

117TH CONGRESS  
2D SESSION

# S. 4972

To establish the Critical Munitions Acquisition Fund.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2022

Mrs. SHAHEEN (for herself, Mr. CORNYN, Mr. BLUMENTHAL, Mr. WICKER, Mr. SCOTT of Florida, Mr. KAINE, Mrs. FISCHER, Ms. DUCKWORTH, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To establish the Critical Munitions Acquisition Fund.

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 “Promoting Readiness  
5 for Overseas Contingencies and Unexpected Responses  
6 Emergencies Act” or the “PROCURE Act”.

7 **SEC. 2. CRITICAL MUNITIONS ACQUISITION FUND.**

8 (a) ESTABLISHMENT.—There shall be established in  
9 the Treasury of the United States a revolving fund to be  
10 known as the “Critical Munitions Acquisition Fund” (in  
11 this section referred to as the “Fund”).

1 (b) PURPOSE.—Amounts in the Fund shall be made  
2 available by the Secretary of Defense—

3 (1) to ensure that adequate stocks of munitions  
4 that the Secretary deems critical due to a reduction  
5 in stocks or identification as having a high use rate  
6 are available for allies and partners of the United  
7 States during the war in Ukraine and future con-  
8 flicts; and

9 (2) to finance the acquisition of critical muni-  
10 tions in advance of the transfer of such munitions  
11 to foreign countries during the war in Ukraine and  
12 future conflicts.

13 (c) ADDITIONAL AUTHORITY.—The Secretary may  
14 also use amounts made available to the Fund to keep on  
15 continuous order munitions that the Secretary deems as  
16 critical due to a reduction in current stocks or identifica-  
17 tion as having a high-use rate during the war in Ukraine  
18 or a potential high-use rate during a future conflict.

19 (d) DEPOSITS.—

20 (1) IN GENERAL.—The Fund shall consist of  
21 each of the following:

22 (A) Collections from sales made under let-  
23 ters of offer (or transfers made under the For-  
24 eign Assistance Act of 1961 (22 U.S.C. 2151 et  
25 seq.)) of munitions acquired using amounts

1 made available from the Fund pursuant to this  
2 section, representing the value of such items  
3 calculated, as applicable, in accordance with—

4 (i) subparagraph (B) or (C) of section  
5 21(a)(1) of the Arms Export Control Act  
6 (22 U.S.C. 2761(a)(1));

7 (ii) section 22 of the Arms Export  
8 Control Act (22 U.S.C. 2762); or

9 (iii) section 644(m) of the Foreign As-  
10 sistance Act of 1961 (22 U.S.C. 2403(m)).

11 (B) Such amounts as may be appropriated  
12 pursuant to the authorization under this section  
13 or otherwise made available for the purposes of  
14 the Fund.

15 (C) Not more than \$500,000,000 may be  
16 transferred to the Fund for any fiscal year, in  
17 accordance with subsection (e), from amounts  
18 authorized to be appropriated for the Depart-  
19 ment in such amounts as the Secretary deter-  
20 mines necessary to carry out the purposes of  
21 this section, which shall remain available until  
22 expended. The transfer authority provided  
23 under this subparagraph is in addition to any  
24 other transfer authority available to the Sec-  
25 retary.

1           (2) CONTRIBUTIONS FROM FOREIGN GOVERN-  
2           MENTS.—

3           (A) IN GENERAL.—Subject to subpara-  
4           graph (B), the Secretary of Defense may accept  
5           contributions of amounts to the Fund from any  
6           foreign entity, foreign government, or inter-  
7           national organization. Any amounts so accepted  
8           shall be credited to the Critical Munitions Ac-  
9           quisition Fund and shall be available for use as  
10          authorized under subsection (b).

11          (B) LIMITATION.—The Secretary may not  
12          accept a contribution under this paragraph if  
13          the acceptance of the contribution would com-  
14          promise, or appear to compromise, the integrity  
15          of any program of the Department of Defense.

16          (C) NOTIFICATION.—If the Secretary ac-  
17          cepts any contribution under this paragraph,  
18          the Secretary shall notify the congressional de-  
19          fense committees, the Committee on Foreign  
20          Relations of the Senate, and the Committee on  
21          Foreign Affairs of the House of Representa-  
22          tives. The notice shall specify the source and  
23          amount of any contribution so accepted and the  
24          use of any amount so accepted.

25          (e) NOTICE AND WAIT REQUIREMENTS.—

1           (1) IN GENERAL.—No amount may be trans-  
2           ferred pursuant to subsection (d)(1)(C) until the  
3           date that is 15 days after the date on which the Sec-  
4           retary notifies the congressional defense committees  
5           in writing of the amount and purpose of the pro-  
6           posed transfer.

7           (2) AMMUNITION PURCHASES.—No amounts in  
8           the Fund may be used to purchase ammunition, as  
9           authorized by this Act, until the date that is 15 days  
10          after the date on which the Secretary notifies the  
11          congressional defense committees in writing of the  
12          amount and purpose of the proposed purchase.

13          (3) FOREIGN TRANSFERS.—No munition pur-  
14          chased using amounts in the Fund may be trans-  
15          ferred to a foreign country until the date that is 15  
16          days after the date on which the Secretary notifies  
17          the congressional defense committees in writing of  
18          the proposed transfer.

19          (f) LIMITATION.—No munition acquired by the Sec-  
20          retary of Defense using amounts made available from the  
21          Fund pursuant to this section may be transferred to any  
22          foreign country unless such transfer is authorized by the  
23          Arms Export Control Act (22 U.S.C. 2751 et seq.), the  
24          Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.),  
25          or other applicable law, except as follows:

1           (1) The Secretary of Defense may authorize the  
2 use by the Department of Defense of munitions ac-  
3 quired under this section prior to transfer to a for-  
4 eign country, if such use is necessary to meet na-  
5 tional defense requirements and the Department  
6 bear the costs of replacement and transport, mainte-  
7 nance, storage, and other such associated costs of  
8 such munitions.

9           (2) Except as required by paragraph (1),  
10 amounts made available to the Fund may be used to  
11 pay for storage, maintenance, and other costs re-  
12 lated to the storage, preservation, and preparation  
13 for transfer of munitions acquired under this section  
14 prior to their transfer, and the administrative costs  
15 of the Department of Defense incurred in the acqui-  
16 sition of such items, to the extent such costs are not  
17 eligible for reimbursement pursuant to section 43(b)  
18 of the Arms Export Control Act (22 U.S.C.  
19 2792(b)).

20           (g) TERMINATION.—The authority for the Fund  
21 under this section shall expire on December 31, 2024.

22           (h) SEMIANNUAL REPORT.—

23           (1) IN GENERAL.—Not later than 180 days  
24 after the date of the enactment of this Act, and  
25 every 180 days thereafter, the Secretary of Defense

1 shall submit to the congressional defense commit-  
2 tees, the Committee on Foreign Relations of the  
3 Senate, and the Committee on Foreign Affairs of the  
4 House of Representatives a report on the use of the  
5 Fund.

6 (2) ELEMENTS.—The report required under  
7 paragraph (1) shall include—

8 (A) an accounting of all inlays and out-  
9 flows in the Fund;

10 (B) a list of munitions procured by type,  
11 make, model, and quantity, together with a jus-  
12 tification for the procurement;

13 (C) an assessment of the status of muni-  
14 tions procured to include munitions in produc-  
15 tion, those placed in stockpile, and those set  
16 aside or transferred to a non-Federal govern-  
17 ment entity;

18 (D) an updated list of munitions des-  
19 ignated consistent with subsection (b), along  
20 with a justifications for munitions designated  
21 and estimated procurement quantity objectives;  
22 and

23 (E) any other matters the Secretary deter-  
24 mines appropriate.

1           (3) FORM.—The report required under para-  
2           graph (1) shall be submitted to Congress in an un-  
3           classified form without any additional disseminations  
4           controls, but may include a classified or otherwise  
5           restricted annex as necessary.

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