SEC. ___. EXTENSION OF PROHIBITION ON CONTRACTING WITH THE ENEMY IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS.

Section 841(g) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1510; 10 U.S.C. 2302 note) is amended by striking "the date that is three years after the date of the enactment of this Act" and inserting "December 31, 2016".

Section-by-Section Analysis

This proposal would amend section 841 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 (Public Law 112-81; 125 Stat. 1510) to extend the authority by two years, from December 31, 2014, through December 31, 2016.

Extension of this authority is necessitated by the support required for United States enduring forces presence in Afghanistan after December 31, 2014. After a November meeting with NATO defense ministers, then Secretary of Defense Panetta stated that "We'll maintain an enduring presence to be able to fulfill two key missions: train, assist and support the Afghan army and in addition conduct counterterrorism activity to make sure that al Qaeda and its affiliates never again are able to establish a safe haven."

The importance of this authority was further emphasized by the Senate Armed Services Committee during the Principal Deputy Under Secretary of Defense for Acquisition, Technology and Logistics confirmation hearing on February 28, 2013. Senator Ayotte stated that "we need additional tools to be able make this legislation even more effective… plan to introduce legislation to give you additional tools to cut off funds to our enemies and to cut off funds to those we're worried about going to corruption, other means that we wouldn't want taxpayer dollars going. And I think this is an authority that should be expanded beyond Afghanistan."

During the first reporting period (January 1, 2012, through December 31, 2012), ten subcontracts with Afghan vendors were terminated and funds were withheld from one Afghan prime vendor. The dollar value associated with these eleven actions equates to $31 million, which otherwise would have flowed to the enemy. As implementation of this authority continues to evolve and mature, the Department will be able to achieve greater counterterrorism results in coming years by preventing flow of U.S. funds to persons or entities that support an insurgency in Afghanistan.

Budget Implications: This proposal would not increase costs to the Government to grant contracting officers the authority to restrict contracting or void any contract or subcontract determined to be affiliated with an insurgent group or otherwise opposing U.S. or coalition forces.

Changes to Existing Law: This proposal would make the following change to section 841 of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81):

SEC. 841. PROHIBITION ON CONTRACTING WITH THE ENEMY IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS.

(a) PROHIBITION.—

* * * * *

(b) CONTRACT CLAUSE.—

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(f) * * * * *

(g) SUNSET.—The authority to restrict, terminate, or void contracts, grants, and cooperative agreements pursuant to subsection (a) shall cease to be effective on ~~the date that is three years after the date of the enactment of this Act~~ December 31, 2016.