SEC. 1017. EXTENSION OF AUTHORITY OF DEPARTMENT OF DEFENSE TO PROVIDE ADDITIONAL SUPPORT FOR COUNTERDRUG ACTIVITIES OF OTHER GOVERNMENTAL AGENCIES.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended by striking "During fiscal years 2002 through 2011" and inserting "Until September 30, 2013".

(b) COVERAGE OF TRIBAL LAW ENFORCEMENT AGENCIES.—Such section is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "tribal," after "local,"; and

(B) in paragraph (2), by striking "State or local" both places it appears and insert "State, local, or tribal"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "State or local" and inserting "State, local, or tribal";

(B) in paragraph (4), by striking "State, or local" and inserting "State, local, or tribal"; and

(C) in paragraph (5), by striking "State and local" and inserting "State, local, and tribal".

(c) CLARIFICATION OF AUTHORITY TO PROVIDE CERTAIN NONLETHAL EQUIPMENT OR SERVICES.—Subsection (b)(4) of such section is amended by inserting before the period at the

end the following: “, including the provision of nonlethal equipment or services necessary for the operation of such bases or facilities, other than any equipment specifically identified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998”.

Section-by-Section Analysis

This proposal would make the following changes to the authority under section 1004 of the National Defense Authorization Act for Fiscal Year (FY) 1991 (Public Law 101-510; 10 U.S.C. 374 note) (referred to as “Section 1004 authority”):

- This authority will expire in FY 2011. The Department of Defense is asking for the extension of authority to 2013 so that all Counternarcotics authorities will exist on the same timeline for an effective budget planning process.
- Add “tribal” law enforcement agencies to the list of those eligible to receive counterdrug support. This change is consistent with the treatment of Native American Tribal law enforcement agencies as full partners in counterdrug matters.
- Clarify that support provided through the operation of bases of operations and training may include the provision of nonlethal equipment or supplies not within the scope of section 1033 of the National Defense Authorization Act for Fiscal Year 1998.

Budget Implications: There are no additional resources required to implement this authority. All costs will be absorbed within the annual appropriations of the Counternarcotics Central Transfer Account.

Funds used under this authority will be taken from the Drug Interdiction and Counter-Drug Activities, Defense appropriation.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Central Transfer Account	$5	$5	$5	$5	$5	Drug Interdiction and Counter Drug Activities, Defense	01	0105D
Total	$5	$5	$5	$5	$5			

Changes to Existing Law: This proposal would make the following changes to section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note):

Section 1004, National Defense Authorization Act for Fiscal Year 1991, as amended[1], "Additional Support for Counter-Drug Activities":

SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) SUPPORT TO OTHER AGENCIES.~~— During fiscal years 2006 through 2011~~**Until September 30, 2013**, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, **tribal,** or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counterdrug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State**,** ~~or~~ local**, or tribal** government, in the case of support for State**,** ~~or~~ local**, or tribal** law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State**,** ~~or~~ local**, or tribal** government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of —

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, ~~or~~

[1] Public Law. No. 101-510, *amended by* §1088(a), National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1992 and 1993, Pub. L. No. 102-190; §1041, NDAA for FY 1993, Pub. L. No. 102-484; §1121(a) and (b), NDAA for FY 1994, Pub. L. No. 103-160; §1011, NDAA for FY 1995, Pub. L. No. 103-337; §1021, NDAA for FY 1999, Pub. L. No. 105-261; §1021, NDAA for FY 2002, Pub. L. No. 107-107; and § 1021, NDAA for FY 2007, Pub. L. No. 109-364.

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local**, or tribal** law enforcement agency within or outside the United States or counter-drug activities of a foreign law enforcement agency outside the United States**, including the provision of nonlethal equipment or services necessary for the operation of such bases or facilities, other than any equipment specifically identified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998**.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State**,** ~~and~~ local**, and tribal** governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is

made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

(2) Paragraph (1) applies to an unspecified minor military construction project that—

(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and

(B) has an estimated cost of more than $500,000.