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

(a) MODIFICATIONS AND EXTENSION OF SECTION 1206 AUTHORITY.—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 1207 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4389), is further amended as follows:

(1) INCREASE IN ANNUAL FUNDING AVAILABLE.—Subsection (c)(1) is amended by striking "$350,000,000" and inserting "$500,000,000".

(2) LIMITATIONS.—Subsection (c)(5) is amended 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 not more than $100,000,000 may be used during fiscal year 2012," and inserting "not more than $100,000,000 may be used during each of fiscal years 2012 and 2013".

(3) ONE-YEAR EXTENSION OF PROGRAM AUTHORIZATION.—Subsection (g) is amended—

(A) by striking "September 30, 2012" and inserting "September 30, 2013"; and

(B) by striking "through 2012" and inserting "through 2013".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2011, 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.

SEC. ___. ONE-YEAR EXTENSION OF AUTHORITY TO BUILD THE CAPACITY OF

YEMEN MINISTRY OF INTERIOR COUNTER TERRORISM FORCES.

(a) EXTENSION OF AUTHORITY.—Section 1205 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4387) is amended as follows:

(1) PROGRAM AUTHORITY.—Subsection (a) is amended by inserting "and fiscal year 2012" after "during fiscal year 2011".

(2) FUNDING.—Subsection (c) is amended by adding at the end the following new sentence: "Of the amount available for fiscal year 2012 under subsection (c) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163), as amended, to conduct or support activities authorized under subsection (a) of that section in that fiscal year, up to $50,000,000 may be utilized in that fiscal year to provide assistance under subsection (a) of this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2011, and shall apply with respect to programs under section 1205(a) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 that begin on or after that date.

Section-by-Section Analysis

The first section of 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 (referred to as "Section 1206") was first provided under section 1206 of the National Defense Authorization Act for Fiscal Year 2006, extended and expanded in section 1206 of the John Warner National Defense Authorization Act for Fiscal Year 2007, extended and expanded again in section 1206 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, amended again in section 1206 of the National Defense Authorization Act for Fiscal Year 2010, and extended in section 1207 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

The second section of this proposal would amend the authority of the Secretary of Defense, with the concurrence of the Secretary of State, to provide assistance to enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces (MoI CT Forces) to conduct

counterterrorism operations against al-Qaeda in the Arabian Peninsula (AQAP) and its affiliates. This authority was first provided in section 1205 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Given the tremendous need for capacity-building activities to meet new threats and opportunities, the first section of this proposal would raise the annual funding ceiling to $500 million. This increase in funding would allow the Department to meet additional Combatant Command priorities as well as, critically, to enhance the capability and capacity of both the General Purpose Forces and Special Operations Forces of partner nations 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 Iraq and 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.

The Combatant Commanders cite Section 1206 as their most important tool in the field to build partner capacity. Accordingly, demand has consistently outstripped the size of the current authority. Since 2006, Combatant Commands have submitted on average more than $700 million per year in train-and-equip proposals.

Additionally, 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. Many partner nations are willing to deploy, but lack the capacity to do so. DoD assumes increased military risk and potential exposure when properly trained and equipped forces are absent. Building the capacity of these forces is critical to reducing stress on U.S. forces, both for the new mandate to build coalition capacity in Afghanistan, and around the world. Creating these capabilities in key partners through measured investments represents pennies on the dollar when compared to the fixed cost and commitment, both fiscal and institutional, associated with the deployment of additional U.S. forces and equipment. Accordingly, the first section of this proposal would also increase the per year "cap" on stability operations programs to $100 million through FY 2013.

The increase in the amount of funds available would also 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.

The first section of this proposal would extend the expiration of the Section 1206 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 campaign 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 can create over time a network of partners to reduce stress on our forces, increase global stability, and keep violent extremists at bay. Given the aforementioned requirements, the first section of this proposal would extend the authority through September 30, 2013.

The second section of this proposal would delay for one year the expiration of the temporary authority to train and equip Yemeni MoI CT Forces currently provided in the expiring Section 1205 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The second section of this proposal would authorize use of Defense-Wide Operation and Maintenance funds to support Yemeni MoI CT Forces for fiscal year (FY) 2012 only, in an amount not to exceed $50 million. Existing requirements germane to the enactment of Section 1205 were not fully executed due to the dynamic security situation in Yemen, and additional deliberation and analysis by both the Department of Defense and the Department of State were necessary to ensure that the support provided met the full intent of the law and served U.S. security interests in Yemen and the region. CT operations by the Yemeni Government are often conducted by maritime, border, and other security forces that are not part of the Yemeni Ministry of Defense. Yemen's security forces are organized differently from those in the United States: some that perform military functions, and require military capabilities, are not a part of the Ministry of Defense. Current train-and-equip capacity-building authority assumes a parallel organizational structure when one does not always exist.

This proposal would provide temporary extension, not expansion, of the existing Section 1205 authority created to meet critical requirements that have gone unfulfilled prior to its expiration. This amendment would complement the Section 1206 global train-and-equip authority so that it can provide critical support to Yemeni forces during FY 2012-2013 based on mission rather than ministry; it is not an unchecked, blanket capability, but allows the Department of Defense, with the concurrence of the Secretary of State, to build critical partner capacity in a specific case where forces are providing functions and capabilities in line with those for which Section 1206 is intended to build capacity.

AQAP has already shown the projection capability required to pose a credible threat to U.S. citizens, our partners and allies, as well as to the Homeland. The current stability challenges there only provide more opportunity for AQAP, and make continued building of Yemeni CT capacity even more critical. The provision of such assistance to military and

security forces in Yemen would continue to be subject to the criteria in subsection (b)(2) that all programs shall include elements to support human rights and legitimate civilian authority, as well as "Leahy" human rights vetting requirements administered by the Department of State.

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 the Department of Defense (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. Moreover, this authority supports directly two of the Secretary's Department-wide priorities, to "Prevail in Today's Wars" and to "Preserve and Enhance the Force."

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 2012 Budget includes $500 million per year over five years from Operation & Maintenance, Defense-Wide funding.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
DSCA	+500.0	+500.0	+500.0	+500.0	-	O&M-DW	4	4GTD
Total	+500.0	+500.0	+500.0	+500.0	-	O&M-DW		

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, and section 1205 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383), 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.—Programs authorized under subsection (a) may include the provision of equipment, supplies, and training.

(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~~ $500,000,000 of funds available for operation and maintenance for any fiscal year to conduct or support activities authorized 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 ~~fiscal year 2012~~ each of fiscal years 2012 and 2013, for purposes described in subsection (a)(1)(B).

(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) NOTICE TO CONGRESS.—

(1) IN GENERAL.—Not less than 15 days before providing assistance under subsection (a), the Secretary of Defense shall submit to the committees of Congress specified in paragraph (2) a notice setting forth the assistance to be provided, including

the types of such assistance, the budget for such assistance, and the completion date for the provision of such assistance.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(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.

(f) REPORT.—***

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(g) TERMINATION OF PROGRAM.—The authority provided under subsection (a) terminates at the close of ~~September 30, 2012~~ September 30, 2013. Any program directed before that date may be completed, but only using funds available for fiscal years 2006 ~~through 2012~~ through 2013.

SEC. 1205. AUTHORITY TO BUILD THE CAPACITY OF YEMEN MINISTRY OF INTERIOR COUNTER TERRORISM FORCES.

(a) AUTHORITY.--The Secretary of Defense may, with the concurrence of the Secretary of State, provide assistance during fiscal year 2011 and fiscal year 2012 to enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counterterrorism operations against al Qaeda in the Arabian Peninsula and its affiliates.

(b) TYPES OF ASSISTANCE.--

(1) AUTHORIZED ELEMENTS.--Assistance under subsection (a) may include the provision of equipment, supplies, and training.

(2) REQUIRED ELEMENTS.--Assistance under subsection (a) shall be provided in a manner that promotes--

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

(B) respect for legitimate civilian authority in Yemen.

(3) 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 this subsection that is otherwise prohibited by any provision of law.

(c) FUNDING.--Of the amount authorized to be appropriated by section 301 for operation and maintenance for fiscal year 2011, $75,000,000 may be utilized to provide assistance under subsection (a). Of the amount available for fiscal year 2012 under subsection (c) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163), as amended, to conduct or support activities authorized under subsection (a) of that section in that fiscal year, up to $50,000,000 may be utilized in that fiscal year to provide assistance under subsection (a) of this section.

(d) NOTICE TO CONGRESS.--

(1) IN GENERAL.--Not less than 15 days before providing assistance under subsection (a), the Secretary of Defense shall submit to the committees of Congress specified in paragraph (2) a notice setting forth the assistance to be provided, including the types of such assistance, the budget for such assistance, and the completion date for the provision of such assistance.

(2) COMMITTEES OF CONGRESS.--The committees of Congress specified in this paragraph are—

(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.