

118TH CONGRESS
1ST SESSION

S. 2118

To clarify the inability of the President to declare national emergencies under the National Emergencies Act, major disasters or emergencies under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and public health emergencies under the Public Health Service Act on the premise of climate change, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mrs. CAPITO (for herself, Mr. BARRASSO, Mr. SULLIVAN, Mr. WICKER, Mr. MARSHALL, Ms. LUMMIS, Mr. HOEVEN, Mr. BOOZMAN, Mr. CRAMER, and Mr. RICKETTS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To clarify the inability of the President to declare national emergencies under the National Emergencies Act, major disasters or emergencies under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and public health emergencies under the Public Health Service Act on the premise of climate change, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Real Emergencies
3 Act”.

4 **SEC. 2. CLARIFICATION OF EXECUTIVE INABILITY TO DE-**
5 **CLARE CERTAIN NATIONAL EMERGENCIES,**
6 **MAJOR DISASTERS, EMERGENCIES, AND PUB-**
7 **LIC HEALTH EMERGENCIES.**

8 (a) NATIONAL EMERGENCY.—The President may not
9 declare a national emergency under the National Emer-
10 gencies Act (50 U.S.C. 1601 et seq.) on the premise of
11 climate change.

12 (b) MAJOR DISASTER; EMERGENCY.—The President
13 may not declare a major disaster or emergency under sec-
14 tion 401 or 501, respectively, of the Robert T. Stafford
15 Disaster Relief and Emergency Assistance Act (42 U.S.C.
16 5170, 5191) on the premise of climate change.

17 (c) PUBLIC HEALTH EMERGENCY.—The President
18 may not declare a public health emergency under section
19 319 of the Public Health Service Act (42 U.S.C. 247d)
20 on the premise of climate change.

21 (d) RULE OF CONSTRUCTION.—Nothing in this Act
22 shall be construed to imply the authority of the President
23 before the date of enactment of this Act to declare, on
24 the premise of climate change—

25 (1) a national emergency under the National
26 Emergencies Act (50 U.S.C. 1601 et seq.);

1 (2) a major disaster or emergency under the
2 under section 401 or 501, respectively, of the Robert
3 T. Stafford Disaster Relief and Emergency Assist-
4 ance Act (42 U.S.C. 5170, 5191); or

5 (3) a public health emergency under section
6 319 of the Public Health Service Act (42 U.S.C.
7 247d).

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