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Congress of the United States
House of Representatives
Washington, DC 20515-0301

**COMMITTEE ON OVERSIGHT
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ALASKA NATIVE AFFAIRS

November 14, 2016

The Honorable Paul D. Ryan
Speaker
U.S. House of Representatives
H-232, the Capitol
Washington, DC 20515

Dear Speaker Ryan:

We have an unprecedented opportunity to take the conservative mandate given to us by the people and make real change that will benefit all Americans for generations. In addition to major tax reform, border enforcement and security, infrastructure rebuilding and free market reforms for health care, there is a chance to restore Congress's Article One constitutional authority and our power of the purse.

I previously spoke to you about the idea of giving teeth to the Antideficiency Act. This important law prohibits federal employees from:

- *Making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law. 31 U.S.C. § 1341(a)(1)(A).*
- *Involving the government in any obligation to pay money before funds have been appropriated for that purpose, unless otherwise allowed by law. 31 U.S.C. § 1341(a)(1)(B).*
- *Accepting voluntary services for the United States, or employing personal services not authorized by law, except in cases of emergency involving the safety of human life or the protection of property. 31 U.S.C. § 1342.*
- *Making obligations or expenditures in excess of an apportionment or reapportionment, or in excess of the amount permitted by agency regulations. 31 U.S.C. § 1517(a).¹*

¹ <http://www.gao.gov/legal/anti-deficiency-act/about>

Under public law, federal employees who violate the Antideficiency Act are subject to administrative and penal sanctions. Penalties can include suspension from duty without pay, removal from office, fines and even imprisonment.

Over the last eight years, the Obama Administration has broken the law, failed to carry out the law, and attempted to write the law through overreaching and unconstitutional regulations.

We have a responsibility to rein in this overzealous executive branch which has continuously spent taxpayer money on programs and priorities that were never authorized or appropriated by Congress.

I know I sound like a broken record on this, but the Rule of Law is critical to preserving our Republic. It is what separates our governance from most of the rest of the world. Our nation's laws must be enforced equally and consistently.

When we met prior to the October election break, you stated you are in full support of restoring Congress's Article One constitutional authority.

In that vein, I am offering an opportunity that I hope you will run with without delay.

The enclosed draft bill restores our jurisdiction over power of the purse by challenging the administration's lawless executive orders and actions relating to the Deferred Action for Childhood Arrivals (DACA) & Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs.

This legislation accomplishes that task by authorizing the Speaker to file a lawsuit on behalf of the House of Representatives.

The House does not need consent from the Senate nor the Administration to authorize this suit; simply a majority in the House of Representatives. There is a precedent for this action in the form of the successful Obamacare suit which was authorized in the 113th Congress through passage of H.Res.676.

Article I, Section 8, Clause 4 of the Constitution grants Congress exclusive jurisdiction with regard to United States citizenship and immigration matters. Article I, section 9, clause 7 requires that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

Congress never authorized or appropriated money for DACA and DAPA.

We as the House are obligated to fight with all our means bestowed us, to maintain and restore "our powers" as defined by our framers in the Constitution.

Constitutional attorney Jonathan Turley has stated that we have reached a "constitutional crisis" in this area because Congress (the House and Senate) have ceded passively its power over time (by both parties) to the executive branch.

By moving forward expediently now, before the expiration of the 114th Congress, we can start fresh with a new president, join him as an equal branch of government and fully restore our Constitutional authority.

It is high time that we take bold action to uphold our Oath of Office and protect and defend the Constitution.

My staff and I are available any time to discuss this matter further with you and your staff.

I am hopeful that you will seize this opportunity and I look forward to hearing from you.

Here's to restoring Congress's Article One constitutional authority and our power of the purse.

Sincerely,

A handwritten signature in blue ink that reads "Paul A. Gosar, D.D.S." The signature is stylized and includes the letters "D.D.S." at the end.

Paul A Gosar, D.D.S.
Member of Congress

Enclosure

[DISCUSSION DRAFT]

114TH CONGRESS
2D SESSION

H. RES. _____

Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the Constitution, Federal immigration law, and the Antideficiency Act.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the Constitution, Federal immigration law, and the Antideficiency Act.

Whereas on June 15, 2012, the President announced that he would unilaterally suspend the immigration laws as applied to an estimated 1.4 million illegal aliens in the United States;

Whereas in accordance with the President's unilateral exercise of lawmaking, his Secretary of the Department of Homeland Security issued an immigration policy memorandum entitled "Exercising Prosecutorial Discretion

with Respect to Individuals Who Came to the United States as Children”;

Whereas, on November 20, 2014, the President announced that he would unilaterally suspend the immigration laws as applied to an estimated 5 million illegal aliens in the United States;

Whereas in accordance with the President’s unilateral exercise of lawmaking, his Secretary of the Department of Homeland Security issued ten immigration policy memoranda including a directive entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Whose Parents are United States Citizens or Permanent Residents”;

Whereas in addition to shielding illegal aliens from deportation laws and rewarding them with work authorization, these Executive directives allow illegal aliens to become eligible for driver’s licenses as well as taxpayer-funded benefits including health care;

Whereas, on November 21, 2014, following the President’s November 20, 2014, announcement, the United States Citizenship and Immigration Services (USCIS) signed an occupancy agreement with the General Services Administration for 280,039 rentable square feet at 2200 Crystal Drive, Arlington, Virginia. At the time of signing, the lease was set to expire in April 2016. The estimated costs of the lease and to fully stand up the facility was \$26,231,296;

Whereas, on December 3, 2014, the United States Citizenship and Immigration Services revealed in an email to employees that the agency is “taking steps to open a new

operational center in Crystal City, Virginia, to accommodate about 1,000 full-time, permanent Federal and contract employees in a variety of positions and grade levels... The initial workload will include cases filed as a result of the Executive actions on immigration announced on Nov. 20, 2014.”;

Whereas, as of February 17, 2015, USCIS had on-boarded two employees to implement the November 20, 2014, Executive actions;

Whereas, on March 5, 2015, the executive branch revealed it had approved 100,000 expanded Deferred Action for Childhood Arrivals, despite a Federal court injunction putting the programs on hold;

Whereas article I, section 8, clause 4 of the Constitution grants Congress exclusive jurisdiction with regard to United States citizenship and immigration matters;

Whereas article I, section 9, clause 7 requires that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. . .”;

Whereas article II, section 3, clause 5 confirms the executive branch’s obligation to “take Care that the Laws be faithfully executed.”;

Whereas the Constitution preserves for Congress the power of the Federal purse. To protect Congress’s power of the purse, the Constitution prohibits the drawing of money out of the Treasury except as appropriated by Congress;

Whereas amounts received as fees by Federal agencies must still be appropriated by Congress to that agency in order to be available for obligation or expenditure by the agency;

Whereas the Antideficiency Act prohibits Federal employees from making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law;

Whereas the Antideficiency Act also prohibits Federal employees from involving the Government in any obligation to pay money before funds have been appropriated for that purpose, unless otherwise allowed by law; and

Whereas the Antideficiency Act is not solely limited to agency overobligations and overexpenditures for authorized purposes and extends to agencies' use of appropriated funds for unauthorized purposes: Now, therefore, be it

1 *Resolved,*

2 **SECTION 1. AUTHORIZATION OF CIVIL ACTION REGARDING**
3 **COMPLIANCE OF EXECUTIVE BRANCH WITH**
4 **THE CONSTITUTION, FEDERAL IMMIGRATION**
5 **LAW, AND THE ANTIDEFICIENCY ACT.**

6 The Speaker is authorized to initiate or intervene in
7 one or more civil actions on behalf of the House of Rep-
8 resentatives in a Federal court of competent jurisdiction
9 to seek any appropriate relief regarding the failure of the
10 President, the head of any department or agency, or any
11 other officer or employee of the executive branch, to act
12 in a manner consistent with that official's duties under
13 the Constitution and laws of the United States with re-
14 spect to article I, section 1 of the Constitution; article 1,
15 section 8, clause 4 of the Constitution; article I, section

1 9, clause 7 of the Constitution; article II, section 3, clause
2 5 of the United States Constitution; title 31, United
3 States Code, sections 1341 and 1342; or any other related
4 provision of law, including a failure to implement any such
5 provision.

6 **SEC. 2. NOTIFICATION.**

7 The Speaker shall notify the House of Representa-
8 tives of any decision to initiate or intervene in any civil
9 action pursuant to this resolution.

10 **SEC. 3. PROCESS FOR CIVIL ACTION.**

11 (a) REPRESENTATION BY GENERAL COUNSEL.—The
12 Office of the General Counsel of the House of Representa-
13 tives, at the direction of the Speaker, shall represent the
14 House of Representatives in any civil action initiated, or
15 in which the House intervenes, pursuant to this resolution
16 and may employ the services of outside counsel and other
17 experts for this purpose.

18 (b) STATEMENT OF COSTS OF OUTSIDE COUNSEL
19 AND EXPERTS.—Not later than 30 days after the expira-
20 tion of each calendar quarter, the chair of the Committee
21 on House Administration shall cause to be printed in the
22 Congressional Record a statement setting forth the aggre-
23 gate amounts expended by the Office of General Counsel
24 on outside counsel and other experts pursuant to sub-
25 section (a) during that quarter.