

118TH CONGRESS  
1ST SESSION

# S. 718

To establish the Federal Rainy Day Fund to control emergency spending.

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IN THE SENATE OF THE UNITED STATES

MARCH 8, 2023

Mr. BRAUN introduced the following bill; which was read twice and referred  
to the Committee on the Budget

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## A BILL

To establish the Federal Rainy Day Fund to control  
emergency spending.

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. LIMITATIONS ON EMERGENCY SPENDING.**

4 (a) DEFINITIONS.—In this section—

5 (1) the term “discretionary spending limit” has  
6 the meaning given that term in section 250(c) of the  
7 Balanced Budget and Emergency Deficit Control  
8 Act of 1985 (2 U.S.C. 900(e));

9 (2) the term “emergency” means any occasion  
10 or instance for which Federal assistance is needed to  
11 supplement State and local efforts and capabilities

1 to save lives and to protect property and public  
2 health and safety, or to lessen or avert the threat of  
3 a catastrophe in any part of the United States;

4 (3) the term “Fund” means the Federal Rainy  
5 Day Fund established under subsection (c)(1); and

6 (4) the term “previous year’s nonemergency  
7 discretionary spending” means the amount of the  
8 discretionary spending limit for all categories for the  
9 most recent previous fiscal year for which there was  
10 a discretionary spending limit, excluding any adjust-  
11 ment for the fiscal year for amounts designated as  
12 being for an emergency requirement under section  
13 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
14 gency Deficit Control Act of 1985 (2 U.S.C.  
15 901(b)(2)(A)(i)), as in effect on the day before the  
16 date of enactment of this Act.

17 (b) SENSE OF THE SENATE.—It is the sense of the  
18 Senate that saving for a rainy day should be accompanied  
19 by offsets in other programs so that the Federal Govern-  
20 ment does not live beyond its means.

21 (c) FEDERAL RAINY DAY FUND.—

22 (1) ESTABLISHMENT.—There is established in  
23 the Treasury an account to be known as the “Fed-  
24 eral Rainy Day Fund”.

1           (2) FUNDING.—For fiscal year 2024 and each  
2 fiscal year thereafter, there is authorized to be ap-  
3 propriated to the Fund an amount equal to 2 per-  
4 cent of the amount of previous year’s nonemergency  
5 discretionary spending.

6           (3) AVAILABILITY.—Amounts in the Fund shall  
7 remain available until expended, in accordance with  
8 subsection (d).

9           (d) USE OF FEDERAL RAINY DAY FUND.—

10           (1) PROHIBITION ON USING FEDERAL RAINY  
11 DAY FUND FOR NONEMERGENCIES.—

12           (A) POINT OF ORDER AGAINST USE FOR  
13 NONEMERGENCIES.—

14           (i) IN GENERAL.—In the Senate, it  
15 shall not be in order to consider a provi-  
16 sion in a bill, joint resolution, motion,  
17 amendment, amendment between the  
18 Houses, or conference report that appro-  
19 priates funds from the Federal Rainy Day  
20 Fund for any program, project, or activity  
21 that is not an emergency.

22           (ii) POINT OF ORDER SUSTAINED.—If  
23 a point of order is made by a Senator  
24 against a provision described in clause (i),  
25 and the point of order is sustained by the

1           Chair, that provision shall be stricken from  
2           the measure and may not be offered as an  
3           amendment from the floor.

4           (B) FORM OF THE POINT OF ORDER.—A  
5           point of order under subparagraph (A)(i) may  
6           be raised by a Senator as provided in section  
7           313(e) of the Congressional Budget Act of  
8           1974 (2 U.S.C. 644(e)).

9           (C) CONFERENCE REPORTS.—When the  
10          Senate is considering a conference report on, or  
11          an amendment between the Houses in relation  
12          to, a bill or joint resolution, upon a point of  
13          order being made by any Senator pursuant to  
14          subparagraph (A)(i), and such point of order  
15          being sustained, such material contained in  
16          such conference report or House amendment  
17          shall be stricken, and the Senate shall proceed  
18          to consider the question of whether the Senate  
19          shall recede from its amendment and concur  
20          with a further amendment, or concur in the  
21          House amendment with a further amendment,  
22          as the case may be, which further amendment  
23          shall consist of only that portion of the con-  
24          ference report or House amendment, as the  
25          case may be, not so stricken. Any such motion

1 in the Senate shall be debatable. In any case in  
2 which such point of order is sustained against  
3 a conference report (or Senate amendment de-  
4 rived from such conference report by operation  
5 of this subparagraph), no further amendment  
6 shall be in order.

7 (D) NO WAIVER OR SUSPENSION.—In the  
8 Senate, it shall not be in order to move to waive  
9 or suspend subparagraph (A).

10 (2) USE OF FEDERAL RAINY DAY FUND  
11 FIRST.—

12 (A) POINT OF ORDER AGAINST REGULAR  
13 APPROPRIATIONS FOR EMERGENCIES.—

14 (i) IN GENERAL.—In the Senate, it  
15 shall not be in order to consider a provi-  
16 sion in a bill, joint resolution, motion,  
17 amendment, amendment between the  
18 Houses, or conference report that appro-  
19 priates funds from the General Fund of  
20 the Treasury for an emergency, unless  
21 there are no unobligated funds in the Fed-  
22 eral Rainy Day Fund.

23 (ii) POINT OF ORDER SUSTAINED.—If  
24 a point of order is made by a Senator  
25 against a provision described in clause (i),

1           and the point of order is sustained by the  
2           Chair, that provision shall be stricken from  
3           the measure and may not be offered as an  
4           amendment from the floor.

5           (B) FORM OF THE POINT OF ORDER.—A  
6           point of order under subparagraph (A)(i) may  
7           be raised by a Senator as provided in section  
8           313(e) of the Congressional Budget Act of  
9           1974 (2 U.S.C. 644(e)).

10          (C) CONFERENCE REPORTS.—When the  
11          Senate is considering a conference report on, or  
12          an amendment between the Houses in relation  
13          to, a bill or joint resolution, upon a point of  
14          order being made by any Senator pursuant to  
15          subparagraph (A)(i), and such point of order  
16          being sustained, such material contained in  
17          such conference report or House amendment  
18          shall be stricken, and the Senate shall proceed  
19          to consider the question of whether the Senate  
20          shall recede from its amendment and concur  
21          with a further amendment, or concur in the  
22          House amendment with a further amendment,  
23          as the case may be, which further amendment  
24          shall consist of only that portion of the con-  
25          ference report or House amendment, as the

1 case may be, not so stricken. Any such motion  
2 in the Senate shall be debatable. In any case in  
3 which such point of order is sustained against  
4 a conference report (or Senate amendment de-  
5 rived from such conference report by operation  
6 of this subparagraph), no further amendment  
7 shall be in order.

8 (D) NO WAIVER OR SUSPENSION.—In the  
9 Senate, it shall not be in order to move to waive  
10 or suspend subparagraph (A).

11 (3) POINT OF ORDER AGAINST EMERGENCY  
12 SPENDING.—Section 314 of the Congressional Budg-  
13 et Act of 1974 (2 U.S.C. 645) is amended—

14 (A) in subsection (d)—

15 (i) in paragraph (1), by striking “con-  
16 tains a provision providing new budget au-  
17 thority and outlays or reducing revenue,  
18 and a designation of such provision as an  
19 emergency requirement pursuant to  
20 251(b)(2)(A) of the Balanced Budget and  
21 Emergency Deficit Control Act of 1985”  
22 and inserting “contains an appropriation  
23 from the Federal Rainy Day Fund for an  
24 emergency (as defined in section \_\_\_\_ of  
25 the \_\_\_\_\_ Act)”; and

1 (ii) in paragraph (2)(A), by striking  
 2 “a designation” and inserting “an appro-  
 3 priation”; and

4 (B) in subsection (e)—

5 (i) in the subsection heading, by strik-  
 6 ing “DESIGNATION” and inserting “AP-  
 7 PROPRIATION”;

8 (ii) in paragraph (1), by striking “an  
 9 emergency designation in that measure,  
 10 that provision making such a designation”  
 11 and inserting “a provision containing an  
 12 appropriation from the Federal Rainy Day  
 13 Fund for an emergency (as defined in sec-  
 14 tion \_\_\_\_ of the \_\_\_\_\_ Act, that provi-  
 15 sion”;

16 (iii) in paragraph (2), by striking  
 17 “three-fifths” each place it appears and in-  
 18 serting “two-thirds”;

19 (iv) by striking paragraph (3); and

20 (v) by redesignating paragraphs (4)  
 21 and (5) as paragraphs (3) and (4), respec-  
 22 tively.

23 (e) INCREASED THRESHOLD FOR ALLOCATION  
 24 POINTS OF ORDER.—Notwithstanding section 904 of the



1 Congressional Budget Act of 1974 (2 U.S.C. 621 note),  
2 in the Senate—

3 (1) section 302(f) of the Congressional Budget  
4 Act of 1974 (2 U.S.C. 633(f)) may only be waived  
5 or suspended upon the affirmative vote of two-thirds  
6 of the Members, duly chosen and sworn; and

7 (2) an appeal of the ruling of the Chair on a  
8 point of order raised under section 302(f) of the  
9 Congressional Budget Act of 1974 (2 U.S.C. 633(f))  
10 shall only be sustained upon the affirmative vote of  
11 two-thirds of the Members, duly chosen and sworn.

12 (f) GAO STUDY.—The Comptroller General of the  
13 United States shall submit to Congress a report assessing  
14 the relationship between emergency, disaster, and wildfire  
15 spending, which shall include recommendations, if any, to  
16 modify the spending that qualifies as emergency spending.

17 (g) REPEAL OF ADJUSTMENT FOR EMERGENCY  
18 SPENDING.—Section 251(b)(2)(A) of the Balanced Budg-  
19 et and Emergency Deficit Control Act of 1985 (2 U.S.C.  
20 901(b)(2)(A)) is amended—

21 (1) in the subparagraph heading, by striking  
22 “EMERGENCY APPROPRIATIONS; OVERSEAS” and in-  
23 serting “OVERSEAS”;

1           (2) by striking “that—” and all that follows  
2 through “(ii) the Congress” and inserting “that the  
3 Congress”;

4           (3) by striking “designates,” and all that fol-  
5 lows through “the adjustment” and inserting “des-  
6 ignates, the adjustment”; and

7           (4) by striking “designated as emergency re-  
8 quirements or for” and inserting “designated for”.

9           (h) EFFECTIVE DATE.—This section and the amend-  
10 ments made by this section shall—

11           (1) take effect on the date of enactment of this  
12 Act; and

13           (2) apply with respect to fiscal year 2024 and  
14 each fiscal year thereafter.

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