

AMENDMENT TO RULES COMMITTEE PRINT 117–

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OFFERED BY MR. SMITH OF WASHINGTON

At the end of title XVII, insert the following:

1 **SEC. 17 ____ . UKRAINE CRITICAL MUNITIONS ACQUISITION**

2 **FUND.**

3 (a) **ESTABLISHMENT.**—There shall be established in
4 the Treasury of the United States a revolving fund to be
5 known as the “Ukraine Critical Munitions Acquisition
6 Fund” (in this section referred to as the “Fund”).

7 (b) **PURPOSE.**—Subject to the availability of appro-
8 priations, amounts in the Fund shall be made available
9 by the Secretary of Defense—

10 (1) to ensure that adequate stocks of critical
11 munitions are available for allies and partners of the
12 United States during the war in Ukraine; and

13 (2) to finance the acquisition of critical muni-
14 tions in advance of the transfer of such munitions
15 to foreign countries during the war in Ukraine.

16 (c) **ADDITIONAL AUTHORITY.**—Subject to the avail-
17 ability of appropriations, the Secretary may also use
18 amounts made available to the Fund—

1 (1) to keep on continuous order munitions that
2 the Secretary deems as critical due to a reduction in
3 current stocks as a result of the drawdown of stocks
4 provided to the government of Ukraine for transfer
5 to Ukraine; or

6 (2) with the concurrence of the Secretary of
7 State, to procure munitions identified as having a
8 high use rate during the war in Ukraine.

9 (d) DEPOSITS.—

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

12 (A) Collections from sales made under let-
13 ters of offer (or transfers made under the For-
14 eign Assistance Act of 1961 (22 U.S.C. 2151 et
15 seq.)) of munitions acquired using amounts
16 made available from the Fund pursuant to this
17 section, representing the value of such items
18 calculated, as applicable, in accordance with—

19 (i) subparagraph (B) or (C) of section
20 21(a)(1) of the Arms Export Control Act
21 (22 U.S.C. 2761(a)(1);

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

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

1 (B) Such amounts as may be appropriated
2 pursuant to the authorization under this section
3 or otherwise made available for the purposes of
4 the Fund.

5 (C) Not more than \$500,000,000 may be
6 transferred to the Fund for any fiscal year, in
7 accordance with subsection (e), from amounts
8 authorized to be appropriated by this Act for
9 the Department in such amounts as the Sec-
10 retary determines necessary to carry out the
11 purposes of this section, which shall remain
12 available until expended. The transfer authority
13 provided by this paragraph is in addition to any
14 other transfer authority available to the Sec-
15 retary.

16 (2) CONTRIBUTIONS FROM FOREIGN GOVERN-
17 MENTS.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B), the Secretary of Defense may accept
20 contributions of amounts to the Fund from any
21 foreign government or international organiza-
22 tion. Any amounts so accepted shall be credited
23 to the Ukraine Critical Munitions Acquisition
24 Fund and shall be available for use as author-
25 ized under subsection (b).

1 (B) LIMITATION.—The Secretary may not
2 accept a contribution under this paragraph if
3 the acceptance of the contribution would com-
4 promise, or appear to compromise, the integrity
5 of any program of the Department of Defense.

6 (C) NOTIFICATION.—If the Secretary ac-
7 cepts any contribution under this paragraph,
8 the Secretary shall notify the congressional de-
9 fense committees, the Committee on Foreign
10 Relations of the Senate, and the Committee on
11 Foreign Affairs of the House of Representa-
12 tives. Such notice shall specify the source and
13 amount of any contribution so accepted and the
14 use of any amount so accepted.

15 (e) NOTIFICATION.—

16 (1) IN GENERAL.—No amount may be trans-
17 ferred pursuant to subsection (d)(1)(C) until the
18 date that is 15 days after the date on which the Sec-
19 retary provides to the congressional defense commit-
20 tees, the Committee on Foreign Affairs of the House
21 of Representatives, and the Committee on Foreign
22 Relations of the Senate—

23 (A) notice in writing of the amount and
24 purpose of the proposed transfer; and

1 (B) a description of how the Secretary in-
2 tends to use the munitions acquired under this
3 section to meet national defense requirements
4 as specified in subsection (f)(1)(A).

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

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

17 (f) LIMITATIONS.—

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

1 (A) The Secretary of Defense, with the
2 concurrence of the Secretary of State, may au-
3 thorize the use by the Department of Defense
4 of munitions acquired under this section prior
5 to transfer to a foreign country, if such use is
6 necessary to meet national defense require-
7 ments and the Department bear the costs of re-
8 placement and transport, maintenance, storage,
9 and other such associated costs of such muni-
10 tions.

11 (B) Except as required by subparagraph
12 (A), amounts made available to the Fund may
13 be used to pay for storage, maintenance, and
14 other costs related to the storage, preservation
15 and preparation for transfer of munitions ac-
16 quired under this section prior to their transfer,
17 and the administrative costs of the Department
18 of Defense incurred in the acquisition of such
19 items, to the extent such costs are not eligible
20 for reimbursement pursuant to section 43(b) of
21 the Arms Export Control Act (22 U.S.C.
22 2792(b)).

23 (2) CERTIFICATION REQUIREMENT.—

1 (A) IN GENERAL.—No amounts in the
2 Fund may be used pursuant to this section un-
3 less the President—

4 (i) certifies to the congressional de-
5 fense committees, the Committee on For-
6 eign Affairs of the House of Representa-
7 tives, and the Committee on Foreign Rela-
8 tions of the Senate that the Special De-
9 fense Acquisition Fund established pursu-
10 ant to chapter 5 of the Arms Export Con-
11 trol Act (22 U.S.C. 2795 et seq.) cannot
12 be used to fulfill the same functions and
13 objectives for which such amounts to be
14 made available from the Fund are to be
15 used; and

16 (ii) includes in such certification a
17 justification therefor, which may be in-
18 cluded in a classified annex, if necessary.

19 (B) NON-DELEGATION.—The President
20 may not delegate any responsibility of the
21 President under subparagraph (A).

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

