

**SEC. ____ . GRANTS OF NON-LETHAL EXCESS DEFENSE ARTICLES BY
GEOGRAPHIC COMBATANT COMMANDERS.**

1 (a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after
2 section 166b the following new section:

3 **"§ 166c. Geographic combatant commander's authority to transfer excess defense articles**

4 "(a) AUTHORIZATION.—A geographic combatant commander, with the concurrence of the
5 Secretary of State, is authorized to transfer, on a grant basis, a total of \$25,000 per year of non-
6 lethal excess defense articles to each country within that commander's area of responsibility for
7 the purpose of building the capacity of such countries to conduct counterterrorist operations, or
8 to participate in or support military and stability operations in which the United States armed
9 forces are a participant.

10 "(b) LIMITATIONS ON TRANSFERS.—A geographic combatant commander may transfer
11 excess defense articles under this section only if—

12 "(1) such articles are drawn from existing stocks of the Department of Defense;

13 "(2) funds available to the Department of Defense for the procurement of defense
14 equipment are not expended in connection with the transfer; and

15 "(3) the transfer of such articles will not have an adverse impact on the military
16 readiness of the United States.

17 "(c) TRANSPORTATION AND RELATED COSTS.—

18 "(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the
19 Department of Defense may not be expended for crating, packing, handling, and
20 transporting excess defense articles transferred under the authority of this section.

21 "(2) EXCEPTION.—A geographic combatant commander may provide for the

1 transportation of excess defense articles without charge to a country for the costs of such
2 transportation if—

3 "(A) it is determined that it is in the national interest of the United States
4 to do so;

5 "(B) the recipient is a developing country;

6 "(C) the total weight of the transfer does not exceed 50,000 pounds; and

7 "(D) such transportation is accomplished on a space available basis.

8 "(d) PROHIBITED TRANSFERS.—A geographic combatant commander may not transfer
9 under the authority in section (a) excess defense articles that are significant military equipment
10 as defined in section 47(9) of the Arms Export Control Act (22 U.S.C. 2794(9)).

11 "(e) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term 'excess
12 defense articles' shall be deemed to include excess property of the Coast Guard. The term
13 'Department of Defense' shall be deemed, with respect to such excess property, to include the
14 Coast Guard.

15 "(f) DEFINITIONS.—In this section:

16 "(1) The term 'geographic combatant commander' means the commander of a
17 combatant command (as such term is defined in section 161(c) of this title) with a
18 geographic area of responsibility.

19 "(2) The term 'excess defense articles' has the meaning set forth in section 644(g)
20 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2403(g))."

21 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is
22 amended by inserting after the item relating to section 166b the following new item:

23 "166c. Geographic combatant commander's authority to transfer excess defense articles."

Section-by-Section Analysis

This section would authorize each geographic combatant commander, with the concurrence of the Secretary of State, to transfer, on a grant basis, a total of \$25,000 per year of non-lethal excess defense articles to each country within the commander's area of operations for the purpose of building the capacity of such countries to conduct counterterrorist operations or to participate in or support military and stability operations in which the United States Armed Forces are a participant.

While the current Excess Defense Articles (EDA) program, administered by the Department of State, is robust, there are a number of restrictions that inhibit the rapid transfer of limited-value articles. Under current law, excess defense articles can only be transferred by direction of the President, and then generally only with extensive prior notification of the Congress. No authority is currently available for combatant commanders to meet urgent needs through the quick provision of limited EDA.

The geographic combatant commanders are the nation's eyes and ears around the globe in the Global War on Terror. This section would give them a very limited authority to provide "on the spot" EDA grants when, in the commander's judgment, such a grant would build the capacity of such countries to conduct counterterrorist operations, or to participate in or support military and stability operations in which the United States Armed Forces are a participant. A typical scenario could involve providing a nation's military with computers which are obsolete for the American military, but which would provide important new capabilities for a developing country. By authorizing these small but direct grants by those commanders, this section would promote an efficient and effective way to respond to dynamic challenges.

The language of this section is based on the current authority for transferring EDA in section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j). The definition of "excess defense articles" is the same (by reference) and the equipment is limited to non-lethal items and subject to the same safeguards and restrictions as other EDA. Because the equipment subject to grant under this section would -- by definition -- be subject to EDA grants under current law, there would be no budgetary effect.

**SEC. ____ . MAKING PERMANENT AUTHORITY FOR SUPPORT OF MILITARY
OPERATIONS TO COMBAT TERRORISM.**

1 (a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by adding at
2 the end the following new section:

3 **"§ 408. Support of military operations to combat terrorism**

4 "(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the relevant
5 Chief of Mission, expend up to \$25,000,000 during any fiscal year to provide support to foreign
6 forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing
7 military operations by United States special operations forces to combat terrorism.

8 "(b) NOTIFICATION.—Upon using the authority provided in subsection (a) to make funds
9 available for support of an approved military operation, the Secretary of Defense shall notify the
10 congressional defense committees expeditiously, and in any event in not more than 48 hours, of
11 the use of such authority with respect to that operation. Such a notification need be provided
12 only once with respect to any such operation. Any such notification shall be in writing.

13 "(c) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a
14 covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50
15 U.S.C. 413(e)).

16 "(d) ANNUAL REPORT.—Not later than 90 days after the close of each fiscal year, the
17 Secretary of Defense shall submit to the congressional defense committees a report on support
18 provided under subsection (a) during that fiscal year. Each such report shall describe the support
19 provided, including a statement of the recipient of the support and the amount obligated to
20 provide the support."

21 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is

- 1 amended by adding at the end the following new item:
- 2 "408. Support of military operations to combat terrorism."

Section-by-Section Analysis

This section would permit the Secretary of Defense to continue the program developed under section 1208 ("Support of Military Operations to Combat Terrorism") of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (Public Law 108-375), with modifications. The original authority allows the Department of Defense to provide support to foreign forces, irregular forces, groups or individuals engaged in supporting or facilitating ongoing military operations by U.S. special operations forces to combat terrorism, and is in effect through FY 2007. The Secretary of Defense exercises this authority and operations are funded through U.S. Special Operations Command in accordance with the procedures established by the Secretary of Defense on March 29, 2005.

This section would delete the original subsections (b), (g), and (h) of section 1208 as no longer applicable, and redesignate the remaining subsections accordingly. This section also would correct an error in the notification provision so that it reads "not more than 48 hours" instead of "not less than 48 hours." In addition, this section would change the annual report due date from 30 days after the close of the fiscal year to 90 days in order to ensure the provision of reliable financial data from the field. Finally, this section would make the authority permanent.

The activities authorized under section 1208 have already proven to be an invaluable tool for Special Operations Forces in the fight against international terrorism.

**SEC. ____ . AMENDMENT OF AUTHORITY FOR HUMANITARIAN ASSISTANCE
TO INCLUDE STABILIZATION ACTIVITIES.**

1 Section 2561(a)(1) of title 10, United States Code, is amended by inserting "and, with the
2 concurrence of the relevant Chief of Mission, for stabilization purposes" after "other
3 humanitarian purposes".

Section-by-Section Analysis

Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) provides the Department of Defense (DoD) with a unique capability, enabling DoD Commanders to access countries and regions that would otherwise be inaccessible to U.S. forces. Unlike the Commanders' Emergency Response Program, OHDACA can be used for planned, programmed activities, making it a key shaping tool. Using OHDACA, Commanders have a non-combat, results-oriented tool to interact with governments, indigenous organizations, and ordinary citizens to establish long-term, positive relationships, mitigating terrorist influence and preventing conflict.

From Afghanistan to Lebanon, we continue to witness the profound influence that humanitarian assistance provided by terrorist organizations has had on the local populace. Including stabilization activities within this authority would enable DoD to expand its interaction with local populations that are vulnerable to violence or other factors. With this proposed change, DoD personnel helping to build clinics or dig wells could also assist by supporting basic economic and infrastructure projects.

**SEC. ____ . THIRD PARTY PAYMENTS UNDER THE DOD REWARDS PROGRAM IN
SUPPORT OF U.S. OPERATIONS TO COMBAT TERRORISM.**

1 Section 127b(a) of title 10, United States Code, is amended—
2 (1) in the matter preceding paragraph (1), by inserting "and, with the concurrence
3 of the relevant Chief of Mission, government personnel of coalition nations and nations
4 in which the U.S. armed forces are stationed or operating" after "personnel"; and
5 (2) in paragraph (2), by inserting "or of coalition forces or forces of a country in
6 which the U.S. armed forces are operating" after "forces".

Section-by-Section Analysis

Under section 127b of title 10, the Secretary of Defense may pay rewards to persons for providing U.S. Government personnel with information or non-lethal assistance that is beneficial to armed forces operations or activities against international terrorism. This authority is useful to encourage the local citizens of foreign countries to provide information and other assistance, including the delivery of dangerous personnel and weapons to U.S. military authorities. This amendment would broaden the Department of Defense rewards program to make available incentives to partners and allies, as well as U.S. military forces, on the ground to use to encourage this cooperation.

The current statute authorizes only United States Government personnel to issue payments under the Department of Defense rewards program. This amendment would extend the authority to members of coalition forces or forces of a country in which the U.S. armed forces are operating. This change may likely diminish the frequency of punitive attacks on local citizens that overtly cooperate with the U.S. military. It also would improve the credibility of foreign forces by showcasing them as the primary provider for their citizens. These changes would incidentally enhance DoD force protection and facilitate operations against international terrorism, provided that U.S. objectives would be predominantly achieved by, with, and through our partners.

SEC. ____ . MAKING PERMANENT AND GLOBAL THE COMMANDERS

EMERGENCY RESPONSE PROGRAM FOR URGENT

HUMANITARIAN AND RECONSTRUCTION NEEDS IN THE FIELD.

1 (a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by adding at
2 the end the following new section:

3 **"§ 410. Commanders' emergency response program**

4 "(a) AUTHORITY.—Funds made available to the Department of Defense for the
5 Commanders' Emergency Response Program for any fiscal year may be used by the Secretary of
6 Defense in such fiscal year to provide funds—

7 "(1) for the Commanders' Emergency Response Program in Iraq and Afghanistan;
8 and

9 "(2) for a similar program to assist the people of a developing country where
10 United States forces are operating.

11 "(b) QUARTERLY REPORT.—Not later than 15 days after the end of each fiscal-year
12 quarter of fiscal years 2006 and 2007, the Secretary of Defense shall submit to the congressional
13 defense committees a report regarding the source of funds and the allocation and use of funds
14 during that quarter that were made available pursuant to the authority provided in this section or
15 under any other provision of law for the purposes of the programs under subsection (a).

16 "(c) SUBMISSION OF GUIDANCE.—

17 "(1) INITIAL SUBMISSION.—Not later than 30 days after the date of the enactment
18 of this Act, the Secretary of Defense shall submit to the congressional defense
19 committees a copy of the guidance issued by the Secretary to the Armed Forces
20 concerning the allocation of funds through the Commanders' Emergency Response

1 Program and any similar program to assist the people of a developing country.

2 "(2) MODIFICATIONS.—If the guidance in effect for the purpose stated in
3 paragraph (1) is modified, the Secretary shall submit to the congressional defense
4 committees a copy of the modification not later than 15 days after the date on which the
5 Secretary makes the modification.

6 "(d) WAIVER AUTHORITY.—For purposes of exercising the authority provided by this
7 section or any other provision of law making funding available for the Commanders' Emergency
8 Response Program referred to in subsection (a) (including a program referred to in paragraph (2)
9 of that subsection), the Secretary of Defense may waive any provision of law not contained in
10 this section that would (but for the waiver) prohibit, restrict, limit, or otherwise constrain the
11 exercise of that authority.

12 "(e) EXECUTION OF PROGRAM.—Within sixty days of the enactment of this provision, the
13 Departments of Defense and State shall jointly develop procedures for the exercise of the
14 authority in subsection (a). Such procedures shall provide for expeditious coordination between
15 the Department of Defense and the Department of State to achieve agile, appropriate, and
16 effective use of this authority to promote the security interests of the United States.

17 "(f) COMMANDERS' EMERGENCY RESPONSE PROGRAM DEFINED.—In this section, the term
18 'Commanders' Emergency Response Program' means the program established by the
19 Administrator of the Coalition Provisional Authority for the purpose of enabling United States
20 military commanders in Iraq to respond to urgent humanitarian relief and reconstruction
21 requirements within their areas of responsibility by carrying out programs that will immediately
22 assist the Iraqi people."

23 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is

- 1 amended by adding at the end the following new item:
- 2 "410. Commanders' emergency response program."

Section-by-Section Analysis

This section would allow the Secretary of Defense to authorize U.S. military commanders to use Department of Defense funds appropriated to the Commanders' Emergency Response Program (CERP) or other operations and maintenance funds for urgent humanitarian relief and reconstruction assistance to local populations where U.S. forces are operating. Resources under this section would be available for all military and security operations, including humanitarian, civic assistance, disaster relief, and peace operations.

The Secretary of Defense will refine CERP guidance to implement this authority and ensure flexibility and responsiveness and coordination with Department of State country teams. This section would capitalize on the success of the CERP, which has proven to be a high-impact, relatively low-cost program, indispensable to security and stabilization efforts in Iraq and Afghanistan. Providing this capability to military commanders enables them to respond immediately to small-scale but urgent humanitarian relief and reconstruction requirements. The program has built trust and support at the grassroots level and provides results that people can see.