

117TH CONGRESS
1ST SESSION

S. 463

To require congressional approval of national emergency declarations and to repeal the emergency powers and authorities most susceptible to abuse, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

Mr. PAUL (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require congressional approval of national emergency declarations and to repeal the emergency powers and authorities most susceptible to abuse, and for other purposes.

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 “Reforming Emergency
5 Powers to Uphold the Balances and Limitations Inherent
6 in the Constitution Act” or the “REPUBLIC Act”.

1 **SEC. 2. CONGRESSIONAL APPROVAL OF NATIONAL EMER-**
2 **GENCY DECLARATIONS.**

3 (a) IN GENERAL.—Section 201 of the National
4 Emergencies Act (50 U.S.C. 1621) is amended to read
5 as follows:

6 **“SEC. 201. DECLARATION AND CONGRESSIONAL APPROVAL**
7 **OF NATIONAL EMERGENCIES.**

8 “(a) IN GENERAL.—With respect to Acts of Congress
9 authorizing the exercise, during the period of a national
10 emergency, of any special or extraordinary power, the
11 President is authorized to declare such national emer-
12 gency. Such proclamation shall immediately be trans-
13 mitted to Congress and published in the Federal Register.

14 “(b) SPECIFICATION OF POWERS AND AUTHORI-
15 TIES.—The President shall specify, in the proclamation
16 declaring a national emergency under subsection (a) or in
17 one or more contemporaneous or subsequent Executive or-
18 ders published in the Federal Register and transmitted to
19 Congress, the provisions of law made available for use in
20 the event of an emergency pursuant to which the Presi-
21 dent proposes that the President, or another official, will
22 exercise emergency powers or authorities.

23 “(c) TERMINATION AFTER 72 HOURS UNLESS AP-
24 PROVED BY CONGRESS.—

25 “(1) IN GENERAL.—Except as provided in para-
26 graph (2), a national emergency declared under sub-

section (a), and the exercise of emergency powers and authorities pursuant to provisions of law described in subsection (b), shall terminate at the time specified in paragraph (3).

“(2) APPROVAL BY CONGRESS REQUIRED.—A national emergency declared under subsection (a), and the exercise of any emergency power or authority pursuant to a provision of law described in subsection (b), may continue after the time specified in paragraph (3) only if, before that time, there is enacted into law a joint resolution of approval pursuant to subsection (f) approving—

“(A) the declaration of the emergency; and

“(B) the exercise of that power or authority.

“(3) TIME SPECIFIED.—The time specified in this paragraph is—

“(A) except as provided in subparagraph (B), 72 hours after the President declares the national emergency; or

“(B) if Congress is unable to convene during the 72-hour period described in subparagraph (A), 72 hours after Congress first convenes after the declaration of the emergency.

1 “(d) TERMINATION AFTER 90 DAYS UNLESS RE-
 2 NEWED WITH CONGRESSIONAL APPROVAL.—A national
 3 emergency declared under subsection (a) with respect to
 4 which a joint resolution of approval is enacted under sub-
 5 section (f), and the exercise of any emergency power or
 6 authority pursuant to that emergency, shall terminate on
 7 the date that is 90 days after the President declares the
 8 emergency (or the emergency was previously renewed
 9 under this subsection), unless, before the termination of
 10 the emergency—

11 “(1) the President publishes in the Federal
 12 Register and transmits to Congress an Executive
 13 order—

14 “(A) renewing the emergency; and

15 “(B) specifying the provisions of law made
 16 available for use in the event of an emergency
 17 pursuant to which the President proposes that
 18 the President, or another official, will exercise
 19 emergency powers or authorities; and

20 “(2) there is enacted a joint resolution of ap-
 21 proval with respect to—

22 “(A) the renewal of the emergency; and

23 “(B) the exercise of that power or author-
 24 ity.

1 “(e) PROHIBITION ON SUBSEQUENT ACTIONS IF
2 EMERGENCIES NOT APPROVED.—

3 “(1) SUBSEQUENT DECLARATIONS.—If a joint
4 resolution of approval is not enacted pursuant to
5 subsection (f) with respect to a national emergency
6 declared under subsection (a) or proposed to be re-
7 newed under subsection (d), the President may not,
8 during the remainder of the term of office of that
9 President, declare a subsequent national emergency
10 under subsection (a) with respect to the same cir-
11 cumstances.

12 “(2) EXERCISE OF AUTHORITIES.—If a joint
13 resolution of approval is not enacted pursuant to
14 subsection (f) with respect to a power or authority
15 proposed by the President under subsection (b) to be
16 exercised with respect to a national emergency, the
17 President may not, during the remainder of the term
18 of office of that President, exercise that power or
19 authority with respect to that emergency.

20 “(f) JOINT RESOLUTIONS OF APPROVAL.—

21 “(1) JOINT RESOLUTION OF APPROVAL DE-
22 FINED.—For purposes of this section, the term
23 ‘joint resolution of approval’ means a joint resolution
24 that contains after its resolving clause—

25 “(A) a provision approving—

1 “(i) a proclamation of a national
2 emergency made under subsection (a);

3 “(ii) an Executive order issued under
4 subsection (b) specifying the provisions of
5 law pursuant to which the President pro-
6 poses to exercise emergency powers or au-
7 thorities; or

8 “(iii) an Executive order issued under
9 subsection (d) renewing a national emer-
10 gency; and

11 “(B) a provision approving a list of all or
12 some of the provisions of law specified by the
13 President under subsection (b) and included in
14 the proclamation or Executive order, as the
15 case may be.

16 “(2) INTRODUCTION.—After the President
17 transmits to Congress a proclamation described in
18 clause (i) of paragraph (1)(A) or an Executive order
19 described in clause (ii) or (iii) of that paragraph, a
20 joint resolution of approval may be introduced in ei-
21 ther House of Congress by any Member of that
22 House.

23 “(3) COMMITTEE REFERRAL.—A joint resolu-
24 tion of approval shall be referred in each House of
25 Congress to the committee or committees having ju-

1 jurisdiction over the emergency powers and authorities
 2 invoked by the proclamation or Executive order that
 3 is the subject of the joint resolution.

4 “(4) CONSIDERATION IN SENATE.—

5 “(A) REPORTING AND DISCHARGE.—If the
 6 committee to which a joint resolution of ap-
 7 proval has been referred has not reported it at
 8 the end of 2 calendar days after its introduc-
 9 tion, that committee shall be automatically dis-
 10 charged from further consideration of the reso-
 11 lution and it shall be placed on the calendar.

12 “(B) PROCEEDING TO CONSIDERATION.—

13 Notwithstanding Rule XXII of the Standing
 14 Rules of the Senate, when the committee to
 15 which a joint resolution of approval is referred
 16 has reported the resolution, or when that com-
 17 mittee is discharged under subparagraph (A)
 18 from further consideration of the resolution, it
 19 is at any time thereafter in order (even though
 20 a previous motion to the same effect has been
 21 disagreed to) for a motion to proceed to the
 22 consideration of the joint resolution, and all
 23 points of order against the joint resolution (and
 24 against consideration of the joint resolution)
 25 are waived. The motion to proceed is not debat-

1 able. The motion is not subject to amendment,
 2 or to a motion to postpone, or to a motion to
 3 proceed to the consideration of other business.

4 “(C) AMENDMENTS.—No amendments
 5 shall be in order with respect to a joint resolu-
 6 tion of approval, except for amendments that
 7 strike provisions from the list of provisions of
 8 law required by paragraph (1)(B) or otherwise
 9 narrow the scope of emergency powers and au-
 10 thorities authorized to be exercised pursuant to
 11 such provisions of law.

12 “(D) MOTION TO RECONSIDER FINAL
 13 VOTE.—A motion to reconsider a vote on final
 14 passage of a joint resolution of approval shall
 15 not be in order.

16 “(E) APPEALS.—Points of order, including
 17 questions of relevancy, and appeals from the de-
 18 cision of the Presiding Officer, shall be decided
 19 without debate.

20 “(5) CONSIDERATION IN HOUSE OF REP-
 21 RESENTATIVES.—In the House of Representatives, if
 22 any committee to which a joint resolution of ap-
 23 proval has been referred has not reported it to the
 24 House at the end of 2 calendar days after its intro-
 25 duction, that committee shall be discharged from

1 further consideration of the joint resolution, and the
 2 resolution shall be placed on the appropriate cal-
 3 endar. It shall be in order at any time for the
 4 Speaker to recognize a Member who favors passage
 5 of a joint resolution to call up that joint resolution
 6 for immediate consideration in the House without
 7 intervention of any point of order. When so called up
 8 a joint resolution shall be considered as read and
 9 shall be debatable for 1 hour equally divided and
 10 controlled by the proponent and an opponent. It
 11 shall not be in order to reconsider the vote on pas-
 12 sage.

13 “(6) RECEIPT OF RESOLUTION FROM OTHER
 14 HOUSE.—If, before passing a joint resolution of ap-
 15 proval, one House receives a joint resolution of ap-
 16 proval from the other House, then—

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

21 “(B) the procedures set forth in paragraph
 22 (4) or (5), as applicable, shall apply in the re-
 23 ceiving House to the joint resolution received
 24 from the other House to the same extent as

1 such procedures apply to a joint resolution of
2 the receiving House.

3 “(g) EFFECT OF LATER-ENACTED LAWS.—No law
4 enacted after the date of the enactment of this Act shall
5 supersede this title unless it does so in specific terms, re-
6 ferring to this title, and declaring that the new law super-
7 sedes the provisions of this title.”.

8 (b) CONFORMING AMENDMENTS.—The National
9 Emergencies Act (50 U.S.C. 1601 et seq.) is amended—
10 (1) in section 202—

11 (A) in subsection (a)—

12 (i) in the matter preceding paragraph
13 (1), by striking “declared by the President
14 in accordance with this title” and inserting
15 “in effect under section 201”; and

16 (ii) in the flush text, by striking “de-
17 clared by the President” and inserting “in
18 effect under section 201”;

19 (B) in subsection (c), by striking para-
20 graph (5); and

21 (C) by amending subsection (d) to read as
22 follows:

23 “(d) Subsection (b) and section 201(f) are enacted
24 by Congress—

1 “(1) as an exercise of the rulemaking power of
2 the Senate and the House of Representatives, re-
3 spectively, and as such they are deemed a part of
4 the rules of each House, respectively, but applicable
5 only with respect to the procedure to be followed in
6 the House in the case of resolutions described by
7 this title, and they supersede other rules only to the
8 extent that they are inconsistent therewith; and

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

14 (2) by striking title III.

15 **SEC. 3. REPEAL OF EMERGENCY AUTHORITY TO SUSPEND**
16 **TELECOMMUNICATIONS RULES AND REGULA-**
17 **TIONS.**

18 Section 706 of the Communications Act of 1934 (47
19 U.S.C. 606) is amended by striking subsection (c).

20 **SEC. 4. APPLICABILITY.**

21 Except as provided in section 6(a), the amendments
22 made by this Act shall apply with respect to national emer-
23 gencies declared under section 201 of the National Emer-
24 gencies Act (50 U.S.C. 1621) on or after the date of the
25 enactment of this Act.

1 **SEC. 5. TERMINATION OF EXISTING EMERGENCY DECLARA-**
2 **TIONS.**

3 Each national emergency declared under section 201
4 of the National Emergencies Act (50 U.S.C. 1621) before
5 the date of the enactment of this Act (other than a na-
6 tional emergency described in section 6(b)) shall terminate
7 on such date of enactment.

8 **SEC. 6. NONAPPLICABILITY WITH RESPECT TO INTER-**
9 **NATIONAL EMERGENCY ECONOMIC POWERS**
10 **ACT.**

11 (a) IN GENERAL.—In the case of a national emer-
12 gency declared on or after the date of the enactment of
13 this Act under which the President proposes to exercise
14 emergency powers and authorities pursuant to the Inter-
15 national Emergency Economic Powers Act (50 U.S.C.
16 1701 et seq.)—

17 (1) the amendments made by this Act shall not
18 apply; and

19 (2) the provisions of the National Emergencies
20 Act, as in effect on the day before such date of en-
21 actment, shall apply.

22 (b) CONTINUATION IN EFFECT OF NATIONAL EMER-
23 GENCY DECLARATIONS.—A national emergency declared
24 before the date of the enactment of this Act under which
25 the President exercises emergency powers and authorities

1 pursuant to the International Emergency Economic Pow-
2 ers Act (50 U.S.C. 1701 et seq.) shall—

3 (1) continue in effect on and after such date of
4 enactment; and

5 (2) terminate in accordance with the provisions
6 of the National Emergencies Act, as in effect on the
7 day before such date of enactment.

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