

118TH CONGRESS
1ST SESSION

S. 1912

To provide for congressional approval of national emergency declarations.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2023

Mr. LEE (for himself, Mr. BLUMENTHAL, Mr. BRAUN, Mr. CRAPO, Mr. RISCH, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for congressional approval of national emergency declarations.

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. CONGRESSIONAL REVIEW OF NATIONAL EMER-**
2 **GENCIES.**

3 Title II of the National Emergencies Act (50 U.S.C.
4 1621 et seq.) is amended by striking sections 201 and 202
5 and inserting the following:

6 **“SEC. 201. DECLARATIONS OF NATIONAL 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) **PROHIBITION ON SUBSEQUENT ACTIONS IF**
26 **EMERGENCIES NOT APPROVED.**—

1 “(1) SUBSEQUENT DECLARATIONS.—If a joint
2 resolution of approval is not enacted under section
3 203 with respect to a national emergency before the
4 expiration of the 30-day period described in section
5 202(a), or with respect to a national emergency pro-
6 posed to be renewed under section 202(b), the Presi-
7 dent may not, during the remainder of the term of
8 office of that President, declare a subsequent na-
9 tional emergency under subsection (a) with respect
10 to the same circumstances.

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

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

1 **“SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMER-**
2 **GENCIES.**

3 “(a) TEMPORARY EFFECTIVE PERIODS.—

4 “(1) IN GENERAL.—A declaration of a national
5 emergency shall remain in effect for 30 days from
6 the issuance of the proclamation under section
7 201(a) (not counting the day on which the proclama-
8 tion was issued) and shall terminate when that 30-
9 day period expires unless there is enacted into law
10 a joint resolution of approval under section 203 with
11 respect to the proclamation.

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

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

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

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

11 “(b) RENEWAL OF NATIONAL EMERGENCIES.—A na-
12 tional emergency declared by the President under section
13 201(a) or previously renewed under this subsection, and
14 not already terminated pursuant to subsection (a) or (c),
15 shall terminate on the date that is one year after the
16 President transmitted to Congress the proclamation de-
17 claring the emergency or Congress approved a previous re-
18 newal pursuant to this subsection, unless—

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

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

1 “(c) TERMINATION OF NATIONAL EMERGENCIES.—

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

5 “(A) the date provided for in subsection
6 (a);

7 “(B) the date provided for in subsection
8 (b);

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

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

13 “(2) EFFECT OF TERMINATION.—

14 “(A) IN GENERAL.—Effective on the date
15 of the termination of a national emergency
16 under paragraph (1)—

17 “(i) except as provided by subpara-
18 graph (B), any powers or authorities exer-
19 cised by reason of the emergency shall
20 cease to be exercised;

21 “(ii) any amounts reprogrammed or
22 transferred under any provision of law
23 with respect to the emergency that remain
24 unobligated on that date shall be returned
25 and made available for the purpose for

1 which such amounts were appropriated;
2 and

3 “(iii) any contracts entered into under
4 any provision of law relating to the emer-
5 gency shall be terminated.

6 “(B) SAVINGS PROVISION.—The termi-
7 nation of a national emergency shall not af-
8 fect—

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

13 “(ii) any legal action or legal pro-
14 ceeding based on any act committed prior
15 to that date; or

16 “(iii) any rights or duties that ma-
17 tured or penalties that were incurred prior
18 to that date.

19 **“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMER-**
20 **GENCIES.**

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

25 “(1) A provision approving—

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

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

5 “(C) an Executive order issued under sec-
6 tion 202(b).

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

12 “(b) PROCEDURES FOR CONSIDERATION OF JOINT
13 RESOLUTIONS OF APPROVAL.—

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

22 “(2) REQUESTS TO CONVENE CONGRESS DUR-
23 ING RECESSES.—If, when the President transmits to
24 Congress a proclamation declaring a national emer-
25 gency under section 201(a), or an Executive order

1 specifying emergency powers or authorities under
2 section 201(b)(2) or renewing a national emergency
3 under section 202(b), Congress has adjourned sine
4 die or has adjourned for any period in excess of 3
5 calendar days, the majority leader of the Senate and
6 the Speaker of the House of Representatives, or
7 their respective designees, acting jointly after con-
8 sultation with and with the concurrence of the mi-
9 nority leader of the Senate and the minority leader
10 of the House, shall notify the Members of the Senate
11 and House, respectively, to reassemble at such place
12 and time as they may designate if, in their opinion,
13 the public interest shall warrant it.

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

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

22 “(A) REPORTING AND DISCHARGE.—If the
23 committee to which a joint resolution of ap-
24 proval has been referred has not reported it at
25 the end of 10 calendar days after its introduc-

1 tion, that committee shall be automatically dis-
2 charged from further consideration of the reso-
3 lution and it shall be placed on the calendar.

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

24 “(C) FLOOR CONSIDERATION.—A joint
25 resolution of approval shall be subject to 10

1 hours of consideration, to be divided evenly be-
2 tween the proponents and opponents of the res-
3 olution.

4 “(D) AMENDMENTS.—

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

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

13 “(I) to strike a provision or pro-
14 visions of law from the list required
15 by subsection (a)(2); or

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

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

1 “(F) APPEALS.—Points of order, including
2 questions of relevancy, and appeals from the de-
3 cision of the Presiding Officer, shall be decided
4 without debate.

5 “(5) CONSIDERATION IN HOUSE OF REP-
6 RESENTATIVES.—In the House of Representatives,
7 the following shall apply:

8 “(A) REPORTING AND DISCHARGE.—If any
9 committee to which a joint resolution of ap-
10 proval has been referred has not reported it to
11 the House within 10 calendar days after the
12 date of referral, such committee shall be dis-
13 charged from further consideration of the joint
14 resolution.

15 “(B) PROCEEDING TO CONSIDERATION.—

16 “(i) IN GENERAL.—Beginning on the
17 third legislative day after each committee
18 to which a joint resolution of approval has
19 been referred reports it to the House or
20 has been discharged from further consider-
21 ation, and except as provided in clause (ii),
22 it shall be in order to move to proceed to
23 consider the joint resolution in the House.
24 The previous question shall be considered
25 as ordered on the motion to its adoption

1 without intervening motion. The motion
2 shall not be debatable. A motion to recon-
3 sider the vote by which the motion is dis-
4 posed of shall not be in order.

5 “(ii) SUBSEQUENT MOTIONS TO PRO-
6 CEED TO JOINT RESOLUTION OF AP-
7 PROVAL.—A motion to proceed to consider
8 a joint resolution of approval shall not be
9 in order after the House has disposed of
10 another motion to proceed on that resolu-
11 tion.

12 “(C) FLOOR CONSIDERATION.—Upon
13 adoption of the motion to proceed in accordance
14 with subparagraph (B)(i), the joint resolution
15 of approval shall be considered as read. The
16 previous question shall be considered as ordered
17 on the joint resolution to final passage without
18 intervening motion except two hours of debate,
19 which shall include debate on any amendments,
20 equally divided and controlled by the sponsor of
21 the joint resolution (or a designee) and an op-
22 ponent. A motion to reconsider the vote on pas-
23 sage of the joint resolution shall not be in
24 order.

25 “(D) AMENDMENTS.—

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

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

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

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

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

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

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

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

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

14 “(1) as an exercise of the rulemaking power of
15 the Senate and the House of Representatives, re-
16 spectively, and as such is deemed a part of the rules
17 of each House, respectively, but applicable only with
18 respect to the procedure to be followed in the House
19 in the case of joint resolutions described in this sec-
20 tion, and supersedes other rules only to the extent
21 that it is inconsistent with such other rules; and

22 “(2) with full recognition of the constitutional
23 right of either House to change the rules (so far as
24 relating to the procedure of that House) at any time,

1 in the same manner, and to the same extent as in
2 the case of any other rule of that House.”.

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

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

7 “(d) REPORT ON EMERGENCIES.—The President
8 shall transmit to Congress, with any proclamation declar-
9 ing a national emergency under section 201(a) or any Ex-
10 ecutive order specifying emergency powers or authorities
11 under section 201(b)(2) or renewing a national emergency
12 under section 202(b), a report, in writing, that includes
13 the following:

14 “(1) A description of the circumstances necessi-
15 tating the declaration of a national emergency, the
16 renewal of such an emergency, or the use of a new
17 emergency authority specified in the Executive
18 order, as the case may be.

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

23 “(3) A summary of the actions the President or
24 other officers intend to take, including any re-
25 programming or transfer of funds, and the statutory

1 authorities the President and such officers expect to
2 rely on in addressing the national emergency.

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

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

12 “(f) PERIODIC REPORTS ON STATUS OF EMER-
13 GENCIES.—If the President declares a national emergency
14 under section 201(a), the President shall, not less fre-
15 quently than every 6 months for the duration of the emer-
16 gency, report to Congress on the status of the emergency
17 and the actions the President or other officers have taken
18 and authorities the President and such officers have relied
19 on in addressing the emergency.”.

20 **SEC. 4. CONFORMING REPEAL.**

21 Title III of the National Emergencies Act (50 U.S.C.
22 1631) is repealed.

23 **SEC. 5. EFFECTIVE DATE; APPLICABILITY.**

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

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

3 (2) except as provided in subsection (b), apply
4 with respect to national emergencies declared under
5 section 201 of the National Emergencies Act on or
6 after that date.

7 (b) **APPLICABILITY TO RENEWALS OF EXISTING**
8 **EMERGENCIES.**—When a national emergency declared
9 under section 201 of the National Emergencies Act before
10 the date of the enactment of this Act would expire or be
11 renewed under section 202(d) of that Act (as in effect on
12 the day before such date of enactment), that national
13 emergency shall be subject to the requirements for renewal
14 under section 202(b) of that Act, as amended by section
15 2.

○