

116TH CONGRESS  
1ST SESSION

# S. 764

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. LEE (for himself, Mr. GRASSLEY, Mr. TILLIS, Ms. ERNST, Mr. TOOMEY, Mr. JOHNSON, Mr. MORAN, Mr. ALEXANDER, Mr. SASSE, Mr. BLUNT, Mr. PORTMAN, Mr. YOUNG, Mr. ROMNEY, Mr. CRUZ, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for congressional approval of national emergency  
declarations, 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 “Assuring that Robust,  
5 Thorough, and Informed Congressional Leadership is Ex-  
6 ercised Over National Emergencies Act” or the “ARTI-  
7 CLE ONE Act”.

1 **SEC. 2. REQUIREMENTS RELATING TO DECLARATION AND**  
2 **RENEWAL OF NATIONAL EMERGENCIES.**

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

5 **“SEC. 201. DECLARATIONS AND RENEWALS OF NATIONAL**  
6 **EMERGENCIES.**

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

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

20 “(1) a proclamation declaring a national emer-  
21 gency under subsection (a); or

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

25 “(c) **TEMPORARY EFFECTIVE PERIODS.**—

1           “(1) IN GENERAL.—A declaration of a national  
2 emergency under subsection (a), shall last for 30  
3 days from the issuance of the proclamation (not  
4 counting the day on which the proclamation was  
5 issued) and shall terminate when that 30-day period  
6 expires unless there is enacted into law a joint reso-  
7 lution of approval under section 203 with respect to  
8 the proclamation.

9           “(2) EXERCISE OF POWERS AND AUTHORI-  
10 TIES.—Any power or authority made available under  
11 a provision of law described in subsection (a) and  
12 specified pursuant to subsection (b) may be exer-  
13 cised for 30 days from the issuance of the proclama-  
14 tion or Executive order (not counting the day on  
15 which such proclamation or Executive order was  
16 issued). That power or authority cannot be exercised  
17 once that 30-day period expires, unless there is en-  
18 acted into law a joint resolution of approval under  
19 section 203 approving—

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

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

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

8           “(d) RENEWAL OF NATIONAL EMERGENCIES.—A na-  
9           tional emergency declared by the President under sub-  
10          section (a) or previously renewed under this subsection,  
11          and not already terminated pursuant to subsection (e) or  
12          section 202(a), shall terminate on the date that is one year  
13          after the President transmitted to Congress the proclama-  
14          tion declaring the emergency under subsection (a) or Con-  
15          gress approved a previous renewal pursuant to this sub-  
16          section, unless—

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

20                 “(2) there is enacted into law a joint resolution  
21                 of approval renewing the emergency pursuant to sec-  
22                 tion 203 before the termination of the emergency or  
23                 previous renewal of the emergency.

24           “(e) EFFECT OF FUTURE LAWS.—No law enacted  
25          after the date of the enactment of this Act shall supersede

1 this title unless it does so in specific terms, referring to  
2 this title, and declaring that the new law supersedes the  
3 provisions of this title.”.

4 **SEC. 3. TERMINATION OF NATIONAL EMERGENCIES.**

5 Section 202 of the National Emergencies Act (50  
6 U.S.C. 1622) is amended to read as follows:

7 **“SEC. 202. TERMINATION OF NATIONAL EMERGENCIES.**

8 “(a) IN GENERAL.—Any national emergency declared  
9 by the President under section 201(a) shall terminate on  
10 the earliest of—

11 “(1) the date provided for in section 201(c);

12 “(2) the date on which Congress, by statute,  
13 terminates the emergency;

14 “(3) the date on which the President issues a  
15 proclamation terminating the emergency; or

16 “(4) the date provided for in section 201(d).

17 “(b) EFFECT OF TERMINATION.—

18 “(1) IN GENERAL.—Effective on the date of the  
19 termination of a national emergency under sub-  
20 section (a)—

21 “(A) except as provided by paragraph (2),  
22 any powers or authorities exercised by reason of  
23 the emergency shall cease to be exercised;

24 “(B) any amounts reprogrammed or trans-  
25 ferred under any provision of law with respect

1 to the emergency that remain unobligated on  
2 that date shall be returned and made available  
3 for the purpose for which such amounts were  
4 appropriated; and

5 “(C) any contracts entered into under any  
6 provision of law for construction relating to the  
7 emergency shall be terminated unless construc-  
8 tion commenced under the contract before that  
9 date.

10 “(2) SAVINGS PROVISION.—Except as specifi-  
11 cally provided in subparagraph (B) or (C) of para-  
12 graph (1), the termination of a national emergency  
13 shall not affect—

14 “(A) any action taken or proceeding pend-  
15 ing not finally concluded or determined on the  
16 date of the termination under subsection (a);

17 “(B) any action or proceeding based on  
18 any act committed prior to that date; or

19 “(C) any rights or duties that matured or  
20 penalties that were incurred prior to that  
21 date.”.

1 **SEC. 4. REVIEW BY CONGRESS OF NATIONAL EMER-**  
2 **GENCIES.**

3 Title II of the National Emergencies Act (50 U.S.C.  
4 1621 et seq.) is amended by adding at the end the fol-  
5 lowing:

6 **“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMER-**  
7 **GENCIES.**

8 **“(a) JOINT RESOLUTIONS OF APPROVAL.—**

9 **“(1) JOINT RESOLUTION OF APPROVAL DE-**  
10 **FINED.—**For purposes of this section, the term  
11 ‘joint resolution of approval’ means a joint resolution  
12 that contains only the following provisions after its  
13 resolving clause—

14 **“(A) a provision approving—**

15 **“(i) a proclamation of a national**  
16 **emergency made under section 201(a);**

17 **“(ii) an Executive order issued under**  
18 **section 201(b)(2); or**

19 **“(iii) an Executive order issued under**  
20 **section 201(d); and**

21 **“(B) a provision approving a list of all or**  
22 **a portion of the provisions of law specified by**  
23 **the President under section 201(b) in the proc-**  
24 **lamation or Executive order that is the subject**  
25 **of the joint resolution.**

1           “(2) PROCEDURES FOR CONSIDERATION OF  
2           JOINT RESOLUTIONS OF APPROVAL.—

3           “(A) INTRODUCTION.—After the President  
4           transmits to Congress a proclamation declaring  
5           a national emergency under section 201(a), or  
6           an Executive order renewing an emergency  
7           under section 201(d) or specifying emergency  
8           powers or authorities under section 201(b)(2), a  
9           joint resolution of approval may be introduced  
10          in either House of Congress by any member of  
11          that House.

12          “(B) REQUESTS TO CONVENE CONGRESS  
13          DURING RECESSES.—If, when the President  
14          transmits to Congress a proclamation declaring  
15          a national emergency under section 201(a), or  
16          an Executive order renewing an emergency  
17          under section 201(d) or specifying emergency  
18          powers or authorities under section 201(b)(2),  
19          Congress has adjourned sine die or has ad-  
20          journed for any period in excess of 3 calendar  
21          days, the Speaker of the House of Representa-  
22          tives and the President pro tempore of the Sen-  
23          ate, if they deem it advisable (or if petitioned  
24          by at least one-third of the membership of their  
25          respective Houses) shall jointly request the



1 President to convene Congress in order that it  
2 may consider the proclamation or Executive  
3 order and take appropriate action pursuant to  
4 this section.

5 “(C) COMMITTEE REFERRAL.—A joint res-  
6 olution of approval shall be referred in each  
7 House of Congress to the committee or commit-  
8 tees having jurisdiction over the emergency au-  
9 thorities invoked by the proclamation or Execu-  
10 tive order that is the subject of the joint resolu-  
11 tion.

12 “(D) CONSIDERATION IN SENATE.—In the  
13 Senate, the following shall apply:

14 “(i) REPORTING AND DISCHARGE.—If  
15 the committee to which a joint resolution  
16 of approval has been referred has not re-  
17 ported it at the end of 10 calendar days  
18 after its introduction, that committee shall  
19 be automatically discharged from further  
20 consideration of the resolution and it shall  
21 be placed on the calendar.

22 “(ii) PROCEEDING TO CONSIDER-  
23 ATION.—Notwithstanding Rule XXII of  
24 the Standing Rules of the Senate, when  
25 the committee to which a joint resolution

1 of approval is referred has reported the  
2 resolution, or when that committee is dis-  
3 charged under clause (i) from further con-  
4 sideration of the resolution, it is at any  
5 time thereafter in order (even though a  
6 previous motion to the same effect has  
7 been disagreed to) for a motion to proceed  
8 to the consideration of the joint resolution,  
9 and all points of order against the joint  
10 resolution (and against consideration of  
11 the joint resolution) are waived. The mo-  
12 tion to proceed is subject to 4 hours of de-  
13 bate divided equally between those favoring  
14 and those opposing the joint resolution of  
15 approval. The motion is not subject to  
16 amendment, or to a motion to postpone, or  
17 to a motion to proceed to the consideration  
18 of other business.

19 “(iii) FLOOR CONSIDERATION.—A  
20 joint resolution of approval shall be subject  
21 to 10 hours of debate, to be divided evenly  
22 between the proponents and opponents of  
23 the resolution.

24 “(iv) AMENDMENTS.—

1           “(I) IN GENERAL.—Except as  
2           provided in subclause (II), no amend-  
3           ments shall be in order with respect to  
4           a joint resolution of approval.

5           “(II) AMENDMENTS TO STRIKE  
6           OR ADD SPECIFIED PROVISIONS OF  
7           LAW.—Subclause (I) shall not apply  
8           with respect to any amendment to  
9           strike or add from the list required by  
10          paragraph (1)(B) a provision or provi-  
11          sions of law specified by the President  
12          under section 201(b) in the proclama-  
13          tion or Executive order.

14          “(v) MOTION TO RECONSIDER FINAL  
15          VOTE.—A motion to reconsider a vote on  
16          final passage of a joint resolution of ap-  
17          proval shall not be in order.

18          “(vi) APPEALS.—Points of order, in-  
19          cluding questions of relevancy, and appeals  
20          from the decision of the Presiding Officer,  
21          shall be decided without debate.

22          “(E) CONSIDERATION IN HOUSE OF REP-  
23          RESENTATIVES.—In the House of Representa-  
24          tives, if any committee to which a joint resolu-  
25          tion of approval has been referred has not re-

1           ported it to the House at the end of 10 cal-  
2           endar days after its introduction, such com-  
3           mittee shall be discharged from further consid-  
4           eration of the joint resolution, and it shall be  
5           placed on the appropriate calendar. On Thurs-  
6           days it shall be in order at any time for the  
7           Speaker to recognize a Member who favors pas-  
8           sage of a joint resolution that has appeared on  
9           the calendar for at least 3 calendar days to call  
10          up that joint resolution for immediate consider-  
11          ation in the House without intervention of any  
12          point of order. When so called up a joint resolu-  
13          tion shall be considered as read and shall be de-  
14          batable for 1 hour equally divided and con-  
15          trolled by the proponent and an opponent, and  
16          the previous question shall be considered as or-  
17          dered to its passage without intervening motion.  
18          It shall not be in order to reconsider the vote  
19          on passage. If a vote on final passage of the  
20          joint resolution has not been taken on or before  
21          the close of the tenth calendar day after the  
22          resolution is reported by the committee or com-  
23          mittees to which it was referred, or after such  
24          committee or committees have been discharged

1 from further consideration of the resolution,  
2 such vote shall be taken on that day.

3 “(F) RECEIPT OF RESOLUTION FROM  
4 OTHER HOUSE.—If, before passing a joint reso-  
5 lution of approval, one House receives from the  
6 other a joint resolution of approval from the  
7 other House, then—

8 “(i) the joint resolution of the other  
9 House shall not be referred to a committee  
10 and shall be deemed to have been dis-  
11 charged from committee on the day it is  
12 received; and

13 “(ii) the procedures set forth in sub-  
14 paragraphs (D), (E), and (F), as applica-  
15 ble, shall apply in the receiving House to  
16 the joint resolution received from the other  
17 House to the same extent as such proce-  
18 dures apply to a joint resolution of the re-  
19 ceiving House.

20 “(G) RULE OF CONSTRUCTION.—The en-  
21 actment of a joint resolution of approval under  
22 this subsection shall not be interpreted to serve  
23 as a grant or modification by Congress of statu-  
24 tory authority for the emergency powers of the  
25 President.

1       “(b) RULES OF THE HOUSE AND SENATE.—Sub-  
2 section (a) 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 of approval, and su-  
9 persede other rules only to the extent that it is in-  
10 consistent 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. 5. REPORTING REQUIREMENTS.**

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

20               “(d) REPORT ON EMERGENCIES.—The President  
21 shall transmit to Congress, with any proclamation declar-  
22 ing a national emergency under section 201(a), or Execu-  
23 tive order renewing an emergency under section 201(d)  
24 or specifying emergency powers or authorities under sec-

1 tion 201(b)(2), a report, in writing, that includes the fol-  
2 lowing:

3           “(1) A description of the circumstances necessi-  
4 tating the declaration of a national emergency, the  
5 renewal of such an emergency, or the use of a new  
6 emergency authority specified in the Executive  
7 order, as the case may be.

8           “(2) The estimated duration of the national  
9 emergency.

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

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

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

24           “(f) PERIODIC REPORTS ON STATUS OF EMER-  
25 GENCIES.—If the President declares a national emergency

1 under section 201(a), the President shall, not less fre-  
 2 quently than every 180 days for the duration of the emer-  
 3 gency, report to Congress on the status of the emergency  
 4 and the actions the President or other officers have taken  
 5 and authorities the President and such officers have relied  
 6 on in addressing the emergency.”.

7 **SEC. 6. CONFORMING AMENDMENTS.**

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

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

13 (1) in subsection (b), by striking “if the na-  
 14 tional emergency” and all that follows through  
 15 “under this section.” and inserting the following:  
 16 “if—

17 “(1) the national emergency is terminated pur-  
 18 suant to section 202(a)(2) of the National Emer-  
 19 gencies Act; or

20 “(2) a joint resolution of approval is not en-  
 21 acted as required by section 203 of that Act to ap-  
 22 prove—

23 “(A) the national emergency; or

24 “(B) the exercise of such authorities.”; and



1           (2) in subsection (c)(1), by striking “para-  
2           graphs (A), (B), and (C) of section 202(a)” and in-  
3           serting “section 202(b)(2)”.

4 **SEC. 7. APPLICABILITY.**

5           (a) IN GENERAL.—Except as provided in subsection  
6 (b), this Act and the amendments made by this Act shall  
7 take effect upon enactment.

8           (b) APPLICATION TO NATIONAL EMERGENCIES PRE-  
9           VIOUSLY DECLARED.—A national emergency declared  
10 under section 201 of the National Emergencies Act before  
11 the date of the enactment of this Act shall be unaffected  
12 by the amendments made by this Act except that such  
13 emergencies shall terminate on the date that is one year  
14 after such date of enactment unless the emergency is re-  
15 newed under subsection (d) of section 201, as amended  
16 by section 2 of this Act.

○