SEC. __. EXTENSION OF AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF AFGHANISTAN

(a) EXPIRATION.—Subsection (h) of section 1222 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 1992), as most recently amended by section 1215 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1045), is further amended by striking "December 31, 2016" and inserting "December 31, 2017".

(b) EXCESS DEFENSE ARTICLES.—Subsection (i)(2) of such section is amended by striking "During fiscal years 2013, 2014, 2015, and 2016" each place it appears and inserting "Through December 31, 2017".

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

Section-by-Section Analysis

This proposal would extend authorization for the provision of defense services and the transfer of defense articles from DoD stocks to the Afghanistan military and security forces without reimbursement from the government of Afghanistan through December 2017.

Budget Implications: The resources reflected in the table below are funded within the FY 2017 President's Budget.

RESOURCE REQUIREMENTS ($MILLIONS)							
	FY 2017	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
O&M-A	$250			Operation and Maintenance, Army OCO	01	135	
Total	$250						

Changes to Existing Law: This proposal would make the following changes to section 1222 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat. 1992):

SEC. 1231. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF AFGHANISTAN.

(a) NONEXCESS ARTICLES AND RELATED SERVICES.—The Secretary of Defense may, with the concurrence of the Secretary of State, transfer nonexcess defense articles from the stocks of the Department of Defense, without reimbursement from the Government of Afghanistan, and provide defense services in connection with the transfer of such defense articles, to the military and security forces of Afghanistan to support the efforts of those forces to restore and maintain peace and security in that country.

(b) LIMITATIONS.—

(1) VALUE.—The aggregate replacement value of all defense articles transferred and defense services provided in connection with such defense articles under subsection (a) in any fiscal year may not exceed $250,000,000.

(2) SOURCE OF TRANSFERRED ARTICLES.—The authority under subsection (a) may only be used for defense articles that—

(A) were present in Afghanistan as of the date of the enactment of this Act;

(B) immediately before transfer were in use to support operations in Afghanistan; and

(C) are no longer required by United States forces in Afghanistan.

(c) APPLICABLE LAW.—Any defense articles transferred or defense services provided under the authority of subsection (a) shall be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) REPORT REQUIRED BEFORE EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not exercise the authority under subsection (a) until 15 days after the Secretary submits to the appropriate committees of Congress a report on the equipment and other property of the Department of Defense in Afghanistan.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

(A) A description of the process for inventorying equipment and property, including defense articles, in Afghanistan owned by the Department of Defense, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(B) An estimate of the types and quantities of equipment and property of the Department of Defense, including defense articles, anticipated to be withdrawn from Afghanistan in connection with the drawdown of United States military forces from Afghanistan between the date of the enactment of this Act and December 31, 2014, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(e) NOTICE ON EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the Secretary of Defense, with the concurrence of the Secretary of State, submits to the appropriate committees of Congress notice of the proposed transfer of defense articles and provision of defense services.

(2) ELEMENTS.—A notice under paragraph (1) shall include the following:

(A) A description of the amount and types of defense articles to be transferred and defense services to be provided.

(B) A statement describing the current value of the defense articles to be transferred and the estimated replacement value of such articles.

(C) An identification of the element of the military or security force that is the proposed recipient of the defense articles to be transferred and defense service to be provided.

(D) An identification of the military department from which the defense articles to be transferred are to be drawn.

(E) An assessment of the impact, if any, of the transfer of defense articles on the readiness of units from which the defense articles are to be transferred, and the plan, if any, for mitigating such impact or reimbursing the military department of such units for such defense articles.

(F) An assessment of the ability of the Government of Afghanistan to sustain the costs associated with receiving, possessing, and using the defense articles to be transferred.

(G) A determination and certification by the Secretary of Defense, with the concurrence of the Secretary of State, that—

(i) the proposed transfer of the defense articles to be transferred and the provision of defense services to be provided in connection with such transfer is in the national interest of the United States; and

(ii) such defense articles are required by the military and security forces of Afghanistan to build their capacity to restore and maintain peace and security in that country.

(f) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the first transfer of defense articles and provision of defense services under the authority in subsection (a), and at the end of each calendar quarter, if any, thereafter through March 31, 2017, in which the authority in subsection (a) is exercised, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the implementation of the authority in subsection (a). Each report shall include the replacement value of the defense articles transferred pursuant to subsection (a), both in the aggregate and by military department, and defense services provided to the Government of Afghanistan, during the 90-day period ending on the date of such report.

(2) INCLUSION IN OTHER REPORT.—A report required under paragraph (1) may be included in the report required under section 9204 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2410) or any follow on report to such other report.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘‘appropriate committees of Congress’’ means—

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

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(2) DEFENSE ARTICLES.—The term ‘‘defense articles’’ has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) DEFENSE SERVICES.—The term ‘‘defense services’’ has the meaning given the term in section 644(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(f)).

(4) MILITARY AND SECURITY FORCES.—The term ‘‘military and security forces’’ means national armies, national air forces, national navies, national guard forces, police forces, and border security forces, but does not include nongovernmental or irregular forces (such as private militias).

(h) EXPIRATION.—The authority provided in subsection (a) may not be exercised after December 31, ~~2016~~ 2017.

(i) EXCESS DEFENSE ARTICLES.—

(1) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by section 516 of the Foreign Assistance Act of 1961.

(2) EXEMPTIONS.—

(A) ~~During fiscal years 2013, 2014, 2015, and 2016~~ Through December 31, 2017, the value of excess defense articles transferred from the stocks of the Department of Defense in Afghanistan pursuant to section 516 of the Foreign Assistance Act of 1961 shall not be counted against the limitation on the aggregate value of excess defense articles transferred contained in subsection (g) of such section.

(B) ~~During fiscal years 2013, 2014, 2015, and 2016~~ Through December 31, 2017, any excess defense articles specified in subparagraph (A) shall not be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 contained in subsections (b)(1)(B) and (e) of such section.