

116TH CONGRESS
1ST SESSION

H. R. 1410

To prohibit the continuation of an executive emergency declaration under the National Emergencies Act absent approval by Congress.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2019

Mr. REED (for himself, Mr. CURTIS, Mr. HURD of Texas, Mr. FITZPATRICK, Mr. MOONEY of West Virginia, Mr. UPTON, Mr. GOTTHEIMER, Mr. O'HALLERAN, Mr. LIPINSKI, Mrs. MURPHY, Mrs. LURIA, Mr. CARBAJAL, Mrs. DINGELL, Mr. SCHRADER, Mr. POSEY, Mr. SUOZZI, Mr. HARDER of California, Ms. SPANBERGER, Mr. GONZALEZ of Texas, and Mrs. RODGERS of Washington) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the continuation of an executive emergency declaration under the National Emergencies Act absent approval by Congress.

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 “Guarding Congres-
5 sional Authority Act”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 Whereas historical declarations of national emer-
3 gencies set a precedent of “governing by national emer-
4 gency” without approval from Congress;

5 Whereas courts have a limited role with respect to
6 challenges to Federal law;

7 Whereas Congress has failed to guard its own appro-
8 priations authority and has thereby endowed executives
9 with more unchecked power and undedicated funds;

10 Whereas Congress has mistakenly given the executive
11 historically unrestrained authority through the National
12 Emergencies Act of 1976;

13 Whereas the National Emergencies Act has offered
14 the executive billions of dollars without clear conditions
15 that Congress is endowed with the necessary authority to
16 prescribe;

17 Whereas Congress intends to assert its constitutional
18 authority and protect the checks the body was intended
19 to place on the executive branch of government; now there-
20 fore

21 It is the sense of Congress that any executive action
22 issued by the President before, on, or after the date of
23 enactment of this Act that infringes on the powers and
24 duties of Congress under section 8 and section 9 of article
25 I of the Constitution of the United States, or that would
26 require the expenditure of Federal funds not specifically

1 appropriated for the purpose of the executive action, is
2 advisory only and has no force or effect unless enacted
3 as law.

4 **SEC. 3. DEFINITION OF EXECUTIVE ACTION.**

5 In this Act, the term “executive action” includes an
6 Executive order, memoranda, proclamation, or signing
7 statement.

8 **SEC. 4. DEADLINE FOR CONGRESSIONAL APPROVAL.**

9 The President must terminate the executive declara-
10 tion of a national emergency under the National Emer-
11 gencies Act after 60 days unless Congress (1) has affirma-
12 tively authorized the action; or (2) has extended the time
13 period by law.

14 Once the President has issued a national emergency
15 declaration under the National Emergencies Act a resolu-
16 tion affirmatively authorizing the action and/or extending
17 the time period shall be the first legislative item consid-
18 ered by the respective bodies with all other legislative ac-
19 tion suspended until such resolution is voted upon by the
20 body.

21 **SEC. 5. VITIATION OF EFFECT OF EXECUTIVE ACTION.**

22 Any proposed executive action that infringes on the
23 powers and duties of Congress under section 8 and section
24 9 of article I of the Constitution of the United States shall
25 have no force or effect.

1 **SEC. 6. PROHIBITION AGAINST USE OF FUNDS FOR CER-**
2 **TAIN PURPOSES.**

3 No funds appropriated pursuant to any provision of
4 law may be used to promulgate or enforce any proposed
5 executive action that infringes on the powers and duties
6 of Congress under section 8 and section 9 of article I of
7 the Constitution of the United States.

8 **SEC. 7. STANDING TO CHALLENGE EXECUTIVE ACTION.**

9 A civil action may be brought in an appropriate dis-
10 trict court of the United States to challenge the validity
11 of any proposed executive action which infringes on the
12 powers and duties of Congress under section 8 and section
13 9 of article I of the Constitution of the United States by
14 the following persons:

15 (1) CONGRESS AND ITS MEMBERS.—Any Mem-
16 ber of the House of Representatives or the Senate,
17 or either or both chambers acting pursuant to vote,
18 if the challenged executive action—

19 (A) infringes on the powers and duties of
20 Congress under article I, section 8 and section
21 9 of the Constitution of the United States.

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