

1 **SEC. ____ . AMENDMENTS TO THE JOHN S. MCCAIN STRATEGIC DEFENSE**
2 **FELLOWS PROGRAM.**

3 (a) SELECTION OF PARTICIPANTS.—Subsection (d)(2) of section 932 of the John S.
4 McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10
5 U.S.C. 1580 note prec.) is amended to read as follows:

6 “(2) GEOGRAPHICAL REPRESENTATION.—Out of the total number of individuals
7 selected to participate in the fellows program in any year, no more than 20 percent may
8 be from any of the following geographic regions:

9 “(A) The Northeast United States.

10 “(B) The Southeast United States.

11 “(C) The Midwest United States.

12 “(D) The Southwest United States.

13 “(E) The Western United States.

14 “(F) Alaska, Hawaii, United States territories, and areas outside the United
15 States.”.

16 (b) APPOINTMENT, PLACEMENT, AND CONVERSION. —Such section is further amended—

17 (1) in subsection (d)(3)—

18 (A) by striking “assigned” and inserting “appointed”; and

19 (B) by striking “assignment” and inserting “appointment”; and

20 (2) by amending subsections (e) and (f) to read as follows:

21 “(e) APPOINTMENT.—

22 “(1) IN GENERAL.—An individual who participates in the fellows program shall be
23 appointed into an excepted service position in the Department.

1 “(2) POSITION REQUIREMENTS.—Each year, the head of each Department of
2 Defense Component shall submit to the Secretary of Defense placement opportunities for
3 participants in the fellows program. Such placement opportunities shall provide for
4 leadership development and potential commencement of a career track toward a position
5 of senior leadership in the Department. The Secretary of Defense, in coordination with
6 the heads of Department of Defense Components, shall establish qualification
7 requirements for the appointment of participants under paragraph (1) and subsection
8 (f)(2).

9 “(3) APPOINTMENT TO POSITIONS.—Each year, the Secretary of Defense shall
10 appoint participants in the fellows program to positions in the Department of Defense
11 Components. In making such appointments, the Secretary shall seek to best match the
12 qualifications and skills of the participants with the requirements for positions available
13 for appointment.

14 “(4) TERM.—The term of each appointment under the fellows program shall be
15 one year with the option to extend the appointment up to one additional year.

16 “(5) GRADE.—An individual appointed to a position under the fellows program
17 shall be appointed at a level between GS–10 and GS–12 of the General Schedule based
18 on the directly-related qualifications, skills, and professional experience of the individual.

19 “(6) EDUCATION LOAN REPAYMENT.—To the extent that funds are provided in
20 advance in appropriations Acts, the Secretary of Defense may repay a loan of a
21 participant in the fellows program if the loan is described by subparagraph (A), (B), or
22 (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of a loan under

1 this paragraph may require a minimum service agreement, as determined by the
2 Secretary.

3 “(7) DEPARTMENT OF DEFENSE COMPONENT DEFINED.—In this subsection, the term
4 ‘Department of Defense Component’ means a Department of Defense Component, as set
5 forth in paragraphs (1) through (9) of section 111(b) of title 10, United States Code, and
6 any other entity designated as such by the Secretary of Defense for the purpose of the
7 fellows program.

8 “(f) CAREER DEVELOPMENT.—

9 “(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the
10 fellows program—

11 “(A) receive career development opportunities and support appropriate for
12 the commencement of a career track within the Department leading toward a
13 future position of senior leadership within the Department, including ongoing
14 mentorship support through appropriate personnel from entities within the
15 Department; and

16 “(B) are provided appropriate employment opportunities for competitive
17 and excepted service positions in the Department upon successful completion of
18 the fellows program.

19 “(2) NONCOMPETITIVE APPOINTMENT OR CONVERSION.—Upon a participant’s
20 successful completion of the fellows program, the Secretary may, without regard to the
21 provisions of subchapter I of chapter 33 of title 5, United States Code, noncompetitively
22 appoint or convert the participant into a vacant competitive or excepted service position
23 in the Department, if the Secretary determines that such appointment or conversion will

1 contribute to the development of highly qualified future senior leaders for the
2 Department. The Secretary may appoint or convert the participant into a position up to
3 the GS-13 level of the General Schedule or an equivalent position for which the
4 participant is qualified without regard to any minimum time in grade requirements.
5 Before converting an individual to the competitive service under this paragraph, the
6 Secretary shall notify and receive written consent from the individual of the individual's
7 change in status.

8 “(3) APPOINTMENT OF FORMER PARTICIPANTS.—The Secretary may utilize the
9 authority in paragraph (2) for a participant—

10 “(A) not later than one year after the date of the participant's successful
11 completion of the fellows program; or

12 “(B) in the case of a participant who entered the fellows program before
13 the date of the enactment of this subparagraph, not later than one year after such
14 date of enactment.

15 “(4) PUBLICATION OF SELECTION.—The Secretary shall publish, on an Internet
16 website of the Department available to the public, the names of the individuals selected to
17 participate in the fellows program.”.

**[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 would amend section 932 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (John S. McCain Strategic Defense Fellows Program) to improve the conversion of fellows into competitive and excepted service positions and update participation limitations. The proposed changes will resolve technical problems with the provision and allow for smoother transition of participants into junior and mid-level career civilian positions. These amendments have been informed by implementation and feedback from the Human Resources Directorate (HRD) of Washington Headquarters Services, Defense

Civilian Personnel Advisory Service, Senate Armed Services Committee staff, and past and current Fellows. These amendments address the following concerns:

- **Selection.** WHS currently is limited to select only 60 Fellows with geographical quotas across the Northeast, Southeast, Midwest, Southwest, and West regions in the United States. If the Department plans to increase the number of Fellows over time, the geographical requirements indirectly restrict the total number of program participants in statute. Furthermore, the current cap of 60 Fellows in statute is inconsistent with the authorized \$10,000,000 for the program, which incorrectly infers that the total program costs is approximately \$167 thousand per Fellow. The authorized amount allows for an increase in the number of Fellows and/or an increase in the Fellows' grade level in the General Schedule. In addition, the geographical requirements exclude U.S. citizens and permanent residents residing in the U.S. territories or abroad. The Department proposes amending the geographical requirements in subsection (d)(2) to remove the numerical cap and improve geographical representation. This amendment will allow the Department to adjust the number of Fellows over time based on the Department's resources, placement opportunities, and vacant civilian positions.
- **Appointment and Conversion.** The current provision does not provide for an explicit appointment authority (both at the beginning and at the end of the fellowship). HRD was unable to convert past and current Fellows into competitive service positions because the current statute does not provide sufficient discretion. As a result, one third of the initial cohort dropped out of the program to secure higher-grade competitive service positions in their placement office, in another office in the Department, in another federal agency, or in the private sector. The goal of the McCain Fellows Program is to convert Fellows into civilian positions in the Department, which consist of competitive and excepted service positions. Although WHS has the discretion in existing law to appoint individuals, including Fellows, into the excepted service, WHS lacks the authority to (1) directly appoint Fellows into the competitive service, and (2) appoint Fellows into higher-grade competitive service positions based on their education and work experience. The Department proposes amending subsections (e) and (f) to allow WHS to initially appoint Fellows into the excepted service during the fellowship; compensate Fellows based on their varying work experience, qualifications, and skills; remove the unnecessary reservation of 30 new excepted service positions for each cohort; and allow WHS to noncompetitively convert Fellows into vacant competitive and excepted service positions based on the Fellows' cumulative work experience, qualifications, and skills. The fellows could be initially appointed at GS-10 through GS-12 and be eligible for non-competitive conversion to GS-13 upon completion of the fellowship. Participants would be notified of any changes to a participant's appointment type (e.g., from excepted to competitive service), and would be required to provide their consent to such change in writing.
- **Placement.** Currently, HRD is limited to placing Fellows into the Office of the Secretary of Defense or an office of the Secretary of a Military Department only. The current eligible offices represent a small percentage of all offices that offer rewarding placement opportunities and vacant civilian positions in the Department, such as the Joint Staff,

major elements of the Military Departments, and the Defense Agencies and DoD Field Activities. The proposed amendments would expand the Fellows’ eligible placement options to a broader range of elements across the Department.

- **Grandfather Provision.** Due to trouble converting Fellows, the Department recommends a provision that would allow past participants to take advantage of the conversion authority, if they have successfully completed the fellowship. It also extends the period of the fellowship from one year to two years and provides for up to one year after successful completion of the program to convert (providing for greater flexibility and more opportunities to find placement).

Resource Information: The table below reflects the existing resources requested within the Fiscal Year (FY) 2024 President’s Budget that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
McCain Fellows Program	10	10	10	10	10	Operation and Maintenance, DW	04	Various	
Total	10	10	10	10	10				

Changes to Existing Law: This proposal would amend section 932 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 1580 note prec.), as amended, as follows:

SEC. 932. JOHN S. MCCAIN STRATEGIC DEFENSE FELLOWS PROGRAM.

(a) FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall establish within the Department of Defense a civilian fellowship program designed to provide leadership development and the commencement of a career track toward senior leadership in the Department.

(2) DESIGNATION.—The fellowship program shall be known as the “John S. McCain Strategic Defense Fellows Program” (in this section referred to as the “fellows program”).

(b) ELIGIBILITY.—An individual is eligible for participation in the fellows program if the individual—

(1) is a citizen of the United States or a lawful permanent resident of the United States in the year in which the individual applies for participation in the fellows program; and

(2) either—

(A) possesses a graduate degree from an accredited institution of higher education in the United States that was awarded not later than two years before the date of the acceptance of the individual into the fellows program; or

(B) will be awarded a graduate degree from an accredited institution of higher education in the United States not later than six months after the date of the acceptance of the individual into the fellows program.

(c) APPLICATION.—

(1) APPLICATION REQUIRED.—Each individual seeking to participate in the fellows program shall submit to the Secretary of Defense an application therefore at such time and in such manner as the Secretary shall specify.

(2) ELEMENTS.—Each application of an individual under this subsection shall include the following:

(A) Transcripts of educational achievement at the undergraduate and graduate level.

(B) A resume.

(C) Proof of citizenship or lawful permanent residence.

(D) An endorsement from the applicant's graduate institution of higher education.

(E) An academic writing sample.

(F) Letters of recommendation addressing the applicant's character, academic ability, and any extracurricular activities.

(G) A personal statement by the applicant explaining career areas of interest and motivations for service in the Department.

(H) Such other information as the Secretary considers appropriate.

(d) SELECTION.—

(1) IN GENERAL.—Each year, the Secretary of Defense shall select participants in the fellows program from among applicants for the fellows program for such year who qualify for participation in the fellows program based on character, commitment to public service, academic achievement, extracurricular activities, and such other qualifications for participation in the fellows program as the Secretary considers appropriate.

~~(2) NUMBER.—The number of individuals selected to participate in the fellows program in any year may not exceed the numbers as follows:~~

~~(A) Ten individuals from each geographic region of the United States as follows:~~

~~(i) The Northeast;~~

~~(ii) The Southeast;~~

~~(iii) The Midwest;~~

~~(iv) The Southwest;~~

~~(v) The West.~~

~~(B) Ten additional individuals.~~

(2) GEOGRAPHICAL REPRESENTATION.—Out of the total number of individuals selected to participate in the fellows program in any year, no more than 20 percent may be from any of the following geographic regions:

(A) The Northeast United States.

(B) The Southeast United States.

(C) The Midwest United States.

(D) The Southwest United States

(E) The Western United States.

(F) Alaska, Hawaii, United States territories, and areas outside the United States.

(3) BACKGROUND INVESTIGATION.—An individual selected to participate in the fellows program may not participate in the program unless the individual successfully undergoes a background investigation applicable to the position to which the individual will be ~~assigned~~ appointed under the fellows program and otherwise meets such requirements applicable to ~~assignment~~ appointment to a sensitive position within the Department that the Secretary considers appropriate.

~~(e) ASSIGNMENT.—~~

~~(1) IN GENERAL.— Each individual who participates in the fellows program shall be assigned to a position in one of the following:~~

~~(A) The Office of the Secretary of Defense.~~

~~(B) An office of the Secretary of a military department.~~

~~(2) POSITION REQUIREMENTS.— Each Secretary of a military department,, each Under Secretary of Defense, and other officials, as designated by the Secretary of Defense, within the Office of the Secretary of Defense (as defined in section 131 of title 10, United States Code) who report directly to the Secretary of Defense shall submit to the Secretary of Defense each year the qualifications and skills to be demonstrated by participants in the fellows program to qualify for assignment under this subsection for service in a position of the office of such Secretary, Under Secretary, or official within the Office of the Secretary of Defense.~~

~~(3) ASSIGNMENT TO POSITIONS.— The Secretary of Defense shall each year assign participants in the fellows program to positions in the offices of the Secretaries of the military departments, and the offices of the Under Secretaries of Defense and other officials within the Office of the Secretary of Defense described in paragraph (2). In making such assignments, the Secretary of Defense shall seek to best match the qualifications and skills of participants in the fellows program with the requirements of positions available for assignment appointment. Each participant so assigned shall serve as a special assistant to the Secretary, Under Secretary of Defense, or other official within the Office of the Secretary of Defense to whom assigned.~~

~~(4) LIMITATIONS ON NUMBER ASSIGNABLE TO SECRETARIES OF MILITARY DEPARTMENTS.— The number of participants in the fellows program who are assigned to the office of a Secretary of a military department in any year may not exceed five participants.~~

~~(5) TERM.— The term of each assignment under the fellows program shall be one year.~~

~~(6) PAY AND BENEFITS.— An individual assigned to a position under the fellows program shall be compensated at the rate of compensation for employees at level GS 10 of the General Schedule, and shall be treated as an employee of the United States during the term of assignment, including for purposes of eligibility for health care benefits and retirement benefits available to employees of the United States.~~

~~(7) EDUCATION LOAN REPAYMENT.— To the extent that funds are provided in advance in appropriations Acts, the Secretary of Defense may repay any loan of a participant in the fellows program if the loan is described by subparagraph (A), (B), or (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of loans under~~

this paragraph may require a minimum service agreement, as determined by the Secretary.

~~(f) CAREER DEVELOPMENT.—~~

~~(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the fellows program—~~

~~(A) receive opportunities and support appropriate for the commencement of a career track within the Department leading toward a future position of senior leadership within the Department, including ongoing mentorship support through appropriate personnel from entities within the Department such as the Defense Business Board and the Defense Innovation Board; and~~

~~(B) are provided appropriate opportunities for employment and advancement e within the Department upon successful completion of the fellows program, including, if appropriate, opportunities to work at Department installations or Field Activities for between 12 and 24 months.~~

~~(2) RESERVATION OF POSITIONS.—In carrying out paragraph (1)(B), the Secretary shall reserve for participants who successfully complete the fellows program not fewer than 30 positions in the excepted service within the Department that are suitable for the commencement of a career track toward senior leadership within the Department. Any position so reserved shall not be subject to or covered by any reduction in headquarters personnel required under any other provision of law.~~

~~(3) NONCOMPETITIVE APPOINTMENT.—Upon the successful completion of the assignment of a participant in the fellows program in a position pursuant to subsection (e), the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, appoint the participant to reserved pursuant to paragraph (2) if the Secretary determines that such appointment will contribute to the development of highly qualified future senior leaders for the Department. An individual appointed pursuant to this paragraph shall not count against the limitation on the number of Office of the Secretary of Defense personnel in section 143 of title 10, United States Code, or any similar limitation in law on the number of personnel in headquarters of the Department that would otherwise apply to the office or headquarters to which appointed.~~

~~(4) PUBLICATION OF SELECTION.—The Secretary shall publish on an Internet website of the Department available to the public the names of the individuals selected to participate in the fellows program.~~

~~(e) APPOINTMENT.—~~

~~(1) IN GENERAL.—An individual who participates in the fellows program shall be appointed into an excepted service position in the Department.~~

~~(2) POSITION REQUIREMENTS.—Each year, the head of each Department of Defense Component shall submit to the Secretary of Defense placement opportunities for participants in the fellow program. Such placement opportunities shall provide for leadership development and potential commencement of a career track toward a position of senior leadership in the Department. The Secretary of Defense, in coordination with the heads of Department of Defense Components, shall establish qualification requirements for the appointment of participants under paragraph (1) and subsection (f)(2).~~

~~(3) APPOINTMENT TO POSITIONS.—Each year, the Secretary of Defense shall appoint participants in the fellows program to positions in the Department. In making~~

such appointments, the Secretary shall seek to best match the qualifications and skills of the participants with the requirements for positions available for appointment.

(4) TERM.—The term of each appointment under the fellows program shall be one year with the option to extend the appointment up to one additional year.

(5) GRADE.—An individual appointed to a position under the fellows program shall be appointed at a level between GS–10 and GS–12 of the General Schedule based on the directly-related qualifications, skills, and professional experience of the individual.

(6) EDUCATION LOAN REPAYMENT.—To the extent that funds are provided in advance in appropriations Acts, the Secretary of Defense may repay a loan of a participant in the fellows program if the loan is described by subparagraph (A), (B), or (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of a loan under this paragraph may require a minimum service agreement, as determined by the Secretary.

(7) DEPARTMENT OF DEFENSE COMPONENT DEFINED.—In this subsection, the term “Department of Defense Component” means a Department of Defense Component, as set forth in paragraphs (1) through (9) of section 111(b) of title 10 United States Code, and any other entity designated as such by the Secretary of Defense for the purpose of the fellows program.

(f) CAREER DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the fellows program—

(A) receive career development opportunities and support appropriate for the commencement of a career track within the Department leading toward a future position of senior leadership within the Department, including ongoing mentorship support through appropriate personnel from entities within the Department; and

(B) are provided appropriate employment opportunities for competitive and excepted service positions in the Department upon successful completion of the fellows program.

(2) NONCOMPETITIVE APPOINTMENT OR CONVERSION.—Upon a participant’s successful completion of the fellows program, the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, noncompetitively appoint or convert the participant into a vacant competitive or excepted service position, in the Department if the Secretary determines that such appointment or conversion will contribute to the development of highly qualified future senior leaders for the Department. The Secretary may appoint or convert the participant into a position up to the GS-13 level of the General Schedule or an equivalent position for which the participant is qualified without regard to any minimum time in grade requirements. Before converting an individual to the competitive service under this paragraph, the Secretary shall notify and receive written consent from the individual of the individual’s change in status.

(3) APPOINTMENT OF FORMER PARTICIPANTS.—The Secretary may utilize the authority in paragraph (2) for a participant—

(A) not later than one year after the date of the participant’s successful completion of the fellows program; or

(B) in the case of a participant who entered the fellows program before the date of the enactment of this subparagraph, not later than one year after such date of enactment.

(4) PUBLICATION OF SELECTION.—The Secretary shall publish on an Internet website of the Department available to the public the names of the individuals selected to participate in the fellows program.

(g) OUTREACH.—The Secretary of Defense shall undertake appropriate outreach to inform potential participants in the fellows program of the nature and benefits of participation in the fellows program.

(h) REGULATIONS.—The Secretary of Defense shall carry out this section in accordance with such regulations as the Secretary may prescribe for purposes of this section.

(i) FUNDING.—Of the amounts authorized to be appropriated for each fiscal year for the Department of Defense for operation and maintenance, Defense-wide, \$10,000,000 may be available to carry out the fellows program in such fiscal year.

1 **SEC. ___. AUTHORITY TO BUILD CAPACITY FOR DISASTER RESPONSE**
2 **OPERATIONS.**

3 Section 333 of title 10, United States Code, is amended—

4 (1) in subsection (a), by adding at the end the following new paragraph:

5 “(10) Disaster response operations.”;

6 (2) in subsection (b)(3), by adding at the end the following new sentence: “The
7 Secretary of Defense shall consult with the Administrator of the United States Agency for
8 International Development prior to developing and commencing any program described
9 in subsection (a)(10).”; and

10 (3) in subsection (c)—

11 (A) in paragraph (2)(A), by inserting “humanitarian principles,” after
12 “armed conflict,”; and

13 (B) in paragraph (3)—

14 (i) in the heading, by inserting “HUMANITARIAN PRINCIPLES,” after

15 “ARMED CONFLICT,”; and

16 (ii) by inserting “humanitarian principles,” after “armed conflict.”.

[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 legislative proposal would allow the Department of Defense (DoD) under section 333 of title 10, United States Code (section 333), to provide defense articles, training, defense services, supplies, and small-scale construction to the national security forces of foreign countries to build the capacity of such forces to support natural disaster preparedness and risk mitigation and response and to conduct disaster response (DR) operations, including response to pandemics. The legislative proposal anticipates the potential for increased natural disasters due to climate change; responds to partner nation demand signals for DR focused security cooperation; and would increase partners' interoperability with U.S. forces in DR operations and multilateral coalitions.

Many U.S. partners, particularly developing countries, are vulnerable to natural disasters, such as pandemic disease, volcanic eruptions, floods, hurricanes, landslides, and earthquakes. Such events—some of which are liable to become increasingly prevalent due to climate change—can have particularly devastating consequences for developing countries, which often possess limited governance capacity and capability to respond effectively to natural disasters. Often, the military and security services of the affected nation are tasked with leading response and recovery efforts, albeit with limited capacity and capability to respond effectively. A partner nation’s inability to respond to crisis quickly and effectively in the event of a major natural disaster can stress partners and lead to humanitarian suffering, which may result in reliance on the armed forces of the United States and more capable regional partners for assistance, or drive irregular migration to the United States.

This legislative proposal to expand section 333 to authorize capacity-building of foreign partner forces to conduct DR aligns with the Department’s intent to support a global and prioritization-driven approach to security cooperation, as well as the intent of section 333 to build self-sustaining partner capacity in key areas. If section 333 were amended to include DR capacity-building as an approved mission area, DoD would use this new authority to help build the capacity of foreign military and security forces to conduct their own DR operations in the event of a natural disaster, thereby lessening dependence on the United States. It would enhance security force capacity in support of civil authorities for preparedness, risk mitigation, and response to disasters; the role of security force support to civil authorities in disaster response has proven vital during the ongoing COVID-19 pandemic. This authority would also be used for foreign military force health protection, pandemic preparedness, capacity, and response capability for diseases and health of the security military forces. Often, security forces possess unique capabilities that are crucial to disaster response that civilian agencies do not or cannot execute. DR preparedness and risk-mitigation efforts are contact-layer activities that have contributed to establishing U.S. access, shaping perceptions of key audiences, and advancing U.S. and ally and partner messages of commitment and resolve. This proposal would strengthen this important role, and building military capacity in this area would allow reduced reliance on the United States in responding to overseas disasters.

Although DoD currently has humanitarian assistance authorities to assist countries after a natural disaster occurs, currently available authorities to provide the capacity-building assistance proposed in this amendment are limited. DoD’s primary humanitarian assistance authority, 10 U.S.C. 2561, must serve a humanitarian purpose. Typically, DoD is not able to justify using an existing humanitarian assistance authority to train or equip foreign security forces, using the Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) appropriation, because the assisted security force would be the primary beneficiary. Although responding to a disaster is commonly part of a security force unit’s mission responsibilities, a security force unit’s primary roles and day-to-day efforts are commonly security-related functions unrelated to humanitarian assistance. Therefore, using current DoD humanitarian assistance authority to train or equip a security force is not justifiable because the assisted security force unit could primarily use the transferred equipment for security missions, rather than humanitarian missions.

Amending section 333 as proposed would fill a demand signal from partner nations that have identified increased capacity for DR as an area of great interest, and would increase partners' interoperability with U.S. forces in DR operations and multilateral coalitions. The intent would be for partners to reduce their reliance on international assistance and increase their burden-sharing in responding to natural disasters.

Adding DR capacity-building as one of the section 333 missions also creates a new avenue for the United States to attract new partners who may be hesitant to conduct other types of security cooperation activities with DoD or the U.S. Government. Developing nations that are vulnerable to natural disasters have identified that reducing human suffering is one of their main concerns and that collaboration with the United States on strengthening DR capabilities is of great interest to them.

Further, building DR preparedness and risk mitigation is a non-controversial topic that the United States and partner nations have in common, and having this additional authority would provide opportunities for regional security cooperation in a politically benign context. In some situations, DR-related efforts may be the only type of security cooperation engagement that a foreign partner is willing to pursue with DoD. In such cases, providing DR capacity-building assistance would be the only means for DoD to develop a defense relationship with the foreign partner, and it could be a catalyst leading to opportunities for DoD to conduct other types of security cooperation engagements with the foreign partner.

DoD views security cooperation efforts to strengthen partners' DR capabilities as an effective way to increase multilateral defense cooperation and indirectly to advance other U.S. defense policy objectives. In certain regions of the world that are particularly vulnerable to natural disasters and the rising risks of climate change, and where there is a greater need for resiliency, such as the Western Hemisphere and South East Asia, the United States has committed to regional DR cooperation as the top agenda item at forums such as the Conference of the Defense Ministers of the Americas (CDMA) and the Association of Southeast Asian Nations (ASEAN).

Resource Information: The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2024 President's Budget request.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Section 333* Foreign Security Forces: Authority to Build Capacity	10	10	10	10	10	Operation and Maintenance, Defense-Wide	04	4GTD	
Total	10	10	10	10	10				

Changes to Existing Law: The proposal would make the following changes to Section 333 of title 10, United States Code:

§333. Foreign security forces: authority to build capacity

(a) AUTHORITY.—The Secretary of Defense is authorized to conduct or support a program or programs to provide training and equipment to the national security forces of one or more foreign countries for the purpose of building the capacity of such forces to conduct one or more of the following:

- (1) Counterterrorism operations.
- (2) Counter-weapons of mass destruction operations.
- (3) Counter-illicit drug trafficking operations.
- (4) Counter-transnational organized crime operations.
- (5) Maritime and border security operations.
- (6) Military intelligence operations.
- (7) Air domain awareness operations.
- (8) Operations or activities that contribute to an existing international coalition operation that is determined by the Secretary to be in the national interest of the United States.
- (9) Cyberspace security and defensive cyberspace operations.
- (10) Disaster response operations.

(b) CONCURRENCE AND COORDINATION WITH SECRETARY OF STATE.—

(1) CONCURRENCE IN CONDUCT OF PROGRAMS.—The concurrence of the Secretary of State is required to conduct or support any program authorized by subsection (a).

(2) JOINT DEVELOPMENT AND PLANNING OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall jointly develop and plan any program carried out pursuant to subsection (a). In developing and planning a program to build the capacity of the national security forces of a foreign country under subsection (a), the Secretary of Defense and Secretary of State should jointly consider political, social, economic, diplomatic, and historical factors, if any, of the foreign country that may impact the effectiveness of the program.

(3) IMPLEMENTATION OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall coordinate the implementation of any program under subsection (a). The Secretary of Defense and the Secretary of State shall each designate an individual responsible for program coordination under this paragraph at the lowest appropriate level in the Department concerned. The Secretary of Defense shall consult with the Administrator of the United States Agency for International Development prior to developing and commencing any program described in subsection (a)(10).

(4) COORDINATION IN PREPARATION OF CERTAIN NOTICES.—Any notice required by this section to be submitted to the appropriate committees of Congress shall be prepared in coordination with the Secretary of State.

(c) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—A program under subsection (a) may include the provision and sustainment of defense articles, training, defense services, supplies (including consumables), and small-scale construction supporting security cooperation programs under this section.

(2) REQUIRED ELEMENTS.—A program under subsection (a) shall include elements that promote the following:

(A) Observance of and respect for the law of armed conflict, humanitarian principles, human rights and fundamental freedoms, the rule of law, and civilian control of the military.

(B) Institutional capacity building.

(3) OBSERVANCE OF AND RESPECT FOR THE LAW OF ARMED CONFLICT, HUMANITARIAN PRINCIPLES, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, THE RULE OF LAW, AND CIVILIAN CONTROL OF THE MILITARY.—In order to meet the requirement in paragraph (2)(A) with respect to particular national security forces under a program under subsection (a), the Secretary of Defense shall certify, prior to the initiation of the program, that the Department of Defense or the Department of State is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, training that includes a comprehensive curriculum on the law of armed conflict, humanitarian principles, human rights and fundamental freedoms, and the rule of law, and that enhances the capacity to exercise responsible civilian control of the military, as applicable, to such national security forces.

(4) INSTITUTIONAL CAPACITY BUILDING.—In order to meet the requirement in paragraph (2)(B) with respect to a particular foreign country under a program under subsection (a), the Secretary shall certify, prior to the initiation of the program, that the Department of Defense or another department or agency is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, a program of institutional capacity building with appropriate institutions of such foreign country to enhance the capacity of such foreign country to organize, administer, employ, manage, maintain, sustain, or oversee the national security forces of such foreign country.

(d) LIMITATIONS.—

(1) 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 (c) that is otherwise prohibited by any provision of law.

(2) PROHIBITION ON ASSISTANCE TO UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The provision of assistance pursuant to a program under subsection (a) shall be subject to the provisions of section 362 of this title.

(3) DURATION OF SUSTAINMENT SUPPORT.—Sustainment support may not be provided pursuant to a program under subsection (a), or for equipment previously provided by the Department of Defense under any authority available to the Secretary during fiscal year 2015 or 2016, for a period in excess of five years unless the notice on the program pursuant to subsection (e) includes the information specified in paragraph (7) of subsection (e).

(e) NOTICE AND WAIT ON ACTIVITIES UNDER PROGRAMS.—Not later than 15 days before initiating activities under a program under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(1) The foreign country, and specific unit, whose capacity to engage in activities as specified in subsection (a) will be built under the program, and the amount, type, and purpose of the support to be provided.

(2) A detailed evaluation of the capacity of the foreign country and unit to absorb the training or equipment to be provided under the program.

(3) The cost, implementation timeline, and delivery schedule for assistance under the program.

(4) A description of the arrangements, if any, for the sustainment of the program and the estimated cost and source of funds to support sustainment of the capabilities and performance outcomes achieved under the program beyond its completion date, if applicable.

(5) Information, including the amount, type, and purpose, on the security assistance provided the foreign country during the three preceding fiscal years pursuant to authorities under this title, the Foreign Assistance Act of 1961, and any other train and equip authorities of the Department of Defense.

(6) A description of the elements of the theater security cooperation plan of the geographic combatant command concerned, and of the interagency integrated country strategy, that will be advanced by the program.

(7) In the case of a program described in subsection (d)(3), each of the following:

(A) A written justification that the provision of sustainment support described in that subsection for a period in excess of five years will enhance the security interest of the United States.

(B) To the extent practicable, a plan to transition such sustainment support from funding through the Department to funding through another security sector assistance program of the United States Government or funding through partner nations.

(8) In the case of activities under a program that results in the provision of small-scale construction above \$750,000, the location, project title, and cost of each 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 over the next 5 years.

(9) In the case of a program described in subsection (a), each of the following:

(A) A description of whether assistance under the program could be provided pursuant to other authorities under this title, the Foreign Assistance Act of 1961, or any other train and equip authorities of the Department of Defense.

(B) An identification of each such authority described in subparagraph (A).

(f) SEMI-ANNUAL MONITORING REPORTS.—The Director of the Defense Security Cooperation Agency shall, on a semi-annual basis, submit to the appropriate committees of Congress a report setting forth, for the preceding 180 days, the following:

(1) Information, by recipient country, of the delivery and execution status of all defense articles, training, defense services, supplies (including consumables), and small-scale construction under programs under subsection (a).

(2) Information on the timeliness of delivery of defense articles, defense services, supplies (including consumables), and small-scale construction when compared with

delivery schedules for such articles, services, supplies, and construction previously provided to Congress.

(3) Information, by recipient country, on the status of funds allocated for programs under subsection (a), including amounts of unobligated funds, unliquidated obligations, and disbursements.

(g) FUNDING.—

(1) SOLE SOURCE OF FUNDS.—Amounts for programs carried out pursuant to subsection (a) in a fiscal year, and for other purposes in connection with such programs as authorized by this section, may be derived only from amounts authorized to be appropriated for such fiscal year for the Department of Defense for operation and maintenance, Defense-wide, and available for the Defense Security Cooperation Agency for such programs and purposes.

(2) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—

(A) IN GENERAL.—Amounts available in a fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in such fiscal year and end not later than the end of the second fiscal year thereafter.

(B) ACHIEVEMENT OF FULL OPERATIONAL CAPACITY.—If, in accordance with subparagraph (A), equipment or training is delivered under a program under the authority in subsection (a) in the fiscal year after the fiscal year in which the program begins, amounts for defense articles, training, defense services, supplies (including consumables), and small-scale construction associated with such equipment or training and necessary to ensure that the recipient unit achieves full operational capability for such equipment or training may be used in the fiscal year in which the foreign country takes receipt of such equipment and in the next two fiscal years.