SEC. __. FIVE-YEAR EXTENSION OF AUTHORIZATION OF NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.

Section 943(g) of the National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4578) is amended by striking "2021" and inserting "2026".

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

Section-by-Section Analysis

This proposal will extend the authority for the Department of Defense (DoD) to engage in Non-Conventional Assisted Recovery (NAR) activities for five years. The initial authorization contained in section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year (FY) 2009 (Public Law 110-417) provided that funds for NAR programs would be available through fiscal year (FY) 2011. In FY 2012, the Department sought to extend NAR authority through 2016; Section 1205 of the NDAA for FY 2012 (Public Law 112-81), extended section 943 only through FY 2013. Section 1241 of the NDAA for FY 2014 (Public Law 113-66) subsequently amended Section 943 to provide funds for NAR activities through FY 2015. Section 943 was further amended by the NDAA for FY 2015 (Public Law 113-291), section 1261, to extend the authority through FY 2016, in the NDAA for FY 2016 (Public Law 114-92), section 1271, to extend the authority through FY 2018, and again in the NDAA for FY 2017 (Public Law 114-328) to extend the authority through 2021. The NDAA for FY 2018 (Public Law 115-91) did not extend the authority beyond FY 2021, pending the Secretary of Defense task to submit to the congressional defense committees a review and assessment of personnel recovery and non-conventional assisted recovery programs. The NDAA for FY 2019 (Public Law 115-232) did not address NAR.

The DoD conducted a Chairman of the Joint Chiefs of Staff directed, NAR program-wide process impediments analysis in 2017, whereby it concluded the temporary nature of Congressional reauthorization discourages the combatant commands from conducting long-range, steady-state projections of NAR requirements and funding, nor is it favorably viewed by the department's resourcing programmers, since it cannot be sure the authority will be available in the out years. As a result, section 943, as amended, is not "Future Years Defense Plan (FYDP)-relevant," meaning the statutory authority of the NAR program does not extend over the entire five years of the FYDP. Historically, Congress has renewed section 943 funding authority in no more than three year increments, which would indicate that NAR is not an enduring requirement. Financial managers may apply less analytical rigor to examining budget estimates beyond the expiration of the statutory funding authority. As a result, section 943 authorized funds may not receive the same attention as FYDP-relevant funds. Partly as a result of this limited period of duration in NAR authority, the combatant command's executive agents are also reluctant to POM for NAR requirements.

This personnel recovery program authorizes the use of irregular groups or individuals, including indigenous personnel, tasked with establishing infrastructures and capabilities that would be used to facilitate the recovery of isolated personnel conducting activities globally in support of U.S. military operations. Support to surrogate forces may include the provision of limited amounts of equipment, supplies, training, transportation, other logistical support, or funding.

Budget Implications: The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President's Budget request.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2021	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
NAR	1.4	1.4	1.4	1.4	1.4	Operation and Maintenance, Defense Wide	01	1PL1	
NAR	2.9					Operation and Maintenance, Defense Wide	01	1PL1	
Total	4.3	1.4	1.4	1.4	1.4				

Changes to Existing Law: This proposal would make the following changes to section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417):

SEC. 943. AUTHORIZATION OF NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.

(a) NON-CONVENTIONAL ASSISTED RECOVERY CAPABILITIES.—

(1) IN GENERAL.—Upon a determination by a commander of a combatant command that an action is necessary in connection with a non-conventional assisted recovery effort, and with the concurrence of the relevant Chief of Mission or Chiefs of Mission, amounts appropriated or otherwise made available for the Department of Defense for operation and maintenance may be used to establish, develop, and maintain non-conventional assisted recovery capabilities.

(2) ANNUAL LIMIT.—The total amount made available for support of non-conventional assisted recovery activities under this subsection in any fiscal year may not exceed $25,000,000.

(b) PROCEDURES AND OVERSIGHT.—

(1) PROCEDURES.—The Secretary of Defense shall establish procedures for the exercise of the authority under subsection (a). The Secretary shall notify the

congressional defense committees of those procedures before any exercise of that authority.

(2) PROGRAMMATIC AND POLICY OVERSIGHT.—The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict shall have primary programmatic and policy oversight of non-conventional assisted recovery activities authorized by this section.

(c) AUTHORIZED ACTIVITIES.—Non-conventional assisted recovery capabilities authorized under subsection (a) may, in limited and special circumstances, include the provision of support to entities conducting activities relating to operational preparation of the environment, including foreign forces, irregular forces, groups, or individuals, in order to facilitate the recovery of Department of Defense or Coast Guard military or civilian personnel, or other individuals who, while conducting activities in support of United States military operations, become separated or isolated and cannot rejoin their units without the assistance authorized in subsection (a), or other individuals as determined by the Secretary of Defense, with respect to already established non-conventional assisted recovery capabilities.

(d) NOTICE TO CONGRESS ON USE OF AUTHORITY.—

(1) NOTICE.—The Secretary of Defense shall notify the congressional defense committees not later than 30 days prior to using the authority in subsection (a) to make funds available for support of non-conventional assisted recovery activities. Any such notice shall be in writing.

(2) CONTENT.—Each notification required under paragraph (1) shall include the following information:

(A) The amount of funds made available for support of non-conventional assisted recovery activities.

(B) A description of the non-conventional assisted recovery activities.

(C) An identification of the type of recipients to receive support for non-conventional assisted recovery activities, including foreign forces, irregular forces, groups, or individuals, as appropriate.

(e) LIMITATION ON INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct or support a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(f) LIMITATION ON FOREIGN ASSISTANCE ACTIVITIES.—This section does not constitute authority—

(1) to build the capacity of foreign military forces or provide security and stabilization assistance, as described in section 2282 of title 10, United States Code, and section 1207 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3458), respectively; and

(2) to provide assistance that is otherwise prohibited by any other provision in law, including any provision of law relating to the control of exports of defense articles, defense services, or defense technologies.

(g) PERIOD OF AUTHORITY.—The authority under this section is in effect during each of the fiscal years 2009 through ~~2021~~ 2026.