

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 764

To provide for congressional approval of national emergency declarations, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Assuring that Robust,
5 Thorough, and Informed Congressional Leadership is Ex-
6 ercised Over National Emergencies Act” or the “ARTI-
7 CLE ONE Act”.

8 **SEC. 2. CONGRESSIONAL REVIEW OF NATIONAL EMER-
9 GENCIES.**

10 Title II of the National Emergencies Act (50 U.S.C.
11 1621 et seq.) is amended by striking sections 201 and 202
12 and inserting the following:

1 **“SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.**

2 “(a) **AUTHORITY TO DECLARE NATIONAL EMER-**
3 **GENCIES.**—With respect to Acts of Congress authorizing
4 the exercise, during the period of a national emergency,
5 of any special or extraordinary power, the President is au-
6 thorized to declare such a national emergency by procla-
7 mation. Such proclamation shall immediately be trans-
8 mitted to Congress and published in the Federal Register.

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

15 “(1) a proclamation declaring a national emer-
16 gency under subsection (a); or

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

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

22 “(1) **SUBSEQUENT DECLARATIONS.**—If a joint
23 resolution of approval is not enacted under section
24 203 with respect to a national emergency before the
25 expiration of the 30-day period described in section
26 202(a), or with respect to a national emergency pro-

1 posed to be renewed under section 202(b), the Presi-
2 dent may not, during the remainder of the term of
3 office of that President, declare a subsequent na-
4 tional emergency under subsection (a) with respect
5 to the same circumstances.

6 “(2) EXERCISE OF AUTHORITIES.—If a joint
7 resolution of approval is not enacted under section
8 203 with respect to a power or authority specified by
9 the President in a proclamation under subsection (a)
10 or an Executive order under subsection (b)(2) with
11 respect to a national emergency, the President may
12 not, during the remainder of the term of office of
13 that President, exercise that power or authority with
14 respect to that emergency.

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

20 **“SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMER-**
21 **GENCIES.**

22 “(a) TEMPORARY EFFECTIVE PERIODS.—

23 “(1) IN GENERAL.—A declaration of a national
24 emergency shall remain in effect for 30 days from
25 the issuance of the proclamation under section

1 201(a) (not counting the day on which the proclama-
2 tion was issued) and shall terminate when that 30-
3 day period expires unless there is enacted into law
4 a joint resolution of approval under section 203 with
5 respect to the proclamation.

6 “(2) EXERCISE OF POWERS AND AUTHORI-
7 TIES.—Any emergency power or authority made
8 available under a provision of law specified pursuant
9 to section 201(b) may be exercised pursuant to a
10 declaration of a national emergency for 30 days
11 from the issuance of the proclamation or Executive
12 order (not counting the day on which such proclama-
13 tion or Executive order was issued). That power or
14 authority may not be exercised after that 30-day pe-
15 riod expires unless there is enacted into law a joint
16 resolution of approval under section 203 approv-
17 ing—

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

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

23 “(3) EXCEPTION IF CONGRESS IS UNABLE TO
24 CONVENE.—If Congress is physically unable to con-
25 vene as a result of an armed attack upon the United

1 States or another national emergency, the 30-day
2 periods described in paragraphs (1) and (2) shall
3 begin on the first day Congress convenes for the
4 first time after the attack or other emergency.

5 “(b) RENEWAL OF NATIONAL EMERGENCIES.—A na-
6 tional emergency declared by the President under section
7 201(a) or previously renewed under this subsection, and
8 not already terminated pursuant to subsection (a) or (c),
9 shall terminate on the date that is one year after the
10 President transmitted to Congress the proclamation de-
11 claring the emergency or Congress approved a previous re-
12 newal pursuant to this subsection, unless—

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

16 “(2) there is enacted into law a joint resolution
17 of approval renewing the emergency pursuant to sec-
18 tion 203 before the termination of the emergency or
19 previous renewal of the emergency.

20 “(c) TERMINATION OF NATIONAL EMERGENCIES.—

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

24 “(A) the date provided for in subsection
25 (a);

1 “(B) the date provided for in subsection
2 (b);

3 “(C) the date specified in an Act of Con-
4 gress terminating the emergency; or

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

7 “(2) EFFECT OF TERMINATION.—

8 “(A) IN GENERAL.—Effective on the date
9 of the termination of a national emergency
10 under paragraph (1)—

11 “(i) except as provided by subpara-
12 graph (B), any powers or authorities exer-
13 cised by reason of the emergency shall
14 cease to be exercised;

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

22 “(iii) any contracts entered into under
23 any provision of law for construction relat-
24 ing to the emergency shall be terminated.

1 “(B) SAVINGS PROVISION.—The termi-
2 nation of a national emergency shall not af-
3 fect—

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

8 “(ii) any legal action or legal pro-
9 ceeding based on any act committed prior
10 to that date; or

11 “(iii) any rights or duties that ma-
12 tured or penalties that were incurred prior
13 to that date.

14 **“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMER-**
15 **GENCIES.**

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

20 “(1) A provision approving—

21 “(A) a proclamation of a national emer-
22 gency made under section 201(a);

23 “(B) an Executive order issued under sec-
24 tion 201(b)(2); or

1 “(C) an Executive order issued under sec-
2 tion 202(b).

3 “(2) A provision approving a list of all or a por-
4 tion of the provisions of law specified by the Presi-
5 dent under section 201(b) in the proclamation or
6 Executive order that is the subject of the joint reso-
7 lution.

8 “(b) PROCEDURES FOR CONSIDERATION OF JOINT
9 RESOLUTIONS OF APPROVAL.—

10 “(1) INTRODUCTION.—After the President
11 transmits to Congress a proclamation declaring a
12 national emergency under section 201(a), or an Ex-
13 ecutive order specifying emergency powers or au-
14 thorities under section 201(b)(2) or renewing a na-
15 tional emergency under section 202(b), a joint reso-
16 lution of approval may be introduced in either House
17 of Congress by any member of that House.

18 “(2) REQUESTS TO CONVENE CONGRESS DUR-
19 ING RECESSES.—If, when the President transmits to
20 Congress a proclamation declaring a national emer-
21 gency under section 201(a), or an Executive order
22 specifying emergency powers or authorities under
23 section 201(b)(2) or renewing a national emergency
24 under section 202(b), Congress has adjourned sine
25 die or has adjourned for any period in excess of 3

1 calendar days, the majority leader of the Senate and
2 the Speaker of the House of Representatives, or
3 their respective designees, acting jointly after con-
4 sultation with and with the concurrence of the mi-
5 nority leader of the Senate and the minority leader
6 of the House, shall notify the Members of the Senate
7 and House, respectively, to reassemble at such place
8 and time as they may designate if, in their opinion,
9 the public interest shall warrant it.

10 “(3) COMMITTEE REFERRAL.—A joint resolu-
11 tion of approval shall be referred in each House of
12 Congress to the committee or committees having ju-
13 risdiction over the emergency authorities invoked by
14 the proclamation or Executive order that is the sub-
15 ject of the joint resolution.

16 “(4) CONSIDERATION IN SENATE.—In the Sen-
17 ate, the following shall apply:

18 “(A) REPORTING AND DISCHARGE.—If the
19 committee to which a joint resolution of ap-
20 proval has been referred has not reported it at
21 the end of 10 calendar days after its introduc-
22 tion, that committee shall be automatically dis-
23 charged from further consideration of the reso-
24 lution and it shall be placed on the calendar.

1 “(B) PROCEEDING TO CONSIDERATION.—
2 Notwithstanding Rule XXII of the Standing
3 Rules of the Senate, when the committee to
4 which a joint resolution of approval is referred
5 has reported the resolution, or when that com-
6 mittee is discharged under subparagraph (A)
7 from further consideration of the resolution, it
8 is at any time thereafter in order (even though
9 a previous motion to the same effect has been
10 disagreed to) for a motion to proceed to the
11 consideration of the joint resolution, and all
12 points of order against the joint resolution (and
13 against consideration of the joint resolution)
14 are waived. The motion to proceed is subject to
15 4 hours of debate divided equally between those
16 favoring and those opposing the joint resolution
17 of approval. The motion is not subject to
18 amendment, or to a motion to postpone, or to
19 a motion to proceed to the consideration of
20 other business.

21 “(C) FLOOR CONSIDERATION.—A joint
22 resolution of approval shall be subject to 10
23 hours of consideration, to be divided evenly be-
24 tween the proponents and opponents of the res-
25 olution.

11

1 “(D) AMENDMENTS.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii), no amendments shall
4 be in order with respect to a joint resolu-
5 tion of approval.

6 “(ii) AMENDMENTS TO STRIKE OR
7 ADD SPECIFIED PROVISIONS OF LAW.—
8 Clause (i) shall not apply with respect to
9 any amendment—

10 “(I) to strike a provision or pro-
11 visions of law from the list required
12 by subsection (a)(2); or

13 “(II) to add to that list a provi-
14 sion or provisions of law specified by
15 the President under section 201(b) in
16 the proclamation or Executive order
17 that is the subject of the joint resolu-
18 tion of approval.

19 “(E) MOTION TO RECONSIDER FINAL
20 VOTE.—A motion to reconsider a vote on pas-
21 sage of a joint resolution of approval shall not
22 be in order.

23 “(F) APPEALS.—Points of order, including
24 questions of relevancy, and appeals from the de-

1 cision of the Presiding Officer, shall be decided
2 without debate.

3 “(5) CONSIDERATION IN HOUSE OF REP-
4 RESENTATIVES.—In the House of Representatives, if
5 any committee to which a joint resolution of ap-
6 proval has been referred has not reported it to the
7 House at the end of 10 calendar days after its intro-
8 duction, such committee shall be discharged from
9 further consideration of the joint resolution, and it
10 shall be placed on the appropriate calendar. On
11 Thursdays it shall be in order at any time for the
12 Speaker to recognize a Member who favors passage
13 of a joint resolution that has appeared on the cal-
14 endar for at least 3 calendar days to call up that
15 joint resolution for immediate consideration in the
16 House without intervention of any point of order.
17 When so called up a joint resolution shall be consid-
18 ered as read and shall be debatable for 1 hour equal-
19 ly divided and controlled by the proponent and an
20 opponent, and the previous question shall be consid-
21 ered as ordered to its passage without intervening
22 motion. It shall not be in order to reconsider the
23 vote on passage. If a vote on final passage of the
24 joint resolution has not been taken on or before the
25 close of the tenth calendar day after the resolution

1 is reported by the committee or committees to which
2 it was referred, or after such committee or commit-
3 tees have been discharged from further consideration
4 of the resolution, such vote shall be taken on that
5 day.

6 “(6) RECEIPT OF RESOLUTION FROM OTHER
7 HOUSE.—If, before passing a joint resolution of ap-
8 proval, one House receives from the other a joint
9 resolution of approval from the other House, then—

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

14 “(B) the procedures set forth in para-
15 graphs (3), (4), and (5), as applicable, shall
16 apply in the receiving House to the joint resolu-
17 tion received from the other House to the same
18 extent as such procedures apply to a joint reso-
19 lution of the receiving House.

20 “(c) RULE OF CONSTRUCTION.—The enactment of a
21 joint resolution of approval under this section shall not
22 be interpreted to serve as a grant or modification by Con-
23 gress of statutory authority for the emergency powers of
24 the President.

1 “(d) RULES OF THE HOUSE AND SENATE.—This sec-
2 tion is enacted by Congress—

3 “(1) as an exercise of the rulemaking power of
4 the Senate and the House of Representatives, re-
5 spectively, and as such is deemed a part of the rules
6 of each House, respectively, but applicable only with
7 respect to the procedure to be followed in the House
8 in the case of joint resolutions described in this sec-
9 tion, and supersedes other rules only to the extent
10 that it is inconsistent with such other rules; and

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

16 **“SEC. 204. EXCLUSION OF CERTAIN NATIONAL EMER-**
17 **GENCIES INVOKING INTERNATIONAL EMER-**
18 **GENCY ECONOMIC POWERS ACT.**

19 “(a) IN GENERAL.—In the case of a national emer-
20 gency described in subsection (b), the provisions of this
21 Act, as in effect on the day before the date of the enact-
22 ment of the Assuring that Robust, Thorough, and In-
23 formed Congressional Leadership is Exercised Over Na-
24 tional Emergencies Act, shall continue to apply on and
25 after such date of enactment.

1 “(b) NATIONAL EMERGENCY DESCRIBED.—

2 “(1) IN GENERAL.—A national emergency de-
3 scribed in this subsection is a national emergency
4 pursuant to which the President proposes to exercise
5 emergency powers or authorities made available
6 under the International Emergency Economic Pow-
7 ers Act (50 U.S.C. 1701 et seq.), supplemented as
8 necessary by a provision of law specified in para-
9 graph (2), only to block and prohibit property and
10 interests in property of persons subject to economic
11 sanctions imposed by the United States.

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

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

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

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

22 “(c) EFFECT OF ADDITIONAL POWERS AND AU-
23 THORITIES.—Subsection (a) shall not apply to a national
24 emergency or the exercise of emergency powers and au-
25 thorities pursuant to the national emergency if, in addition

1 to the exercise of emergency powers and authorities de-
2 scribed in subsection (b) to block and prohibit property
3 and interests in property of persons subject to economic
4 sanctions imposed by the United States, the President
5 proposes to exercise pursuant to the national emergency—

6 “(1) any other emergency powers and authori-
7 ties under the International Emergency Economic
8 Powers Act; or

9 “(2) any emergency powers and authorities
10 under any other provision of law.”.

11 **SEC. 3. REPORTING REQUIREMENTS.**

12 Section 401 of the National Emergencies Act (50
13 U.S.C. 1641) is amended by adding at the end the fol-
14 lowing:

15 “(d) REPORT ON EMERGENCIES.—The President
16 shall transmit to Congress, with any proclamation declar-
17 ing a national emergency under section 201(a) or any Ex-
18 ecutive order specifying emergency powers or authorities
19 under section 201(b)(2) or renewing a national emergency
20 under section 202(b), a report, in writing, that includes
21 the following:

22 “(1) A description of the circumstances necessi-
23 tating the declaration of a national emergency, the
24 renewal of such an emergency, or the use of a new

1 emergency authority specified in the Executive
2 order, as the case may be.

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

7 “(3) A summary of the actions the President or
8 other officers intend to take, including any re-
9 programming or transfer of funds, and the statutory
10 authorities the President and such officers expect to
11 rely on in addressing the national emergency.

12 “(4) In the case of a renewal of a national
13 emergency, a summary of the actions the President
14 or other officers have taken in the preceding one-
15 year period, including any reprogramming or trans-
16 fer of funds, to address the emergency.

17 “(e) PROVISION OF INFORMATION TO CONGRESS.—
18 The President shall provide to Congress such other infor-
19 mation as Congress may request in connection with any
20 national emergency in effect under title II.

21 “(f) PERIODIC REPORTS ON STATUS OF EMER-
22 GENCIES.—If the President declares a national emergency
23 under section 201(a), the President shall, not less fre-
24 quently than every 6 months for the duration of the emer-
25 gency, report to Congress on the status of the emergency

1 and the actions the President or other officers have taken
2 and authorities the President and such officers have relied
3 on in addressing the emergency.”.

4 **SEC. 4. EXCLUSION OF IMPOSITION OF DUTIES AND IM-**
5 **PORT QUOTAS FROM PRESIDENTIAL AU-**
6 **THORITIES UNDER INTERNATIONAL EMER-**
7 **GENCY ECONOMIC POWERS ACT.**

8 Section 203 of the International Emergency Eco-
9 nomic Powers Act (50 U.S.C. 1702) is amended—

10 (1) by redesignating subsection (c) as sub-
11 section (d); and

12 (2) by inserting after subsection (b) the fol-
13 lowing:

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

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

21 **SEC. 5. CONFORMING AMENDMENTS.**

22 (a) NATIONAL EMERGENCIES ACT.—Title III of the
23 National Emergencies Act (50 U.S.C. 1631) is repealed.

1 (b) INTERNATIONAL EMERGENCY ECONOMIC POW-
2 ERS ACT.—Section 207 of the International Emergency
3 Economic Powers Act (50 U.S.C. 1706) is amended—

4 (1) in subsection (b), by striking “concurrent
5 resolution” and inserting “joint resolution”; and

6 (2) by adding at the end the following:

7 “(e) In this section, the term ‘National Emergencies
8 Act’ means the National Emergencies Act, as in effect on
9 the day before the date of the enactment of the Assuring
10 that Robust, Thorough, and Informed Congressional
11 Leadership is Exercised Over National Emergencies Act.”.

12 **SEC. 6. EFFECTIVE DATE; APPLICABILITY.**

13 (a) IN GENERAL.—This Act and the amendments
14 made by this Act shall—

15 (1) take effect on the date of the enactment of
16 this Act; and

17 (2) except as provided in subsection (b), apply
18 with respect to national emergencies declared under
19 section 201 of the National Emergencies Act on or
20 after that date.

21 (b) APPLICABILITY TO RENEWALS OF EXISTING
22 EMERGENCIES.—When a national emergency declared
23 under section 201 of the National Emergencies Act before
24 the date of the enactment of this Act would expire or be
25 renewed under section 202(d) of that Act (as in effect on

1 the day before such date of enactment), that national
2 emergency shall be subject to the requirements for renewal
3 under section 202(b) of that Act, as amended by section
4 2.