109TH CONGRESS
1ST SESSION

H. R. 1986

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security in the performance of border protection functions.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2005

Mr. Goode (for himself, Mr. Jones of North Carolina, Mr. Tancredo, Mr. Sessions, Mr. Norwood, Mr. Lewis of Kentucky, Mr. Duncan, Mr. Culberson, Mr. Deal of Georgia, Mrs. Cubin, Mr. Price of Georgia, Mr. Sullivan, Mr. Forbes, Mr. King of Iowa, Mrs. Jo Ann Davis of Virginia, Mr. Hayes, Mr. Boozman, Mr. Sam Johnson of Texas, Mr. Shimkus, Ms. Foxx, Mr. Gutknecht, Mr. Hayworth, Mr. Goodlatte, Mr. Shuster, Mr. Wamp, Mr. Gallegly, Mr. Garrett of New Jersey, Mr. Hostettler, Mr. Taylor of North Carolina, Mr. Alexander, Mr. Barrett of South Carolina, Mr. Sensenbrenner, Ms. Ginny Brown-Waite of Florida, Mr. Brady of Texas, and Mr. Coble) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist
the Department of Homeland Security in the performance of border protection functions.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. ASSIGNMENT OF MEMBERS OF THE ARMED
FORCES TO ASSIST BUREAU OF BORDER SE-
CURITY AND BUREAU OF CITIZENSHIP AND
IMMIGRATION SERVICES OF THE DEPART-
MENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-
FENSE.—Chapter 18 of title 10, United States Code, is
amended by inserting after section 374 the following new
section:

“§374a. Assignment of members to assist border pa-
trol and control

“(a) ASSIGNMENT AUTHORIZED.—Upon submission
of a request consistent with subsection (b), the Secretary
of Defense may assign members of the Army, Navy, Air
Force, and Marine Corps to assist—

“(1) the Bureau of Border Security of the De-
partment of Homeland Security in preventing the
entry of terrorists, drug traffickers, and illegal aliens
into the United States; and

“(2) the United States Customs Service of the
Department of Homeland Security in the inspection
of cargo, vehicles, and aircraft at points of entry
into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

“(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

“(1) the assignment is at the request of the Secretary of Homeland Security; and

“(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.
“(d) Conditions of Use.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

“(2) Nothing in this section shall be construed to—

“(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

“(B) supersede section 1385 of title 18 (popularly known as the ‘Posse Comitatus Act’).

“(e) Establishment of Ongoing Joint Task Forces.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

“(f) Notification Requirements.—The Secretary of Homeland Security shall provide to the Governor of the
State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

“(g) Reimbursement Requirement.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

“(h) Termination of Authority.—No assignment may be made or continued under subsection (a) after September 30, 2007.”.

(b) Commencement of Training Program.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

“374a. Assignment of members to assist border patrol and control.”.