

117TH CONGRESS
1ST SESSION

S. 2727

To provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2021

Mr. LANKFORD (for himself, Ms. HASSAN, Ms. ERNST, Mr. JOHNSON, Mr. BRAUN, Mr. SCOTT of Florida, Mr. DAINES, Mr. KING, Mr. SASSE, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations.

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 “Prevent Government
5 Shutdowns Act of 2021”.

1 **SEC. 2. AUTOMATIC CONTINUING APPROPRIATIONS.**

2 (a) IN GENERAL.—Chapter 13 of title 31, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 1311. Automatic continuing appropriations**

6 “(a)(1)(A) On and after the first day of each fiscal
7 year, if an appropriation Act for such fiscal year with re-
8 spect to the account for a program, project, or activity
9 has not been enacted and continuing appropriations are
10 not in effect with respect to the program, project, or activ-
11 ity, there are appropriated such sums as may be necessary
12 to continue, at the rate for operations specified in sub-
13 paragraph (C), the program, project, or activity if funds
14 were provided for the program, project, or activity during
15 the preceding fiscal year.

16 “(B)(i) Appropriations and funds made available and
17 authority granted under subparagraph (A) shall be avail-
18 able for a period of 14 days.

19 “(ii) If, at the end of the first 14-day period during
20 which appropriations and funds are made available and
21 authority is granted under subparagraph (A), and the end
22 of every 14-day period thereafter, an appropriation Act for
23 such fiscal year with respect to the account for a program,
24 project, or activity has not been enacted and continuing
25 appropriations are not in effect with respect to the pro-
26 gram, project, or activity under a provision of law other

1 than subparagraph (A), the appropriations and funds
 2 made available and authority granted under subparagraph
 3 (A) during the 14-day period shall be extended for an ad-
 4 ditional 14-day period.

5 “(C)(i) Except as provided in clause (ii), the rate for
 6 operations specified in this subparagraph with respect to
 7 a program, project, or activity is the rate for operations
 8 for the preceding fiscal year for the program, project, or
 9 activity—

10 “(I) provided in the corresponding appropria-
 11 tion Act for such preceding fiscal year;

12 “(II) if the corresponding appropriation bill for
 13 such preceding fiscal year was not enacted, provided
 14 in the law providing continuing appropriations for
 15 such preceding fiscal year; or

16 “(III) if the corresponding appropriation bill
 17 and a law providing continuing appropriations for
 18 such preceding fiscal year were not enacted, pro-
 19 vided under this section for such preceding fiscal
 20 year.

21 “(ii) For entitlements and other mandatory payments
 22 whose budget authority was provided for the previous fis-
 23 cal year in appropriations Acts, under a law other than
 24 this section providing continuing appropriations for such
 25 previous year, or under this section, and for activities

1 under the Food and Nutrition Act of 2008, appropriations
2 and funds made available during a fiscal year under this
3 section shall be at the rate necessary to maintain program
4 levels under current law, under the authority and condi-
5 tions provided in the applicable appropriations Act.

6 “(2) Appropriations and funds made available, and
7 authority granted, for any fiscal year pursuant to this sec-
8 tion for a program, project, or activity shall be available,
9 in accordance with paragraph (1)(B), for the period—

10 “(A) beginning on the first day of any lapse in
11 appropriations during such fiscal year; and

12 “(B) ending on the date of enactment of an ap-
13 propriation Act for such fiscal year with respect to
14 the account for such program, project, or activity
15 (whether or not such Act provides appropriations for
16 such program, project, or activity) or a law making
17 continuing appropriations for the program, project,
18 or activity, as applicable.

19 “(3) Notwithstanding section 251(a)(1) of the Bal-
20 anced Budget and Emergency Deficit Control Act of 1985
21 (2 U.S.C. 901(a)(1)) and the timetable in section 254(a)
22 of such Act (2 U.S.C. 904(a)), for any fiscal year for
23 which appropriations and funds are made available under
24 this section, the final sequestration report for such fiscal
25 year pursuant to section 254(f)(1) of such Act (2 U.S.C.

1 904(f)(1)) and any order for such fiscal year pursuant to
2 section 254(f)(5) of such Act (2 U.S.C. 901(f)(5)) shall
3 be issued—

4 “(A) for the Congressional Budget Office, 10
5 days after the date on which appropriation Acts pro-
6 viding funding for the entire Federal Government
7 through the end of such fiscal year have been en-
8 acted; and

9 “(B) for the Office of Management and Budget,
10 15 days after the date on which appropriation Acts
11 providing funding for the entire Federal Government
12 through the end of such fiscal year have been en-
13 acted.

14 “(b) An appropriation or funds made available, or au-
15 thority granted, for a program, project, or activity for any
16 fiscal year pursuant to this section shall be subject to the
17 terms and conditions imposed with respect to the appro-
18 priation made or funds made available for the preceding
19 fiscal year, or authority granted for such program, project,
20 or activity under current law.

21 “(c) Expenditures made for a program, project, or
22 activity for any fiscal year pursuant to this section shall
23 be charged to the applicable appropriation, fund, or au-
24 thorization whenever an appropriation Act for such fiscal
25 year with respect to the account for a program, project,

1 or activity or a law making continuing appropriations until
 2 the end of such fiscal year for such program, project, or
 3 activity is enacted.

4 “(d) This section shall not apply to a program,
 5 project, or activity during a fiscal year if any other provi-
 6 sion of law (other than an authorization of appropria-
 7 tions)—

8 “(1) makes an appropriation, makes funds
 9 available, or grants authority for such program,
 10 project, or activity to continue for such period; or

11 “(2) specifically provides that no appropriation
 12 shall be made, no funds shall be made available, or
 13 no authority shall be granted for such program,
 14 project, or activity to continue for such period.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
 16 for chapter 13 of title 31, United States Code, is amended
 17 by adding at the end the following:

“1311. Automatic continuing appropriations.”.

18 **SEC. 3. TIMELY ENACTMENT OF APPROPRIATION ACTS.**

19 (a) DEFINITIONS.—In this section—

20 (1) the term “covered officer or employee”
 21 means—

22 (A) an officer or employee of the Office of
 23 Management and Budget;

24 (B) a Member of Congress; or

1 (C) an employee of the personal office of a
2 Member of Congress, a committee of either
3 House of Congress, or a joint committee of
4 Congress;

5 (2) the term “covered period”—

6 (A) means any period of automatic con-
7 tinuing appropriations; and

8 (B) with respect to the legislative branch—

9 (i) does not include any period of
10 automatic continuing appropriations that
11 occurs during the period—

12 (I) beginning at the time at
13 which general appropriations Acts
14 providing funding for the entire Fed-
15 eral Government (including an appro-
16 priation Act providing continuing
17 funding) have been enacted or passed
18 in identical form by both Houses and
19 transmitted to Secretary of the Senate
20 or Clerk of the House for enrollment
21 and presentment to the President for
22 his signature; and

23 (II) ending at the time at which
24 1 or more general appropriations
25 Acts—

1 (aa) are vetoed by the Presi-
2 dent; or

3 (bb) do not become law
4 without the President's signature
5 under article I, section 7 of the
6 Constitution of the United States
7 based on an adjournment of the
8 Congress; and

9 (ii) includes any period of automatic
10 continuing appropriations that is not a pe-
11 riod described in clause (i) and that follows
12 a veto or a failure to become law (as de-
13 scribed in item (bb) of clause (i)(II)) of 1
14 or more general appropriations Acts;

15 (3) the term "Member of Congress" has the
16 meaning given that term in section 2106 of title 5,
17 United States Code;

18 (4) the term "National Capital Region" has the
19 meaning given that term in section 8702 of title 40,
20 United States Code; and

21 (5) the term "period of automatic continuing
22 appropriations" means a period during which auto-
23 matic continuing appropriations under section 1311
24 of title 31, United States Code, as added by section

2 of this Act, are in effect with respect to 1 or more programs, projects, or activities.

(b) LIMITS ON TRAVEL EXPENDITURES.—

(1) LIMITS ON OFFICIAL TRAVEL.—

(A) LIMITATION.—Except as provided in subparagraph (B), during a covered period no amounts may be obligated or expended for official travel by a covered officer or employee.

(B) EXCEPTIONS.—

(i) RETURN TO DC.—If a covered officer or employee is away from the seat of Government on the date on which a covered period begins, funds may be obligated and expended for official travel for a single return trip to the seat of Government by the covered officer or employee.

(ii) TRAVEL IN NATIONAL CAPITAL REGION.—During a covered period, amounts may be obligated and expended for official travel by a covered officer or employee from one location in the National Capital Region to another location in the National Capital Region.

(iii) NATIONAL SECURITY EVENTS.—During a covered period, if a national se-

1 curity event that triggers a continuity of
 2 operations or continuity of Government
 3 protocol occurs, amounts may be obligated
 4 and expended for official travel by a cov-
 5 ered officer or employee for any official
 6 travel relating to responding to the na-
 7 tional security event or implementing the
 8 continuity of operations or continuity of
 9 Government protocol.

10 (2) RESTRICTION ON USE OF CAMPAIGN
 11 FUNDS.—Section 313 of the Federal Election Cam-
 12 paign Act of 1971 (52 U.S.C. 30114) is amended—

13 (A) in subsection (a)(2), by striking “for
 14 ordinary” and inserting “except as provided in
 15 subsection (d), for ordinary”; and

16 (B) by adding at the end the following:

17 “(d) RESTRICTION ON USE OF CAMPAIGN FUNDS
 18 FOR OFFICIAL TRAVEL DURING AUTOMATIC CONTINUING
 19 APPROPRIATIONS.—

20 “(1) IN GENERAL.—Except as provided in para-
 21 graph (2), during a covered period (as defined in
 22 section 3 of the Prevent Government Shutdowns Act
 23 of 2021), a contribution or donation described in
 24 subsection (a) may not be obligated or expended for

1 travel in connection with duties of the individual as
2 a holder of Federal office.

3 “(2) RETURN TO DC.—If the individual is away
4 from the seat of Government on the date on which
5 a covered period (as so defined) begins, a contribu-
6 tion or donation described in subsection (a) may be
7 obligated and expended for travel by the individual
8 to return to the seat of Government.”.

9 (c) PROCEDURES IN THE SENATE AND HOUSE OF
10 REPRESENTATIVES.—

11 (1) IN GENERAL.—During a covered period, in
12 the Senate and the House of Representatives—

13 (A) it shall not be in order to move to pro-
14 ceed to any matter except for—

15 (i) a measure making appropriations
16 for the fiscal year during which the covered
17 period begins;

18 (ii) any motion required to determine
19 the presence of or produce a quorum; or

20 (iii) on and after the 30th calendar
21 day after the first day of a covered pe-
22 riod—

23 (I) the nomination of an indi-
24 vidual—

1 (aa) to a position at level I
2 of the Executive Schedule under
3 section 5312 of title 5 of the
4 United States Code; or

5 (bb) to serve as Chief Jus-
6 tice of the United States or an
7 Associate Justice of the Supreme
8 Court of the United States; or

9 (II) a measure extending the pe-
10 riod during which a program, project,
11 or activity is authorized to be carried
12 out (without substantive change to the
13 program, project, or activity or any
14 other program, project, or activity)
15 if—

16 (aa) an appropriation Act
17 with respect to the program,
18 project, or activity for the fiscal
19 year during which the covered pe-
20 riod occurs has not been enacted;
21 and

22 (bb) the program, project, or
23 activity has expired since the be-
24 ginning of such fiscal year or will
25 expire during the 30-day period

1 beginning on the date of the mo-
2 tion;

3 (B) it shall not be in order to move to re-
4 cess or adjourn for a period of more than 23
5 hours; and

6 (C) at noon each day, or immediately fol-
7 lowing any constructive convening of the Senate
8 under rule IV, paragraph 2 of the Standing
9 Rules of the Senate, the Presiding Officer shall
10 direct the clerk to determine whether a quorum
11 is present.

12 (2) WAIVER.—

13 (A) LIMITATION ON PERIOD.—It shall not
14 be in order in the Senate or the House of Rep-
15 resentatives to move to waive any provision of
16 paragraph (1) for a period that is longer than
17 7 days.

18 (B) SUPERMAJORITY VOTE.—A provision
19 of paragraph (1) may only be waived or sus-
20 pended upon an affirmative vote of two-thirds
21 of the Members of the applicable House of Con-
22 gress, duly chosen and sworn.

23 (d) MOTION TO PROCEED TO APPROPRIATIONS.—

24 (1) IN GENERAL.—On and after the 30th cal-
25 endar day after the first day of each fiscal year, if

1 an appropriation Act for such fiscal year with re-
2 spect to a program, project, or activity has not been
3 enacted, it shall be in order in the Senate, notwith-
4 standing rule XXII or any pending executive meas-
5 ure or matter, to move to proceed to any appropria-
6 tions bill or joint resolution for the program, project,
7 or activity that has been sponsored and cosponsored
8 by not less than 3 Senators who are members of or
9 caucus with the party in the majority in the Senate
10 and not less than 3 Senators who are members of
11 or caucus with the party in the minority in the Sen-
12 ate.

13 (2) CONSIDERATION.—For a bill or joint reso-
14 lution described in paragraph (1)—

15 (A) the bill or joint resolution may be con-
16 sidered the same day as it is introduced and
17 shall not have to lie over 1 day; and

18 (B) the motion to proceed to the bill or
19 joint resolution shall be debatable for not to ex-
20 ceed 6 hours, equally divided between the pro-
21 ponents and opponents of the motion, and upon
22 the use or yielding back of time, the Senate
23 shall vote on the motion to proceed.

1 **SEC. 4. BUDGETARY EFFECTS.**

2 (a) CLASSIFICATION OF BUDGETARY EFFECTS.—

3 The budgetary effects of this Act and the amendments
4 made by this Act shall be estimated as if this Act and
5 the amendments made by this Act are discretionary appro-
6 priations Acts for purposes of section 251 of the Balanced
7 Budget and Emergency Deficit Control Act of 1985 (2
8 U.S.C. 900 et seq.).

9 (b) BASELINE.—For purposes of calculating the
10 baseline under section 257 of the Balanced Budget and
11 Emergency Deficit Control Act of 1985 (2 U.S.C. 907),
12 the provision of budgetary resources under section 1311
13 of title 31, United States Code, as added by this Act, for
14 an account shall be considered to be a continuing appro-
15 priation in effect for such account for less than the entire
16 current year.

17 (c) ENFORCEMENT OF DISCRETIONARY SPENDING
18 LIMITS.—For purposes of enforcing the discretionary
19 spending limits under section 251(a) of the Balanced
20 Budget and Emergency Deficit Control Act of 1985 (2
21 U.S.C. 901(a)), the budgetary resources made available
22 under section 1311 of title 31, United States Code, as
23 added by this Act, shall be considered part-year appropria-
24 tions for purposes of section 251(a)(4) of the Balanced
25 Budget and Emergency Deficit Control Act of 1985 (2
26 U.S.C. 901(a)(4)).

1 **SEC. 5. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on September 30, 2021.

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