

# Calendar No. 582

116TH CONGRESS  
2D SESSION

# S. 4805

To create a point of order against legislation modifying the number of Justices of the Supreme Court of the United States.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2020

Mr. CRUZ (for himself, Mr. TILLIS, Ms. MCSALLY, Mr. WICKER, Mrs. LOEFLER, Mrs. HYDE-SMITH, Mr. PERDUE, Mr. DAINES, Ms. ERNST, Mr. COTTON, Mr. LEE, Mr. CASSIDY, Mr. CORNYN, and Mr. GRASSLEY) introduced the following bill; which was read the first time

NOVEMBER 9, 2020

Read the second time and placed on the calendar

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## A BILL

To create a point of order against legislation modifying the number of Justices of the Supreme Court of the United States.

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. POINT OF ORDER AGAINST LEGISLATION MODI-**  
4 **FYING THE NUMBER OF JUSTICES OF THE**  
5 **SUPREME COURT OF THE UNITED STATES.**

6 (a) POINT OF ORDER.—

1           (1) IN GENERAL.—In the Senate, it shall not be  
2           in order to consider a provision in a bill, joint resolu-  
3           tion, motion, amendment, amendment between the  
4           Houses, or conference report amending section 1 of  
5           title 28, United States Code, to modify, or that oth-  
6           erwise modifies, the total number of Justices of the  
7           Supreme Court of the United States.

8           (2) POINT OF ORDER SUSTAINED.—If a point  
9           of order is made by a Senator against a provision  
10          described in paragraph (1), and the point of order  
11          is sustained by the Chair, that provision shall be  
12          stricken from the measure and may not be offered  
13          as an amendment from the floor.

14          (b) CONFERENCE REPORTS.—When the Senate is  
15          considering a conference report on, or an amendment be-  
16          tween the Houses in relation to, a bill or joint resolution,  
17          upon a point of order being made by any Senator pursuant  
18          to subsection (a)(1), and such point of order being sus-  
19          tained, such material contained in such conference report  
20          or House amendment shall be stricken, and the Senate  
21          shall proceed to consider the question of whether the Sen-  
22          ate shall recede from its amendment and concur with a  
23          further amendment, or concur in the House amendment  
24          with a further amendment, as the case may be, which fur-  
25          ther amendment shall consist of only that portion of the

1 conference report or House amendment, as the case may  
2 be, not so stricken. Any such motion in the Senate shall  
3 be debatable. In any case in which such point of order  
4 is sustained against a conference report (or Senate amend-  
5 ment derived from such conference report by operation of  
6 this subsection), no further amendment shall be in order.

7 (c) SUPERMAJORITY WAIVER AND APPEAL.—In the  
8 Senate, this section may be waived or suspended only by  
9 an affirmative vote of two-thirds of the Members, duly  
10 chose and sworn. An affirmative vote of two-thirds of  
11 Members of the Senate, duly chosen and sworn shall be  
12 required to sustain an appeal of the ruling of the Chair  
13 on a point of order raised under this section.

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