

Calendar No. 267

119TH CONGRESS
1ST SESSION**S. 3168**

To appropriate funds for pay and allowances of Federal employees, contract employees, and members of the Armed Forces during a lapse in appropriations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2025

Mr. JOHNSON (for himself, Mr. COTTON, Mr. CRAPO, Mr. LANKFORD, Mr. RISCH, Mr. SULLIVAN, and Mr. SCOTT of Florida) introduced the following bill; which was read the first time

NOVEMBER 10, 2025

Read the second time and placed on the calendar

A BILL

To appropriate funds for pay and allowances of Federal employees, contract employees, and members of the Armed Forces during a lapse in appropriations, and for other purposes.

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 “Shutdown Fairness
5 Act”.

1 **SEC. 2. APPROPRIATIONS.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “agency”—

4 (A) means each authority of the executive,
5 legislative, or judicial branch of the Government
6 of the United States; and

7 (B) includes each element of the District
8 of Columbia public employer, as defined in sec-
9 tion 1341(c) of title 31, United States Code;

10 (2) the term “contractor” includes a contractor
11 at any tier;

12 (3) the term “covered contract employee”, with
13 respect to a contractor of an agency—

14 (A) means an employee of the contractor
15 who—

16 (i) provides support to an employee
17 described in paragraph (4)(A); and

18 (ii) is required to perform work dur-
19 ing a lapse in regular appropriations with
20 respect to the agency to which the em-
21 ployee of the contractor provides support,
22 as determined by the head of that agency;
23 and

24 (B) only includes an individual described in
25 subparagraph (A) who was an employee of a
26 contractor on, or had accepted an offer of em-

1 ployment with the contractor on or before, the
2 day before the date on which the applicable
3 lapse in regular appropriations began;

4 (4) the term “covered employee”—

5 (A) means each employee of an agency,
6 without regard to whether, during the period
7 beginning on October 1, 2025, and ending on
8 the date of enactment of this Act—

9 (i) the head of that agency determined
10 that the individual was an excepted em-
11 ployee or an employee performing emer-
12 gency work; or

13 (ii) the individual was subject to fur-
14 lough;

15 (B) includes—

16 (i) a covered individual contractor of
17 an agency;

18 (ii) a member of the Armed Forces on
19 active duty; and

20 (iii) a member of a reserve component
21 who, during a lapse in regular appropria-
22 tions with respect to the applicable agency,
23 performs active service or inactive duty
24 training; and

1 (C) only includes an individual described in
2 subparagraph (A) or (B) who was an employee,
3 contractor, or member on, or had accepted an
4 offer of employment with the agency, agreed to
5 become a contractor of the agency, or had en-
6 listed in or accepted an appointment to the
7 Armed Forces (including a reserve component)
8 on or before, the day before the date on which
9 the applicable lapse in regular appropriations
10 began;

11 (5) the term “covered individual contractor”,
12 with respect to an agency, means an individual who
13 is a contractor of the agency who—

14 (A) provides support to an employee de-
15 scribed in paragraph (4)(A); and

16 (B) is required to perform work during a
17 lapse in regular appropriations with respect to
18 the agency to which the individual provides sup-
19 port, as determined by the head of that agency;

20 (6) the term “lapse in regular appropriations”,
21 with respect to an agency, means any period during
22 which interim or full-year appropriations for the ap-
23 plicable fiscal year are not in effect for the agency;
24 and

1 (7) the term “standard employee compensa-
2 tion” means, with respect to a covered employee or
3 covered contract employee, the standard rate of
4 basic pay, allowances, pay differentials, benefits, and
5 other payments otherwise payable on a regular basis
6 to the covered employee or covered contract em-
7 ployee.

8 (b) APPROPRIATIONS.—

9 (1) IN GENERAL.—For fiscal year 2026, and
10 any fiscal year thereafter, for any lapse in regular
11 appropriations with respect to an agency, there are
12 appropriated to the head of the agency, out of any
13 money in the Treasury not otherwise appropriated,
14 such sums as are necessary to provide—

15 (A) standard employee compensation to
16 covered employees of the agency with respect to
17 the period of the lapse in regular appropria-
18 tions; and

19 (B) payment to contractors of the agency
20 to be used by the contractors to provide stand-
21 ard employee compensation to covered contract
22 employees of the contractor.

23 (2) AGENCY REQUIREMENT.—The head of each
24 agency to whom amounts are made available under

1 paragraph (1) shall provide standard employee com-
2 pensation to covered employees of the agency—

3 (A) with respect to the period beginning on
4 October 1, 2025, and ending on the date of en-
5 actment of this Act, as soon as is practicable,
6 but not later than 7 days after the date of en-
7 actment of this Act, without regard to—

8 (i) scheduled pay dates; or

9 (ii) whether the covered employee was
10 subject to furlough during such period; and

11 (B) with respect to any period of a lapse
12 in regular appropriations beginning on or after
13 the date of enactment of this Act, on the regu-
14 larly scheduled pay dates of the covered employ-
15 ees.

16 (c) TERMINATION.—Appropriations and funds made
17 available and authority granted under subsection (b) shall
18 be available to the head of an agency until whichever of
19 the following first occurs:

20 (1) The enactment into law of appropriations
21 for the agency until the end of the applicable fiscal
22 year (including a continuing appropriation) that pro-
23 vide amounts for the purposes for which amounts
24 are made available under subsection (b).

1 (2) The enactment into law of appropriations
2 for the agency until the end of the applicable fiscal
3 year (including a continuing appropriation) without
4 any appropriation for such purposes.

5 (d) LIMITATION TO INDIVIDUALS AFFECTED BY A
6 SHUTDOWN.—Amounts provided under subsection (b)
7 may not be used to provide standard employee compensa-
8 tion to a covered employee, or to provide payment to a
9 contractor of the agency to provide standard employee
10 compensation to a covered contract employee of the con-
11 tractor, for any portion of a lapse in regular appropria-
12 tions for which the covered employee is provided with
13 standard employee compensation, or contractor is provided
14 payment to provide standard employee compensation to
15 covered contract employees of the contractor, respectively,
16 using amounts other than amounts provided under sub-
17 section (b).

18 (e) INTERIM CONTINUING APPROPRIATIONS.—Ap-
19 propriations made available under subsection (b) may not
20 be obligated by the head of an agency during any period
21 during which continuing appropriations for the purposes
22 for which amounts are made available under subsection
23 (b) are in effect for the agency.

24 (f) CHARGING TO FUTURE APPROPRIATIONS.—Ex-
25 penditures made pursuant to subsection (b) shall be

1 charged to the applicable appropriation, fund, or author-
2 ization whenever an Act in which such applicable appro-
3 priation, fund, or authorization is included is enacted into
4 law.

5 (g) LIMITATION ON TRANSFER AUTHORITY.—Not-
6 withstanding any other provision of law (including any ap-
7 propriation Act), the amounts provided under subsection
8 (b)—

9 (1) shall be available solely to provide standard
10 employee compensation to covered employees and to
11 provide payment to contractors of the agency to be
12 used by the contractors to provide standard em-
13 ployee compensation to covered contract employees
14 of the contractors; and

15 (2) may not be transferred, reprogrammed, ob-
16 ligated, or expended for any other purpose.

17 (h) TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—For fiscal year 2027, and
19 each fiscal year thereafter, standard employee com-
20 pensation, and payments to contractors, provided by
21 an agency using amounts provided under subsection
22 (b) shall be subject to the requirements, authorities,
23 conditions, and limitations applicable with respect to
24 the provision of standard employee compensation, or
25 payment to contractors, respectively, by the agency

1 under the Act that provided appropriations for the
2 agency to provide standard employee compensation,
3 or payment to contractors, respectively, immediately
4 before the lapse in regular appropriations.

5 (2) FISCAL YEAR 2026.—For fiscal year 2026,
6 standard employee compensation, and payments to
7 contractors, provided by an agency using amounts
8 provided under subsection (b) shall be subject to the
9 requirements, authorities, conditions, and limitations
10 applicable with respect to the provision of standard
11 employee compensation, or payment to contractors,
12 respectively, by the agency under the Full-Year Con-
13 tinuing Appropriations and Extensions Act, 2025
14 (Public Law 119–4; 139 Stat. 9).

15 (i) AUTHORIZATION TO OBLIGATE AND EXPEND
16 FUNDS.—Funds appropriated by this Act may be obli-
17 gated and expended notwithstanding section 15 of the
18 State Department Basic Authorities Act of 1956 (22
19 U.S.C. 2680) and section 504(a)(1) of the National Secu-
20 rity Act of 1947 (50 U.S.C. 3094(a)(1)).

21 (j) RULE OF CONSTRUCTION.—This section shall be
22 construed to provide each covered employee with standard
23 employee compensation, and to authorize payment to any
24 contractor to provide standard employee compensation to
25 each covered contract employee of the contractor, without

1 regard to whether the covered employee or covered con-
2 tract employee was previously or is subject to furlough for
3 any portion of a lapse in regular appropriations, for the
4 period of the lapse in regular appropriations as if the cov-
5 ered employee or covered contract employee was per-
6 forming the duties of the covered employee or covered con-
7 tract employee during the lapse in regular appropriations.

8 (k) AGENCY ACTIVITIES.—

9 (1) IN GENERAL.—Covered employees and cov-
10 ered contract employees shall perform their typical
11 duties to the maximum extent practicable during a
12 lapse in regular appropriations.

13 (2) OTHER OBLIGATIONS OR EXPENDITURES.—

14 This section does not authorize or necessarily imply
15 that an agency or employee may incur any obliga-
16 tions or expenditures that are not explicitly author-
17 ized by this Act.

18 (l) RETROACTIVE EFFECTIVE DATE.—This Act shall
19 take effect as if enacted on September 30, 2025.

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