

# **A Bill**

## **The Balance of Powers Restoration Act**

Whereas, the Constitution of The United States of America is the supreme law of the land;

Whereas the United States of America was founded substantially on the principle of liberty to live and act as one chooses;

Whereas the Constitution of the United States of America provides for certain powers of the Executive, Legislative and Judicial Branches of Government to protect individual liberty, and to provide for a proper separation and balance of power;

Whereas subject to the veto power of the president of the United States, the Congress has the power to make laws, and the president does not have such power;

Whereas under the Constitution, individual liberty may be limited pursuant to laws enacted by Congress and signed into law by the president, but only for purposes specifically enumerated in the Constitution of the United States of America;

Whereas the president of the United States has, through executive orders, and federal agencies have, through regulations, edicts, pronouncements and communications, issued directives, documents and other materials that have substantively become law;

Whereas in many cases, the powers applied by presidential executive order or acts of federal agencies have not been granted to the president or any agency by any law;

Whereas Congress wishes to stop unlawful activities by the president of the United States and federal agencies in the nature of activities described above;

Whereas independent reputable studies have shown the excessive regulation in the United States is hurting the people and companies of the United States from a global competitive standpoint;

Whereas government shutdowns have become relatively common, Congress has been paid throughout them, there is no “rainy day” fund to cover government expenses during such shutdowns, government workers often struggle to make ends meet when not being paid during such shutdowns, Congress regularly makes them whole afterward (whether or not they worked) and Congress believes it would be best for such a fund to exist to pay government workers who work during a shutdown;

Whereas agencies often do not follow their statutory required duties, including the direct of Office Management and Budget to respond to a request for consideration that an agency information request is excessive, but there are no ramifications thereto;

Whereas Congress wishes to make a failure of the direct of OMB to respond to a request for reporting relief as an admission that the relief was appropriate;

Whereas under Article I, Section 8, the Constitution grants the Congress the power to: (a) declare War, (b) make Rules concerning Captures on Land or Water, (c) raise and support Armies, (d) provide and maintain a Navy, (e) make rules for the Government and Regulation of land and naval Forces, (f) provide for calling of the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions, and (g) provide for organizing, arming and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States;

Whereas Article II, Section 2 of the Constitution provides the President shall be the Commander in Chief of the Army and Navy of the United States;

Whereas Congress believes the Trump Administration has ignored the consultation with Congress provisions of the War Powers resolution by taking Nicholas Maduro captive via a military action and claiming the act was one of law enforcement, and Congress wishes to prevent further such actions by the Executive Branch and to significantly strengthen the War Powers of Congress, so that input from Congress will be received before military action with respect to any non-emergency matter takes place; and

Whereas President Trump utilized the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. section 1702 to issue very broad and sweeping tariffs to many nations, based on declarations of national emergencies that Congress does not accept were national emergencies, and on February 20, 2026, the U.S. Supreme Court struck down the tariffs in *Learning Resources, Inc. v. Trump*;

Whereas immediately following the *Learning Resources* decision, President Trump announced he would levy taxes under other statutory authorities, including 19 U.S.C. section 2132;

Whereas the Trump Administration has exercised or has announced plans to exercise tariffing authority to a very great degree and beyond that desirable to Congress, including (aside from 50 U.S.C. section 1702) via possible use of 19 U.S.C. sections 1862, 2132, 2251 and 2411;

Whereas it is in the best interest of the United States economy and its citizens to create certainty with respect to tariffs so businesses can effectively plan and, absent a broad elimination of Executive Branch power in the area, it seems likely the Trump Administration (and perhaps one or more future administrations) will continue to take a very expansive view of its powers to tariff resulting in tremendous uncertainty and costly litigation over many years; and

Whereas Congress has the power to legislate and, in the future, it can enact tariffs via legislation when it deems a situation should be dealt with in whole or in part through tariffs, and wishes to return the power levy tariffs to itself pursuant to Constitution's grant of such powers to it, except in very limited circumstances.

Therefore, in order to restore the power to make law in Congress, and to restore the separation and balance of powers, Congress amends the following laws, effective immediately upon the date of execution of this bill into law. Congress hereby amends 5 U.S.C. § 553, by addition of the following subsections (f), (g), (h), (i) and (j):

- (f) Notwithstanding any provision of law to the contrary, neither the President of the United States nor any federal agency may issue any

regulation, edict, executive order, pronouncement, communication or act that functions as a law without specific authorization by Congress through a law enacted that specifically cites this subsection of this federal law for authority. For this purpose, by way of example only, a regulation, edict, executive order, pronouncement, communication or act that requires any person, company, entity, organization or thing to do something, or prohibits any person, company, entity, organization or thing from doing something, functions as a law.

(g) Any final regulation in existence upon the enactment of this Act will be subject to the treatment accorded by subsection (f) of this section 553 (i.e., not effective), except: (a) specific reference to 5 U.S.C § 553(f) does not apply; and (b) any final regulation ruled by any federal court to be lawful prior to enactment of the Balance of Powers Restoration Act because such regulation fulfilled the statutory intent of Congress without the deference granted by *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), upon final adjudication following all appeal (if applicable), is effective.

(h) Any agency regulation, edict, executive order, pronouncement, communication or act not promulgated in accordance with subsection (f) or (g) of this section is not law. However, if a federal court of law, upon final adjudication following all appeals, rules that an executive order of the President of the United States or an agency regulation, edict, pronouncement, communication or act is completely consistent with, and falls within the parameters of, the U.S. Constitution and existing law or laws (as applicable), then such executive order or regulation, edict, pronouncement, communication or action promulgated in accordance with subsection (f) or (g) of this section will be effective for all purposes.

(i) Subject to subsections (f), (g) and (h) of this section, any agency may issue guidance to persons, companies and organizations designed to assist persons, companies and organizations in implementation of any law or final

regulation having the effect of law pursuant to subsections (f), (g) and (h) of this section, provided such guidance is not (and will not be) law.

(j) In the event an agency issues a regulation, edict, pronouncement, communication or act after enactment of the Balance of Powers Restoration Act that functions as a law without specific authorization from Congress through a law, and a court of law rules that the agency was not substantially justified (in accordance with the Equal Access to Justice Act or otherwise) in doing so, then the head or director of the agency who approved such regulation, edict, pronouncement, communication or act shall pay the greater of any fees and costs incurred by the agency (or the United States) due to such ruling or thirty percent (30%) of the net worth of such head of agency to the Federal Government. For purposes of the preceding sentence, net worth will include all assets with respect to which an interest is directly or indirectly owned (including retirement benefits) and, if a person is married, his net worth will include the net worth of his spouse. It is unlawful, and punishable as a felony with a maximum prison term of ten years and a maximum fine of \$100,000,000,000, for any person, entity or thing to directly or indirectly reimburse the head or director of an agency with respect to any liability incurred by such head of agency described in the preceding sentences.

Furthermore, given the powers granted by Congress to the President or another pursuant to 50 U.S.C. section 1702 and sections 2132, 2251 and 2411 of Title 19 of the U.S. Code (U.S.C.) may be exercised by Congress in the future via new legislation and Congress believes the Trump Administration has violated the spirit of 50 U.S.C. section 1702, 50 U.S.C. section 1702 and sections 2132, 2251 and 2411 of Title 19 of the U.S. Code (U.S.C.) are hereby repealed immediately, and all references thereto are void. In connection with the repeal of 19 U.S.C. section 2251, also repealed are related sections 2252 through 2255 of Title 19 of the U.S. Code. In connection with the repeal of 19 U.S.C. section 2411, also repealed are related sections 2412 through 2420 of Title 19 of the U.S. Code.

Furthermore, to prevent the Executive Branch from attempting to utilize 19 U.S.C. section 1862 (originally enacted as section 232 of the Trade Expansion Act of

1962) to issue broad and sweeping tariffs with respect to which Congress does not agree, Congress amends paragraph (1) of subsection (f) thereof by replacing the words “adjust imports of petroleum or petroleum products” with “adjust, tariff, tax or regulate imports of any product” and eliminates the word “petroleum” and the words “of petroleum or petroleum products” from subparagraph (B) of paragraph (2) of subsection (f). Also in subparagraph (B) of paragraph (2) of subsection (f) of 19 U.S.C. section 1862, the word “adjusting” is changed to the words “adjusting, tariffing, taxing or regulating.” Also, the words “of petroleum or petroleum products” is eliminated from the title of subsection (f) of 19 U.S.C. section 1862.

Furthermore, to cause a failure of the Director of OMB to respond to a request for a ruling that an information request from an agency to be deemed a determination by the Director of OMB that such information request is unlawful, paragraph (2) of subsection (b) of 44 U.S.C. section 3517 is revised by addition of the following sentence, to follow the words “if necessary”: “In the event of a failure of the Director to respond to the request within 60 days, the Director will be deemed to have determined the person’s request granted as to such person and any person, organization or company directly or indirectly owned by such person.”

Furthermore, a subsection (d) is added to 50 U.S.C. section 1541, to be titled “Definition of hostilities,” and to read as follows: “For purposes of this chapter, “hostilities” means any action involving military action or use of force against a person, group, country or territory by United States Armed Forces, including the capture of any person on land or water using military force.” Also, 50 U.S.C. section 1542 is revised to read as follows:

The President in every possible instance shall consult with Congress, or a subset thereof consisting of the Foreign Affairs Committee of the U.S. House of Representatives (or a subset thereof, as provided in the last sentence of this section) and the Senate Committee on Foreign Relations (or a subset thereof, as provided in the last sentence of this subsection), with respect to initiation of hostilities, before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is likely indicated by the circumstances, and after every such introduction shall consult regularly

with the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations on progress and future potential action until United States Armed Forces are no longer engaged in hostilities or have been removed from such situation(s). If requested by the President, consultation with respect to initiation of hostilities or progress or future potential action (if applicable), will take place in private with the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations. A military action proposed by the President, be it initiation or future military action, may proceed only if approved by a majority of the members of the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations, respectively. If approved, implementation of the action may proceed in a manner chosen by the President, subject to any explicit limitation set forth by the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations, by majority vote of both such committees. Both the President and the members of the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations will act timely, as evident from the circumstances. The President must supply the members of the Foreign Affairs Committee of the U.S. House of Representatives and the Senate Committee on Foreign Relations with all information pertinent to the matter, and a failure to do so will be deemed a failure to consult. For purposes of the first sentence of this section, “every possible instance” means any situation that is not an emergency situation, with an emergency situation meaning one requiring immediate action to prevent significant harm to the United States, as would be concluded by an ordinary reasonable intelligent person applying the common English language. A failure of a President to follow the immediate preceding provisions of this section will be deemed a high crime, potentially punishable by impeachment via trial in the Senate of the United States, with a majority of the Senators voting for impeachment under a beyond a reasonable doubt standard of proof resulting in impeachment. Reason and good faith will be applied in construing the provisions of this section. In lieu

of the full Foreign Affairs Committee of the U.S. House of Representatives and the full Senate Committee on Foreign Relations, respectively, a subset thereof (of one or both) may be chosen by committee members and communicated to the President, provided the subset for each committee will be comprised of at least seven odd-numbered persons.

Furthermore, a new section 9706 is added to Title 31, to be titled "Government Shutdowns," to read as follows:

Should the federal government be shut down, such that only essential services are performed, no member of Congress will be paid during such shutdown. Before 2030, Congress shall establish and continuously maintain (by replenishing in the event of whole or partial depletion) a fund to possess sufficient assets to pay all government employees who work during a government shutdown.

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