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SENATE

{ REPORT
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UNITED STATES-ISRAEL ENHANCED SECURITY
COOPERATION ACT OF 2012

JUNE 27, 2012.—Ordered to be printed

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

REPORT

[To accompany S. 2165]

The Committee on Foreign Relations, having had under consideration the bill, S. 2165, to enhance strategic cooperation between the United States and Israel, and for other purposes, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE

The purposed of this bill is to enhance strategic cooperation between the United States and Israel.

II. COMMITTEE ACTION

S. 2165 was introduced by Senators Boxer, Isakson, and Collins on March 6, 2012. At a committee business meeting on June 19, 2012, the committee considered S. 2165 with an amendment in the nature of a substitute. By voice vote, the committee ordered the legislation, with an amendment in the nature of a substitute, to be reported favorably.

III. SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This Act may be cited as the “United States-Israel Enhanced Security Cooperation Act of 2012.”

SECTION 2. FINDINGS.

This section provides several findings, including: that there is a special bond between the United States and Israel; that the Middle East is undergoing rapid change; that the Government of the Islamic Republic of Iran continues to foment instability in the region; that the Government of the Islamic Republic of Iran continues to enrich uranium in defiance of United Nations Security Council resolutions; that a nuclear-weapons capable Iran would threaten vital United States interests; and that the authority to make available loan guarantees to Israel is currently set to expire on September 30, 2012.

SECTION 3. STATEMENT OF UNITED STATES POLICY.

This section states that it is U.S. policy, among other things, to: continue to reaffirm the commitment to Israel's security as a Jewish state; help Israel preserve its qualitative military edge; pursue avenues to expand military and civilian cooperation; assist in efforts to forge a negotiated settlement of the Israeli-Palestinian conflict that results in two states living side by side in peace and security; and encourage Israel's neighbors to recognize Israel's right to exist as a Jewish state.

SECTION 4. SENSE OF CONGRESS

This section expresses the sense of Congress that the United States should take specified actions to assist in Israel's defense, among which are: providing the Government of Israel support necessary to enhance development and increase production of joint missile defense systems; providing the Government of Israel appropriate defense articles and defense services through appropriate mechanisms; examining ways to strengthen existing security initiatives and bilateral training exercises; and encouraging an expanded role for Israel with the North Atlantic Treaty Organization.

SECTION 5. ADDITIONAL STEPS TO DEFEND ISRAEL AND PROTECT AMERICAN INTERESTS.

This section would amend the Department of Defense Appropriations Act, 2005, to extend authority to transfer certain obsolete or surplus Department of Defense items to Israel. The section would also amend the Foreign Assistance Act of 1961 to provide extended authority to make additions to foreign-based defense stockpiles through 2014, and the Emergency Wartime Supplemental Appropriations Act, 2003, to extend specified loan guarantee authority to Israel. As noted in section 2 of the bill, the authority provided by the Emergency Wartime Supplemental Appropriations Act, 2003, as amended, would otherwise expire on September 30, 2012.

SECTION 6. REPORTS REQUIRED.

This section requires several reports on previously enacted provisions of law, and otherwise. The first is a report on the status of Israel's qualitative military edge. The second is a report on actions that could improve the process related to Israel's purchase of F-35 aircraft. The third is a report on efforts to expand cooperation between the United States and Israel in homeland security, counterterrorism, maritime security, energy, cyber-security, and other related areas. The fourth is a report on actions to integrate Israel into the defense of the Eastern Mediterranean.

Section 201 of the Naval Vessel Transfer Act of 2008 (Public Law 110-429) requires a quadrennial report on an empirical and quali-

tative assessment, and on an ongoing basis, of the extent to which Israel possesses a qualitative military edge over military threats to Israel. The initial required report was submitted on October 6, 2009. Pursuant to 201(c)(2) of that act, the President is required to submit an updated report no later than October 6, 2013. If the report required by section 6 of S. 2165 is submitted within one year of that date, then the committee intends that such report would also satisfy the requirement of section 201(c)(2) of the Naval Vessel Transfer Act of 2008. The committee notes that the determination required by section 36(h) of the Arms Export Control Act (22 U.S.C. 2776(h)) in connection with individual sales or licenses to the region provides a valuable assurance, but the committee expects that the report required by section 6(a) of the bill will consider the overall implications for Israel's qualitative military edge of the total of all equipment acquisitions in recent years by countries in its region.

SECTION 7. DEFINITIONS.

This section defines (1) "appropriate congressional committees" and (2) "qualitative military edge."

IV. COST ESTIMATE

Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate requires that committee reports on bills or joint resolutions contain a cost estimate for such legislation. To date, the committee has not received the Congressional Budget Office cost estimate for S. 2165.

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 Rule XXVI, paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

FOREIGN ASSISTANCE ACT OF 1961

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Chapter 2—Military Assistance

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SEC. 514. STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES.—(a) No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as ap-

appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, “value” means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b)(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization or in the implementation of agreements with Israel) in stockpiles located in foreign countries may not exceed in any fiscal year an amount that is specified in security assistance authorizing legislation for that fiscal year.

(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed \$200,000,000 for each of **[fiscal years 2011 and 2012]** *fiscal years 2013 and 2014*.

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DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

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Chapter 2—Bilateral Economic Assistance

FUNDS APPROPRIATED TO THE PRESIDENT

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GENERAL PROVISIONS, THIS CHAPTER

SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

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(d) No transfer may be made under the authority of this section **[more than 8 years after]** *more than 10 years after* the date of the enactment of this Act.

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EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

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Chapter 5—Other Bilateral Economic Assistance

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LOAN GUARANTEES TO ISRAEL

During the period beginning March 1, 2003, and ending September 30, 2007, loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, the principal amount, any part of which is to be guaranteed, not to exceed \$9,000,000,000, of which up to \$3,000,000,000 may be issued prior to October 1, 2003, or thereafter and of which \$3,000,000,000 may be issued subsequent to **[September 30, 2011:]** *September 30, 2015: Provided,* That such guarantees shall con-

stitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further*, That if less than the full amount of guarantees authorized to be made available is issued prior to ~~【September 30, 2011,】~~ *September 30, 2015*, the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: *Provided further*, That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: *Provided further*, That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: *Provided further*, That the President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under the preceding proviso and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year: *Provided further*, That the interest rate for loans guaranteed under this heading may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this heading in the event the borrower elects not to finance such costs or fees out of loan principal: *Provided further*, That no appropriations under this heading are available for the subsidy costs for these loan guarantees: *Provided further*, That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year, on a pro rata basis as each guarantee is issued during that year: *Provided further*, That all fees (as defined in section 601(e) of Public Law 102-391) associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: *Provided further*, That funds made available for assistance to Israel under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: *Provided further*, That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: *Provided further*, That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this heading.

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