

A Bill to Reaffirm Congress's Exclusive Authority to Make Appropriations and Clarify the Scope of Executive Orders

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

SECTION 1. SHORT TITLE

4 This Act may be cited as the “Government Reaffirmation of
5 Appropriations and Constitutional Execution Act” or the “GRACE Act.”

SEC. 2. FINDINGS AND PURPOSE.

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

8 (1) Article I, section 9, clause 7 of the Constitution of the
9 United States (the “Appropriations Clause”) provides: “No Money
10 shall be drawn from the Treasury, but in Consequence of
11 Appropriations made by Law,” thereby vesting exclusively in
12 Congress the authority over federal expenditures.

13 (2) Article II, section 3 of the Constitution of the United States
14 (the “Take Care Clause”) requires the President to “take Care that
15 the Laws be faithfully executed,” which does not permit the
16 President to create, amend, or suspend existing laws or circumvent
17 statutory directives.

18 (3) The Impoundment Control Act of 1974 (2 U.S.C. 681 et
19 seq.) establishes procedures governing the rescission and deferral of
20 funds appropriated by Congress, limiting the Executive Branch’s
21 authority to withhold or impound such funds.

22 (4) Historically, executive orders served exclusively as
23 administrative directives guiding Federal agencies in executing

1 enacted laws. Over recent decades, certain executive orders have
2 expanded beyond traditional boundaries, raising constitutional
3 concerns.

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

5 (1) to reaffirm executive orders as administrative directives
6 solely intended to implement existing laws, consistent with their
7 historical use;

8 (2) to protect Congress’s exclusive authority to make
9 appropriations, ensuring the Executive Branch may not withhold,
10 modify, or reprogram appropriated funds except as explicitly
11 authorized by law and consistent with the Impoundment Control Act
12 of 1974;

13 (3) to clarify that Congress cannot delegate or relinquish its
14 exclusive constitutional authority over appropriations; and

15 (4) to reinforce the President’s constitutional obligation under
16 the Take Care Clause to faithfully execute laws as enacted by
17 Congress.

18 **SEC. 3. DEFINITIONS.**

19 In this Act.—

20 (1) The term “Executive Order” means any written or oral
21 directive, order, memorandum, proclamation, or policy statement
22 issued by the President or by the direction of the President for the
23 purpose of governing or directing the operations, management, or
24 functions of any Federal agency or official, regardless of the specific
25 title or designation.

1 (2) The term “administrative in nature” refers to directives or
2 orders that—

3 (A) govern internal management, procedure,
4 organization, or coordination among Federal agencies;

5 (B) implement or clarify existing law without creating,
6 expanding, altering, or contradicting statutory provisions; and

7 (C) rest solely upon express statutory authority or a
8 specific, enumerated constitutional grant of power to the
9 Executive.

10 (3) The term “express statutory authority” means authority
11 explicitly and unambiguously conferred by an Act of Congress upon
12 the President or an executive officer, by specific reference to the
13 action authorized, and does not include authority inferred by
14 implication, delegation, or broad general grants of executive power.

15 (4) The term “directly affected,” for purposes of section 8,
16 means having suffered a concrete, particularized injury in fact that is
17 fairly traceable to the challenged Executive Order and is redressable
18 by judicial relief, as required under Article III of the Constitution and
19 as construed in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

20 (5) The term “deferral” has the meaning given that term under
21 section 3(6) of the Congressional Budget and Impoundment Control
22 Act of 1974 (2 U.S.C. § 682(1)), meaning any executive action or
23 inaction that temporarily withholds, delays, or effectively precludes
24 the obligation or expenditure of budget authority.

25 (6) The term “rescission” has the meaning given that term

1 under section 1012 of the Congressional Budget and Impoundment
2 Control Act of 1974 (2 U.S.C. § 683), meaning any executive proposal
3 or action to permanently cancel budget authority previously
4 appropriated by Congress.

5 **SEC. 4. INTEGRITY OF STANDARD UNITS OF TIME IN LEGISLATIVE**
6 **PROCEEDINGS.**

7 (a) Purpose.— Congress finds that the integrity of minority
8 procedural rights, deliberative processes, and time-limited legislative
9 safeguards depends upon the consistent and uniform application of
10 standard units of time. Manipulation of the recognized meaning of
11 calendar units, such as construing a single calendar day as
12 equivalent to a legislative period of days, weeks, or months, has been
13 used to abridge the procedural rights of the minority, to circumvent
14 required waiting periods, and to deprive Members of Congress of the
15 opportunity for deliberation and objection guaranteed by the rules
16 and precedents of each Chamber. This section is enacted pursuant to
17 Congress's authority to govern its own rules and proceedings under
18 Article I, section 5 of the Constitution, and is integral to the
19 separation-of-powers purposes of this Act insofar as manipulation of
20 legislative time is used to prevent congressional oversight of
21 executive action.

22 (b) Prohibition on Redefinition or Alteration.— Neither the House of
23 Representatives nor the Senate shall, through any rule, resolution,
24 order, statute, joint resolution, or other legislative or procedural
25 action, redefine, alter, diminish, extend, or otherwise modify any

1 standard measure or unit of time recognized under the civil
2 (Gregorian) calendar or widely accepted scientific timekeeping
3 conventions. This prohibition includes, but is not limited to—

4 (1) the “calendar day”, a continuous 24-hour period beginning
5 at 12:00:00 a.m. (midnight) and ending at 11:59:59 p.m. (local time),
6 inclusive of weekends and holidays; and

7 (2) any other conventional unit of time, such as hours,
8 minutes, or seconds, universally recognized in civil and scientific
9 contexts.

10 (c) Effect.— Any attempt to redefine or reinterpret these standard
11 units of time in any legislative instrument, rule, or procedural order
12 shall be null and void and of no legal force or effect from the
13 moment of its adoption. (d) Preservation of Alternative
14 Timeframes.— Nothing in this section shall be interpreted to
15 prohibit Congress from referencing or employing additional or
16 alternative timeframes (e.g., “business days,” “working days,”
17 “legislative days”), provided that—

18 (1) such alternative timeframes remain consistent with widely
19 recognized or historically established conventions for those terms
20 (e.g., “business days” ordinarily exclude weekends and legal
21 holidays); and

22 (2) under no circumstances shall alternative timeframes be
23 used or interpreted in a manner that effectively redefines, displaces,
24 or otherwise circumvents the standard units of time protected under
25 this section. Any provision purporting to establish or use an

1 alternative timeframe in violation of the foregoing is hereby declared
2 null and void and unenforceable from the moment of its adoption.

3 **SEC. 5. PERMISSIBLE SCOPE OF EXECUTIVE ORDERS.**

4 (a) Constitutional and Statutory Requirements.— To remain
5 consistent with recognized separation-of-powers principles and the
6 Constitution, an Executive Order shall not—

7 (1) create, alter, or rescind substantive rights, obligations,
8 penalties, or prohibitions without express statutory authority;

9 (2) function as or replace enacted legislation;

10 (3) suspend, waive, or reinterpret any provision of Federal law
11 except as explicitly permitted by statute; or

12 (4) direct, withhold, defer, or reprogram funds contrary to
13 appropriations made by Congress or procedures established in the
14 Impoundment Control Act of 1974.

15 (b) Adherence to Congressionally Appropriated Funds.—

16 (1) The President shall faithfully execute the obligation and
17 expenditure of appropriated funds exactly as prescribed by Congress
18 pursuant to Article I, section 9, clause 7 of the Constitution.

19 (2) Executive Orders or other directives shall not withhold,
20 defer, or reprogram appropriated funds except in full compliance
21 with the Impoundment Control Act of 1974.

22 (3) Failure to obligate or expend funds as appropriated,
23 except as provided in paragraph (4), constitutes a violation of this
24 Act and a breach of the President's constitutional duty under Article
25 II, section 3 of the Constitution.

1 (4) De minimis exception.— Notwithstanding paragraph (3),
2 the Executive Branch may, without violating this Act, temporarily
3 withhold or leave unobligated appropriated funds solely—

4 (A) to accommodate administrative contingencies, or to
5 realize savings made possible by documented changes in
6 operational requirements or demonstrated efficiencies,
7 consistent with the deferral authority recognized under
8 section 1013 of the Impoundment Control Act of 1974 (2
9 U.S.C. § 684); and

10 (B) where the total amount withheld or unobligated at
11 any one time under this paragraph does not exceed 2 percent
12 of the total funds appropriated for the relevant program,
13 account, or activity for the applicable fiscal year. Such
14 withholding shall not extend beyond the end of the fiscal year
15 in which the funds were appropriated. The President shall
16 transmit to Congress a written report detailing any
17 withholding under this paragraph within 10 calendar days of
18 its commencement, specifying the amount withheld, the
19 account affected, and the specific operational or contingency
20 basis for the withholding. Any withholding that exceeds the
21 2-percent threshold, extends beyond the fiscal year, or lacks a
22 timely filed report shall be deemed an unlawful impoundment
23 under this Act and subject to all remedies provided.

24 **SEC. 6. NONDELEGABLE NATURE OF CONGRESSIONAL AUTHORITY**
25 **TO MAKE APPROPRIATIONS.**

1 (a) Exclusive Congressional Authority.— The authority to
2 appropriate Federal funds, as vested exclusively in Congress by
3 Article I, section 9, clause 7 of the Constitution, shall not be
4 delegated, transferred, or waived to any other branch of government
5 through any statute, joint resolution, or Executive Order.

6 (b) No Statutory Circumvention.— No provision of law shall be
7 interpreted as granting authority to the Executive Branch to deviate
8 from the specific purpose, amount, or timing of congressionally
9 appropriated funds unless—

10 (1) explicitly provided in statute;

11 (2) narrowly tailored; and

12 (3) compliant with the procedural safeguards established in
13 the Impoundment Control Act of 1974.

14 (c) Void Provisions.— Any statutory provision or executive directive
15 purporting to grant authority in violation of subsection (a) or (b)
16 shall be deemed null and void.

17 **SEC. 7. CERTIFICATION REQUIREMENT.**

18 Each Executive Order issued on or after enactment of this Act shall
19 include a written certification, signed by the President, specifying—

20 (a) that such Executive Order is administrative in nature and does
21 not contravene any limitation under sections 5 or 6 of this Act; and

22 (b) the specific constitutional or statutory provision authorizing its
23 issuance, including reference to Article II, section 3 or any applicable
24 statutory authority, such as the Impoundment Control Act of 1974, if
25 relevant.

1 (c) Any Executive Order issued after the date of enactment of this
2 Act that lacks the written certification required by subsections (a)
3 and (b) shall be void and without legal force or effect as to any
4 action taken or obligation incurred on or after the date a court of
5 competent jurisdiction issues a final judgment so declaring;
6 provided, however, that actions completed and obligations fully
7 performed prior to such judicial declaration shall not be invalidated
8 solely by reason of the absence of certification, except where the
9 court finds that the absence of certification was willful or that the
10 Executive Order violated sections 5 or 6 of this Act on its face.

11 (d) In any legal challenge under this Act, the reviewing court shall
12 undertake de novo review of the certified basis for the Executive
13 Order's issuance.

14 **SEC. 8. JUDICIAL REVIEW.**

15 (a) Standing.—

16 (1) Any individual or entity that has suffered a concrete,
17 particularized injury in fact that is fairly traceable to an Executive
18 Order issued after the date of enactment of this Act, and that is likely
19 to be redressed by judicial relief, shall have standing to challenge the
20 legality of such order under this Act in a Federal court of competent
21 jurisdiction.

22 (2) A Member of Congress shall have standing to bring a
23 challenge under this Act only where such Member alleges that the
24 challenged Executive Order has completely nullified a specific,
25 recorded vote of that Member, or of the chamber in which that

1 Member serves, on a matter within Congress's exclusive
2 constitutional authority, consistent with *Coleman v. Miller*, 307 U.S.
3 433 (1939), and as limited by *Raines v. Byrd*, 521 U.S. 811 (1997). A
4 generalized claim of diminished institutional effectiveness or diluted
5 legislative power, unaccompanied by such complete nullification of a
6 specific vote, shall not constitute a sufficient basis for standing
7 under this paragraph.

8 (3) Either chamber of Congress, acting pursuant to a duly
9 adopted authorizing resolution of that chamber, shall have standing
10 to bring a challenge under this Act asserting an institutional injury to
11 that chamber's constitutional authority over appropriations or its
12 exclusive legislative functions.

13 (b) Judicial Remedies.— A court reviewing a challenge under
14 subsection (a) shall declare such Executive Order void and
15 unenforceable to the extent that it violates this Act, Article I, section
16 9, clause 7, Article II, section 3 of the Constitution, or the
17 Impoundment Control Act of 1974, and may issue appropriate
18 injunctive or declaratory relief, including temporary restraining
19 orders, preliminary injunctions, permanent injunctions, or writs of
20 mandamus.

21 (c) Scope of Review.— Judicial review under this Act shall solely
22 address compliance with statutory and constitutional requirements
23 and shall not consider the policy merits or political desirability of the
24 Executive Order.

25 **SEC. 9. RULE OF CONSTRUCTION.**

1 Nothing in this Act shall be construed to—

2 (a) diminish or interfere with the constitutional powers of the
3 President under Article II of the Constitution, except as specifically
4 limited by statute consistent with the Constitution;

5 (b) infringe upon Congress's exclusive authority under Article I,
6 section 9, clause 7 of the Constitution to appropriate Federal funds;

7 (c) modify or diminish requirements set forth in the Impoundment
8 Control Act of 1974; or

9 (d) authorize the use of emergency powers to circumvent the
10 restrictions of this Act, except where Congress has explicitly and
11 narrowly exempted specific provisions.

12 **SEC. 10. SEVERABILITY.**

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

16 **SEC. 11. EFFECTIVE DATE.**

17 This Act shall take effect upon its date of enactment and shall apply to all
18 Executive Orders issued on or after that date, including any amendment or
19 modification made after that date to any Executive Order issued prior to
20 enactment.

Introduced for Congressional Debate by _____.