

113TH CONGRESS  
1ST SESSION

# S. 188

To prevent certain individuals purportedly appointed to the National Labor Relations Board from receiving salaries, and to prevent an unconstitutional quorum of the Board from taking agency actions, until there is a final decision in pending lawsuits regarding the constitutionality of certain alleged recess appointments.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2013

Mr. BLUNT (for himself, Mr. CRUZ, Mr. LEE, Mr. SCOTT, Mr. INHOFE, Mr. ROBERTS, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To prevent certain individuals purportedly appointed to the National Labor Relations Board from receiving salaries, and to prevent an unconstitutional quorum of the Board from taking agency actions, until there is a final decision in pending lawsuits regarding the constitutionality of certain alleged recess appointments.

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 “Advice and Consent  
5 Restoration Act”.

1 **SEC. 2. NO SALARIES FOR UNCONSTITUTIONAL NLRB AP-**  
2 **POINTMENTS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-  
4 sion of law, an individual shall not receive any salary or  
5 payment for services performed as a member of the Na-  
6 tional Labor Relations Board unless the individual has  
7 been appointed—

8 (1) by and with the advice and consent of the  
9 Senate, in accordance with clause 2 of section 2 of  
10 article II of the United States Constitution; or

11 (2) appointed appropriately in accordance with  
12 clause 3 of section 2 of article II of the United  
13 States Constitution.

14 (b) EFFECTIVE DATE.—This section shall take effect  
15 on the first day of the first applicable pay period beginning  
16 on or after the date of enactment of this Act.

17 **SEC. 3. PROHIBITING NLRB ACTIONS OR DECISIONS.**

18 (a) IN GENERAL.—Notwithstanding any other provi-  
19 sion of law, an unconstitutional quorum of the National  
20 Labor Relations Board shall not convene or take any agen-  
21 cy action, as defined in section 551 of title 5, United  
22 States Code, and including any determination, hearing, in-  
23 vestigation, direction of election, certification, order, rule,  
24 regulation, or review of any determination, until the date  
25 on which final judgment is entered in all cases challenging  
26 the constitutionality of the purported appointment of indi-

1 viduals to such Board that are pending before a Federal  
2 court on the date of enactment of this Act.

3 (b) DEFINITION.—In this section, the term “uncon-  
4 stitutional quorum” means a quorum of the National  
5 Labor Relations Board that includes one or more individ-  
6 uals who were purportedly appointed to the Board and  
7 who are the subject of a cause of action relating to such  
8 purported appointment that is pending before a Federal  
9 court on the date of enactment of this Act.

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