

117TH CONGRESS
1ST SESSION

S. 2744

To clarify the meaning of the term “emergency war funding” for purposes of determining eligible costs for such funding, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2021

Mr. LEE (for himself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on the Budget

A BILL

To clarify the meaning of the term “emergency war funding” for purposes of determining eligible costs for such funding, 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 “Restraining Emer-
5 gency War Spending Act”.

1 **SEC. 2. CLARIFICATION OF EMERGENCY WAR FUNDING**
2 **FOR PURPOSES OF DETERMINING ELIGIBLE**
3 **COSTS.**

4 (a) DEFINITION OF EMERGENCY WAR FUNDING.—
5 For purposes of determining eligible costs for emergency
6 war funding, the term “emergency war funding”—

7 (1) means a contingency operation (as defined
8 in section 101(a) of title 10, United States Code)
9 conducted by the Department of Defense that—

10 (A) is conducted in a foreign country;

11 (B) has geographical limits;

12 (C) is not longer than 60 days; and

13 (D) provides only—

14 (i) replacement of ground equipment
15 lost or damaged in conflict;

16 (ii) equipment modifications;

17 (iii) munitions;

18 (iv) replacement of aircraft lost or
19 damaged in conflict;

20 (v) military construction for short-
21 term temporary facilities;

22 (vi) direct war operations; and

23 (vii) fuel; and

24 (2) does not include any operation that provides
25 for—

26 (A) research and development; or

1 (B) training, equipment, and sustainment
2 activities for foreign military forces.

3 (b) REPORT TO BE INCLUDED IN THE PRESIDENT'S
4 BUDGET SUBMISSION TO CONGRESS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, the Sec-
7 retary of Defense and the Director of the Office of
8 Management and Budget shall submit to Congress a
9 report on the effect of the clarified definition of
10 emergency war funding under subsection (a) on the
11 process for determining eligible costs for emergency
12 war funding.

13 (2) ELEMENTS.—The report required by para-
14 graph (1) shall include the following:

15 (A) For the subsequent fiscal year, a plan
16 for transferring to the base budget any activi-
17 ties that do not meet such definition.

18 (B) For each of the subsequent five fiscal
19 years, the anticipated emergency war funding
20 based on such clarified definition.

1 **SEC. 3. POINT OF ORDER AGAINST FUNDING FOR CONTIN-**
 2 **GENCY OPERATIONS THAT DOES NOT MEET**
 3 **THE REQUIREMENTS FOR EMERGENCY WAR**
 4 **FUNDING.**

5 (a) IN GENERAL.—Title IV of the Congressional
 6 Budget Act of 1974 (2 U.S.C. 651 et seq.) is amended
 7 by adding at the end the following:

8 **“PART C—ADDITIONAL LIMITATIONS ON BUDG-**
 9 **ETARY AND APPROPRIATIONS LEGISLATION**
 10 **“SEC. 441. POINT OF ORDER AGAINST FUNDING FOR CON-**
 11 **TINGENCY OPERATIONS THAT DOES NOT**
 12 **MEET THE REQUIREMENTS FOR EMERGENCY**
 13 **WAR FUNDING.**

14 “(a) DEFINITIONS.—In this section—

15 “(1) the term ‘contingency operation’ has the
 16 meaning given that term in section 101 of title 10,
 17 United States Code; and

18 “(2) the term ‘emergency war funding’ has the
 19 meaning given that term in section 2 of the Re-
 20 straining Emergency War Spending Act.

21 “(b) POINT OF ORDER.—

22 “(1) IN GENERAL.—In the Senate, it shall not
 23 be in order to consider a provision in a bill, joint
 24 resolution, motion, amendment, amendment between
 25 the Houses, or conference report that provides new
 26 budget authority for a contingency operation, unless

1 the provision of new budget authority meets the re-
2 quirements to constitute emergency war funding.

3 “(2) POINT OF ORDER SUSTAINED.—If a point
4 of order is made by a Senator against a provision
5 described in paragraph (1), and the point of order
6 is sustained by the Chair, that provision shall be
7 stricken from the measure and may not be offered
8 as an amendment from the floor.

9 “(c) FORM OF THE POINT OF ORDER.—A point of
10 order under subsection (b)(1) may be raised by a Senator
11 as provided in section 313(e).

12 “(d) CONFERENCE REPORTS.—When the Senate is
13 considering a conference report on, or an amendment be-
14 tween the Houses in relation to, a bill or joint resolution,
15 upon a point of order being made by any Senator pursuant
16 to subsection (b)(1), and such point of order being sus-
17 tained, such material contained in such conference report
18 or House amendment shall be stricken, and the Senate
19 shall proceed to consider the question of whether the Sen-
20 ate shall recede from its amendment and concur with a
21 further amendment, or concur in the House amendment
22 with a further amendment, as the case may be, which fur-
23 ther amendment shall consist of only that portion of the
24 conference report or House amendment, as the case may
25 be, not so stricken. Any such motion in the Senate shall

1 be debatable. In any case in which such point of order
 2 is sustained against a conference report (or Senate amend-
 3 ment derived from such conference report by operation of
 4 this subsection), no further amendment shall be in order.

5 “(e) SUPERMAJORITY WAIVER AND APPEAL.—

6 “(1) WAIVER.—Subsection (b)(1) may be
 7 waived or suspended in the Senate only by an af-
 8 firmative vote of three-fifths of the Members, duly
 9 chosen and sworn.

10 “(2) APPEALS.—Debate on appeals in the Sen-
 11 ate from the decisions of the Chair relating to any
 12 provision of this section shall be equally divided be-
 13 tween, and controlled by, the appellant and the man-
 14 ager of the bill or joint resolution, as the case may
 15 be. An affirmative vote of three-fifths of the Mem-
 16 bers of the Senate, duly chosen and sworn, shall be
 17 required to sustain an appeal of the ruling of the
 18 Chair on a point of order raised under subsection
 19 (b)(1).”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—

21 The table of contents in section 1(b) of the Congressional
 22 Budget Act of 1974 is amended by inserting after the item
 23 relating to section 428 the following:

“PART C—ADDITIONAL LIMITATIONS ON BUDGETARY AND APPROPRIATIONS
LEGISLATION

“Sec. 441. Point of order against funding for contingency operations that does
not meet the requirements for emergency war funding.”.

