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S. 3522

To provide enhanced authority for the President to enter into agreements with the Government of Ukraine to lend or lease defense articles to that Government to protect civilian populations in Ukraine from Russian military invasion, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19 (legislative day, JANUARY 18), 2022

Mr. CORNYN (for himself, Mr. CARDIN, Mr. WICKER, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide enhanced authority for the President to enter into agreements with the Government of Ukraine to lend or lease defense articles to that Government to protect civilian populations in Ukraine from Russian military invasion, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ukraine Democracy
5 Defense Lend-Lease Act of 2022”.

6 **SEC. 2. REAFFIRMATION OF POLICY.**

7 Congress reaffirms—

1 (1) its finding under section 501 of the Foreign
2 Assistance Act of 1961 (22 U.S.C. 2301) that “the
3 efforts of the United States and other friendly coun-
4 tries to promote peace and security continue to re-
5 quire measures of support based upon the principle
6 of effective self-help and mutual aid”;

7 (2) its recognition under that section that “the
8 peace of the world and the security of the United
9 States are endangered so long as hostile countries
10 continue by threat of military action, by the use of
11 economic pressure, and by internal subversion, or
12 other means to attempt to bring under their domina-
13 tion peoples now free and independent and continue
14 to deny the rights of freedom and self-government to
15 peoples and countries once free but now subject to
16 such domination”; and

17 (3) its intention under that section “to promote
18 the peace of the world and the foreign policy, secu-
19 rity, and general welfare of the United States by fos-
20 tering an improved climate of political independence
21 and individual liberty, [and] improving the ability of
22 friendly countries and international organizations to
23 deter or, if necessary, defeat aggression”.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations,
5 the Committee on Armed Services, and the
6 Committee on Appropriations of the Senate;
7 and

8 (B) the Committee on Foreign Affairs, the
9 Committee on Armed Services, and the Com-
10 mittee on Appropriations of the House of Rep-
11 resentatives.

12 (2) CRITICAL INFRASTRUCTURE.—The term
13 “critical infrastructure” means systems and assets,
14 whether physical or virtual, so vital to Ukraine that
15 the incapacity or destruction of such systems and
16 assets would have a debilitating impact on the secu-
17 rity, national economic security, or national public
18 health or safety of Ukraine, or any combination of
19 those matters.

20 (3) DEFENSE ARTICLE.—The term “defense ar-
21 ticle”—

22 (A) has the meaning given that term in
23 section 644 of the Foreign Assistance Act of
24 1961 (22 U.S.C. 2403); and

1 (B) includes United States cyber capabili-
2 ties and assets.

3 **SEC. 4. AGREEMENTS WITH THE GOVERNMENT OF**
4 **UKRAINE TO LEND OR LEASE DEFENSE ARTI-**
5 **CLES TO THAT GOVERNMENT TO PROTECT**
6 **CIVILIAN POPULATIONS IN UKRAINE FROM**
7 **RUSSIAN INVASION.**

8 (a) AUTHORITY.—

9 (1) IN GENERAL.—Subject to the provisions of
10 law described in paragraph (2), the President may
11 enter into one or more agreements directly with the
12 Government of Ukraine to lend or lease defense arti-
13 cles to that Government if—

14 (A) before the date on which a defense ar-
15 ticle is transferred to the Government of
16 Ukraine under such an agreement, the Govern-
17 ment of Ukraine certifies to the President of
18 the United States that the defense article is
19 necessary to protect civilian populations in
20 Ukraine from Russian military invasion; and

21 (B) not later than 90 days after the date
22 on which a defense article is transferred to the
23 Government of Ukraine under such an agree-
24 ment, the President certifies to the appropriate
25 congressional committees that the defense arti-

1 cle is necessary to protect civilian populations
2 in Ukraine from Russian military invasion.

3 (2) PROVISIONS OF LAW DESCRIBED.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the provisions of law de-
6 scribed in this paragraph are the following:

7 (i) The Foreign Assistance Act of
8 1961 (22 U.S.C. 2151 et seq.).

9 (ii) The Arms Export Control Act (22
10 U.S.C. 2751 et seq.).

11 (iii) Any other relevant provision of
12 law.

13 (B) EXCLUSIONS.—The enhanced author-
14 ity described in paragraph (1) is not subject to
15 the following provisions of law:

16 (i) Section 503(b)(3) of the Foreign
17 Assistance Act of 1961 (22 U.S.C.
18 2311(b)(3)).

19 (ii) Sections 61 and 63 of the Arms
20 Export Control Act (22 U.S.C. 2796 and
21 2796b).

22 (3) WAIVER OF CERTAIN REPORT REQUIRE-
23 MENTS.—Congress finds that an emergency exists
24 for purposes of subsection (b) of section 62 of the

Arms Export Control Act (22 U.S.C. 2796a), and the requirements of that section are waived.

(b) EXPIRATION OF AUTHORITY.—

(1) IN GENERAL.—The enhanced authority described in subsection (a) shall expire on the date on which each of the following conditions is met:

(A) The conflict described in paragraph

(2)(A) has ceased.

(B) The Russian Federation has reduced its military force on the eastern border of Ukraine to levels commensurate with the levels maintained prior to March 1, 2021.

(2) CONFLICT DESCRIBED.—

(A) IN GENERAL.—The conflict described in this paragraph is the conflict between the Russian Federation and Ukraine that began in February 2014 when the Russian Federation invaded Ukraine and annexed the Crimea region of Ukraine.

(B) TREATMENT OF ATTACKS ON CIVILIAN POPULATIONS.—Any attack by the Russian Federation on a civilian population in Ukraine, including any conventional attack on a civilian population or any cyber attack to critical infrastructure in Ukraine that originates from with-

1 in the Russian Federation, shall be treated as
2 a continuation of the conflict described in sub-
3 paragraph (A).

4 (c) DELEGATION OF AUTHORITY.—The President
5 may delegate the enhanced authority described in sub-
6 section (a) only to an official appointed by the President
7 by and with the advice and consent of the Senate.

8 **SEC. 5. PROCEDURES FOR DELIVERY OF DEFENSE ARTI-**
9 **CLES.**

10 Not later than 90 days after the date of the enact-
11 ment of this Act, the President shall establish expedited
12 procedures for the delivery of any defense article loaned
13 or leased to the Government of Ukraine under an agree-
14 ment entered into under section 4(a) to ensure timely de-
15 livery of the article to that Government.

16 **SEC. 6. REPORTS REQUIRED.**

17 (a) REPORT ON USE OF AUTHORITY.—

18 (1) IN GENERAL.—Not later than 90 days after
19 the date of the enactment of this Act, the President
20 shall submit to the appropriate congressional com-
21 mittees a report setting forth the following:

22 (A) An identification of any defense arti-
23 cles loaned or leased to the Government of
24 Ukraine under an agreement entered into under

1 section 4(a), disaggregated by articles loaned
2 and articles leased.

3 (B) The intended use and specific protec-
4 tion circumstances for each defense article iden-
5 tified under subparagraph (A).

6 (2) UPDATES.—Not less frequently than once
7 every 90 days until the conflict described in section
8 4(b)(2) has ceased, the President shall update the
9 report required by paragraph (1).

10 (b) REPORT ON EFFORTS TO LIFT NSPA RESTRIC-
11 TIONS ON TRANSFERS OF DEFENSE ARTICLES TO
12 UKRAINE.—Not later than 90 days after the date of the
13 enactment of this Act, the President shall submit to the
14 appropriate congressional committees a report on restric-
15 tions imposed by the North Atlantic Treaty Organization
16 (NATO) Support and Procurement Agency on transfers
17 of defense articles to Ukraine, including a discussion of
18 whether such restrictions should be lifted.

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