

110TH CONGRESS  
1ST SESSION

# H. R. 939

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the regular or reserve components 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

FEBRUARY 8, 2007

Mr. GOODE 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

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## A BILL

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the regular or reserve components 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 OF THE ARMED**  
2 **FORCES TO ASSIST BUREAU OF CUSTOMS**  
3 **AND BORDER PROTECTION AND UNITED**  
4 **STATES IMMIGRATION AND CUSTOMS EN-**  
5 **FORCEMENT.**

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

9 **“§ 383. Assignment of members to assist border patrol**  
10 **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 regular or reserve  
14 components of the Army, Navy, Air Force, and Marine  
15 Corps to assist the Bureau of Customs and Border Protec-  
16 tion and the United States Immigration and Customs En-  
17 forcement of the Department of Homeland Security—

18 “(1) in preventing the entry of terrorists, drug  
19 traffickers, and illegal aliens into the United States;  
20 and

21 “(2) in the inspection of cargo, vehicles, and  
22 aircraft at points of entry into the United States to  
23 prevent the entry of weapons of mass destruction,  
24 components of weapons of mass destruction, prohib-  
25 ited narcotics or drugs, or other terrorist or drug  
26 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 Defense  
13 shall establish a training program to ensure that members  
14 receive general instruction regarding issues affecting law  
15 enforcement in the border areas in which the members  
16 may perform duties under an assignment under subsection  
17 (a). A member may not be deployed at a border location  
18 pursuant to an assignment under subsection (a) until the  
19 member has successfully completed the training program.

20       “(d) CONDITIONS OF USE.—(1) Whenever a member  
21 who is assigned under subsection (a) to assist the Bureau  
22 of Customs and Border Protection or the United States  
23 Immigration and Customs Enforcement is performing du-  
24 ties pursuant to the assignment, a civilian law enforce-

1 ment officer from the agency concerned shall accompany  
2 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 (b) COMMENCEMENT OF TRAINING PROGRAM.—The  
7 training program required by subsection (c) of section 383  
8 of title 10, United States Code, as added by subsection  
9 (a), shall be established as soon as practicable after the  
10 date of the enactment of this Act.

11 (c) CLERICAL AMENDMENT.—The table of sections  
12 at the beginning of such chapter is amended by adding  
13 at the end the following new item:

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

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