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AFGHANISTAN FREEDOM SUPPORT ACT OF 2002

SEPTEMBER 12, 2002.—Ordered to be printed

Mr. BIDEN, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 2712]

The Committee on Foreign Relations, to which was referred the bill (S. 2712), to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. PURPOSE AND SUMMARY

The Afghanistan Freedom Support Act of 2002 (S. 2712) commits the United States to the stability, security, reconstruction, and democratic development of Afghanistan. In addition to $2.5 billion in economic, humanitarian, and political assistance authorized over four years in Title I of this bill ($2 billion in section 108, $500 million in section 104), Title II seeks to enhance the security and stability of Afghanistan and the region by authorizing $300 million in drawdown authority for military and security assistance to Afghanistan and to certain other countries, including assistance for counter-narcotics, crime control, and police training.

S. 2712 also includes a provision expressing the sense of Congress that the International Security Assistance Force (ISAF) in Af-

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ghanistan should be expanded beyond Kabul. In the event such an expansion is pursued, the bill authorizes $500 million per year for FY2003 and FY2004, for a total of $1 billion, if the President makes that decision.

This legislation is similar to H.R. 3994. The House of Representatives passed H.R. 3994 on May 21, 2002 by a vote of 390–22 (see House Report 107–420).

II. Background and Need for Legislation

The Afghanistan Freedom Support Act authorizes a broad range of political, economic, humanitarian, and security assistance for Afghanistan. The Administration's flexibility is enhanced through the authorization of a total of $3.8 billion over 4 years ($2 billion in section 108, $500 million in section 104, $1 billion in section 208, $300 million in section 202(b)).

Achieving stability, security, and reconstruction in Afghanistan requires sustained American leadership and assistance over the next decade. Deputy Secretary of State Richard Armitage testified before the Committee on June 26, 2002 that the long-term costs of reconstruction, humanitarian, and security assistance over the next 10 years could reach $10 billion. Other estimates, including those by World Bank economists, place the figure considerably higher.

A report titled "U.S. Support for Afghan Women Children, and Refugees" submitted to the Congress by the Department of State on June 28, 2002, noted that "Afghanistan today is only beginning to recover from one of the world's worst man-made disasters aggravated by an unforgiving natural environment . . . in the short term, extraordinary efforts are still necessary to respond to the urgent humanitarian needs of the Afghan people."

The goals of American policy in Afghanistan—including prevention of a return of the Taliban and al-Qaeda, pursuing counter-narcotics efforts, and fostering a stable democratic government—are dependent on the establishment of internal security. It is in the national interest of the United States, therefore, to help establish and maintain the security of Afghanistan. Eventually this duty will be carried out by the national army and police currently being trained by the United States and other nations, but this process is a long-term effort. Committee staff learned, during an August 2002 trip to Afghanistan, that the program has trained only one guard battalion and two half-strength combat battalions in the 3 months it has been in operation, and the structural impediments to more rapid expansion remain in place. In the interim period before an Afghan army can ensure stability, the maintenance of security relies heavily on the UN-mandated International Security Assistance Force (ISAF) within Kabul, and on U.S. forces outside the nation's capital. Key U.S. allies have stressed the necessity of American military support of ISAF for airlift, logistics, intelligence, and other crucial requirements. Congress wishes to provide the President with the means to effect the expansion of peacekeeping troops outside of Kabul, as suggested by Deputy Secretary of Defense Wolfowitz on September 5, 2002 in a speech at the Brookings Institution.

Deputy Secretary Wolfowitz highlighted the linkage between economic development and security when he testified before the Committee on June 26, 2002 that "the most important instrument that

the Afghan Authority and we have to establish a stable security situation is the leverage provided by economic assistance."

Security in Afghanistan is precarious, at best. On July 6, 2002, assassins killed Haji Abdul Qadir, a Vice President and Minister of Public Works in Afghanistan. Soon after, U.S. Special Forces were assigned to protect Afghan President Hamid Karzai. On September 5, 2002, Karzai himself narrowly escaped an assassination attempt in Kandahar; within hours of this attack, at least 25 people were killed in two bomb blasts in the capital city of Kabul, acts attributed to anti-U.S. warlord Gulbuddin Hekmatyar or remnants of the Taliban and al-Qaeda. Political conflict among rival warlords, and between warlords and the central government, has threatened the Afghan government's efforts at unity and military integration.

III. Committee Action

The Committee held the following hearings on Afghanistan:

- June 26, 2002: "Afghanistan: Building Stability, Avoiding Chaos"

Witnesses: Deputy Secretary of State Richard Armitage
Deputy Secretary of Defense Paul Wolfowitz
Brig. Gen. (Ret.) David Grange
The Hon. Peter Tomsen, former Special Envoy to Afghanistan (1989–92)

- December 6, 2001: "The Political Future of Afghanistan"

Witnesses: The Hon. Richard Haass, Director, Policy Planning, Department of State
The Hon. Christina Rocca, Assistant Secretary of State for South Asian Affairs
Mrs. Fatima Gailani, Advisor, National Islamic Front of Afghanistan
Dr. Thomas Goutierre, Dean of International Studies and Director of the Center for Afghanistan Studies, University of Nebraska-Omaha

- November 15, 2001: "Humanitarian Crisis: Is Enough Aid Reaching Afghanistan?" (Subcommittees on Near Eastern and South Asian Affairs/International Operations and Terrorism)

Witnesses: Mr. Alan Kreczko, Acting Assistant Secretary of State, Bureau of Population, Refugees and Migration
Mr. Bernard McConnell, Director of Central Asian Task Force, USAID
The Hon. Andrew Natsios, Administrator, USAID
Mr. Leonard Rogers, Acting Assistant Administrator for Humanitarian Response, USAID
Mr. Mark Barolini, vice president of Government Relations, International Rescue Committee
Mr. Joel Charny, Vice President, Refugees International
Mr. George Devendorf, Director of Emergency Operations, Mercy Corps

- October 10, 2001: "Afghanistan's Humanitarian Crisis" (Subcommittees on Near Eastern and South Asian Affairs/International Operations and Terrorism)

Witnesses: Mr. Alan Kreczko, Acting Assistant Secretary of State, Bureau of Population, Refugees and Migration
The Hon. Andrew Natsios, Administrator, USAID
The Hon. Christina Rocca, Assistant Secretary of State for South Asian Affairs
Mr. Ken Bacon, President, Refugees International
Dr. Nicolas DeTorrente, Executive Director, Doctors Without Borders
Ms. Eleanor Smeal, President, Feminist Majority

On July 9, Senator Hagel introduced S. 2712, which was referred to the Committee. On August 1, 2002, the Committee considered a Senator Hagel substitute amendment to S. 2712, pursuant to notice, in open session. The Committee then considered, and approved by voice vote three amendments offered to the substitute, one by Senator Boxer, one by Senator Brownback, and one by Senator Sarbanes. The Committee then agreed, by unanimous voice vote, to order the bill reported, as amended.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Section 1 cites the act as the "Afghanistan Freedom Support Act of 2002."

TITLE I. ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of Policy

This section includes six declarations outlining general categories of assistance for Afghanistan, including support for: development of democratic and civil authorities and a broad-based, multi-ethnic, gender-sensitive government; humanitarian needs and counter-narcotics initiatives; peace and security; the objectives of the Bonn conference, including Afghanistan's territorial integrity and neutrality in foreign affairs and non-interference in Afghanistan's domestic politics; the special emergency situation in Afghanistan; and efforts to foster stability and democratization and elimination of terrorism.

Sec. 102. Purposes of Assistance

This section describes the purposes of assistance authorized in Title I, including: reducing the chance that Afghanistan will again be a source of international terrorism; supporting the efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and the region; supporting counter-narcotics efforts; helping achieve a broad-based, general-sensitive and representative government; encouraging participation of Afghan civil society in a new Afghan government; supporting the reconstruction of Afghanistan, including clearance of landmines and building of roads; and providing resources to the Ministry of Women's Affairs of Afghanistan.

Sec. 103. Principles of Assistance

This section lists the principles that should guide the assistance authorized in this title, including: terrorism and narcotics control;

the role of women; Afghan ownership; stability and security in Afghanistan; and coordination of international and donor efforts.

Sec. 104. Authorization of Assistance

This section authorizes assistance for Afghanistan in the following areas: urgent humanitarian needs; repatriation and resettlement of refugees and internally displaced persons; counter-narcotics efforts; reestablishment of food security, rehabilitation of the agriculture sector, improvement in health conditions, and the reconstruction of basic infrastructure; reestablishment of Afghanistan as a viable nation-state (including not less than $10 million per year for FY2003–FY2005 for carrying out a loya jirga and support for elections and political party development); market economy; and assistance to women and girls (including $15 million per year for the Afghan Ministry of Women's Affairs and $5 million per year for the National Human Rights Commission of Afghanistan).

Some of the funds authorized by this title may be provided only if the President certifies to Congress with respect to the fiscal year involved that "progress is being made toward adopting a constitution and establishing a democratically elected government in Afghanistan." Recognizing both the urgency and uncertainty of the transition process in Afghanistan, this section also provides a waiver of this limitation "if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so."

The Committee notes the outstanding work of the Center for Afghanistan Studies at the University of Nebraska-Omaha (UNO) to re-build Afghanistan's educational system. UNO, working with USAID, published over 10.6 million textbooks for Afghan students by mid-April 2002. The Committee urges allocation of funding for UNO's "America's Rapid Response to Education Needs in Afghanistan (ARRENA)" project and other UNO initiatives to support educational capacity-building, teacher training, and primary, secondary, and vocational education in Afghanistan.

This title also includes authorization of $500 million for FY2003–FY2005 for an enterprise fund to encourage private sector development and job creation. This sum is in addition to, rather than a part of, the $2 billion authorized in section 108.

Sec. 105. Coordination of Assistance

This section strongly urges the President to designate a coordinator for Afghan policy who, if appointed and confirmed by the Senate, will be responsible for strategy development; policy coordination among U.S. Government agencies, other countries, and international organizations with respect to Afghanistan; management and oversight; resolution of policy and program disputes among U.S. Government agencies with respect to Afghanistan. The coordinator shall hold the rank and status of ambassador.

Sec. 106. Administrative Provisions

This section includes administrative provisions, including, to the extent feasible, use of the expertise of Afghan-Americans, donations of manufacturing and related equipment by U.S. businesses, and utilization of research conducted by land grant colleges and universities. Amounts made available to carry out this title may be made

available to a Federal department or agency for expenses incurred providing assistance under this title. The Comptroller General and the Inspector General of the U.S. Agency for International Development shall monitor the provision of assistance under this title. The Committee urges that to the maximum extent practicable that assistance authorized under this title be provided directly to the Government of Afghanistan.

Sec. 107. Relationship to Other Authority

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

Sec. 108. Authorization of Appropriations

This section provides authorization of appropriations of $2 billion over years 2002–2005, in addition to $500 million authorized for Enterprise Fund for FY2003–FY2005. In order to provide flexibility for spending decisions based on local absorptive capacity, funds are authorized to remain available until expended. This includes sums authorized for FY2002, as the legislation was initiated before the close of this fiscal year, and it is the intent of Congress that the overall authorization not be decreased by delays in the legislative schedule.

In light of the special circumstances of the United States' commitment to Afghanistan, expressed by President Bush's reference to the Marshall Plan in describing America's role in the reconstruction of Afghanistan, the funding authorization in this act is intended to supplement—not replace—any additional funds devoted to Afghanistan from other accounts. The intent of Congress is to authorize up to $3.8 billion in new money, not to draw money for Afghanistan's recovery from a static pool of international aid.

TITLE II. MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for Security During Transition in Afghanistan

This section expresses the sense of Congress that the United States should support steps that contribute to security in Afghanistan during the transition.

Sec. 202. Authorization of Assistance

This section describes new authorities to provide security and military assistance to Afghanistan and other eligible foreign countries and international organizations. These new authorities are in addition to existing authorities.

Section 202(a) authorizes the President to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 to direct the drawdown of defense articles, services, and military education and training, including those that are acquired by contract or otherwise, for the Government of Afghanistan and eligible foreign countries and international organizations.

Section 202(b) limits the aggregate value of assistance provided in subsection (a) to $300 million, except that such limitation shall

be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

Section 203. Eligible Foreign Countries and Eligible International Organizations

This section defines what constitutes an eligible foreign country or international organization. Such country or organization shall be eligible for assistance under section 202 if that country or organization is participating in military, peacekeeping, or policing operations in Afghanistan, and such assistance is provided specifically for such operations in Afghanistan.

No country identified by the Secretary of State as a state sponsor of terrorism may receive assistance. The President may waive this limitation if the President determines that it is in the national security interest of the United States to do so.

Sec. 204. Reimbursement for Assistance

Assistance provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in section 202(b)(1).

Section (b) authorizes the appropriation to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value of assistance under section 202(a)(2). Amounts appropriated pursuant to this authorization are authorized to remain available until expended and are in addition to amounts otherwise available for the purposes described in this title.

Sec. 205. Congressional Notification Requirements

This section subjects assistance to any eligible foreign country or international organization to a notification procedure. The President must determine that such assistance is important to the national security interest of the United States, and then notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days in advance of providing such assistance. The report of notification may be submitted in classified or unclassified form.

Sec. 206. Promoting Secure Delivery of Humanitarian and Other Assistance in Afghanistan

This section includes findings and a statement of policy which reads "It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative national government."

The section requires the President to provide a strategy for achieving U.S. policy objectives in Afghanistan, not later than 45 days after the date of the enactment of this Act, and every 6 months thereafter through January 1, 2006, to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate. The President is also required to describe

the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan.

The initial provision of information shall be a written report. Thereafter, this information may be provided in a written report or an oral briefing.

Sec. 207. Relationship to Other Authority

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan. Assistance under this title may be provided notwithstanding any other provision of law.

Sec. 208. Sense of Congress Regarding Expansion of the International Security Assistance Force; Authorization of Appropriations

This section expresses the sense of the Congress urging the President to use the full diplomatic influence of the United States to expand the International Security Assistance Force (ISAF) beyond Kabul by sponsoring a UN Security Council resolution authorizing such an expansion; enlisting our European and other allies to provide forces for an expanded ISAF; providing financial and military assistance, including personnel, as the President considers necessary to achieve the expansion of the ISAF. There is authorized to be appropriated to the President $500 million for each of the fiscal years 2003 and 2004.

On September 5, 2002, in a speech at the Brookings Institution, Deputy Defense Secretary Paul Wolfowitz endorsed deploying peacekeepers outside of Kabul, and called on the international community "to provide the leadership and resources necessary" to expand ISAF. On September 8, 2002, Vice President Richard Cheney said that while a viable Afghan national army was the long-term solution, "in the interim, we may need to expand ISAF, and we're open to suggestions" (Meet the Press, NBC News). The Committee is encouraged that the Administration has reconsidered its position. It is the intent of Congress to provide the President with the full resources necessary to accomplish the mission of supporting the expansion of ISAF.

Sec. 209. Sunset

The authority of this title shall expire after September 30, 2005

V. Congressional Budget Office Cost Estimate

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the Committee provides the following estimate of the cost of this legislation prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 28, 2002.

Hon. Joseph R. Biden Jr., *Chairman,*
United States Senate,
Committee on Foreign Relations,
Washington, DC.

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 2712, the Afghanistan Freedom Support Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill.

Sincerely,

Dan L. Crippen, *Director.*

Enclosure.

AFGHANISTAN FREEDOM SUPPORT ACT OF 2002

Summary

S. 2712 would authorize economic and military assistance to the government of Afghanistan for 2002 through 2005. The bill would authorize the appropriation of $2.5 billion for humanitarian and economic assistance over the 2002–2005 period and $1 billion for the International Security Assistance Force in the 2003–2004 period. In addition, the bill would authorize the President to use up to $300 million from the resources of the Department of Defense to provide defense articles, defense services, and military education and training services to Afghanistan or to countries participating in military, peacekeeping, or policing operations in Afghanistan. CBO estimates that implementing S. 2712 would cost $2.5 billion over the 2003–2007 period, assuming the appropriation of the necessary amounts. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

S. 2712 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government

The estimated budgetary impact of S. 2712 is shown in the following table. This estimate assumes the legislation will be enacted near the beginning of fiscal year 2003 and that amounts authorized for 2003, 2004, and 2005 will be provided in annual appropriation acts near the start of each fiscal year. Except as discussed below, we assume that outlays will follow historical spending patterns. While the bill would authorize $500 million for 2002, we assume

that no additional funding will be provided in 2002 above the $250 million provided in Public Law 107–206, Emergency Supplemental Appropriations and Rescissions Act, 2002. The costs of this legislation fall within budget function 150 (international affairs).

[By Fiscal Year, in Millions of Dollars]

	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Afghanistan: [1]						
Estimated Authorization Level	548	80	40	40	0	0
Estimated Outlays	443	315	150	84	38	13
Proposed Changes:						
Estimated Authorization Level	0	1,400	1,200	650	0	0
Estimated Outlays	0	327	737	721	467	249
Spending Under S. 2712 for Afghanistan:						
Estimated Authorization Level	548	1,480	1,240	690	0	0
Estimated Outlays	443	642	887	805	505	262

[1] The 2002 level is the amount appropriated for that year. The estimated outlays include spending from an additional $298 million transferred from the Emargency Response Fund for programs in Afghanistan. The estimated authorization level for 2003 through 2005 is for food aid to Afghanistan.

Basis of Estimate

Title I would authorize the appropriation of $500 million a year for 2003 and 2004 for economic assistance to Afghanistan. The funds may be used for urgent humanitarian needs, for repatriating and resettling refugees and internally displaced persons, for narcotics control programs, and for programs to establish a viable nation-state with a market economy. The mix of programs that might be funded with the authorized amounts is not specified in the bill. Rather, the determination of the programs and spending levels would be left to the President based on policy choices that have not yet been made. For this estimate, CBO assumes that in 2003 through 2005 the mix of programs will shift from the fast-disbursing humanitarian relief programs executed in 2002 to slower-spending economic assistance efforts.

The bill also would authorize the appropriation of $500 million over the 2003–2005 period for an enterprise fund for Afghanistan, the largest ever undertaken. Enterprise funds are suppose to promote the private sector. Afghanistan is a very poor country with economic and security conditions inhospitable for large-scale private investment. Based on the experience of other enterprise funds, CBO estimates that it would take more than one year to establish the fund and that only one-tenth of the authorized amounts would be invested.

Title II would authorize the President to provide defense articles, defense services, and military education and training services to Afghanistan on such terms and conditions as he may determine but does not authorize a specific amount for this military assistance. CBO assumes that funding for this assistance would total $300 million over the 2002–2003 period, an amount equal to the drawdown limit set by the bill, including the $50 million provided in the emergency supplemental appropriation for Afghanistan.

Title II also would authorize the appropriation of $500 million in 2003 and 2004 to expand the territory of operation of the Inter-

national Security Assistance Force beyond Kabul. CBO assumes that enlarging the force would take up to six months and that the funds would be used for relatively rapid disbursing operations and maintenance activities necessary to keep an enlarged force in the field.

Pay-as-you-go Considerations

None.

Intergovernmental and Private-sector Impact

S. 2712 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Comparison With Other Estimates

On April 16, 2002, CBO transmitted an estimate of H.R. 3994, the Afghanistan Freedom Support Act of 2002, as ordered reported by the House Committee on International Relations on March 20, 2002. The differences between the two estimates arise from different authorization amounts, a later assumed enactment date, and enactment of the Emergency Supplemental Appropriations and Rescissions Act, 2002.

Estimate prepared by: Federal Costs: Joseph C. Whitehill. Impact on state, local, and tribal governments: Greg Waring. Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

VI. Evaluation of Regulatory Impact

In accordance with rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee has concluded that there is no regulatory impact from this legislation.

VII. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes are made by this bill.

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