

RECLAIMING CONGRESS' POWER OF THE PURSE

The authors of our Constitution purposefully built checks and balances into the foundation of our democracy, and Congress' power to make funding decisions. The "power of the purse" is a critical component of that founding principle. The Founders believed this would build a firewall against monarchy. But over the years, the executive branch has encroached on Congress' role, as Presidents sought to expand their budgetary powers. This presents an urgent test for the American experiment that transcends presidents and partisan identification. Congress as an institution must draw the line and stand up to an emboldened executive branch. These reforms will help Congress reclaim and safeguard its Constitutional power of the purse. Main components include:

Restore Congress' Central Role in Funding Decisions

- Prevent the President from effectively rescinding funds without Congressional approval. Require OMB to release funding to the agency for obligation at least 90 days before it expires, whether or not the funding is part of a Presidential rescission or deferral proposal.
- Put an expiration date on Presidential declarations of national emergencies and any special Executive authorities triggered by those declarations. Declarations would expire after a month unless Congress extends them.
- Close a budget law loophole that essentially lets the President unilaterally block the spending of enacted appropriations designated as emergency or Overseas Contingency Operations.

Increase Transparency in the Executive Branch

- Require OMB to make apportionments (legally binding documents approved by OMB and an agency that make funding available to agencies to spend) publicly available and to publish the positions of officials with delegated apportionment authority.
- Require the Department of Justice Office of Legal Counsel to publish opinions instructing agencies on budget and appropriations law.
- Require the executive branch to make public amounts and explanations of cancelled or expired fund balances, and amounts and legal justifications of obligations incurred by agencies during a lapse in their appropriations.
- Require the executive branch to report to Congress on violations of the Impoundment Control Act (ICA) and Antideficiency Act identified by GAO.

Add Teeth to Budget Law and Deter Law Breaking

- Strengthen and expedite GAO's ability to obtain information from agencies to assess compliance with budget or appropriations law; expedite GAO's ability to sue agencies to release funds being impounded in violation of the Impoundment Control Act (ICA).
- Authorize administrative discipline for officials found to have violated the ICA, including suspension without pay or termination of employment.
- Require the Department of Justice to review reports of Antideficiency Act violations and investigate whether a violation occurred knowingly and willfully.