

Calendar No. 736

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
118-316 }

REFORMING EMERGENCY POWERS TO
UPHOLD THE BALANCES AND LIMITATIONS
INHERENT IN THE CONSTITUTION
(REPUBLIC) ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4373

TO PROVIDE FOR CONGRESSIONAL APPROVAL OF
NATIONAL EMERGENCY DECLARATIONS



DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be
printed

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REFORMING EMERGENCY POWERS TO UPHOLD THE
BALANCES AND LIMITATIONS INHERENT IN THE CON-
STITUTION (REPUBLIC) ACT

DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be printed

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

R E P O R T

[To accompany S. 4373]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs,
to which was referred the bill (S. 4373) to provide for congressional
approval of national emergency declarations, 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.

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I. PURPOSE AND SUMMARY

S. 4373, the *Reforming Emergency Powers to Uphold the Bal-
ances and Limitations Inherent in the Constitution (REPUBLIC)*
Act, would require presidential emergency declarations under the
National Emergencies Act to be approved by Congress. The bill also
makes reforms to other emergency powers, including requiring due
process protections for United States nationals who are the subject
of sanctions; prohibiting the use of sanctions to implement tariffs;

repealing sections of the Communications Act of 1934; and requiring disclosure of Presidential Emergency Action Documents.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Presidential emergency powers can be important in true times of need, but they lack sufficient congressional checks to prevent their abuse. The Constitution provides no explicit powers for the President to act during an emergency, which has led to Congress passing a patchwork of over 140 statutes providing various presidential authorities to respond to emergencies.¹

Congress has also recognized that statutory emergency powers could be misused by a President who seeks to act unilaterally without the consent of Congress. In 1976, Congress passed the *National Emergencies Act* (NEA) to place a check on executive emergency powers.² This was in response to a report from the Senate Special Committee on National Emergencies and Delegated Emergency Powers, which revealed that the President had access to over 450 emergency powers and had been using emergency authorities without check for over 30 years.³ The NEA provided a mechanism for Congress to quickly end an emergency and check the President's power: under expedited parliamentary procedures, the House and Senate could pass a concurrent resolution of disapproval to immediately end a national emergency.⁴ The NEA also required annual reviews of emergency powers.⁵

The expedited congressional procedures originally provided under the NEA were weakened by the 1983 Supreme Court decision in *INS v. Chadha*.⁶ In *Chadha*, the Court held that “legislative vetoes,” like the concurrent resolution of disapproval, were unconstitutional because the President is not given the chance to sign the resolution. In response to *Chadha*, Congress amended the NEA in 1985 to allow Congress to pass a joint resolution which requires Presidential signature to end an emergency, rather than a concurrent resolution.⁷ Under the amended NEA, the President could declare an emergency and subsequently veto any congressional efforts to end it, effectively raising the threshold for votes needed to end an emergency from a simple majority to a veto-proof two-third majority.

The risks of not constraining emergency powers are significant because the emergency powers available to the President under the NEA are potentially sweeping. The Brennan Center for Justice has identified 148 statutory authorities the President can use during an emergency pursuant to the NEA.⁸ For example, they include: re-

¹The Supreme Court has consistently held that the President does not have broad constitutional emergency powers. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 643–44 (1952) (holding that the Constitution does not allow the President to seize private property during a war to resolve a strike). However, the Court has held that the President may have some limited power to conduct emergency foreign policy, like responding to a foreign attack. *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936) (holding that the President is the “sole organ of the federal government in the field of international relations”).

²Pub. L. No. 94–412 (1976).

³Special Committee on National Emergencies and Delegated Emergency Powers, *Final Report* (May 1976) (S. Rept. 94–922).

⁴Pub. L. No. 94–412 (1976), Sec. 201.

⁵Pub. L. No. 94–412 (1976), Sec. 401.

⁶*Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983).

⁷Pub. L. No. 99–93 (1985).

⁸Brennan Center for Justice, *Trump’s Hidden Powers* (Updated: September 4, 2019) (<https://www.brennancenter.org/our-work/analysis-opinion/trumps-hidden-powers>).

moving biological or chemical agent testing bans on human subjects; closing borders and expelling foreigners; taking over communications channels; and controlling the domestic transportation network.⁹ Additionally, the President uses emergency declarations to implement international sanctions under the International Emergency Economic Powers Act (IEEPA).¹⁰

In practice, most historical uses of emergency powers under the NEA have been relatively uncontroversial. The Brennan Center’s research indicates that nearly 70% of emergency powers available to the President have never been invoked.¹¹ Of the 43 emergencies currently in effect and renewed annually by the President, 40 emergencies are related to IEEPA sanctions.¹² The three remaining non-IEEPA emergencies are related to Cuban vessels, the September 11 terrorist attacks, and Russian-affiliated vessels.¹³ These emergencies were originally issued in 1996, 2001, and 2022, respectively, and have not drawn the same level of scrutiny as more recent uses of presidential emergency powers.

However, recent unprecedented uses of emergency power highlight the risks for abuse of emergency powers under the NEA. In 2019, President Trump declared an emergency at the southern border in order to reallocate funds, originally authorized for construction of new military projects, to build the border wall.¹⁴ Congress had previously declined to appropriate the funds.¹⁵ The House and Senate later passed a joint resolution to end the border emergency, but President Trump vetoed the resolution and continued efforts to build sections of the wall.¹⁶ Ultimately, the U.S. Court of Appeals for the Ninth Circuit upheld a permanent injunction against the use of emergency powers to fund construction of the border wall.¹⁷

Critics of presidential emergency powers also point to the Secretary of Education Miguel Cardona’s decision to cancel student debt for people who were harmed during the COVID–19 emergency as an overly expansive use of emergency powers.¹⁸ The Supreme Court later blocked this action, under the finding that while the Secretary has the authority to modify loans during an emergency, Congress did not intend to grant the Secretary the authority to fully cancel loans.¹⁹

Separately, Congress has recently asserted its power over the national emergency relating to the COVID–19 pandemic. In May of

⁹ 50 U.S.C. § 1515; 19 U.S.C. § 1318; 47 U.S.C. § 606(c); 46 U.S.C. § 56301.

¹⁰ 50 U.S.C. 1702(a).

¹¹ *Trump’s Hidden Powers*, supra note 6.

¹² Brennan Center for Justice, *Declared National Emergencies Under the National Emergencies Act* (Updated: May 9, 2024) (<https://www.brennancenter.org/our-work/research-reports/declared-national-emergencies-under-national-emergencies-act>).

¹³ Executive Office of the President, *Continuation of the National Emergency With Respect to Certain Terrorist Attacks*, 89 Fed. Reg. 74101 (Sep. 9, 2024); Executive Office of the President, *Continuation of the National Emergency With Respect to Cuba and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Vessels*, 89 Fed. Reg. 03937 (Feb. 21, 2024); Executive Office of the President, *Continuation of the National Emergency and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports*, 89 Fed. Reg. 27649 (Apr. 16, 2024).

¹⁴ Congressional Research Service, *Can the Department of Defense Build the Border Wall?* (LSB10242) (February 18, 2019).

¹⁵ Congressional Research Service, *Funding U.S.-Mexico Border Barrier Construction: Current Issues* (April 7, 2021) (<https://crsreports.congress.gov/product/pdf/IN/IN11193>).

¹⁶ S.J. Res. 54, 118th Cong., 1st Sess. (2019).

¹⁷ *Sierra Club v. Trump*, 929 F.3d 670, 715 (9th Cir. 2019).

¹⁸ Brennan Center for Justice, *Biden Used ‘Emergency Powers’ to Forgive Student Debt? That’s a Slippery Slope* (Sep 8, 2022) (<https://www.brennancenter.org/our-work/analysis-opinion/biden-used-emergency-powers-forgive-student-debt-thats-slippery-slope>).

¹⁹ *Biden v. Nebraska*, 600 U.S. 477 (2023).

2023, Congress passed a joint resolution to end the emergency, which the President signed.²⁰

The REPUBLIC Act strengthens Congress’s role in checking the President’s use of emergency powers by amending the NEA to require that Congress approve, rather than disapprove, each emergency declaration via a joint resolution. The bill permits the President to declare a national emergency, and then gives Congress 30 days to approve the emergency use of powers for up to one year, when it can be subsequently reapproved by Congress. The bill allows expedited parliamentary procedures for Congress to approve emergencies, including provisions that limit debate in the Senate and allow for discharge from committees.

The bill also makes specific reforms to emergency powers, including to IEEPA. Congress enacted IEEPA to place checks on the President’s existing sanctions powers in response to a 1977 report required under the National Emergencies Act.²¹ IEEPA put in place heightened reporting requirements and subjected sanctions to Congressional disapproval procedures under the National Emergencies Act. Despite these reforms, the risk of a President potentially misusing sanction powers remains because of the broad authorities to “regulate” a wide range of financial transactions under the IEEPA statute.²²

First, IEEPA can be potentially misused to target American citizens in ways that jeopardize their due process rights. IEEPA permits the President to broadly regulate the commerce of persons subject to the jurisdiction of the United States.²³ The targets of most IEEPA sanctions are foreign people and entities, though currently seven United States nationals are the targets of sanctions as designated by their listing on the Office of Foreign Asset Control’s (OFAC) Specially Designated Sanctions List.²⁴ While many of these are legitimate national security targets, IEEPA powers have been misused against United States citizens. Both United States persons and entities have sued OFAC over violations of due process rights, including the lack of notice and administrative appeal opportunities.²⁵ This litigation has resulted in courts holding that OFAC violated the due process of United States citizens. However, the judicial opinions in IEEPA litigation have been limited to the relevant courts, and there is no nationwide standard for judicial due process before IEEPA is used to target United States citizens with sanctions.²⁶

The REPUBLIC Act reforms IEEPA by requiring that United States nationals receive notice of a sanction imposed against them, have an opportunity for administrative appeal, and are only subject

²⁰ H.J. Res. 7, 118th Congr., 1st Sess. (2023).

²¹ Congressional Research Service, *The International Emergency Economic Powers Act: Origins, Evolution, and Use* (Mar 25, 2022).

²² Brennan Center for Justice, *Checking the President’s Sanctions Powers* (Jun 10, 2021) (<https://www.brennancenter.org/our-work/policy-solutions/checking-presidents-sanctions-powers>).

²³ 50 U.S.C. 1702(a).

²⁴ Email from Anna Knight, Senior Advisor, Office of the Foreign Asset Control, Department of Treasury, to Homeland Security and Governmental Affairs Committee Staff (Jul. 19, 2024).

²⁵ *A Post-9/11 American Nightmare*, Salon.com (Sep 5, 2002) (<https://www.salon.com/2002/09/05/jama/>); American Civil Liberties Union, *KindHearts for Charitable Humanitarian Development, Inc. v. Geithner et al.*, (November 22, 2011) (<https://www.aclu.org/cases/kindhearts-charitable-humanitarian-development-inc-v-geithner-et-al>).

²⁶ Just Security, *The Right Way to Reform the U.S. President’s International Emergency Powers* (Mar. 26, 2020) (<https://www.justsecurity.org/69388/the-right-way-to-reform-the-u-s-presidents-international-emergency-powers/>).

to the risk of property seizure if the government obtains a warrant, and are able to seek judicial review of the targeted sanction.

Second, an expansive application of IEEPA could possibly be broadly used to place tariffs or quotas on trade with other countries, far outpacing IEEPA's traditional and accepted use as a tool to implement sanctions. In 1971, President Nixon used the precursor legislative tool to IEEPA, the *Trading with the Enemies Act* (TWEA), to place a ten percent *ad valorem* supplemental duty on imported goods.²⁷ The United States Court of Customs and Patent Appeals held in *United States v. Yoshida International* that the TWEA tariffs were legal because they "bore an eminently reasonable relationship to the emergency confronted."²⁸ In testimony before the House Committee on International Relations, Andreas F. Lowenfeld, a scholar of international economic law said that he found the Court of Customs and Patent Appeals reasoning in *Yoshida* legally "thin" and recommended Congress reform TWEA to prohibit its use as sanction power.²⁹

Congress ultimately reformed TWEA in IEEPA in 1977 by allowing Congress to disapprove of such economic emergencies under the NEA, but as noted above, the NEA has been effectively weakened as a result of *Chadha*.³⁰ While the bill does not subject IEEPA sanctions to Congressional approval procedures, it instead reforms IEEPA by prohibiting the use of IEEPA to put in place tariffs and quotas.

The bill also repeals the President's authorities to suspend wired and wireless communications under the *Communications Act of 1934*, codified at 47 U.S.C. 606(a) through 47 U.S.C. 606(d). The 1934 Act recodified sections of the Radio Act of 1912, and these authorities were last used when President Wilson suspended certain radio and telegraph communications during World War One.³¹ Despite their lack of recent use, the powers remain available for use to shut down broadcasters or internet service providers. Scholars of telecommunication law have raised concerns that these Communications Act powers could be used to shut down individual broadcasters.³² The bill repeals these powers under the rationale that they are unneeded and outdated given their lack of recent use and enormous potential for abuse in ways that threatens the free speech rights of Americans.

Finally, the bill requires the disclosure of presidential emergency action documents (PEADs) to Congress. The President prepares PEADs to plan for legal and policy options in case of emergency events. Little is publicly known about these plans, despite Congressional requests for information.³³ Through *Freedom of Information*

²⁷ Congressional Research Service, *The International Emergency Economic Powers Act (IEEPA) and Tariffs: Historical Background and Key Issues* (IN11129) (Jun 24, 2019).

²⁸ *United States v. Yoshida Int'l, Inc.*, 526 F.2d 560, 571 (C.C.P.A. 1975).

²⁹ House Subcommittee on International Economic Policy and Trade, *Hearings Before the Subcommittee on International Economic Policy and Trade of the Committee on International Relations and Markup of the Trading with the Enemy Reform Legislation* (Mar 29, 1977) (H. Hrg. 89-711).

³⁰ Pub. L. No. 90-223 (1977).

³¹ David W. Opderbeck, *Does the Communications Act of 1934 Contain a Hidden Internet Kill Switch?*, Federal Communications Law Journal (Jan, 2013).

³² Brookings Institution, *Donald Trump Has Threatened To Shut Down Broadcasters, But Can He?* (Oct. 29, 2024) (<https://www.brookings.edu/articles/donald-trump-has-threatened-to-shut-down-broadcasters-but-can-he/>).

³³ *Trump's Emergency Powers Worry Some Senators, Legal Experts*, Associated Press (May 16, 2020) (<https://apnews.com/article/c596e78d503f953fc8acf1eaa1b4dea>).

Act and Mandatory Declassification Review requests, the Brennan Center for Justice has identified that the historical documents describing PEADs, many of which raise concerns that the President might plan to push the limits of their authority in times of emergency in ways that threaten constitutional rights.³⁴ Documents from the administrations of President Kennedy, Johnson, and Nixon indicate that various PEADs authorized the president to suspend habeas corpus, detain “dangerous persons” within the United States, censor news media, and prevent international travel. Since that time, the contents of PEADs are not known, though such plans were updated during the Bush Administration and President Trump acknowledged that such plans continue to exist.³⁵

Given the serious nature of the contents of PEADs and their inconsistent disclosure to Congress in the past, this bill directs the President to make PEADs available to Congress. The procedural requirements for disclosure in the bill, including the requirement that security clearances be made available to staff, are meant to clearly indicate that the President take all necessary steps to completely disclose such documents to Congress.

III. LEGISLATIVE HISTORY

Senator Rand Paul (R-KY) introduced S. 4373, the *Reforming Emergency Powers to Uphold the Balances and Limitations Inherent in the Constitution (REPUBLIC) Act*, on May 21, 2024. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4373 at a business meeting on September 18, 2024. At the business meeting, Senator Paul offered a substitute amendment, and a modification to that amendment. The Paul substitute amendment, as modified, adjusts the duration for an emergency approved by Congress to last for one year, removes the 5-year limitation on emergencies, and allows for expedited consideration for emergency joint resolutions of approval. The substitute, as modified, also exempts emergencies declared subject to IEEPA from the new approval scheme and instead provides for disapproval under the current NEA process. The substitute, as modified also adds due process protections for U.S. nationals that are the target of the sanctions under IEEPA. Additionally, the substitute, as modified, removed provisions related to the *Insurrection Act*.

The Committee adopted the modification to the Paul amendment, and the Paul substitute amendment as modified, by unanimous consent, with Senators Peters, Carper, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, Scott, Hawley, and Marshall present. The bill, as amended by the Paul amendment, as modified, was ordered reported favorably by roll call vote of 13 yeas to 1 nay, with Senators Peters, Carper, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, Scott, and Marshall voting in the affirmative, and with Sen-

³⁴Brennan Center for Justice, *Presidential Emergency Action Documents*, (Sep. 27, 2024) (<https://www.brennancenter.org/our-work/research-reports/presidential-emergency-action-documents>).

³⁵*Documents Shed Light on Secret U.S. Plans for Apocalyptic Scenarios*, New York Times (May 26, 2022) (<https://www.nytimes.com/2022/05/26/us/internet-president-emergency-orders.html>).

ator Hawley voting in the negative. Senator Johnson voted yea by proxy, for the record only.

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

Section 1. Short title; table of contents

This section establishes the short title of the bill as the *Reforming Emergency Powers to Uphold the Balances and Limitations Inherent in the Constitution (REPUBLIC) Act*. It also provides a table of contents for this Act.

TITLE I—CONGRESSIONAL REVIEW OF NATIONAL EMERGENCIES

Section 101. Congressional review of national emergencies

Adds new sections 201 (“Declarations of National Emergencies”), 202 (“Effective Periods of National Emergencies”), 203 (“Review by Congress of National Emergencies”), and 204 (“Applicability”).

Section 201 authorizes the President to declare national emergencies by proclamation and publish them in the Federal Register, and to specify the provisions of law to be exercised. This is similar to current law. This section also prohibits subsequent emergency declarations or corresponding exercise of authorities for the remainder of the President’s term of office with “respect to the same circumstances” if a joint resolution of approval is not enacted by Congress.

Section 202 limits the effective period of a national emergency declaration and exercise of associated authorities to 30 days unless a joint resolution of approval is enacted. If Congress is physically unable to convene as the result of an emergency, the 30-day period begins on the first day Congress convenes following the emergency. A congressionally approved national emergency will terminate 30 days after the President transmitted the proclamation to Congress, unless the President issues an EO renewing the emergency, and a joint resolution is enacted to renew it prior to termination.

Section 203 defines ‘joint resolution of approval’ and clarifies procedures for their consideration. A resolution can be introduced in either chamber and will be referred to the committees having jurisdiction over the emergency authorities invoked. In the Senate, joint resolutions are discharged following 10 days if the committee has not acted. All points of order are waived and the motion to proceed is subject to 4 hours of debate, equally divided. Floor debate is limited to 10 hours. The motion is not subject to amendment or motions to postpone, to proceed to consideration of other business, or to reconsider final vote. In the House, the same 10-day discharge rule applies, and similar rules govern floor consideration. Enactment of a joint resolution shall not be interpreted as a grant or modification of statutory emergency authorities of the President.

Section 204 clarifies that the emergency procedures described in this title do not apply to IEEPA sanctions.

Section 102. Reporting requirements

Amends section 401 of the National Emergencies Act (50 U.S.C. 1641) to require additional reports on emergencies. Alongside any emergency proclamation, the President must transmit a report including a description of the emergency circumstances, the estimated national emergency duration, and a summary of actions the

President intends to take, including any reprogramming or transfer of funds. The President shall issue periodic reports every 6 months for the duration of the emergency.

Section 103. Exclusion of certain national emergencies invoking International Emergency Economic Powers Act

Amends the National Emergencies Act (50 U.S.C. 1601 *et seq.*) to apply to the existing expedited Congressional disapproval procedures to emergency declarations that only invoke powers under IEEPA. The section also transfers section 201, 202, and 301 to be new sections 601, 602, and 603.

Section 104. Conforming amendments

This section repeals title III of the National Emergencies Act (50 U.S.C. 1631), which requires the President to specify the powers or authorities made available by the declaration they intend to use. This section also updates a reference in IEEPA to reflect that emergencies are disapproved with “joint resolutions”.

Section 105. Effective date; applicability

This section sets the effective date as the date of enactment of the Act. National emergencies declared on or after that date will be subject to the provisions of the Act. Existing emergencies at the time of enactment will be subject to the new requirements for renewal under this Act.

TITLE II—LIMITATIONS ON EMERGENCY AUTHORITIES

Section 201. Protections for United States persons with respect to use of authorities under International Emergency Economic Powers Act

This section amends IEEPA (50 U.S.C. 1701 *et seq.*) to include the following sections.

Section 203A(a)(1) requires that in general the President must follow the processes in this section when targeting a U.S. person with sanctions.

Section 203A(a)(2) requires that before the President can target a U.S. person with sanctions that they must issue a general license that the person has access to the necessities of life.

Section 203A(a)(3) requires that any targeted U.S. person receive certain due process rights, including notice of being targeted by sanctions, description of the basis of the reasoning for sanctions, and notice of an opportunity to request administrative review. The section clarifies that failure to comply with the review violates the Administrative Procedure Act.

Section 203A(b) prohibits the President from seizing a targeted U.S. person’s property without obtaining a warrant, unless there are emergency circumstances.

Section 203A(c) allows a targeted U.S. person to seek judicial review and describes the conduct of review of litigation.

Section 203A(d) defines a U.S. person to include a United States national or an entity organized in the United States and owned more than 50 percent by United States nationals.

Section 202. Exclusion of authority to impose duties and import quotas from International Emergency Economic Powers Act

This section amends Section 203 of IEEPA by prohibiting the President from using IEEPA authorities to impose duties, tariff-rate quotas, or other quotas on trade entering the United States.

Section 203. Presidential war powers under Communications Act of 1934

This section strikes subsection (c) through (g) of 47 U.S.C. 606, which in a time of emergency or interest of national security, permit the President to suspend or amend any rules or regulations for any or all stations and devices capable of emitting electromagnetic radiation within the U.S. and wire communications, or seize them for government use. The struck provisions also require just compensation for the use or control of communications equipment, clarify the application of state taxation or regulation, and limit the ability of the President to make rules or regulations which the FCC would not be authorized by law to make. It also has a technical amendment to 47 U.S.C. 309(h).

Section 204. Disclosure to Congress of Presidential Emergency Action Documents

Subsection (a) requires the submission of Presidential Emergency Action Documents (PEADs) to Congress no later than 3 days after they are approved or adopted.

Subsection (b) requires submission of existing PEADs no later than 15 days after the enactment of the Act.

Subsection (c) grants HSGAC and House COA jurisdiction and the ability to access any and all PEADs and requires staff to be given the requisite security clearances to access PEADs.

Subsection (d) provides definitions for “appropriate congressional committees”, “federal agency” and “presidential emergency action documents.”

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 (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs

during the 118th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending, 2025-2034	Revenues, 2025-2034	Spending subject to appropriation, 2025-2029	Pay-as-you-go procedures apply?	Budgetary effects after 2034	Mandates	Contact
S. 4373 ...	REPUBLIC Act	Ordered re-reported.	09/18/24	800	Between —\$500,000 and zero	Between —\$500,000 and zero	Not Estimated	Yes	Insignificant	No	Emma Uebelhor
<p>S. 4373 would amend the National Emergencies Act to limit the duration of national emergencies declared by the President to 30 days unless the Congress subsequently approves or extends the declaration. The bill also would require the President to report to the Congress periodically on the need for and status of declared emergencies. CBO cannot predict the number or timing of future declarations but expects that most would be approved by the Congress. Under S. 4373 emergency declarations could have a shorter duration than under current law. If that happens, direct spending related to such emergencies would decline; however, because CBO expects that the Congress would approve most declarations, we estimate that any reduction in direct spending would be insignificant. S. 4373 also would extend protections to U.S. persons who may face sanctions for contributing to a national emergency declared under the International Emergency Economic Powers Act. If enacting the protections in S. 4373 leads the Administration to impose fewer sanctions, revenues from sanctions penalties, and direct spending of those penalties, would decline. CBO estimates that any reduction in direct spending or revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.</p>											

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 the bill, 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] *TITLE II— DECLARATIONS OF FUTURE NA- TIONAL EMERGENCIES*

* * * * *

SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.]

[(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 Act. No law enacted after the date of 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. 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) 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 502(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 title, 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. 202. EFFECTIVE PERIODS OF NATIONAL EMERGENCIES.

(a) TEMPORARY EFFECTIVE PERIODS.—

(1) IN GENERAL.—A declaration of a national emergency shall remain in effect for a period of 30 calendar 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 such 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 a period of 30 calendar 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 such 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 the 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 pursuant to authorities provided as a result of 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 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) 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 dis-

charged 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 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.

(4) *CONSIDERATION IN HOUSE OF REPRESENTATIVES.*—In the House of Representatives, 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 to the House within 10 calendar days after the date of referral, such committee shall be discharged from further consideration of the joint resolution.

(B) *PROCEEDING TO CONSIDERATION.*—

(i) *IN GENERAL.*—Beginning on the third legislative day after the committee to which a joint resolution of approval has been referred reports it to the House or has been discharged from further consideration, and except as provided in clause (ii), it shall be in order to move to proceed to consider the joint resolution in the

House. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(ii) *SUBSEQUENT MOTIONS TO PROCEED TO JOINT RESOLUTION OF APPROVAL.—A motion to proceed to consider a joint resolution of approval shall not be in order after the House has disposed of another motion to proceed on that resolution.*

(C) *FLOOR CONSIDERATION.—Upon adoption of the motion to proceed in accordance with subparagraph (B)(i), the joint resolution of approval shall be considered as read. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except two hours of debate, which shall include debate on any amendments, equally divided and controlled by the sponsor of the joint resolution (or a designee) and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.*

(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.

(5) *RECEIPT OF RESOLUTION FROM OTHER HOUSE.—If, before passing a joint resolution of approval, one House receives 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) and (4), 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. APPLICABILITY.

This title shall apply to a national emergency pursuant to which the President proposes to exercise emergency powers or authorities made available under any provision of law that is not a provision of law described in section 604(a).

* * * * *

[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) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, *and make publicly available*, within ninety days after the end of each six-month period after such declarations, a report on the total ex-

penditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit *and make publicly available* a final report, on all such expenditures.

(d) *REPORT ON EMERGENCIES.*—*The President shall transmit to the entities described in subsection (g), 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) *The total expenditures estimated to be incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration.*

(5) *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 the entities described in subsection (g) such other information as such entities 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 the entities described in subsection (g) on the status of the emergency, the total expenditures incurred by the United States Government, and the actions the President or other officers have taken and authorities the President and such officers have relied on in addressing the emergency.*

(g) *ENTITIES DESCRIBED.*—*The entities described in this subsection are—*

- (1) *the Speaker of the House of Representatives;*
- (2) *minority leader of the House of Representatives;*
- (3) *the Committee on Transportation and Infrastructure of the House of Representatives; and*
- (4) *the Committee on Homeland Security and Governmental Affairs of the Senate.*

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TITLE VI—DECLARATIONS OF CERTAIN EMERGENCIES INVOKING INTER- NATIONAL EMERGENCY ECONOMIC POWERS ACT

* * * * *

SEC. 601.

(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 Act. No law enacted after the date of 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. 602.

(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 com-*

mittee, 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 502(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 title, 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. 603.

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 declara-

tion of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

SEC. 604. APPLICABILITY.

(a) *IN GENERAL.*—This title shall apply to 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.).

(b) *EFFECT OF ADDITIONAL POWERS AND AUTHORITIES.*—This title 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 (a), the President proposes to exercise, pursuant to the national emergency, any emergency powers and authorities under any other provision of law.

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INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

* * * * *

TITLE I—INTERNATIONAL EMERGENCY ECONOMIC POWERS

* * * * *

SEC. 203. CONSULTATION AND REPORTS.

(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, or all of a certain type of article, imported from a country from entering the United States.*

[(c)] (d)—CLASSIFIED INFORMATION.—In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.

SEC. 203A. PROTECTIONS FOR UNITED STATES PERSONS.

(a) *LIMITATIONS FOR NECESSITIES.*—

(1) *IN GENERAL.*—Except as provided by paragraph (2) and in accordance with this section, no authority provided under section 203 may be exercised to target a United States person.

(2) *EXCEPTION FOR ISSUANCE OF GENERAL LICENSES.*—An authority provided under section 203 may be exercised to target a United States person if the President has, before using the authority, issued a general license that ensures that the United

States person has sufficient access to the necessities of life, including food, nutritional support, water, shelter, clothing, sanitation, medicine, health care and other vital services, and gainful employment where necessary to provide the United States person a means for subsistence.

(3) DUE PROCESS FOR UNITED STATES PERSONS.—

(A) IN GENERAL.—*When taking an action pursuant to authority provided by section 203 to target a United States person, the President shall—*

(i) provide contemporaneous notice of the action to the United States person;

(ii) not later than one week after taking the action, provide the United States person with the record on which the decision to take the action was based, including an unclassified summary, or a redacted version, of any classified information that provides the United States person with substantially the same ability to respond to that information as the classified information;

(iii) provide the United States person with the opportunity to request review of the decision and to submit information in support of that request;

(iv) provide the United States person with the opportunity for an administrative hearing not later than 90 days after requesting a review under clause (iii), unless the United States person agrees to a longer period; and

(v) render a written decision on a request for review under clause (iii) not later than 90 days after the hearing under clause (iv), or, if no such hearing is requested, not later than 90 days after the later of—

(I) the request for review; or

(II) the submission of information in support of that request.

(B) FAILURE TO RENDER TIMELY DECISION.—*Failure to render a decision within the time frame specified in subparagraph (A)(v) shall be considered an agency action for purposes of section 702 of title 5, United States Code.*

(b) WARRANT FOR SEIZURE OF PROPERTY OF UNITED STATES PERSONS.—

(1) IN GENERAL.—*When taking an action pursuant to authority provided by section 203 to target a United States person, the President may not block or otherwise prevent the access of the United States person to property in which the United States person has an ownership interest except pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure (or, in the case of a court-martial or other proceeding under the Uniform Code of Military Justice (chapter 47 of title 10, United States Code), issued under section 846 of title 10, United States Code (article 46 of the Uniform Code of Military Justice), in accordance with regulations prescribed by the President) by a court of competent jurisdiction.*

(2) DELAYED WARRANTS.—*To the extent consistent with the Fourth Amendment to the Constitution of the United States, a court shall permit the temporary blocking of property under section 203 without a warrant on an emergency basis, or use other*

means lawfully available to the court, to enable the Federal Government to identify the property that is subject to blocking while reducing the risk of property flight.

(c) JUDICIAL REVIEW.—

(1) IN GENERAL.—A United States person that is the target of an action taken by the President pursuant to any authority provided under section 203 may bring an action in a United States court of competent jurisdiction, after exhaustion of any available administrative remedies, to obtain judicial review of the lawfulness of that action, including whether the action was authorized by the Executive order or orders specifying the measures to be taken under section 203 in response to a determination issued under section 202.

(2) CONDUCT OF REVIEW.—In an action brought under paragraph (1)—

(A) the review of the court shall be de novo;

(B) any party may introduce evidence not included in the administrative record;

(C) any administrative record or portions thereof may be entered into evidence, and questions of authentication or hearsay shall bear on the weight to be accorded the evidence rather than its admissibility;

(D) classified information shall be handled in accordance with the Classified Information Procedures Act (18 U.S.C. App.), except that references to the ‘defendant’ in such Act shall be deemed to apply to the plaintiff; and

(E) the court shall have the authority to order injunctive relief, actual damages, and attorneys’ fees.

(3) OTHER MEANS OF REVIEW.—The availability of judicial review under this subsection shall not preclude other available means of judicial review, including under section 702 of title 5, United States Code, except that a person may not exercise the right to judicial review under more than one provision of law.

(d) UNITED STATES PERSON DEFINED.—In this section, the term ‘United States person’ means—

(1) a United States national; or

(2) an entity—

(A) organized under the laws of the United States or any jurisdiction within the United States; and

(B) in which more than 50 percent of the controlling interest is owned by a person described in paragraph (1).

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SEC. 207. SAVINGS PROVISIONS.

*(a) * * **

(b) CONGRESSIONAL TERMINATION OF NATIONAL EMERGENCIES BY [CONCURRENT RESOLUTION] JOINT RESOLUTION

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 and if the Congress specifies in such [concurrent resolution] *joint resolution* that such authorities may not continue to be exercised under this section.

* * * * *

COMMUNICATIONS ACT OF 1934

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TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

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PART I—GENERAL PROVISIONS

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SEC. 309. ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS ATTACHED TO LICENSES.

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(h) Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; *and* (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this [Act; (3) every license issued under this Act shall be subject in terms to the right of use or control conferred by section 706 of this Act.] *Act*.

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TITLE VII—MISCELLANEOUS PROVISIONS

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SEC. 706. WAR EMERGENCY—POWERS OF PRESIDENT.

(a) * * *

(b) * * *

[(c) Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication, or any device capable of emitting electromagnetic radiations between 10 kilocycles and 100,000 megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device and/or its apparatus and equipment, by any department of the Government

under such regulations as he may prescribe upon just compensation to the owners. The authority granted to the President, under this subsection, to cause the closing of any station or device and the removal therefrom of its apparatus and equipment, or to authorize the use or control of any station or device and/or its apparatus and equipment, may be exercised in the Canal Zone.】

【(d) Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.】

【(e) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sums as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24, or by section 145, of the Judicial Code, as amended.】

【(f) Nothing in subsection (c) or (d) shall be construed to amend, repeal, impair, or effect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by any communication system or systems.】

【(g) Nothing in subsection (c) or (d) shall be construed to authorize the President to make any amendment to the rules and regulations of the Commission which the Commission would not be authorized by law to make; and nothing in subsection (d) shall be construed to authorize the President to take any action the force and effect of which shall continue beyond the date after which taking of such action would not have been authorized.】

【(h) (c) Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President's authority under this section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under this section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the United States, or with intent to secure an advantage to any for-

eign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than 20 years, or both.

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