SEC. ___. FRIENDLY FOREIGN COUNTRIES: AUTHORITY TO PROVIDE SUPPORT FOR CONDUCT OF OPERATIONS.

Section 331 of title 10, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting "or grant" after "purpose of the loan";

(ii) by inserting ", and the loan or grant of such equipment," before "to the military forces"; and

(iii) by striking "participating in" and all that follows and inserting "in connection with a security operation that supports a military operation of the United States or that benefits the national security interests of the United States."; and

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

"(6) Reimbursement of a friendly foreign country for the costs associated with the conduct of operations by such country that support a military operation of the United States or that benefit the national security interests of the United States.";

(2) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(3) by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO ACCEPT CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, accept and retain contributions, including assistance in-kind, from a foreign government to provide support under subsection (a).

"(2) USE OF FUNDS.—Any funds accepted by the Secretary shall be credited to the appropriate appropriation, fund, or account from which funds are made available for the provision of support under this section and may be used for such purposes until expended.".

(4) in subsection (h), as redesignated by paragraph (2) of this section, by adding at the end the following new paragraph:

"(3) The aggregate value of reimbursement support provided under subsection (c)(6) in any fiscal year may not exceed $300,000,000.".

[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 amend section 331 of title 10, United States Code, (section 331) by adding the authority for the Secretary of Defense, with the concurrence of the Secretary of State, to provide equipment on a loan or grant basis, and reimbursement for the cost of operations, to the security forces of a friendly foreign country in connection with a security operation that supports a U.S. military operation or that benefits the national security interests of the United States. In doing so, this proposal would provide a permanent, global operational support authority as a successor to section 1226 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Public Law 114-92), as most recently amended by section 1294 of the NDAA for FY 2019 (Public Law 115-232), a temporary, contingency-based authority allowing the Department of Defense (DoD) to reimburse 6 specific countries for their border security operations that support U.S. military operations. Additionally, this proposal amends section 331 by adding the authority for the Secretary of Defense to accept and retain contributions, including assistance in-kind, from a foreign government to provide assistance authorized under that section. In doing so, this proposal would strengthen the Secretary of Defense's ability to work with allies and partners towards U.S. goals. This proposal contributes to burden-sharing efforts and adds another tool for DoD to support friendly foreign countries abroad.

The authority to accept and retain contributions contributes directly to the Defeat-ISIS mission and allows DoD to enable ally and partner capacity with contributions from third party foreign governments in an environment facing diminished resources and U.S. presence. As the U.S. transitions to a steady-state of working to prevent ISIS re-emergence, it will be necessary to leverage resources and capabilities from allies and regional partners to address emergent operational environmental conditions and to enable burden sharing.

This proposal complements the President's FY 2020 budget request, which includes a $250 million request for counter-ISIS and al-Qa'ida border security globally, by adding the permanent authority to provide equipment on a loan or grant basis to the security forces of a friendly foreign country in connection with a security operation that supports a U.S. military operation or that benefits the national security interests of the United States. Currently, DoD provides equipment for counter-ISIS border security operations both inside Iraq and Syria and in countries adjacent to the ISIS conflict under the Counter-ISIL Train and Equip (CTEF) appropriation, another temporary authority. The Department expects Iraq and Syria train-and-equip and border security requirements to continue to be met by the CTEF appropriation in FY 2020.

Following the enactment of security cooperation reforms in the NDAA for FY 2017, the Department has relied heavily on two key security cooperation authorities. 10 U.S.C. 333 is a consolidated train-and-equip authority intended for the deliberate, strategic capacity-building of foreign security forces. 10 U.S.C. 331 is an operational support authority, derived from the previous "global lift and sustain" authority in 10 U.S.C. 127d. By amending section 331 to add the authority to provide equipment on a loan or grant basis and to reimburse friendly foreign countries in connection with a security operation that supports a U.S. military operation or that benefits the national security interests of the United States, the Department is attempting to create a permanent, flexible operational support authority that will increase the effectiveness of U.S. military operations, protect U.S. forces, and further U.S. national security interests.

The Department's budget request will scope the use of this authority on an annual basis, depending on emerging threats, and this proposal caps the support authorized by the new authority to reimburse friendly foreign countries to $300,000,000 per fiscal year.

As with other support provided under the authority of section 331, using the new authority in the proposal would be subject to Secretary of State concurrence and notice to Congress of the operations designated by the Secretary of Defense as operations for which support may be provided under section 331. Also, for support provided under the new authority to friendly foreign countries in connection with the conduct of operations in which the United States is not participating (e.g., the loan or grant of equipment to a friendly foreign country for its border security operations that support a U.S. military operation), section 331 requires joint certification to Congress from the Secretary of Defense and the Secretary of State that the friendly foreign country's operation is in the national security interests of the United States, an accompanying report, and a 15-day waiting period.

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

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**

Border Security	$250					Operation and Maintenance, Defense-wide, (0100) OCO	04	4GTD0000	1002200T
Total	$250								

Changes to Existing Law: This proposal would make the following changes to section 331 of title 10, United States Code:

§ 331. Friendly foreign countries: authority to provide support for conduct of operations

(a) AUTHORITY.—The Secretary of Defense may provide support to friendly foreign countries in connection with the conduct of operations designated pursuant to subsection (b).

(b) DESIGNATED OPERATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall designate the operations for which support may be provided under the authority in subsection (a).

(2) NOTICE TO CONGRESS.—The Secretary shall notify the appropriate committees of Congress of the designation of any operation pursuant to this subsection.

(3) ANNUAL REVIEW FOR CONTINUING DESIGNATION.—The Secretary shall undertake on an annual basis a review of the operations currently designated pursuant to this subsection in order to determine whether each such operation merits continuing designation for purposes of this section for another year. If the Secretary determines that any operation so reviewed merits continuing designation for purposes of this section for another year, the Secretary—

(A) may continue the designation of such operation under this subsection for such purposes for another year; and

(B) if the Secretary so continues the designation of such operation, shall notify the appropriate committees of Congress of the continuation of designation of such operation.

(c) TYPES OF SUPPORT AUTHORIZED.—The types of support that may be provided under the authority in subsection (a) are the following:

(1) Logistic support, supplies, and services to security forces of a friendly foreign country participating in—

(A) an operation with the armed forces under the jurisdiction of the Secretary of Defense; or

(B) a military or stability operation that benefits the national security interests of the United States.

(2) Logistic support, supplies, and services—

(A) to military forces of a friendly foreign country solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in a combined operation with the United States in order to facilitate such operation; or

(B) to a nonmilitary logistics, security, or similar agency of a friendly foreign government if such provision would directly benefit the armed forces under the jurisdiction of the Secretary of Defense.

(3) Procurement of equipment for the purpose of the loan or grant of such equipment, and the loan or grant of such equipment, to the military forces of a friendly foreign country in connection with a security operation that supports a military operation of the United States or that benefits the national security interests of the United States. ~~participating in a United States-supported coalition or combined operation and the loan of such equipment to those forces to enhance capabilities or to increase interoperability with the armed forces under the jurisdiction of the Secretary of Defense and other coalition partners.~~

(4) Provision of specialized training to personnel of friendly foreign countries in connection with such an operation, including training of such personnel before deployment in connection with such operation.

(5) Small-scale construction to support military forces of a friendly foreign country participating in a United States-supported coalition or combined operation when the construction is directly linked to the ability of such forces to participate in such operation effectively and is limited to the geographic area where such operation is taking place. In the case of support provided under this paragraph that results in the provision of small-scale construction above $750,000, the notification pursuant to subsection (b)(2) shall include the location, project title, and cost of each such small-scale construction project that will be carried out, a Department of Defense Form 1391 for each such project, and a masterplan of planned infrastructure investments at the location.

(6) Reimbursement of a friendly foreign country for the costs associated with the conduct of operations by such country that support a military operation of the United States or that benefit the national security interests of the United States.

(d) AUTHORITY TO ACCEPT CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may accept and retain contributions, including assistance in-kind, from a foreign government to provide support under subsection (a).

(2) USE OF FUNDS.—Any funds accepted by the Secretary shall be credited to the appropriate appropriation, fund, or account from which funds are made available for the provision of support under this section and may be used for such purposes until expended.

(~~d~~e) CERTIFICATION REQUIRED.—

(1) OPERATIONS IN WHICH THE UNITED STATES IS NOT PARTICIPATING.—The Secretary of Defense may provide support under subsection (a) to a friendly foreign country with respect to an operation in which the United States is not participating only—

(A) if the Secretary of Defense and the Secretary of State jointly certify to the appropriate committees of Congress that the operation is in the national security interests of the United States; and

(B) after the expiration of the 15-day period beginning on the date of such certification.

(2) ACCOMPANYING REPORT.—Any certification under paragraph (1) shall be accompanied by a report that includes the following:

(A) A description of the operation, including the geographic area of the operation.

(B) A list of participating countries.

(C) A description of the type of support and the duration of support to be provided.

(D) A description of the national security interests of the United States supported by the operation.

(E) Such other matters as the Secretary of Defense and the Secretary of State consider significant to a consideration of such certification.

(~~e~~f) SECRETARY OF STATE CONCURRENCE.—The provision of support under subsection (a) may be made only with the concurrence of the Secretary of State.

(~~f~~g) SUPPORT OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of support described in subsection (c) that is otherwise prohibited by any provision of law.

(~~g~~h) LIMITATIONS ON VALUE.—

(1) The aggregate value of all logistic support, supplies, and services provided under paragraphs (1), (4), and (5) of subsection (c) in any fiscal year may not exceed $450,000,000.

(2) The aggregate value of all logistic support, supplies, and services provided under subsection (c)(2) in any fiscal year may not exceed $5,000,000.

(3) The aggregate value of reimbursement support provided under subsection (c)(6) in any fiscal year may not exceed $300,000,000.

(~~h~~i) LOGISTIC SUPPORT, SUPPLIES, AND SERVICES DEFINED.—In this section, the term "logistic support, supplies, and services" has the meaning given that term in section 2350(1) of this title.