

1 **SEC. __. AUTHORITY TO REPLACE AND CONSOLIDATE FACILITIES IN**
2 **FAILING CONDITION ON SIMILAR BASIS TO AUTHORITY TO**
3 **REPLACE DAMAGED OR DESTROYED FACILITIES.**

4 (a) EXPANSION OF AUTHORITY.—Subsection (a) of section 2854 of title 10, United States
5 Code, is amended to read as follows:

6 “(a) AUTHORITY.—

7 “(1) REPLACEMENT OF DAMAGED OR DESTROYED FACILITIES.—Subject to
8 subsection (b), the Secretary concerned may replace a facility under the Secretary’s
9 jurisdiction that has been damaged or destroyed.

10 “(2) REPLACEMENT OF FAILING FACILITIES.—Subject to subsection (b), the
11 Secretary concerned may replace a facility under the Secretary’s jurisdiction that the
12 Secretary determines is a failing facility.

13 “(3) CONSOLIDATION.—When there are two or more facilities under the
14 jurisdiction of the Secretary concerned each of which has been damaged or destroyed or
15 been determined by the Secretary to be a failing facility, the Secretary may carry out a
16 single replacement project for those facilities under this subsection that consolidates
17 those facilities in a single new facility.

18 “(4) DEMOLITION.—A military construction project for a replacement facility
19 under this subsection may include demolition of damaged, destroyed, or failing
20 facilities.”.

21 (b) CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR CERTAIN REPLACEMENT
22 PROJECTS.—Subsection (b) of such section is amended—

1 (1) by inserting “CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR REPLACEMENT
2 PROJECTS IN AMOUNT GREATER THAN MAXIMUM AMOUNT FOR UNSPECIFIED MINOR
3 CONSTRUCTION PROJECTS.—” after “(b)”;

4 (2) by striking “carry out construction” and inserting “carry out a military
5 construction project”;

6 (3) by striking “repair, restoration, or replacement” and inserting “project”; and

7 (4) by striking “for a minor construction project” and inserting “for an unspecified
8 minor construction project”.

9 (c) DAMAGED OR DESTROYED FACILITY REPLACEMENT PROJECTS .—Subsection (c) of
10 such section is amended—

11 (1) by inserting “USE OF OPERATION AND MAINTENANCE FUNDS FOR DAMAGED OR
12 DESTROYED FACILITY REPLACEMENT PROJECTS.—” after “(c)”;

13 (2) in paragraph (1)—

14 (A) by striking “subsection (a)” and inserting “subsection (a)(1)”;

15 (B) by striking “replacement” each place it appears;

16 (C) by striking “maintenance if—” and all that follows through “(B) the
17 Secretary” and inserting “maintenance if the Secretary”; and

18 (D) by redesignating clauses (i), (ii), (iii), and (iv) as subparagraphs (A),
19 (B), (C), and (D), respectively, and realigning those subparagraphs 2 ems to the
20 left; and

21 (3) in paragraph (2), by striking “A replacement project under this subsection”
22 and inserting “A project under paragraph (1)”.

1 (d) REPLACEMENT PROJECTS FOR FAILING FACILITIES.—Such section is further
2 amended—

3 (1) by redesignating paragraph (3) of subsection (c) as subsection (e); and

4 (2) by inserting after subsection (c) the following new subsection (d):

5 “(d) USE OF OPERATION AND MAINTENANCE FUNDS FOR FAILING FACILITY REPLACEMENT
6 PROJECTS.—

7 “(1) AUTHORITY.—In using the authority described in subsection (a)(2) to carry
8 out a military construction project to replace a failing facility or multiple failing facilities,
9 the Secretary concerned may use appropriations available for operation and maintenance.

10 “(2) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—A replacement project under
11 paragraph (1) may be carried out only after the end of the 7-day period beginning on the
12 date on which the Secretary submits to the appropriate committees of Congress in an
13 electronic medium pursuant to section 480 of this title a notification of the decision to
14 carry out the project. The Secretary shall include with each such notification the
15 following:

16 “(A) The current estimate of the cost of the project.

17 “(B) The source of funds for the project.

18 “(C) The justification for carrying out the project under subsection
19 (a)(2).”.

20 (e) ANNUAL LIMITATION ON USE OF O&M FUNDS MADE APPLICABLE TO EACH ARMED
21 FORCE.—Subsection (e) of such section, as redesignated by subsection (d)(1) of this section, is
22 amended—

- 1 (1) by inserting “MAXIMUM ANNUAL AMOUNT OF O&M FUNDS FOR
2 REPLACEMENT PROJECTS.—” after “(e)”;
3 (2) by inserting “per armed force” after “and maintenance”;
4 (3) by striking “replacement projects” and inserting “projects carried out”; and
5 (4) by striking “this subsection” and inserting “subsections (c) and (d)”.

6 (f) DEFINITIONS.—

7 (1) NEW SUBSECTION.—Such section is further amended by adding at the end the
8 following new subsection:

9 “(f) DEFINITIONS.—In this section:

10 “(1) FACILITY.—The term ‘facility’ includes a family housing facility.

11 “(2) FAILING FACILITY.—The term ‘failing facility’ means a facility whose
12 condition has so degraded as to create a high likelihood of disruption of the facility’s
13 essential functions.”.

14 (2) CONFORMING AMENDMENT.—Subsection (c)(1) of such section is amended by
15 striking “, including a family housing facility,”.

16 (g) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

17 “§2854. Replacement of damaged, destroyed, or failing facilities”.

**[Note: The “Changes to Existing Law” section below sets out in red-line format
how the legislative text would amend existing law.]**

Section-by-Section Analysis

This proposal would amend the authority for replacement of damaged and destroyed facilities authorized in the current version of section 2854 of title 10 and provides the Department of Defense (DoD) with a new tool to meet dynamic mission demands by *recapitalizing existing facilities for existing missions* through replacement of economically unrepairable or functionally failing facilities. The authority would allow replacement of a facility using funds available for

operation and maintenance when replacement is more cost-effective than repairing old, decrepit, outmoded inventory.

The niche of facilities that would be eligible under this new replacement authority is bounded by the following constraints:

- 1) Replacing the facility is more cost effective than repairing the facility
- 2) The replacement facility supports an existing mission
- 3) There is an annual cap of \$300,000,000 per armed force to use this authority
- 4) These projects must be approved by the Secretary concerned
- 5) The appropriate congressional committees must be notified of the approval of these projects
- 6) Carrying out the project is subject to a 7-day wait after notifying committees (a wait period is not a requirement for a notified repair project)

In addition to overall savings to the operation and maintenance account through the replacement and demolition of failing facilities, other benefits include optimized physical plant, facilities consolidation, improved operational effectiveness, timely fulfillment of dynamic mission requirements, enhanced facility operations, and reduced temporary facilities or leased space. The cost savings enables these already-stretched funds to be used on other unfunded priorities.

Section 2802 of title 10 provides DoD the authority to carry out military construction (MILCON) projects as are authorized by law. However, with many more MILCON requirements than can be currently budgeted and specifically authorized, the timelines of the MILCON legislative cycle are not responsive to rapidly evolving and dynamic mission requirements. Further, priorities of the MILCON program properly have a primary focus on new missions and combatant command (command authority) requirements. Most of the prioritized MILCON requirements for budget authorization *can only be met with new construction*, meaning repairing existing facilities to meet new mission requirements is not a beneficial option.

Under section 2811 of title 10, the Department has the authority to carry out extensive facility repairs using funds available for operation and maintenance. With many new-construction-only mission requirements in the MILCON queue, other facility requirements that have a repair alternative end up executed as repair projects, even though repair of existing facilities is often economically and operationally sub-optimal compared to replacement of the facility.

The Department cannot use section 2811 repair authority to replace facilities. However, there are many times when complete facility replacement is more economically beneficial than repairing, especially where the facility or multiple facilities are failing. Whole-facility *repair* of failing facilities to meet dynamic current mission demands is often costlier and less operationally effective than replacing the facilities. This proposal would only apply to those instances—when replacement is more beneficial and efficient than repair.

Section 2854 of title 10 currently provides the authority to replace a facility which has been damaged or destroyed using either funds available for MILCON or available for operation and maintenance. This proposal would amend section 2854 to allow replacement of failing facilities, including consolidation of two or more failing facilities under the jurisdiction of a Secretary,

using funds available for operation and maintenance in cases *when it is more economically beneficial* to replace facilities than to repair them. It would specifically apply to buildings that *would have otherwise been repaired* to meet mission requirements, but where replacement or consolidation is *more economically beneficial* than repairing. Replacement of facilities will always be more operationally effective than repaired facilities (new facilities can be better optimized than renovating old and outdated facilities). This authority enables a tool for meeting mission demands while eliminating antiquated inventory, furthering facility modernization, reducing life cycle costs, and reducing inventory square footage.

This proposal takes a limited approach to replacing facilities and does not circumvent congressional oversight. Realistically, as described above, these requirements will never be specified MILCON projects. The proposal includes congressional notice and 7 day wait requirements to ensure appropriate congressional oversight. Without the proposed authority, more expensive and frequent repair projects will occur under section 2811 of title 10. With the proposed limited facility replacement authority under section 2854, DoD can realize meeting mission demands with economically and operationally optimal facilities.

This proposal would use existing restoration and modernization dollars to effectively and efficiently recapitalize failing inventory. It would enable DoD to meet mission requirements within existing inventory and budgets, provides true recapitalization for a portion of the inventory, and enables more effective use of taxpayer dollars.

Funds to be used under the proposed expanded authority under section 2854 are the *same* dollars that otherwise would have been used to carry out more expensive and less effective repairs of the *same* facilities being replaced or consolidated. Projects planned and budgeted to be executed as repair projects using funds available for operation and maintenance can instead be executed as replacement projects using those same budgeted dollars at reduced cost. DoD has a significant facility repair requirement backlog, so any savings realized from use of the proposed authority will enable DoD to execute repair projects that may otherwise remain unfunded while the facilities continue to degrade.

Estimated projected savings in some cases:

- up-front cost reduction--12%-45%
- long-term (25 years) operation and maintenance reduction--20%-35%
- square footage reduction--20%-33%

The cost savings will enable existing budgeted dollars to go further toward tackling sustainment, restoration, and modernization backlog.

Vignettes to Replace Existing Inventory vs Renovate													
Location	Project	Up-Front Cost				25-Year Ops, Mx, & Repair				Square Footage			
		Repair (\$M)	Replace (\$M)	Delta (savings) (\$M)	% Delta (savings)	Repair (\$M)	Replace (\$M)	Delta (savings) (\$M)	% Delta (savings)	Repair	Replace	Delta (reduce)	% Delta
Wright-Patterson	Consolidate Wing Functions into Renovated VOQs	\$48.40	\$26.30	\$22.10	45.66%	\$7.80	\$5.20	\$2.60	33.33%	84,100	56,200	27,900	33%
Hill	Renovate 1960s dorms for Depot Software Maintenance	\$17.80	\$14.30	\$3.50	19.66%	\$6.25	\$5.00	\$1.25	20.00%	53,200	42,560	10,640	20%
Fairchild	Renovate/Sustain Civil Engineering Ops Complex	\$56.50	\$48.00	\$8.50	15.04%	\$14.06	\$10.56	\$3.50	24.89%	173,000	130,000	43,000	25%
Eglin	Consolidate Mission Support - Demo WWII Buildings	\$73.60	\$64.30	\$9.30	12.64%	\$65.80	\$43.10	\$22.70	34.50%	143,770	115,016	28,754	20%

Resource Implication: The resources impacted by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2027 President’s Budget request.

RESOURCE REQUIREMENTS (\$MILLIONS)									
	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element
FSRM	21,384	21,867	22,862	23,116	23,809	O&M		7	
MILCON	16,989	14,458	13,516	15,318	15,777	MILCON			
Total	38,373	36,415	36,378	38,434	39,587	--	--	--	--

Changes to Existing Law: This proposal would amend section 2854 of title 10, United States Code, as follows:

§2854. Restoration or replacement of damaged or destroyed Replacement of damaged, destroyed, or failing facilities

~~(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.~~

(a) AUTHORITY.—

(1) REPLACEMENT OF DAMAGED OR DESTROYED FACILITIES.—Subject to subsection (b), the Secretary concerned may replace a facility under the Secretary’s jurisdiction that has been damaged or destroyed.

(2) REPLACEMENT OF FAILING FACILITIES.—Subject to subsection (b), the Secretary concerned may replace a facility under the Secretary’s jurisdiction that the Secretary determines is a failing facility.

(3) CONSOLIDATION.—When there are two or more facilities under the jurisdiction of the Secretary concerned each of which has been damaged or destroyed or been determined by the Secretary to be a failing facility, the Secretary may carry out a single replacement project for those facilities under this subsection that consolidates those facilities in a single new facility.

(4) DEMOLITION.—A military construction project for a replacement facility under this subsection may include demolition of damaged, destroyed or failing facilities.

(b) CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR REPLACEMENT PROJECTS IN AMOUNT GREATER THAN MAXIMUM AMOUNT FOR UNSPECIFIED MINOR CONSTRUCTION

PROJECTS.—When a decision is made to carry out a military construction project under subsection (a) and the cost of the ~~repair, restoration, or replacement project~~ is greater than the maximum amount for ~~a~~ an unspecified minor construction project, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c) USE OF OPERATION AND MAINTENANCE FUNDS FOR DAMAGED OR DESTROYED FACILITY REPLACEMENT PROJECTS.—(1) In using the authority described in subsection (a)(1) to carry out a military construction project to replace a facility, ~~including a family housing facility,~~ that has been damaged or destroyed, the Secretary concerned may use appropriations available for operation and maintenance if

- ~~(A) the damage or destruction to the facility was the result of a natural disaster or a terrorism incident; and~~
- ~~(B) the Secretary submits a notification to the appropriate committees of Congress of the decision to carry out the replacement project, and includes in the notification—~~
 - ~~(i) (A) the current estimate of the cost of the replacement project;~~
 - ~~(ii) (B) the source of funds for the replacement project;~~
 - ~~(iii) (C) in the case of damage to a facility rather than destruction, a certification that the replacement project is more cost-effective than repair or restoration; and~~
 - ~~(iv) (D) a certification that deferral of the replacement project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.~~

(2) A ~~replacement project under this subsection paragraph (1)~~ may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in ~~paragraph (1) paragraph (1)(B)~~ is provided in an electronic medium pursuant to section 480 of this title.

(d) USE OF OPERATION AND MAINTENANCE FUNDS FOR FAILING FACILITY REPLACEMENT PROJECTS.—

(1) AUTHORITY.—In using the authority described in subsection (a)(2) to carry out a military construction project to replace a facility or multiple failing facilities the Secretary concerned may use appropriations available for operation and maintenance.

(2) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—A replacement project under paragraph (1) may be carried out only after the end of the 7-day period beginning on the date on which the Secretary submits to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title a notification of the decision to carry out the project. The Secretary shall include with each such notification the following:

- (A) The current estimate of the cost of the project.
- (B) The source of funds for the project
- (C) The justification for carrying out the project under subsection (a)(2).

~~(3)~~ (e) MAXIMUM ANNUAL AMOUNT OF O&M FUNDS FOR REPLACEMENT PROJECTS.—

The maximum aggregate amount that the Secretary concerned may obligate from appropriations available for operation and maintenance per armed force in any fiscal year for ~~replacement~~ projects carried out under the authority of ~~this subsection~~ subsections (c) and (d) is \$300,000,000.

(f) DEFINITIONS.—In this section:

(1) FACILITY.—The term “facility” includes a family housing facility.

(2) FAILING FACILITY.—The term “failing facility” means a facility whose condition has so degraded as to create a high likelihood of disruption of the facility’s essential functions.

1 **SEC. ____. INCLUSION OF ECONOMIC DEFENSE UNIT IN PERSONNEL**
2 **MANAGEMENT AUTHORITY TO ATTRACT EXPERTS IN**
3 **INVESTMENT AND ECONOMIC SECURITY.**

4 (a) INCLUSION OF ECONOMIC DEFENSE UNIT.—Subsection (a) of section 4092 of title 10,
5 United States Code, is amended by adding at the end the following new paragraph:

6 “(12) ECONOMIC DEFENSE UNIT.—The Director of the Economic Defense Unit
7 may carry out a program of personnel management authority provided in subsection (b)
8 in order to facilitate recruitment of eminent experts in investment and economic security
9 for the Unit.”.

10 (b) NUMBER OF AUTHORIZED POSITIONS.—Subsection (b) of such section is amended—

11 (1) in paragraph (1)—

12 (A) by striking “and” at the end at the end of subparagraph (J);

13 (B) by adding “and” at the end at the end of subparagraph (K); and

14 (C) by adding at the end the following new subparagraph:

15 “(L) in the case of the Economic Defense Unit, appoint individuals to a
16 total of not more than 33 positions in the Unit;” and

17 (2) in paragraph (2)(A), by striking “and (K)” and inserting “(K), and (L)”.

18 (c) AUTHORITY TO EXTEND TERM OF APPOINTMENT.—Subsection (c)(2) of such section is
19 amended by inserting “the Office of Strategic Capital, the Economic Defense Unit,” after “the
20 Space Development Agency,”.

21 (d) ECONOMIC DEFENSE UNIT.—Such section is further amended by adding at the end the
22 following new subsection:

1 “(e) ECONOMIC DEFENSE UNIT.—In this section, the term ‘Economic Defense Unit’
2 means an organization established by the Secretary of Defense within the Department of Defense
3 to centralize planning and oversight of economic competition, including centralizing
4 requirements generation, programming, and planning for economic competition.”.

**[Note: The “Changes to Existing Law” section below sets out in red-line format
how the legislative text would amend existing law.]**

Section-by-Section Analysis

This proposal would amend section 4092 of title 10, United States Code, to authorize the hiring of up to 33 individuals under an Administratively Determined (AD) pay schedule for the Economic Defense Unit (EDU) similar to the enhanced pay authority for the Office of Strategic Capital (OSC) and other science and technology offices. The EDU is a new organization established by the Secretary of Defense in 2026 to centralize planning and oversight of economic competition.

The proposal would also authorize the Director of EDU and Director of OSC to extend the appointments under this authority for up to two years in order to promote the efficiency of those offices. This pay authority and parity with OSC is needed to ensure that the Department can attract and retain the specialized investment and economic security expertise needed for the critical functions performed by EDU.

Currently, EDU is using individuals within OSC for investment expertise which is creating a capability shortage within that office. While the capability can be shared, the requirements put an undue burden on OSC to meet their own critical requirements. Additionally, like the science and technology field, private sector expertise in investments, capital and capital markets, economic risk management, and economic coercive leveraging drive salary ranges much higher than can be offered under current authorities. This authority would only be used for those select capabilities that enable the broader Economic Competition that enables U.S. military and economic advancement and to deny adversaries’ coercive leverage.

The global financial landscape is increasingly complex, with adversaries leveraging economic tools, such as foreign investments, market manipulation, and strategic acquisitions, to undermine national security. The EDU is focused on coordinating and executing economic competition, warfare, security, and statecraft activities to counter economic threats, such as adversarial investments and market manipulation, that jeopardize U.S. security. To counter these threats, the EDU must recruit experts in investment strategies, financial markets, and economic risk assessment. The personnel management authority would enable the EDU to offer competitive compensation and benefits to attract the highly skilled professionals needed to protect our Nation’s economic interests.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2027 President’s Budget that are impacted by this proposal. This is based upon the marginal increase in workforce cost for up to 33 EDU employees (from HQE appointments to AD appointments). Pursuant to 5 U.S.C. 5376(b) and 9903(b)(2), HQE personnel can be paid up to Executive Schedule II (currently \$228K/year for 2026). This authority would allow for AD appointments up to 150 percent of the rate of pay for the Vice President (currently, \$292.3K/year for 2026) for a total of \$438.5K/year. The difference of \$210.5K/year times 33 AD appointments would be an increase of approximately \$6.947M/year.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Civilian Personnel Costs	\$6.95	\$6.95	\$6.95	\$6.95	\$6.95	Operation and Maintenance, Defense-wide	04	Various	N/A
Total	\$6.95	\$6.95	\$6.95	\$6.95	\$6.95				

Changes to Existing Law: This proposal would amend section 4092 of title 10, United States Code, as follows:

§4092. Personnel management authority to attract experts in science, engineering, and certain other disciplines

(a) PROGRAMS AUTHORIZED.—

(1) ***

(11) OFFICE OF STRATEGIC CAPITAL.—The Director of the Office of Strategic Capital may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in finance and investment for the Office.

(12) ECONOMIC DEFENSE UNIT.—The Director of the Economic Defense Unit may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in investment and economic security for the Unit.

(b) PERSONNEL MANAGEMENT AUTHORITY.—Under a program under subsection (a), the official responsible for administration of the program may—

(1) without regard to any provision of title 5 governing the appointment of employees in the civil service—

(A) ***

(J) in the case of the Office of the Under Secretary of Defense for Research and Engineering, appoint scientists and engineers to a total of not more than 10 scientific and engineering positions in the Office; ~~and~~

(K) in the case of the Office of Strategic Capital, appoint individuals to a total of not more than 30 positions in the Office; and

(L) in the case of the Defense Economic Unit, appoint individuals to a total of not more than 33 positions in the Unit;

(2) notwithstanding any provision of title 5 governing the rates of pay or classification of employees in the executive branch, prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1)—

(A) in the case of employees appointed pursuant to subparagraphs (B), (D), (E), (H), ~~and (K)~~(K), and (L) of paragraph (1), at a rate to be determined by the head of the organization concerned up to 150 percent of the total annual compensation payable to the Vice President under section 104 of title 3;

(B) in the case of employees appointed pursuant to paragraph (1)(G), to any of 2 positions of administration or management designated by the Director of the National Geospatial-Intelligence Agency for purposes of this subparagraph; and

(C) in the case of any other employee appointed pursuant to paragraph (1), at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5;

(3) pay any employee appointed under paragraph (1), other than an employee appointed to a position designated as described in paragraph (2)(A), payments in addition to basic pay within the limit applicable to the employee under subsection (d); and

(4) during any fiscal year—

(A) pay up to 15 individuals newly appointed pursuant to paragraph (1)(B) the travel, transportation, and relocation expenses and services described under sections 5724, 5724a, and 5724c of title 5; and

(B) pay up to 15 individuals previously appointed pursuant to such paragraph, upon separation, the travel, transportation, and relocation expenses and services described under such sections (as applicable).

(c) LIMITATION ON TERM OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed four years.

(2) EXTENSION.—The official responsible for the administration of a program under subsection (a) may, in the case of a particular employee under the program, extend the period to which service is limited under paragraph (1) by up to two years if the official determines that such action is necessary to promote the efficiency of a laboratory of a military department, the Defense Advanced Research Projects Agency, the Office of Operational Test and Evaluation, the Strategic Capabilities Office, the Defense Innovation Unit, the activities under section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), the Space Development Agency, the Office of Strategic Capital, the Economic Defense Unit, or the National Geospatial Intelligence Agency, as applicable.

(d) ***

(e) ECONOMIC DEFENSE UNIT.—In this section, the term “Economic Defense Unit” means an organization established by the Secretary of Defense within the Department of Defense to centralize planning and oversight of economic competition, including centralizing requirements generation, programming, and planning for economic competition.

1 **SEC. __. MODIFICATION AND EXTENSION OF AUTHORITY TO PROVIDE**
2 **ASSISTANCE TO COUNTER THE ISLAMIC STATE OF IRAQ AND**
3 **SYRIA.**

4 (a) MODIFICATION OF AUTHORITY TO INCLUDE JORDAN AND LEBANON.—Section 1236 of
5 the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal
6 Year 2015 (Public Law 113–291), as most recently amended by section 1224 of the National
7 Defense Authorization Act for Fiscal Year 2026 (Public Law 119–60; 139 Stat. 1090), is
8 amended—

9 (1) in subsection (a)—

10 (A) in the matter preceding paragraph (1), by inserting “the Government
11 of Jordan, the Government of Lebanon, excluding forces associated with
12 Hezbollah, and” before “the Government of Iraq”;

13 (B) in paragraph (1), by striking “Iraq, its people” and inserting “Jordan,
14 Lebanon, and Iraq, their peoples”; and

15 (C) in paragraph (2), by striking “territory of Iraq” and inserting
16 “territories of Jordan, Lebanon, and Iraq”; and

17 (2) in subsection (o)(1), by inserting “the Government of Jordan, the Government
18 of Lebanon, and” before “the Government of Iraq”.

19 (b) EXTENSION OF AUTHORITIES.—Such section is further amended—

20 (1) in subsection (a), in the matter preceding paragraph (1), by striking
21 “December 31, 2026” and inserting “December 31, 2027”; and

22 (2) in subsection (n)(6), by striking “December 31, 2026” and inserting
23 “December 31, 2027”.

[Note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would extend the authority under section 1236 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Public Law 113-291) (Section 1236) to continue providing targeted support to sustain partner forces in Jordan, Lebanon, and Iraq to defeat the Islamic State of Iraq and Syria (ISIS) and help ensure that ISIS cannot reemerge or have a safe haven.

This authority continues to serve as the principal means for supporting counterterrorism and related operations “by, with, and through” vetted Government of Iraq (GoI) forces, including the Peshmerga, to achieve the enduring defeat of core ISIS in the Levant. Accounting for the reality that ISIS does not recognize national borders, it also provides the Secretary of Defense the flexibility to provide support to vetted Government of Jordan (GoJ) and Government of Lebanon (GoL) forces. The extension and modification reflect Department of Defense (DoD) requirements in the current operational environment and the continuing need to enable vetted Iraqi security forces (ISF), including Peshmerga forces, as well as to enable vetted Jordanian Armed Forces (JAF) and Lebanese Armed Forces (LAF) to ensure the defeat of ISIS and prevent its re-emergence. Continuation of this authority would also facilitate the sustainment of equipment and capabilities as DoD builds on existing security cooperation relationships efforts in Jordan and Lebanon and transitions to normal security cooperation relations with Iraq.

U.S. support for JAF, LAF, and ISF defeat-ISIS effort strengthens Jordan’s, Lebanon’s, and Iraq’s abilities to counter ISIS effectively and liberate their nations from the ISIS threat. Continuing this support will enhance the enduring strategic relationship between the United States and Jordan, Lebanon, and Iraq and help build the security relationships into the future. Support to partner forces provided under section provides, credibility to our commitment to Iraq and the enduring defeat of ISIS. The training, equipment, and operational support provided through this authority allows the GoJ, GoL, and GoI to consolidate the gains achieved against ISIS and maintain the efforts to ensure ISIS cannot resurge. Extension of the program will facilitate the security development necessary for stability in Iraq and development of the means required to deal with the evolving nature of the ISIS threat while setting the stage for normalization of our security cooperation efforts.

Our shared mission with Jordan, Lebanon, Iraq, and the Global Coalition to Defeat ISIS in the Levant is succeeding because of this program and the support of regional partners. ISIS has been defeated territorially, and Jordanian, Lebanese, and Iraqi forces are now in much stronger positions to suppress the remaining threat. To sustain our collective gains, we must continue to meet today’s threat and ensure the enduring defeat of ISIS.

Section 1236 provides the flexibility to support the evolving nature of the fight against ISIS in Jordan, Lebanon, and Iraq, ensure the defeat of ISIS, and achieve the objectives of the United States in the region. In addition, section 8034 of the Department of Defense

Appropriations Act, 2026 (division A of Public Law No. 119-75) provided additional authority and funding for Lebanon (D-ISIS *and* anti-Hezbollah) activities.

Resource Information: The table below reflects the best estimate of resources requested within the FY 2027 President’s Budget that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	Dash-1 Line Item	Program Element
CTEF	\$303	\$302	\$301	\$300	\$302	CTEF	04	4GTD0000	1002200T
Total	\$303	\$302	\$301	\$300	\$302				

Changes to Existing Law: This proposal would amend section 1236 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291) as follows:

SEC. 1236. AUTHORITY TO PROVIDE ASSISTANCE TO COUNTER THE ISLAMIC STATE OF IRAQ AND SYRIA.

(a) IN GENERAL.—The Secretary of Defense is authorized, in coordination with the Secretary of State, to provide assistance, including training, equipment, logistics support, supplies, and services, stipends, infrastructure repair and renovation, small-scale construction of temporary facilities necessary to meet urgent operational or force protection requirements with a cost less than \$6,000,000, and sustainment, to military and other security forces of or associated with the Government of Jordan, the Government of Lebanon, excluding forces of or associated with Hezbollah, and the Government of Iraq, including Kurdish and tribal security forces or other local security forces, with a national security mission, through ~~December 31, 2026~~ December 31, 2027, for the following purposes:

- (1) Defending Jordan, Lebanon, and Iraq, its people their peoples, allies, and partner nations from the threat posed by the Islamic State of Iraq and Syria (ISIS) and groups supporting ISIS.
- (2) Securing the ~~territory~~ territories of Jordan, Lebanon, and Iraq.

* * * * *

(n) WAIVER AUTHORITY.—

(1) AUTHORITY OF PRESIDENT.—The President may waive the dollar amount limitation in subsection (a) with respect to a construction, repair, or renovation project for the purposes of providing the support described in paragraph (3) if the President—

(A) determines that the waiver is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a notification of the exercise of the waiver.

(2) AUTHORITY OF SECRETARY OF DEFENSE.—

(A) IN GENERAL.—The Secretary of Defense may further adjust the total cost of a project subsequent to a waiver by the President of the dollar amount limitation in subsection (a) if—

(i) such total cost does not exceed the sum of—

(I) the cost estimate for the project as required by paragraph (4)(B)(i) that is included in the notification submitted by the President pursuant to such waiver; and

(II) the amount that is 50 percent of such cost estimate; and

(ii) the Secretary submits to the appropriate congressional committees a notification of the exercise of the adjustment.

(B) SCOPE.—The Secretary may modify the scope of a project subsequent to a waiver by the President of the dollar amount limitation in subsection (a) if the Secretary submits to the appropriate congressional committees a notification of the exercise of the modification.

(3) SUPPORT DESCRIBED.—The support described in this paragraph is support relating to temporary humane detention of Islamic State of Iraq and Syria foreign terrorist fighters in accordance with all laws and obligations relating to the provision of such support, including, as applicable—

(A) the law of armed conflict;

(B) internationally recognized human rights;

(C) the principle of non-refoulement;

(D) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984); and

(E) the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST6223)).

(4) NOTICE AND WAIT.—

(A) IN GENERAL.—A project with respect to which the exercise of a waiver under paragraph (1) applies may only be carried out after the end of a 15-day period beginning at the date on which the appropriate congressional committees receive the notification required by paragraph (1)(B). A project with respect to which the exercise of a further adjustment to the total cost of the project under paragraph (2)(A) applies or with respect to which the exercise of a modification to the scope of the project under paragraph (2)(B) applies may only be carried out after the end of a 15-day period beginning on the date on which the appropriate congressional committees receive the notification required by paragraph (2)(A) or (2)(B), as the case may be.

(B) MATTERS TO BE INCLUDED.—The notification required by paragraph (1)(B), (2)(A), or (2)(B) shall include the following:

(i) A detailed plan and cost estimate for the project.

(ii) A certification by the President that facilities and activities relating to the project comply with the laws and obligations described in paragraph (2).

(iii) An explanation of the national security interest addressed by the project.

(C) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this paragraph, the term “appropriate congressional committees” means—

(i) the congressional defense committees; and

(ii) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(5) UPDATE TO PLAN AND COST ESTIMATE.—Upon obligation of any funds to carry out a project with respect to which the exercise of a waiver under paragraph (1) applies, the Secretary of Defense shall submit to the congressional defense committees an update to the plan and cost estimate for the project as required by paragraph (3)(B)(i).

(6) SUNSET.—The waiver and other authorities under this subsection shall expire on ~~December 31, 2026~~ December 31, 2027.

(o) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section may not be used to provide assistance pursuant to subsection (a) —

(1) to entities other than a military or other security forces of or associated with the Government of Jordan, the Government of Lebanon, excluding forces of or associated with Hezbollah, and the Government of Iraq, including Kurdish and tribal security forces, or other local security forces with a national security mission;

(2) to forces associated with any other government or nation; or

(3) to Iranian-aligned militias.

* * * * *

1 **SEC. ___. MODERNIZATION OF PROTOTYPE OTHER TRANSACTION**

2 **AUTHORITY.**

3 Paragraph (1) of section 4022(d) of title 10, United States Code, is amended to read as
4 follows:

5 “(1) An official who has authority to enter into a transaction (other than a contract, grant,
6 or cooperative agreement) under the authority of this section may use such authority with respect
7 to a transaction upon determining that one or more of the following conditions is met:

8 “(A) There is at least one nontraditional defense contractor or nonprofit research
9 institution participating to a significant extent in the prototype project.

10 “(B) All significant participants in the transaction other than the Federal
11 Government are small businesses (including small businesses participating in a program
12 described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional
13 defense contractors.

14 “(C) At least one third of the total cost of the prototype project is to be paid out of
15 funds provided by sources other than the Federal Government.

16 “(D) The use of a transaction provides for innovative business arrangements or
17 structures that would not be feasible or appropriate under a contract.

18 “(E) The offering constitutes an innovative or novel product, service, process, or
19 business practice, or a novel application of commercial technologies for defense
20 purposes, that is more practicable to acquire under a transaction than under a contract.

21 “(F) The use of a transaction is expected to accelerate delivery of capability to the
22 warfighter relative to a contract.

1 “(G) The use of a transaction provides an opportunity to expand or strengthen the
2 defense industrial base in a manner that would not be practical or feasible under a
3 contract.”.

[Note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text above would amend existing law.]

Section-by-Section Analysis

This proposal would amend section 4022 of title 10, United States Code, to add an outcomes-focused “Appropriate Use” test aligned with the original purpose behind Other Transactions as a commercial instrument to the identity-based eligibility gates and mandatory cost-sharing requirements for use of Other Transactions.

The proposal would revise paragraph (1) of section 4022(d) of title 10, to add an “Appropriate Use” test while continuing the existing conditions to include nontraditional defense contractors (NDCs) and small business participants. Adding the four conditions—innovative business arrangements, novel commercial technology application, accelerated delivery, or industrial base expansion—to the existing conditions for appropriate use of an Other Transaction authority will expand the pool of contractors and suppliers. This approach aligns with the push to make the acquisition process more agile and responsive to the rapid pace of technological change by providing program managers flexibility to use Other Transactions when appropriate conditions exist. The change will encourage greater flexibility and expanded participation by the industrial base to align the authority with the Warfighting Acquisition System's priority of speed.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget. No new appropriations or obligational authority are required.

Changes to Existing Law: This proposal would amend section 4022 of title 10, United States Code, as follows:

§4022. Authority of the Department of Defense to carry out certain prototype projects

(a) AUTHORITY.—(1) Subject to paragraph (2), the Director of the Defense Advanced Research Projects Agency, the Director of the Defense Innovation Unit, the Secretary of a military department, or any other official designated by the Secretary of Defense may, under the authority of section 4021 of this title, carry out prototype projects that are directly relevant to enhancing the mission effectiveness of personnel of the Department of Defense or improving platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces.

(2) The authority of this section—

(A) may be exercised for a transaction for a prototype project that is expected to cost the Department of Defense in excess of \$100,000,000 but not in excess of \$500,000,000 (including all options) only upon a written determination by the head of the contracting activity, or, for the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or the Missile Defense Agency, the director of the agency that—

(i) the requirements of subsection (d) will be met; and

(ii) the use of the authority of this section is essential to promoting the success of the prototype project;

(B) may be exercised for a transaction for a prototype project that is expected to cost the Department of Defense in excess of \$500,000,000 (including all options) only if—

(i) the senior procurement executive for the agency as designated for the purpose of section 1702(c) of title 41, or, for the Defense Advanced Research Projects Agency, the Defense Innovation Unit, or the Missile Defense Agency, the director of the agency, determines in writing that—

(I) the requirements of subsection (d) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) the congressional defense committees are notified in writing at least 30 days before such authority is exercised; and

(C) may be exercised for a transaction for a follow-on production contract or transaction that is awarded pursuant to subsection (f) and expected to cost the Department of Defense in excess of \$100,000,000 (including all options) only if a covered official—

(i) determines in writing that—

(I) the requirements of subsection (d) were met for the prior transaction for the prototype project that provided for the award of the follow-on production contract or transaction, and the requirements of subsection (f) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) notifies the congressional defense committees in writing of the determinations required under clause (i) at the time such authority is exercised.

(3) The authority of the head of the contracting activity, director of the Defense Advanced Research Projects Agency, director of the Defense Innovation Unit, director of the Missile Defense Agency, or the senior procurement executive, as applicable, under paragraph (2) may not be delegated.

(b) EXERCISE OF AUTHORITY.—

(1) Subsection (e)(2) of such section 4021 shall not apply to projects carried out under subsection (a).

(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out the prototype projects under subsection (a).

(c) COMPTROLLER GENERAL ACCESS TO INFORMATION.—***

~~(d) APPROPRIATE USE OF AUTHORITY.—(1) The Secretary of Defense shall ensure that no official of an agency enters into a transaction (other than a contract, grant, or cooperative agreement) for a prototype project under the authority of this section unless one of the following conditions is met:~~

~~(A) There is at least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project.~~

~~(B) All significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional defense contractors.~~

~~(C) At least one third of the total cost of the prototype project is to be paid out of funds provided by sources other than the Federal Government.~~

~~(D) The senior procurement executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract, or would provide an opportunity to expand the defense supply base in a manner that would not be practical or feasible under a contract.~~

(1) An official who has authority to enter into a transaction (other than a contract, grant, or cooperative agreement) under the authority of this section may use such authority with respect to a transaction upon determining that one or more of the following conditions is met:

(A) There is at least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project.

(B) All significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional defense contractors.

(C) At least one third of the total cost of the prototype project is to be paid out of funds provided by sources other than the Federal Government.

(D) The use of a transaction provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract.

(E) The offering constitutes an innovative or novel product, service, process, or business practice, or a novel application of commercial technologies for defense purposes, that is more practicable to acquire under a transaction than under a contract.

(F) The use of a transaction is expected to accelerate delivery of capability to the warfighter relative to traditional procurement methods.

(G) The use of a transaction provides an opportunity to expand or strengthen the defense industrial base in a manner that would not be practical or feasible under a contract.

(2)(A) Except as provided in subparagraph (B), the amounts counted for the purposes of this subsection as being provided, or to be provided, by a party to a transaction with respect to a prototype project that is entered into under this section other than the Federal Government do not include costs that were incurred before the date on which the transaction becomes effective.

(B) Costs that were incurred for a prototype project by a party after the beginning of negotiations resulting in a transaction (other than a contract, grant, or cooperative agreement) with respect to the project before the date on which the transaction becomes effective may be counted for purposes of this subsection as being provided, or to be provided, by the party to the transaction if and to the extent that the official responsible for entering into the transaction determines in writing that-

(i) the party incurred the costs in anticipation of entering into the transaction; and
(ii) it was appropriate for the party to incur the costs before the transaction became effective in order to ensure the successful implementation of the transaction.

(3) The requirements of this subsection do not apply to follow-on production contracts or transactions under subsection (f).

1 **SEC. ____ . PILOT PROGRAM ON EXPANDED EDUCATIONAL CHOICE FOR**
2 **FAMILIES OF FULL-TIME, ACTIVE-DUTY MEMBERS OF THE**
3 **ARMED FORCES IN THE UNITED STATES.**

4 (a) PILOT PROGRAM.—

5 (1) IN GENERAL.—The Secretary of Defense may carry out a pilot program under
6 which the Secretary provides financial assistance to a full-time, active duty member of
7 the Armed Forces in the United States to support the choices of the member for the
8 education of a dependent of the member, including financial assistance for costs of the
9 dependent associated with—

10 (A) attending an elementary or secondary private school, faith-based
11 school, or public charter school;

12 (B) providing educational training aids to a home-schooled student; or

13 (C) other costs as determined by the Secretary.

14 (2) PURPOSES.—The purposes of the pilot program under this section are—

15 (A) to evaluate the demand, feasibility, and scalability of expanded
16 educational choice for dependents of members of the Armed Forces; and

17 (B) to assess the impact of the pilot program on military and family
18 readiness.

19 (3) DURATION OF PROGRAM.—The authority of the Secretary of Defense to carry
20 out the pilot program under this section shall terminate after the 2030-2031 school year.

21 (b) DEFINITIONS.—In this section:

22 (1) The term “dependent” means a minor individual—

23 (A) who has not completed secondary schooling, and

1 (B) who is the child, stepchild, adopted child, ward, or spouse of a
 2 sponsor, or who is a resident in the household of a sponsor who stands in loco
 3 parentis to such individual and who receives one-half or more of his support from
 4 such sponsor.

5 (2) The term “United States” has the meaning given such term in section
 6 101(a)(1) of title 10, United States Code.

7 (3) The term “home-schooled student” has the meaning given such term in section
 8 2164(l)(2) of title 10, United States Code.

Section-by-Section Analysis

This proposal would establish a pilot program to expand educational choice for military-connected families. This initiative aligns with the objectives of Executive Order 14191, "Expanding Educational Freedom and Opportunity for Families."

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2027 President’s Budget that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Pilot Program on Expanded educational choice for Families of full-time, active-duty members of the armed forces.	\$167.090	\$170.431	\$173.840	\$177.317	\$180.864	Operations and Maintenance, Defense-wide	04	4GTJ	
Total	\$167.090	\$170.431	\$173.840	\$177.317	\$180.864	\$869.542 ¹			

¹ Amounts initially added to the Department of Defense Education Activity’s (DoDEA) 0100 O&M budget were collapsed and rolled into FY 2027, renamed as Reconciliation II funding, totaling \$869.542M in FY 2027. Specific fiscal years to which this funding will be applied have not yet been identified.

Cost Methodology: This proposal uses the national average of \$15,500 per student as the benchmark for tuition assistance, establishing a predictable standardized funding model for dependents transitioning to higher-performing Local Educational Agencies. OUSD(P&R) estimates 10,780 participating dependents based on a 2 percent national take rate of the approximately 539,000 active-duty school-age dependents nationwide.

Changes to Existing Law: This proposal would not change the text of any existing provision of law.

1 **SEC. ___. ESTABLISHMENT OF PRESIDENTIAL NATIONAL SECURITY**
2 **EXEMPTION UNDER THE NATIONAL ENVIRONMENTAL POLICY**
3 **ACT.**

4 Section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336) is
5 amended by adding at the end the following new subsection:

6 “(c) PRESIDENTIAL EXEMPTION AUTHORITY.—The President may exempt any major
7 Federal action from the requirements of this Act if the President determines it to be in the
8 paramount interest of the United States to do so based on national security or in response to an
9 emergency declared by the President or a Governor. The President shall notify the congressional
10 defense committees (as such term is defined in section 101 of title 10, United States Code) not
11 later than 15 days after granting any exemption under the preceding sentence.”.

[Note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

• **Summary:** This proposal would establish an exemption under the National Environmental Policy Act (NEPA) for the President to exercise based on national security or in response to a declared emergency. Currently NEPA does not include an exemption that the President may exercise to exempt agency actions from NEPA review under certain conditions, unlike several other environmental laws. A legislative remedy is needed to provide the President with the ability to exempt major federal actions from NEPA review based on national security or in response to a declared emergency to allow rapid responses (e.g., construction at the SW border) to national security threats or emergencies.

• **Background:** NEPA requires Federal agencies to analyze the potential environmental effects of their major Federal actions and request public comments about proposed actions that may have reasonably foreseeable significant environmental effects. These projects include most military construction and new or changing training and testing activities. Preparing a full NEPA analysis (i.e., Environmental Impact Statement (EIS)) can take several years. In addition, because NEPA requires public comment and engagement with cooperating agencies, e.g. environmental regulators, as part of the process for developing EISs, completing an EIS within 2 years can be difficult. NEPA is a procedural statute that applies to major Federal actions and also entails coordinating compliance requirements of other applicable laws. This provision would not change the requirements of other applicable laws, only the potential applicability of NEPA

should the President exercise the exemption when warranted. To the fullest extent possible, agencies will prepare environmental documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes.

- There are no exemptions available under NEPA for the President to exempt agencies' major federal actions from NEPA review based on national security or in response to a declared emergency. Although the Council on Environmental Quality (CEQ) has issued guidance to address emergencies, it is limited to agencies not delaying immediate actions necessary to secure lives and safety of citizens or to protect valuable resources. Necessary national security actions may not fall cleanly into the category of "secure lives and safety of citizens or to protect valuable resources." Additionally, this guidance cannot waive NEPA's statutory requirements. The President requires flexibility to rapidly adapt to changing circumstances without the delays inherent in preparing environmental documentation to respond to the changing security environment. Examples include the ability to ensure rebalance to the Indo-Pacific, secure the borders of the United States, and execute necessary training and testing activities in an expeditious manner. Even though the Fiscal Responsibility Act (2023) revised NEPA to require Federal Agencies complete an EIS in 2 years, that may not be fast enough to support responses to emerging threats. Additionally, NEPA litigation has been used to halt DoD projects until sufficient NEPA documents are prepared.

- This exemption would provide the President the ability to take quick action to construct projects or execute activities to enhance U.S. deterrence and defense or counter adversary threats, without delays caused by preparing NEPA documentation. For example, critical testing of missile defense systems, space launches and other activities to counter emerging threats could also be addressed, if necessary, by this Presidential exemption. Even when DoD prepares an EIS, it is subject to litigation challenges under NEPA. This exemption would eliminate or significantly reduce litigation over whether DoD had to prepare a NEPA document, and whether it is sufficient.

- **Key Provisions**

- The proposal would add a new subsection (c) to section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336).

- (c): This new subsection (c) would provide the following:

- **Presidential Exemption Authority:** The President may exempt any agency's "major Federal action" from NEPA's requirements for environmental review by responsible Federal agencies based on national security or emergencies. Any exemption would require a congressional notification.

- **Conditions for Exemption:** This exemption can only be granted if the President determines that it is "in the interest of the United States" to do so.

- **Justification:** The exemption must be based on "national security or in response to an emergency declared by the President or a Governor."

- **Relationship to Other Sections:** This section stands alone as an amendment to NEPA. It could indirectly affect several other Federal laws tied to NEPA compliance, but compliance with the Endangered Species Act, National Historic Preservation Act, and other related environmental statutes would still be required.

• **Overall Significance:** This amendment would create a new Presidential authority and enable the President to exempt major Federal actions that meet a high threshold (national security interests or in response to an emergency declared by the President or a Governor) from environmental review. Its impact will depend on how broadly the exemption is interpreted and how frequently it is used by the President.

Budget Implications: The table below details resource requirements associated with the portion of this proposal regarding the NEPA exemption authority. This proposal has no budgetary impacts, and would instead reduce requirements for actions needed to support the national security interests of the U.S or response to a declared emergency. If the President grants an exemption and the agency utilizes it at a rate of one per year, the annual estimated cost savings will be \$5,000,000, not including potential mitigation measures.

RESOURCE REQUIREMENTS (\$MILLIONS)									
	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation From	Budget Activity	Dash-1 Line Item	Program Element
	-\$5.0	-\$5.0	-\$5.0	-\$5.0	-\$5.0	N/A	N/A	N/A	N/A
Total	-\$5.0	-\$5.0	-\$5.0	-\$5.0	-\$5.0	--	--	--	--

Changes to Existing Law: This proposal would amend section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336) as follows:

SEC. 106. PROCEDURE FOR DETERMINATION OF LEVEL OF REVIEW.

(a) THRESHOLD DETERMINATIONS.—An agency is not required to prepare an environmental document with respect to a proposed agency action if—

- (1) the proposed agency action is not a final agency action within the meaning of such term in chapter 5 of title 5, United States Code;
- (2) the proposed agency action is excluded pursuant to one of the agency’s categorical exclusions, another agency’s categorical exclusions consistent with section 109 of this Act, or another provision of law;
- (3) the preparation of such document would clearly and fundamentally conflict with the requirements of another provision of law; or
- (4) the proposed agency action is a nondiscretionary action with respect to which such agency does not have authority to take environmental factors into consideration in determining whether to take the proposed action.

(b) LEVELS OF REVIEW.—

(1) ENVIRONMENTAL IMPACT STATEMENT.—An agency shall issue an environmental impact statement with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment.

(2) ENVIRONMENTAL ASSESSMENT.—An agency shall prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown, unless the agency finds that the proposed agency action is excluded pursuant to one of the agency’s categorical exclusions, another

agency's categorical exclusions consistent with section 109 of this Act, or another provision of law. Such environmental assessment shall be a concise public document prepared by a Federal agency to set forth the basis of such agency's finding of no significant impact or determination that an environmental impact statement is necessary.

(3) SOURCES OF INFORMATION.—In making a determination under this subsection, an agency—

(A) may make use of any reliable data source; and

(B) is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.

(c) PRESIDENTIAL EXEMPTION AUTHORITY.—The President may exempt any major Federal action from the requirements of this Act if the President determines it to be in the interest of the United States to do so based on national security or in response to an emergency declared by the President or a Governor. The President shall notify the congressional defense committees (as such term is defined in section 101 of title 10, United States Code) not later than 15 days after granting any exemption under the preceding sentence.

1 **SEC. ____ . REPEAL OF REQUIRED NUMBERS OF FIREFIGHTERS FOR**
2 **FIREFIGHTING VEHICLES ON MILITARY INSTALLATIONS.**

3 (a) REPEAL OF REQUIREMENTS.—Subsection (a) of section 388 of the James M. Inhofe
4 National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263; 10 U.S.C. 2661
5 note) is amended—

6 (1) by striking “Beginning not later than” and all the follows through “(1)
7 members of the” and inserting “The Secretary of Defense shall ensure that members of
8 the”;

9 (2) by striking the semicolon after “Protection Association” and inserting a
10 period; and

11 (3) by striking paragraphs (2) and (3).

12 (b) REPEAL OF EXPIRED REPORTING REQUIREMENT.—Such section is further amended by
13 striking subsection (b) and redesignating subsection (c) as subsection (b).

14 (c) REPEAL OF DEFINITION NO LONGER USED.—Subsection (b) of such section, as so
15 redesignated, is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph
16 (2).

**[Note: The “Changes to Existing Law” section below sets out in red-line
format how the legislative text would amend existing law.]**

Section-by-Section Analysis

This proposal would repeal the portions of section 388 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263; 10 U.S.C. 2661 note) that impose minimum staffing standards on firefighting vehicles responding to airfield/aircraft or building emergencies. This is a cost avoidance proposal. The law, since enactment in December 2023, drives an increased overtime (OT) rate and workhours, risks military firefighter break days (Kelly Days), forces parking of fire trucks, and at times require closing stations to move firefighters to more critical mission protection areas of the installation (flightlines/airfields/heavy industrial areas). The Department of the Air Force (DAF) direct cost to date: \$10,010,000 in OT

civilian pay, \$394,800 in OT civilian hours, parked fire trucks 5,200 times, closed fire stations 2,600 days.

With current manpower, the law significantly restricts daily risk options for commanders to exercise in order to meet mission priorities at installations. Section 388 drives an increase of approximately 2,600 firefighters (manpower); with current funded manpower the mandate places at risk the ability to respond to emergencies/fires in buildings or aircraft due to insufficient numbers to staff fire trucks in accordance with the law.

The DAF methodology used to determine manpower and staffing of firefighting vehicles is a capabilities-based, task-oriented criteria to meet incident tasks on-scene applying local, tailored risk decision processes to meet or exceed *through equivalencies* the minimum National Fire Protection Association (NFPA) Aircraft Rescue and Fire Fighting (ARFF) and/or structural fire protection standards. It is not about the number of firefighters to fill seats on a firefighting vehicle, but more importantly about placing the right number of firefighters on scene as an effective response force using the firefighting vehicles they determine are most important to perform critical fire ground tasks and is directly attributable to achieving current consensus standards guidance. This method has proven to provide the greatest flexibility and support to firefighting without limiting factors such as mandating a minimum number of firefighters firefighting vehicles. With this approach, the DAF achieves the objectives specified within the two applicable national consensus standards. This approach provides installation commanders with the broadest capabilities in fire protection for installations while affording the greatest flexibility to meet mission requirements.

Section 388 has removed flexibility with current manpower to sustain an efficient and effective fire service to protect forces and missions. Unless amended, section 388 will continue to drive an increase in firefighter work hours and continue to drive parking some fire trucks or closing fire stations to fill higher priority coverage (airfields/aircraft/industrial areas).

Additionally, congressional intent was to improve the safety of firefighters during emergency response. However, since the enactment of section 388 in December 2023, an 18-month review of DAF safety reporting data on firefighter injuries during emergency response has not changed. It remains historically very low reflecting the success of an already strong safety program. The DAF has not experienced a gain in firefighter safety or improved protection to mission and installations under the current law's provisions. The current law will continue to have a long-term negative impact to resources and firefighters.

Resource Information: This proposal has no impact on the use of resources and achieves cost avoidance within the Fiscal Year 2027 President's Budget.

Changes to Existing Law: This proposal would amend section 388 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263; 10 U.S.C. 2661 note) as follows:

SEC. 388. NATIONAL STANDARDS FOR FEDERAL FIRE PROTECTION AT MILITARY INSTALLATIONS.

(a) ~~STANDARDS REQUIRED.—Beginning not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the~~ The Secretary of Defense shall ensure that ~~that~~

~~(1) members of the Armed Forces and employees of Defense Agencies who provide fire protection services to military installations comply with the national consensus standards developed by the National Fire Protection Association;~~

~~(2) the minimum staffing requirement for any firefighting vehicle responding to a structural building emergency at a military installation is not less than four firefighters per vehicle; and~~

~~(3) the minimum staffing requirement for any firefighting vehicle responding to an aircraft or airfield incident at a military installation is not less than three firefighters per vehicle.~~

(b) ~~REPORTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], each Secretary of a military department shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report that —~~

~~(1) details each instance in which the standards of that military department deviate from the national consensus standards specified in subsection (a)(1), and at what military installation;~~

~~(2) includes, for each military installation under the jurisdiction of that Secretary, a detailed description of response times for emergency services and firefighting vehicle staffing levels; and~~

~~(3) includes an assessment of the feasibility of requiring compliance with the national consensus standards specified in subsection (a)(1) in accordance with such subsection at each military installation under the jurisdiction of that Secretary (without exception), the cost of requiring such compliance, and the estimated timeline for that Secretary to implement such requirement.~~

(c) ~~(b)~~ DEFINITIONS.—In this section:

(1) The terms “Armed Forces” and “Defense Agency” have the meanings given such terms in section 101 of title 10, United States Code.

~~(2) The term “firefighter” has the meaning given that term in section 707(b) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92; 10 U.S.C. 1074m note).~~

~~(3)~~ (2) The term “military installation” has the meaning given that term in section 2801 of title 10, United States Code.