

1 **SEC. \_\_\_. IMPROVED IMPLEMENTATION OF FINANCIAL RELIEF FOR**  
2 **CIVILIANS TREATED IN MILITARY MEDICAL TREATMENT**  
3 **FACILITIES.**

4 (a) AUTHORITY FOR ADMINISTRATION BY OTHER FEDERAL AGENCIES.—Subsection (c) of  
5 section 1079b of title 10, United States Code, is amended by striking paragraph (4).

6 (b) AUTHORITY TO FOREGO BILLING CERTAIN PATIENTS.—Such section is further  
7 amended—

8 (1) by redesignating subsections (d) and (e) as subsections (e) and (f),  
9 respectively; and

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

11 “(d) AUTHORITY TO FOREGO BILLING CERTAIN PATIENTS.—The Secretary of Defense  
12 may determine not to charge civilian who is not a covered beneficiary (or the civilian’s insurer)  
13 fees representing the costs, as determined by the Secretary, of trauma and other medical care  
14 provided to such civilian before June 21, 2023, if the bill had not been generated by that date.  
15 Such a determination may be made on a case-by-case basis or on a class-wide basis.”.

**[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**

Section 1079b of title 10, United States Code, authorizes the Secretary of Defense to implement procedures under which military treatment facilities (MTFs) may charge fees for medical care provided to civilians while also incorporating certain financial protection features. There currently are two significant gaps that impede the successful execution of those financial protections: (1) section 1079b prohibits non-DoD agencies from administering payment plans, inadvertently severing the Defense Health Agency's (DHA) vital partnership with the Department of the Treasury for non-beneficiary debt management; and (2) the section does not provide authority to forego generating delayed, legacy bills for civilian care provided before June 21, 2023, leaving patients vulnerable to severe "surprise" billing years after treatment.

This proposal would strengthen financial protections contained in 10 U.S.C. 1079b by resolving these two gaps as follows:

- Authority for Administration by Other Federal Agencies:** This proposal would amend section 1079b(c) by striking paragraph (4), which prohibits any Federal agency other than the Department of Defense from administering the modified payment plans. Striking this restriction would restore DHA’s critical, long-standing partnership with the Department of the Treasury’s Centralized Receivables Service. Treasury administration is vital for DHA to efficiently manage civilian medical debts because DHA lacks the internal infrastructure to replicate this function at the same scale.
- Authority to Forego Billing Certain Patients:** Before the transition of MTFs to the DHA (October 2019), severe MTFs staffing shortages resulted in a substantial backlog of ungenerated civilian medical bills. Billing patients now, years later, is impractical and potentially harmful. For insured patients, insurance claim filing deadlines have long passed. For uninsured patients, these delayed bills could create unexpected financial hardship that cannot be relieved by the current 10 U.S.C. 1079b due to its effective date of June 21, 2023. This proposal would allow the Secretary of Defense to forego issuing bills for trauma and other medical care provided before June 21, 2023, if no bill had been generated by that date. This authority may be applied on a case-by-case or class-wide basis. This authority provides a legally sound, clean mechanism to clear unbilled backlogs without triggering retroactive tax, compliance, or financial hardship issues.

OMB requested the Department provide the following metrics regarding the ungenerated bills in question:

Item	Requested Data Point	Response
1	Approximate number of persons impacted if this legislation is enacted.	48,198
2	Average unbilled amount.	\$292
3	Date range of care rendered.	CY 2007 – 20 June 2023
4	Estimated cost of care rendered to civilians if bills had been generated.	\$14.1M
5	Approximate reimbursement rate that would likely have been collected had bills been generated timely.	35.42% of billed (approximately \$5M)

**Resource Information:** This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

**Changes to Existing Law:** This proposal would amend section 1079b of title 10, United States Code, as follows:

**§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected**

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

(b) WAIVER OF FEES.—The Director of the Defense Health Agency may issue a waiver for a fee that would otherwise be charged under the procedures implemented under subsection (a) to a civilian provided medical care who is not a covered beneficiary if the provision of such care enhances the knowledge, skills, and abilities of health care providers, as determined by the Director of the Defense Health Agency.

(c) MODIFIED PAYMENT PLAN FOR CERTAIN CIVILIANS.—(1)(A) If a civilian specified in subsection (a) is covered by a covered payer at the time care under this section is provided, the civilian shall only be responsible to pay the standard copays, coinsurance, deductibles, or nominal fees that are otherwise applicable under the covered payer plan. (B) Except with respect to the copays, coinsurance, deductibles, and nominal fees specified in subparagraph (A)—

(i) the Secretary of Defense may bill only the covered payer for care provided to a civilian described in subparagraph (A); and

(ii) payment received by the Secretary from the covered payer of a civilian for care provided under this section that is provided to the civilian shall be considered payment in full for such care.

(2) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1), is underinsured, or has a remaining balance and is at risk of financial harm, the Director of the Defense Health Agency shall reduce each fee that would otherwise be charged to the civilian under this section according to a sliding fee discount program, as prescribed by the Director of the Defense Health Agency.

(3) If a civilian specified in subsection (a) does not meet the criteria under paragraph (1) or (2), the Director of the Defense Health Agency shall implement an additional catastrophic waiver to prevent severe financial harm.

~~(4) The modified payment plan under this subsection may not be administered by a Federal agency other than the Department of Defense.~~

(d) AUTHORITY TO FOREGO BILLING CERTAIN PATIENTS.—The Secretary of Defense may determine not to charge a civilian who is not a covered beneficiary (or the civilian's insurer) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilian before June 21, 2023, if the bill had not been generated by that date. Such a determination may be made on a case-by-case basis or on a class-wide basis.

~~(d)~~ (e) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

- (1) trauma consortium activities;
- (2) administrative, operating, and equipment costs; and
- (3) readiness training.

~~(e)~~ (f) DEFINITIONS.—In this section:

(1) The term “covered payer” means a third-party payer or other insurance, medical service, or health plan.

(2) The terms “third-party payer” and “insurance, medical service, or health plan” have the meaning given those terms in section 1095(h) of this title.

1 **SEC. \_\_\_\_ . MODIFICATION AND CLARIFICATION OF LAWS RELATING TO**  
2 **COMMISSARY STORE PROCUREMENT PROCEDURES,**  
3 **INFRASTRUCTURE IMPROVEMENTS, AND VARIABLE PRICING.**

4 (a) SALES PRICES, PROCUREMENT PROCEDURES, PRICING, ETC.—

5 (1) ESTABLISHMENT OF SALES PRICES.—Subsection (e)(1) of section 2484 of title  
6 10, United State Code, is amended—

7 (A) by striking “each item” and inserting “items”; and

8 (B) by striking “at the level that will recoup the actual product cost of the  
9 item” and inserting “consistent with sound business practices and in a manner  
10 designed to cover the cost of those items to the extent practicable”.

11 (2) PROCUREMENT USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—

12 Subsection (f) of such section is amended to read as follows:

13 “(f) PROCUREMENT USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—

14 Notwithstanding section 3204 of this title and without regard to any statutory or regulatory  
15 acquisition requirements regarding competition, the Secretary of Defense may procure the  
16 following using procedures other than competitive procedures:

17 “(1) Any product (including brand-name or generic items) purchased for resale in,  
18 at, or by commissary stores.

19 “(2) Wholesale and distribution services for items purchased for resale in, at, or  
20 by commissary stores.

21 “(3) Delivery services to commissary patrons.

22 “(4) In-commissary services that directly support product resale, including deli-  
23 bakery services, shelf-stocking services, and order fulfillment services.”.

1 (b) VARIABLE PRICING.—

2 (1) Paragraph (1) of subsection (i) of such section is amended—

3 (A) by striking “Notwithstanding” and all that follows through “may be  
4 established” and inserting “The Secretary of Defense may use variable pricing to  
5 establish prices for commissary merchandise whenever necessary or appropriate”;  
6 and

7 (B) by striking “in accordance with the requirements of this subsection”  
8 and inserting “consistent with sound accounting and business practices”.

9 (2) Paragraph (2) of such subsection is amended by striking “Subject to  
10 subsection (k), before establishing a variable pricing program under this subsection, the”  
11 and inserting “The”.

12 (3) Such subsection is further amended—

13 (A) in the subsection heading, by striking “PROGRAM”;

14 (B) in the second sentence of paragraph (1), by striking “the variable  
15 pricing program” and inserting “variable pricing”;

16 (C) in paragraph (2)(B), by striking “initiation of the variable pricing  
17 program” and inserting “first application of variable pricing by the defense  
18 commissary system”; and

19 (D) in paragraph (3)—

20 (i) by striking “the variable pricing program” and inserting  
21 “variable pricing”; and

22 (ii) by striking “pricing in the variable pricing program” and  
23 inserting “variable pricing”.

1 (4) Subsection (h)(6)(B) of such section is amended by striking “the variable  
2 pricing program” and inserting “variable pricing”.

3 (5) Subsection (j)(1) of such section is amended by striking “Subject to subsection  
4 (k), if the Secretary of Defense determines that the variable pricing program has” and  
5 inserting “If the Secretary of Defense determines that the use of variable pricing has”.

6 (c) REPEAL OF REQUIREMENT FOR CONGRESSIONAL BRIEFING BEFORE CERTAIN

7 ACTIONS.—

8 (1) REPEAL OF REQUIREMENT WITH RESPECT TO ESTABLISHING REPRESENTATIVE  
9 MARKET BASKET OF GOODS AND ESTABLISHING VARIABLE PRICING.—Subsection (k) of  
10 such section is repealed.

11 (2) PRESERVATION OF REQUIREMENT WITH RESPECT TO CONVERTING COMMISSARY  
12 SYSTEM TO A NAFI.—Subsection (j) of such section is amended by adding at the end the  
13 following new paragraph:

14 “(4) The Secretary may convert the defense commissary system to a nonappropriated  
15 fund entity or instrumentality under paragraph (1) only after—

16 “(A) the Secretary provides to the congressional defense committees a briefing on  
17 such conversion, including a justification for such conversion; and

18 “(B) a period of 30 days has elapsed following such briefing.”.

19 (d) CLARIFICATION OF AUTHORIZED USE OF APPROPRIATED FUNDS FOR COMMISSARY  
20 SYSTEM OPERATING EXPENSES.—Section 2483(b) of such title is amended by adding at the end  
21 the following new paragraph:

22 “(8) Construction, repair, improvement, and maintenance of physical  
23 infrastructure, as such term defined in section 2484(h)(1)(B) of this title.”.

1 (e) CONFORMING AMENDMENTS.—Section 3204 of such is amended—

2 (1) in subsection (a)—

3 (A) in paragraph (5), by striking “, or the agency's need is for a brand-  
4 name commercial product for authorized resale”;

5 (B) in paragraph (6), by striking “or” at the end;

6 (C) in paragraph (7)(B), by striking the period at the end and inserting “;  
7 or”; and

8 (D) by adding at the end the following new paragraph:

9 “(8) the agency’s need is for a product or service specified in section 2484(f) of  
10 this title.”; and

11 (2) in subsection (e)(4)(B), by striking “a brand name commercial product for  
12 authorized resale” and inserting “a product or service specified in section 2484(f) of this  
13 title”.

### Section-by-Section Analysis

This proposal would modernize certain statutes applicable to the Defense Commissary Agency (DeCA), allowing it to operate more like a commercial grocery chain. This proposal seeks to improve the efficiency and effectiveness of DeCA's operations, ultimately supporting the readiness and food security of military families worldwide. The following are the proposal’s key objectives:

- **Commercial Parity:** Revisions to 10 U.S.C. 2484(f) would enable DeCA to make more cost-efficient and market-responsive decisions on critical commissary products and services. DeCA cannot operate a commercial grocery enterprise that efficiently and cost-effectively serves patrons’ needs at stores on a daily basis – at the required statutory savings rate – while also competing for these basic services directly tied to product availability, such as shelf-stocking, deli-bakery, and delivery. Given the operational commercial grocery environment, wholesale and delivery services are not available from a variety of providers, but only from an identified few that can adequately deliver product in a cost-efficient manner that keeps shelves stocked at appropriate pricing throughout the worldwide commissary system. This has become especially obvious with respect to delivery services, which have recently been the topic of patron discontent, communications from members of congress on behalf of constituents, and negative press

for the commissary system in the military press and beyond. Finally, as part of modernization efforts, DeCA is considering direct relationships with wholesaler and distributors to replace or supplement direct sales relationships with manufacturers, in accordance with modern grocery industry practices. The requested statutory relief is required to effect these operational changes efficiently and effectively.

- **Enhanced Patron Benefit and Cost-Effectiveness:** By expanding sales and market share through modern conveniences like delivery, DeCA seeks to achieve economies of scale and maximize cost-effectiveness, which is crucial to provide reduced-price groceries to over three million eligible patrons (active and reserve military, retirees, their families, and veterans) while minimizing reliance on taxpayer funds.
- **Increased Flexibility in Funding:** This proposal provides clear authority for use of appropriated funds for commissary system infrastructure maintenance, repair, and sustainment. DeCA has previously been limited to the use of surcharge funds for these expenses in most situations, based on a misinterpretation of an apparently ambiguous DeCA statute. (*See* 10 U.S.C. 2484(h)(1)(B).)

As part of the operations of worldwide commissary stores and associated facilities, maintenance and construction are required on a daily basis. DeCA's commercial grocery industry peers appropriately consider these items to be part of their operational expense budgets. Although similar expenses (*e.g.*, construction, operation and maintenance) are classified separately in military services budgets, DeCA operates differently, with only one source of working capital funds to support all operational expenses. Consequently, all expenses associated with the integrity of commissary system infrastructure are necessarily operating expenses. Examples of such expenses include regular maintenance and repair of commissary store refrigeration units, HVAC systems, roofing, and fire safety equipment, as well as deli-bakery equipment, meat department equipment, and storm damage repairs.

By statute, DeCA's surcharge funds – derived from the required uniform surcharge on sales in, at, or by the commissary system – are limited to the support of commissary infrastructure, and this proposal does not change that. (*See* 10 U.S.C. 2484(d) and (h)(1)(B).) However, it has become clear in DeCA's history that original assumptions regarding sufficiency of surcharge funds to maintain a complex system of facilities, including not only routine maintenance but also necessary modernization, were inaccurate. In order to continue to provide the value of the commissary benefit to military Service members in a dynamic grocery retail environment, while maintaining health and safety standards, the agency requires additional flexibility to utilize available funds in a more efficient and effective manner. The proposal allows DeCA and the Department of Defense to make more strategic use of available funds in a manner that appropriately reflects the operation of a retail grocery chain. The proposal does not change the current requirement that surcharge funds be used only for infrastructure support.

- **Resolving Ambiguities Created by 2015 NDAA Regarding Use of Other Than Competitive Procedures:** This proposal would also amend 10 U.S.C. 3204 to make it

consistent with revisions to 10 U.S.C. 2484(f). An embedded discrepancy has created inconsistency in the application of the section 2484(f) exemption from competitive requirements when the Defense Commissary Agency procures generic, as opposed to brand name, products for resale in, at, or by commissaries.

Specifically, when 10 U.S.C. 2484(f) was revised in Section 631 of the 2015 NDAA (*P.L. 113-291, December 19, 2014*) to add “generic” products to the existing exemption for “brand name” resale products, the drafters neglected to make corresponding required changes to 10 U.S.C. 3204(a) and (e). Those provisions specifically call out the 2484(f) brand name exemption, for which a published J&A is not required. The inconsistency has led to limited use of the provision for the procurement of generic products and has resulted in a successful and high-profile bid protest that created inefficiencies, delays, and significant additional expenses in product procurement at a mission critical location and time of year. It has also injected inefficiencies and delays into the product purchasing process, generally, and has opened the door to a large volume of future protests. *See, e.g., E.K.K. Investments, LLC, B-423246, March 25, 2025*, finding that a J&A and competitive procedures are required for generic resale item procurement (in this case, fruits and vegetables) and also applying limited competition requirement to all resale purchases, including brand name, even though DeCA’s statute (at 10 U.S.C. 2484(f)) allows procurement of both without competitive procedures. Several loopholes that were (apparently inadvertently) left in 10 U.S.C. 3204 in the 2025 NDAA negated the drafter’s presumed intentions regarding the 2484(f) competition exemption for flexible procurement of daily product purchases in a worldwide grocery retail system. That section (3204) was not amended to broaden the coverage beyond “brand name,” consistent with 2484(f) changes, which was a likely oversight at the time of the 2015 NDAA enactment. The relevant subsections allowed a protester and GAO to attempt to impose illogical, inoperable, and untenable requirements for J&A publication and limited competition on all procurements under 10 U.S.C. 2484(f).

All proposed revisions to 10 U.S.C. 3204, which is applicable to all DoW procurements utilizing other than competitive procedures, are DeCA-specific and do not affect any procurements other than procurements under DeCA’s 10 U.S.C. 2484(f) authority. Moreover, the language in the proposed revision of 10 U.S.C. 2484(f) regarding its applicability notwithstanding other statutory and regulatory provisions, is to confirm that the competition exemption in that subsection is a true competition exemption that is meaningful in a grocery retail chain context. It also prevents the any future misapplication of a related FAR provision (6.302-5(a)(2)(i)), which the GAO used to extend limited competition and publication requirements to all product purchases in the EKK matter.

**Resource Information:** This proposal has no impact on the use of resources requested within the Fiscal Year 2027 President’s Budget, although it would expand DeCA’s authority to use appropriated funds for infrastructure.

**Changes to Existing Law:** This proposal would amend sections 2483, 2484, and 3204 of title 10, United States Code, as follows:

**§2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing**

(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

(b) AUTHORIZED COMMISSARY MERCHANDISE CATEGORIES.—\*\*\*

(c) INCLUSION OF OTHER MERCHANDISE ITEMS.—\*\*\*

(d) UNIFORM SALES PRICE SURCHARGE.—\*\*\*

(e) SALES PRICE ESTABLISHMENT.—(1) The Secretary of Defense shall establish the sales price of ~~each item~~ items of merchandise sold in, at, or by commissary stores ~~at the level that will recoup the actual product cost of the item~~ consistent with sound business practices and in a manner designed to cover the cost of items to the extent practicable.

(2) \*\*\*

(3) \*\*\*

(f) ~~PROCUREMENT OF COMMERCIAL PRODUCTS USING PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—The Secretary of Defense may use the exception provided in section 3204(a)(5) of this title for the procurement of any commercial product (including brand-name and generic items) for resale in, at, or by commissary stores.~~ Notwithstanding section 3204 of this title and without regard to any statutory or regulatory acquisition requirements regarding competition, the Secretary of Defense may procure the following using procedures other than competitive procedures:

(1) Any product (including brand-name and generic items) purchased for resale in, at, or by commissary stores.

(2) Wholesale and distribution services for items purchased for resale in, at, or by commissary stores.

(3) Delivery services to commissary patrons.

(4) In-commissary services that directly support product resale, including deli-bakery services, shelf-stocking services, and order fulfillment services.

(g) SPECIAL RULES FOR CERTAIN MERCHANDISE.—\*\*\*

(h) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)\*\*\*

(2) \*\*\*

(3) \*\*\*

(4) \*\*\*

(5) \*\*\*

(6) Revenues made available under paragraph (5) for the purposes set forth in paragraphs (1), (2), and (3) may be supplemented with additional funds derived from—

(A) improved management practices implemented pursuant to sections 2481(c)(3), 2485(b), and 2487(c) of this title; and

(B) ~~the~~ variable pricing program implemented pursuant to subsection (i).

(i) VARIABLE PRICING PROGRAM.—(1) ~~Notwithstanding subsection (e), and subject to subsection (k), the Secretary of Defense may establish a variable pricing program pursuant to which prices may be established~~ The Secretary of Defense may use variable pricing to establish prices for commissary merchandise whenever necessary or appropriate in response to market conditions and customer demand, in accordance with the requirements of this subsection consistent with sound accounting and business practices. Notwithstanding the amount of the uniform surcharge assessed in subsection (d), the Secretary may provide for an alternative surcharge of not more than five percent of sales proceeds under ~~the~~ variable pricing program to be made available for the purposes specified in subsection (h).

(2) ~~Subject to subsection (k), before establishing a variable pricing program under this subsection, the~~ The Secretary shall establish the following:

(A) Specific, measurable benchmarks for success in the provision of high-quality grocery merchandise, discount savings to patrons, and levels of customer satisfaction while achieving savings for the Department of Defense.

(B) A baseline of overall savings to patrons achieved by commissary stores prior to the ~~initiation of the variable pricing program~~ first application of variable pricing by the defense commissary system, based on a comparison of prices charged by those stores on a regional basis with prices charged by relevant local competitors for a representative market basket of goods.

(3) The Secretary shall ensure that the defense commissary system implements ~~the~~ variable pricing program by conducting price comparisons using the methodology established for paragraph (2)(B) and adjusting pricing as necessary to ensure that ~~pricing in the variable pricing program~~ variable pricing achieves overall savings to patrons that are consistent with the baseline savings established for the relevant region pursuant to such paragraph.

(j) CONVERSION TO NONAPPROPRIATED FUND ENTITY OR INSTRUMENTALITY.—(1) ~~Subject to subsection (k), if~~ If the Secretary of Defense determines that the use of variable pricing program has met the benchmarks for success established pursuant to paragraph (2)(A) of subsection (i) and the savings requirements established pursuant to paragraph (3) of such subsection over a period of at least six months, the Secretary may convert the defense commissary system to a nonappropriated fund entity or instrumentality, with operating expenses financed in whole or in part by receipts from the sale of products and the sale of services. Upon such conversion, appropriated funds shall be transferred to the defense commissary system only in accordance with paragraph (2) or section 2491 of this title. The requirements of section 2483 of this title shall not apply to the defense commissary system operating as a nonappropriated fund entity or instrumentality.

(2) \*\*\*

(3) \*\*\*

(4) The Secretary may convert the defense commissary system to a nonappropriated fund entity or instrumentality under paragraph (1) only after—

(A) the Secretary provides to the congressional defense committees a briefing on such conversion, including a justification for such conversion; and

(B) a period of 30 days has elapsed following such briefing.

~~(k) Oversight Required To Ensure Continued Benefit to Patrons.—(1) With respect to each action described in paragraph (2), the Secretary of Defense may not carry out such action until—~~

~~(A) the Secretary provides to the congressional defense committees a briefing on such action, including a justification for such action; and~~

~~(B) a period of 30 days has elapsed following such briefing.~~

~~(2) The actions described in this paragraph are the following:~~

~~(A) Establishing the representative market basket of goods pursuant to subsection (i)(2)(B).~~

~~(B) Establishing the variable pricing program under subsection (i)(1).~~

~~(C) Converting the defense commissary system to a nonappropriated fund entity or instrumentality under subsection (j)(1).~~

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### **§2483. Commissary stores: use of appropriated funds to cover operating expenses**

(a) OPERATION OF AGENCY AND SYSTEM.—Except as otherwise provided in this title, the operation of the Defense Commissary Agency and the defense commissary system shall be funded using such amounts as are appropriated for such purpose.

(b) OPERATING EXPENSES OF COMMISSARY STORES.—Appropriated funds shall be used to cover the expenses of operating commissary stores and central product processing facilities of the defense commissary system. For purposes of this subsection, operating expenses include the following:

(1) Salaries and wages of employees of the United States, host nations, and contractors supporting commissary store operations.

(2) Utilities.

(3) Communications.

(4) Operating supplies and services.

(5) Second destination transportation costs within or outside the United States.

(6) Any cost associated with above-store-level management or other indirect support of a commissary store or a central product processing facility, including equipment maintenance and information technology costs.

(7) Advertising of commissary sales on materials available within commissary stores and at other on-base locations.

(8) Construction, repair, improvement, and maintenance of physical infrastructure, as such term defined in section 2484(h)(1)(B) of this title.

(c) \*\*\*

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### **§3204. Use of procedures other than competitive procedures**

(a) WHEN PROCEDURES OTHER THAN COMPETITIVE PROCEDURES MAY BE USED.—The head of an agency may use procedures other than competitive procedures only when—

(1) \*\*\*

(2) \*\*\*

(3) \*\*\*

(4) \*\*\*

(5) subject to section 3201(e) of this title, a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source; ~~or the agency's need is for a brand-name commercial product for authorized resale;~~

(6) the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; ~~or~~

(7) the head of the agency (who may not delegate the authority under this paragraph)—

(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract; or

(8) the agency's need is for a product or service specified in section 2484(f) of this title.

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(e) JUSTIFICATION FOR USE OF PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—

(1) \*\*\*

(2) \*\*\*

(3) \*\*\*

(4) JUSTIFICATION AND APPROVAL NOT REQUIRED.—The justification and approval required by paragraph (1) is not required—

(A) when a statute expressly requires that the procurement be made from a specified source;

(B) when the agency's need is for a ~~brand-name commercial product for authorized resale~~ product or service specified in section 2484(f) of this title;

(5) \*\*\*

(6) \*\*\*

(7) \*\*\*

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1 **SEC. \_\_\_\_ . MODIFICATION OF AUTHORITIES OF THE DEPARTMENT OF**  
2 **DEFENSE OFFICE OF STRATEGIC CAPITAL.**

3 (a) EXTENSION OF PILOT PROGRAM ON CAPITAL ASSISTANCE TO SUPPORT DEFENSE  
4 INVESTMENT IN THE INDUSTRIAL BASE.—Subsection (e)(9) of section 149 of title 10, United  
5 States Code, is amended—

6 (1) in subparagraph (A), by striking “October 1, 2028” and inserting “October 1,  
7 2035”; and

8 (2) in subparagraph (B), by striking “October 1, 2028” and inserting “the date  
9 specified in subparagraph (A)”.

10 (b) AUTHORITY UNDER PILOT PROGRAM TO TRANSACT IN AND ACQUIRE EQUITY  
11 INVESTMENTS.—

12 (1) PROGRAM AUTHORITY.—Subsection (e) of such section is further amended—

13 (A) in paragraph (3)—

14 (i) in subparagraph (A)(ii)(I)(bb)—

15 (I) by striking “if the investment” and inserting “if—  
16 “(AA) the investment”;

17 (II) by striking the period at the end and inserting “; or”;

18 and

19 (III) by adding at the end the following:

20 “(BB) with regard to loans that include an equity or quasi-equity feature,  
21 the Director reasonably believes the rate of return on the portfolio of such loans  
22 will exceed the rate of return on investment of a loan at the yield on marketable  
23 securities of a similar maturity to the maturity of the loan on the date of execution

1 of the loan agreement, except that the interest rate on such a loan may not be less  
2 than 0 percent.”; and

3 (ii) by adding at the end the following new subparagraph:

4 “(D)(i) The Secretary may support an eligible investment selected under this  
5 subsection with funds or use other mechanisms for the purpose of purchasing, and may  
6 make and fund commitments to purchase, invest in, make pledges in respect of, or  
7 otherwise acquire, equity or quasi-equity securities, or shares or other capital interests of  
8 the eligible entity receiving support for the eligible investment, or any of its parent or  
9 subsidiary companies, including as a limited partner or other investor in investment  
10 funds, upon such terms and conditions as the Secretary may determine.

11 “(ii) In consultation with the Secretary of the Treasury, the Secretary shall  
12 develop criteria, taking into consideration the national security and economic interests of  
13 the United States, pursuant to which the Office may hold, sell or otherwise liquidate  
14 support for an investment provided under clause (i).”; and

15 (B) in paragraph (8), by striking “loans, loan guarantees, or technical  
16 assistance” and inserting “any capital assistance”.

17 (2) DEFINITION OF CAPITAL ASSISTANCE.—Subsection (f)(1) of such section is  
18 amended—

19 (A) by striking “means a loan” and inserting “means—  
20 “(A) a loan”;

21 (B) by striking the period at the end and inserting “; or”; and

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

1 “(B) the purchase of or investment in equity, quasi-equity, shares or other capital  
2 interests, profits interest, or financial interests.”.

**[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 make several changes to the authorities of the Office of Strategic Capital (OSC) of the Department of Defense under section 149 of title 10, United States Code.

Subsection (a) of this proposal would extend OSC’s authority to carry out its capital assistance programs to October 1, 2035. The current expiration date – October 1, 2028 – places OSC on a short timeline to make investments mandated by recent legislation. Extending OSC’s capital assistance authorization expiry date should be extended to reflect these developments, aligning appropriated dollars and mission sets with stated authorities and providing an important signal to markets and borrowers that the office will remain a strategic asset investing in the industrial base, critical technologies, and supply chains vital to national security into the future.

Subsection (b) of this proposal would provide OSC the authority to transact in and acquire equity investments to provide a more robust suite of financial tools to attract and scale private capital for national and economic security. The flexibility to transact in equity and quasi-equity financial instruments give OSC another malleable means of making cost-effective and risk-mitigated investments in national security for the taxpayer. This authority would also bring OSC into parity with similar Federal entities like the U.S. International Development Finance Corporation (DFC), which received equity investment authority in its original authorization (22 U.S.C. 9612).

**Resource Information:** This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

**Changes to Existing Law:** This proposal would amend sections 149 of title 10, United States Code, as follows:

#### **§149. Office of Strategic Capital**

(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an office to be known as the Office of Strategic Capital (in this section referred to as the “Office”).

(b) DIRECTOR.—The Office shall be headed by a Director (in this section referred to as the “Director”), who shall be appointed by the Secretary from among employees in Senior Executive Service positions (as defined in [section 3132 of title 5](#)), or from outside the civil service who have successfully held equivalent positions.

(c) DUTIES.—The Office shall—

- (1) develop, integrate, and implement capital investment strategies proven in the commercial sector to shape and scale investment in critical technologies and assets;
- (2) identify and prioritize promising critical technologies and assets that require capital assistance and have the potential to benefit the Department of Defense; and
- (3) make eligible investments in such technologies and assets, such as supply chain technologies not always supported through direct investment.

(d) NON-FEDERAL FUNDING REQUIREMENTS FOR CERTAIN INVESTMENTS.— In the case of an eligible investment made through a direct loan, not less than 80 percent of the total capital provided for the specific technology to be funded by the investment shall be derived from non-Federal sources as of the time of the investment.

(e) PILOT PROGRAM ON CAPITAL ASSISTANCE TO SUPPORT DEFENSE INVESTMENT IN THE INDUSTRIAL BASE.—

(1) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Secretary of Defense, acting through the Director, may carry out a pilot program under this subsection to provide capital assistance to eligible entities for eligible investments to develop technologies that support the duties and elements of the Office and meet the needs of the Department of Defense.

(2)(A) An eligible entity seeking capital assistance for an eligible investment under this subsection shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require. ‘

(B) The Director shall establish criteria for selecting among eligible investments for which applications are submitted under subparagraph (A). The criteria shall include—

- (i) the extent to which an investment supports the national security or economic interests of the United States;
- (ii) the likelihood that capital assistance provided for an investment would enable the investment to proceed sooner than the investment would otherwise be able to proceed; and
- (iii) the creditworthiness of an investment.

(3)(A)(i) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director may provide loans or loan guarantees to finance or refinance the costs of an eligible investment selected pursuant to paragraph (2)(B).

(ii)(I)(aa) Except as provided under item (bb), the interest rate on a loan provided under clause (i) shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the loan on the date of execution of the loan agreement.

(bb) The Director may waive the requirement under item (aa) with respect to an investment if—

(AA) the investment is determined by the Secretary of Defense to be vital to the national security of the United States; or

(BB) with regard to loans that include an equity or quasi-equity feature, the Director reasonably believes the rate of return on the portfolio of such loans will exceed the rate of return on investment of a loan at the yield on marketable

securities of a similar maturity to the maturity of the loan on the date of execution of the loan agreement, except that the interest rate on such a loan may not be less than 0 percent.

(cc) The Director shall establish separate and distinct criteria for interest rates for loan guarantees with private sector lending institutions.

(II) The final maturity date of a loan provided under clause (i) shall be not later than 50 years after the date on which the loan was provided.

(III) A loan provided under clause (i) may be paid earlier than is provided for under the loan agreement without a penalty.

(IV)(aa) A loan provided under clause (i) shall not be subordinated to the claims of any holder of investment obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(bb) The Director may waive the requirement under item (aa) with respect to the investment in order to mitigate risks to loan repayment.

(V) The Director may sell to another entity or reoffer into the capital markets a loan provided under clause (i) if the Director determines that the sale or reoffering can be made on favorable terms.

(VI) Any loan guarantee provided under clause (i) shall specify the percentage of the principal amount guaranteed. If the Secretary determines that the obligor of a loan guaranteed by the Department of Defense defaults on the loan, the Director shall pay the holder, or such other party, as specified in the loan guarantee agreement.

(VII) The Director shall establish a credit rating system to ensure a reasonable assurance of repayment. The system may include use of existing credit rating agencies where appropriate.

(VIII) Loans and loan guarantees provided under clause (i) shall be subject to such other terms and conditions and contain such other covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(IX) Loans and loan guarantees provided under clause (i) shall be subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(B) Subject to appropriations Acts, the Director may provide technical assistance with respect to developing and financing investments to eligible entities seeking capital assistance for eligible investments and eligible entities receiving capital assistance under this subsection.

(C)(i) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director shall provide to an eligible investment selected pursuant to paragraph (2)(B) the amount of capital assistance necessary to carry out the investment.

(ii) All financial transactions conducted under this subsection shall be conducted in United States dollars.

(D)(i) The Secretary may support an eligible investment selected under this subsection with funds or use other mechanisms for the purpose of purchasing, and may make and fund commitments to purchase, invest in, make pledges in respect of, or otherwise acquire, equity or quasi-equity securities, or shares or other capital interests of the eligible entity receiving support for the eligible investment, or any of its parent or

subsidiary companies, including as a limited partner or other investor in investment funds, upon such terms and conditions as the Secretary may determine.

(ii) In consultation with the Secretary of the Treasury, the Secretary shall develop criteria, taking into consideration the national security and economic interests of the United States, pursuant to which the Office may hold, sell or otherwise liquidate support for an investment provided under clause (i).

(4) The requirements of subsection (d) shall apply to eligible investments under this subsection.

(5)(A)(i) There is established in the Treasury of the United States a Department of Defense Credit Program Account to make and guarantee loans under this subsection in accordance with section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(ii) The Credit Program Account shall consist of amounts appropriated pursuant to the authorization of appropriations.

(B) To the extent and in such amounts as specifically provided in advance in appropriations Acts for the purposes detailed in this subsection, the Director is authorized to pay, from amounts in the Department of Defense Credit Program Account—

(i) the cost, as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a), of loans and loan guarantees and other capital assistance;

(ii) administrative expenses associated with activities under this subsection;

(iii) project-specific transaction costs; and

(iv) the cost of providing support authorized by this subsection.

(6) The Secretary of Defense may prescribe such regulations as the Secretary determines to be appropriate to carry out this subsection.

(7) Not later than the first Monday in February of a fiscal year, the Secretary of Defense shall submit to the congressional defense committees an annual report describing activities carried out pursuant to this subsection in the preceding fiscal year and the goals of the Department of Defense in accordance with this subsection for the next fiscal year.

(8) The Secretary of Defense shall notify the congressional defense committees not later than 30 days after a use of ~~loans, loan guarantees, or technical assistance~~ any capital assistance under this subsection.

(9)(A) The authority of the Director to make new loans and provide new loan guarantees under subparagraph (A)(i) of paragraph (3) shall expire on October 1, ~~2028~~ 2035. Any loans or loan guarantees provided under such subparagraph that are outstanding as of such date shall continue to be subject to the terms, conditions, and other requirements of this subsection.

(B) The authority of the Director to provide technical assistance to eligible entities under subparagraph (B) of paragraph (3) shall expire on ~~October 1, 2028~~ the date specified in subparagraph (A).

(f) DEFINITIONS.—In this section:

(1) The term “capital assistance“ means—

(A) a loan, loan guarantee, or technical assistance; or

(B) the purchase of or investment in equity, quasi-equity, shares or other capital interests, profits interest, or financial interests.

(2) The term “covered technology category” means the following:

- (A) Advanced bulk materials.
  - (B) Advanced manufacturing.
  - (C) Autonomous mobile robots.
  - (D) Battery storage.
  - (E) Biochemicals.
  - (F) Bioenergetics.
  - (G) Biomass.
  - (H) Cybersecurity.
  - (I) Data fabric.
  - (J) Decision science.
  - (K) Edge computing.
  - (L) External communication.
  - (M) Hydrogen generation and storage.
  - (N) Mesh networks.
  - (O) Microelectronics assembly, testing, or packaging.
  - (P) Microelectronics design and development.
  - (Q) Microelectronics fabrication.
  - (R) Microelectronics manufacturing equipment.
  - (S) Microelectronics materials.
  - (T) Nanomaterials and metamaterials.
  - (U) Open RAN.
  - (V) Optical communications.
  - (W) Sensor hardware.
  - (X) Solar.
  - (Y) Space launch.
  - (Z) Spacecraft.
  - (AA) Space-enabled services and equipment.
  - (BB) Synthetic biology.
  - (CC) Quantum computing.
  - (DD) Quantum security.
  - (EE) Quantum sensing.
  - (FF) Strategic maritime infrastructure.
  - (GG) Critical minerals and materials.
- (3) The term “eligible entity” means—
- (A) an individual;
  - (B) a corporation;
  - (C) a partnership, which may include a public-private partnership, limited partnership, or general partnership;
  - (D) a joint venture;
  - (E) a trust;
  - (F) a State, including a political subdivision or any other instrumentality of a State;
  - (G) a Tribal government or consortium of Tribal governments;
  - (H) any other governmental entity or public agency in the United States, including a special purpose district or public authority, including a port authority;
  - (I) a multi-State or multi-jurisdictional group of public entities; or

(J) a strategic alliance among two or more entities described in subparagraphs (A) through (I).

(4) The term “eligible investment” means an investment, in the form of capital assistance provided to an eligible entity, for a technology that—

(A) is in a covered technology category; and

(B) is not a technology that solely has defense applications.

(5) The term “obligor” means a party that is primarily liable for payment of the principal or interest on a loan.’

1 **SEC. \_\_\_\_ . MULTIYEAR PROCUREMENT AUTHORITY FOR CERTAIN MUNITIONS.**

2 (a) AUTHORITY.—Subject to the provisions of section 3501 of title 10, United States  
3 Code, as modified by subsection (c), the head of an agency may enter into one or more multiyear  
4 contracts for more than one but not more than seven program years, beginning in fiscal year  
5 2027, for the procurement of the following systems (including items, services, and logistics  
6 support associated with those systems and their subsystems):

- 7 (1) Joint Advanced Tactical Missiles (JATM).
- 8 (2) Standard Missile-3 Missiles (SM-3).
- 9 (3) Precision Strike Missiles (PrSM).
- 10 (4) Standard Missile-6 Missiles (SM-6).
- 11 (5) Advanced Medium-Range Air-to-Air Missiles (AMRAAM).
- 12 (6) Joint Air-to-Surface Standoff Missiles (JASSM).
- 13 (7) Long Range Anti-Ship Missiles (LRASM).
- 14 (8) Tomahawk Land Attack Missile (TLAM) & Maritime Strike Tomahawk  
15 (MST).
- 16 (9) Terminal High Altitude Area Defense (THAAD) systems.
- 17 (10) Patriot Advanced Capability-3 (PAC-3) Missile Segment Enhancement  
18 (MSE) systems.
- 19 (11) Low-cost hypersonic strike systems.
- 20 (12) Family of Affordable Mass Munitions (FAMM), Extended-Range Attack  
21 Munition (ERAM), Enterprise Test Vehicle (ETV), and ground-launched low-cost cruise  
22 missile systems.

23 (b) PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.—The systems

24 authorized to be procured under subsection (a) may be procured as additions to existing contracts  
25 covering such systems.

26 (c) INDEPENDENT PRICING ANALYSIS.—For a program authorized in this section, prior to  
27 making a determination under subparagraph (A) of section 3501(i)(3) of title 10, United States  
28 Code, the Secretary of Defense may complete an independent pricing analysis to satisfy the  
29 requirements of subparagraph (B) of such section.

30 (d) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A multiyear contract entered  
31 into under subsection (a) shall provide that any obligation of the United States to make a  
32 payment under the contract for a fiscal year after fiscal year 2027 is subject to the availability of  
33 appropriations for that purpose for such later fiscal year.

34 (e) DEFINITION.—In this section, the term “head of an agency” means—

- 35 (1) the Secretary of Defense;
- 36 (2) the Secretary of the Army;
- 37 (3) the Secretary of the Navy; or
- 38 (4) the Secretary of the Air Force.

### Section-by-Section Analysis

This proposal would establish multiyear procurement (MYP) authority for munitions and common components across critical munitions. The proposal would:

1. Build stable demand for munitions, energetics, fuzes, solid rocket motors, electronics, batteries and guidance kits.
2. Enable economies of scale and faster replenishment.
3. Support sustainment readiness for warfighter stockpiles.

Munition shortfalls and component gaps are the new bottleneck and now determine the actual delivery pace. We’ve seen firsthand that when suppliers leave the market, rebuilding capacity is neither fast nor cheap. Replenishing Department of Defense (DoD) stock and requalifying a new component can take 3-5 years, even under accelerated pathways. In the past 2 years, the Ukraine conflict has exposed how even a moderate-rate war depletes components well before full munitions are gone. International partners and allies are placing larger, faster, and more frequent foreign military sales orders. Growing demand in the Indo-Pacific and European

theaters is converging on the same component suppliers that DoD relies on. Surge capability requires readiness at the component level.

Without MYP and Advance Procurement authorities for shared components, DoD faces cascading production delays for munitions and for Tiers 1-3 sub-component items such as electronics, actuators, batteries, and solid rocket motors. Inability to replenish munitions or pre-buy critical components limits DoD’s ability to surge during conflict or respond rapidly to allied needs. Persistent backlogs or stop-work orders for munitions and lack of key components may constrain the ability of the commanders of combatant commands to execute operation plans in a high-end fight.

This proposal is a follow-on to section 1244(c) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263), as amended by section 1242(3) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31).

**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.

<b>RESOURCE IMPACT (\$MILLIONS)</b>									
<b>Program</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>	<b>FY 2030</b>	<b>FY 2031</b>	<b>Appropriation</b>	<b>Budget Activity</b>	<b>BLI/SAG</b>	<b>Program Element (for all RDT&amp;E programs)</b>
Standard Missile-3 Missiles (SM-3 Blk IIA) <b>MDA</b>	\$3,042	\$0	\$0	\$0	\$0	0300D	01	MD14/17	N/A
Standard Missile-3 Missiles (SM-3 Blk IIA) <b>Navy</b>	\$0	\$3,259	\$3,426	\$3,441	\$3,537	1507N	02	2274/02	N/A
SM-3 1B <b>MDA</b>	\$896	\$0	\$0	\$0	\$0	0300D	01	MD09/17	N/A
SM-3IB <b>Navy</b>	\$0	\$921	\$946	\$973	\$999	1507N	02	2274/02	N/A
Precision Strike Missiles (PrSM) <b>Army</b>	\$918	\$944	\$948	\$975	\$996	2032A	02	8540C29600/10	N/A
Precision Strike Missiles (PrSM) <b>USMC</b>	\$15	\$15	\$38	\$38	\$46	1109N	03	3025/03	N/A
Advanced Medium-Range Air-to-Air Missiles (AMRAAM) <b>USAF</b>	\$1,336	\$1,598	\$1,642	\$1,688	\$1,736	3020F	02	MAMRA0/2	N/A
Advanced Medium-Range Air-to-Air Missiles (AMRAAM) <b>Navy</b>	\$254	\$304	\$313	\$322	\$331	1507N	02		N/A
Joint Air-to-Surface Standoff Missiles Extended Range (JASSM-ER) <b>USAF</b>	\$1,991	\$2,047	\$2,104	\$2,163	\$2,223	3020F	02	JASSM0/02	N/A
Long Range Anti-Ship Missiles (LRASM) <b>USAF</b>	\$814	\$823	\$851	\$806	\$498	3020F	02	LRASM0/2	N/A

Long Range Anti-Ship Missiles (LRASM) <b>Navy</b>	\$666	\$674	\$697	\$659	\$407	1507N	02		N/A
SM-6 <b>Navy</b>	\$3,022	\$4,512	\$4,538	\$4,690	\$4,812	1507N	02	2234/02	N/A
JATM	Classified	Classified	Classified	Classified	Classified	XXXX	XX	XXXX	N/A
Family of Affordable Mass Munitions (FAMM) <b>USAF</b>	\$355	\$1,354	\$2,150	\$2,861	\$2,987	3020F	02	FAMM00	N/A
Ground-Launched Low-Cost Cruise Missile <b>Army</b>	\$1,631	\$2,985	\$3,256	\$3,029	\$3,130	2032A	02	2611C72100	N/A
Low-Cost Hypersonic Strike <b>Navy</b>	\$470	\$376	\$285	\$205	\$0	1507N	02	2294	N/A
Low-Cost Hypersonic Strike <b>Army</b>	\$326	\$370	\$689	\$1,603	\$1,406	2032A	02	2611C72100	N/A

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

1 **SEC. \_\_\_\_ . MULTIYEAR PROCUREMENT AUTHORITY FOR F-15EX AIRCRAFT**  
2 **SYSTEM.**

3 (a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to section 3501 of title 10,  
4 United States Code, as modified by subsection (c), the head of an agency may enter into one or  
5 more multiyear contracts for more than one but not more than seven program years, beginning in  
6 fiscal year 2027, for the procurement and sustainment of the F-15EX aircraft system (and items,  
7 services, logistics, supply, and fleet support associated with that system, including engines).

8 (b) **PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.**—The system authorized  
9 to be procured under subsection (a) may be procured as additions to existing contracts covering  
10 such system.

11 (c) **INDEPENDENT PRICING ANALYSIS.**—For a program authorized in this section, prior to  
12 making a determination under subparagraph (A) of section 3501(i)(3) of title 10, United States  
13 Code, the Secretary of Defense may complete an independent pricing analysis to satisfy the  
14 requirements of subparagraph (B) of such section.

15 (d) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The head of an agency may enter into  
16 one or more contracts for advance procurement associated with the F-15EX program and for  
17 systems and subsystems associated with such program, in economic order quantities when cost  
18 savings are achievable.

19 (e) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A multiyear contract entered into  
20 under subsection (a) shall provide that any obligation of the United States to make a payment  
21 under the contract for a fiscal year after fiscal year 2027 is subject to the availability of  
22 appropriations for that purpose for such later fiscal year.

23 (f) **DEFINITION.**—In this section, the term “head of an agency” means—

- 1 (1) the Secretary of Defense; or
- 2 (2) the Secretary of the Air Force.

### **Section-by-Section Analysis**

This proposal would establish multiyear procurement (MYP) authority for the F-15EX aircraft system. The proposal would:

1. Build stable demand for aircraft and supporting supply chains.
2. Enable economies of scale and faster procurement.
3. Support sustainment readiness for warfighters.

The proposal would provide the following benefits:

- (1) provide stable production through the production lines and supply base, optimizing rates and factors as well as production line efficiencies;
  - (2) provide long-term readiness incentives for Industry;
  - (3) provides length and scale to amortize industry capital investment;
  - (4) accelerate standup of infrastructure;
  - (5) stabilize the sustainment cost growth and funding profiles;
  - (6) allows maximum advantage of economies of scale with batch ordering and optimized planning;
  - (7) generate savings compared to the annual contract negotiations (time and cost);
- and
- (8) provide a stable Total Obligating Authority profile for the Department of the Air Force.

This proposal for the F-15 EX Eagle II, MYP creates a viable business case for discretionary capital expenditure on the F-15EX Eagle II to develop capability enhancements and investing to solve future warfighter needs, increase labor and automation, and improve efficiencies. This proposal would allow the F-15EX program to enter a multi-year contract for 148 additional F-15EX aircraft, engines, initial spares, and modification kits over an up to 7 year period (up to 36 aircraft per calendar year).

A multi-year procurement (MYP) for the F-15EX program allows for lower technical risk and stable long-term procurement. This procurement model addresses the critical national security need to recapitalize the aging F-15C/D fleet, while concurrently generating significant fiscal efficiencies through economic order quantity savings. It allows investment in workforce retention and supplier viability. The contract clause will also include industrial base optimization and digital transformation technologies for added production agility and aircraft throughput. The program is characterized by an enduring operational need, and rapid fielding needed to meet mission gaps identified in the Department of the Air Force's Fighter Force Structure Congressional report. Consistent funding allows for this fiscally prudent and strategically necessary procurement approach, which provides a cost-effective pathway to modernizing a critical component of U.S. air superiority.

**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.

<b>RESOURCE IMPACT (\$MILLIONS)</b>									
<b>Program</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>	<b>FY 2030</b>	<b>FY 2031</b>	<b>Appropriation</b>	<b>Budget Activity</b>	<b>BLI/SAG</b>	<b>Program Element</b>
<b>F-15EX</b>									
<b>Qty</b>	24	24	28	36	36				
USAF - Acft	2,656.7	2,758.0	3,262.5	4,535.9	4,762.8	3010F	01		0207146F
USAF - Mods	214.2	202.1	545.1	319.7	335.6	3010F	05		0207146F
USAF – RDT&E	133.3	143.4	238.1	249.9	358.5	3600	01		0207146F
USAF – Prod Supp	16.9	124.2	70.6	25.6	25.6	3010F	07		0207146F
<b>F-15EX Total</b>	<b>3,021.1</b>	<b>3,227.7</b>	<b>4,116.3</b>	<b>5,131.1</b>	<b>5,482.5</b>				
<b>Total</b>									

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

1 **SEC. \_\_\_\_ . MULTIYEAR PROCUREMENT AUTHORITY FOR F-35 AIRCRAFT**  
2 **SYSTEM.**

3 (a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to the provisions of section  
4 3501 of title 10, United States Code, as modified by subsection (c), and to the provisions of  
5 section 3531 of title 10, United States Code, the head of an agency may enter into one or more  
6 multiyear contracts for more than one but not more than ten program years, beginning in fiscal  
7 year 2027, for the procurement and sustainment of all variants of the F-35 aircraft system (and  
8 items, services, logistics, supply, and fleet support associated with that system, including  
9 engines).

10 (b) **PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.**—The system authorized  
11 to be procured under subsection (a) may be procured as additions to existing contracts covering  
12 such system.

13 (c) **INDEPENDENT PRICING ANALYSIS.**—For a program authorized in this section, prior to  
14 making a determination under subparagraph (A) of section 3501(i)(3) of title 10, United States  
15 Code, the Secretary of Defense may complete an independent pricing analysis to satisfy the  
16 requirements of subparagraph (B) of such section.

17 (d) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The head of an agency may enter into  
18 one or more contracts for advance procurement associated with the F-35 program and for  
19 systems and subsystems associated with such program, in economic order quantities when cost  
20 savings are achievable.

21 (e) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A multiyear contract entered into  
22 under subsection (a) shall provide that any obligation of the United States to make a payment

23 under the contract for a fiscal year after fiscal year 2027 is subject to the availability of  
24 appropriations for that purpose for such later fiscal year.

25 (f) DEFINITION.—In this section, the term “head of an agency” means—

26 (1) the Secretary of Defense;

27 (2) the Secretary of the Navy; or

28 (3) the Secretary of the Air Force.

### **Section-by-Section Analysis**

This proposal would establish multiyear procurement (MYP) authority for the F-35 aircraft system. The proposal would:

1. Build stable demand for aircraft and supporting supply chains.
2. Enable economies of scale and faster procurement.
3. Support sustainment readiness for warfighters.

The MYP proposal would provide the following benefits: (1) provide stable production through the production lines and supply base, optimizing rates and factors as well as production line efficiencies; (2) provide long-term readiness incentives for Industry; (3) provides length and scale to amortize industry capital investment; (4) accelerate standup of infrastructure (5) stabilize the sustainment cost growth and funding profiles (6) allows maximum advantage of economies of scale with batch ordering and optimized planning; (7) generate savings compared to the annual contract negotiations (time and cost); and (8) provide a stable Total Obligating Authority profile for the Department of the Navy and the Department of the Air Force.

This proposal would allow the F-35 Joint Program Office (JPO) to enter one or more multiyear contract(s) for up to 1,560 F-35A/B/C (850 U.S.) aircraft, engines, initial spares and modification kits over a 10-year period (up to 156 aircraft a calendar year, 85 U.S.). It would allow the F-35 JPO to enter one or more multiyear contract(s) to support the entire F-35 fleet, to include supply chain and direct fleet related support for all Air Vehicle, Propulsion, and Non-Air Vehicle components of fielded F-35 aircraft as well as providing recurring integrated sustainment support for the United States Air Force (USAF), United States Marine Corps (USMC), United States Navy (USN), Partners, and Foreign Military Sales (FMS) customers. The proposal will also include a requirement for the contractor to maintain existing public-private partnerships for depot-level repair of the F-35 components via Direct Sales Implementation Agreements (DSIAs) with USAF depots and Navy Fleet Readiness Centers.

The F-35 Program’s contracting strategy assumes commitment to aircraft procurement configurations that deliver Block 4 capabilities and a plan to retrofit previously delivered F-35 aircraft. Predefined aircraft configurations through the execution of the MYP allows for lower technical risk and stable long-term procurement contract(s).

**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. The Procurement funding includes aircraft, modification kits, and initial spares for each service and variant. The O&M funding includes the 2027 budget controls for each service and variant.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI / SAG	Program Element
USAF Qty	38	42	46	48	48				
USMC Qty F-35B	10	10	9	6	6				
USMC Qty F-35C	17	13	10	9	7				
USN Qty	20	20	20	22	24				
<b>Qty Total</b>	85	85	85	85	85				
USAF - Acft	5,469.8849 22	5,569.4044 45	6,129.1114 57	6,276.8579 04	6,385.8078 56	3010F	01	ATA000	0207142F
USAF - Mods	497.973	577.053	511.966	498.966	697.056	3010F	05	F03500	0207142F
USAF - Spares	1,401.821	901.660	1,290.487	989.821	760.055	3010F	06	000999	0207142F
USMC-B - Acft	2,075.706	2,062.579	1,770.740	1,228.714	1,218.512	1506N	01	0152	0206113M
USMC-B - Mods	509.881	401.843	378.792	349.268	303.021	1506N	05	0592	0206113M
USMC-B - Spares	512.027	254.118	263.681	248.237	142.038	1506N	06	0605	0206113M
USMC-C - Acft	2,152.469	1,716.028	1,319.669	1,053.981	882.544	1506N	01	0147	0204146M
USMC-C - Mods	47.342	54.795	54.336	53.318	43.369	1506N	05	0593	0204146M
USMC-C - Spares	191.707	129.757	180.660	76.872	36.791	1506N	06	0605	0204146M
USN - Acft	3,420.878	3,177.252	3,205.626	3,343.542	3,595.337	1506N	01	0147	0204146N
USN - Mods	169.270	279.918	273.631	269.852	233.060	1506N	05	0593	0204146N
USN - Spares	423.871	307.051	397.652	311.810	240.738	1506N	06	0605	0204146N
<b>Procurement Total</b>	16,872.829	15,431.458	15,776.351	14,701.238	14,538.338				
USAF – O&M	3,622.088	3,400.299	3,817.845	4,217.692	4,938.949	3400F/ 3840F/ 3740F	01	011W	0207142F
USMC-B – O&M	1,553.587	1,489.525	1,488.133	1,558.213	1,595.893	1804N	01	1A9A	0204146M
USMC-C – O&M	306.652	318.124	397.184	452.499	565.526	1804N	01	1A9A	0204146N
USN – O&M	752.752	926.390	1,001.702	1,028.981	1,130.299	1804N	01	1A9A	0204146N
<b>O&amp;M Total</b>	6,235.079	6,134.338	6,704.864	7,257.385	8,230.667				
<b>Total</b>	23,107.908	21,565.796	22,481.215	21,958.623	22,769.005				

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

1 **SEC. \_\_\_\_ . MULTIYEAR PROCUREMENT AUTHORITY FOR PLATFORMS AND**  
2 **COMPONENTS SYSTEMS.**

3 (a) **AUTHORITY.**—Subject to the provisions of section 3501 of title 10, United States  
4 Code, as modified by subsection (c), the head of an agency may enter into one or more multiyear  
5 contracts for more than one but not more than seven program years, beginning in fiscal year  
6 2027, for the procurement of the following systems (including items, services, and logistics  
7 support associated with those systems and their subsystems):

8 (1) Guided Multiple Launch Rocket System (GMLRS).

9 (2) 6.8mm ammunition.

10 (3) Advanced Precision Kill Weapon System (APKWS) (AGR-20 A/B), II /  
11 Fixed-Wing, Air Launched, Counter-Unmanned [Aircraft Systems] Ordnance (FALCO)  
12 (AGR-20F).

13 (4) Lower Tier Air and Missile Defense Sensor (LTAMDS).

14 (5) Small Diameter Bomb II (SDB II).

15 (6) Air Intercept Missile-9X (AIM-9X).

16 (7) Patriot Guidance Enhanced Missile-Tactical (GEM-T).

17 (8) Integrated Battle Command System (IBCS).

18 (9) Air-Launched Rapid Response Weapon Increment 1 (ARRW Inc 1).

19 (10) Army/Navy Transportable Radar Surveillance (TPY-2).

20 (11) Javelin Command Launch Unit (CLU).

21 (12) FGM-148 Javelin.

22 (13) Coyote Block 2C (C-UAS interceptor).

23 (14) Sonobuoys (SSQ-36, SSQ-53, SSQ-62, SSQ-101, SSQ125).

24 (15) RIM-162 Evolved Sea Sparrow Missile (ESSM).

25 (16) RIM-116 Rolling Airframe Missile (RAM).

26 (17) V-22 Nacelle Improvement (NI).

27 (18) KC-46A Pegasus.

28 (19) Remote Modular Terminal (RMT).

29 (20) Counter Communications System (CCS).

30 (21) Additional classified systems.

31 (b) PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.—The systems  
32 authorized to be procured under subsection (a) may be procured as additions to existing contracts  
33 covering such systems.

34 (c) INDEPENDENT PRICING ANALYSIS.—For a program authorized in this section, prior to  
35 making a determination under subparagraph (A) of section 3501(i)(3) of title 10, United States  
36 Code, the Secretary of Defense may complete an independent pricing analysis to satisfy the  
37 requirements of subparagraph (B) of such section.

38 (d) AUTHORITY FOR ADVANCE PROCUREMENT.—The head of an agency may enter into  
39 one or more contracts for advance procurement associated with a program for which  
40 authorization to enter into a multiyear contract is provided under subsection (a) and for systems  
41 and subsystems associated with such program, in economic order quantities when cost savings  
42 are achievable.

43 (e) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A multiyear contract entered into  
44 under subsection (a) shall provide that any obligation of the United States to make a payment  
45 under the contract for a fiscal year after fiscal year 2027 is subject to the availability of  
46 appropriations for that purpose for such later fiscal year.

- 47 (f) DEFINITION.—In this section, the term “head of an agency” means—
- 48 (1) the Secretary of Defense;
- 49 (2) the Secretary of the Army;
- 50 (3) the Secretary of the Navy; or
- 51 (4) the Secretary of the Air Force.

### Section-by-Section Analysis

This proposal would establish multiyear procurement (MYP) authority for munitions and common components across critical munitions. The proposal would:

1. Build stable demand for munitions, energetics, fuzes, solid rocket motors, electronics, batteries and guidance kits.
2. Enable economies of scale and faster replenishment.
3. Support sustainment readiness for warfighter stockpiles.

Munition shortfalls and component gaps are the new bottleneck and now determine the actual delivery pace. We’ve seen firsthand that when suppliers leave the market, rebuilding capacity is neither fast nor cheap. Replenishing Department of Defense (DoD) stock and requalifying a new component can take 3-5 years, even under accelerated pathways. In the past 2 years, the Ukraine conflict and operations in Iran have exposed how quickly our munitions stockpiles and the supply chain are impacted. Multi-year procurement authority for these munitions is essential to signal long-term commitment to the industrial base, enabling manufacturers to invest in workforce development, expand production capacity, and secure economies of scale. This approach directly addresses supply chain vulnerabilities and mitigates production delays for long-lead components, ensuring a resilient and responsive munitions pipeline prepared for current and future operational requirements.

The enduring demand for critical munitions, driven by the strategic imperatives of both U.S. forces and key international partners, necessitates a shift to more stable and efficient procurement models. International partners and allies are placing larger, faster, and more frequent foreign military sales orders. Growing demand in the Indo-Pacific and European theaters is converging on the same component suppliers that DoD relies on. Surge capability requires readiness at the component level.

To drive industrial base resiliency and greater long-term investment on behalf of our defense industrial base partners, this proposal also includes multi-year procurement authority for select, critical systems where we know procurement across the FYDP is stable or growing (such as Sonobuoys, the Javelin Command Launch Unit (CLU), MQ-9B, V-22 Nacelle Improvements, IBCS, etc). These programs, while distinct from munitions, rely on the same fragile sub-tier supplier networks and critical components, such as microelectronics and advanced materials. Authorizing MYP for these platforms and support systems provides the necessary planning stability to prevent production bottlenecks that are as detrimental to readiness as production

shortfalls. Synchronizing the acquisition of these core capabilities creates holistic industrial efficiencies, generates greater cost savings for the Department, and ensures complete 'system of systems' readiness.

Without MYP and Advance Procurement authorities for shared components, DoD faces cascading production delays for munitions and for Tiers 1-3 sub-component items such as electronics, actuators, batteries, and solid rocket motors. Inability to replenish munitions or pre-buy critical components limits DoD's ability to surge during conflict or respond rapidly to allied needs. Persistent backlogs or stop-work orders for munitions and lack of key components may constrain the ability of the commanders of combatant commands to execute operation plans in a high-end fight.

This proposal is a follow-on to section 1244(c) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263), as amended by section 1242(3) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31).

It is important to note that the authorities granted in the NDAA's are applicable to some of the specific munitions within this legislative proposal, but not to all items listed. This proposal seeks to build upon and, where necessary, expand those existing authorities to cover the full spectrum of capabilities required.

Due to the sensitive nature of a number of these defense systems, the detailed programmatic information and formal justifications are highly classified. The program details and justifications will be provided in a separate, classified annex. This annex will be made available to authorized individuals through the appropriate secure channels.

**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	FY 2032	FY 2033	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)	
Guided Multiple Launch Rocket System (GMLRS) <b>Army</b>	\$1,064	\$1,209	\$1,149	\$1,155	\$1,262	\$1,297	\$1,334	2032A	02	6005C64400/230	N/A	
Guided Multiple Launch Rocket System (GMLRS) <b>USMC</b>	\$76	\$76	\$99	\$99	\$108	\$111	\$114	1109N	03	3025/03	N/A	
6.8mm munitions <b>Army</b>	\$564	\$683	\$716	\$716	\$726	\$746	\$767	2032A	01	1065E06001/130	N/A	
Advanced Precision Kill Weapon System (APKWS) (AGR-20 A/B) Fixed-Wing, Air Launched, Counter-Unmanned [Aircraft Systems] Ordnance (FALCO) (AGR-20F) <b>Navy</b>	\$15.7	\$17.1	\$17.5	\$17.8	\$18.3	\$18.8	\$19.3	1508N	01	0151/01	N/A	
Advanced Precision Kill Weapon System (APKWS) (AGR-20 A/B) Fixed-Wing, Air Launched, Counter-Unmanned [Aircraft Systems] Ordnance (FALCO) (AGR-20F) <b>USAF</b>	\$104.0	\$30.0	\$30.0	\$30.0	\$30.8	\$31.7	\$32.6	3020F3011F	02	APKWS0351010	N/A	
Advanced Precision Kill Weapon System (APKWS) (AGR-20 A/B) Fixed-Wing, Air Launched, Counter-Unmanned [Aircraft Systems] Ordnance (FALCO) (AGR-20F) <b>Army</b>	\$5.4	\$5.4	\$6.1	\$6.1	\$6.2	\$6.2	\$6.2	2034A	01	3246E37300/145	N/A	
Lower Tier Air and Missile Defense Sensor (LTAMDS) <b>Army</b>	\$2,036	\$1,501	\$1,485	\$1,541	\$1,552	\$1,595	\$1,640	2032A	02	7265C12000/210	N/A	
Small Diameter Bomb II (SDB II) <b>Navy</b>	\$167	\$111	\$112	\$114	\$116	\$119	\$122	1507N	02	2238/02	N/A	
Small Diameter Bomb II (SDB II) <b>USAF</b>	\$194	\$136	\$134	\$137	\$139	\$143	\$147	3020F	02	SDB002	N/A	
Air Intercept Missile-9X (AIM-9X) <b>Army</b>	\$631	\$811	\$398	\$405	\$419	\$431	\$443	2032A	02	8930C61001/210	N/A	

Air Intercept Missile-9X (AIM-9X) <b>USAF</b>	\$419	\$283	\$135	\$134	\$137	\$141	\$144	3020F	02	M09HAI	N/A
Patriot Guidance Enhanced Missile-Tactical (GEM-T) <b>Army</b>	\$1,410	\$1,441	\$2,356	\$3,010	\$3,076	\$3,143	\$3,231	2032A	02	8260C49200/10	N/A
Integrated Battle Command System (IBCS) <b>Army</b>	\$1,053	\$752	\$803	\$844	\$868	\$808	\$838	2035A	02	9280BZ5075/289	N/A
Air-Launched Rapid Response Weapon (ARRW) <b>USAF</b>	\$452	\$556	\$621	\$616	\$597	\$614	\$631	3020F	02	ARRW00	N/A
Army/Navy Transportable Radar Surveillance (TPY-2) <b>Army</b>	\$29	\$15	\$12	\$9	\$12	\$13	\$13	2032A	02	8046C20200/210	N/A
Javelin Light Weight Command Launch Unit (LWCLU) <b>Army</b>	\$202	\$181	\$165	\$125	\$126	\$130	\$133	2032A	02	0648CC0007/230	N/A
Javelin Light Weight Command Launch Unit (LWCLU) <b>USMC</b>	\$4.4	\$4.4	\$4.4	\$4.5	\$4.6	\$4.7	\$4.9	1109N	03	3011/03	N/A
FGM-148 Javelin <b>Army</b>	\$215	\$215	\$215	\$215	\$218	\$224	\$230	2032A	02	0648CC0007/230	N/A
FGM-148 Javelin <b>USMC</b>	\$63	\$27.8	\$21.9	\$22.3	\$22.8	\$23.4	\$24.1	1109N	03	3011/03	N/A
Coyote Block 2C (C-UAS interceptor) <b>Army</b>	\$72	\$78	\$73	\$78	\$78	\$78	\$78	2035A	02	0219AD0500/286	N/A
Sonobuoys (SSQ- 36,SSQ-53,SSQ-62,SSQ-101,SSQ125)	\$300	\$642	\$672	\$704	\$730	\$750	\$771	1810N	03	4048/03	N/A
Rolling Airframe Missile (RAM) <b>Navy</b>	\$119	\$134	\$142	\$144	\$147	\$150	\$153	1507N	02	2242/02	N/A
Evolved Sea sparrow Missile (ESSM) <b>Navy</b>	\$521	\$551	\$600	\$638	\$651	\$664	\$677	1507N	02	2307/02	N/A
V-22 Nacelle Improvement (NI) <b>USMC</b>	\$305	\$313	\$322	\$330	\$339	\$346	\$353	1506N	05	0590/05	N/A
<b>KC-46A USAF</b>	\$3,787	\$6,385	\$6,459	\$6,498	\$6,587	\$1,801	0	3010	02	KC046A/000999	N/A
<b>KC-46A USAF Quantity</b>	\$15	\$18	\$18	\$18	\$18	\$3	0	3010	02	KC046A	N/A
RMT	Classified	Classified	Classified	Classified	Classified	Classified	Classified	XXXX	XX	XXXX	N/A

CCS	Classified	Classified	Classified	Classified	Classified	Classified	Classified	XXXX	XX	XXXX	N/A
Additional Classified Systems	Classified	Classified	Classified	Classified	Classified	Classified	Classified	XXXX	XX	XXXX	N/A

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