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ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

JUNE 23, 2009.—Ordered to be printed

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

REPORT

[To accompany S. 962]

The Committee on Foreign Relations, having had under consideration a bill S. 962, to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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I. PURPOSE

The purpose of this legislation is to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people.

II. COMMITTEE ACTION

S. 962 was introduced on May 4, 2009 by Senators Kerry and Lugar. At a meeting on June 16, 2009, a Managers' Package of amendments was adopted by voice vote. By a roll-call vote of 16–0, the committee ordered the bill favorably reported. Members voting “aye” were Sens. Kerry, Lugar, Dodd (by proxy), Corker, Boxer (by proxy), Feingold, Menendez, Risch, DeMint, Casey, Isaakson, Gillibrand, Cardin, Barrasso (by proxy), Shaheen, and Kaufman.

III. DISCUSSION

A. SUMMARY

S. 962, the Enhanced Partnership with Pakistan Act of 2009, seeks to transform the relationship between the United States and Pakistan from a transactional, tactically-driven set of short-term exercises in crisis-management, into a deeper, broader, long-term strategic engagement. The legislation aims to properly balance the relationship between United States and Pakistan by acknowledging and supporting the national security interests of the United States as well as our economic and geopolitical interests. United States economic and military assistance for Pakistan enhances our mutual security while helping to build economic and political stability in a country important in a regional and strategic sense. Economic assistance is as critical an element as strengthening the capacity of the Pakistan military to counter terrorism, especially for projects that provide direct and concrete benefit to Pakistani citizens as a whole. The overall level of economic assistance authorized would be raised substantially, with the bulk of this aid intended for projects such as schools, roads, medical clinics, and infrastructure development.

Specifically, the legislation:

- Authorizes \$7.5 billion over the next 5 fiscal years (\$1.5 billion annually) under the Foreign Assistance Act.
- Advocates an additional \$7.5 billion over the subsequent 5 years, subject to improvements in the political and economic climate in Pakistan.
- Conditions military grant assistance and Foreign Military Financing assistance beginning in 2010, and Foreign Military Sales beginning in 2012, on certification by Secretary of State that Pakistani security forces:
 - are making concerted efforts to prevent al Qaeda and associated terrorist groups (including Lashkar-e Taiba and Jaish-e Muhammad) from operating in the territory of Pakistan;
 - are making concerted efforts to prevent the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan; and
 - are not materially interfering in the political or judicial processes of Pakistan.
- Prioritizes assistance for the following general purposes:
 - Just and democratic governance;
 - Economic development; and
 - Investment in people.
- Requires the following reports:
 - Secretary of State must within 45 days of passage of the legislation, or September 15, 2009, provide a comprehensive Pakistan Assistance Strategy Report to Congress, that contains specific benchmarks to measure progress on a qualitative basis. The submission of the report is to be preceded by 15 day consultation period for Congress;

- Secretary of State must within 90 days of the submission of the Pakistan Assistance Strategy Report, submit the first of ongoing semi-annual reports to Congress that describe the uses or intended uses and impact of assistance authorized for Pakistan;
- Secretary of State (in consultation with other officials) must develop and provide to Congress a comprehensive strategy for the Afghan-Pakistan border area;
- The Secretary of State, after consultation with the Secretary of Defense and the Director of National Intelligence, must submit an annual report on security forces' progress.
- Urges accountability and transparent reporting of Coalition Support Funds.
- Urges a reorientation of engagement towards the Pakistani people rather than merely towards the Pakistani government (civilian or military)

The significant increase in assistance authorized by this legislation is intended to broaden and deepen non-military programs across a country of some 176 million people, where less than 50 percent of the population can read and write and whose Global Hunger Index ranking is nearly on par with that of North Korea. The legislation highlights the essential economic assistance pillar to achieve mutual goals of improved human security through basic services, education, economic opportunity, political participation and human rights. The legislation contains Sense of Congress language urging that security-related assistance be provided in close coordination with the Government of Pakistan, designed to improve the Government's capabilities in areas of mutual concern, and maintained at a level that will bring significant gains in counterterrorism, counterinsurgency, and regional harmony. The legislation does not preclude an increase or a decrease in the level of security-related aid. Any use of funds contained in this legislation for the purpose of augmenting Pakistan's nuclear weapons program would be directly contrary to Congressional intent.

The legislation mandates that funds appropriated or otherwise made available to carry out section 5 shall be utilized to the maximum extent possible as direct expenditures for economic and development projects and programs.

B. ANALYSIS OF SELECTED SECTIONS

Section 5.—Use of Funds

In light of the large increase in assistance authorized by this legislation, the committee attaches great importance to ensuring that the assistance authorized will be spent effectively and efficiently. The legislation contains a number of provisions designed to promote this objective.

- Before any money authorized by the legislation may be spent, the legislation requires the Administration to develop and provide to the Congress an assistance strategy, setting out the objectives to be achieved with the assistance, the programs and projects the Administration intends to implement to achieve these objectives, and the criteria that the Administration will use to measure the effectiveness of the assistance. The Admin-

istration must consult with the Congress on its proposed strategy, including the criteria and benchmarks that will be used to assess the effectiveness of the assistance, 15 days before obligating any assistance authorized under the legislation.

- Once money begins to flow, the legislation requires that the Administration report every six months on how the money is spent and what impact it is having, measured with reference to the criteria the Administration establishes in its strategy report.
- Before the Administration may spend more than half of the \$1.5 billion authorized in any fiscal year, the legislation requires that it certify that the assistance provided to date has made or is making substantial progress toward the principal objectives of assistance contained in the Administration's strategy report, subject to a waiver that may be exercised to permit assistance in the national security interests of the United States.
- The legislation permits up to \$30 million annually to be made available to the Inspectors General of the Department of State, the United States Agency for International Development and other relevant Agencies to provide audits and program reviews of projects funded pursuant to this section. These funds are in addition to other funds already available to these offices in their regular budgets. The committee has provided these additional resources because it believes that the significant growth of assistance contemplated by this Act warrants close oversight by Inspectors General. In providing these funds, the committee also attaches importance to developing the capacities of the existing Inspector General offices in federal agencies to oversee major assistance programs, rather than seeking to create *ad hoc* oversight mechanisms.
- The legislation also requires the Comptroller General to submit a report annually on the implementation of the Administration's assistance strategy, including any GAO recommendations for improving efficiency or effectiveness.

The legislation also provides that up to \$10 million annually may be used for administrative expenses of Federal departments and agencies in connection with the provision of assistance authorized by this section. These funds are intended to supplement, not replace, existing funds authorized and appropriated for such purposes. It is the intent of this legislation that this provision provides important flexibility to the U.S. Agency for International Development, which has a limited overall budget for operational expenses. Given the magnitude of the assistance and the critical nature of the purpose of such funds, the committee expects that the Agency will, however, endeavor to keep administrative expenses to a minimum.

The legislation provides that certain reporting requirements linked to the use of authorized assistance funds will sunset on September 30, 2013, the end of the last fiscal year for which funds are authorized in the bill. The committee intends that in the event additional assistance is authorized for fiscal years after 2013, as is specifically contemplated by Section 5(d) of the bill, appropriate ex-

tensions of these reporting requirements will accompany the authorization for such additional assistance.

Subsection (F)(1)(A).—Just and Democratic Governance

Pakistan has experienced a series of governance swings between military and civilian rule and punctuated by coups and emergency decrees. Democratic governance with independent government institutions have been limited in time and impact. United States assistance authorized by this Act is intended to provide support for good governance by helping to build the capacity of independent, fair, and capable institutions of government such as the judiciary and parliament. This Act intends that up to \$100 million annually of the authorized funds be used for police reform, equipping, and training.

Subsection (F)(1)(B).—Economic Freedom

Pakistan ranks 136 out of 171 in the Human Development Index (HDI) and despite GDP growth exceeding 6 percent in recent years, is currently in the midst of a financial crisis associated with the global economic recession. Nearly 25 percent fall below the poverty line, and population growth rates are exceeding the economic capacity to sustain poverty reduction and development gains made since the turn of the century. United States assistance authorized in this Act is intended to provide additional support, considering the magnitude of international assistance for the same purposes, to sustain strong economic growth. Rural and agricultural development are key elements of Pakistan's overall economic progress and such programs should include support for micro-finance, small and medium-sized infrastructure projects as well as effective energy and water developments. A key priority for United States assistance should be the strengthening of cross-border trade and appropriate economic development, especially along the border regions with Afghanistan.

Subsection (F)(1)(C).—Investments in People

PRIMARY AND SECONDARY EDUCATION

One of the most critical long-term investments in any society is that made in the education of its children. Pakistan has significant areas of potential in building a comprehensive public education system. Nationally, the literacy rate is less than 50 percent, but women's literacy is less than 37 percent. In some areas of the country women's literacy is no more than 3 percent. In authorizing assistance for broad-based public primary and secondary education and vocational training for both boys and girls, the Act highlights concern for the lack of modern educational opportunities and the significant gender disparity in school enrollment in Pakistan. The Act intends that assistance facilitate access to education for all children in Pakistan, and especially for young women and girls, in order to raise literacy rates and decrease drop-out rates. Implicit in the rationale of the Act is an understanding that the provision of school meals can promote school enrollment and increasing academic performance, and programs to provide school meals would be in keeping with the intent of the Act.

HIGHER EDUCATION

If successful, United States assistance will help drive demand for higher education in Pakistan. The existing system of tertiary education is inadequate to the current demand for civil servants, entrepreneurs, doctors, teachers and professionals of all kinds, and will only continue to fall short given rapid rates of growth. With a population exceeding 175 million, of which 38 percent are younger than 15, and an annual population growth rate exceeding 2 percent, Pakistan's development will require more vocational schools, colleges and universities. Since 2003 USAID has supported the revitalization of the well-respected 145-year-old Forman Christian College in Lahore, after 30 years of neglect as a nationalized institution. This chartered university provides a much-valued American style four year baccalaureate program, as well as Master's degrees, as a non-sectarian, co-educational institution for over 4,000 students. It has garnered the support of the Higher Education Commission of Pakistan and which has indicated its intent to rapidly expand access to higher education. Assistance under this Act is intended to continue to enable and expand programs and institutions of higher education such as FCC.

AMERICAN UNIVERSITY

Whereas scholarship and fellowship programs are an important part of United States assistance and positively impact relations between our people, it is cost-effective to develop local capacity in American-style higher education in order to broaden cultural understanding. There is a long and remarkable history of American schools and universities around the world. Universities that emulate American curricula such as in Beirut, Lebanon and Cairo, Egypt, have been successfully drawing talented students and producing leaders in government, business, science and education. They have produced leaders such as Salam Fayyad, the Palestinian Prime Minister; Ali Al-Naimi, Saudi Arabian Minister of Petroleum; Dr. Ashraf Ghani, former Afghan Finance Minister and World Bank official; and former United States Ambassador to the United Nations Zalmay Khalilzad. It is intended that assistance under this Act be used to explore the opportunity to establish an American University in Pakistan.

Section 7.—Coalition Support Funds

Coalition Support Funds provide essential support for military operations of the Government of Pakistan to protect U.S. and allied logistic operations in support of Operation Enduring Freedom. Such resources are of such a magnitude that the process must be transparent and the monitoring must provide the highest degree of assurance that the program is properly being used for the purposes intended. This section includes a provision that the Secretary of Defense should submit to Congress a semi-annual report on the use of Coalition Support Funds.

C. CONCLUSION

A premise for this plan is a simple thought-exercise: Following the earthquake in Kashmir in 2005, the United States devoted nearly \$1 billion to relief efforts, and reaped a greater reward in

popular support than any amount of public diplomacy could generate. The sight of American servicemen and women saving the lives of Pakistani citizens was worth many times the cost of operating the Chinook helicopters. For a brief period, America was challenging the terrorists in a true battle of hearts and minds—and winning. S. 962 seeks to sustain such a relationship and thereby materially and clearly demonstrate the true friendship of the American people for the Pakistani people without waiting for a natural (or man-made) disaster to compel a response.

V. COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 2009.

Hon. JOHN F. KERRY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 962, the Enhanced Partnership With Pakistan Act of 2009.

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

Sincerely,

DOUGLAS W. ELMENDORF

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 19, 2009.

S. 962

Enhanced Partnership With Pakistan Act of 2009

AS ORDERED REPORTED BY THE SENATE COMMITTEE ON FOREIGN
RELATIONS ON JUNE 16, 2009

SUMMARY

S. 962 would authorize the appropriation of up to \$1.5 billion a year over the 2009–2013 period—a total of up to \$7.5 billion over five years—for nonsecurity assistance to Pakistan. CBO estimates that implementing S. 962 would cost about \$4.8 billion over the 2010–2014 period, assuming appropriation of the authorized amounts. Enacting the bill would not affect direct spending or revenues.

S. 962 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 962 could impose a private-sector mandate, as defined in UMRA, on exporters of major defense equipment. If the Secretary

of State does not certify that the security forces of Pakistan have met certain security standards by 2012 or does not waive the requirement for such certification, the bill would prohibit the export of major defense equipment to Pakistan. CBO cannot determine whether the cost of the mandate, if imposed, would exceed the annual threshold established in UMRA for private-sector mandates (\$139 million in 2009, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 962 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

Changes in Spending Subject to Appropriation Due to S. 962*
By Fiscal Year, in Millions of Dollars

	2010	2011	2012	2013	2014	2010– 2014
Authorization Level	1,500	1,500	1,500	1,500	0	6,000
Estimated Outlays	301	858	1,150	1,355	1,151	4,815

*In addition, S. 962 would authorize the appropriation of up to \$1.5 billion for nonsecurity assistance to Pakistan in 2009. However, the Congress has already appropriated amounts for nonsecurity assistance to Pakistan for fiscal year 2009, enacted in the Omnibus Appropriations Act, 2009 (Public Law 111–8) on March 11, 2009. Additional appropriations for such assistance for fiscal year 2009 will be provided by the Supplemental Appropriations Act, 2009 (H.R. 2346), which was cleared by the Congress on June 18, 2009. CBO assumes there would be no additional funding for assistance to Pakistan for this year.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2009, that the authorized amounts will be appropriated each fiscal year over the 2010–2014 period, and that outlays will follow historical spending patterns for existing programs.

Assistance to Pakistan

Section 5 would authorize the appropriation of up to \$1.5 billion a year over the 2009–2013 period for assistance programs in Pakistan and would require the administration to prepare semi-annual reports on the implementation of those programs. In general, those funds would be used for projects intended to benefit the people of Pakistan, including those that promote democratic governance, economic development, civil society, and recovery from internal conflict. In addition, of the amounts authorized for a fiscal year, up to \$10 million could be used to administer those programs, up to \$30 million could be used to audit those programs, and up to \$5 million could be used to establish a Chief of Mission Fund that would address urgent humanitarian needs.

CBO expects that the \$1.5 billion authorized to be appropriated for 2009 would not be provided. The Congress has already appropriated amounts for nonsecurity assistance to Pakistan for 2009, enacted in the Omnibus Appropriations Act, 2009 (Public Law 111–8) on March 11, 2009. Additional appropriations for such assistance for 2009 will be provided by the Supplemental Appropriations Act, 2009 (H.R. 2346), which was cleared by the Congress on June 18, 2009. In total, those appropriations provide approximately \$1.3 bil-

lion for nonsecurity assistance to Pakistan in 2009. CBO assumes there would be no additional funding for assistance to Pakistan for this year. Assuming appropriation of the amounts authorized for 2010 through 2014, CBO estimates that implementing this provision would cost about \$4.8 billion over that period.

Limitations on Nonsecurity Assistance

The bill would limit the availability of amounts authorized to be appropriated in section 5 unless the Secretary of State submits to the appropriate congressional committees a report describing U.S. policy and strategy with respect to assistance to Pakistan. In addition, the bill would limit the availability to half of the amounts authorized to be appropriated each year unless the President's Special Representative to Afghanistan and Pakistan certifies that assistance provided under the Act is helping Pakistan make substantial progress toward achieving the objectives contained in the Pakistan Assistance Strategy Report mentioned above. The bill would allow the Secretary of State to waive that certification requirement in the interests of national security. CBO expects that the Secretary would exercise the waiver authority if the President's Special Representative were unable to make the necessary certification, and thus, implementing that provision would have no significant effect on spending subject to appropriation.

Limitations on Security Assistance

Section 6 would limit certain military assistance after 2009 and arms transfers after 2011 to Pakistan unless the Secretary of State certifies that Pakistani security forces are not materially interfering in their country's judicial or political processes and that they are making concerted efforts to prevent terrorist and militant groups from operating in Pakistan or using it as a sanctuary. The bill would allow the Secretary to waive those certification requirements in the interests of national security. CBO expects that the Secretary would exercise the waiver authority if she were unable to make the necessary certification, and thus, implementing that section would have no significant effect on spending subject to appropriation.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 962 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 962 could impose a private-sector mandate, as defined in UMRA, on exporters of major defense equipment to Pakistan if the Secretary of State does not certify that the security forces of Pakistan have met certain security standards by fiscal year 2012. If the Secretary does not issue such certification, the bill would prohibit the necessary licenses and programs for private entities to export major defense equipment to Pakistan. However, the bill would allow the Secretary of State to waive the prohibition of exports of major defense equipment if the Secretary determines it is important to the national security interests of the United States to provide such waiver. CBO expects that the Secretary would exercise

such a waiver. In the event that such exports are prohibited, the cost to comply with the mandate would be the foregone net income attributed to the sale of major defense equipment to Pakistan. According to industry experts and the Defense Security Cooperation Agency, the value of major defense equipment exported to Pakistan has varied from hundreds of millions of dollars per year to billions of dollars per year. Because of uncertainty about the future income from such sales, CBO cannot determine whether the cost of the mandate, if imposed, would exceed the annual threshold established in UMRA for private-sector mandates (\$139 million in 2009, adjusted annually for inflation).

Estimate prepared by:

Federal Costs: John Chin.

Impact on State, Local, and Tribal Governments: Burke Doherty.

Impact on the Private Sector: Jacob Kuipers.

Estimate approved by:

Theresa Gullo, *Deputy Assistant Director for Budget Analysis.*

V. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. 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 to existing law are made by this bill.

