

## **M E M O**

To: House Colleagues  
From: Speaker Boehner  
Re: “[T]hat the Laws Be Faithfully Executed. . .”  
Date: June 25, 2014

For years Americans have watched with concern as President Barack Obama has declined to faithfully execute the laws of our country – ignoring some statutes completely, selectively enforcing others, and at times, creating laws of his own.

Article II, Section III of the Constitution of the United States dictates that the president, as head of the Executive Branch of our government, “shall take care that the laws be faithfully executed,” even if the president does not agree with the purpose of that law. Under the Constitution’s separation of powers principle, only the Legislative Branch has the power to legislate.

On one matter after another during his presidency, President Obama has circumvented the Congress through executive action, creating his own laws and excusing himself from executing statutes he is sworn to enforce – at times even boasting about his willingness to do it, as if daring the America people to stop him. On matters ranging from health care and energy to foreign policy and education, President Obama has repeatedly run an end-around on the American people and their elected legislators, straining the boundaries of the solemn oath he took on Inauguration Day.

Presidents have traditionally been granted a degree of latitude with respect to the enforcement of the law, and tension between the branches of our government is hardly new. But at various points in our history when the Executive Branch has attempted to claim for itself the ability to make law, the Legislative Branch has responded, and it is only through such responses that the balance of power envisioned by the Framers has been maintained.

President Obama’s aggressive unilateralism has significant implications for our system of government, and presents a clear challenge to our institution and its ability to effectively represent the people.

If the current president can selectively enforce, change or create laws as he chooses with impunity, without the involvement of the Legislative Branch, his successors will be able to do the same. This shifts the balance of power decisively and dangerously in favor of the presidency, giving the president king-like authority at the expense of the American people and their elected legislators.

It also has consequences for our economy and its ability to grow and create jobs. It’s

bad enough when Washington politicians force laws upon the people that make it difficult for private-sector employers to meet payrolls, invest in new initiatives and create jobs. It's even worse when those same laws are arbitrarily enforced on the whims of the individual entrusted with the responsibility of carrying them out, adding uncertainty for private-sector job creators and families on top of the challenges they already face week-to-week.

Everywhere I go in America outside of Washington, D.C., I'm asked: when will the House stand up on behalf of the people to stop the encroachment of executive power under President Obama? We elected a president, Americans note; we didn't elect a monarch or king.

Every Member of the People's House took an oath to uphold and defend the Constitution. It is only through strong action by the House in response to provocative executive action by the Executive Branch in the past that the separation of powers intended by the Framers has been preserved. For the integrity of our laws and the sake of our country's future, the House must act now.

I intend to bring to the floor in July legislation that would authorize the House of Representatives – through the House General Counsel and at the direction of the Bipartisan Legal Advisory Group (BLAG) – to file suit in the coming weeks in an effort to compel the president to follow his oath of office and faithfully execute the laws of our country. The legislation would follow regular order and be considered by the Rules Committee following its introduction, prior to its consideration by the full House.

Under our system of government, the Judicial Branch has the power to resolve disputes between the Executive and Legislative Branches. When there is a failure on the part of the president to faithfully execute the law, the House has the authority to challenge this failure in the Judicial Branch by filing suit in Federal Court in situations in which:

- There is no one else who can challenge the president's failure, and harm is being done to the general welfare and trust in faithful execution of our laws;
- There is no legislative remedy; and
- There is explicit House authorization for the lawsuit, through a vote authorizing the litigation against the president's failure.

I believe the House must act as an institution to defend the constitutional principles at stake and to protect our system of government and our economy from continued executive abuse. The president has an obligation to faithfully execute the laws of our country. When this legislation is introduced in the coming weeks, I ask that you review it and join me in supporting it when it goes before the House.