

108TH CONGRESS  
1ST SESSION

# H. R. 277

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. GOODE (for himself, Mr. JONES of North Carolina, and Mr. TANCREDO) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Select 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

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## 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.

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

1 **SECTION 1. ASSIGNMENT OF MEMBERS TO ASSIST BUREAU**  
2 **OF BORDER SECURITY AND BUREAU OF CITI-**  
3 **ZENSHIP AND IMMIGRATION SERVICES OF**  
4 **THE DEPARTMENT OF HOMELAND SECURITY.**

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

9 **“§ 374a. Assignment of members to assist border pa-**  
10 **trol and control**

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

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

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

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

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

5               “(2) the request is accompanied by a certifi-  
6 cation by the Secretary of Homeland Security that  
7 the assignment of members pursuant to the request  
8 is necessary to respond to a threat to national secu-  
9 rity posed by the entry into the United States of ter-  
10 rorists, drug traffickers, or illegal aliens.

11       “(c) TRAINING PROGRAM REQUIRED.—The Sec-  
12 retary of Homeland Security and the Secretary of De-  
13 fense, shall establish a training program to ensure that  
14 members receive general instruction regarding issues af-  
15 fecting law enforcement in the border areas in which the  
16 members may perform duties under an assignment under  
17 subsection (a). A member may not be deployed at a border  
18 location pursuant to an assignment under subsection (a)  
19 until the member has successfully completed the training  
20 program.

21       “(d) CONDITIONS OF USE.—(1) Whenever a member  
22 who is assigned under subsection (a) to assist the Bureau  
23 of Border Security or the United States Customs Service  
24 is performing duties at a border location pursuant to the

1 assignment, a civilian law enforcement officer from the  
2 agency concerned shall accompany the member.

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

4 “(A) authorize a member assigned under sub-  
5 section (a) to conduct a search, seizure, or other  
6 similar law enforcement activity or to make an ar-  
7 rest; and

8 “(B) supersede section 1385 of title 18 (popu-  
9 larly known as the ‘Posse Comitatus Act’).

10 “(e) ESTABLISHMENT OF ONGOING JOINT TASK  
11 FORCES.—(1) The Secretary of Homeland Security may  
12 establish ongoing joint task forces if the Secretary of  
13 Homeland Security determines that the joint task force,  
14 and the assignment of members to the joint task force,  
15 is necessary to respond to a threat to national security  
16 posed by the entry into the United States of terrorists,  
17 drug traffickers, or illegal aliens.

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

20 “(f) NOTIFICATION REQUIREMENTS.—The Secretary  
21 of Homeland Security shall provide to the Governor of the  
22 State in which members are to be deployed pursuant to  
23 an assignment under subsection (a) and to local govern-  
24 ments in the deployment area notification of the deploy-  
25 ment of the members to assist the Department of Home-

1 land Security under this section and the types of tasks  
2 to be performed by the members.

3 “(g) REIMBURSEMENT REQUIREMENT.—Section 377  
4 of this title shall apply in the case of members assigned  
5 under subsection (a).

6 “(h) TERMINATION OF AUTHORITY.—No assignment  
7 may be made or continued under subsection (a) after Sep-  
8 tember 30, 2005.”.

9 (b) COMMENCEMENT OF TRAINING PROGRAM.—The  
10 training program required by subsection (b) of section  
11 374a of title 10, United States Code, shall be established  
12 as soon as practicable after the date of the enactment of  
13 this Act.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of such chapter is amended by inserting  
16 after the item relating to section 374 the following new  
17 item:

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

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