SEC. ___. MODIFICATION AND EXTENSION OF AUTHORITIES RELATING TO PROGRAM TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) MODIFICATION OF AUTHORITY.—Subsection (b)(1) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456), as most recently amended by section 1201 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1979), is further amended by striking "supplies, training" and inserting "training, logistic support, supplies, and services".

(b) AVAILABILITY OF FUNDS.—Subsection (c) of such section is amended—

(1) in paragraph (5)—

(A) by striking "not more than $75,000,000 may be used during fiscal year 2010, not more than $75,000,000 may be used during fiscal year 2011 and"; and

(B) by striking "each of fiscal years 2012, 2013, and 2014" and inserting "each fiscal year through fiscal year 2015"; and

(2) by adding at the end the following new paragraph:

"(7) AVAILABILITY OF FUNDS FOR PROGRAMS DURING THE FIRST THREE MONTHS OF THE FOLLOWING FISCAL YEAR.—

"(A) IN GENERAL.—For discretionary appropriations enacted after the date of the enactment of this paragraph, and subject to subparagraph (B), an amount not to exceed 20 percent of amounts available under this subsection for the authority in subsection (a) for any fiscal year may be obligated during the first three months of the following fiscal year to conduct or support a program authorized, approved, and congressional notification completed in accordance

with subsection (a).

"(B) NOTIFICATION.—Whenever the Secretary of Defense decides, with the concurrence of the Secretary of State, to conduct or support a program authorized under subsection (a) by obligating funds as described in subparagraph (A) during the first six months of the following fiscal year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (3) of subsection (e) a notification in writing of that decision in accordance with such subsection by not later than September 30 of the fiscal year for which the funds are appropriated.".

(c) EXTENSION OF PROGRAM AUTHORIZATION.—Subsection (g) of such section is amended—

(1) by striking "September 30, 2014" and inserting "September 30, 2015"; and

(2) by striking "through 2014" and inserting "through 2015".

(d) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(h) DEFINITION.—In this section, the term 'logistic support, supplies, and services' has the meaning given that term in section 2350(1) of title 10, United States Code.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2013, and shall apply with respect to programs under section 1206(a) of the National Defense Authorization Act for Fiscal Year 2006 that begin on or after that date.

Section-by-Section Analysis

This proposal would amend the authority of the Secretary of Defense, with the concurrence of the Secretary of State, to direct programs to build the capacity of foreign forces to conduct counterterrorism and stability operations. This authority was first provided under

section 1206 of the National Defense Authorization Act for Fiscal Year 2006. The authority has been extended and expanded several times since then, most recently in section 1201 of the National Defense Authorization Act for Fiscal Year 2013.

This proposal would extend the expiration of the authority to provide the Combatant Commands and the Country Teams stability and predictability for mid-term contingency planning. As the Departments of Defense and State call upon Combatant Commands and Country Teams to conduct deliberate planning that looks out to future years, it is critical that they are able to develop plans alongside reliable funding resources. Additionally, we must act proactively to prevent or respond to problems before they become crises. As such, Section 1206 is deliberately calibrated to make modest investments based on early indicators rather than waiting for threats to develop and metastasize. By building capacity early, we should be able to -- over time -- create a network of partners to reduce stress on U.S. forces, increase global stability, and keep violent extremists at bay. Given the aforementioned requirements, this proposal would extend the authority through September 30, 2015.

In addition to the urgent counterterrorism capacity-building requirements in places like Yemen and East Africa, the authority to use Section 1206 funds for training and equipping coalition forces for participation in military and stability operations alongside U.S. forces, especially in Afghanistan, is a critical need. This authority allows the Department to meet additional Combatant Command priorities as well as, critically, to enhance the capability and capacity of partner nation forces – particularly Special Operations Forces – willing to deploy them in support of coalition operations. All national forces—including U.S. forces—require various types of mission-specific training prior to deployment as part of a coalition force. In the current context of Afghanistan, that pre-deployment training includes counter-improvised explosive device training, urban operations, convoy operations, and close air support, as well as cultural awareness and theater rules of engagement. To ensure mission success and force protection, it is imperative that the training that a partner's forces receive is held to a similarly high standard as our own pre-deployment training. To support U.S. forces in these operations effectively, our coalition partners must also have the baseline critical equipment including navigational systems, interoperable radios, weapon sights, hydration systems, and night vision devices, to list a few.

Section 1206 continues to facilitate the support and continued development of partner special operations forces to deploy to current operations in Afghanistan, and to sustain these capabilities thereafter. It is the Administration's view that the demand for skills unique to special operations forces will continue to increase in an era when the joint force is likely to engage adversaries who use both conventional and irregular methods of warfare. At this point, however, there are simply not enough of those forces to meet current or projected future requirements, and the United States, although clearly the world leader, is at its capacity in this regard. It is also in our interest to build the capability of coalition special operations forces for today's conflicts in such a way that these forces can retain these skills, generating a self-sustaining capability that is interoperable with U.S. forces so we can count on them as interoperable and prepared to contribute to future coalition operations past their initial rotations.

This proposal would expand the authority to include logistic support. Section 1206 can and has built the capacity of partner nations, but the durability of that capacity can be significantly enhanced by the ability to provide logistic support. This type of logistic support and services would provide a valuable bridge to native capability for partner forces. Section 1206 can build capacity through the provision of training and equipment, but the addition of logistic support can accelerate the partner country's ability to use the capacity even as it is being trained on the maintenance and sustainment of the equipment.

Section 1206 is specifically designed to address urgent and emergent train and equip requirements to enhance the capacity of our partners to respond to and defeat terrorist threats in their country or within a region. Without the ability to execute a small portion of the authority into the first six months of the next fiscal year, the Department of Defense (DoD) effectively has a significant gap—four to six months—in our ability to provide critical assistance to partner nations engaged in counterterrorism operations. Emergent requirements revealed toward the end of the fiscal year are not addressed in a timely manner when Section 1206 assistance would have the greatest impact. Given the evolving and increasingly diffuse nature of counterterrorism (CT) threats, this shortfall significantly diminishes the overall effectiveness of partner and coalition efforts to respond to contingencies as they arise and sustain efforts to defeat terrorists—the central purpose of the authority. Further, this modification would greatly improve fiscal efficiency. Because Section 1206 funds expire at the end of each fiscal year, some higher priority programs approved later in the fiscal year for which the Department committed funds, but for which all funds were not put on contract, are resubmitted the following year to ensure our partner receives the full capability needed to address critical CT threats. In this instance, the Department is committing funds twice for the same program. This modification would allow the Department to execute the original program as planned and prevents the need to renotify proposals when contracting challenges preclude procurement of equipment. Finally, this legislation would make Section 1206 consistent with other security sector assistance practices. For example, the IMET program has 5th Quarter authority, allowing IMET the extra three months to get funding obligated onto training cases.

The Secretary of Defense has repeatedly indicated the pivotal nature of building partner capacity "to prevent festering problems from turning into crises that require costly and controversial direct military intervention." The Secretary has cited the capabilities of U.S. Allies and partners to be as important as its own, and that "building their capacity is arguably as important as, if not more so than, the fighting the United States does itself." He has also made clear his preference for institutionalizing these new capabilities that DoD will need for the future. He has commented explicitly on the appropriateness of this authority, stating: "In my view, building partner capacity is a vital and enduring military requirement – irrespective of the capacity of other departments – and its authorities and funding mechanisms should reflect that reality. The Department of Defense would no more outsource this substantial and costly security requirement to a civilian agency than it would any other key military mission. On the other hand, it must be implemented in close coordination and partnership with the Department of State." This proposal seeks to incorporate into law the specific recommendations the Secretary offered in conjunction with this comment.

The joint process between DoD and the Department of State, together with the

congressional notification requirement, ensures that transparency and respect for human rights and civilian authority would remain key components of programs under this proposal without sacrificing flexibility critical to U.S. interests and national security.

Budget Implications: The President's FY 2013 Budget includes $350 million per year from the Operation & Maintenance, Defense-Wide funding.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
DSCA	+350.0	+350.0				Operation & Maintenance, Defense-Wide	04	4GTD	1002198T
Total	+350.0	+350.0				Operation & Maintenance, Defense-Wide			1002198T

Changes to Existing Law: This proposal would amend section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), as amended, as follows:

SEC. 1206. AUTHORITY TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) AUTHORITY. —The Secretary of Defense, with the concurrence of the Secretary of State, may conduct or support a program or programs as follows:

(1) To build the capacity of a foreign country's national military forces in order for that country to—

(A) conduct counterterrorism operations; or

(B) participate in or support military and stability operations in which the United States Armed Forces are participating.

(2) To build the capacity of a foreign country's maritime security forces to conduct counterterrorism operations.

(b) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—The program under subsection (a) may include the provision of equipment, ~~supplies,~~ training, logistic support, supplies, and services, and small-scale military construction activities.

(2) REQUIRED ELEMENTS.—Programs authorized under subsection (a) shall include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within that country.

(c) LIMITATIONS.—

(1) ANNUAL FUNDING LIMITATION.—The Secretary of Defense may use up to $350,000,000 of funds available for operation and maintenance for any fiscal year to conduct or support activities under subsection (a) in that fiscal year.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(3) LIMITATION ON ELIGIBLE COUNTRIES.—The Secretary of Defense may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(4) INCREASE IN AVAILABILITY OF FUNDS.—Amounts available for the authority in subsection (a) for a fiscal year may be used for programs under that authority that begin in that fiscal year but end in the next fiscal year.

(5) TEMPORARY LIMITATION ON AMOUNT FOR BUILDING CAPACITY TO PARTICIPATE IN OR SUPPORT MILITARY AND STABILITY OPERATIONS.—Of the funds used to carry out a program under subsection (a), ~~not more than $75,000,000 may be used during fiscal year 2010, not more than $75,000,000 may be used during fiscal year 2011, and~~ not more than $100,000,000 may be used during each ~~of fiscal years 2012, 2013, and 2014~~ fiscal year through fiscal year 2015 for purposes described in subsection (a)(1)(B).

(6) LIMITATION ON AVAILABILITY OF FUNDS FOR SMALL-SCALE MILITARY CONSTRUCTION ACTIVITIES.—Of amounts available under this subsection for the authority in subsection (a) for a fiscal year—

(A) not more than $750,000 may be obligated or expended for small-scale military construction activities under a program authorized under subsection (a); and

(B) not more than $25,000,000 may be obligated or expended for small-scale military construction activities under all programs authorized under subsection (a).

(7) AVAILABILITY OF FUNDS FOR PROGRAMS DURING THE FIRST THREE MONTHS OF THE FOLLOWING FISCAL YEAR.—

(A) IN GENERAL.—For discretionary appropriations enacted after the date of the enactment of this paragraph, and subject to subparagraph (B), an amount not to exceed 20 percent of amounts available under this subsection for the authority in subsection (a) for any fiscal year may be obligated during the first three months of the following fiscal year to conduct or support a program authorized, approved, and congressional notification completed in accordance with subsection (a).

(B) NOTIFICATION.—Whenever the Secretary of Defense decides, with the concurrence of the Secretary of State, to conduct or support a program authorized under subsection (a) by obligating funds as described in subparagraph (A) during the first six months of the following fiscal year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (3) of subsection (e) a notification in writing of that decision in accordance with such subsection by not later than September 30 of the fiscal year for which the funds are appropriated.

(d) FORMULATION AND EXECUTION OF PROGRAM.—The Secretary of Defense and the Secretary of State shall jointly formulate any program under subsection (a). The Secretary of Defense shall coordinate with the Secretary of State in the implementation of any program under subsection (a).

(e) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION.—Whenever the Secretary of Defense decides, with the concurrence of the Secretary of State, to conduct or support a program authorized under subsection (a), the Secretary of Defense shall submit to Congress a notification in writing of that decision. Any such notification shall be prepared in coordination with the Secretary of State.

(2) ACTIVITIES IN A COUNTRY.—Not less than 15 days before initiating activities in any country under subsection (a), the Secretary of Defense, in coordination with the Secretary of State, shall submit to the congressional committees specified in paragraph (3) a notice of the following:

(A) The country whose capacity to engage in activities in subsection (a) will be built.

(B) The budget, implementation timeline with milestones, and completion date for completing the program directed by the President.

(C) The source and planned expenditure of funds to complete the program directed by the President.

(D) Detailed information (including the amount and purpose) on the assistance provided the country during the three preceding fiscal years under each of the following programs, accounts, or activities:

(i) A program under this section.

(ii) The Foreign Military Financing program under the Arms Export Control Act.

(iii) Peacekeeping Operations.

(iv) The International Narcotics Control and Law Enforcement (INCLE) program under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(v) Nonproliferation, Anti-Terrorism, Demining, and Related Programs (NADR).

(vi) Counterdrug activities authorized by section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) and section 1033 of the National Defense Authorization Act for Fiscal Year 1998.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

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

(B) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(f) REPORT. —

(1) IN GENERAL- Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall, with the concurrence of the Secretary of State, transmit to the congressional committees specified in subsection (e)(3) a report on the implementation of this section for such fiscal year.

(2) MATTERS TO BE INCLUDED- Each report under paragraph (1) shall include the following:

(A) For each program to build the capacity of a foreign country's national military forces or maritime security forces to conduct counterterrorism operations that was carried out during the fiscal year covered by such report the following:

(i) A description of the nature and the extent of the potential or actual terrorist threat that the program is intended to address.

(ii) A description of the program, including the objectives of the program and the types of recipient nation units receiving assistance under the program.

(iii) A description of the extent to which the program is implemented by United States Government personnel or contractors.

(iv) A description of the participation, if any, of the foreign country in the formulation of the program.

(v) A description of the arrangements, if any, for the sustainment of the program and of the source of funds to support sustainment of the program.

(vi) An assessment of the effectiveness of the program in building the capacity of the foreign country to conduct counterterrorism operations during the fiscal year covered by such report, and a description of the metrics used to evaluate the effectiveness of the program.

(B) A description of the procedures and guidance for monitoring and evaluating the results of programs under this section.

(g) TERMINATION OF PROGRAM.—The authority provided under subsection (a) to conduct a program terminates at the close of September 30, ~~2014~~ 2015. Any program directed before that date may be completed, but only using funds available for fiscal year 2006 through ~~2014~~ 2015.

(h) DEFINITION.—In this section, the term “logistic support, supplies, and services” has the meaning given that term in section 2350(1) of title 10, United States Code.