

112TH CONGRESS
2D SESSION

S. 3360

To preserve the constitutional authority of Congress and ensure accountability
and transparency in legislation.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2012

Mr. PAUL introduced the following bill; which was read twice and referred to
the Committee on Rules and Administration

A BILL

To preserve the constitutional authority of Congress and
ensure accountability and transparency in legislation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Read the Bills Act”.

5 **SEC. 2. CONSTITUTIONAL AUTHORITY STATEMENT.**

6 (a) IN GENERAL.—This Act is enacted pursuant to
7 the power conferred by the Constitution of the United
8 States upon each House of Congress by—

1 (1) article I, section 5, clauses 2 and 3 to deter-
2 mine the rules and to keep a journal of its pro-
3 ceedings, respectively;

4 (2) article I, section 7, clause 2 to ensure that
5 bills that become law have been actually passed by,
6 not just passed through, each House of Congress;
7 and

8 (3) article I, section 8, clause 18, which author-
9 izes Congress to make all laws that are necessary
10 and proper for carrying into execution the rules of
11 each House.

12 (b) STANDING PROVISION.—The provision of this Act
13 under which any person who is aggrieved by the enforce-
14 ment of any law enacted either in violation of the rules
15 of proceedings of either House of Congress, or by the sus-
16 pension of such rules, as prescribed herein, shall have
17 standing in a court of law, is pursuant to article III, sec-
18 tion 2 of the Constitution of the United States.

19 **SEC. 3. FINDINGS.**

20 Congress finds the following:

21 (1) The Constitution of the United States vests
22 all legislative powers granted therein in Congress
23 and Members of the Senate and House of Rep-
24 resentatives are elected by the people to whom each
25 Member is accountable to represent the people of the

1 State and of the District in the exercise of each
2 Member's legislative powers.

3 (2) As a Government of enumerated powers, ar-
4 ticle I, section 1 of the Constitution of the United
5 States obliges Congress to exercise only those legis-
6 lative powers set forth in the Constitution of the
7 United States, and article VI of the Constitution of
8 the United States requires of each member of Con-
9 gress an oath or affirmation to support the Con-
10 stitution of the United States by enacting only those
11 laws, and making only those resolutions that are
12 pursuant to the Constitution of the United States
13 and not prohibited thereby.

14 (3) To the end that Congress be politically and
15 legally accountable to the people, article I, section 5
16 of the Constitution of the United States requires
17 each House of Congress to keep a journal of its pro-
18 ceedings and from time to time publish the same.

19 (4) To the end that no legislation be passed
20 without effective representation of the people's inter-
21 est by the elected Members of Congress, article I,
22 section 7 of the Constitution of the United States
23 states that only those Bills "which shall have passed
24 the House of Representatives and the Senate," and
25 not vetoed by the President, "shall become" laws.

1 (5) According to section I of Thomas Jeffer-
2 son's 1812 Manual of Parliamentary Practice for
3 the Use of the Senate of the United States (in this
4 section referred to as "Jefferson's Manual"), "noth-
5 ing tended more to throw power into the hands of
6 administration and those who acted with the major-
7 ity . . . than a neglect of, or departure from, the
8 rules of proceeding [which] operated as a check and
9 control of the actions of the majority [and] a shelter
10 and protection to the minority."

11 (6) According to sections XXII and XL of Jef-
12 ferson's Manual, it was the rule of the Senate that
13 every bill receive 3 readings, 2 full readings by the
14 Clerk of the Senate, and a third reading of the title
15 of the bill only in that "every member of the Senate
16 had a printed copy [of the bill] in his hand."

17 (7) According to sections XXIV, XXV, and XL
18 of Jefferson's Manual, it was the rule of the House
19 of Representatives, following the parliamentary pro-
20 cedure of the English House of Commons, that every
21 bill received 2 full readings by the Clerk of the
22 House, and a reading of the whole contents of the
23 bill verbatim by the Speaker of the House before the
24 House voted on each bill.

1 (8) Under current Senate rules, the Senate has
2 departed from its original practice of a full first and
3 second reading of each bill, and of ensuring that
4 each Senator has a printed or other verbatim copy
5 of each bill before passage thereof, having by rule
6 XIV of the Standing Rules of the Senate limited
7 each reading of a bill to the reading of the bill's title
8 only, unless the Senate in any case shall otherwise
9 order.

10 (9) Under current rules for the House of Rep-
11 resentatives, the House of Representatives has by
12 Rule XVI (8) and Rule XVIII (5) embraced its
13 original practice of full first and second readings of
14 each bill, but has regularly departed from this prac-
15 tice by unanimous consent of the House, and has
16 dispensed altogether its original practice of a ver-
17 batim third reading of each bill before passage, lim-
18 iting such third reading to the reading of the title
19 only, including the reading of the title only even
20 when members of the House have no printed or
21 other verbatim copy of a bill before passage.

22 (10) Although section 106 of title 1, United
23 States Code, requires a bill to be made available in
24 written form to each member of Congress before
25 final passage Congress has by statute conferred

1 upon itself the power, during the last 6 days of a
2 session of Congress, by concurrent resolution, to
3 vote for passage of a bill that is not in written form
4 at the time of final passage.

5 (11) As a direct consequence of the Senate and
6 the House of Representatives' departure from the
7 salutary practice of full, verbatim readings of each
8 bill before final passage, and further, as a direct
9 consequence of Congress, by concurrent resolution
10 and otherwise, having permitted certain appropria-
11 tion, budget, and regulatory bills to be enacted into
12 law without such bills being printed and presented
13 to Congress in written form prior to final passage,
14 Congress has—

15 (A) imposed upon the American people ex-
16 cessively long bills, largely written by an
17 unelected bureaucracy, resulting in generally in-
18 comprehensible, cumbersome, oppressive, and
19 burdensome laws, containing hidden provisions
20 for special interests;

21 (B) deprived the American people and
22 their elected Senators and Representatives of a
23 full and fair opportunity to examine the text of
24 bills, and all amendments thereto, prior to pas-
25 sage;

1 (C) undermined the confidence of the
2 American people by its failure to give adequate
3 notice to the people before a vote is taken on
4 said bills and their amendments in the bills;
5 and

6 (D) has called into question the integrity
7 and reliability of the legislative processes in
8 both Houses of Congress by its failure to en-
9 sure that each member of the Senate and each
10 member of the House has, prior to passage, ei-
11 ther listened attentively to the reading of the
12 full text of each bill, and its amendments, or
13 has personally read the text thereof.

14 (12) Federal law currently sets forth various re-
15 quirements relating to the form of bills and proce-
16 dure used regarding the enactment of laws, includ-
17 ing—

18 (A) the form of the enacting clause of all
19 Acts of Congress (section 101 of title 1, United
20 States Code);

21 (B) the form of the resolving clause of all
22 joint resolutions (section 102 of title 1, United
23 States Code);

1 (C) a limitation on the use of enacting or
 2 resolving words (section 103 of title 1, United
 3 States Code);

4 (D) a requirement regarding the num-
 5 bering sections and the requirement that each
 6 contain a single proposition (section 104 of title
 7 1, United States Code);

8 (E) the style and title for all Acts making
 9 appropriations (section 105 of title 1, United
 10 States Code); and

11 (F) the process by which each bill or joint
 12 resolution is handled after passage (section 106
 13 of title 1, United States Code).

14 **SEC. 4. TEXT OF BILL OR RESOLUTION TO SPECIFY ITS**
 15 **CONSTITUTIONAL AUTHORITY, CURRENT**
 16 **LAW.**

17 Chapter 2 of title 1, United States Code, is amended
 18 by inserting after section 105 the following:

19 **“§ 105a. Text of bill or resolution to specify its con-**
 20 **stitutional authority**

21 **“(a) REQUIREMENT.—**

22 **“(1) IN GENERAL.—**Any bill or resolution intro-
 23 duced in either House of Congress shall contain a
 24 provision citing the specific powers granted to Con-
 25 gress in the Constitution of the United States to

1 enact the proposed bill or resolution, including all
2 the provisions thereof.

3 “(2) FAILURE TO COMPLY.—Any bill or resolu-
4 tion not in compliance with subsection (a)(1) shall
5 not be accepted by the Clerk of the House of Rep-
6 resentatives or the Secretary of the Senate.

7 “(b) FLOOR CONSIDERATION.—

8 “(1) IN GENERAL.—The requirements of sub-
9 section (a)(1) shall apply to any bill or resolution
10 presented for consideration on the floor of either
11 House of Congress, including those bills or resolu-
12 tions reported from a committee of either House of
13 Congress, produced by conference between the 2
14 Houses of Congress, or offered as a manager’s
15 amendment.

16 “(2) FAILURE TO COMPLY.—Any bill or resolu-
17 tion not complying with subsection (A)(i) shall not
18 be submitted for a vote on final passage.

19 “(c) NO WAIVER OR MODIFICATION.—Neither House
20 of Congress, nor Congress jointly, by concurrent resolu-
21 tion, or by unanimous consent, or by any other order, reso-
22 lution, vote, or other means, may dispense with, or other-
23 wise waive or modify, the requirements set forth in this
24 section.

1 **“§ 105b. Text of bill or resolution to set forth current**
2 **law**

3 “(a) REQUIREMENT.—

4 “(1) IN GENERAL.—Any bill or resolution intro-
5 duced in either House of Congress, designed to
6 amend or modify the effect of, or which would have
7 the effect of amending or modifying the effect of,
8 any current provision of law, including the expira-
9 tion date of any law, shall set forth—

10 “(A) the current version of the entire sec-
11 tion of the Act of Congress being amended, ver-
12 batim;

13 “(B) the amendments being proposed by
14 the bill; and

15 “(C) the current section of law as it would
16 read as modified by the amendments proposed,
17 except that this subparagraph shall not apply to
18 any bill or resolution which would strike the
19 text of an entire section of an Act of Congress.

20 “(2) FAILURE TO COMPLY.—Any bill or resolu-
21 tion not complying with this subsection shall not be
22 accepted by the Clerk of the House of Representa-
23 tives or the Secretary of the Senate.

24 “(b) FLOOR CONSIDERATION.—

25 “(1) IN GENERAL.—The requirements of sub-
26 section (a)(1) shall apply to all bills or resolutions

1 presented for consideration on the floor of either
2 House of Congress, including those reported from a
3 committee of either House of Congress, produced by
4 conference between the 2 Houses of Congress or of-
5 fered as a manager’s amendment.

6 “(2) FAILURE TO COMPLY.—Any bill or resolu-
7 tion not complying with this subsection shall not be
8 submitted to a vote on final passage.

9 “(c) NO WAIVER OR MODIFICATION.—Neither House
10 of Congress, nor Congress jointly, by concurrent resolu-
11 tion, or by unanimous consent, or by any other order, reso-
12 lution, vote, or other means, may dispense with, or other-
13 wise waive or modify, the requirements set forth in this
14 section.

15 **“§ 105c. Procedures prior to vote on bill or resolution**

16 “(a) IN GENERAL.—A vote on final passage of a bill
17 (except for private bills) or resolution may not occur in
18 either House of Congress, unless—

19 “(1) the full text of the bill or resolution is pub-
20 lished at least 7 days before the vote on an official
21 Internet website of each House of Congress, easily
22 available to and readily usable by the public, using
23 an open format that is platform independent, ma-
24 chine readable, and available without restrictions re-
25 specting searching, retrieval, downloading, and in-

1 dexting, separate and apart from the calendar of the
2 Senate or the House of Representatives;

3 “(2) public notice of the specific calendar week
4 during which the vote is scheduled to take place is
5 posted on the official Internet website described in
6 paragraph (1) not less than 6 days before the Mon-
7 day of the calendar week during which the vote is
8 scheduled to take place, with failure to take the vote
9 during the noticed week requiring a new notice; and

10 “(3) reading of its full text verbatim by the
11 Clerk of the House of Representatives or Secretary
12 of the Senate to the respective body of each House
13 called to order and physically assembled with a con-
14 stitutionally required quorum to do business being
15 present throughout the time of the full textual read-
16 ing of said bill, except that if a bill or resolution is
17 enrolled by either House of Congress, for any subse-
18 quent consideration of the enrolled bill or resolu-
19 tion—

20 “(A) the full text need not be reread before
21 the House of Congress which passed the bill;
22 and

23 “(B) the full text verbatim of any amend-
24 ment to the text of the enrolled bill or resolu-
25 tion shall be read.

1 “(b) AFFIDAVIT.—

2 “(1) IN GENERAL.—Before voting in favor of
3 final passage of any bill (except a private bill) or
4 resolution, a Member of the Senate and a Member
5 of the House of Representatives shall sign an affi-
6 davit executed under penalty of perjury as provided
7 in section 1621 of title 18, United States Code, that
8 the Member either—

9 “(A) was present throughout the entire
10 reading of each such bill or resolution, and lis-
11 tened attentively to such reading in its entirety;

12 “(B) prior to voting for passage of such
13 bill, read attentively each such bill in its en-
14 tirety; or

15 “(C) some combination of clause (i) or (ii).

16 “(2) VOTE AGAINST PASSAGE.—A Member of
17 the Senate or a Member of the House of Represent-
18 atives shall not be required to sign an affidavit de-
19 scribed in paragraph if the Member votes against
20 the passage of a bill or resolution.

21 “(3) RECORDS.—Copies of each affidavit de-
22 scribed in paragraph (1) signed by a Member of the
23 Senate and a Member of the House of Representa-
24 tives shall be maintained by the Secretary of the

1 Senate and the Clerk of the House of Representa-
 2 tives, respectively.

3 “(c) JOURNAL.—With respect to each vote on final
 4 passage of a bill (except for a private bill) or resolution,
 5 each House of Congress shall cause to be recorded in the
 6 journal of its proceedings that the publishing, notice, read-
 7 ing, and affidavit requirements under this section have
 8 been met.

9 “(d) NO WAIVER OR MODIFICATION.—Neither House
 10 of Congress, nor Congress jointly, by concurrent resolu-
 11 tion, or by unanimous consent, or by any other order, reso-
 12 lution, vote, or other means, may dispense with, or other-
 13 wise waive or modify, the requirements set forth in this
 14 section.

15 **“§ 105d. Enforcement clause**

16 “(a) IN GENERAL.—An Act of Congress that does
 17 not comply with sections 105a, 105b, and 105c shall have
 18 no force or effect and no legal, equitable, regulatory, civil,
 19 or criminal action may be brought under such an Act of
 20 Congress.

21 “(b) CAUSE OF ACTION.—Without regard to the
 22 amount in controversy, a cause of action under sections
 23 2201 and 2202 of title 28, United States Code, against
 24 the United States seeking appropriate relief (including an
 25 injunction against enforcement of any law, the passage of

1 which did not conform to the requirements of sections
2 105a, 105b, and 105c) may be brought by—

3 “(1) any person aggrieved by any action of any
4 officer or employee in the executive branch of the
5 Federal Government under any Act of Congress that
6 does not comply with sections 105a, 105b, and 105c;

7 “(2) any Member of Congress aggrieved by the
8 failure of the House of Congress of which the Mem-
9 ber is a Member to comply with sections 105a, 105b,
10 and 105c; and

11 “(3) any person individually aggrieved by the
12 failure of the Senator of the State in which the ag-
13 grieved person resides or Member of the House of
14 Representatives for the District in which the ag-
15 grieved person resides to fulfill the obligations of the
16 Senator or Member of the House of Representatives
17 under sections 105a, 105b, and 105c.”.

18 **SEC. 5. SEVERABILITY CLAUSE.**

19 If any provision of this Act or an amendment made
20 by this Act, or the application of a provision or amend-
21 ment to any person or circumstance, is held to be invalid
22 for any reason in any court of competent jurisdiction, the
23 remainder of this Act and amendments made by this Act,

- 1 and the application of the provisions and amendment to
- 2 any other person or circumstance, shall not be affected.

