SEC. ___. AUTHORITY TO DESTROY CERTAIN SPECIFIED WORLD WAR II-ERA UNITED STATES-ORIGIN CHEMICAL MUNITIONS LOCATED ON SAN JOSE ISLAND, REPUBLIC OF PANAMA.

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to subsection (b), the Secretary of Defense may destroy the chemical munitions described in subsection (c).

(2) EX GRATIA ACTION.—The action authorized by this section is "ex gratia" on the part of the United States, as the term "ex gratia" is used in section 321 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 10 U.S.C. 2701 note).

(3) CONSULTATION BETWEEN SECRETARY OF DEFENSE AND SECRETARY OF STATE.— The Secretary of Defense and the Secretary of State shall consult and develop any arrangements with the Republic of Panama with respect to this section.

(b) CONDITIONS.—The Secretary of Defense may exercise the authority under subsection (a) only if the Republic of Panama has—

(1) revised the declaration of the Republic of Panama under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction to indicate that the chemical munitions described in subsection (c) are "old chemical weapons" rather than "abandoned chemical weapons"; and

(2) affirmed, in writing, that it understands (A) that the United States intends only to destroy the munitions described in subsections (c) and (d), and (B) that the United States is not legally obligated and does not intend to destroy any other munitions,

munitions constituents, and associated debris that may be located on San Jose Island as a result of research, development, and testing activities conducted on San Jose Island during the period of 1943 through 1947.

(c) CHEMICAL MUNITIONS.—The chemical munitions described in this subsection are the eight United States-origin chemical munitions located on San Jose Island, Republic of Panama, that were identified in the 2002 Final Inspection Report of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons.

(d) LIMITED INCIDENTAL AUTHORITY TO DESTROY OTHER MUNITIONS.—In exercising the authority under subsection (a), the Secretary of Defense may destroy other munitions located on San Jose Island, Republic of Panama, but only to the extent essential and required to reach and destroy the chemical munitions described in subsection (c).

(e) SOURCE OF FUNDS.—Of the amounts authorized to be appropriated by this Act, the Secretary of Defense may use up to $30,000,000 from amounts made available for Chemical Agents and Munitions Destruction, Defense to carry out the authority in subsection (a).

Section-by-Section Analysis

This proposal would authorize the Secretary of Defense to destroy the eight U.S.-origin chemical munitions on San Jose Island, Panama. These munitions are remnants from research, development, and testing conducted jointly by a United States, British, and Canadian effort during and shortly after World War II. By a letter dated May 8, 2013, the Republic of Panama formally requested U.S. assistance and limited its request to disposing only these eight U.S.-origin chemical munitions.

Subsection (a) would authorize the Secretary to destroy the eight munitions identified in a 2002 inspection report by the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons.

Subsection (b) would provide that any such destruction of munitions may be carried out only after the Republic of Panama has taken two steps. The first step would require Panama to change its declaration under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction regarding the status of the eight munitions under the Convention, consistent with its letter dated May 8, 2013. This change

of status would provide an acknowledgement by the Republic of Panama that another State (*i.e.*, the United States) is not responsible under the Convention for destroying the eight munitions identified in a 2002 inspection report by the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, which would be further evidence that the United States is not responsible for the destruction of any chemical weapons that may be located on San Jose Island. The second step would require the Republic of Panama to affirm, in writing, that it understands that the United States only intends to destroy the munitions described in subsections (c) and (d), and that the United States is not legally obligated to destroy, and does not intend to destroy, any other munitions that may be located on San Jose Island as a result of certain activities conducted on the island from 1943 to 1947.

Subsection (c) would specify the munitions to which the section applies by reference to the 2002 report of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons.

Subsection (d) would provide that destruction of the specified munitions may include destroying other munitions, but only to the extent necessary to allow for the destruction of the eight munitions addressed in the Republic of Panama formal request for assistance.

Subsection (e) would provide that the Department of Defense "Chemical Agents and Munitions Destruction, Defense" account may be used as the funding source for the destruction of the eight munitions.

A unique and longstanding relationship exists between the United States and the Republic of Panama. The Organization for the Prohibition of Chemical Weapons has identified, and the Department of Defense (DoD) is acting to confirm the condition of eight intact U.S.-origin chemical munitions on San Jose Island, Republic of Panama, remaining from the use of the island for research, development, and testing of chemical weapons during and shortly after World War II by U.S., British, and Canadian forces. Those eight chemical munitions are unexploded ordnance remaining from that research, development, and testing program.

A 1943 lease between the United States and the Republic of Panama governed the temporary use of San Jose Island (and several other locations) for defense purposes; it provided that the property would be returned to the Republic of Panama in its used condition and without any requirement for payment of residual value.

The *ex gratia* effort by the United States to destroy the eight chemical munitions would be in full satisfaction of any and all claims of the Republic of Panama relating to any chemical munitions not described in subsection (c) on San Jose Island, Panama. The basis for and authorization of this effort by the United States would not extend to similar claims by other nations, to the extent they may exist now or in the future.

The Republic of Panama is committed to assisting the United States in facilitating the destruction of the eight chemical munitions.

By letter dated November 18, 2013, DoD notified Congress, consistent with section 321 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), that DoD plans to enter into discussions with the Republic of Panama on the subject of the eight U.S.-origin chemical munitions.

This is a high priority proposal that would allow for destruction of these munitions in the near future. A favorable resolution of this issue would avoid negatively affecting the positive bilateral relationship between the Republic of Panama and the U.S. Government.

Budgetary Implications: The resources reflected in the table below are funded within the FY 2017 President's Budget.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	$30.0	0	0	0	0	Chemical Agents and Munitions Destruction, Defense – Operation and Maintenance	01	01	
Total	$30.0	0	0	0	0				

Changes to Existing Law: This proposal would not change the text of any existing provision of law.