

Calendar No. 307

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-159

ASSURING THAT ROBUST, THOROUGH, AND
INFORMED CONGRESSIONAL LEADERSHIP
IS EXERCISED OVER NATIONAL EMER-
GENCIES ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 764

TO PROVIDE FOR CONGRESSIONAL APPROVAL OF NATIONAL
EMERGENCY DECLARATIONS, AND FOR OTHER PURPOSES



NOVEMBER 18, 2019.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

99-010

WASHINGTON : 2019

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RON JOHNSON, Wisconsin, *Chairman*

ROB PORTMAN, Ohio	GARY C. PETERS, Michigan
RAND PAUL, Kentucky	THOMAS R. CARPER, Delaware
JAMES LANKFORD, Oklahoma	MAGGIE HASSAN, New Hampshire
MITT ROMNEY, Utah	KAMALA D. HARRIS, California
RICK SCOTT, Florida	KYRSTEN SINEMA, Arizona
MICHAEL B. ENZI, Wyoming	JACKY ROSEN, Nevada
JOSH HAWLEY, Missouri	

GABRIELLE D'ADAMO SINGER, *Staff Director*

JOSEPH C. FOLIO III, *Chief Counsel*

PATRICK J. BAILEY, *Chief Counsel for Governmental Affairs*

DAVID M. WEINBERG, *Minority Staff Director*

ZACHARY I. SCHRAM, *Minority Chief Counsel*

ALEXA E. NORUK, *Minority Director of Homeland Security*

CHRISTOPHER J. MULKINS, *Minority Senior Professional Staff Member*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 307

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-159

ASSURING THAT ROBUST, THOROUGH, AND INFORMED
CONGRESSIONAL LEADERSHIP IS EXERCISED OVER NA-
TIONAL EMERGENCIES ACT

NOVEMBER 18, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 764]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs,
to which was referred the bill (S. 764) to provide for congressional
approval of national emergency declarations, and for other pur-
poses, having considered the same, reports favorably thereon with
an amendment (in the nature of a substitute) and recommends that
the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	4
IV. Section-by-Section Analysis	6
V. Evaluation of Regulatory Impact	7
VI. Congressional Budget Office Cost Estimate	7
VII. Changes in Existing Law Made by the Bill, as Reported	8

I. PURPOSE AND SUMMARY

S. 764, the Assuring that Robust, Thorough, and Informed Con-
gressional Leadership is Exercised Over National Emergencies Act,
or ARTICLE ONE Act, reclaims certain emergency authorities that
Congress has ceded to the President. Over the years, Congress en-
acted a number of statutes—more than 120 remain in force

today¹—that provide the President with specific authorities that the President may invoke, through proclamation, during times of emergency. In 1976, based on the recommendation of a bipartisan special committee convened to analyze the issue, Congress enacted the National Emergencies Act (NEA), which provided Congress with the unilateral authority to terminate a Presidentially-declared emergency by passing a concurrent resolution. In 1983, however, the Supreme Court made clear that any termination resolution remained subject to presidential veto.² Consequently, under current law, Congress’s ability to terminate a declared national emergency requires a veto-proof majority in both houses of Congress.

S. 764 addresses this issue by amending the NEA to invert the process for congressional review of a national emergency declared by the President. Instead of requiring a veto-proof resolution to *disapprove* of a declared emergency (*i.e.*, the status quo), S. 764 amends the NEA procedures to stipulate that a declared emergency expires after 30 days unless and until Congress passes a joint resolution *approving* of the declared emergency. These new procedures, however, would not apply to an emergency declared pursuant to the International Emergency Economic Powers Act (IEEPA), the statutory scheme used primarily to impose economic sanctions on foreign entities and individuals. S. 764 does, however, limit the emergency authorities available under IEEPA by prohibiting the use of that law to impose duties or tariff-rate quotas.

II. BACKGROUND AND THE NEED FOR LEGISLATION

1972 Senate Special Committee on National Emergencies and Delegated Emergency Powers

In 1972, the Senate approved the creation of a special bipartisan committee “to assess the consequences of terminating the ongoing state of emergency initially declared by President Truman on the eve of the Korean War in 1950.”³ “The Special Committee . . . was the only congressional committee of its time to have a membership comprised of an equal number of Republicans and Democrats.”⁴

During the course of its work, the Special Committee realized the breadth of the emergency authorities that Congress had ceded to the President: “The President has had extraordinary powers—powers to seize property and commodities, seize control of transportation and communications, organize and control the means of production, assign military forces abroad, and restrict travel.”⁵

The Special Committee determined that Congress had enacted 470 statutory provisions that provided the President with emergency authorities,⁶ and it assessed blame accordingly: “This dangerous state of affairs is a direct result of Congress’s failure to establish effective means for the handling of emergencies . . . Congress, through its own actions, has transferred awesome mag-

¹See Brennan Ctr. For Justice, *A Guide to Emergency Powers and Their Use* ii (Feb. 13, 2019), https://www.brennancenter.org/sites/default/files/legislation/AGuideToEmergencyPowersAndTheirUse_2.13.19.pdf.

²*I.N.S. v. Chadha*, 462 U.S. 919 (1983).

³Patrick A. Thronson, *Note: Toward Comprehensive Reform of America’s Emergency Law Regime*, 46 U. Mich. J.L. Reform 737, 744 (Winter 2013).

⁴*Id.*

⁵*Id.* at 745 (quoting S. Rep. No. 94–922, at 3 (1974)).

⁶*Id.* at 744–45.

nitudes of power to the Executive without ever examining the cumulative effect of that delegation of responsibility.”⁷

To address these issues, the Special Committee unanimously approved draft legislation titled the National Emergencies Act.⁸ On September 14, 1976, the NEA became law.⁹

NEA: The Current Regime

The NEA reformed Congress’s grant of emergency authorities to the President in several ways. First, it terminated all then-existing emergencies two years after enactment of the legislation,¹⁰ and repealed or amended seven specific emergency authorities.¹¹ Second, it codified the process through which the President invoked any emergency authority by, among other things, requiring the President to specify the emergency authorities invoked¹² and empowering Congress to terminate any declared emergency with a concurrent resolution.¹³ It also specified the procedures by which both houses of Congress would consider a concurrent resolution on an expedited basis.¹⁴

Under those procedures, at six-month intervals after the declaration of an emergency, Congress is required to consider a vote on a concurrent resolution to determine whether the emergency declaration should be terminated.¹⁵ The NEA provides privileged procedures for the consideration of a concurrent resolution. Any such resolution must be reported out of the appropriate committee to the floor within 15 calendar days,¹⁶ and final passage must be voted on within three calendar days.¹⁷ The resolution is then sent to the non-originating house of Congress, and the same privileged procedures apply.¹⁸ A conference committee is required to meet if there are any differences between the House and Senate resolutions, and it must issue a committee report within six calendar days of its appointment.¹⁹ Both houses must vote within six calendar days of the issuance of the conference report.²⁰

Despite these finely wrought procedures designed to ensure prompt and effective congressional oversight of emergency declarations, in 1983, the Supreme Court held that any termination resolution remained subject to Presidential veto.²¹ Thus, in practice, Congress is not able to terminate a declared emergency absent veto-proof majorities in both houses of Congress. Although this represented a significant change to the spirit of the law, the NEA has not been meaningfully reconsidered since it was passed 43 years ago and, in practice, Congress rarely has reconsidered emergencies once they have been declared.

⁷*Id.* at 745 (quoting S. Rep. No. 94–922, at 1 (1974)).

⁸*Id.* at 745.

⁹*Id.* at 746; Pub. L. No. 94–412 (1976). The enacted version of the NEA was a modified version of the Special Committee’s draft.

¹⁰Pub. L. No. 94–412 § 101 (1976).

¹¹*Id.* at § 501.

¹²*Id.* at § 301.

¹³*Id.* at § 201.

¹⁴*Id.* at § 201(c).

¹⁵*Id.* at § 201(b).

¹⁶*Id.* at § 201(c)(1).

¹⁷*Id.* at § 201(c)(2).

¹⁸*Id.* at § 201(c)(3).

¹⁹*Id.* at § 201(c)(4).

²⁰*Id.*

²¹*I.N.S. v. Chadha*, 462 U.S. 919 (1983).

According to the Brennan Center for Justice, there are currently 123 statutory authorities that a President may invoke to access certain emergency authorities.²² Since enactment of the NEA, there have been 63 declared emergencies.²³ As of October 18, 2019, there were 34 declared national emergencies still in effect.²⁴ For all of those emergencies except three, the President invoked authorities available under IEEPA.²⁵

The ARTICLE ONE Act

Consistent with the findings of the bipartisan Special Committee and the original purpose of the NEA, the ARTICLE ONE Act reclaims authority that Congress ceded to the President by inverting the framework for congressional review. Rather than require a veto-proof majority to enact a resolution of *disapproval*, the ARTICLE ONE Act provides that any authority that a President invokes during an emergency expires after 30 days unless and until Congress enacts a joint resolution of *approval*. This new framework includes procedures to streamline consideration of a joint resolution, including limited time for review by the appropriate committees, limited floor debate, and a general prohibition on amendments.

Notably, the new framework established by the ARTICLE ONE Act does not apply to the emergency authorities available under IEEPA, which a President traditionally invokes during times of emergency to impose economic sanctions on foreign entities and individuals. This exclusion is intended to preserve the President's flexibility in deploying economic sanctions as a national security tool. However, the ARTICLE ONE Act also amends IEEPA by prohibiting the use of its authorities to impose duties or tariff-rate quotas. To ensure that a President cannot skirt congressional review by invoking IEEPA along with other emergency authority provisions, the bill specifies that any such declared emergency remains subject to the new framework established by the ARTICLE ONE Act.

Finally, the ARTICLE ONE Act requires the President to submit to Congress detailed reporting about the declared emergency—*e.g.*, the circumstances necessitating the emergency, its estimated duration, a summary of actions taken, etc.—not only at the time the emergency is declared, but also every six months thereafter.

III. LEGISLATIVE HISTORY

Senator Mike Lee (R-UT) introduced S. 764 on March 12, 2019, with Senators Chuck Grassley (R-IA), Thom Tillis (R-NC), Joni Ernst (R-IA), Pat Toomey (R-PA), Ron Johnson (R-WI), Jerry Moran (R-KS), Lamar Alexander (R-TN), Ben Sasse (R-NE), Roy Blunt (R-MO), Rob Portman (R-OH), Todd Young (R-IN), Mitt Romney (R-UT), Ted Cruz (R-TX), and Roger Wicker (R-MS). Senators John Cornyn (R-TX), Martha McSally (R-AZ), Johnny Isakson (R-GA), and Lisa Murkowski (R-AK) later joined as cosponsors. The bill was referred to the Committee on Homeland Security

²²*A Guide to Emergency Powers and Their Use* ii, *supra* note 1.

²³Brennan Ctr. For Justice, *Declared National Emergencies Under the National Emergencies Act* (Oct. 17, 2019), <https://www.brennancenter.org/our-work/research-reports/declared-national-emergencies-under-national-emergencies-act>.

²⁴*Id.*

²⁵*Id.*

and Governmental Affairs. The Committee considered S. 764 at a July 24, 2019 business meeting. It was held over from a business meeting held on June 18, 2019.

During the business meeting, Chairman Johnson offered a modified amendment in the nature of a substitute. The amendment established an exemption from the bill's congressional review procedure for certain emergency declarations invoking authorities under IEEPA. Specifically, the amendment carved out emergency declarations invoking IEEPA only insofar as a President sought to block property or impose economic sanctions; the use of any other authority under IEEPA would remain subject to the new congressional review procedures. The amendment further modified the effect-of-termination clause so that any construction related to the emergency initiated before termination would not be permitted to continue. It also clarified that the savings provision applied to "legal" actions and proceedings. The amendment as modified was adopted by unanimous consent.

Senator Rand Paul offered two amendments. The first amendment would have the effect of immediately upon passage of this bill terminating the national emergency concerning the southern border of the United States declared on February 15, 2019. The amendment was not adopted by a roll call vote of 7 Yeas to 7 Nays. Senators voting Yea were Senators Paul, Peters, Carper, Hassan, Sinema, Rosen, with Senator Harris voting Yea by proxy. Senators voting Nay were Johnson, Portman, Lankford, Romney, Scott, Enzi, and Hawley. The second amendment would have repealed Section 7 of the Communications Act of 1934, an emergency authority that a President may invoke to suspend, close, or otherwise control any communication facility. The amendment was not adopted by a roll call vote of 5 Yeas to 9 Nays. Senators voting Yea were Senators Portman, Paul, Romney, Scott, and Hawley. Senators voting Nay were Johnson, Lankford, Enzi, Peters, Carper, Hassan, Sinema, Rosen, with Senator Harris voting Nay by proxy.

Senator Peters offered an amendment which widened the exemption from congressional review of national emergency declarations to include all authorities pursuant to IEEPA. Senator Johnson offered a second degree amendment to the Peters amendment, which clarified that reference to IEEPA alone does not exempt an emergency declaration from congressional review under the bill. The Johnson second degree amendment was adopted by voice vote. Senators present were Johnson, Portman, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen. Senators Scott and Hawley asked to be recorded for the record as voting "No". The Peters amendment, as amended by the Johnson second degree amendment, was adopted by voice vote. Senators present were Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen. Senators Portman, Scott, and Hawley asked to be recorded for the record as voting "No".

The Committee ordered S. 764, as amended by the Johnson substitute amendment as modified and the Peters Amendment 2 as modified by the Johnson second degree amendment, was reported favorably on July 24, 2019, by voice vote. Senators present for the vote were Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen. Senators

Scott and Hawley were asked to be recorded for the record as voting “No”.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides the bill’s short title, the “Assuring that Robust, Thorough, and Informed Congressional Leadership is Exercised Over National Emergencies Act” or the “ARTICLE ONE Act.”

Section 2. Congressional review of national emergencies

This section amends Title II of the NEA and replaces it with four sections that revise the way in which Congress authorizes and reviews national emergencies declared by a President.

Section 201 authorizes the President to declare a national emergency by proclamation. For any declared emergency, a President must identify, either in the proclamation or in an Executive Order, the specific emergency authorities being invoked. The President’s declaration must be transmitted to Congress and published in the Federal Register. If Congress does not approve of the declared emergency, a President is prohibited for the remainder of the term of office from declaring a subsequent national emergency with respect to the same circumstances.

Section 202 limits the temporary effective period for all declared national emergencies to 30 days, at which point any invoked emergency authority expires unless (pursuant to Section 203) Congress enacts a joint resolution of approval. If Congress is physically unable to convene, the 30-day period does not begin until the first day Congress convenes. Unless otherwise terminated by the President or Congress, a declared national emergency shall terminate after one year unless it is renewed by the President and approved by a joint-resolution of Congress.

Section 203 sets forth the procedures by which Congress may review a national emergency declared by the President. A joint resolution of approval may be introduced in either House of Congress by any member of that House. A joint resolution of approval will be a privileged resolution; it will require only a simple majority for passage and will be subject to streamlined floor procedures, including limited time for debate and the general prohibition of amendments.

Section 204 excludes certain national emergencies invoking IEEPA from these revised review procedures. Specifically, if the President declares a national emergency and invokes IEEPA, such an emergency will remain subject to the original procedures for congressional review; in other words, Congress may terminate such an emergency only through a joint resolution of *disapproval*. However, if a President invokes any emergency authority in addition to IEEPA (and its enumerated, supplemental authorities), such an emergency would be subject to the revised review procedures of this section.

Section 3. Reporting requirements

This section requires the President, when an emergency is declared or renewed, to provide Congress with information about the basis for the declared emergency; its anticipated duration; and a

summary of actions, including the reprogramming of funds, taken or planned to be taken during the course of the emergency. It also requires the President to report to Congress not less than every six months for the duration of a declared emergency about the status of the emergency and actions taken pursuant to the emergency authorities invoked.

Section 4. Exclusion of imposition of duties and import quotas from presidential authorities under International Emergency Economic Powers Act

This section amends IEEPA by prohibiting the President from using any of its authorities to impose duties or tariff-rate quotas.

Section 5. Conforming amendments

This section makes conforming amendments to the NEA and IEEPA.

Section 6. Effective date; applicability

This section provides the ARTICLE ONE Act shall take effect on the date of enactment. With regard to declared emergencies in effect at the time of enactment, the provisions of the ARTICLE ONE Act will apply when such an emergency is set to expire or otherwise be renewed.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 16, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 764, the ARTICLE ONE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 764, ARTICLE ONE Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 24, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	*	0
Increase or Decrease (-) in the Deficit	0	0	*
Spending Subject to Appropriation (Outlays)	0	0	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

S. 764 would amend the National Emergencies Act to limit the duration of any national emergency declared by the President to 30 days, unless subsequently approved or extended by the Congress.

According to information from the Congressional Research Service, Presidents have declared 53 national emergencies since 1976. Of those, 31 are currently active. Most national emergencies involve sanctions against trade with foreign governments. Sanctions can affect revenue collections to the extent that the number of people subject to visa fees and civil and criminal penalties changes. Most visa fees are retained by the Department of State and spent without further appropriation, but some fees are deposited in the Treasury as revenues. Penalties also are recorded as revenues, and a portion of those penalties can be spent without further appropriation. In addition, national emergencies also could involve the spending of previously appropriated funds, which would lead to an increase in direct spending.

CBO cannot predict the number or timing of future declarations of national emergencies, but expects that most of them would be approved by the Congress. If S. 764 is enacted, and if it resulted in fewer emergency declarations (or emergencies of shorter duration) federal spending could be lower. But any effects would be insignificant.

CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by Theresa A. Gullo, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 764 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in *roman*):

NATIONAL EMERGENCIES ACT

* * * * *

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

* * * * *

[SEC. 201. (50 U.S.C. 1621)

[(a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

[(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this chapter. No law enacted after September 14, 1976, shall supersede this subchapter unless it does so in specific terms, referring to this subchapter, and declaring that the new law supersedes the provisions of this subchapter.

[SEC. 202. (50 U.S.C. 1621)

[(a) Any national emergency declared by the President in accordance with this title shall terminate if—

[(1) there is enacted into law a joint resolution terminating the emergency; or

[(2) the President issues a proclamation terminating the emergency.

[Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

[(A) any action taken or proceeding pending not finally concluded or determined on such date;

[(B) any action or proceeding based on any act committed prior to such date; or

[(C) any rights or duties that matured or penalties that were incurred prior to such date.

[(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

[(c)

[(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported

out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

[(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

[(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

[(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

[(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 1651(b) of this Act are enacted by Congress—

[(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

[(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

[(d) Any national emergency declared by the President in accordance with this subchapter, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register

and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.】

SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.

(a) *AUTHORITY TO DECLARE NATIONAL EMERGENCIES.*—With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such a national emergency by proclamation. Such proclamation shall immediately be transmitted to Congress and published in the Federal Register.

(b) *SPECIFICATION OF PROVISIONS OF LAW TO BE EXERCISED.*—No powers or authorities made available by statute for use during the period of a national emergency shall be exercised unless and until the President specifies the provisions of law under which the President proposes that the President or other officers will act in—

(1) a proclamation declaring a national emergency under subsection (a); or

(2) one or more Executive orders relating to the emergency published in the Federal Register and transmitted to Congress.

(c) *PROHIBITION ON SUBSEQUENT ACTIONS IF EMERGENCIES NOT APPROVED.*—

(1) *SUBSEQUENT DECLARATIONS.*—If a joint resolution of approval is not enacted under section 203 with respect to a national emergency before the expiration of the 30-day period described in section 202(a), or with respect to a national emergency proposed to be renewed under section 202(b), the President may not, during the remainder of the term of office of that President, declare a subsequent national emergency under subsection (a) with respect to the same circumstances.

(2) *EXERCISE OF AUTHORITIES.*—If a joint resolution of approval is not enacted under section 203 with respect to a power or authority specified by the President in a proclamation under subsection (a) or an Executive order under subsection (b)(2) with respect to a national emergency, the President may not, during the remainder of the term of office of that President, exercise that power or authority with respect to that emergency.

(d) *EFFECT OF FUTURE LAWS.*—No law enacted after the date of the enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMERGENCIES.

(a) *Temporary Effective Periods.*—

(1) *IN GENERAL.*—A declaration of a national emergency shall remain in effect for 30 days from the issuance of the proclamation under section 201(a) (not counting the day on which the proclamation was issued) and shall terminate when that 30-day period expires unless there is enacted into law a joint resolution of approval under section 203 with respect to the proclamation.

(2) *Exercise of Powers and Authorities.*—Any emergency power or authority made available under a provision of law specified pursuant to section 201(b) may be exercised pursuant to a declaration of a national emergency for 30 days from the issuance of the proclamation or Executive order (not counting the day on which such proclamation or Executive order was issued). That power or authority may not be exercised after that

30-day period expires unless there is enacted into law a joint resolution of approval under section 203 approving—

(A) the proclamation of the national emergency or the Executive order; and

(B) the exercise of the power or authority specified by the President in such proclamation or Executive order.

(3) *EXCEPTION IF CONGRESS IS UNABLE TO CONVENE.*—If Congress is physically unable to convene as a result of an armed attack upon the United States or another national emergency, the 30-day periods described in paragraphs (1) and (2) shall begin on the first day Congress convenes for the first time after the attack or other emergency.

(b) *RENEWAL OF NATIONAL EMERGENCIES.*—A national emergency declared by the President under section 201(a) or previously renewed under this subsection, and not already terminated pursuant to subsection (a) or (c), shall terminate on the date that is one year after the President transmitted to Congress the proclamation declaring the emergency or Congress approved a previous renewal pursuant to this subsection, unless—

(1) the President publishes in the Federal Register and transmits to Congress an Executive order renewing the emergency; and

(2) there is enacted into law a joint resolution of approval renewing the emergency pursuant to section 203 before termination of the emergency or previous renewal of the emergency.

(c) *TERMINATION OF NATIONAL EMERGENCIES.*—

(1) *IN GENERAL.*—Any national emergency declared by the President under section 201(a) shall terminate on the earliest of—

(A) the date provided for in subsection (a);

(B) the date provided for in subsection (b);

(C) the date specified in an Act of Congress terminating the emergency; or

(D) the date specified in a proclamation of the President terminating the emergency.

(2) *EFFECT OF TERMINATION.*—

(A) *IN GENERAL.*—Effective on the date of the termination of a national emergency under paragraph (1)—

(i) except as provided by subparagraph (B), any powers or authorities exercised by reason of the emergency shall cease to be exercised;

(ii) any amounts reprogrammed or transferred under any provision of law with respect to the emergency that remain unobligated on that date shall be returned and made available for the purpose for which such amounts were appropriated; and

(iii) any contracts entered into under any provision of law for construction relating to the emergency shall be terminated.

(B) *SAVINGS PROVISION.*—The termination of a national emergency shall not affect—

(i) any legal action taken or pending legal proceeding not finally concluded or determined on the date of the termination under paragraph (1);

- (ii) any legal action or legal proceeding based on any act committed prior to that date; or
- (iii) any rights or duties that matured or penalties that were incurred prior to that date.

SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMERGENCIES.

(a) *JOINT RESOLUTION OF APPROVAL DEFINED.*—In this section, the term “joint resolution of approval” means a joint resolution that contains only the following provisions after its resolving clause:

- (1) A provision approving—
 - (A) a proclamation of a national emergency made under section 201(a);
 - (B) an Executive order issued under section 201(b)(2); or
 - (C) an Executive order issued under section 202(b).

(2) A provision approving a list of all or a portion of the provisions of law specified by the President under section 201(b) in the proclamation or Executive order that is the subject of the joint resolution.

(b) *PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS OF APPROVAL.*—

(1) *INTRODUCTION.*—After the President transmits to Congress a proclamation declaring a national emergency under section 201(a), or an Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), a joint resolution of approval may be introduced in either House of Congress by any member of that House.

(2) *REQUESTS TO CONVENE CONGRESS DURING RECESSES.*—If, when the President transmits to Congress a proclamation declaring a national emergency under section 201(a), or an Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), Congress has adjourned sine die or has adjourned for any period in excess of 3 calendar days, the majority leader of the Senate and the Speaker of the House of Representatives, or their respective designees, acting jointly after consultation with and with the concurrence of the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

(3) *COMMITTEE REFERRAL.*—A joint resolution of approval shall be referred in each House of Congress to the committee or committees having jurisdiction over the emergency authorities invoked by the proclamation or Executive order that is the subject of the joint resolution.

(4) *CONSIDERATION IN SENATE.*—In the Senate, the following shall apply:

(A) *REPORTING AND DISCHARGE.*—If the committee to which a joint resolution of approval has been referred has not reported it at the end of 10 calendar days after its introduction, that committee shall be automatically discharged from further consideration of the resolution and it shall be placed on the calendar.

(B) *PROCEEDING TO CONSIDERATION.*—Notwithstanding Rule XXII of the Standing Rules of the Senate, when the

committee to which a joint resolution of approval is referred has reported the resolution, or when that committee is discharged under subparagraph (A) from further consideration of the resolution, it is at any time thereafter in order (even though a previous motion to proceed to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is subject to 4 hours of debate divided equally between those favoring and those opposing the joint resolution of approval. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business.

(C) FLOOR CONSIDERATION.—A joint resolution of approval shall be subject to 10 hours of consideration, to be divided evenly between the proponents and opponents of the resolution.

(D) AMENDMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), no amendments shall be in order with respect to a joint resolution of approval.

(ii) Amendments to strike or add specified provisions of law.—Clause (i) shall not apply with respect to any amendment—

(I) to strike a provision or provisions of law from the list required by subsection (a)(2); or

(II) to add to that list a provision or provisions of law specified by the President under section 201(b) in the proclamation or Executive order that is the subject of the joint resolution of approval.

(E) MOTION TO RECONSIDER FINAL VOTE.—A motion to reconsider a vote on passage of a joint resolution of approval shall not be in order.

(F) APPEALS.—Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

(5) CONSIDERATION IN HOUSE OF REPRESENTATIVES.—In the House of Representatives, if any committee to which a joint resolution of approval has been referred has not reported it to the House at the end of 10 calendar days after its introduction, such committee shall be discharged from further consideration of the joint resolution, and it shall be placed on the appropriate calendar. On Thursdays it shall be in order at any time for the Speaker to recognize a Member who favors passage of a joint resolution that has appeared on the calendar for at least 3 calendar days to call up that joint resolution for immediate consideration in the House without intervention of any point or order. When so called up a joint resolution shall be considered as read and shall be debatable for 1 hour equally divided and controlled by the proponent and an opponent, and the previous question shall be considered as ordered to its passage without intervening motion. It shall not be in order to reconsider the vote on passage. If a vote on final passage of the joint resolution has not been taken on or before the close of the tenth calendar

day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution, such vote shall be taken on that day.

(6) **RECEIPT OF RESOLUTION FROM OTHER HOUSE.**—If, before passing a joint resolution of approval, one House received from the other a joint resolution of approval from the other House, then—

(A) the joint resolution of the other House shall not be referred to a committee and shall be deemed to have been discharged from committee on the day it is received; and

(B) the procedures set forth in paragraphs (3), (4), and (5), as applicable, shall apply in the receiving House to the joint resolution received from the other House to the same extent as such procedures apply to a joint resolution of the receiving House.

(c) **RULE OF CONSTRUCTION.**—The enactment of a joint resolution of approval under this section shall not be interpreted to serve as a grant or modification by Congress of statutory authority for the emergency powers of the President.

(d) **RULES OF THE HOUSE AND SENATE.**—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of joint resolutions described in this section, and supersedes other rules only to the extent that it is inconsistent with such other rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 204. EXCLUSION OF CERTAIN NATIONAL EMERGENCIES INVOKING INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

(a) **IN GENERAL.**—In the case of a national emergency described in subsection (b), the provisions of this Act, as in effect on the day before the date of the enactment of the *Assuring that Robust, Thorough, and Informed Congressional Leadership is Exercised Over National Emergencies Act*, shall continue to apply on and after such date of enactment.

(b) **NATIONAL EMERGENCY DESCRIBED.**—

(1) **IN GENERAL.**—A national emergency described in this subsection is a national emergency pursuant to which the President proposes to exercise emergency powers or authorities made available under the *International Emergency Economic Powers Act* (50 U.S.C. 1701 et. seq.), supplemented as necessary by a provision of law specified in paragraph (2).

(2) **PROVISIONS OF LAW SPECIFIED.**—The provisions of law specified in this paragraph are—

(A) the *United Nations Participation Act of 1945* (22 U.S.C. 287 et. seq.);

(B) section 212(f) of the *Immigration and Nationality Act* (8 U.S.C. 1182(f)); or

(C) any provision of law that authorizes the implementation, imposition, or enforcement of economic sanctions with respect to a foreign country.

(c) EFFECT OF ADDITIONAL POWERS AND AUTHORITIES.—Subsection (a) shall not apply to a national emergency or the exercise of emergency powers and authorities pursuant to the national emergency if, in addition to the exercise of emergency powers and authorities described in subsection (b), the President proposes to exercise, pursuant to the national emergency, any emergency powers and authorities under any other provision of law.

* * * * *

Subchapter III—Exercise of Emergency Powers and Authorities

* * * * *

[SEC. 1631. DECLARATION OF NATIONAL EMERGENCY BY EXECUTIVE ORDER; AUTHORITY; PUBLICATION IN FEDERAL REGISTER; TRANSMITTAL TO CONGRESS.]

[When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.]

* * * * *

[TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES]

* * * * *

[SEC. 301.]

[When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.]

* * * * *

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

* * * * *

SEC. 401.

(a) * * *

(b) * * *

(c) * * *

(d) *REPORT ON EMERGENCIES.*—The President shall transmit to Congress, with any proclamation declaring a national emergency under section 201(a) or any Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), a report, in writing, that includes the following:

(1) A description of the circumstances necessitating the declaration of a national emergency, the renewal of such an emergency, or the use of a new emergency authority specified in the Executive order, as the case may be.

(2) The estimated duration of the national emergency, or a statement that the duration of the national emergency cannot reasonably be estimated at the time of transmission of the report.

(3) A summary of the actions the President or other officers intend to take, including any reprogramming or transfer of funds, and the statutory authorities the President and such officers expect to rely on in addressing the national emergency.

(4) In the case of a renewal of a national emergency, a summary of the actions the President or other officers have taken in the preceding one-year period, including any reprogramming or transfer of funds, to address the emergency.

(e) *PROVISION OF INFORMATION TO CONGRESS.*—The President shall provide to Congress such other information as Congress may request in connection with any national emergency in effect under title II.

(f) *PERIODIC REPORTS ON STATUS OF EMERGENCIES.*—If the President declares a national emergency under section 201(a), the President shall, not less frequently than every 6 months for the duration of the emergency, report to Congress on the status of the emergency and the actions the President or other officers have taken and authorities the President and such officers have relied on in addressing the emergency.

* * * * *

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

* * * * *

SEC. 203.

(a) * * *

(b) * * *

(c) * * *

(1) The authority granted to the President by this section does not include the authority to impose duties or tariff-rate quotas or (subject to paragraph (2)) other quotas on articles entering the United States.

(2) The limitation under paragraph (1) does not prohibit the President from excluding all articles imported from a country from entering the United States.

[(c)](d) * * *

* * * * *

SEC. 207.

(a) * * *

(b) The authorities described in subsection (a)(1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by **[concurrent resolution]** *joint resolution* pursuant to section 202 of the National Emergencies Act **[50 U.S.C. 1622]** and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c) * * *

(d) * * *

(e) *In this section, the term "National Emergencies Act" means the National Emergencies Act, as in effect on the day before the date of enactment of the Assuring that Robust, Thorough, and Informed Congressional Leadership is Exercised Over National Emergencies Act.*

