SEC. ___. EXPANDED AUTHORITY FOR TRANSPORTATION BY THE DEPARTMENT OF DEFENSE OF NON-DEPARTMENT OF DEFENSE PERSONNEL AND CARGO.

(a) TRANSPORTATION OF ALLIED AND CIVILIAN PERSONNEL AND CARGO.—Subsection (c) of section 2649 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking "PERSONNEL" and inserting "AND CIVILIAN PERSONNEL AND CARGO";

(2) by striking "Until January 6, 2016, when" and inserting "When"; and

(3) by striking "allied forces or civilians", and inserting "allied and civilian personnel and cargo".

(b) COMMERCIAL INSURANCE.—Such section is further amended by adding at the end the following new subsection:

"(d) COMMERCIAL INSURANCE.—The Secretary may enter into a contract or other arrangement with one or more commercial providers to make insurance products available to non-Department of Defense shippers using the Defense Transportation System to insure against the loss or damage of the shipper's cargo. Any such contract or arrangement shall provide that—

"(1) any insurance premium is collected by the commercial provider;

"(2) any claim for loss or damage is processed and paid by the commercial provider;

"(3) the commercial provider agrees to hold the United States harmless and waive any recourse against the United States for amounts paid to an insured as a result of a claim; and

"(4) the contract between the commercial provider and the insured shall contain a provision whereby the insured waives any claim against the United States for loss or damage that is within the scope of enumerated risks covered by the insurance product.".

(c) CONFORMING CROSS-REFERENCE AMENDMENTS.—Subsection (b) of such section is amended by striking "this section" both places it appears and inserting "subsection (a)".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would amend section 2649 of title 10, United States Code, to reinstate the authority of the Secretary of Defense to provide transportation to allied military personnel and civilians in contingencies or disaster responses on a noninterference basis, without charge, and expand said authority to include allied and civilian cargo as well as passengers. In addition, a new subsection would authorize the Secretary of Defense to enter into a contract or other arrangement with one or more commercial providers, to provide commercial insurance products to non-DoD shippers using the Defense Transportation System.

Reinstating and expanding the Secretary's authority to provide transportation to allied and civilian personnel and cargo, on a noninterference basis without charge, during contingencies or disasters when the Secretary determines operations in the area would be facilitated by providing such transportation, would arm the Secretary of Defense with a valuable tool for managing an effective response to the contingency or disaster. Time is typically of the essence in such situations, and the infrastructure needed to capture and account for non-DoD personnel and cargo and effect reimbursement is often unavailable in the early stages of a response. In addition, there are frequently situations where an ally or organization may have the ability to make a valuable contribution, but lacks transportation or the resources to procure it. Since this authority would be limited to providing transportation on a noninterference basis, when space is available on Department of Defense aircraft or vessels already scheduled to perform missions, its use would also serve to make the most efficient use of transportation capacity at a time when such efficiency is imperative, at no cost to the United States.

The proposed new subsection (d) of section 2649 would authorize the Secretary of Defense to enter into a contract or other arrangement with insurance providers to make commercial insurance products available to non-DoD shippers using the Defense Transportation System (DTS). Non-DoD shippers using the DTS include foreign governments and entities, state and federal agencies, government contractors, and private parties in some circumstances. At present, there is typically little to no ability to recover damages in the event the cargo they ship in the DTS is lost or damaged. This proposal would enable the Department, via commercial providers, to offer commercial insurance coverage to shippers desiring such coverage. There would be no cost to the United States in making this coverage available, and in some

circumstances a shipper having such coverage may actually serve to reduce the potential liability exposure of the United States.

Finally, cross-reference amendments would be made to subsection (b) of section 2649. Although subsections (c) and (d) would not generate receipts subject to subsection (b), for clarity's sake subsection (b) is revised to indicate that it applies to receipts generated pursuant to subsection (a), thus clarifying that subsection (b) retains the same scope as it has under current law.

Budget Implications: If enacted, this proposal would not increase the budgetary requirements of the Department of Defense.

Changes to Existing Law: This proposal would make the following changes to section 2649 of title 10, United States Code:

§ 2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft.

(a) AUTHORITY.—Whenever space is unavailable on commercial lines and is available on vessels, vehicles, or aircraft operated by the Department of Defense, civilian passengers and commercial cargo may, in the discretion of the Secretary of Defense, be transported on those vessels, vehicles, or aircraft. Rates for transportation under this section may not be less than those charged by commercial lines for the same kinds of service, except that in the case of transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance, any amount charged for such transportation may not exceed the cost of providing the transportation.

(b) CREDITING OF RECEIPTS.—Any amounts received under ~~this section~~ subsection (a) with respect to transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance may be credited to the appropriation, fund, or account used in incurring the obligation for which such amount is received. In all other cases, amounts received under ~~this section~~ subsection (a) shall be covered into the Treasury as miscellaneous receipts.

(c) TRANSPORTATION OF ALLIED ~~PERSONNEL~~ AND CIVILIAN PERSONNEL AND CARGO DURING CONTINGENCIES OR DISASTER RESPONSES.— ~~Until January 6, 2016, when~~ When space is available on vessels, vehicles, or aircraft operated by the Department of Defense and the Secretary of Defense determines operations in the area of a contingency operation or disaster response would be facilitated if allied ~~forces or civilians~~ and civilian personnel and cargo were to be transported using such vessels, vehicles, or aircraft, the Secretary may provide such transportation on a noninterference basis, without charge.

(d) COMMERCIAL INSURANCE.—The Secretary may enter into a contract or other arrangement with one or more commercial providers to make insurance products available to

non-Department of Defense shippers using the Defense Transportation System, to insure against the loss or damage of the shipper's cargo. Any such contract or arrangement shall provide that—

(1) any insurance premium is collected by the commercial provider;

(2) any claim for loss or damage is processed and paid by the commercial provider;

(3) the commercial provider agrees to hold the United States harmless and waive any recourse against the United States for amounts paid to an insured as a result of a claim; and

(4) the contract between the commercial provider and the insured shall contain a provision whereby the insured waives any claim against the United States for loss or damage that is within the scope of enumerated risks covered by the insurance product.