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112TH CONGRESS
2D SESSION

S. 3360

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

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2012

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Read the Bills Act''.

SEC. 2. CONSTITUTIONAL AUTHORITY STATEMENT.

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

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

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

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

(b) STANDING PROVISION.—The provision of this Act under which any person who is aggrieved by the enforcement of any law enacted either in violation of the rules of proceedings of either House of Congress, or by the suspension of such rules, as prescribed herein, shall have standing in a court of law, is pursuant to article III, section 2 of the Constitution of the United States.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Constitution of the United States vests all legislative powers granted therein in Congress and Members of the Senate and House of Representatives are elected by the people to whom each Member is accountable to represent the people of the

State and of the District in the exercise of each Member's legislative powers.

(2) As a Government of enumerated powers, article I, section 1 of the Constitution of the United States obliges Congress to exercise only those legislative powers set forth in the Constitution of the United States, and article VI of the Constitution of the United States requires of each member of Congress an oath or affirmation to support the Constitution of the United States by enacting only those laws, and making only those resolutions that are pursuant to the Constitution of the United States and not prohibited thereby.

(3) To the end that Congress be politically and legally accountable to the people, article I, section 5 of the Constitution of the United States requires each House of Congress to keep a journal of its proceedings and from time to time publish the same.

(4) To the end that no legislation be passed without effective representation of the people's interest by the elected Members of Congress, article I, section 7 of the Constitution of the United States states that only those Bills ''which shall have passed the House of Representatives and the Senate,'' and not vetoed by the President, ''shall become'' laws.

(5) According to section I of Thomas Jefferson's 1812 Manual of Parliamentary Practice for the Use of the Senate of the United States (in this section referred to as ''Jefferson's Manual''), ''nothing tended more to throw power into the hands of administration and those who acted with the majority . . . than a neglect of, or departure from, the rules of proceeding [which] operated as a check and control of the actions of the majority [and] a shelter and protection to the minority.''.

(6) According to sections XXII and XL of Jefferson's Manual, it was the rule of the Senate that every bill receive 3 readings, 2 full readings by the Clerk of the Senate, and a third reading of the title of the bill only in that ''every member of the Senate had a printed copy [of the bill] in his hand.''.

(7) According to sections XXIV, XXV, and XL of Jefferson's Manual, it was the rule of the House of Representatives, following the parliamentary procedure of the English House of Commons, that every bill received 2 full readings by the Clerk of the House, and a reading of the whole contents of the bill verbatim by the Speaker of the House before the House voted on each bill.

(8) Under current Senate rules, the Senate has departed from its original practice of a full first and second reading of each bill, and of ensuring that each Senator has a printed or other verbatim copy of each bill before passage thereof, having by rule XIV of the Standing Rules of the Senate limited each reading of a bill to the reading of the bill's title only, unless the Senate in any case shall otherwise order.

(9) Under current rules for the House of Representatives, the House of Representatives has by Rule XVI (8) and Rule XVIII (5) embraced its original practice of full first and second readings of each bill, but has regularly departed from this practice by unanimous consent of the House, and has dispensed altogether its original practice of a verbatim third reading of each bill before passage, limiting such third reading to the reading of the title only, including the reading of the title only even when members of the House have no printed or other verbatim copy of a bill before passage.

(10) Although section 106 of title 1, United States Code, requires a bill to be made available in written form to each member of Congress before final passage Congress has by statute conferred

upon itself the power, during the last 6 days of a session of Congress, by concurrent resolution, to vote for passage of a bill that is not in written form at the time of final passage.

(11) As a direct consequence of the Senate and the House of Representatives' departure from the salutary practice of full, verbatim readings of each bill before final passage, and further, as a direct consequence of Congress, by concurrent resolution and otherwise, having permitted certain appropriation, budget, and regulatory bills to be enacted into law without such bills being printed and presented to Congress in written form prior to final passage, Congress has—

(A) imposed upon the American people excessively long bills, largely written by an unelected bureaucracy, resulting in generally incomprehensible, cumbersome, oppressive, and burdensome laws, containing hidden provisions for special interests;

(B) deprived the American people and their elected Senators and Representatives of a full and fair opportunity to examine the text of bills, and all amendments thereto, prior to passage;

(C) undermined the confidence of the American people by its failure to give adequate notice to the people before a vote is taken on said bills and their amendments in the bills; and

(D) has called into question the integrity and reliability of the legislative processes in both Houses of Congress by its failure to ensure that each member of the Senate and each member of the House has, prior to passage, either listened attentively to the reading of the full text of each bill, and its amendments, or has personally read the text thereof.

(12) Federal law currently sets forth various requirements relating to the form of bills and procedure used regarding the enactment of laws, including—

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

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

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

(D) a requirement regarding the numbering sections and the requirement that each contain a single proposition (section 104 of title 1, United States Code);

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

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

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

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

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

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Any bill or resolution introduced in either House of Congress shall contain a provision citing the specific powers granted to Congress in the Constitution of the United States to

enact the proposed bill or resolution, including all the provisions thereof.

"(2) FAILURE TO COMPLY.—Any bill or resolution not in compliance with subsection (a)(1) shall not be accepted by the Clerk of the House of Representatives or the Secretary of the Senate.

"(b) FLOOR CONSIDERATION.—

"(1) IN GENERAL.—The requirements of subsection (a)(1) shall apply to any bill or resolution presented for consideration on the floor of either House of Congress, including those bills or resolutions reported from a committee of either House of Congress, produced by conference between the 2 Houses of Congress, or offered as a manager's amendment.

"(2) FAILURE TO COMPLY.—Any bill or resolution not complying with subsection (A)(i) shall not be submitted for a vote on final passage.

"(c) NO WAIVER OR MODIFICATION.—Neither House of Congress, nor Congress jointly, by concurrent resolution, or by unanimous consent, or by any other order, resolution, vote, or other means, may dispense with, or otherwise waive or modify, the requirements set forth in this section.

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

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Any bill or resolution introduced in either House of Congress, designed to amend or modify the effect of, or which would have the effect of amending or modifying the effect of, any current provision of law, including the expiration date of any law, shall set forth—

"(A) the current version of the entire section of the Act of Congress being amended, verbatim;

"(B) the amendments being proposed by the bill; and

"(C) the current section of law as it would read as modified by the amendments proposed, except that this subparagraph shall not apply to any bill or resolution which would strike the text of an entire section of an Act of Congress.

"(2) FAILURE TO COMPLY.—Any bill or resolution not complying with this subsection shall not be accepted by the Clerk of the House of Representatives or the Secretary of the Senate.

"(b) FLOOR CONSIDERATION.—

"(1) IN GENERAL.—The requirements of subsection (a)(1) shall apply to all bills or resolutions

presented for consideration on the floor of either House of Congress, including those reported from a committee of either House of Congress, produced by conference between the 2 Houses of Congress or offered as a manager's amendment.

"(2) FAILURE TO COMPLY.—Any bill or resolution not complying with this subsection shall not be submitted to a vote on final passage.

"(c) NO WAIVER OR MODIFICATION.—Neither House of Congress, nor Congress jointly, by concurrent resolution, or by unanimous consent, or by any other order, resolution, vote, or other means, may dispense with, or otherwise waive or modify, the requirements set forth in this section.

"§ 105c. Procedures prior to vote on bill or resolution

"(a) IN GENERAL.—A vote on final passage of a bill (except for private bills) or resolution may not occur in either House of Congress, unless—

"(1) the full text of the bill or resolution is published at least 7 days before the vote on an official Internet website of each House of Congress, easily available to and readily usable by the public, using an open format that is platform independent, machine readable, and available without restrictions respecting searching, retrieval, downloading, and in-

dexing, separate and apart from the calendar of the Senate or the House of Representatives;

"(2) public notice of the specific calendar week during which the vote is scheduled to take place is posted on the official Internet website described in paragraph (1) not less than 6 days before the Monday of the calendar week during which the vote is scheduled to take place, with failure to take the vote during the noticed week requiring a new notice; and

"(3) reading of its full text verbatim by the Clerk of the House of Representatives or Secretary of the Senate to the respective body of each House called to order and physically assembled with a constitutionally required quorum to do business being present throughout the time of the full textual reading of said bill, except that if a bill or resolution is enrolled by either House of Congress, for any subsequent consideration of the enrolled bill or resolution—

"(A) the full text need not be reread before the House of Congress which passed the bill; and

"(B) the full text verbatim of any amendment to the text of the enrolled bill or resolution shall be read.

"(b) AFFIDAVIT.—

"(1) IN GENERAL.—Before voting in favor of final passage of any bill (except a private bill) or resolution, a Member of the Senate and a Member of the House of Representatives shall sign an affidavit executed under penalty of perjury as provided in section 1621 of title 18, United States Code, that the Member either—

"(A) was present throughout the entire reading of each such bill or resolution, and listened attentively to such reading in its entirety;

"(B) prior to voting for passage of such bill, read attentively each such bill in its entirety; or

"(C) some combination of clause (i) or (ii).

"(2) VOTE AGAINST PASSAGE.—A Member of the Senate or a Member of the House of Representatives shall not be required to sign an affidavit described in paragraph if the Member votes against the passage of a bill or resolution.

"(3) RECORDS.—Copies of each affidavit described in paragraph (1) signed by a Member of the Senate and a Member of the House of Representatives shall be maintained by the Secretary of the

Senate and the Clerk of the House of Representatives, respectively.

"(c) JOURNAL.—With respect to each vote on final passage of a bill (except for a private bill) or resolution, each House of Congress shall cause to be recorded in the journal of its proceedings that the publishing, notice, reading, and affidavit requirements under this section have been met.

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

"§ 105d. Enforcement clause

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

"(b) CAUSE OF ACTION.—Without regard to the amount in controversy, a cause of action under sections 2201 and 2202 of title 28, United States Code, against the United States seeking appropriate relief (including an injunction against enforcement of any law, the passage of

which did not conform to the requirements of sections 105a, 105b, and 105c) may be brought by—

"(1) any person aggrieved by any action of any officer or employee in the executive branch of the Federal Government under any Act of Congress that does not comply with sections 105a, 105b, and 105c;

"(2) any Member of Congress aggrieved by the failure of the House of Congress of which the Member is a Member to comply with sections 105a, 105b, and 105c; and

"(3) any person individually aggrieved by the failure of the Senator of the State in which the aggrieved person resides or Member of the House of Representatives for the District in which the aggrieved person resides to fulfill the obligations of the Senator or Member of the House of Representatives under sections 105a, 105b, and 105c.".

SEC. 5. SEVERABILITY CLAUSE.

If any provision of this Act or an amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be invalid for any reason in any court of competent jurisdiction, the remainder of this Act and amendments made by this Act,

1 and the application of the provisions and amendment to
2 any other person or circumstance, shall not be affected.

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