

# The Protecting Our Democracy Act

*Reforms to Prevent Presidential Abuses, Restore Checks and Balances, Strengthen Accountability and Transparency, and Protect Elections*

After the revelations of Watergate and abuses under the Nixon Administration, Congress enacted a series of **landmark laws and reforms** to change the way politics is conducted and to prevent a future president from abusing the power of their office. Those measures have stood the test of time – limits to prevent executive abuses, sweeping reforms to increase transparency and ethics, campaign finance reform, enhanced Congressional oversight, and more.

The time has come for Congress to once again act to restore the guardrails of our democracy and ensure the abuses of power that we saw under the prior Administration never happen again. Our democracy is not self-effectuating. Rather, Congress and the American people, in the face of a lawless President, must, at times, take significant steps to strengthen the bedrock of our democracy. These reforms are not about any individual president or administration. They restore checks and balances and **accountability**, help root out **corruption**, and ensure **transparency** – for the people.

The Protecting Our Democracy Act represents a sweeping package of reforms to ensure that no president can abuse the powers of their office, and to restore our Constitutional system of checks and balances. Together, the reforms in this bill reflect our determination to defend our democracy from enemies foreign and domestic, and to ensure that the vision of the Founders lives on for generations to come.

Specifically, the *Protecting Our Democracy Act* will:

## **Prevent Presidential Abuses:**

Prevent Abuse of the Pardon Power: Requires the Department of Justice (DOJ) to provide materials to Congress concerning any self-serving presidential pardon or commutation in cases involving the President or his/her relatives, contempt of Congress, or obstruction of Congress; clarifies that the President and Vice President are “public officials” and pardons are “official acts” and “things of value” for purposes of the federal bribery statute; and prohibits self-pardons by the President.

Ensure No President is Above the Law: Suspends the statute of limitations for any federal offense committed by a sitting president or vice president, whether it was committed before or during their terms in office, to ensure that presidents and vice presidents can be held accountable for criminal conduct just like every other American and not use their offices as a shield to avoid legal consequences.

Enforce the Foreign and Domestic Emoluments Clauses of the Constitution: Codifies the

Constitution's Foreign and Domestic Emoluments Clauses by prohibiting federal officials from accepting of foreign emoluments without Congress's consent and prohibiting the President from accepting domestic emoluments; strengthens the process for civil actions brought by Congress for violations of the Foreign Emoluments Clause; enhances financial disclosure requirements related to emoluments; and provides enhanced enforcement mechanisms for Congress and for entities within the Executive Branch.

## **Restore Our System of Checks and Balances, Strengthen Accountability, and Transparency:**

Enforce Congressional Subpoenas: Strengthens Congress' tools to enforce lawfully-issued subpoenas while preserving the accommodations process; codifies a cause of action for Congress to enforce its subpoenas, including those issued to government officials; expedites the judicial process for congressional subpoena enforcement actions; empowers courts to levy fines on government officials who willfully fail to comply with congressional subpoenas; and specifies the manner in which subpoena recipients must comply.

Reassert Congressional Power of the Purse: Strengthens Congress' power of the purse by enhancing the Impoundment Control Act (ICA), including by adding penalties for failure to comply; increasing transparency and reporting requirements for the Executive Branch; and strengthens congressional budget oversight tools under the ICA and Antideficiency Act (ADA) to prevent federal agencies from misusing federal funds.

Strengthen Congressional Oversight of Presidential Emergency Declarations: Imposes a limit on Presidential declarations of emergencies and any powers triggered by such declarations unless extended by a vote of the Congress; requires the President to provide all Presidential Emergency Action Documents (PEADs) to Congress.

Provide Security from Political Interference in Justice: In order to limit political interference in criminal and civil enforcement matters, requires the Attorney General to maintain a log of certain communications between the Department of Justice (DOJ) and the White House; requires the Attorney General to provide the log to the DOJ Inspector General (DOJ IG) bi-annually; and requires the DOJ IG to report to Congress any inappropriate communications or communications evidencing improper political interference.

Protect Inspector General Independence: Permits the President or the head of an agency to only remove an Inspector General (IG), including IGs of the Intelligence Community (IC), for cause; clarifies that IGs of the IC have sole authority to determine matters of urgent concern, which include foreign interference in our elections; enhances congressional reporting requirements when an IG is removed; requires the President or an agency head to give 30 days' notice before placing an IG on administrative leave; and requires the President to provide to Congress documentation of cause before removing an IG.

Protect Whistleblowers: Enhances protections for federal whistleblowers, including measures to protect the anonymity of whistleblowers; clarifies the right of government employees, including those in the IC, to provide information directly to Congress; creates a private right of action for whistleblowers who are publicly outed by government officials; and limits the conditions under which a government official or employee may disclose a whistleblower's identity or other whistleblower information, including limitations on the sharing of IC whistleblower complaints with persons named as subjects in the complaint.

Provide Accountability for Acting Officials: Makes a series of changes with respect to the appointment, tenure, and qualifications of acting officials of executive agencies; limits the tenure of acting heads of agencies to no more than 120 days.

Strengthen Hatch Act Enforcement and Penalties: Strengthens the Office of Special Counsel's (OSC) ability to investigate violations of the Hatch Act; clarifies that employees of the Executive Office of the President and the Office of the Vice President can be investigated and disciplined for Hatch Act violations; authorizes Merit Service Protection Board (MSPB) to issue fines for Hatch Act violations committed by senior political appointees; and increases the maximum fine for Hatch Act violations by senior political appointees to \$50,000.

Promoting Efficient Presidential Transitions: Promotes orderly presidential transitions by requiring that if the Administrator of General Services does not ascertain a winner in a presidential election within 5 days of the election, each eligible presidential candidate and vice-presidential candidate shall be treated as the winner, until an ascertainment is made, or a winner is certified.

Presidential and Vice-Presidential Tax Transparency: Requires the president and Vice President, or major party candidates for those offices, to provide ten years of tax returns to the Federal Elections Commission (FEC), who is required to make them public. If a covered person does not provide their tax records, the Secretary of the Treasury is required to provide them to the FEC.

## **Protect Our Elections:**

Ensure Reporting of Foreign Interference in Elections: Requires that political committees report to the FBI and the Federal Elections Commission (FEC) certain foreign contacts; requires that each political candidate and immediate family member of a candidate notify a designated campaign committee official of certain foreign contacts; requires the FBI to report to the congressional intelligence committees any reporting received pursuant to these provisions.

Prevent Foreign Interference in Elections: Clarifies that the definition of a "thing of value" in the Federal Election Campaign Act prohibition on foreign donations to political campaigns and candidates includes information sought or obtained for political advantage; enhances criminal penalties for violations of such prohibition; requires that political campaigns certify that they understand the prohibition.