

Kelly, King, Klobuchar, Lujan, Manchin, Markey, Menendez, Merkley, Murphy, Murray, Ossoff, Peters, Reed, Rosen, Sanders, Schatz, Schumer, Shaheen, Sinema, Smith, Stabenow, Sullivan, Tester, Van Hollen, Warner, Warnock, Warren, Welch, Whitehouse, Wyden

NAYS—47

Barrasso, Blackburn, Boozman, Braun, Britt, Budd, Capito, Cassidy, Collins, Cornyn, Cotton, Cramer, Crapo, Cruz, Daines, Ernst, Fischer, Graham, Grassley, Hagerty, Hawley, Hoeven, Hyde-Smith, Johnson, Kennedy, Lankford, Lee, Lummis, Marshall, McConnell, Moran, Mullin, Murkowski, Paul, Ricketts, Risch, Romney, Rounds, Rubio, Schmitt, Scott (FL), Thune, Tillis, Tuberville, Vance, Wicker, Young

NOT VOTING—2

Padilla, Scott (SC), The ACTING PRESIDENT pro tempore. The yeas are 51, nays 47. The motion is agreed to.

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Jessica Looman, of Minnesota, to be Administrator of the Wage and Hour Division, Department of Labor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

BUDGETARY REVISIONS

Mr. WHITEHOUSE. Mr. President, H.R. 5860 was the continuing resolution signed into law on September 30. It narrowly averted an extremist-led government shutdown.

That act included \$16 billion in disaster relief for States like Florida, Vermont, New York, Pennsylvania, Hawaii, Louisiana, and others that suffered tremendous losses from extreme weather events exacerbated by fossil fuel emissions causing climate change. It also provided funding for the thousands of firefighters who protect our communities from the ravages of wildfires.

Because that was designated as emergency funding, the Budget Committee chairman—i.e., me—is authorized to increase the Appropriations Committee's top line by the same amount. With this adjustment, the emergency funding will not supplant nondefense discretionary funding—which includes important investments for climate mitigation, environmental protection, infrastructure, education, job training, national parks and forests, and law enforcement—that is subject to the fiscal year 2024 discretionary spending limits.

That funding was designated as emergency funding pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985. Section 314(a) of the Congressional Budget Act allows the chairman

of the committee to revise the allocations, aggregates, and levels consistent with the amount of emergency funding. Today, I am making that adjustment.

In addition, section 121(c) of the Fiscal Responsibility Act of 2023 contained a reserve fund to allow the Budget chairman to revise budget aggregates and committee allocations and to adjust the pay-as-you-go ledger for legislation that would not increase the deficit over the period of fiscal years 2024 to 2033. The authorizing portion of H.R. 5860, division B, meets the conditions of that reserve fund. Over the 10-year period, division B reduces deficits by \$2 million. As such, I am revising the budget aggregates, committee allocations, and pay-as-you-go ledger to accommodate H.R. 5860.

Mr. President, I ask unanimous consent that the accompanying tables which provide details about the adjustment be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

REVISIONS TO BUDGET AGGREGATES—BUDGET AUTHORITY AND OUTLAYS

(Pursuant to Section 121(c) of the Fiscal Responsibility Act of 2023 and Section 314(a) of the Congressional Budget Act of 1974) (\$ in billions)

Table with 2 columns: Category, 2024. Rows include Current Spending Aggregates, Adjustment, and Revised Aggregates.

REVISIONS TO THE ALLOCATION TO THE COMMITTEE ON APPROPRIATIONS FOR FISCAL YEAR 2024

(Pursuant to Section 314(a) of the Congressional Budget Act of 1974) (\$ in billions)

Table with 4 columns: Category, Current Allocation, Adjustments, Revised Allocation. Rows include Revised Security Budget Authority, Revised Nonsecurity Budget Authority, and General Purpose Outlays.

Note: The adjustments are emergency-designated funding in the jurisdiction of the Homeland Security appropriations subcommittee.

REVISIONS TO ALLOCATIONS TO SENATE COMMITTEES

(Pursuant to Section 121(c) of the Fiscal Responsibility Act of 2023) (\$ in billions)

Table with 4 columns: Category, 2024, 2024–2028, 2024–2033. Rows include Finance, Adjustments, Revised Allocation, and Health, Education, Labor, and Pensions.

Note: The adjustments represent the direct spending effects of Title III of Division B of H.R. 5860. Subtitle B is in the jurisdiction of the Committee on Health, Labor, Education, and Pensions. Subtitles D and E are in the jurisdiction of the Committee on Finance.

PAY-AS-YOU-GO SCORECARD FOR THE SENATE

(Pursuant to Section 121(c) of the Fiscal Responsibility Act of 2023) (\$ in billions)

Table with 2 columns: Category, Balances. Rows include Current Balances, Revisions, and Revised Balances for Fiscal Years 2024, 2024–2028, and 2024–2033.

Mr. WHITEHOUSE. I yield the floor. The PRESIDING OFFICER (Mr. HICKENLOOPER). The Senator from Rhode Island.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS SALES NOTIFICATION

Mr. CARDIN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY COOPERATION AGENCY, Washington, DC.

Hon. BENJAMIN L. CARDIN, Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 23-0P. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 18-19 of June 26, 2018.

Sincerely, JAMES A. HURSCHE, Director.

Enclosure.

TRANSMITTAL NO. 23-0P

Report of Enhancement or Upgrade of Sensitivity of Technology or Capability (Sec. 36(b)(5)(C), AECA)

(i) Purchaser: Government of Spain.

(ii) Sec. 36(b)(1), AECA Transmittal No.: 18-19; Date: June 26, 2018; Implementing Agency: Navy.

(iii) Description: On June 26, 2018, Congress was notified by Congressional certification transmittal number 18-19, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of five (5) AEGIS Weapons Systems (AWS) MK7, six (6) shipsets Digital Signal Processing, five (5) shipsets AWS Computing Infrastructure MARK 1 MOD 0, five (5) shipsets Operational Readiness Test Systems (ORTS), five (5) shipsets MK 99 MOD 14 Fire Control System, five (5) shipsets MK 41 Baseline VII Vertical Launching Systems (VLS), two (2) All-Up-Round MK 54 Mod 0 lightweight torpedoes, twenty (20) Standard Missile 2 (SM-2) Block IIIB missiles and MK 13 canisters with AN/DKT-71 warhead compatible telemeter. Also included was one (1) S4 AWS computer program, five (5) shipsets Ultra High Frequency (UHF) Satellite Communications (SATCOM), five (5) shipsets AN/SRQ-4 radio terminal sets, five (5) shipsets ordnance handling equipment, five (5) shipsets Selective Availability Anti-Spoofing Modules (SAASMI), five (5) shipsets aviation handling and support equipment, five (5) shipsets AN/SLQ-24E Torpedo countermeasures systems, five (5) shipsets LM04 Thru-Hull XBT Launcher and test canisters, one (1) shipset MK 36 MOD 6 Decoy Launching System, five (5) shipsets Link Level COMSEC (LLC) 7M for LINK 22, five (5) shipsets Maintenance Assist Module (MAM) cabinets, five (5) shipsets technical documentation, five (5) shipsets installation support material, special purpose test equipment, system engineering, technical services, on-site vendor assistance, spare parts, systems training, foreign liaison office and staging services necessary to support ship construction and delivery, spare and repair parts, tools and test equipment, support equipment, repair and return support, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering and logistics support services, and other related elements of logistic and program support. The estimated total cost was \$860.4 million. Major Defense Equipment (MDE) constituted \$324.4 million of this total.

On June 15, 2020, Congress was notified by Congressional certification transmittal number 20-0G of an additional MDE sale of thirty (30) All-Up-Round MK 54 Lightweight Torpedoes (LWT). The following non-MDE items were also included: MK 54 LWT expendables; MK 54 turnaround kits; MK 54 containers; one (1) MK-695 Torpedo Systems Test Set (TSTS); support equipment including fire control modification platforms and spare parts; torpedo spare parts; training; publications; software; U.S. Government and contractor engineering, technical, and logistics support services and other related elements of logistics and program support. The addition of these items resulted in a net increase in MDE cost of \$45 million, resulting in a revised MDE cost of \$369.4 million. The total estimated case value increased to \$940.4 million.

On June 8, 2022, Congress was notified by Congressional certification transmittal number 22-0G of the MDE replacement of the previously notified two (2) All Up Round MK 54 Mod 0 LWTs with two (2) Exercise MK 54 Mod 0 LWTs. Also included was additional Engineering Technical Assistance for redesign of Radar Signal Processing Group configuration and updates to International Aegis Fire

Control Loop design; shipsets of SAASM units and associated spares; COMSEC equipment for use between test sites; and removal of one (1) shipset MK 36 Mod 6 Decoy Launching System. The MDE total value remained \$369.4 million; however, the non-MDE estimated value increased from \$571 million to \$810.6 million. The total estimated case value increased to \$1.18 billion.

On February 27, 2023, Congress was notified by Congressional certification transmittal number 22-0W of the MDE inclusion of up to an additional sixty-two (62) SM-2 Block IIIB missiles in tactical and telemetered configurations. Also included were MK 13 canisters; spare parts and associated containers; personal training and training equipment; publications and technical data; U.S. Government and contractor technical assistance; and other related elements of logistics and program support. The addition of these items resulted in a net increase in MDE value of \$260 million, resulting in a revised MDE value of \$629.4 million. The non-MDE estimated value increased from \$810.6 million to \$850.6 million. The total estimated case value increased by \$300 million to \$1.48 billion.

This transmittal notifies: 1) the MDE inclusion of an additional one hundred-ten (110) MK 54 Mod 0 Lightweight Torpedoes (LWT) in the form of conversion kits for the Spanish Navy's MK 46 LWTs; and 2) the replacement of the previously notified additional up to sixty-two (62) SM-2 Block IIIB missiles with up to sixty-two (62) SM-2 Block IIIC missiles. Also included are MK 54 LWT expendables; MK 54 turnaround kits; MK 54 containers; torpedo spare parts; training; logistics support services; air launch accessories; and unclassified and classified publications. The estimated total value of the new items is \$181 million. The value of the new MDE items constitutes \$75 million of this total, resulting in a revised MDE value of \$704.4 million. The estimated non-MDE value will increase by \$106 million to \$956.6 million. The total estimated case value will increase by \$181 million to \$1.661 billion.

(iv) Significance: The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed amendment will support Spain's Anti-Submarine Warfare (ASW) capability by providing 50 MK 54 Conversion Kits for use with surface ships and 60 Conversion Kits for use on helicopters.

(v) Justification: This proposed sale will support the foreign policy and national security of the United States by improving the security of a North Atlantic Treaty Organization (NATO) Ally, which is an important force for political stability and economic progress in Europe. It is vital to the U.S. national interest to assist Spain in developing and maintaining a strong and ready self-defense capability.

(vi) Sensitivity of Technology:

The SM-2 Block IIIC Active Missile maximizes existing SM-6 Block 1 active and SM-2 semi-active missile technology to deliver a low cost, medium range dual mode active/semi-active missile. Improvements to the Guidance Section, communications plate and steering control section are planned to address obsolescence.

The Sensitivity of Technology Statement contained in the original notification applies to additional items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) Date Report Delivered to Congress: October 19, 2023.

GOVERNMENT ACCOUNTABILITY OFFICE LEGAL OPINION NO. B-335488

Mr. CRUZ. Mr. President, I ask unanimous consent that the attached legal opinion of the Government Accountability Office, no. B-335488, titled "U.S. Department of Transportation—Applicability of the Congressional Review Act to Notice of Funding Opportunity for the Department of Transportation's FY 2023-2024 Multimodal Project Discretionary Grant Opportunity," issued on October 18, 2023, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECISION

Matter of: U.S. Department of Transportation—Applicability of the Congressional Review Act to Notice of Funding Opportunity for the Department of Transportation's FY 2023-2024 Multimodal Project Discretionary Grant Opportunity

File: B-335488

Date: October 18, 2023

DIGEST

On June 23, 2023, the U.S. Department of Transportation (DOT) published a document titled Notice of Funding Opportunity for the Department of Transportation's FY 2023-2024 Multimodal Project Discretionary Grant Opportunity (MPDG) (Multimodal NOFO). DOT did not submit a report pursuant to the Congressional Review Act (CRA) to Congress or the Comptroller General on the Multimodal NOFO.

CRA incorporates the Administrative Procedure Act's definition of a rule and requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as to the Comptroller General. The Multimodal NOFO announced the availability of DOT funding for three discretionary grant programs: the Nationally Significant Multimodal Freight and Highway Projects program, the National Infrastructure Project Assistance program, and the Rural Surface Transportation program. DOT's stated purpose in the Multimodal NOFO was to fund surface transportation infrastructure projects meeting the criteria of these programs and aligning with DOT goals. We conclude that the Multimodal NOFO meets CRA's definition of a rule and no CRA exception applies. Therefore, the Multimodal NOFO is subject to CRA's submission requirement.

DECISION

On June 23, 2023, the U.S. Department of Transportation (DOT) published a document titled Notice of Funding Opportunity for the Department of Transportation's FY 2023-2024 Multimodal Project Discretionary Grant Opportunity (MPDG) (Multimodal NOFO), available at <https://www.transportation.gov/grants/multimodal-project-discretionary-grant-notice-funding-opportunity> (last visited Sept. 19, 2023). We received a request for a decision as to whether the Multimodal NOFO is a rule for purposes of the Congressional Review Act (CRA). Letter from Senator Ted Cruz to the Comptroller General (July 27, 2023). As discussed below, we conclude that the Multimodal NOFO is a rule subject to CRA's submission requirement.

Our practice when rendering decisions is to contact the relevant agencies to obtain their legal views on the subject of the request. GAO, Procedures and Practices for Legal Decisions and Opinions, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at <https://>