

115TH CONGRESS
2D SESSION

S. 3709

To preserve the constitutional authority of Congress and ensure accountability
and transparency in legislation.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2018

Mr. PAUL introduced the following bill; which was read twice and referred to
the Committee on Rules and Administration

A BILL

To preserve the constitutional authority of Congress and
ensure accountability and transparency in legislation.

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 “Read the Bills Act”.

5 **SEC. 2. CONSTITUTIONAL AUTHORITY STATEMENT.**

6 (a) IN GENERAL.—This Act is enacted pursuant to
7 the power conferred by the Constitution of the United
8 States upon each House of Congress by—

1 (1) article I, section 5, clauses 2 and 3 to deter-
2 mine the rules and keep a journal of its proceedings,
3 respectively;

4 (2) article I, section 7, clause 2 to ensure that
5 bills that become law have been actually passed by,
6 not just passed through, each House of Congress;
7 and

8 (3) article I, section 8, clause 18, which author-
9 izes Congress to make all laws that are necessary
10 and proper for carrying into execution the rules of
11 each House of Congress.

12 (b) STANDING PROVISION.—The provision of this Act
13 under which any person who is aggrieved by the enforce-
14 ment of any law enacted either in violation of the rules
15 of proceedings of either House of Congress, or by the sus-
16 pension of the rules, as prescribed herein, shall have
17 standing in a court of law, is enacted pursuant to article
18 III, section 2 of the Constitution of the United States.

19 **SEC. 3. FINDINGS.**

20 Congress finds the following:

21 (1) The Constitution of the United States vests
22 all legislative powers granted therein in Congress.

23 (2) Each Member of Congress is elected by the
24 people to whom the Member is accountable, and
25 Members must represent the people of their respec-

1 tive State or District in exercising their legislative
2 powers.

3 (3) Establishing a Government of enumerated
4 powers, article I, section 1 of the Constitution of the
5 United States obliges Congress to exercise only those
6 legislative powers provided for in the Constitution of
7 the United States, and article VI of the Constitution
8 of the United States requires that each Member of
9 Congress be bound by oath or affirmation to support
10 the Constitution of the United States by enacting
11 only those laws, and making only those resolutions,
12 that are pursuant to the Constitution of the United
13 States and not prohibited thereby.

14 (4) To ensure that Congress is politically and
15 legally accountable to the people, article I, section 5
16 of the Constitution of the United States requires
17 each House of Congress to keep a journal of its pro-
18 ceedings and from time to time publish the same.

19 (5) To ensure that no legislation is passed with-
20 out effective representation of the interests of the
21 people by the elected Members of Congress, article
22 I, section 7 of the Constitution of the United States
23 provides that only a bill “which shall have passed
24 the House of Representatives and the Senate,” and
25 not vetoed by the President, shall “become a law”.

1 (6) According to section I of the Manual of
2 Parliamentary Practice for the Use of the Senate of
3 the United States, written by Thomas Jefferson in
4 1801 (referred to in this section as “Jefferson’s
5 Manual”), “nothing tended more to throw power
6 into the hands of administration and those who
7 acted with the majority . . . than a neglect of, or
8 departure from, the rules of proceeding [which] op-
9 erated as a check and control of the actions of the
10 majority [and] a shelter and protection to the minor-
11 ity”.

12 (7) According to sections XXII and XL of Jef-
13 ferson’s Manual, it was the rule of the Senate that
14 every bill receive 3 readings, 2 full readings by the
15 Clerk of the Senate, and a third reading of the title
16 of the bill only, because “every member of the Sen-
17 ate had a printed copy [of the bill] in his hand.”.

18 (8) According to sections XXIV, XXV, and XL
19 of Jefferson’s Manual, it was the rule of the House
20 of Representatives, following the parliamentary pro-
21 cedure of the English House of Commons, that every
22 bill receive 2 full readings by the Clerk of the House
23 of Representatives, and a reading of the whole con-
24 tents of the bill verbatim by the Speaker of the

1 House of Representatives before the House of Rep-
2 resentatives voted on the bill.

3 (9) Under the current rules of the Senate, the
4 Senate has departed from its original practice of a
5 full first and second reading of each bill, and of en-
6 suring that each Senator has a printed or other ver-
7 batim copy of each bill before passage thereof, hav-
8 ing by rule XIV of the Standing Rules of the Senate
9 limited each reading of a bill to the reading of the
10 title of the bill only, unless the Senate in any case
11 shall otherwise order.

12 (10) Under the current rules of the House of
13 Representatives, the House of Representatives has
14 by rule XVI (8) and rule XVIII (5) embraced its
15 original practice of full first and second readings of
16 each bill, but has regularly departed from this prac-
17 tice by unanimous consent of the House of Rep-
18 resentatives, and has dispensed altogether its origi-
19 nal practice of a verbatim third reading of each bill
20 before passage, limiting such third reading to the
21 reading of the title only, including the reading of the
22 title only even when Members of the House of Rep-
23 resentatives have no printed or other verbatim copy
24 of the bill before passage.

1 (11) Although section 106 of title 1, United
2 States Code, requires a bill to be made available in
3 written form to each Member of Congress before
4 final passage, Congress has by statute conferred
5 upon itself the power, during the last 6 days of a
6 session of Congress, by concurrent resolution, to
7 vote for passage of a bill that is not in written form
8 at the time of final passage.

9 (12) As a direct consequence of the departure
10 of the Senate and the House of Representatives
11 from the salutary practice of full, verbatim readings
12 of each bill before final passage, and further, as a
13 direct consequence of Congress, by concurrent reso-
14 lution and otherwise, having permitted certain ap-
15 propriation, budget, and regulatory bills to be en-
16 acted into law without such bills being printed and
17 presented to Congress in written form prior to final
18 passage, Congress has—

19 (A) imposed upon the people of the United
20 States excessively long bills, largely written by
21 an unelected bureaucracy, resulting in generally
22 incomprehensible, cumbersome, oppressive, and
23 burdensome laws, containing hidden provisions
24 for special interests;

1 (B) deprived the people of the United
2 States and their elected Senators and Members
3 of a full and fair opportunity to examine the
4 text of bills, and all amendments thereto, prior
5 to passage;

6 (C) undermined the confidence of the peo-
7 ple of the United States as a result of its fail-
8 ure to provide adequate notice to the people be-
9 fore a vote is taken on the bills and amend-
10 ments thereto; and

11 (D) has called into question the integrity
12 and reliability of the legislative processes in
13 both Houses of Congress by its failure to en-
14 sure that each Senator and each Member of the
15 House of Representatives has, prior to passage,
16 either listened attentively to the reading of the
17 full text of each bill, and amendments thereto,
18 or has personally read the text thereof.

19 (13) Federal law currently sets forth various re-
20 quirements relating to the form of bills and resolu-
21 tions, and the procedure for enacting laws, includ-
22 ing—

23 (A) the form of the enacting clause of all
24 Acts of Congress (section 101 of title 1, United
25 States Code);

1 (B) the form of the resolving clause of all
 2 joint resolutions (section 102 of title 1, United
 3 States Code);

4 (C) a limitation on the use of enacting or
 5 resolving words (section 103 of title 1, United
 6 States Code);

7 (D) the requirement regarding the num-
 8 bering of sections and the requirement that
 9 each contain a single proposition (section 104
 10 of title 1, United States Code);

11 (E) the style and title for all bills making
 12 appropriations (section 105 of title 1, United
 13 States Code); and

14 (F) the process by which each bill or joint
 15 resolution is handled after passage (section 106
 16 of title 1, United States Code).

17 **SEC. 4. TEXT OF BILL OR RESOLUTION TO SPECIFY ITS**
 18 **CONSTITUTIONAL AUTHORITY, CURRENT**
 19 **LAW.**

20 Chapter 2 of title 1, United States Code, is amended
 21 by inserting after section 105 the following:

22 **“§ 105a. Text of bill or resolution to specify its con-**
 23 **stitutional authority**

24 **“(a) REQUIREMENT.—**

1 “(1) IN GENERAL.—Any bill or resolution intro-
2 duced in either House of Congress shall contain a
3 provision citing the specific powers granted to Con-
4 gress in the Constitution of the United States to
5 enact the proposed bill or resolution, including all
6 the provisions thereof.

7 “(2) FAILURE TO COMPLY.—Any bill or resolu-
8 tion that does not comply with paragraph (1) shall
9 not be accepted by the Clerk of the House of Rep-
10 resentatives or the Secretary of the Senate.

11 “(b) FLOOR CONSIDERATION.—

12 “(1) IN GENERAL.—The requirements of sub-
13 section (a)(1) shall apply to any bill or resolution
14 presented for consideration on the floor of either
15 House of Congress, including a bill or resolution re-
16 ported from a committee of either House of Con-
17 gress, produced by conference between the 2 Houses
18 of Congress, or offered as a manager’s amendment.

19 “(2) FAILURE TO COMPLY.—Any bill or resolu-
20 tion that does not comply with paragraph (1) shall
21 not be submitted for a vote on final passage.

22 “(c) NO WAIVER OR MODIFICATION.—Neither House
23 of Congress, nor Congress jointly, by concurrent resolu-
24 tion, unanimous consent, or any other order, resolution,

1 vote, or other means, may dispense with, or otherwise
 2 waive or modify, the requirements under this section.

3 **“§ 105b. Text of bill or resolution to set forth current**
 4 **law**

5 “(a) REQUIREMENT.—

6 “(1) IN GENERAL.—Any bill or resolution intro-
 7 duced in either House of Congress that is intended
 8 to amend or modify the effect of, or would have the
 9 effect of amending or modifying the effect of, any
 10 current provision of law, including the expiration
 11 date of any law, shall set forth—

12 “(A) the current version of the entire sec-
 13 tion of the current law that the bill or resolu-
 14 tion proposes to amend, verbatim;

15 “(B) the amendments proposed in the bill
 16 or resolution; and

17 “(C) the section of law as it would read as
 18 modified by the amendments proposed, except
 19 that this subparagraph shall not apply to any
 20 bill or resolution that would strike the text of
 21 an entire section of a law.

22 “(2) FAILURE TO COMPLY.—Any bill or resolu-
 23 tion that does not comply with paragraph (1) shall
 24 not be accepted by the Clerk of the House of Rep-
 25 resentatives or the Secretary of the Senate.

1 “(b) FLOOR CONSIDERATION.—

2 “(1) IN GENERAL.—The requirements under
3 subsection (a)(1) shall apply to any bill or resolution
4 presented for consideration on the floor of either
5 House of Congress, including a bill or resolution re-
6 ported from a committee of either House of Con-
7 gress, produced by conference between the 2 Houses
8 of Congress, or offered as a manager’s amendment.

9 “(2) FAILURE TO COMPLY.—Any bill or resolu-
10 tion that does not comply with paragraph (1) shall
11 not be submitted to a vote on final passage.

12 “(c) NO WAIVER OR MODIFICATION.—Neither House
13 of Congress, nor Congress jointly, by concurrent resolu-
14 tion, unanimous consent, or any other order, resolution,
15 vote, or other means, may dispense with, or otherwise
16 waive or modify, the requirements under this section.

17 **“§ 105c. Procedures prior to vote on bill or resolution**

18 “(a) IN GENERAL.—

19 “(1) REQUIREMENTS FOR VOTE.—A vote on
20 final passage of a bill (except for private bills) or a
21 resolution may not occur in either House of Con-
22 gress, unless—

23 “(A) the full text of the bill or resolution
24 is published at least 7 days before the vote on
25 an official Internet website of each House of

1 Congress, easily available to and readily usable
2 by the public, using an open format that is
3 platform independent, machine readable, and
4 available without restrictions on searchability,
5 retrieval, downloading, and indexing, separate
6 and apart from the calendar of the Senate or
7 the House of Representatives;

8 “(B) public notice of the specific calendar
9 week during which the vote is scheduled to take
10 place is posted on the official Internet websites
11 described in subparagraph (A) not less than 6
12 days before the Monday of the calendar week
13 during which the vote is scheduled to take
14 place, with failure to take the vote during the
15 noticed week requiring a new notice under this
16 subparagraph; and

17 “(C) except as provided in paragraph (2),
18 the Clerk of the House of Representatives or
19 the Secretary of the Senate has read the full
20 text of the bill or resolution, verbatim, to the
21 respective body of each House of Congress,
22 which have been called to order and physically
23 assembled with a constitutionally required
24 quorum to do business being present through-

1 out the time of the full reading of the text of
 2 the bill or resolution.

3 “(2) If a bill or resolution is enrolled by either
 4 the House of Representatives or the Senate, for any
 5 subsequent consideration of the enrolled bill or reso-
 6 lution—

7 “(A) it is not necessary for the full text of
 8 the bill or resolution to be reread to the House
 9 of Congress in which the bill or resolution
 10 passed; and

11 “(B) the full text of any amendment to the
 12 text of the enrolled bill or resolution shall be
 13 read, verbatim, to each House of Congress.

14 “(b) AFFIDAVIT.—

15 “(1) IN GENERAL.—Before voting in favor of
 16 final passage of a bill (except a private bill) or reso-
 17 lution, each Senator and each Member of the House
 18 of Representatives, except as provided in paragraph
 19 (2), shall sign an affidavit executed under penalty of
 20 perjury under section 1621 of title 18 attesting that
 21 the Senator or Member—

22 “(A) was present throughout the entire
 23 reading of each such bill or resolution, and lis-
 24 tened attentively to such reading in its entirety;
 25 or

1 “(B) prior to voting for passage of such
2 bill or resolution, read attentively each such bill
3 or resolution in its entirety.

4 “(2) VOTE AGAINST PASSAGE.—A Senator or a
5 Member of the House of Representatives shall not be
6 required to sign an affidavit described in paragraph
7 (1) if the Senator or Member voted against passage
8 of the bill or resolution.

9 “(3) RECORDS.—Copies of each affidavit de-
10 scribed in paragraph (1) signed by a Senator or a
11 Member of the House of Representatives shall be
12 maintained by the Secretary of the Senate or the
13 Clerk of the House of Representatives, respectively.

14 “(c) JOURNAL.—With respect to each vote on final
15 passage of a bill (except for a private bill) or resolution,
16 each House of Congress shall cause to be recorded in the
17 journal of its proceedings that the publishing, notice, read-
18 ing, and affidavit requirements under this section have
19 been satisfied.

20 “(d) NO WAIVER OR MODIFICATION.—Neither House
21 of Congress, nor Congress jointly, by concurrent resolu-
22 tion, unanimous consent, or any other order, resolution,
23 vote, or other means, may dispense with, or otherwise
24 waive or modify, the requirements set forth in this section.

1 **“§ 105d. Enforcement clause**

2 “(a) IN GENERAL.—An Act of Congress that does
3 not comply with section 105a, 105b, or 105c shall have
4 no force or effect and no legal, equitable, regulatory, civil,
5 or criminal action may be brought under such an Act of
6 Congress.

7 “(b) CAUSE OF ACTION.—Without regard to the
8 amount in controversy, a cause of action under sections
9 2201 and 2202 of title 28, United States Code, against
10 the United States seeking appropriate relief (including an
11 injunction against enforcement of any law, the passage of
12 which did not conform to the requirements of section
13 105a, 105b, or 105c) may be brought by—

14 “(1) a person aggrieved by an action of an offi-
15 cer or employee in the executive branch of the Fed-
16 eral Government under an Act of Congress that did
17 not comply with sections 105a, 105b, and 105c;

18 “(2) a Member of Congress aggrieved by the
19 failure of the House of Congress of which the Mem-
20 ber is a Member to comply with section 105a, 105b,
21 or 105c; and

22 “(3) a person individually aggrieved by the fail-
23 ure of a Senator for the State in which the ag-
24 grieved person resides or by the failure of a Member
25 of the House of Representatives for the District in
26 which the aggrieved person resides to fulfill the obli-

1 gations of the Senator or Member under section
 2 105a, 105b, or 105c.”.

3 **SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.**

4 The table of sections for chapter 2 of title 1, United
 5 States Code, is amended by inserting after the item relat-
 6 ing to section 105 the following:

 “105a. Text of bill or resolution to specify its constitutional authority.

 “105b. Text of bill or resolution to set forth current law.

 “105c. Procedures prior to vote on bill or resolution.

 “105d. Enforcement clause.”.

7 **SEC. 6. SEVERABILITY CLAUSE.**

8 If any provision of this Act or an amendment made
 9 by this Act, or the application of a provision or amend-
 10 ment to any person or circumstance, is held to be invalid
 11 for any reason in any court of competent jurisdiction, the
 12 remainder of this Act and amendments made by this Act,
 13 and the application of the provisions and amendment to
 14 any other person or circumstance, shall not be affected.

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