

118TH CONGRESS  
1ST SESSION

# S. 135

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

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

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## 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 2023”.

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 the Secretary of the  
20 Senate or Clerk of the House for en-  
21 rollment and presentment to the  
22 President for 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



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

3       (b) LIMITS ON TRAVEL EXPENDITURES.—

4           (1) LIMITS ON OFFICIAL TRAVEL.—

5               (A) LIMITATION.—Except as provided in  
6               subparagraph (B), no amounts may be obli-  
7               gated or expended for official travel by a cov-  
8               ered officer or employee during a covered pe-  
9               riod.

10           (B) EXCEPTIONS.—

11               (i) RETURN TO DC.—If a covered offi-  
12               cer or employee is away from the seat of  
13               Government on the date on which a cov-  
14               ered period begins, funds may be obligated  
15               and expended for official travel for a single  
16               return trip to the seat of Government by  
17               the covered officer or employee.

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

1 (iii) NATIONAL SECURITY EVENTS.—  
 2 During a covered period, if a national se-  
 3 curity event that triggers a continuity of  
 4 operations or continuity of Government  
 5 protocol occurs, amounts may be obligated  
 6 and expended for official travel by a cov-  
 7 ered officer or employee for any official  
 8 travel relating to responding to the na-  
 9 tional security event or implementing the  
 10 continuity of operations or continuity of  
 11 Government protocol.

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

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

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

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

22 “(1) IN GENERAL.—Except as provided in para-  
 23 graph (2), during a covered period (as defined in  
 24 section 3 of the Prevent Government Shutdowns Act  
 25 of 2023), a contribution or donation described in

1 subsection (a) may not be obligated or expended for  
 2 travel in connection with duties of the individual as  
 3 a holder of Federal office.

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

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

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

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

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

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

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

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

1 (aa) to a position at level I  
2 of the Executive Schedule under  
3 section 5312 of title 5, United  
4 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, 2023.

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