



HOUSE COMMITTEE ON THE BUDGET

Chairman John Yarmuth

March 6, 2020

Hearing: Protecting Congress' Power of the Purse and the Rule of Law

The Framers knew that money—and who controls it—is fundamentally important in a democratic government. They [saw](#) in the “power of the purse . . . the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people.” That is why the Constitution gave the power of the purse—the nation’s checkbook—to Congress. It vested the people’s representatives with control of the people’s tax dollars and how they are spent. Yet Congress’ ability to fulfill that responsibility has been increasingly challenged by an executive branch that, regardless of party, has sought to claim control of the nation’s purse for itself. This potential collapse of our separation of powers is a direct threat to the American experiment that transcends presidents, parties, or politics.

On March 11th, the Budget Committee will hold a hearing on Congress’ power of the purse. Witnesses will discuss the historical origins of the power of the purse, its role in our system of government, the laws passed to safeguard Congress’ singular role, how those laws operate in practice, and how Congress can better protect its constitutional charge.

The Framers saw Congress’ power of the purse as an essential bulwark against monarchy — Opponents of the U.S. Constitution were concerned that it could open the door to a tyrannical President. Defending the Constitution they had drafted, the Framers [explained](#) that it would protect against monarchy because there was a separation of powers: “where the purse is lodged in one branch, and the sword in another, there can be no danger.” And the [Constitution](#) the founders ratified—our Constitution—sought to ensure that the purse would always be in the hands of Congress, mandating in the Appropriations Clause that “No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.” That provision enshrined a simple but incredibly important check on executive power.

Our laws limit agencies’ discretion over spending of Congressionally appropriated funds — Congress has crafted longstanding, foundational laws that aim to prevent federal agencies from misusing their delegated spending power. Two of the most important budget and appropriations laws are the Anti-Deficiency Act and the Impoundment Control Act. The [Anti-Deficiency Act](#) prohibits agencies from overspending or promising to pay funds they do not have, with limited exceptions. The [Impoundment Control Act](#) (ICA) requires agencies to spend the funds Congress has provided to them by law and limits the President’s ability to interfere with agencies’ faithful execution of the law. And a series of laws empower the Government

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Accountability Office (GAO) – a nonpartisan legislative agency under Congress’ jurisdiction – to investigate and report on violations of these statutes to ensure compliance with the law.

Agencies and Presidents have pushed and overstepped legal boundaries — Over time, both Presidents and agencies have increasingly infringed on Congress’ power of the purse, pushing the boundaries of the ICA and other laws designed to prevent executive overreach. They have sought to circumvent the law, they have ignored the law, and they have even broken the law. A lack of transparency around how a President oversees agency spending and how agencies spend their appropriations hides much of this activity, making it difficult for Congress and the public to know how money is being spent —or if the executive branch is in compliance with legal requirements. GAO has, in numerous cases, found troubling examples of executive noncompliance. Yet GAO investigations themselves are often time-consuming and depend critically on executive cooperation—which agencies do not always provide.

Restoring transparency and the rule of law would benefit everyone — The degradation of our nation’s separation of powers poses a clear and present threat to our democracy. However, the Constitution did not just grant Congress the power of the purse, it also gave Congress the ability to safeguard it from an executive branch eager to encroach on the people’s power. Congress must use that ability.

The Budget Committee expects to learn more at its upcoming hearing on the power of the purse, its constitutional foundations and statutory safeguards, and how Congress can best protect it. Witnesses scheduled to testify include:

- **Thomas H. Armstrong** – General Counsel, Government Accountability Office
- **Josh Chafetz** – Visiting Professor, University of Texas School of Law; and, Professor of Law, Cornell Law School
- **Eloise Pasachoff** – Associate Dean & Agnes N. Williams Research Professor, Georgetown Law
- **Dr. Philip G. Joyce** – Professor of Public Policy & Senior Associate Dean, University of Maryland – School of Public Policy