

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:

1 **SEC. 3___ . SITUATIONS INVOLVING BOMBINGS OF PLACES**
2 **OF PUBLIC USE, GOVERNMENT FACILITIES,**
3 **PUBLIC TRANSPORTATION SYSTEMS, AND IN-**
4 **FRASTRUCTURE FACILITIES.**

5 (a) IN GENERAL.—Chapter 1 of title 32, United
6 States Code, is amended by adding at the end the fol-
7 lowing new section:

8 **“§ 116. Situations involving bombings of places of**
9 **public use, Government facilities, public**
10 **transportation systems, and infrastruc-**
11 **ture facilities**

12 “(a) IN GENERAL.—Upon the request of the Attor-
13 nery General, the Secretary of Defense may provide assist-
14 ance in support of Department of Justice activities related
15 to enforcement of section 2332f of title 18 during situa-
16 tions involving bombings of places of public use, Govern-
17 ment facilities, public transportation systems, and infra-
18 structure facilities.

1 “(b) REGULATIONS.—The Secretary of Defense and
2 the Attorney General shall jointly prescribe regulations
3 concerning the types of assistance that may be provided
4 under this section. Such regulations shall also describe the
5 actions that Army National Guard and Air National
6 Guard explosive ordnance disposal units may take in cir-
7 cumstances incident to the provision of assistance under
8 this section.

9 “(c) FUNDING ASSISTANCE.—The Secretary of De-
10 fense may provide funds to the Governor of a State who
11 submits to the Secretary, a State Explosive Ordnance Dis-
12 posal activities plan satisfying the requirements of sub-
13 section (e). Such funds shall be used for the following:

14 “(1) The pay, allowances, clothing, subsistence,
15 gratuities, travel, and related expenses, as author-
16 ized by State law, of personnel of the National
17 Guard of that State used for the purpose of explo-
18 sive ordnance disposal activities.

19 “(2) The operation and maintenance of the
20 equipment and facilities of the National Guard of
21 that State used for the purpose of explosive ord-
22 nance disposal activities.

23 “(3) The procurement of services and equip-
24 ment, and the leasing of equipment, for the National
25 Guard of that State used for the purpose of explo-

1 sive ordnance disposal activities. However, the use of
2 such funds for the procurement of equipment may
3 not exceed \$25,000 per item, unless approval for
4 other transactional agreements and procurements of
5 equipment more than that amount is granted in ad-
6 vance by the Secretary of Defense.

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

9 “(1) Under regulations prescribed by the Sec-
10 retary of Defense, personnel of the National Guard
11 of a State may, in accordance with the State explo-
12 sive ordnance disposal activities plan referred to in
13 subsection (e), be ordered to perform full-time Na-
14 tional Guard duty under section 502(f) of this title
15 for the purpose of carrying out explosive ordnance
16 disposal activities.

17 “(2)(A) A member of the National Guard serv-
18 ing on fulltime National Guard duty under orders
19 authorized under paragraph (1) shall participate in
20 the training required under section 502(a) of this
21 title in addition to the duty performed for the pur-
22 pose under that paragraph. The pay, allowances,
23 and other benefits of the member participating in
24 the training shall be the same as those to which the
25 member is entitled while performing duty for the

1 purpose of carrying out explosive ordnance disposal
2 activities, including hazardous duty and special duty
3 assignment pays, military (initial and standard re-
4 placement) and civilian (permanent and replace-
5 ment) clothing allowances, subsistence, gratuities,
6 travel, and related expenses. The member may re-
7 ceive these pays, allowances, and other benefits only
8 while assigned to:

9 “(i) explosive ordnance disposal units;

10 “(ii) as explosive ordnance disposal
11 qualified personnel performing duty at the
12 ATF’s National Center for Explosives
13 Training and Research and the U.S. Bomb
14 Data Center; and at the FBI’s – Haz-
15 arduous Devices School, Strategic Informa-
16 tion Operations Center, and Terrorist Ex-
17 plosive Devices Analytical Center;

18 “(iii) as explosive ordnance disposal
19 qualified personnel performing duty at
20 Joint Force Headquarters, State’s joint
21 operations center, the National Guard Bu-
22 reau’s joint coordination center, the head-
23 quarters of the Departments of the Army
24 and Air Force, the Defense Threat Reduc-
25 tion Agency and the Office of the Joint

1 Program Executive Officer for explosive
2 ordnance disposal research, development
3 and acquisition, the Joint Task Force for
4 Explosive Ordnance Disposal and coun-
5 tering improvised explosive devices for geo-
6 graphical combatant commands, and the
7 Office of the Assistant Secretary of De-
8 fense for Homeland Defense and Global
9 Security; or

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

14 “(B) Appropriations available to the De-
15 partment of Defense for explosive ordnance dis-
16 posal activities may be used for paying costs as-
17 sociated with a member’s participation in train-
18 ing described in subparagraph (A). The appro-
19 priation shall be reimbursed in full, out of ap-
20 propriations available for paying these costs, for
21 the amounts paid. Appropriations for paying
22 those costs shall be available for making the re-
23 imbursements.

24 “(C) To ensure that the use of explosive
25 ordnance disposal units and explosive ordnance

1 disposal qualified personnel of the National
2 Guard of a State pursuant to a State explosive
3 ordnance disposal activities plan does not de-
4 grade the training and readiness of such units
5 and personnel, the following requirement shall
6 apply in determining the explosive ordnance dis-
7 posal activities that units and personnel of the
8 National Guard of a State may perform:

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

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

18 “(iii) The performance of the activi-
19 ties will not result in an overly significant
20 increase in the cost of training.

21 “(iv) In the case of explosive ordnance
22 disposal activities performed by a unit or-
23 ganized to serve as a unit, the activities
24 will support valid explosive ordnance dis-
25 posal unit training requirements.

1 “(e) PLAN REQUIREMENTS.—A State explosive ord-
2 nance disposal activities plan shall—

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

7 “(2) certify that participation by National
8 Guard personnel in those operations is service in ad-
9 ditional to training required under section 502 of
10 this title;

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

18 “(4) certify that the Governor of the State or
19 a civilian law enforcement official of the State des-
20 ignated by the Governor has determined that any ac-
21 tivities proposed under the plan are carried out in
22 conjunction with Federal law enforcement agencies
23 serve a State law enforcement purpose.

24 “(f) EXAMINATION OF THE PLAN.—

1 “(1) Before funds are provided to the Governor
2 of a State under this section and before members of
3 the National Guard of that State are ordered to full-
4 time National Guard duty as authorized in sub-
5 section (d), the Secretary of Defense shall examine
6 the adequacy of the plan submitted under subsection
7 (e).

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

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

13 “(B) pursuant to the plan submitted for a
14 previous fiscal year, funds were provided to the
15 State in accordance with subsection (e) or per-
16 sonnel in the National Guard of the State were
17 ordered to perform full-time National Guard
18 duty in accordance with subsection (d).

19 “(g) END STRENGTH LIMITATION.—

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

24 “(A) on full-time National Guard duty
25 under section (f) of this title to perform explo-

1 sive ordnance disposal activities pursuant to an
2 order to duty; or

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

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

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

19 “(1) The number of explosive ordnance disposal
20 (EOD) qualified members of the National Guard
21 and quantity of missions performed in support of the
22 Department of Homeland Security, United States
23 Secret Service for the protection of the President,
24 Vice President and other designated dignitaries; and

1 the same for missions in support of National Secu-
2 rity Special Events.

3 “(2) The number of EOD qualified members of
4 the National Guard and quantity of missions per-
5 formed in support of the National Response Frame-
6 work’s designated lead federal agency - the Depart-
7 ment of Justice: Federal Bureau of Investigation
8 (for Terrorist Incidents) and Bureau of Alcohol, To-
9 bacco, Firearms and Explosives (for emergency sup-
10 port function #13, public safety); and the same for
11 missions conducted under immediate response au-
12 thority in support of State, County, Municipal and
13 Tribal civilian law enforcement agencies.

14 “(3) The number of EOD qualified members of
15 the National Guard and quantity of missions per-
16 formed in support of National Guard installations
17 and regional training centers.

18 “(4) An accounting of the amount of funds pro-
19 vided to each State; and a description of the effect
20 on military training and readiness of using units and
21 personnel of the National Guard to perform activi-
22 ties under the State explosive ordnance disposal ac-
23 tivities plans.

24 “(i) STATUTORY CONSTRUCTION.—Nothing in this
25 section shall be construed as a limitation on the authority

1 of any unit of the National Guard of a State, when such
2 unit is not in Federal service, to perform law enforcement
3 functions authorized to be performed by the National
4 Guard by the laws of the State concerned.

5 “(j) DEFINITIONS.—In this section:

6 “(1) The term ‘explosive ordnance’ means any
7 munitions containing explosives, nuclear fission or
8 fusion materials or biological or chemical agents in-
9 cluding—

10 “(A) bombs and warheads;

11 “(B) guided and ballistic missiles;

12 “(C) artillery, mortar, rocket, and small
13 arms munitions;

14 “(D) mines, torpedoes, and depth charges;

15 “(E) demolition charges;

16 “(F) pyrotechnics;

17 “(G) clusters and dispensers;

18 “(H) cartridge and propellant actuated de-
19 vices;

20 “(I) electro-explosives devices; and

21 “(J) clandestine and improvised explosive
22 devices.

23 “(2) The term ‘disposal’ means, with respect to
24 explosive ordnance, the assessment, sampling, detec-
25 tion, identification, verification, field evaluation, de-

1 feat, disablement, or rendering safe, war-head pack-
2 aging, recovery, exploitation, and final disposition of
3 ordnance.”.

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

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

