundations**. Congress possesses broad authority to:

- define the legal rights of federal employees;
- waive sovereign immunity;
- create causes of action against the United States;
- regulate federal employment;
- establish standards governing federal personnel systems; and
- provide remedies for constitutional and statutory violations.

Properly drafted, the bill would likely survive constitutional challenge because it does **not presume discrimination**, **does not predetermine liability**, and **requires claimants to prove unlawful discriminatory treatment under familiar evidentiary standards**.

Its principal legal issues concern:

1. Congress's Article I authority over federal employment.
2. Sovereign immunity.
3. The Fifth Amendment.
4. Separation of powers.
5. Interaction with existing federal employment statutes.
6. Administrative exhaustion.
7. Military personnel jurisprudence.

Overall constitutional durability is **strong**, although several refinements would improve its defensibility.

I. Congressional Authority

A. Article I Authority Over Federal Employment

Unlike private employment, federal employment exists entirely by statute.

Congress creates:

- executive departments;
- independent agencies;
- civil service systems;
- compensation systems;
- merit systems;
- retirement systems.

Accordingly, Congress possesses unusually broad authority to regulate the employment relationship between the United States and its employees.

The Supreme Court has repeatedly recognized that federal employment is largely a statutory creation rather than a constitutional entitlement.

Among the leading precedents are:

- United States v. Testan
- Bush v. Lucas

These decisions emphasize that Congress—not the judiciary—ordinarily defines the scope of remedies available to federal employees.

Application

The proposed Act fits comfortably within Congress's traditional authority to define employment rights and remedies.

B. Necessary and Proper Clause

Congress may enact legislation necessary and proper for executing:

- Article II administration;
- federal employment systems;
- civil rights legislation;
- appropriations.

Creating a temporary remedial statute falls well within this authority.

This aspect of the bill is constitutionally secure.

II. Fifth Amendment Considerations

Federal employment discrimination claims arise primarily under the Fifth Amendment's Due Process Clause, which the Supreme Court has interpreted to contain an equal-protection component applicable to the federal government.

The foundational decision is:

- Bolling v. Sharpe

Unlike the Equal Protection Clause of the Fourteenth Amendment, which applies to states, *Bolling* recognizes that similar equality principles constrain federal action.

Accordingly, intentional discrimination by the federal government on the basis of race, sex, religion, national origin, or other protected characteristics may violate the Constitution.

Effect on the Bill

The Act does not create new constitutional rights.

Rather, it provides a statutory mechanism for enforcing rights that already exist.

This greatly strengthens its constitutional footing.

III. Sovereign Immunity

A. Congressional Waiver

The United States cannot ordinarily be sued without its consent.

Only Congress may waive sovereign immunity.

Examples include:

- Federal Tort Claims Act
- Tucker Act
- Civil Rights Act of 1964 (Title VII as applied to federal employment)

The proposed Act expressly waives sovereign immunity.

Such waivers are commonplace.

B. Scope of Waiver

The waiver should remain carefully limited.

Courts generally construe waivers narrowly.

The present draft appropriately limits relief to actions authorized by the Act.

IV. Separation of Powers

A possible challenge would assert that Congress is interfering with executive personnel decisions.

The answer is largely no.

The Act does **not**:

- require hiring specific individuals;
- dictate promotion decisions;
- appoint officers;
- remove executive discretion over lawful personnel management.

Instead, it establishes legal standards governing discrimination.

Congress has long legislated in this field.

Examples include:

- Title VII;
- the Age Discrimination in Employment Act of 1967;
- the Rehabilitation Act of 1973.

The proposed Act resembles these statutes far more than it resembles an unconstitutional congressional intrusion into executive administration.

Risk of invalidation is therefore relatively low.

V. Relationship to Existing Federal Employment Statutes

This represents the most significant administrative-law issue.

Federal employees already possess remedies under:

- Civil Service Reform Act of 1978 (CSRA)
- Title VII
- the ADEA
- the Rehabilitation Act
- the Equal Pay Act
- the Uniformed Services Employment and Reemployment Rights Act (USERRA)
- various collective bargaining statutes

The Supreme Court has repeatedly emphasized that the CSRA constitutes a comprehensive remedial framework.

The leading case is:

- Bush v. Lucas

The Court declined to create an additional judicial remedy because Congress had already enacted one.

Implication

If this Act is characterized as **supplementing** the CSRA rather than replacing it, constitutional concerns diminish considerably.

The bill should expressly state:

"This Act supplements, and does not displace, existing statutory remedies."

That language should remain.

VI. Exhaustion of Administrative Remedies

Federal employees ordinarily must exhaust administrative remedies before filing suit.

For example:

- Equal Employment Opportunity complaints;
- Merit Systems Protection Board appeals;
- agency grievance systems.

The present draft permits direct judicial action.

This is potentially vulnerable.

Congress certainly **may** eliminate exhaustion requirements.

However, courts generally prefer exhaustion because it:

- creates an administrative record;
- promotes agency expertise;
- reduces unnecessary litigation.

Recommendation

Require exhaustion **unless**:

- administrative remedies are unavailable;
- unreasonable delay has occurred;
- exhaustion would be futile.

Such a provision would substantially strengthen the legislation.

VII. Burden of Proof

The bill appropriately adopts:

preponderance of the evidence.

That is the ordinary civil standard.

More importantly, the bill requires proof of:

- discrimination;

- adverse action;
- qualification;
- pretext.

This mirrors familiar employment discrimination doctrines developed under:

- McDonnell Douglas Corp. v. Green

The statute therefore fits comfortably within existing employment jurisprudence.

VIII. Military Personnel

This is the most legally difficult aspect of the legislation.

Federal courts traditionally defer to military personnel decisions.

Leading precedents include:

- Chappell v. Wallace
- Feres v. United States

The judiciary is generally reluctant to second-guess:

- promotions;
- assignments;
- command decisions;
- fitness determinations.

Congress may authorize suits involving military personnel, but courts may interpret the Act narrowly absent a clear statement.

Recommendation

Include language such as:

"Nothing in this Act shall authorize judicial review of military operational judgments except where the claimant proves that unlawful discrimination was a substantial motivating factor."

This preserves military discretion while permitting review of intentional discrimination.

IX. Retroactivity

The Act reaches personnel actions that occurred before enactment.

Retroactive legislation is not automatically unconstitutional.

The Supreme Court has repeatedly recognized Congress's authority to enact retroactive civil legislation, provided it satisfies due process.

Relevant precedents include:

- Landgraf v. USI Film Products
- Usery v. Turner Elkhorn Mining Co.

The principal constitutional concern is fairness.

Because the Act creates a remedial civil cause of action rather than criminal liability, retroactivity is more likely to be sustained.

To strengthen the bill, Congress should include explicit findings explaining why a temporary revival of claims is warranted and why existing remedies may have been inadequate or unavailable.

X. Standing

Article III requires:

- injury;
- causation;
- redressability.

Every claimant under the Act necessarily alleges:

- concrete injury;
- discriminatory action;
- compensable harm.

Standing therefore presents little difficulty.

XI. Administrative Law Issues

Administrative Procedure Act

Agency decisions implementing this Act would remain reviewable under the Administrative Procedure Act unless Congress expressly precludes review.

This is desirable.

APA review would ensure:

- reasoned decision-making;
- evidentiary support;
- consistency.

Recordkeeping

The bill should require agencies to preserve:

- personnel files;
- emails;
- promotion records;
- DEI implementation documents;
- reduction-in-force analyses.

Failure to preserve records should permit adverse evidentiary inferences.

Office of Personnel Management

The Office of Personnel Management should issue implementing regulations establishing:

- claim procedures;
- evidentiary standards;
- preservation requirements;
- reporting obligations.

XII. Potential Constitutional Challenges

Challenge 1

The Act creates special rights for one political period.

Likely Response

Congress frequently enacts temporary remedial statutes addressing discrete historical circumstances, provided the classification has a rational basis.

Challenge 2

The Act interferes with executive personnel authority.

Likely Response

The Act regulates unlawful discrimination rather than ordinary personnel management and resembles longstanding federal civil-rights legislation.

Challenge 3

Retroactive liability violates due process.

Likely Response

Retroactive civil remedies are generally permissible where Congress identifies a legitimate legislative purpose and employs rational means. Detailed legislative findings will be important.

Challenge 4

The CSRA provides the exclusive remedy.

Likely Response

Congress may amend or supplement the CSRA by statute. An explicit statement that this Act creates an additional, temporary remedy would help foreclose exclusivity arguments.

Recommendations for Improving Constitutional Defensibility

To maximize the bill's likelihood of surviving judicial review, the following refinements are advisable:

1. **Require exhaustion of administrative remedies** unless unavailable, futile, or unreasonably delayed.
2. **Include extensive congressional findings** documenting the alleged discriminatory practices, the inadequacy of existing remedies in the relevant circumstances, and the need for a temporary remedial statute.
3. **Clarify the relationship to existing law** by expressly providing that the Act supplements, and does not repeal or displace, the CSRA, Title VII, the ADEA, the Rehabilitation Act, and related statutes.
4. **Address military claims explicitly**, preserving judicial review of intentional discrimination while respecting operational and command decisions.
5. **Mandate preservation of personnel records** and authorize implementing regulations by the Office of Personnel Management to promote uniform administration.
6. **Clarify retroactivity**, specifying the covered time period and explaining why revival of claims serves an important public purpose consistent with due process.

Conclusion

The **Invidious Discrimination Claimants Act of 2029** rests on **a substantial constitutional foundation**. Congress has broad Article I authority to regulate federal employment, **waive sovereign immunity, and create statutory remedies for unlawful discrimination**. Because the bill requires individualized proof of discriminatory motive, preserves legitimate executive personnel discretion, and supplements rather than supplants existing employment-law frameworks, it is materially stronger than legislation that would presume liability or invalidate entire categories of personnel actions.

The principal litigation risks arise from the interaction with the comprehensive remedial scheme established by the Civil Service Reform Act, the retroactive application of the statute, and its inclusion of military personnel. Those risks can be substantially reduced through careful drafting, robust legislative findings, explicit preservation of existing remedies, appropriate exhaustion provisions, and clear limitations on judicial review of military operational judgments. With those refinements, the Act would present a credible exercise of Congress's constitutional authority to enforce equal treatment within the federal workforce while remaining consistent with established principles of constitutional and administrative law.

17.

"Grand Corruption Review Act of 2029"

H.R. _____

A BILL

To establish a bipartisan congressional Special Corruption Review and Disclosure Panel to investigate and report concerning alleged corruption, abuse of public office, conflicts of interest, and related matters occurring during the Administration of the Forty-Seventh President of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Grand Corruption Review Act of 2029."**

Congress finds that—

(1) Congress possesses constitutional authority to investigate matters relevant to legislation, appropriations, ethics, national security, and the faithful execution of the laws;

(2) public confidence in democratic institutions depends upon transparency and accountability concerning allegations of corruption by public officials;

(3) Congress has historically established special investigative bodies to examine allegations of governmental misconduct, corruption, foreign influence, abuses of executive authority, and failures in governmental administration;

(4) where credible evidence suggests systemic corruption or abuse of public office, Congress has a compelling legislative interest in determining whether statutory reforms, constitutional amendments, criminal referrals, ethics reforms, appropriations restrictions, or institutional reforms are warranted; and

(5) the purpose of this Act is legislative and institutional. Nothing in this Act authorizes the Panel to determine criminal or civil liability.

The purposes of this Act are—

(1) to investigate allegations of widespread corruption within the Executive Branch during the Administration of the Forty-Seventh President of the United States;

(2) to determine whether existing ethics laws, criminal statutes, appropriations controls, and oversight mechanisms proved inadequate;

(3) to recommend legislation designed to prevent future abuses;

(4) to inform Congress and the President concerning matters requiring legislative or executive action; and

(5) where appropriate, to transmit evidence to the Department of Justice, Inspectors General, or other authorities possessing independent prosecutorial or administrative jurisdiction.

There is established a temporary bipartisan congressional body to be known as the **Special Corruption Review and Disclosure Panel** ("Panel"), which shall constitute an instrumentality of the Legislative Branch.

The Panel shall consist of sixteen members.

Eight members shall be appointed by the House of Representatives.

Eight members shall be appointed by the Senate.

Appointments shall be made as follows:

(A) Two members appointed by the Speaker of the House of Representatives.

(B) Two members appointed by the Minority Leader of the House of Representatives.

(C) Two members appointed by the Majority Leader of the Senate.

(D) Two members appointed by the Minority Leader of the Senate.

(E) The remaining appointments shall be allocated equally among the Chairs and Ranking Members of the Committees on the Judiciary, Oversight and Government Reform, Homeland Security, Finance, and Intelligence, as provided by concurrent resolution.

In making appointments, appointing authorities should seek individuals possessing substantial expertise in constitutional law, criminal law, governmental ethics, public corruption, intelligence, national security, securities regulation, procurement, public finance, forensic accounting, and related disciplines.

The Panel shall elect a Chair and Vice Chair, who shall not be members of the same political party.

The Panel shall investigate evidence relating to alleged corruption occurring during the Administration of the Forty-Seventh President of the United States, including, where supported by credible evidence, matters concerning—

(1) fraud against the United States or its citizens;

(2) bribery, gratuities, unlawful influence, or pay-to-play arrangements;

(3) conflicts of interest;

(4) self-dealing;

(5) improper financial benefits accruing directly or indirectly to public officials or members of their immediate families;

(6) alleged violations of the Foreign and Domestic Emoluments Clauses of the Constitution of the United States;

(7) misuse or diversion of appropriated funds;

(8) abuse or misuse of emergency authorities;

(9) improper interference with law enforcement, inspectors general, or independent regulatory agencies;

(10) alleged failures faithfully to execute Acts of Congress;

(11) improper favoritism toward regulated industries, contractors, grantees, or other private entities;

(12) misuse of confidential governmental information for personal financial benefit;

(13) transactions involving securities, commodities, futures contracts, options, swaps, derivatives, digital assets, cryptocurrencies, non-fungible tokens, or other financial instruments conducted by Executive Branch officials or their controlled entities where such transactions may have involved material nonpublic governmental information;

(14) foreign financial relationships or foreign influence that may have affected governmental decision-making;

(15) allegations concerning the initiation, authorization, or conduct of military operations, including allegations regarding unlawful uses of force or extrajudicial killings, provided that the Panel shall make no determination of criminal liability but may recommend further investigation by authorities possessing lawful jurisdiction;

(16) abuse of the pardon power for corrupt purposes;

(17) obstruction of congressional oversight or lawful investigations;

(18) collusion with foreign governments, instrumentalities, or persons acting on behalf of foreign governments; and

(19) any other matter substantially related to corruption in public office that the Panel determines is relevant to its legislative mandate.

The Panel may—

(1) hold hearings;

(2) administer oaths;

(3) issue subpoenas in accordance with applicable House and Senate rules;

(4) compel the production of books, records, electronically stored information, and other evidence;

(5) receive classified information subject to applicable statutes and security procedures;

(6) employ counsel, investigators, forensic accountants, auditors, economists, intelligence specialists, and other experts;

(7) receive reports and evidence from Inspectors General;

(8) receive disclosures from whistleblowers protected by Federal law;

(9) request assistance from executive agencies; and

(10) adopt such procedural rules as are necessary to carry out its duties.

Individuals whose conduct is the subject of testimony or findings shall be afforded reasonable notice, an opportunity to submit written responses, representation by counsel while appearing before the Panel, and such additional procedural protections as the Panel determines are appropriate and consistent with its legislative functions.

Not later than fourteen months after all members have been appointed and seated, the Panel shall submit a preliminary report simultaneously to the House of Representatives, the Senate, and the President of the United States.

Not later than twelve months after submission of the preliminary report, the Panel shall submit its final report.

Each report shall include findings of fact, minority views where applicable, recommendations for legislation, recommendations concerning ethics reform, procurement reform, campaign finance reform, executive accountability, congressional oversight, Inspector General authorities, and recommendations concerning referrals to the Department of Justice, Inspectors General, military authorities, or any other governmental entity possessing lawful jurisdiction where credible evidence suggests that further investigation may be warranted.

The Panel may transmit evidence and recommendations to the Attorney General, United States Attorneys, Inspectors General, the Office of Government Ethics, military authorities exercising jurisdiction under the Uniform Code of Military Justice, or any other Federal or State authority possessing lawful jurisdiction.

A referral made pursuant to this Act shall not constitute a finding of civil liability, criminal liability, or guilt, nor shall it require the recipient agency to commence any investigation or prosecution.

Except where prohibited by law or necessary to protect classified information, grand jury secrecy, ongoing criminal investigations, privileged communications, or legitimate privacy interests, the proceedings, reports, hearing transcripts, and supporting materials of the Panel shall be made available to the public.

The Panel shall terminate ninety days after submitting its final report.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Nothing in this Act shall be construed—

(1) to authorize the Panel to adjudicate criminal guilt or civil liability;

(2) to diminish any constitutional right of any individual;

(3) to impair the authority of the Executive Branch to investigate or prosecute violations of law;

(4) to affect any privilege recognized under the Constitution or laws of the United States; or

(5) to create any private right of action.

This Act shall take effect upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE GRAND CORRUPTION REVIEW ACT OF 2029

Executive Summary

The **Grand Corruption Review Act of 2029** establishes a temporary congressional body—the **Special Corruption Review and Disclosure Panel ("Panel")**—to investigate allegations of systemic corruption, conflicts of interest, abuse of executive authority, and related misconduct occurring during the Administration of the Forty-Seventh President of the United States. The Panel's authority is investigative and advisory. It is empowered to gather evidence, conduct hearings, issue subpoenas pursuant to congressional rules, make legislative findings, recommend statutory reforms, and refer evidence to appropriate executive agencies. It is **not** authorized to adjudicate civil or criminal liability.

From a constitutional perspective, the Act rests principally upon Congress's broad Article I authority to investigate matters germane to legislation and oversight. The Supreme Court has long recognized that the power to investigate is an implied but indispensable component of the legislative power. Properly understood, the proposed Panel resembles prior congressional investigative bodies—including the Senate investigations led by the Harry S. Truman Committee into wartime contracting, the Senate Watergate Committee, and the National Commission on Terrorist Attacks Upon the United States—rather than a judicial or prosecutorial tribunal.

The bill is constitutionally strongest because it does not purport to determine guilt, impose sanctions, or direct prosecutions. Its principal legal vulnerabilities arise from the breadth of its investigative mandate, possible claims that the legislation targets a particular former administration for political purposes, due process concerns associated with public investigative reports, and potential separation-of-powers disputes concerning access to executive information and assertions of executive privilege. With careful drafting and a well-developed legislative record, those concerns can be substantially mitigated.

I. Article I Authority to Conduct Investigations

A. The Investigative Power of Congress

Although the Constitution does not expressly confer an investigative power upon Congress, the Supreme Court has consistently held that such authority is necessarily implied by Article I.

Beginning with McGrain v. Daugherty, the Court recognized that Congress cannot legislate intelligently without the ability to investigate facts relevant to prospective legislation. Subsequent decisions have reaffirmed that Congress may conduct inquiries concerning governmental operations, public expenditures, ethics, and executive administration whenever those inquiries bear upon a legitimate legislative purpose.

The proposed Act identifies several such purposes:

- evaluating existing ethics statutes;
- assessing procurement and appropriations controls;
- reviewing executive accountability mechanisms;
- examining the adequacy of Inspector General authorities;

- considering reforms to financial disclosure, conflicts of interest, and campaign finance laws.

Because the Panel's investigations are expressly tied to potential legislation, the Act falls squarely within established Article I authority.

B. Legislative Purpose Requirement

Congress's investigative authority is not unlimited.

In Watkins v. United States and Barenblatt v. United States, the Supreme Court emphasized that congressional investigations must serve a legitimate legislative purpose and may not become purely prosecutorial or expose private citizens merely for the sake of exposure.

The current draft appropriately emphasizes that:

- the Panel exists to recommend legislation;
- it may recommend institutional reforms;
- it may make referrals only where credible evidence exists; and
- it lacks adjudicative authority.

Those limitations materially strengthen the Act.

II. Separation of Powers

A. Congressional Oversight Versus Executive Functions

A principal constitutional question concerns whether the Panel intrudes upon powers constitutionally committed to the Executive Branch.

Article II vests prosecutorial discretion in the Executive. Congress may not direct the Attorney General to prosecute particular individuals nor itself exercise prosecutorial authority.

The present draft avoids this problem by providing only that the Panel may transmit evidence and recommendations to the Department of Justice or other authorities. Referral does not compel investigation or prosecution.

Consequently, the Act preserves the Executive's exclusive authority over criminal charging decisions.

B. Executive Privilege

The Panel will likely seek presidential communications, internal White House deliberations, intelligence materials, and national security information.

The Executive Branch may invoke executive privilege.

The governing precedent remains United States v. Nixon, which recognizes a qualified executive privilege subject to overriding governmental interests.

Congressional access to privileged material has historically been resolved through accommodation rather than judicial compulsion. The Act should therefore be understood as operating within the constitutional framework of interbranch negotiation rather than purporting to override valid claims of privilege.

III. Bills Directed at a Particular Administration

Unlike generally applicable ethics legislation, this Act expressly focuses on one presidential administration.

That fact alone does not render it unconstitutional.

Congress has repeatedly established commissions directed toward particular historical events or administrations, including investigations of wartime contracting, the Watergate scandal, the Iran–Contra affair, and the events of September 11, 2001.

The constitutional inquiry is whether Congress possesses a legitimate legislative purpose, not whether the investigation concerns identifiable officials.

Nonetheless, to reduce claims of political retaliation, the legislative findings should emphasize that the purpose of the Panel is institutional reform rather than condemnation of particular individuals.

IV. Due Process Considerations

Although the Panel cannot impose legal sanctions, its public reports may significantly affect the reputations of individuals discussed in those reports.

The Supreme Court has recognized that congressional investigations should afford procedural fairness where individuals are publicly criticized.

The current bill already provides:

- reasonable notice;

- opportunity to submit written responses;
- representation by counsel;
- procedural protections established by Panel rules.

These provisions substantially reduce due process concerns.

To strengthen the legislation further, Congress should require that any individual identified by name in a report receive an opportunity to review relevant portions of the proposed report and submit a written response for inclusion as an appendix.

V. Bills of Attainder

Article I prohibits Congress from enacting Bills of Attainder.

A Bill of Attainder legislatively determines guilt and inflicts punishment without judicial trial.

The proposed Act does neither.

It:

- creates no criminal offense;
- imposes no civil penalties;
- bars no person from office;
- confiscates no property;
- determines no liability.

Accordingly, it is unlikely to be characterized as a prohibited Bill of Attainder.

VI. First Amendment Considerations

Congressional investigations occasionally implicate freedoms of speech, association, and political activity.

The broad language concerning "collusion with foreign powers," "industry influence," or political advocacy should therefore be interpreted narrowly.

The Panel should investigate conduct bearing upon corruption, financial misconduct, abuse of office, or violations of law—not constitutionally protected political speech or association.

A clarifying provision would strengthen the statute:

"Nothing in this Act authorizes investigation of constitutionally protected speech, petitioning activity, association, journalism, or political advocacy except where directly relevant to alleged unlawful conduct."

VII. Subpoena Authority

The Act authorizes subpoenas pursuant to House and Senate rules.

Congressional subpoenas have long been upheld where they seek information reasonably related to legitimate legislative purposes.

Relevant precedents include:

- Eastland v. United States Servicemen's Fund
- Trump v. Mazars USA, LLP

Mazars instructs courts to scrutinize congressional subpoenas directed at the President or presidential records with particular care, balancing legislative need against separation-of-powers concerns. The Panel should therefore tailor subpoenas narrowly and articulate specific legislative purposes.

VIII. Administrative Law Considerations

Legislative Branch Status

The Panel is established as an instrumentality of the Legislative Branch.

Accordingly:

- the Administrative Procedure Act generally does not apply to its investigative activities;
- its reports do not constitute agency action reviewable under the APA;
- rulemaking requirements applicable to executive agencies are inapplicable.

Its procedural rules derive from congressional authority rather than administrative law.

Classified Information

The Panel's authority to receive classified information raises practical and constitutional issues.

Congress routinely receives classified information through intelligence committees.

The Act appropriately subjects such access to existing security laws and procedures. It should not be construed to authorize unilateral public disclosure of classified information contrary to law.

Referrals

The Act authorizes referrals to:

- the Department of Justice;
- Inspectors General;
- military authorities;
- state authorities.

Because referrals are advisory only, they do not constitute final agency action, adjudication, or prosecutorial directives. This limitation substantially reduces separation-of-powers concerns.

IX. Potential Constitutional Challenges

Challenge 1

The Act is an unconstitutional attempt to prosecute a former administration.

Likely Response

The Panel exercises investigative and legislative functions only. It neither prosecutes nor adjudicates. Congress has long investigated prior administrations to inform legislation.

Challenge 2

The Act constitutes a Bill of Attainder.

Likely Response

The Act imposes no punishment, determines no guilt, and creates no disabilities. Investigative reports, standing alone, do not constitute legislative punishment.

Challenge 3

The Act violates executive privilege.

Likely Response

Executive privilege remains available. The Act does not purport to eliminate or override constitutionally recognized privileges. Disputes would be resolved under existing constitutional doctrines of interbranch accommodation.

Challenge 4

The investigation is politically motivated.

Likely Response

Courts generally refrain from examining congressional motives where legislation serves an objectively legitimate legislative purpose. The Act's focus on ethics reform, appropriations oversight, procurement, national security, and institutional accountability supplies such a purpose.

Recommendations for Strengthening the Bill

To enhance constitutional resilience, the following refinements are recommended:

1. **Expand the legislative findings** to identify specific statutory reforms under consideration—such as amendments to federal ethics laws, the Inspector General Act, procurement statutes, financial disclosure requirements, and conflict-of-interest provisions. This more clearly demonstrates the nexus between the investigation and prospective legislation.
2. **Require procedural fairness** by providing that individuals identified by name in any report receive advance notice of proposed findings concerning them and an opportunity to submit a written response for inclusion in the public record.
3. **Include an express protection for constitutional rights**, stating that nothing in the Act authorizes inquiry into protected speech, political association, or petitioning activity except insofar as such activity is directly relevant to alleged unlawful conduct.
4. **Clarify subpoena standards**, directing the Panel to issue subpoenas only when the requested information is reasonably necessary to accomplish a legislative purpose and unavailable through less intrusive means, particularly when presidential materials are sought.

5. **Address classified information explicitly**, requiring the Panel to adopt procedures consistent with existing statutes governing the handling, storage, and disclosure of classified materials.
6. **Emphasize the advisory nature of referrals**, reiterating that any transmission of evidence to prosecutorial authorities neither compels investigation nor expresses congressional conclusions regarding guilt.

Conclusion

The **Grand Corruption Review Act of 2029** is grounded principally in Congress's Article I investigative and oversight powers. As drafted, it is best understood as establishing a temporary legislative commission designed to gather facts, evaluate the adequacy of existing statutory safeguards, and recommend reforms. By avoiding adjudicative authority, preserving executive prosecutorial discretion, recognizing constitutional privileges, and incorporating procedural protections for affected individuals, the bill is substantially more defensible than legislation that would itself determine liability or direct prosecutions.

The principal constitutional questions concern legislative purpose, executive privilege, due process, and the handling of presidential records. Those concerns are manageable and consistent with long-standing practice in congressional investigations. With the recommended refinements, the Act would present a credible and constitutionally supportable exercise of Congress's authority to investigate matters relevant to legislation and to oversee the integrity of the federal government.

18.

"Political Contribution Transparency Act of 2029"

H.R. _____

A BILL

To require comprehensive disclosure of political contributions and things of value made in connection with Federal elections, to ensure transparency concerning the ultimate source of campaign contributions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Political Contribution Transparency Act of 2029."**

Congress finds that—

(1) transparency concerning political contributions is essential to maintaining public confidence in representative government;

(2) Congress possesses authority under Article I of the Constitution to regulate Federal elections and to enact laws necessary and proper for protecting the integrity of such elections;

(3) disclosure of campaign contributions serves important governmental interests by informing the electorate, deterring corruption and the appearance of corruption, facilitating enforcement of Federal election laws, and preserving confidence in democratic institutions;

(4) increasingly complex financial instruments, cryptocurrencies, digital assets, trusts, intermediary entities, and other arrangements may obscure the true source of political contributions unless comprehensive disclosure requirements are imposed; and

(5) it is the purpose of this Act to promote transparency without restricting constitutionally protected political expression.

For purposes of this Act—

(1) **"Commission"** means the Federal Election Commission.

(2) **"Contribution"** includes any contribution, donation, gift, transfer, expenditure, advance, loan, extension of credit, deposit, cryptocurrency, digital asset, non-fungible token, security, commodity, real property interest, intellectual property, contractual right, service, forgiveness of indebtedness, or any other thing having present or reasonably ascertainable economic value that is made directly or indirectly for the purpose of influencing the nomination or election of a candidate for Federal office.

(3) **"Recipient"** includes any candidate, authorized committee, political committee, political action committee, Super PAC, joint fundraising committee, political party committee, corporation, partnership, trust, association, nonprofit organization, labor organization, limited liability company, foundation, or other legal or natural person receiving a contribution covered by this Act.

(4) **"Ultimate source"** means the natural person or legal entity that provided the funds or thing of value ultimately used to make the contribution, without regard to intermediary entities or transactions.

(5) **"Beneficial owner"** means the natural person who directly or indirectly owns or controls a legal entity making a contribution.

Every recipient of a contribution covered by this Act shall file an electronic disclosure report with the Commission not later than seventy-two hours after receipt of such contribution.

Each disclosure shall include—

(A) the identity of the recipient;

(B) the identity of the person or entity directly making the contribution;

(C) the identity of the ultimate source of the contribution;

(D) where the contributor is not a natural person, the beneficial owner or owners exercising ultimate control over the contributing entity to the extent required by regulations promulgated under this Act;

(E) the date received;

(F) the amount of any monetary contribution;

(G) the fair market value or other reasonable estimate of any noncash contribution, together with the methodology used in determining such value;

(H) the nature and description of any noncash contribution;

(I) the purpose of the contribution, as stated by the contributor if provided, or, if no such statement accompanies the contribution, the recipient's good-faith understanding of the purpose for which the contribution was made;

(J) whether the contribution was transmitted through one or more intermediary entities;

(K) identification of each intermediary through which the contribution passed; and

(L) such additional information as the Commission determines necessary to carry out this Act.

No contribution subject to this Act may be structured, divided, transferred, assigned, routed, or otherwise arranged for the purpose of concealing—

(A) the identity of the contributor;

(B) the identity of the ultimate source;

(C) the beneficial owner of any contributing entity;

(D) the amount or value of the contribution; or

(E) any other information required to be disclosed under this Act.

The Commission shall make every disclosure filed pursuant to this Act publicly available on its official website not later than seventy-two hours after receipt.

The Commission shall maintain a searchable public database permitting searches by—

(A) contributor;

(B) beneficial owner;

(C) ultimate source;

(D) recipient;

(E) intermediary;

(F) candidate;

(G) political committee;

(H) date;

(I) amount; and

(J) any other category the Commission determines appropriate.

The database shall permit public downloading of contribution information in machine-readable format.

The Commission shall promulgate regulations establishing reasonable methodologies for determining the fair market value of noncash contributions, digital assets, cryptocurrencies, non-fungible tokens, commodities, securities, services, and other contributions not consisting of United States currency.

Knowingly filing materially false information under this Act, knowingly concealing the identity of the ultimate source of a contribution, knowingly employing intermediary entities for the purpose of evading disclosure, or knowingly participating in a scheme designed to conceal information required by this Act shall constitute violations of the Federal Election Campaign Act and shall be subject to the civil and criminal penalties otherwise provided by Federal law.

Nothing in this Act shall be construed—

(1) to prohibit any contribution otherwise permitted under Federal law;

(2) to alter existing contribution limits established by Federal law;

(3) to authorize disclosure of information protected by court order, classified information, or information whose disclosure is otherwise prohibited by Federal statute; or

(4) to diminish any authority otherwise possessed by the Federal Election Commission.

The Commission shall promulgate implementing regulations not later than one hundred eighty days after enactment.

This Act shall apply to contributions received on or after the date occurring one hundred eighty days following enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE POLITICAL CONTRIBUTION TRANSPARENCY ACT OF 2029

Executive Summary

The **Political Contribution Transparency Act of 2029** would significantly expand federal campaign-finance disclosure requirements by requiring comprehensive reporting of every contribution made in connection with federal elections, including contributions of cash, digital assets, cryptocurrencies, non-fungible tokens, securities, commodities, services, and other things of economic value. The Act would further require disclosure of the **ultimate source** and beneficial ownership of every contribution and would direct the Federal Election Commission ("FEC") to publish such information in a searchable public database within seventy-two hours after receipt.

Unlike legislation that limits campaign contributions or expenditures, this bill principally regulates **disclosure**. The Supreme Court has consistently afforded Congress broader constitutional latitude to enact disclosure requirements than to impose restrictions on political expenditures or independent political advocacy. Consequently, the Act rests upon a substantially stronger constitutional foundation than statutes that directly regulate political speech.

The bill nevertheless raises important constitutional questions concerning:

1. the scope of Congress's Elections Clause authority;
2. the First Amendment rights of contributors and political organizations;
3. compelled disclosure and associational privacy;
4. disclosure of beneficial ownership and ultimate funding sources;
5. due process concerns surrounding valuation of non-cash contributions;
6. administrative implementation by the FEC.

Overall, with several refinements, the legislation would likely withstand constitutional scrutiny in substantial part, although several provisions—particularly the requirement that disclosure occur "without exception"—would likely require narrowing to accommodate recognized First Amendment protections.

I. Constitutional Authority

A. Elections Clause

Article I, Section 4 of the Constitution authorizes Congress to regulate the "Times, Places and Manner" of federal elections.

The Supreme Court has interpreted this authority broadly.

Congress has enacted:

- the Federal Election Campaign Act ("FECA");
- the Bipartisan Campaign Reform Act ("BCRA");
- extensive disclosure requirements administered by the FEC.

Disclosure of campaign financing has consistently been regarded as an appropriate exercise of Congress's Elections Clause authority.

Accordingly, the constitutional basis for this Act is substantial.

B. Necessary and Proper Clause

Congress may enact legislation necessary and proper to enforce election laws and protect electoral integrity.

The proposed Act seeks to ensure that increasingly sophisticated financial structures—including trusts, digital assets, partnerships, shell corporations, and cryptocurrencies—cannot obscure the true source of political contributions.

This objective falls comfortably within Congress's Article I powers.

II. First Amendment Analysis

The First Amendment presents the principal constitutional issue.

Political contributions and expenditures constitute expressive conduct protected by the First Amendment.

The Supreme Court has distinguished between:

- limits on speech;
- disclosure of speech.

The proposed Act regulates disclosure rather than expression.

That distinction is critical.

A. Campaign Finance Disclosure

The leading decision remains Buckley v. Valeo.

The Court upheld disclosure requirements because they serve important governmental interests:

- informing voters;
- deterring corruption;

- detecting violations of election laws;
- preserving public confidence.

The Court recognized that disclosure imposes only indirect burdens upon political speech.

The present bill closely aligns with these recognized governmental interests.

B. Exacting Scrutiny

Unlike expenditure limitations, disclosure statutes ordinarily receive "exacting scrutiny."

Under this standard:

Congress must demonstrate:

- an important governmental interest; and
- a substantial relation between disclosure and that interest.

The proposed legislation readily satisfies the first requirement.

The principal litigation concerns would involve the breadth of disclosure.

III. Disclosure of Ultimate Source

The most novel feature of the legislation is its requirement that the **ultimate source** of every contribution be disclosed.

Congress increasingly confronts situations involving:

- shell corporations;
- pass-through entities;
- LLCs;
- trusts;
- digital wallets;
- cryptocurrency transactions.

Requiring disclosure of beneficial ownership is rationally related to transparency.

However, the phrase:

"without exception"

creates constitutional risk.

Associational Privacy

The Supreme Court has repeatedly recognized that compelled disclosure may burden associational freedoms.

Important precedents include:

- NAACP v. Alabama
- Americans for Prosperity Foundation v. Bonta

Those decisions recognize that disclosure may expose contributors to:

- threats;
- harassment;
- retaliation.

The Constitution therefore requires carefully tailored disclosure requirements.

Recommendation

Replace:

"without exception"

with language such as:

"except where disclosure is prohibited by the Constitution or ordered sealed by a court upon a showing of compelling circumstances."

This modification would materially strengthen the bill.

IV. Anonymous Political Speech

The Supreme Court has protected anonymous political advocacy in certain contexts.

For example:

- McIntyre v. Ohio Elections Commission

However, campaign finance disclosure has generally been distinguished from anonymous pamphleteering.

The Court has repeatedly upheld donor disclosure where electoral financing is concerned.

Accordingly, anonymous campaign financing receives substantially less constitutional protection than anonymous political advocacy.

V. Digital Assets

Congress unquestionably may require disclosure of contributions made through:

- cryptocurrencies;
- stablecoins;
- NFTs;
- tokenized securities.

These assets are merely alternative methods of transferring economic value.

The constitutional analysis does not materially differ from cash contributions.

Administrative implementation, however, will require careful valuation standards.

VI. Due Process

Valuation Standards

The Act requires recipients to estimate fair market value.

Without objective standards, enforcement may become arbitrary.

Due process favors:

- published valuation methodologies;
- safe-harbor provisions;
- good-faith compliance standards.

The current draft appropriately directs the FEC to promulgate valuation regulations.

This substantially reduces vagueness concerns.

Scienter

The bill imposes liability for:

- knowingly filing false information;
- knowingly concealing contributors;
- knowingly using intermediaries.

The inclusion of a scienter requirement substantially strengthens the legislation.

Strict liability would be more vulnerable.

VII. Beneficial Ownership

The disclosure of beneficial ownership parallels existing federal regulatory frameworks in anti-money laundering and corporate transparency.

Although disclosure obligations may burden contributors, courts have generally upheld beneficial ownership reporting where reasonably tailored to legitimate governmental interests.

The principal constitutional concern remains overbreadth.

The bill should clarify that disclosure obligations extend only to persons exercising actual ownership or control rather than every minority investor.

VIII. Administrative Law Analysis

Federal Election Commission Authority

The Act appropriately assigns implementation to the FEC.

The Commission possesses:

- existing disclosure infrastructure;
- electronic filing systems;
- investigative authority;
- civil enforcement mechanisms.

The delegation is therefore administratively efficient.

Administrative Procedure Act

The FEC's implementing regulations would be governed by the Administrative Procedure Act.

Accordingly:

- notice-and-comment rulemaking;
- judicial review;
- reasoned decision-making;
- arbitrary-and-capricious review

would all apply.

This enhances the statute's legal durability.

Rulemaking Authority

The delegation to the FEC is constitutionally modest.

Congress provides the governing policy.

The Commission determines technical implementation.

Such delegations have consistently been upheld.

IX. Potential Constitutional Challenges

Challenge 1

The Act chills political participation.

Likely Response

Disclosure requirements have repeatedly been upheld where substantially related to anti-corruption and voter-information interests. Courts would likely sustain most of the Act while requiring accommodations in exceptional circumstances.

Challenge 2

Disclosure of beneficial ownership violates associational rights.

Likely Response

The requirement is generally constitutional if reasonably tailored to identifying the true source of campaign funds and if exceptions remain available where disclosure would create a serious risk of threats or reprisals.

Challenge 3

The Act is unconstitutionally vague because non-cash contributions are difficult to value.

Likely Response

The FEC's implementing regulations, safe-harbor valuation methods, and good-faith reporting standards would likely satisfy due process requirements.

Challenge 4

Mandatory seventy-two-hour disclosure is unduly burdensome.

Likely Response

Courts have generally upheld prompt disclosure requirements for campaign contributions, particularly during active election periods. The burden appears proportionate to the governmental interest in timely voter information.

Recommendations for Strengthening Constitutional Defensibility

Several refinements would improve the bill's likelihood of surviving judicial review:

1. **Replace the phrase "without exception"** with language recognizing constitutionally required exemptions where a court determines that disclosure would likely subject contributors to serious threats, harassment, or reprisals.
2. **Define "ultimate source" more precisely**, limiting disclosure to the person or entity exercising actual beneficial ownership or control over the contributed funds, thereby avoiding unnecessary disclosure of remote or incidental investors.

3. **Provide a confidential administrative procedure** before the FEC through which contributors may seek temporary nondisclosure in extraordinary cases, subject to judicial review.
4. **Incorporate safe-harbor valuation provisions** for non-cash contributions and digital assets, allowing recipients acting in good faith and in accordance with FEC guidance to avoid penalties for reasonable valuation errors.
5. **Clarify the timing of disclosure**, specifying whether the seventy-two-hour reporting obligation applies uniformly or only above specified monetary thresholds. Applying the same deadline to de minimis contributions could impose disproportionate administrative burdens.
6. **Require periodic review of implementing regulations**, directing the FEC to reassess valuation methodologies and disclosure practices in light of technological developments in digital assets and evolving campaign-finance practices.

Conclusion

The **Political Contribution Transparency Act of 2029** rests upon a strong constitutional foundation grounded in Congress's Elections Clause authority and its well-established power to require disclosure of campaign financing. Because the bill emphasizes transparency rather than restricting political contributions or expenditures, it is substantially more likely to withstand First Amendment scrutiny than legislation imposing direct limits on political activity.

Its principal constitutional vulnerability lies in the breadth of its disclosure requirements, particularly the requirement that the ultimate source of every contribution be disclosed "without exception." Supreme Court precedent recognizes that compelled disclosure, while generally permissible in the campaign-finance context, must remain appropriately tailored and must accommodate exceptional cases in which disclosure would impose serious burdens on First Amendment associational rights. With modest revisions addressing those concerns, together with additional procedural safeguards and clearer standards for valuation and implementation, the Act would present a robust and constitutionally defensible framework for promoting transparency and accountability in federal campaign finance.

19.

"Article I Powers Preservation and Fiscal Accountability Act of 2029"

H.R. _____

A BILL

To strengthen congressional control over appropriations, tariffs, and other powers vested in Congress under Article I of the Constitution, to reinforce the independence of the Federal Reserve System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Article I Powers Preservation and Fiscal Accountability Act of 2029."**

Congress finds that—

(1) Article I of the Constitution vests the legislative powers of the United States in Congress;

(2) the Appropriations Clause entrusts Congress exclusively with authority over expenditures from the Treasury;

(3) the Constitution assigns Congress authority to regulate commerce with foreign nations and to establish duties, imposts, and excises;

(4) Congress has delegated certain limited authorities to the Executive concerning tariffs and trade, but retains ultimate constitutional responsibility for such matters;

(5) public confidence in the Nation's financial system depends upon the political independence of the Federal Reserve System in carrying out its statutory responsibilities;

(6) effective constitutional government requires faithful observance of the separation of powers established by the Constitution.

For purposes of this Act—

(1) "Impoundment" means any action that delays, withholds, reserves, defers, cancels, conditions, or otherwise prevents the timely obligation or expenditure of appropriated funds.

(2) "Tariff" includes any customs duty, surcharge, import fee, border adjustment, or other charge imposed upon imported goods.

(3) "Federal Reserve" means the Board of Governors of the Federal Reserve System and the Federal Reserve Banks acting pursuant to Federal law.

The Impoundment Control Act of 1974 ***is amended*** as follows:

(A) Whenever the President, the Director of the Office of Management and Budget, or any executive agency delays, withholds, defers, reserves, or otherwise impounds appropriated funds, a detailed written report shall simultaneously be transmitted to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Comptroller General of the United States, and the appropriate congressional committees.

(B) Such report shall identify—

(i) every affected appropriation;

(ii) the statutory authority relied upon;

(iii) the constitutional authority relied upon;

(iv) the amount withheld;

(v) the duration of the withholding;

(vi) the operational consequences of the withholding; and

(vii) a legal memorandum prepared by the Office of Legal Counsel or other appropriate executive legal authority supporting the action.

(C) Failure to submit such report shall render the impoundment unlawful.

Whenever either House of Congress adopts a resolution asserting that appropriated funds are being unlawfully impounded, expedited judicial review shall be available in the United States District Court for the District of Columbia.

The House of Representatives, the Senate, any committee possessing jurisdiction over the affected appropriation, and the Comptroller General shall each possess statutory standing to bring such action.

Any appeal shall proceed directly to the Supreme Court of the United States.

No appropriated funds may be withheld beyond the period authorized by the Impoundment Control Act unless expressly authorized by subsequent Act of Congress.

No officer or employee of the Executive Branch may condition the expenditure of appropriated funds upon agreement with policy objectives not enacted by Congress.

No Executive Order, presidential memorandum, administrative directive, or agency guidance shall authorize withholding appropriated funds except as expressly authorized by statute.

Congress reaffirms that powers vested exclusively in Article I may not be exercised by the Executive except pursuant to express statutory authorization enacted by Congress.

Except as expressly provided herein or by subsequent Act of Congress, the President shall possess no independent authority to impose tariffs, customs duties, import fees, border charges, or substantially similar exactions upon imported goods.

The President may impose temporary **tariffs** only where—

(A) another nation first imposes tariffs exceeding ten percent upon goods originating in the United States *during the President's term of office*;

(B) the United States is engaged in active armed hostilities against the nation whose imports are subject to such tariffs pursuant to statutory or constitutional authority;

or

(C) Congress has declared war against the relevant foreign nation or Congress has recognized that a foreign nation has declared war against the United States.

Any temporary tariff imposed pursuant to this section shall expire ninety calendar days after taking effect unless ratified by Act of Congress.

The President shall transmit to Congress, not later than sixty days after imposing any temporary tariff, proposed legislation seeking ratification together with—

(A) an economic analysis;

(B) projected revenue effects;

(C) projected effects upon consumers;

(D) projected effects upon domestic industries;

(E) projected effects upon inflation;

(F) projected effects upon national security; and

(G) the legal basis supporting the action.

Congress may extend any temporary tariff only by Act of Congress and only for additional periods not exceeding ninety calendar days each.

Failure of Congress to enact such legislation prior to expiration of any extension period shall automatically terminate the tariff without further executive action.

Nothing in this Act shall impair Congress's authority permanently to establish tariffs through legislation.

No officer or employee of the Executive Branch may direct, compel, threaten, intimidate, coerce, or otherwise improperly interfere with the independent monetary policy determinations of the Federal Reserve System.

Nothing in this section shall prohibit—

(A) public policy recommendations;

(B) testimony before Congress;

(C) formal communications authorized by law between the Treasury Department and the Federal Reserve;

(D) participation in meetings otherwise authorized by Federal law.

The Chair of the Board of Governors shall annually certify to Congress whether any improper attempts to influence the Federal Reserve have occurred.

The Comptroller General shall conduct annual audits concerning compliance with this Act and shall report findings to Congress.

The Inspector General of each affected executive agency shall immediately notify Congress whenever evidence exists that appropriated funds are being unlawfully withheld.

Any officer or employee knowingly violating this Act shall be subject to appropriate administrative discipline in accordance with existing Federal law.

Nothing in this Act shall—

(1) diminish the constitutional powers of Congress;

(2) impair lawful presidential authority expressly granted by the Constitution;

(3) authorize judicial review of monetary policy decisions of the Federal Reserve;

(4) affect existing authorities exercised pursuant to a declaration of war except as expressly provided herein; or

(5) create any private right of action except as expressly authorized under this Act.

The provisions of this Act shall take effect immediately upon enactment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW ANALYSIS
THE ARTICLE I POWERS PRESERVATION AND FISCAL ACCOUNTABILITY ACT OF 2029

Executive Summary

Unlike many reform bills that regulate a discrete subject, this legislation seeks to redefine and reinforce the constitutional boundary between the Legislative and Executive Branches with respect to three areas:

1. congressional control over appropriations (impoundment);
2. congressional authority over tariffs and foreign commerce; and
3. the institutional independence of the Federal Reserve System.

The bill also establishes expedited judicial review, expands statutory standing, and enhances reporting obligations concerning executive withholding of appropriated funds.

Much of the legislation rests upon well-established constitutional principles. Other provisions—particularly those addressing tariffs—would significantly alter the current statutory allocation of authority and therefore would likely become the subject of major constitutional litigation.

Overall, the bill presents a strong constitutional foundation with respect to impoundment and congressional oversight, a moderate foundation regarding Federal Reserve protections, and a more uncertain foundation concerning the tariff provisions because of the interaction between Article I and long-standing congressional delegations of trade authority to the Executive.

I. Constitutional Structure

The legislation rests upon a single constitutional premise:

Congress may reclaim and reinforce powers that the Constitution originally vested in Article I.

This premise reflects the Constitution's structure rather than any single constitutional provision.

The relevant clauses include:

- Article I, Section 1 (Legislative Powers)
- Article I, Section 8 (Commerce Clause)
- Article I, Section 8 (Taxing Clause)

- Article I, Section 9 (Appropriations Clause)
- Article II (Executive Power)

The Supreme Court has consistently recognized that:

- Congress controls appropriations;
- Congress creates executive agencies;
- Congress regulates commerce;
- the Executive executes—not creates—the law.

II. Strengthening the Impoundment Control Act

A. Existing Law

The legislation principally amends the Congressional Budget and Impoundment Control Act of 1974.

That statute already substantially limits presidential impoundment authority.

Its constitutionality has rarely been questioned because Congress unquestionably controls appropriations.

The Supreme Court's leading decision is:

Train v. City of New York

There the Court held that when Congress directs that funds be spent, the Executive ordinarily lacks authority simply to refuse expenditure.

The proposed bill reinforces—not replaces—that framework.

B. Reporting Requirements

The bill requires detailed legal memoranda explaining every impoundment.

Congress possesses unquestioned authority to require such reporting.

Similar reporting statutes exist throughout federal law.

No significant constitutional difficulty exists.

C. Standing

One of the bill's most innovative provisions grants standing to:

- either House of Congress;
- congressional committees;
- the Government Accountability Office.

Constitutional Issues

Standing derives from Article III.

Congress cannot eliminate constitutional standing requirements.

However, Congress may create statutory causes of action.

Whether the House or Senate possesses standing depends upon Supreme Court doctrine.

Important precedents include:

- Arizona State Legislature v. Arizona Independent Redistricting Commission
- United States House of Representatives v. Mnuchin

The Supreme Court has sometimes permitted institutional standing.

Other decisions have been more restrictive.

Recommendation

The bill should clarify that:

standing exists only where the institutional prerogatives of Congress have suffered concrete injury.

This would better align with Article III jurisprudence.

III. Expedited Judicial Review

Congress frequently establishes expedited judicial review.

Examples include:

- campaign finance laws;
- voting rights statutes;
- census litigation.

Direct appeal to the Supreme Court has numerous historical precedents.

Consequently, this provision is constitutionally secure.

IV. Article I Powers

A. Congressional Reaffirmation

The bill states:

the President possesses no authority to usurp Article I powers.

As a constitutional proposition, this statement largely reflects existing doctrine.

The Executive possesses only those authorities:

- granted by Article II;
- necessarily implied;
- delegated by Congress.

The statement is therefore largely declaratory.

B. Separation of Powers

The Supreme Court has repeatedly emphasized that:

Congress legislates.

The President executes.

Leading precedents include:

- Youngstown Sheet & Tube Co. v. Sawyer
- Clinton v. City of New York

The proposed Act reflects the reasoning of Justice Robert H. Jackson's influential concurrence in *Youngstown*, particularly his framework for evaluating presidential power in relation to congressional authorization or opposition.

V. Tariff Provisions

This represents the bill's most constitutionally significant section.

A. Constitutional Allocation

Article I provides:

Congress may—

- regulate commerce;
- levy duties;
- establish tariffs.

Historically:

Congress delegated substantial authority to Presidents through statutes including:

- Trade Expansion Act of 1962;
- International Emergency Economic Powers Act (IEEPA);
- Trade Act of 1974.

The present bill substantially narrows those delegations.

B. May Congress Withdraw Delegations?

Yes.

Congress generally may repeal or narrow statutory delegations.

The Constitution does not require Congress to delegate tariff authority.

Consequently:

Congress could reclaim tariff authority through ordinary legislation.

That proposition rests upon strong constitutional footing.

C. Temporary Presidential Authority

The bill permits emergency tariffs only:

- retaliation;
- active hostilities;

- declared war.

This resembles numerous emergency statutes.

The ninety-day limitation appears constitutionally permissible.

D. Ratification Requirement

The President must seek congressional ratification.

This resembles:

- the War Powers Resolution;
- the Impoundment Control Act.

Unlike the legislative veto invalidated in INS v. Chadha, the bill requires **affirmative legislation** extending tariffs. Because continuation depends on bicameral passage and presentment, rather than a one-house or concurrent-resolution veto, it is less vulnerable to *Chadha*.

VI. Federal Reserve Independence

A. Constitutional Status

The Federal Reserve exists entirely by statute.

Congress may define:

- its structure;
- governance;
- independence.

The bill prohibits improper presidential interference.

Congress has long insulated certain governmental functions from direct political control.

Relevant cases include:

- Humphrey's Executor v. United States;
- Seila Law LLC v. Consumer Financial Protection Bureau.

Recent Supreme Court decisions have emphasized presidential supervision over executive officers, but the Court has also recognized that Congress may structure independent agencies within constitutional limits.

B. Potential Litigation

A President could argue:

Article II requires supervision.

Congress would respond:

the statute regulates coercion—not lawful consultation.

Because the bill expressly permits:

- recommendations;
- communications;
- testimony;

it is more likely to survive challenge.

VII. Administrative Law

Office of Management and Budget

The reporting obligations imposed upon the Office of Management and Budget are routine administrative requirements.

No substantial constitutional concerns arise.

Government Accountability Office

The enhanced responsibilities assigned to the Government Accountability Office fit comfortably within its traditional oversight role.

Inspectors General

Immediate reporting duties likewise resemble numerous existing statutory obligations.

Administrative Procedure Act

Agency regulations implementing the Act would generally be subject to the Administrative Procedure Act.

Judicial review would therefore proceed under familiar arbitrary-and-capricious standards where applicable.

VIII. Potential Constitutional Challenges

Challenge 1

The tariff provisions unconstitutionally limit presidential foreign affairs powers.

Likely Response

The Constitution assigns regulation of foreign commerce to Congress. Congress may narrow or repeal statutory delegations of tariff authority, subject to any independent constitutional powers of the President in specific national security contexts.

Challenge 2

Congress cannot grant itself standing.

Likely Response

Congress may create statutory causes of action, but Article III standing requirements remain. Some applications of the standing provisions may depend on future judicial interpretation.

Challenge 3

The Act infringes upon executive management of appropriations.

Likely Response

The Appropriations Clause and *Train v. City of New York* strongly support Congress's authority to require that appropriated funds be obligated according to law.

Challenge 4

Restrictions on communications with the Federal Reserve violate Article II.

Likely Response

The Act prohibits coercive interference while expressly preserving lawful communications and consultation. A reviewing court would likely assess whether the statute unduly impairs the President's ability to supervise executive officers.

Recommendations for Improving Constitutional Defensibility

Several refinements would strengthen the bill:

1. **Expressly repeal or amend inconsistent statutory delegations.** The tariff provisions should identify and amend, suspend, or supersede specific statutes—such as relevant provisions of the Trade Expansion Act, the Trade Act of 1974, and, where intended, the International Emergency Economic Powers Act—to avoid conflicts between this Act and existing law.
2. **Clarify standing provisions.** Specify that congressional standing arises from injury to institutional Article I prerogatives and does not displace Article III requirements.
3. **Define "improper interference" with the Federal Reserve.** Enumerate prohibited conduct—such as threats, directives regarding specific monetary-policy decisions, or attempts to condition employment—while expressly preserving consultation, public statements, and lawful interagency coordination.
4. **Provide emergency exceptions for unforeseen crises.** The tariff section may benefit from a narrowly drawn provision addressing sudden national-security or supply-chain emergencies that do not fall neatly within the three specified categories, while still preserving prompt congressional review.
5. **Coordinate with existing emergency statutes.** Include conforming amendments identifying which preexisting authorities are modified and which remain intact, thereby reducing uncertainty over implied repeal.
6. **Require periodic congressional review.** Mandate reports evaluating the effectiveness of the revised impoundment, tariff, and Federal Reserve provisions to facilitate future legislative refinement.

Conclusion

The **Article I Powers Preservation and Fiscal Accountability Act of 2029** is fundamentally a separation-of-powers measure. Its impoundment reforms are strongly supported by the Constitution's Appropriations Clause, by Congress's Article I authority, and by existing statutory and judicial precedent. The enhanced reporting requirements, expedited judicial review, and oversight mechanisms are likewise well within Congress's legislative competence.

The tariff provisions are more ambitious. They seek to reclaim authority that Congress has historically delegated to the Executive, and while Congress generally possesses the power to narrow or withdraw those delegations, careful attention must be paid to conforming amendments and to the interaction with existing trade and emergency statutes. The provisions concerning the Federal Reserve likewise rest on Congress's authority to structure statutory institutions but should be drafted with precision to avoid unnecessary conflict with the President's Article II supervisory responsibilities.

With the recommended revisions, the bill would present a comprehensive and intellectually coherent effort to reinforce Congress's constitutional role in appropriations, foreign commerce, and fiscal governance while respecting the enduring principles of separation of powers.

20.

"Federal Office and Officer Clarification Act of 2029"

H.R. _____

A BILL

To establish a uniform rule of statutory construction concerning the meaning of the terms "office" and "officer of the United States" for purposes of Federal law, and to provide for the uniform application of Federal conflict-of-interest laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Federal Office and Officer Clarification Act of 2029."**

Congress finds that—

(1) uniform interpretation of Federal statutes promotes consistency, predictability, and equal application of the law;

(2) numerous Acts of Congress refer to "offices," "office holders," and "officers of the United States" without providing uniform definitions;

(3) Congress possesses authority to establish rules of statutory construction governing the interpretation of Federal law; and

(4) Federal conflict-of-interest laws should apply uniformly to every individual exercising executive or managerial authority on behalf of the Government of the United States.

For purposes of every Act of Congress enacted before, on, or after the date of enactment of this Act, unless a particular statute expressly provides otherwise—

(1) the term **"office"** means any position, function, employment, appointment, or constitutional or statutory responsibility established by or pursuant to the Constitution or laws of the United States through which governmental authority is exercised on behalf of the United States.

(2) An office includes any collection of governmental duties, powers, responsibilities, authorities, or services that Congress or the Constitution has determined to be necessary or appropriate to the operation of the Government of the United States.

(3) Any individual who occupies, holds, exercises, performs, or is designated by Federal law as holding an office of the United States shall be deemed an **officer of the United States** for purposes of Federal statutory law.

(4) An individual shall likewise be deemed an officer of the United States whenever such individual—

(A) exercises executive, managerial, supervisory, administrative, regulatory, prosecutorial, military, diplomatic, or policymaking authority on behalf of the United States;

(B) possesses authority to hire, appoint, promote, discipline, remove, supervise, direct, or evaluate officers or employees of the United States;

(C) exercises final or substantial decision-making authority respecting any constitutional, statutory, or regulatory function of the Government of the United States; or

(D) otherwise exercises significant governmental authority pursuant to the Constitution or laws of the United States.

No person shall be excluded from the definition of an officer of the United States solely because another provision of Federal law separately identifies or names the office occupied by that individual.

All Federal statutes, regulations, executive orders, ethics rules, conflict-of-interest provisions, financial disclosure requirements, recusal requirements, anti-nepotism provisions, anti-bribery statutes, and other laws governing ethical conduct applicable to officers of the United States shall apply equally to every officer as defined by this Act unless Congress expressly provides otherwise by subsequent Act.

Nothing in this Act shall be construed—

(1) to alter the method of appointment or removal of any officer established by the Constitution;

(2) to modify the constitutional powers of any branch of Government;

(3) to create any inference concerning the interpretation of any constitutional provision independently of this Act; or

(4) to limit Congress's authority to define different terms for particular statutes by subsequent enactment.

This Act shall take effect immediately upon enactment.

Constitutional and Administrative Law Analysis
The Federal Office and Officer Clarification Act of 2029

Executive Summary

The **Federal Office and Officer Clarification Act of 2029** establishes a uniform statutory rule of construction defining the terms "office" and "officer of the United States" for purposes of federal statutory law and provides that all federal ethics and conflict-of-interest laws applicable to officers apply equally to every individual meeting the Act's definition. The bill is drafted to operate as a rule of statutory interpretation rather than as an amendment to the Constitution.

That distinction is constitutionally significant.

Congress possesses broad authority to define terms used in federal statutes and to determine the scope of statutory ethics regimes. However, Congress may not conclusively define the meaning of constitutional terms where the Constitution itself controls. Thus, the bill's strongest constitutional footing lies in its application to federal statutes and regulations, while any attempt to dictate the meaning of "Officer of the United States" as that phrase appears in the Constitution would almost certainly invite judicial scrutiny.

As drafted, the bill expressly disclaims any intent to alter constitutional methods of appointment or removal or to modify constitutional powers. Those savings provisions substantially improve its constitutional defensibility.

The principal constitutional questions involve:

1. Congress's authority to prescribe rules of statutory construction;
2. the distinction between constitutional and statutory meanings of "officer";
3. the Appointments Clause;
4. separation of powers;
5. Congress's authority to regulate ethics and conflicts of interest;
6. retroactivity and due process.

Overall, the legislation rests on a substantial constitutional foundation so long as it is understood to govern federal statutes rather than to redefine constitutional terminology.

I. Congress's Authority to Define Statutory Terms

A. Rules of Construction

Congress routinely defines terms used throughout the United States Code.

Federal statutes commonly provide definitions for words such as:

- "employee";
- "agency";
- "person";
- "official";
- "department";
- "executive agency."

Nothing in the Constitution prohibits Congress from prescribing uniform rules of statutory construction.

Accordingly, Congress may provide that, unless another statute expressly states otherwise, certain statutory terms shall have specified meanings.

The present bill operates in precisely that fashion.

Constitutional Strength

Very strong.

B. Uniformity

The Act seeks to eliminate inconsistent statutory usage.

Uniform definitions generally:

- promote predictability;
- reduce litigation;
- simplify administration.

Congress frequently employs government-wide definitions for precisely these reasons.

II. Constitutional Meaning Versus Statutory Meaning

This distinction represents the central constitutional issue.

The Constitution itself employs several related phrases:

- "Office"
- "Officer"
- "Officer of the United States"
- "civil Officers"

These phrases appear in multiple constitutional provisions.

Among them:

- Article II (Appointments Clause)
- Article II (Commissions Clause)
- Article II (Impeachment Clause)
- the Fourteenth Amendment to the United States Constitution

Scholars have long debated whether these terms possess identical meanings throughout the Constitution.

The proposed Act deliberately avoids resolving that constitutional debate.

Instead, it provides:

"For purposes of every Act of Congress..."

That limitation significantly strengthens the legislation.

III. The Appointments Clause

Article II authorizes the President to appoint:

"Officers of the United States."

The Supreme Court has developed extensive jurisprudence distinguishing:

- principal officers;
- inferior officers;
- employees.

Important precedents include:

- Buckley v. Valeo
- Lucia v. Securities and Exchange Commission
- Edmond v. United States

The Court has generally treated "officer" as a constitutional category determined by the exercise of significant governmental authority.

The bill largely mirrors this jurisprudence by defining officers in functional terms.

Potential Concern

If interpreted as altering Appointments Clause doctrine, the Act would likely exceed Congress's authority.

The savings clause largely avoids that problem.

IV. Separation of Powers

Congress may regulate ethics applicable to Executive Branch officials.

Examples include:

- Ethics in Government Act of 1978;
- Ethics Reform Act of 1989;
- numerous criminal conflict-of-interest statutes codified in Title 18.

Accordingly, extending ethics statutes to all statutory officers generally falls within Congress's legislative authority.

The legislation does not:

- appoint officers;
- remove officers;
- direct executive decisions;
- interfere with presidential supervision.

Consequently, separation-of-powers concerns are relatively modest.

V. Federal Conflict-of-Interest Laws

Existing Framework

Federal ethics obligations presently arise from:

- criminal statutes;
- financial disclosure statutes;
- ethics regulations;
- Executive Orders;
- Office of Government Ethics regulations.

Congress unquestionably possesses authority to determine who must comply with these laws.

Accordingly, Section 5 of the Act appears constitutionally secure.

Presidential Application

The bill intentionally refrains from naming any particular constitutional office.

Nevertheless, because the statutory definition is broad, litigation could arise over whether particular conflict-of-interest statutes enacted before this Act now apply to offices previously thought to be excluded.

Courts would likely examine:

- the language of individual statutes;
- legislative history;
- constitutional limitations.

The Act therefore cannot guarantee application where another statute expressly provides otherwise or where constitutional constraints intervene.

VI. Retroactivity

The bill applies to:

"every Act of Congress enacted before, on, or after..."

Congress generally may enact retroactive rules of statutory interpretation, particularly when they govern future application of existing statutes.

However, retroactive imposition of criminal liability would raise serious constitutional questions.

The Supreme Court has repeatedly emphasized that criminal statutes should be construed narrowly.

Recommendation

Add language such as:

"Nothing in this Act shall apply retroactively to impose criminal liability for conduct occurring before the effective date of this Act."

This would materially strengthen due process protections.

VII. Administrative Law Considerations

Office of Government Ethics

Implementation would primarily involve the Office of Government Ethics.

OGE would likely revise:

- regulations;
- advisory opinions;
- ethics guidance;
- disclosure forms.

Administrative Procedure Act

Implementing regulations would ordinarily proceed under the Administrative Procedure Act.

Thus:

- notice-and-comment procedures;
- judicial review;
- arbitrary-and-capricious review

would generally apply.

Executive Branch Interpretation

The Department of Justice and the Office of Legal Counsel would likely issue interpretive guidance concerning the interaction between the Act and constitutional provisions.

Such guidance could become important in future litigation involving constitutional officeholders.

VIII. Potential Constitutional Challenges

Challenge 1

Congress cannot redefine constitutional terminology.

Likely Response

The Act expressly governs statutory interpretation rather than constitutional interpretation. Courts remain free to interpret constitutional terms independently.

Challenge 2

The Act violates separation of powers by extending ethics laws to constitutional officers.

Likely Response

Congress has long imposed ethics obligations on Executive Branch officials. Unless a particular application unduly interferes with the President's ability to perform constitutionally assigned functions, such regulation generally falls within Congress's legislative authority.

Challenge 3

The definition of "officer" conflicts with Supreme Court precedent.

Likely Response

The Act largely tracks the Court's functional approach by focusing on the exercise of significant governmental authority. Any conflict would likely arise only if the statute were construed to alter constitutional doctrine.

Challenge 4

The Act improperly applies retroactively.

Likely Response

Prospective application of a statutory definition is generally permissible. Retroactive criminal consequences, however, should be avoided.

Recommendations for Strengthening Constitutional Defensibility

To enhance the bill's resilience, the following refinements are recommended:

1. **State expressly that the Act governs statutory interpretation only.** Although implied by the current text, an explicit provision stating that the Act does not purport to define the meaning of any constitutional term would further reduce litigation risk.
2. **Protect against retroactive criminal liability.** Add a provision limiting the application of the Act to conduct occurring after its effective date where criminal or civil penalties are involved.
3. **Clarify interaction with existing statutes.** Provide that where another Act of Congress expressly defines "officer" differently, the more specific statute controls unless Congress subsequently provides otherwise.
4. **Direct implementing guidance.** Require the Office of Government Ethics, in consultation with the Department of Justice and the Office of Personnel Management, to issue regulations and interpretive guidance implementing the Act.
5. **Provide for periodic review.** Require a report to Congress after several years evaluating whether the uniform definition has reduced inconsistency in federal ethics administration.

A Constitutional Limitation Worth Noting

One important point bears emphasis. If the underlying objective is to ensure that federal conflict-of-interest laws apply to offices that some commentators contend fall outside the constitutional phrase "Officer of the United States," this bill advances that objective through Congress's unquestioned authority over **statutory law**. It does **not**, and likely cannot by ordinary legislation alone, conclusively resolve the meaning of the constitutional phrase wherever it appears in the Constitution itself. Ultimately, constitutional interpretation remains the province of the judiciary.

Conclusion

The **Federal Office and Officer Clarification Act of 2029** is a thoughtful effort to promote uniformity in federal statutory interpretation and ethics administration. Its principal strength lies in Congress's broad authority to define terms used in federal statutes and to determine the scope of federal conflict-of-interest and ethics laws. By carefully limiting its reach to statutory interpretation and preserving constitutional structures relating to appointments, removal, and separation of powers, the bill occupies a substantially stronger constitutional position than legislation attempting to redefine constitutional terminology directly.

The most significant litigation would likely concern the application of preexisting ethics statutes to offices whose status has been debated under constitutional text. Even in those cases, the Act would provide a clear congressional statement of statutory intent while leaving constitutional questions for judicial resolution. With the recommended clarifications regarding statutory scope, retroactivity, and implementation, the legislation would present a well-supported exercise of Congress's legislative authority and would likely withstand constitutional scrutiny in most of its applications.

21.

"Citizens' Knowledge Act of 2029"

H.R. _____

A BILL

To promote civic literacy and constitutional understanding through a national partnership supporting the development of civics education programs in secondary schools and institutions of higher education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the **"Citizens' Knowledge Act of 2029."**

Congress finds that—

(1) the continued success of constitutional self-government depends upon an informed and engaged citizenry;

(2) knowledge of the Constitution, the institutions of government, the Nation's history, and the philosophical traditions underlying constitutional democracy is essential to meaningful participation in public life;

(3) civic education should expose students to a broad range of historical, philosophical, legal, political, economic, and constitutional ideas and should encourage independent critical thought rather than ideological conformity;

(4) institutions of higher education, secondary schools, libraries, museums, archives, historical societies, and nonprofit educational organizations each play indispensable roles in preserving and transmitting civic knowledge;

(5) Congress may encourage the development of civic education through voluntary financial assistance without establishing or prescribing a national curriculum; and

(6) strengthening civic literacy serves compelling national interests in constitutional government, democratic participation, and informed citizenship.

The purposes of this Act are—

(1) to encourage the development of academically rigorous civics education programs;

(2) to improve understanding of the Constitution of the United States and American constitutional government;

(3) to promote knowledge of the Nation's history and constitutional development;

(4) to encourage critical examination of competing traditions of political thought;

(5) to strengthen civic participation and public understanding of governmental institutions; and

(6) to foster cooperation among secondary schools, colleges, universities, libraries, museums, archives, and nonprofit educational organizations.

There is established the **National Civic Education Partnership Program**.

The Program shall be administered jointly by such Federal departments and agencies as the President may designate from among—

(A) the Department of Education, if in existence;

(B) the National Endowment for the Humanities;

(C) the Institute of Museum and Library Services;

(D) the National Archives and Records Administration;

(E) the Library of Congress;

(F) the Smithsonian Institution; and

(G) such other Federal departments or agencies as Congress may subsequently authorize by law.

If the Department of Education is abolished, reorganized, or has its educational grant-making functions transferred by Act of Congress, all authorities, duties, appropriations, personnel, records, and responsibilities established under this Act shall automatically transfer to the successor Federal entity designated by law without requiring amendment of this Act.

The participating agencies shall establish an **Interagency Civic Education Council** consisting of one senior representative appointed by the head of each participating agency.

The Council shall—

(1) establish uniform grant criteria;

(2) coordinate administration of this Act;

(3) avoid duplication of Federal assistance;

(4) encourage interdisciplinary educational partnerships;

(5) promote cooperation among educational institutions and civic organizations;

(6) prepare annual strategic priorities; and

(7) submit an annual report to Congress.

The Council may designate one participating agency to perform day-to-day administrative functions on behalf of the Partnership.

There are authorized to be appropriated **$300,000,000 for each fiscal year through 2035**, to remain available until expended.

The Council shall award competitive grants to eligible entities.

Eligible entities include—

(A) public institutions of higher education;

(B) private nonprofit institutions of higher education;

(C) State educational agencies;

(D) local educational agencies;

(E) public and charter high schools serving grades ten through twelve;

(F) nonprofit educational organizations;

(G) libraries;

(H) museums;

(I) archives;

(J) historical societies;

(K) public policy institutes affiliated with institutions of higher education;

(L) tribal educational institutions;

(M) State humanities councils; and

(N) consortia composed of two or more eligible entities.

Grant funds may be used for—

(1) development of new civics curricula;

(2) revision of existing curricula;

(3) interdisciplinary constitutional studies programs;

(4) teacher and faculty training;

(5) instructional materials;

(6) digital educational resources;

(7) public lectures;

(8) debates;

(9) mock legislative and judicial proceedings;

(10) constitutional conventions and simulations;

(11) civic competitions;

(12) undergraduate and secondary-school research projects;

(13) partnerships among educational institutions;

(14) public forums;

(15) educational exchanges;

(16) assessment instruments; and

(17) other activities consistent with the purposes of this Act.

Instruction supported under this Act may include—

(A) the philosophical origins of the United States;

(B) Greek and Roman political thought;

(C) the English constitutional tradition;

(D) natural law;

(E) Enlightenment philosophy;

(F) republicanism;

(G) federalism;

(H) the Declaration of Independence;

(I) the Articles of Confederation;

(J) the Constitutional Convention;

(K) the Constitution of the United States;

(L) the Bill of Rights;

(M) constitutional amendments;

(N) landmark decisions of the Supreme Court of the United States;

(O) separation of powers;

(P) checks and balances;

(Q) federal and State governmental institutions;

(R) legislative procedure;

(S) executive authority;

(T) the federal judiciary;

(U) administrative agencies;

(V) elections and election administration;

(W) political parties;

(X) voting rights;

(Y) public administration;

(Z) the history of slavery;

(AA) Reconstruction;

(BB) segregation;

(CC) the struggles for equality and inclusion;

(DD) immigration and citizenship;

(EE) civil rights;

(FF) public ethics;

(GG) governmental accountability;

(HH) comparative constitutional systems;

(II) conservative political philosophy;

(JJ) liberal political philosophy;

(KK) libertarian political philosophy;

(LL) progressive political philosophy;

(MM) civic republicanism;

(NN) democratic theory;

(OO) constitutional interpretation, including originalism, textualism, structuralism, pragmatism, living constitutionalism, common-law constitutionalism, and related interpretive traditions;

(PP) the principal debates in American constitutional development;

(QQ) the role of civil society in constitutional democracy; and

(RR) other subjects consistent with the purposes of this Act.

Recipients shall certify that educational programs supported under this Act—

(1) are academically rigorous;

(2) fairly present significant competing viewpoints;

(3) encourage critical thinking;

(4) do not require adherence to any political, partisan, ideological, or religious viewpoint;

(5) respect academic freedom and institutional autonomy;

(6) are based upon sound historical scholarship; and

(7) comply with applicable Federal and State law.

Nothing in this Act shall be construed—

(1) to establish a national curriculum;

(2) to authorize Federal control over State or local educational curricula;

(3) to require participation by any educational institution;

(4) to diminish academic freedom;

(5) to prohibit good-faith scholarly disagreement concerning history, constitutional interpretation, economics, political philosophy, or public policy; or

(6) to authorize any participating Federal agency to regulate classroom instruction beyond the administration of grants awarded pursuant to this Act.

The Interagency Civic Education Council shall submit to Congress, not later than March 1 of each year, a comprehensive report describing—

(A) grants awarded;

(B) educational activities funded;

(C) measurable educational outcomes;

(D) innovative instructional practices;

(E) financial accountability;

(F) recommendations for improving civic education nationwide; and

(G) recommendations concerning continuation, modification, or expansion of this Program.

The Inspector General of the participating agency serving as principal grant administrator shall conduct periodic financial and performance audits under this Act.

This Act shall take effect immediately upon enactment.

Constitutional and Administrative Law Analysis
The Citizens' Knowledge Act of 2029

Executive Summary

The **Citizens' Knowledge Act of 2029** establishes a voluntary, federally funded competitive grant program designed to encourage the development of civics education by institutions of higher education, secondary schools, libraries, museums, archives, historical societies, and related organizations. Rather than prescribing a national curriculum, the Act employs Congress's Spending Clause authority to encourage the development of academically rigorous educational programs addressing constitutional government, American history, political philosophy, civic participation, and related subjects.

The Act's constitutional posture is unusually strong. It does not require any State or educational institution to adopt a curriculum, nor does it attempt to regulate classroom instruction directly. Instead, it offers federal financial assistance subject to viewpoint-neutral grant conditions emphasizing academic rigor, exposure to competing schools of political thought, and institutional autonomy.

The bill is therefore principally supported by:

1. Congress's Spending Clause authority;
2. the Necessary and Proper Clause;
3. Congress's authority to appropriate funds for the general welfare;
4. longstanding federal practice supporting education through voluntary grants.

The principal constitutional questions concern:

- Spending Clause limitations;
- federalism;
- academic freedom;
- viewpoint neutrality under the First Amendment;
- delegation of administrative authority.

Overall constitutional durability is **very high**.

I. Spending Clause Authority

A. Constitutional Foundation

The principal constitutional basis for the Act is Article I, Section 8, Clause 1:

"The Congress shall have Power to lay and collect Taxes... to provide for the... general Welfare of the United States."

Education has long been recognized as an appropriate subject for conditional federal grants.

Congress has enacted numerous statutes providing financial assistance without directly controlling educational policy.

Examples include:

- Elementary and Secondary Education Act of 1965;
- Higher Education Act of 1965;
- National Defense Education Act of 1958.

The present Act fits comfortably within this tradition.

B. South Dakota v. Dole

The leading precedent remains:

South Dakota v. Dole.

The Court identified several requirements for valid conditional spending:

1. pursuit of the general welfare;
2. clear grant conditions;
3. relation between conditions and federal interest;
4. consistency with independent constitutional provisions;
5. no unconstitutional coercion.

The proposed legislation satisfies each element.

II. Federalism

Education has traditionally been regarded as a matter primarily reserved to the States.

The present bill carefully avoids federal intrusion.

Most importantly, it expressly provides:

- no national curriculum;
- no mandatory participation;
- no federal curriculum approval;
- preservation of academic freedom.

These provisions substantially reduce Tenth Amendment concerns.

Anti-Commandeering

The Supreme Court has repeatedly held:

Congress may encourage.

Congress may not commandeer.

Leading decisions include:

- New York v. United States;
- Printz v. United States.

Because participation is entirely voluntary, the Act presents no serious anti-commandeering issue.

III. First Amendment

The First Amendment represents the principal constitutional consideration.

Government funding of education necessarily implicates questions of:

- viewpoint neutrality;
- academic freedom;
- ideological discrimination.

A. Viewpoint Neutrality

The Act expressly requires recipients to present:

"significant competing viewpoints."

It also prohibits:

- ideological conformity;
- partisan instruction;
- compelled political beliefs.

These provisions materially strengthen the statute.

Unlike many education statutes, the Act affirmatively embraces intellectual diversity.

B. Academic Freedom

The Supreme Court has repeatedly recognized the importance of academic freedom.

Leading precedents include:

- Keyishian v. Board of Regents;
- Sweezy v. New Hampshire.

The Act reinforces these principles by providing that:

- institutions retain curricular autonomy;
- scholarly disagreement remains protected;
- federal agencies may not regulate classroom content beyond grant administration.

These provisions substantially improve constitutional durability.

IV. Government Speech

One question is whether federally funded educational materials constitute government speech.

The Act wisely avoids this issue.

Rather than directing particular educational content, Congress funds independently developed educational programs.

Consequently:

the curriculum remains primarily private educational speech rather than governmental speech.

This distinction is important.

V. Equal Protection

The Act distributes grants on a competitive basis.

Eligibility extends broadly.

No protected class receives preferential treatment.

Consequently, equal protection concerns are minimal.

VI. Delegation

The Act establishes an:

Interagency Civic Education Council.

Congress provides:

- objectives;
- eligibility;
- funding;
- reporting requirements.

The Council administers details.

This delegation readily satisfies existing nondelegation doctrine.

The Supreme Court has consistently upheld substantially broader delegations.

VII. Administrative Law

A. Interagency Administration

One of the strongest aspects of the revised draft is that administration is no longer dependent upon a single department.

Instead:

- educational;
- archival;
- historical;
- cultural

institutions jointly administer grants.

This arrangement resembles numerous existing federal partnerships.

It also ensures continuity should Congress reorganize executive departments.

B. Administrative Procedure Act

Grant regulations would ordinarily be promulgated pursuant to the Administrative Procedure Act.

Accordingly:

- notice-and-comment procedures;
- judicial review;
- arbitrary-and-capricious review

would apply.

C. Inspector General Oversight

Financial auditing by the Inspector General promotes accountability.

No constitutional concerns arise.

VIII. Establishment Clause

Some grant recipients may include religiously affiliated colleges or universities.

The Supreme Court has increasingly held that generally available educational funding may not exclude religious institutions solely because of their religious character.

Relevant precedents include:

- Trinity Lutheran Church of Columbia, Inc. v. Comer;
- Espinoza v. Montana Department of Revenue;
- Carson v. Makin.

Accordingly, if otherwise qualified, religiously affiliated institutions should generally remain eligible on equal terms.

IX. Potential Constitutional Challenges

Challenge 1

The Act creates a de facto national curriculum.

Likely Response

The statute expressly disclaims any federal authority to establish a national curriculum and leaves curricular decisions to participating institutions.

Challenge 2

Grant conditions favor certain political philosophies.

Likely Response

The Act requires fair presentation of multiple schools of political thought, including conservative, liberal, libertarian, progressive, republican, democratic, and competing theories of constitutional interpretation. This emphasis on pluralism strengthens its viewpoint neutrality.

Challenge 3

The grant conditions interfere with academic freedom.

Likely Response

The Act protects institutional autonomy and academic freedom while conditioning only the use of federal funds. Institutions remain free to decline participation.

Challenge 4

The interagency council receives excessive discretion.

Likely Response

Congress provides an intelligible principle by specifying the program's purposes, eligible recipients, allowable uses of funds, reporting obligations, and grant criteria. The remaining administrative discretion is typical of federal grant programs.

Recommendations for Strengthening Constitutional Defensibility

The Act is already among the more constitutionally robust proposals in this legislative series. Nevertheless, several refinements could further strengthen it:

1. **Clarify viewpoint neutrality.** Add an express statement that no applicant shall receive preference or suffer disadvantage because of the political, ideological, or scholarly perspective reflected in its proposed curriculum, provided the curriculum otherwise satisfies the Act's requirements for academic rigor and balanced presentation.
2. **Broaden reviewer diversity.** Require peer-review panels to include scholars representing a diversity of academic disciplines and methodological approaches. This would reinforce the Act's commitment to intellectual pluralism.
3. **Protect institutional autonomy.** Specify that receipt of grant funds shall not authorize any participating federal agency to review, approve, or reject individual classroom lectures, reading lists, examinations, or faculty research, except to ensure compliance with the grant's general statutory conditions.
4. **Clarify successor administration.** Although the Act provides for transfer of responsibilities if the Department of Education is abolished, it would be helpful to state expressly that Congress retains authority to designate additional participating agencies by subsequent statute without disrupting existing grants.
5. **Encourage measurable outcomes without prescribing ideology.** Direct the Interagency Civic Education Council to develop objective assessment metrics focused on civic knowledge, constitutional literacy, and analytical skills rather than agreement with particular political or philosophical positions.

Conclusion

The **Citizens' Knowledge Act of 2029** is among the strongest constitutionally grounded measures in this collection. It relies on Congress's well-established Spending Clause authority to encourage, rather than compel, educational innovation through voluntary competitive grants. The legislation avoids the principal constitutional pitfalls associated with federal involvement in education by expressly rejecting a national curriculum, preserving state and institutional autonomy, protecting academic freedom, and requiring fair presentation of competing intellectual traditions.

Its interagency administrative structure further enhances its durability by ensuring continuity regardless of future executive reorganization. Because the Act promotes civic literacy through incentives rather than mandates and emphasizes pluralism rather than orthodoxy, it is well positioned to withstand challenges based on the First Amendment, federalism, or the separation of powers. With the recommended clarifications, it would represent a constitutionally sound and administratively practical framework for strengthening civic education throughout the United States.

About the Publisher and Editor

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