

Congress of the United States
Washington, DC 20515

June 17, 2011

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington D.C. 20500

Mr. President:

On May 26, 2011, the United States Senate and House of Representatives passed S. 990, the “PATRIOT Sunsets Extensions Act of 2011.” Shortly before midnight, the White House press secretary released a statement that you signed the bill into law.

However, your Administration later confirmed that you authorized the use of an autopen to sign S. 990. Mr. President, your use of the autopen appears contrary to the Constitution.

Article I, section 7 of the United States Constitution states:

“Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it...”

On May 27, 2011, Congressman Tom Graves wrote you to request an explanation for your Constitutional authority to assign a surrogate the responsibility of signing bills passed by Congress into law. As of today, Congressman Graves has yet to receive a response from the White House.

While the July 7, 2005, opinion of the Office of Legal Counsel (OLC) to President George W. Bush on using a surrogate to sign bills into law was apparently the basis for your decision, we are compelled to point out that the memorandum provides a long list of dissenting opinions. On pages 25-26, the OLC memorandum cites the following:

- “*See Rehnquist Letter* at 2 (concluding that ‘with the exception of signing bills passed by Congress, there is no legal impediment to the delegation of the act of signing and that the question of which documents the President should personally sign is largely one of propriety rather than of law’) (emphasis added)”
- “*Scalia Memorandum* at 1 (citing *Rehnquist Memorandum* and stating that ‘[t]he signing of bills passed by the Congress is one exception which may require the President’s personal signature’) (emphasis added)”

- “Memorandum to Files from Ralph W. Tarr, Deputy Assistant Attorney General, Office of Legal Counsel, *Re: Presidential Signing of Bankruptcy Extension Act* at 9-10 (June 13, 1984) (*‘Tarr Memorandum’*) (*‘We therefore concluded that it was necessary for the President physically to sign the bill in order for it to become a law.’*)”
- “*Wilkey Memorandum* at 10 (*‘a bill would seem to present an a fortiori case in which under the Constitutional provision the signification of the President’s approval requires an exercise of personal discretion and therefore cannot be delegated’*)”
- “*Rehnquist Memorandum* at 2 (*‘the requirement for the President’s signature as well as his decision approving a bill would appear to be non-delegable’*)”
- “Indeed, on at least two occasions, a bill was flown halfway around the world, on the advice of this Office, so that the President could personally affix his signature to it. *See Tarr Memorandum* at 9 (China) *see also* Memorandum to File from Jeffrey P. Singdahlsen, Attorney-Adviser, Office of Legal Counsel, *Re: Preliminary Advice and Consideration Regarding Proposal to Fax Continuing Resolution to the President While He Was Abroad* at 1 (Dec. 22, 1999) (Turkey).”

Despite the 2005 opinion of the OLC, neither President George W. Bush nor any of your predecessors assigned a surrogate, or autopen, to sign a bill into law.

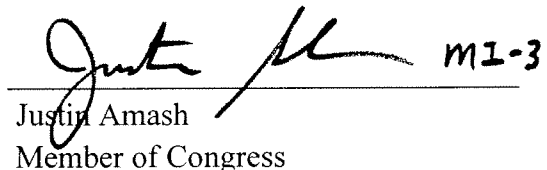
Mr. President, it is clear that assigning a surrogate the responsibility of signing bills passed by Congress is a debatable issue, and could be challenged in court. That being the case, our request is that, out of an abundance of caution, you affix your signature to S. 990 by personally re-signing the enrolled bill. We recall you retaking the Oath of Office on January 21, 2009, over similar concerns for adhering to the Constitution, and believe your signing legislation passed by the United States Congress is of equal importance. Furthermore, we ask that you commit to ending the practice of using an autopen to sign bills passed by Congress.

Thank you for your consideration of this matter. We look forward to your response.

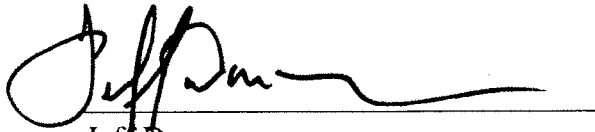
Sincerely,

Handwritten signature of Tom Graves in black ink, with the text "Tom Graves GA-9" written below it.


Tom Graves
Member of Congress

Handwritten signature of Justin Amash in black ink, with the text "Justin Amash MI-3" written below it.

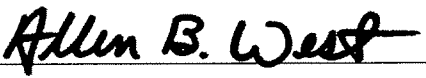
Justin Amash
Member of Congress



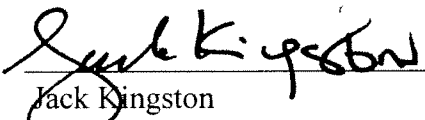
Jeff Duncan
Member of Congress




Jason Chaffetz
Member of Congress



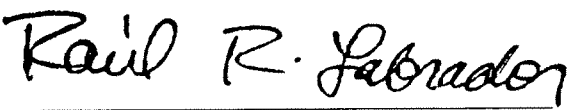
Allen West
Member of Congress



Jack Kingston
Member of Congress



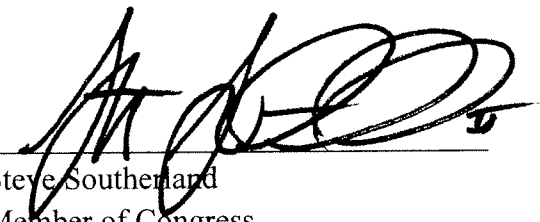
Tom Reed NY29
Member of Congress



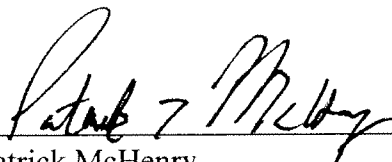
Raúl Labrador
Member of Congress



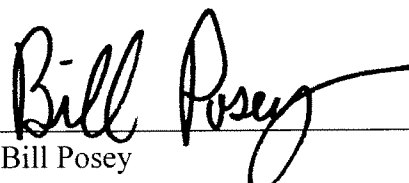
Jeff Landry
Member of Congress




Steve Southerland
Member of Congress




Patrick McHenry
Member of Congress



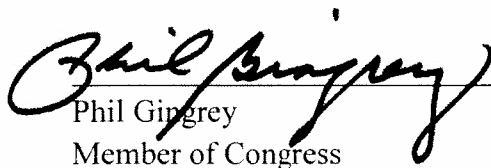
Bill Posey
Member of Congress




Andy Harris
Member of Congress




Louie Gohmert
Member of Congress



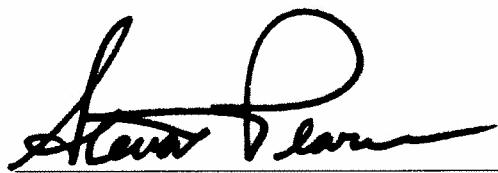
Phil Gingrey
Member of Congress



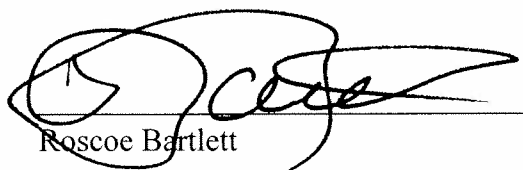
Rob Bishop
Member of Congress




Marlin Stutzman
Member of Congress



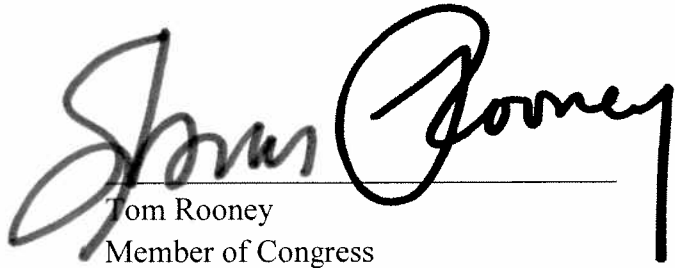
Steve Pearce
Member of Congress



Roscoe Bartlett
Member of Congress



Bill Flores
Member of Congress



Tom Rooney
Member of Congress