

**112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**

**H.R. \_\_\_\_\_  
WRITE THE LAWS ACT**

**CONSTITUTIONAL AUTHORITY STATEMENT**

*Pursuant to clause 7 of Rule XII of the Rules of the House of Representatives, the following statement is submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.*

This bill is enacted pursuant to the power conferred by the United States Constitution upon each house of Congress by:

(a) Article I, Section 1, to exercise the legislative powers vested in Congress as granted in the Constitution; and

(b) Article I, Section 8, Clause 18, to make all laws that shall be necessary and proper for executing the legislative power granted to Congress in the Constitution.

This bill is also enacted to bring the operation of the federal government into compliance with the Fifth Amendment guarantee that no person be deprived of his life, liberty or property without due process of law.

112th CONGRESS  
1st Session

# H.R. \_\_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred  
to the Committee on \_\_\_\_\_

## A BILL

To end the unconstitutional delegation of legislative power which was exclusively vested in the Senate and House of Representatives by Article I, Section 1 of the United States Constitution, and to direct the Comptroller General of the United States to issue a report to Congress detailing the extent of the problem of unconstitutional delegation to the end that such delegations can be phased out, thereby restoring the constitutional principle of separation of powers set forth in the first sections of the United States Constitution.

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

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2 **SEC. 1. SHORT TITLE.**

3 This Act may be cited as the “Write the Laws Act.”

4 **SEC. 2. CONSTITUTIONAL AUTHORITY STATEMENT.**

5 (a) This bill is enacted pursuant to the powers conferred by the United  
6 States Constitution upon Congress by:

7 (i) Article I, Section 1, which vests in Congress all legislative powers  
8 granted in the Constitution; and

9 (ii) Article I, Section 8, Clause 18, which vests in Congress the power to  
10 make all laws that shall be necessary and proper for executing the  
11 legislative power granted to Congress in the Constitution.

12 (b) This bill is also enacted to bring the enforcement of federal law into  
13 compliance with the Fifth Amendment guarantee that no person be deprived of  
14 his life, liberty, or property without due process of law.

15 **SEC. 3. FINDINGS.**

16 (a) Article I, Section 1 of the United States Constitution vests the  
17 legislative powers enumerated therein in the United States Congress, consisting  
18 of a Senate and a House of Representatives, subject only to the veto power of  
19 the President as provided in Article I, Section 7, Clause 2.

20 (b) Article II, Section 1 of the United States Constitution vests the  
21 executive power of the United States in a President of the United States, except  
22 as enumerated in Article II, Section 2.

1 (c) Article III, Section 1 of the United States Constitution vests the  
2 judicial power of the United States in “one supreme Court, and in such inferior  
3 courts as the Congress may from time to time ordain and establish,” subject  
4 only to the jurisdictional limitations set forth in Article III, Section 2.

5 (d) “In the main, [the United States Constitution] has blocked out with  
6 singular precision, and in bold lines, in its three primary Articles, the allotment  
7 of power to the executive, the legislative, and judicial departments of the  
8 government [and] the powers confided by the Constitution to one of these  
9 departments cannot be exercised by another.” Kilbourn v. Thompson, 103 U.S.  
10 168, 191 (1881).

11 (e) “It is ... essential to the successful working of this system, that the  
12 persons entrusted with power in any of these branches shall not be permitted to  
13 encroach upon the powers confided to others, but that each shall by the law of  
14 its creation be limited to the exercise of the powers of its own department and  
15 no other.” Kilbourn v. Thompson, 103 U.S. 168, 191 (1881).

16 (f) “The increase in the number of States, in their population and wealth,  
17 and in the amount of power ... [has] present[ed] powerful and growing  
18 temptations to those to whom that exercise is intrusted, to overstep the just  
19 boundaries of their own department, and enter upon the domain of one of the  
20 others, or to assume powers not intrusted to either of them.” Kilbourn v.  
21 Thompson, 103 U.S. 168, 191-192 (1881).

22 (g) Succumbing to these “powerful and growing” temptations, and

1 beginning in the late nineteenth century with the Interstate Commerce  
2 Commission and continuing to the present time, Congress has unconstitutionally  
3 created numerous administrative agencies with blended powers, namely, (i) the  
4 exercise of legislative power vested by the Constitution in Congress, (ii) the  
5 exercise of executive power vested by the Constitution in the President and (iii)  
6 the exercise of judicial power vested by the Constitution in the Supreme Court  
7 and lower federal courts.

8 (h) By delegating legislative, executive and judicial power to the various  
9 administrative agencies, Congress has departed from the separation of powers  
10 structure of the United States Constitution, and ignored the warning of the  
11 framers of that instrument that “[T]he accumulation of all powers, legislative,  
12 executive, and judiciary, in the same hands, whether of one, a few, or many,  
13 and whether hereditary, self-appointed, or elective, may justly be pronounced  
14 the very definition of tyranny.” James Madison, *The Federalist No. 47*.

15 (i) Further, by delegating legislative, executive, and judicial powers to  
16 various administrative agencies, Congress has unconstitutionally established a  
17 Star Chamber-like system of rules promulgated, executed and adjudicated by  
18 administrative agencies that are functionally a part of the executive branch of  
19 government in violation of the due process guarantee of the Fifth Amendment  
20 that secures a system of rules promulgated by Congress, executed by the  
21 President, and adjudicated by the courts independent from the legislative and  
22 executive branches of government.

1 (j) By the very nature of legislative power, and by the express terms of  
2 Article I, Section 1 of the United States Constitution, Congress may not delegate  
3 any legislative power to any other branch of government or other entity,  
4 including any administrative agency. As Chief Justice John Marshall stated: “It  
5 will not be contended that congress can delegate to the courts, or to any other  
6 tribunals, powers which are strictly and exclusively legislative.” Wayman v.  
7 Southard, 10 Wheat. (23 U.S.) 1, 41 (1825).

8 (k) As Chief Justice Melville Fuller explained, a “criminal offense”  
9 created or clarified by an Executive Branch agency is not valid unless the  
10 offense “is fully and completely defined by the act” of Congress. In re Kollock,  
11 165 U.S. 526 (1897).

12 (l) By vesting legislative power in the Congress, the Constitution  
13 requires the Senate and the House of Representatives to enact statutes containing  
14 general rules to be executed by the President, as provided in Article II, Section  
15 1 of the Constitution of the United States, and to be adjudicated in a case or  
16 controversy by such inferior courts as Congress may from time to time  
17 establish, or in the Supreme Court, as provided in Article III, Sections 1 and 2.

18 (m) By abdicating its constitutional legislative responsibility to write the  
19 laws whereby the people are governed, and having unconstitutionally delegated  
20 that power to unelected bureaucrats, Congress has undermined the constitutional  
21 protections of (i) the checks and balances of a bicameral legislative body and  
22 (ii) of a presidential veto.

1 (n) As a direct consequence of Congress having abdicated its  
2 responsibility to properly exercise the legislative power vested by the  
3 Constitution, Congress has: (i) imposed onerous and unreasonable burdens  
4 upon the American people; and (ii) violated the constitutional principle of the  
5 separation of the legislative, executive and judicial processes and functions.

6 **SEC. 4. RESTORING THE SEPARATION OF POWERS.**

7 Title 1 of the United States Code, shall be amended by inserting at the  
8 end of Chapter 2 a new Chapter, 2B entitled “Separation of Powers,” including  
9 Section 101, as follows:

10 “Section 101. — Nondelegation of Legislative Power.

11 “(A) (1) Effective 90 calendar days after the enactment of this bill  
12 into law no bills passed by Congress shall contain any ‘delegation of  
13 legislative powers’ whatsoever, whether to (a) any component within the  
14 Legislative Branch of government, (b) the President of the United States  
15 or any other member of the Executive Branch of government, (c) the  
16 Judicial Branch of government, (d) any federal administrative agency, (e)  
17 any quasi-public agency, (f) any state or instrumentality thereof, or (g)  
18 any other organization or individual.

19 “(B) (1) A prohibited ‘delegation of legislative powers’ in this  
20 section shall include: (a) the creation or clarification of any criminal or  
21 civil offense; and (b) the creation or clarification of any non-criminal  
22 regulation, prohibition or limitation applicable to the public, or some

1 subset thereof, that is not fully and completely defined by Congress,  
2 except that the Executive Branch of government may be delegated  
3 authority to make factual findings that will determine the date upon  
4 which such statute is implemented, suspended, or revived.

5 “(2) A prohibited ‘delegation of legislative powers’ in this section  
6 shall not include the issuance of any presidential proclamation, or the  
7 issuance by any rule or regulation governing the internal operation of  
8 any government agency, or conditions made upon grants or contracts  
9 issued by any government agency.

10 “(C) Effective 90 calendar days after the enactment of this bill  
11 into law, no new presidential directive, adjudicative decision, rule, or  
12 regulation, or change to an existing presidential directive, adjudicative  
13 decision, rule, or regulation governing, limiting, imposing a penalty on,  
14 or otherwise regulating any activity of any person or entity, other than an  
15 officer or employee of the United States government, shall be  
16 promulgated or put into effect, unless said directive, decision, rule or  
17 regulation is authorized by a bill written in compliance with this section,  
18 and duly enacted according to the process of Article I, Section 7 of the  
19 United States Constitution.

20 “(D) Within six months after the effective date of this Act, the  
21 Comptroller General of the United States, shall report to Congress  
22 identifying all statutes enacted prior to the effective date of this statute

1           which contain any ‘delegation of legislative powers’ prohibited in this  
2           section, to the end that Congress may take action to repeal or amend any  
3           such statutes.”

4   **SEC. 5. ENFORCEMENT CLAUSE.**

5           Title 1 of the United States Code shall be further amended by adding to  
6   new said Chapter 2B, as follows:

7           “Section 102 — ENFORCEMENT CLAUSE.

8                   “(A) Effective 90 days after the enactment of this bill, no bill  
9           shall become law, nor enforced or applied as law, without Congress  
10          having complied fully with the requirements of Section 101(A) and (B)  
11          of Chapter 2B of Title 1 of the United States Code, and any persons  
12          against whom such a law is enforced or applied may invoke such  
13          noncompliance as a complete defense to any legal, equitable, or  
14          regulatory action, civil or criminal, brought against him under said law,  
15          or the color thereof.

16                   “(B) Any person aggrieved by any action of any executive  
17          officer or administration agency pursuant to any statute that does not  
18          comply with the provisions of this Act shall have a cause of action under  
19          Sections 2201 and 2202, Title 28, United States Code, and Rules 57 and  
20          65, Federal Rules of Civil Procedure, against the United States to seek  
21          appropriate relief, including an injunction against enforcement of any  
22          law, the contents of which did not conform to the requirements of this

1 Act.”

2 “(C) In any judicial action brought pursuant to subsection (B) of  
3 this section, the standard of review shall be de novo.”

4 **SEC. 6. SEVERABILITY CLAUSE.**

5 If any provision of this Act, or the application thereof, to any person or  
6 circumstance is held invalid for any reason in any court of competent  
7 jurisdiction, such invalidity does not affect other provisions or other applications  
8 of this Act which can be given effect without the invalid provision or  
9 application, and for this purpose the provisions of this Act are declared  
10 severable.