AMENDMENT TO RULES COMMITTEE PRINT 115–23

OFFERED BY MR. CRAWFORD OF ARKANSAS

At the end of subtitle E of title III, add the following new section:

SEC. 3. SITUATIONS INVOLVING BOMBINGS OF PLACES OF PUBLIC USE, GOVERNMENT FACILITIES, PUBLIC TRANSPORTATION SYSTEMS, AND INFRASTRUCTURE FACILITIES.

(a) IN GENERAL.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

“§ 116. Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities

“(a) IN GENERAL.—Upon the request of the Attorney General, the Secretary of Defense may provide assistance in support of Department of Justice activities related to enforcement of section 2332f of title 18 during situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities.
“(b) REGULATIONS.—The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Army National Guard and Air National Guard explosive ordnance disposal units may take in circumstances incident to the provision of assistance under this section.

“(c) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary, a State Explosive Ordnance Disposal activities plan satisfying the requirements of subsection (e). Such funds shall be used for the following:

“(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used for the purpose of explosive ordnance disposal activities.

“(2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of explosive ordnance disposal activities.

“(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of explo-
sive ordnance disposal activities. However, the use of such funds for the procurement of equipment may not exceed $25,000 per item, unless approval for other transactional agreements and procurements of equipment more than that amount is granted in advance by the Secretary of Defense.

“(d) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—

“(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State explosive ordnance disposal activities plan referred to in subsection (e), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out explosive ordnance disposal activities.

“(2)(A) A member of the National Guard serving on fulltime National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose under that paragraph. The pay, allowances, and other benefits of the member participating in the training shall be the same as those to which the member is entitled while performing duty for the
purpose of carrying out explosive ordnance disposal activities, including hazardous duty and special duty assignment pays, military (initial and standard replacement) and civilian (permanent and replacement) clothing allowances, subsistence, gratuities, travel, and related expenses. The member may receive these pays, allowances, and other benefits only while assigned to:

“(i) explosive ordnance disposal units;

“(ii) as explosive ordnance disposal qualified personnel performing duty at the ATF’s National Center for Explosives Training and Research and the U.S. Bomb Data Center; and at the FBI’s – Hazardous Devices School, Strategic Information Operations Center, and Terrorist Explosive Devices Analytical Center;

“(iii) as explosive ordnance disposal qualified personnel performing duty at Joint Force Headquarters, State’s joint operations center, the National Guard Bureau’s joint coordination center, the headquarters of the Departments of the Army and Air Force, the Defense Threat Reduction Agency and the Office of the Joint
Program Executive Officer for explosive ordnance disposal research, development and acquisition, the Joint Task Force for Explosive Ordnance Disposal and countering improvised explosive devices for geographical combatant commands, and the Office of the Assistant Secretary of Defense for Homeland Defense and Global Security; or

“(iv) as explosive ordnance disposal qualified personnel performing explosive ordnance disposal liaison team duties at task force headquarters as required.

“(B) Appropriations available to the Department of Defense for explosive ordnance disposal activities may be used for paying costs associated with a member’s participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying these costs, for the amounts paid. Appropriations for paying those costs shall be available for making the reimbursements.

“(C) To ensure that the use of explosive ordnance disposal units and explosive ordnance
disposal qualified personnel of the National Guard of a State pursuant to a State explosive ordnance disposal activities plan does not degrade the training and readiness of such units and personnel, the following requirement shall apply in determining the explosive ordnance disposal activities that units and personnel of the National Guard of a State may perform:

“(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

“(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

“(iii) The performance of the activities will not result in an overly significant increase in the cost of training.

“(iv) In the case of explosive ordnance disposal activities performed by a unit organized to serve as a unit, the activities will support valid explosive ordnance disposal unit training requirements.
“(e) PLAN REQUIREMENTS.—A State explosive ordnance disposal activities plan shall—

“(1) specify how explosive ordnance disposal qualified personnel of the National Guard of that State are to be used in explosive ordnance disposal activities;

“(2) certify that participation by National Guard personnel in those operations is service in additional to training required under section 502 of this title;

“(3) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

“(4) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities proposed under the plan are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

“(f) EXAMINATION OF THE PLAN.—
“(1) Before funds are provided to the Governor of a State under this section and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (d), the Secretary of Defense shall examine the adequacy of the plan submitted under subsection (e).

“(2) Paragraph (1) shall not apply if—

“(A) the Governor of a State submits a plan under subsection (e) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

“(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (c) or personnel in the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (d).

“(g) END STRENGTH LIMITATION.—

“(1) Except as provided in paragraph (2), at the end of the fiscal year there may not be more than 2,000 explosive ordnance disposal qualified members of the National Guard

“(A) on full-time National Guard duty under section (f) of this title to perform explo-
sive ordnance disposal activities pursuant to an
order to duty; or

“(B) on duty to under State authority to
perform explosive ordnance disposal activities
pursuant to an order to duty with State pay
and allowances being reimbursed with funds
under subsection (c)(1).

“(2) The Secretary of Defense may increase
end strength authorized under paragraph (1) by not
more than 20 percent any fiscal year if the Sec-
retary determines that such an increase is necessary
in the national security interests of the United
States.

“(h) ANNUAL REPORT.—The Secretary of Defense
shall submit to Congress an annual report regarding as-
sistance provided and activities carried out under this sec-
tion during the preceding fiscal year. The report shall in-
clude the following:

“(1) The number of explosive ordnance disposal
(EOD) qualified members of the National Guard
and quantity of missions performed in support of the
Department of Homeland Security, United States
Secret Service for the protection of the President,
Vice President and other designated dignitaries; and
the same for missions in support of National Security Special Events.

“(2) The number of EOD qualified members of the National Guard and quantity of missions performed in support of the National Response Framework’s designated lead federal agency - the Department of Justice: Federal Bureau of Investigation (for Terrorist Incidents) and Bureau of Alcohol, Tobacco, Firearms and Explosives (for emergency support function #13, public safety); and the same for missions conducted under immediate response authority in support of State, County, Municipal and Tribal civilian law enforcement agencies.

“(3) The number of EOD qualified members of the National Guard and quantity of missions performed in support of National Guard installations and regional training centers.

“(4) An accounting of the amount of funds provided to each State; and a description of the effect on military training and readiness of using units and personnel of the National Guard to perform activities under the State explosive ordnance disposal activities plans.

“(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority
of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

“(j) DEFINITIONS.—In this section:

“(1) The term ‘explosive ordnance’ means any munitions containing explosives, nuclear fission or fusion materials or biological or chemical agents including—

“(A) bombs and warheads;
“(B) guided and ballistic missiles;
“(C) artillery, mortar, rocket, and small arms munitions;
“(D) mines, torpedoes, and depth charges;
“(E) demolition charges;
“(F) pyrotechnics;
“(G) clusters and dispensers;
“(H) cartridge and propellant actuated devices;
“(I) electro-explosives devices; and
“(J) clandestine and improvised explosive devices.

“(2) The term ‘disposal’ means, with respect to explosive ordnance, the assessment, sampling, detection, identification, verification, field evaluation, de-
feat, disablement, or rendering safe, war-head pack-
gaging, recovery, exploitation, and final disposition of
ordnance.”.

(b) CLERICAL AMENDMENT.—The table of sections
at the beginning of such chapter is amended by adding
at the end the following new item:

“§116. Situations involving bombings of places of
public use, Government facilities, public
transportation systems, and infrastruc-
ture facilities.”.