

117TH CONGRESS
1ST SESSION

S. 1392

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

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2021

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

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(c));

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 2021 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

case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subparagraph), no further amendment shall be in order.

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

(3) POINT OF ORDER AGAINST EMERGENCY SPENDING.—Section 314 of the Congressional Budget Act of 1974 (2 U.S.C. 645) is amended—

(A) in subsection (d)—

(i) in paragraph (1), by striking “contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985” and inserting “contains an appropriation from the Federal Rainy Day Fund for an emergency (as defined in section ____ of 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) GAO STUDY.—The Comptroller General of the
 24 United States shall submit to Congress a report assessing
 25 the relationship between emergency, disaster, and wildfire

1 spending, which shall include recommendations, if any, to
 2 modify the spending that qualifies as emergency spending.

3 (f) REPEAL OF ADJUSTMENT FOR EMERGENCY
 4 SPENDING.—Section 251(b)(2)(A) of the Balanced Budg-
 5 et and Emergency Deficit Control Act of 1985 (2 U.S.C.
 6 901(b)(2)(A)) is amended—

7 (1) in the subparagraph heading, by striking
 8 “EMERGENCY APPROPRIATIONS; OVERSEAS” and in-
 9 serting “OVERSEAS”;

10 (2) by striking “that—” and all that follows
 11 through “(ii) the Congress” and inserting “that the
 12 Congress”;

13 (3) by striking “designates,” and all that fol-
 14 lows through “the adjustment” and inserting “des-
 15 ignates, the adjustment”; and

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

18 (g) EFFECTIVE DATE.—This section and the amend-
 19 ments made by this section shall—

20 (1) take effect on the date of enactment of this
 21 Act; and

22 (2) apply with respect to fiscal year 2021 and
 23 each fiscal year thereafter.

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