

119TH CONGRESS  
1ST SESSION

# H. R. 3454

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide a private right of action with respect to violations of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2025

Mr. LICCARDO (for himself, Mr. MIN, Mr. VINDMAN, Mr. RASKIN, Mr. NADLER, Mr. FIELDS, Ms. ANSARI, Ms. BROWNLEY, Mr. JOHNSON of Georgia, Mrs. BEATTY, Mr. SOTO, Mr. COHEN, Mr. CLEAVER, Mr. SHERMAN, Mr. KHANNA, Mr. HERNÁNDEZ, Mr. HUFFMAN, Mr. RUIZ, Mr. LYNCH, Ms. TLAIB, Mr. MULLIN, Mr. SWALWELL, Mrs. WATSON COLEMAN, Mr. CARTER of Louisiana, Ms. LEE of Nevada, Mr. GOLDMAN of New York, Mr. CARBAJAL, Mrs. McCLAIN DELANEY, Ms. JOHNSON of Texas, Ms. JACOBS, Mr. SUBRAMANYAM, Mr. KENNEDY of New York, Ms. CROCKETT, Ms. STRICKLAND, Mr. SCHNEIDER, and Mr. AMO) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide a private right of action with respect to violations of such Act, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Our Con-  
3 stitution and Communities Act”.

4 **SEC. 2. FINDINGS AND INTENT OF CONGRESS WITH RE-**  
5 **SPECT TO CONGRESSIONAL BUDGET AND IM-**  
6 **POUNDMENT CONTROL ACT OF 1974.**

7 Section 1001 of the Congressional Budget and Im-  
8 poundment Control Act of 1974 (2 U.S.C. 681) is amend-  
9 ed to read as follows:

10 **“SEC. 1001. FINDINGS AND INTENT OF CONGRESS.**

11 “(a) FINDINGS.—Congress finds the following:

12 “(1) Article I of the Constitution of the United  
13 States vests the legislative power, and particularly  
14 the exclusive power of the purse, in Congress.

15 “(2) Article II, Section 3 of the Constitution of  
16 the United States vests the executive power in the  
17 President subject to the express obligation that the  
18 President take care that the laws be faithfully exe-  
19 cuted, including those laws by which Congress exer-  
20 cises its Article I power of the purse.

21 “(3) Congress alone has the constitutional  
22 power to appropriate funds, and the President has  
23 the obligation to faithfully execute those laws and to  
24 obligate as well as expend funds that have been law-  
25 fully appropriated.

1           “(4) Constitutional scholars and practitioners  
2 agree that appropriations place both a ‘ceiling’ and  
3 a ‘floor’ on executive spending. As later Chief Jus-  
4 tice, then-Assistant Attorney General of the Office of  
5 Legal Counsel, William H. Rehnquist affirmed, there  
6 is ‘neither reason nor precedent’ for the President to  
7 have ‘a constitutional power to decline to spend ap-  
8 propriated funds.’ W.H. Rehnquist, Presidential Au-  
9 thority to Impound Funds Appropriated for Assist-  
10 ance to Federally Impacted Schools, 1 Op. O.L.C.  
11 303309 (1969). While serving as Associate White  
12 House Counsel, current Chief Justice John Roberts,  
13 Jr. acknowledged that ‘no area seems more clearly  
14 the province of Congress than the power of the  
15 purse.’ Memorandum from John G. Roberts, Jr., for  
16 Fred F. Fielding on Impoundment Authority (Au-  
17 gust 15, 1985).

18           “(5) This understanding was demonstrated by  
19 the Congressional Budget and Impoundment Control  
20 Act of 1974, which was enacted as soon as claims  
21 of constitutional authority for impoundment threat-  
22 ened to upset historical practice.

23           “(6) This Act thereby codifies the longstanding  
24 separation-of-powers principle that the President has  
25 no constitutional authority to impound funds that

1 Congress has already appropriated for a particular  
2 policy purpose. After the President signed the Act  
3 into law, subsequent practice has continued to con-  
4 firm this separation-of-powers understanding among  
5 the branches.

6 “(7) The U.S. Supreme Court has stated, ‘[t]o  
7 contend that the obligation imposed on the President  
8 to see the laws faithfully executed implies a power  
9 to forbid their execution is a novel construction of  
10 the Constitution, and entirely inadmissible.’ *Kendall*  
11 *v. United States ex Rel. Stokes*, 37 U.S. 524, 525  
12 (1838). More recently, the U.S. Supreme Court con-  
13 firmed that where ‘legislation was intended to pro-  
14 vide a firm commitment of substantial sums . . . .  
15 [w]e cannot believe that Congress . . . scuttled the  
16 entire effort by providing the Executive with the  
17 seemingly limitless power to withhold funds from al-  
18 lotment and obligation.’ *Train v. City of New York*,  
19 420 U.S. 35, 45 (1975). As later Justice, then-  
20 Judge Brett Kavanaugh wrote in *In re Aiken Coun-  
21 ty*, 725 F.3d 255, 261 n.1 (D.C. Cir. 2013), ‘[e]ven  
22 the president does not have unilateral authority to  
23 refuse to spend the funds.’

24 “(8) When taking measures that are incompat-  
25 ible with the will of Congress, the President’s power

1 is at its lowest ebb in an area where the President  
2 has no plenary constitutional powers, and Congress'  
3 powers are plenary. *Youngstown Sheet & Tube Co.*  
4 *v. Sawyer*, 343 U.S. 579, 673 (1952) (Jackson, J.  
5 concurring). The President therefore has no con-  
6 stitutional authority to impound appropriated funds  
7 contrary to the express will of Congress.

8 “(9) Interpretation of this Act and compliance  
9 with its provisions is a legal question within the pur-  
10 view of Article III courts and not a political ques-  
11 tion.

12 “(10) When the Executive fails to release funds  
13 following a lawful withholding under the Impound-  
14 ment Control Act of 1974 or fails to obligate or ex-  
15 pend funds that have been appropriated by Con-  
16 gress, private parties experience a particularized and  
17 immediate injury.

18 “(b) DISCLAIMER.—Nothing contained in this Act, or  
19 in any amendments made by this Act, shall be construed  
20 as—

21 “(1) asserting or conceding the constitutional  
22 powers or limitations of either the Congress or the  
23 President;

24 “(2) ratifying or approving any impoundment  
25 heretofore or hereafter executed or approved by the

1 President or any other Federal officer or employee,  
2 except insofar as pursuant to statutory authorization  
3 then in effect;

4 “(3) superseding any provision of law which re-  
5 quires the obligation of budget authority or the mak-  
6 ing of outlays thereunder; or

7 “(4) to prevent adjudication on the merits by  
8 Article III courts of claims related to failures to obli-  
9 gate or expend budget authority.

10 “(c) SENSE OF CONGRESS.—It is the sense of Con-  
11 gress that the only mechanisms by which the President  
12 is allowed to fail to obligate or expend funds provided by  
13 law are those provided under sections 1012 and 1013 of  
14 this Act.”.

15 **SEC. 3. CLARIFICATION WITH RESPECT TO DEFINITION OF**  
16 **CONTINGENCIES.**

17 Section 1011 of the Congressional Budget and Im-  
18 poundment Control Act of 1974 (2 U.S.C. 682) is amend-  
19 ed—

20 (1) in paragraph (4), by striking “and” at the  
21 end;

22 (2) in paragraph (5), by striking the period at  
23 the end and inserting “; and”; and

24 (3) by adding at the end the following new  
25 paragraph:

1           “(6) ‘contingencies’ means unforeseen events or  
2           circumstances that could not have been reasonably  
3           anticipated, which necessitate immediate and tem-  
4           porary adjustments due to urgent and demonstrable  
5           needs, where such action is consistent with statutory  
6           and constitutional limitations on executive budgetary  
7           authority.”.

8 **SEC. 4. AUTHORITY OF COMPTROLLER GENERAL.**

9           Section 1015 of the Congressional Budget and Im-  
10          poundment Control Act of 1974 (2 U.S.C. 686) is amend-  
11          ed by adding at the end the following new subsections:

12          “(c) **LEGAL INTERPRETATION OF COMPTROLLER**  
13          **GENERAL.**—In any determination regarding applicability  
14          or enforcement of sections 1001 through 1015, the legal  
15          interpretation of the Comptroller General of the United  
16          States, acting through the Government Accountability Of-  
17          fice, shall be accorded substantial deference.

18          “(d) **EXECUTIVE BRANCH ASSISTANCE.**—The Execu-  
19          tive Branch shall provide timely access to all necessary  
20          and appropriate records and information to facilitate the  
21          Comptroller General’s review of potential violations of the  
22          Act.

23          “(e) **REPORTS TO CONGRESS.**—Any failure to comply  
24          with the Comptroller General’s determination regarding

1 an impoundment shall be reported to Congress for appro-  
2 priate legislative or judicial action.”.

3 **SEC. 5. REMEDY IN THE CASE OF VIOLATIONS OF CON-**  
4 **GRESSIONAL BUDGET AND IMPOUNDMENT**  
5 **CONTROL ACT OF 1974.**

6 (a) IN GENERAL.—The Congressional Budget and  
7 Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.)  
8 is amended by adding at the end the following new title:

9 **“TITLE XI—RIGHT OF ACTION**  
10 **FOR VIOLATIONS**

11 **“SEC. 1101. PRIVATE RIGHT OF ACTION.**

12 “(a) IN GENERAL.—Any person aggrieved by a viola-  
13 tion of title X with respect to the withholding of budget  
14 authority that is required to be made available under such  
15 title may institute a civil action in a United States district  
16 court against the United States and any Federal employee  
17 for preventive relief, including an application in a United  
18 States district court for a permanent or temporary injunc-  
19 tion, restraining order, or other order.

20 “(b) DAMAGES.—

21 “(1) IN GENERAL.—Any person aggrieved by a  
22 violation under subsection (a) may recover equitable  
23 and legal relief (including compensatory and punitive  
24 damages), reasonable attorney’s fees (including ex-  
25 pert fees), and costs. Damages shall amount to the



1 sum of compensatory and punitive damages or  
2 \$1,000 per harmed person per violation, whichever is  
3 greater.

4 “(2) TREBLE DAMAGES.—If a court finds that  
5 a violation under subsection (a) occurred in bad  
6 faith, the court shall award damages in an amount  
7 equal to 3 times the amount otherwise to be award-  
8 ed under paragraph (1).

9 “(3) PERSONAL LIABILITY.—A Federal em-  
10 ployee shall be personally liable for the payment of  
11 any damages awarded in an action under this sec-  
12 tion in the case of a knowing violation of this Act.

13 “(4) WAIVER OF IMMUNITY.—A Federal em-  
14 ployee who violates this Act shall not be immune  
15 under the Tenth Amendment to the Constitution of  
16 the United States, the Eleventh Amendment to the  
17 Constitution of the United States, the doctrine of  
18 sovereign immunity, the doctrine of qualified immu-  
19 nity, or any other source of law from an action in  
20 a United States district court of competent jurisdic-  
21 tion challenging such violation.

22 **“SEC. 1102. RIGHT OF ACTION OF STATES AND LOCAL**  
23 **AGENCIES.**

24 “(a) IN GENERAL.—Any State, county, city, district,  
25 special district, Tribal government, or unit of local govern-

1 ment (or any department or agency of any State, county,  
2 city, district, special district, Tribal government, or unit  
3 of local government) aggrieved by a violation of title X  
4 with respect to the withholding of budget authority that  
5 is required to be made available under such title may insti-  
6 tute a civil action in a United States district court against  
7 the United States and any Federal employee for preventive  
8 relief, including an application in a United States district  
9 court for a permanent or temporary injunction, restrain-  
10 ing order, or other order.

11 “(b) DAMAGES.—

12 “(1) IN GENERAL.—Any State, county, city,  
13 district, special district, Tribal government, or unit  
14 of local government (or any department or agency of  
15 any State, county, city, district, special district,  
16 Tribal government, or unit of local government) ag-  
17 grieved by a violation under subsection (a) may re-  
18 cover equitable and legal relief (including compen-  
19 satory and punitive damages), reasonable attorney’s  
20 fees (including expert fees), and costs.

21 “(2) TREBLE DAMAGES.—If a court finds that  
22 a violation under subsection (a) occurred in bad  
23 faith, the court shall award damages in an amount  
24 equal to 3 times the amount otherwise to be award-  
25 ed under paragraph (1).

1           “(3) **PERSONAL LIABILITY.**—A Federal em-  
2           ployee shall be personally liable for the payment of  
3           any damages awarded in an action under this sec-  
4           tion in the case of a knowing violation of this Act.

5           “(4) **WAIVER OF IMMUNITY.**—A Federal em-  
6           ployee who violates this Act shall not be immune  
7           under the Tenth Amendment to the Constitution of  
8           the United States, the Eleventh Amendment to the  
9           Constitution of the United States, the doctrine of  
10          sovereign immunity, the doctrine of qualified immu-  
11          nity, or any other source of law from an action in  
12          a United States district court of competent jurisdic-  
13          tion challenging such violation.

14          “(c) **STATE DEFINED.**—In this section, the term  
15          ‘State’ includes the District of Columbia, the Common-  
16          wealth of Puerto Rico, Guam, American Samoa, the  
17          United States Virgin Islands, and the Commonwealth of  
18          the Northern Mariana Islands.

19          **“SEC. 1103. DEFINITIONS.**

20          “For purposes of this title, the following definitions  
21          apply:

22                  “(1) **FEDERAL EMPLOYEE.**—The term ‘Federal  
23          employee’ means—

24                          “(A) a political appointee; or

1           “(B) a special Government employee as de-  
 2           fined by section 202 of title 18, United States  
 3           Code.

4           “(2) POLITICAL APPOINTEE.—The term ‘polit-  
 5           ical appointee’ means an individual who is—

6           “(A) employed in a position described  
 7           under sections 5312 through 5316 of title 5  
 8           (relating to the Executive Schedule); or

9           “(B) a limited term appointee, limited  
 10          emergency appointee, or noncareer appointee in  
 11          the Senior Executive Service, as defined under  
 12          paragraphs (5), (6), and (7), respectively, of  
 13          section 3132(a) of title 5.”.

14          (b) CLERICAL AMENDMENT.—The table of contents  
 15          in section 1(b) of the Congressional Budget and Impound-  
 16          ment Control Act of 1974 (2 U.S.C. 621 note) is amended  
 17          by adding at the end the following new items:

                  “TITLE XI—RIGHT OF ACTION FOR VIOLATIONS

                  “Sec. 1101. Private right of action.

                  “Sec. 1102. Right of action of States and local agencies.

                  “Sec. 1103. Definitions.”.

18       **SEC. 6. JUSTICIABILITY AND SEVERABILITY.**

19          (a) IN GENERAL.—Title X of the Congressional  
 20          Budget and Impoundment Control Act of 1974 (2 U.S.C.  
 21          686) is amended by inserting after section 1017 the fol-  
 22          lowing new section:

1 **“SEC. 1018. JUSTICIABILITY.**

2       “(a) IN GENERAL.—If, under this part, budget au-  
3 thority is required to be made available for obligation or  
4 expenditure and such budget authority is not made avail-  
5 able for obligation or expenditure, such action or failure  
6 to take action shall constitute final agency action within  
7 the meaning of section 704 of title 5, United States Code.  
8 Such action or failure to act is not committed to agency  
9 discretion by law within the meaning of section 701 of title  
10 5, United States Code.

11       “(b) RULE OF CONSTRUCTION.—This section shall  
12 not be construed to prevent the President from proposing  
13 budget authority for deferral or rescission under section  
14 1012 or 1013.

15 **“SEC. 1019. SEVERABILITY.**

16       “‘If any provision of this Act, or the application there-  
17 of, is held invalid, the validity of the remainder of this  
18 Act and its application to other circumstances shall not  
19 be affected thereby.’”

20       (b) CLERICAL AMENDMENT.—The table of contents  
21 in section 1(b) of the Congressional Budget and Impound-  
22 ment Control Act of 1974 (2 U.S.C. 621 note) is amended  
23 by inserting after the item relating to section 1017 the  
24 following new items:

“Sec. 1018. Justiciability.  
“Sec. 1019. Severability.”

