SEC. ___. REVISIONS TO GLOBAL SECURITY CONTINGENCY FUND AUTHORITY.

(a) AUTHORITY.—Subsection (b)(1) of section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1625; 22 U.S.C. 2151 note) is amended—

(1) in the matter preceding subparagraph (A), by striking "forces, and" and inserting "forces, or"; and

(2) in subparagraph (A)—

(A) by striking "and" the second place it appears and inserting "or";

(B) by inserting "or activities" after "counterterrorism operations"; and

(C) by striking "; and" and inserting "; or".

(b) TYPES OF ASSISTANCE.—Subsection (c)(1) of such section is amended by striking "and training" and inserting "minor construction, training and education, and professional guidance and advice".

(c) TRANSFER AUTHORITY.—Subsection (f) of such section is amended—

(1) in paragraph (1)—

(A) by striking "for Defense-wide activities" in the first sentence; and

(B) by striking "subsection (i)" in the second sentence and inserting "subsection (h)"; and

(2) in paragraph (2)—

(A) by inserting "and Department of State" after "Department of Defense"; and

(B) by striking "$200,000,000" and inserting "$300,000,000".

(d) TWO-YEAR EXTENSION OF AVAILABILITY OF FUNDS.—Subsection (i) of such section is amended by striking "September 30, 2015" and inserting "September 30, 2017".

(e) NOTICES TO CONGRESS.—Subsection (l) of such section is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(f) ANNUAL REPORT REQUIREMENT.—Subsection (m) of such section is amended in the matter preceding paragraph (1)—

(1) by striking "October 30, 2012, and annually thereafter" and inserting "October 30 each year"; and

(2) by striking "subsection (q)" and inserting "subsection (o)".

(g) REPEAL OF FISCAL YEAR 2012 TRANSITIONAL AUTHORITIES.—Subsection (n) of such section is repealed.

(h) REPEAL OF STATUTORY FUNDING LIMITATION.—Subsection (o) of such section is repealed.

(i) REDESIGNATION.—Subsection (p) of such section is redesignated as subsection (n).

(j) EXTENSION OF EXPIRATION DATE.—Subsection (q) of such section is redesignated as subsection (o) and is amended—

(1) by striking "September 30, 2015" and inserting "September 30, 2017"; and

(2) by striking "funds available for fiscal years 2012 through 2015" and inserting "funds available for a fiscal year beginning before that date".

Section-by-Section Analysis

OVERVIEW

This proposal would allow the Global Security Contingency Fund established by section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) to continue to serve as a critical step to transforming the way the U.S. Government provides security and stabilization assistance to foreign partners confronting the complex and dynamic threats that challenge the security of the United States, its Allies, and its partners.

This proposal would make modifications to the Contingency Fund statute that would clarify the original law, improve efficiency in administration and implementation of the Fund, and better achieve interagency collaboration.

The provision is designed to provide the agility and responsiveness to address emergent threats, new opportunities, and unplanned needs. Dynamic challenges are best met by flexible resources that are not allocated to a specific country until a specific program is approved. This allows the United States to allocate funds to address the most pressing requirements at a given point in time. Moreover, the provision moves the U.S. Government away from a stove-piped approach for security sector assistance toward a more integrated, synchronized, and committed model for planning, implementing, evaluating, and sustaining such assistance.

SECTION-BY-SECTION

The proposed change of “and” to “or” in subsection (b)(1) is a technical change that would reflect the intent of both the Administration and Congress in the original legislation.

Adding “or activities” after “operations” in subsection (b)(1)(A) is intended to eliminate potential confusion that “operations” may be a limiting term and that more than what would be considered tactical operations may and should be considered when designing Fund projects.

The amendment to subsection (c)(1) would expand the list of activities that may be undertaken through the Fund to include educational activities, the advisory assistance sometimes necessary when assisting ministries and departments involved in security functions, and minor construction. Training and education both play a role in developing capacity and this provision clarifies that the intent is to include education as one of the activities included in Administration and Congressional intent. Professional guidance and advice fall into a category that does not always comfortably fit into training and education and might take the form of assisting a ministry to develop a national defense strategy or a government to develop a national security strategy. We anticipate that in some limited cases, the absence of modest facilities will impede the ability to assist or to enlist the support of partner forces. The Administration does not anticipate minor construction to be a significant portion of the Fund expenditures, and intends that construction activities would be in support of other capacity building activities.

The amendment to subsection (f)(1) would remove the limitation on the sources of funds to Defense-wide operation and maintenance funds. The Administration argues that it is most efficient to allow the Secretary of Defense the latitude to select from all of the Department's accounts.

The amendment to subsection (f)(2) would change the limit on the amount of funds transferred to the Fund in a fiscal year to $300,000,000. A cap of $300,000,000 provides enough authority to respond to several major contingencies without having to hold back on projects early in the fiscal year in order to preserve the ability to respond to unforeseen events later in the year. The Administration does not anticipate using the full $300,000,000 in transfer authority during any year of the pilot phase of the Fund.

In subsection (i), the end date would be changed to September 30, 2017, to account for a possible delay in the passage of the National Defense Authorization Act for Fiscal Year (FY) 2014 (FY 2014 NDAA).

Paragraph (2) of subsection (l) would be stricken because the 15-day fund transfer notification is duplicative with the notification requirements in section 8004 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, section 8069 of the Department of Defense Appropriations Act, 2012, and section 8068 of the Department of Defense Appropriations Act, 2013.

The Transitional Authorities in subsection (n) would be repealed as they were a one-year authority not necessary for the pilot phase of the Fund. The Administration anticipates that if the funding for the Transitional Authorities is deemed necessary for this and subsequent fiscal years, these will be included as stand-alone authorities. There is little in common between the Transitional Authorities support to counterterrorism operations in Yemen and East Africa and the holistic contingency-based purpose for the Fund.

Subsection (o) would be repealed as unnecessary since program limits are defined in subsection (f)(2) and, with the elimination of the Transitional Authorities, setting such funding limits is no longer required.

Subsection (p) would be redesignated as subsection (n).

Subsection (q) would be redesignated as subsection (o) and in that subsection the expiration date would be changed to September 30, 2017, to account for a possible delay in the passage of the FY 2014 NDAA.

Budget Implications: This proposal does not appropriate funds directly to the Fund.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Dept of	0	0	0	0	0				

State									
Dept of Defense	$75	$75	$75	$75	$75	Operation & Maintenance, Defense-Wide	BA 4	4GTD	1022198T

Changes to Existing Law: This proposal would make the following changes to section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81):

SEC. 1207. GLOBAL SECURITY CONTINGENCY FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States an account to be known as the ''Global Security Contingency Fund'' (in this section referred to as the ''Fund'').

(b) AUTHORITY.—Notwithstanding any other provision of law (other than the provisions of section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) and the section 620J of such Act relating to limitations on assistance to security forces (22 U.S.C. 2378d)), amounts in the Fund shall be available to either the Secretary of State or the Secretary of Defense to provide assistance to countries designated by the Secretary of State, with the concurrence of the Secretary of Defense, for purposes of this section, as follows:

(1) To enhance the capabilities of a country's national military forces, ~~and~~ or other national security forces that conduct border and maritime security, internal defense, and counterterrorism operations, as well as the government agencies responsible for such forces to—

(A) conduct border and maritime security, internal defense, ~~and~~ or counterterrorism operations or activities; ~~and~~ or

(B) participate in or support military, stability, or peace support operations consistent with United States foreign policy and national security interests.

(2) For the justice sector (including law enforcement and prisons), rule of law programs, and stabilization efforts in a country in cases in which the Secretary of State, in consultation with the Secretary of Defense, determines that conflict or instability in a country or region challenges the existing capability of civilian providers to deliver such assistance.

(c) TYPES OF ASSISTANCE.—

(1) AUTHORIZED ELEMENTS.—A program to provide the assistance under subsection (b)(1) may include the provision of equipment, supplies, ~~and training~~ minor construction, training and education, and professional guidance and advice.

(2) REQUIRED ELEMENTS.—A program to provide the assistance under subsection (b)(1) shall include elements that promote—

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

(B) respect for legitimate civilian authority within the country concerned.

(d) FORMULATION AND APPROVAL OF ASSISTANCE PROGRAMS.—

(1) SECURITY PROGRAMS.—The Secretary of State and the Secretary of Defense shall jointly formulate assistance projects under subsection (b)(1). Assistance projects to be carried out pursuant to subsection (b)(1) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

(2) JUSTICE SECTOR AND STABILIZATION PROGRAMS.—The Secretary of State, in consultation with the Secretary of Defense, shall formulate assistance programs under subsection (b)(2). Assistance programs to be carried out under the authority in subsection (b)(2) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

(e) RELATION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations. The administrative authorities of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall be available to the Secretary of State with respect to funds available to carry out this section.

(f) TRANSFER AUTHORITY.—

(1) DEPARTMENT OF DEFENSE FUNDS.—Funds authorized to be appropriated to the Department of Defense for operation and maintenance ~~for Defense-wide activities~~ may be transferred to the Fund by the Secretary of Defense in accordance with established procedures for reprogramming under section 1001 of this Act and successor provisions of law. Amounts transferred under this paragraph shall be merged with funds otherwise made available under this section and remain available until expended as provided in subsection ~~(i)~~ (h) for the purposes specified in subsection (b).

(2) LIMITATION.—The total amount of funds transferred to the Fund in any fiscal year from the Department of Defense and Department of State may not exceed ~~$200,000,000~~ $300,000,000.

(3) TRANSFERS TO OTHER ACCOUNTS.—Funds available to carry out assistance authorized by this section may be transferred to an agency or account determined most appropriate to facilitate the provision of assistance authorized by this section.

(4) RELATION TO OTHER TRANSFER AUTHORITIES.—The transfer authorities in paragraphs (1) and (3) are in addition to any other transfer authority available to the Department of Defense.

(g) ALLOCATION OF CONTRIBUTIONS TO ASSISTANCE.—The contribution of the Secretary of State to an activity under the authority in subsection (b) shall be not less than 20 percent of the total amount required for such activity. The contribution of the Secretary of Defense to such activity shall be not more than 80 percent of the total amount required.

(h) AUTHORITY TO ACCEPT GIFTS.—The Secretary of State may use money, funds, property, and services accepted pursuant to the authority of section 635(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2395(d)) to fulfill the purposes of subsection (b).

(i) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until September 30, ~~2015~~ 2017, except that amounts appropriated or transferred to the Fund before that date shall remain available for obligation and expenditure after that date for activities under programs commenced under subsection (b) before that date.

(j) ADMINISTRATIVE EXPENSES.—Amounts in the Fund may be used for necessary administrative expenses in connection with the provision of assistance under this section.

(k) DETAIL OF PERSONNEL.—The head of an agency of the United States Government may detail personnel to the Department of State to carry out the purposes of this section, with or without reimbursement for all or part of the costs of salaries and other expenses associated with such personnel.

(l) NOTICES TO CONGRESS.—

(1) IN GENERAL.—Not less than 15 days before initiating an activity under a program of assistance under subsection (b), the Secretary of State, with the concurrence of the Secretary of Defense, shall submit to the specified congressional committees a notification that includes the following:

(A) A detailed justification for the program.

(B) The budget, execution plan and timeline, and anticipated completion date for the activity.

~~(C) A list of other security-related assistance or justice sector and~~ or ~~stabilization assistance that the United States is currently providing the country concerned and that is related to or supported by the activity.~~

(~~D~~C) Such other information relating to the program or activity as the Secretary of State or Secretary of Defense considers appropriate.

~~(2) EXERCISE OF TRANSFER AUTHORITY.—No transfer of funds into the Fund under subsection (f) or any other authority may occur until 15 days after the specified congressional committees are notified of the transfer.~~

(~~3~~2) GUIDANCE AND PROCESSES FOR EXERCISE OF AUTHORITY.—The Secretary of State, with the concurrence of the Secretary of Defense, shall notify the specified congressional committees 15 days after the date on which all necessary guidance has been issued and processes for implementation of the authority in subsection (b) are established and fully operational.

(m) ANNUAL REPORTS.—Not later than October 30~~, 2012, and annually thereafter~~ each year until the expiration of the authority in subsection (b) pursuant to subsection ~~(q)~~ (o), the Secretary of State and the Secretary of Defense jointly shall submit to the specified congressional committees a report on the following:

(1) The obligation of funds from, and transfer of funds into, the Fund during the preceding fiscal year.

(2) The status of programs and activities authorized under this section during the preceding fiscal year.

~~(n) TRANSITIONAL AUTHORITIES.—~~

~~(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, provide the types of assistance described in subsection (c), and assistance for minor military construction, during fiscal year 2012 as follows:~~

~~(A) To enhance the capacity of the national military forces, security agencies serving a similar defense function, and border security forces of~~

~~Djibouti, Ethiopia, and Kenya to conduct counterterrorism operations against al-Qaeda, al-Qaeda affiliates, and al Shabaab.~~

~~(B) To enhance the capacity of national military forces participating in the African Union Mission in Somalia to conduct counterterrorism operations described in subparagraph (A).~~

~~(C) To enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counter-terrorism operations against al-Qaeda in the Arabian Peninsula and its affiliates.~~

~~(2) LIMITATIONS.—~~

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

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

~~(C) YEMEN.—The authority specified in paragraph (1)(C), and the authority to provide assistance pursuant to section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 2456), may not be used for Yemen until 30 days after the date on which the Secretary of Defense and the Secretary of State jointly certify in writing to the specified congressional committees that the use of such authority is important to the national security interests of the United States. The certification shall include the following:~~

~~(i) The reasons for the certification.~~

~~(ii) A justification for the provision of assistance.~~

~~(iii) An acknowledgment by the Secretary of Defense and the Secretary of State that they have received assurance from the Government of Yemen that any assistance so provided will be utilized in manner consistent with subsection (c)(2).~~

~~(3) NOTICE TO CONGRESS.—Not less than 15 days before funds are obligated to provide assistance under this subsection, the Secretary of Defense shall submit to the specified congressional committees a notice setting forth the following:~~

~~(A) The type of assistance to be provided.~~

~~(B) The national military forces to be supported.~~

~~(C) The objectives of such assistance.~~

~~(D) The estimated cost of such assistance.~~

~~(E) The intended duration of such assistance.~~

~~(4) TERMINATION.—~~

~~(A) IN GENERAL.—Assistance authorized by this subsection may be provided until the earlier of—~~

~~(i) the date on which the Secretary of State determines that all necessary guidance has been issued and processes for implementation of the authority in subsection (b) are established and fully operational; or~~

~~(ii) September 30, 2012.~~

~~(B) COMPLETION OF ONGOING ACTIVITIES AFTER TERMINATION.—An assistance activity authorized by this subsection that begins before the date of termination provided in subparagraph (A) may be completed after that date, but only using funds available before that date.~~

~~(o) FUNDING.—~~

~~(1) FISCAL YEAR 2012.—The total amount available to the Department of Defense and the Department of State to provide assistance under this section during fiscal year 2012 may not exceed $350,000,000, of which—~~

~~(A) $75,000,000 may be used for assistance authorized by subparagraphs (A) and (B) of subsection (n)(1); and~~

~~(B) $75,000,000 may be used for assistance authorized by subparagraph (C) of subsection (n)(1).~~

~~(2) FISCAL YEARS 2013 AND AFTER.—The total amount available to the Department of Defense and the Department of State to provide assistance under this section during a fiscal year after fiscal year 2012 may not exceed $300,000,000.~~

(~~p~~n) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term "specified congressional committees" means—

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

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

(~~q~~o) EXPIRATION.—The authority under this section may not be exercised after September 30, ~~2015~~ 2017. An activity under a program authorized by subsection (b) commenced before that date may be completed after that date, but only using funds available for ~~fiscal years 2012 through 2015~~ a fiscal year beginning before that date.