

Calendar No. 414111TH CONGRESS
2^D SESSION**S. 3454****[Report No. 111-201]**

To authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2010

Mr. LEVIN, from the Committee on Armed Services reported, under authority of the order of the Senate of May 28 (legislative day, May 26), 2010, the following original bill; which was read twice and placed on the calendar

A BILL

To authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

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

1 (c) CLERICAL AMENDMENTS.—

2 (1) SECTION HEADING.—The heading of such
3 section is amended to read as follows:

4 **“§ 2576. Surplus military equipment: sale to State and**
5 **local law enforcement, firefighting, home-**
6 **land security, and emergency manage-**
7 **ment agencies”.**

8 (2) TABLE OF SECTIONS.—The item relating to
9 section 2576 in the table of sections at the beginning
10 of chapter 153 of such title is amended to read as
11 follows:

“2576. Surplus military equipment: sale to State and local law enforcement,
firefighting, homeland security, and emergency management
agencies.”.

12 **Subtitle E—Miscellaneous**
13 **Authorities and Limitations**

14 **SEC. 1041. NATIONAL GUARD SUPPORT TO SECURE THE**
15 **SOUTHERN LAND BORDER OF THE UNITED**
16 **STATES.**

17 (a) IN GENERAL.—The Secretary of Defense shall
18 deploy not fewer than 6,000 National Guard personnel to
19 perform operations and missions under section 502(f) of
20 title 32, United States Code, in the States along the south-
21 ern land border of the United States for the purposes of
22 assisting U.S. Customs and Border Protection in securing
23 such border.

24 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

1 (1) IN GENERAL.—National Guard units and
2 personnel deployed under subsection (a) may be as-
3 signed such operations and missions as are nec-
4 essary to secure the southern land border of the
5 United States.

6 (2) NATURE OF DUTY.—Duty by National
7 Guard personnel performing such operations and
8 missions shall be full-time National Guard duty
9 under title 32, United States Code.

10 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-
11 erations and missions assigned under subsection (b) shall
12 include, but are not limited to, temporary authority to per-
13 form the following:

14 (1) Construction of fencing, including double-
15 layer and triple-layer fencing.

16 (2) Increasing ground-based mobile surveillance
17 systems.

18 (3) Deployment of additional unmanned aerial
19 systems and manned aircraft sufficient to maintain
20 continuous surveillance of the border.

21 (4) Deployment and provision of capability for
22 radio communications interoperability between U.S.
23 Customs and Border Protection and State, local,
24 and tribal law enforcement agencies.

1 (5) Construction of checkpoints along the bor-
2 der to bridge the gap to long-term permanent check-
3 points.

4 (6) Conduct of mobile patrols and provision of
5 assistance to U.S. Customs and Border Protection,
6 particularly in rural, high-trafficked areas, as des-
7 ignated by the Commissioner of Customs and Bor-
8 der Protection.

9 (d) COMMENCEMENT AND COMPLETION OF INITIAL
10 DEPLOYMENT.—The Secretary of Defense shall com-
11 mence the deployment of National Guard units and per-
12 sonnel under subsection (a) to secure the southern land
13 border of the United States not later than 72 hours after
14 the date of the enactment of this Act, and shall complete
15 the deployment of initial units and personnel to that bor-
16 der for that purpose not later than 30 days after the date
17 of the enactment of this Act.

18 (e) DURATION OF DEPLOYMENT.—The Secretary of
19 Defense shall maintain the deployment of National Guard
20 units and personnel along the southern land border of the
21 United States until the Secretary of Defense, in consulta-
22 tion with the Secretary of Homeland Security and the
23 chief executive officers of the States adjoining such border,
24 certifies to Congress that the Federal Government has
25 achieved operational control of such border (as defined in

1 section 2(b) of the Secure Fence Act of 2006 (Public Law
2 109–367)).

3 (f) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
4 retary of Defense shall deploy such materiel and equip-
5 ment and logistics support as is necessary to ensure suc-
6 cess of the operations and missions conducted by the Na-
7 tional Guard under subsection (a).

8 (g) FUNDING.—

9 (1) IN GENERAL.—The Secretary of Defense
10 shall fund the deployment of the National Guard
11 under this section through transfers of funds under
12 section 1001 from lower priority authorizations
13 available to the Department of Defense.

14 (2) EXCEPTION FROM AGGREGATE LIMITATION
15 ON TRANSFERS.—Amounts transferred for the de-
16 ployment of the National Guard under this section
17 shall not be counted toward the dollar limitation on
18 the aggregate amount of transferred authorized for
19 fiscal year 2011 by section 1001(a)(2).

20 (h) EXCLUSION FROM NATIONAL GUARD PER-
21 SONNEL STRENGTH LIMITATIONS.—National Guard per-
22 sonnel deployed under subsection (a) shall not be included
23 in the calculation to determine compliance with limits on
24 end strength for National Guard personnel or on limits
25 on the number of National Guard personal that may be

1 placed on active duty for operational support under section
2 415 of this Act or 115 of title 10, United States Code.

3 **SEC. 1042. PROHIBITION ON INFRINGING ON THE INDI-**
4 **VIDUAL RIGHT TO LAWFULLY ACQUIRE, POS-**
5 **SESS, OWN, CARRY, AND OTHERWISE USE PRI-**
6 **VATELY OWNED FIREARMS, AMMUNITION,**
7 **AND OTHER WEAPONS.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (c), the Secretary of Defense shall not prohibit, issue any
10 requirement relating to, or collect or record any informa-
11 tion relating to the otherwise lawful acquisition, posses-
12 sion, ownership, carrying, or other use of a privately-
13 owned firearm, privately-owned ammunition, or another
14 privately-owned weapon by a member of the Armed Forces
15 or civilian employee of the Department of Defense on
16 property that is not—

- 17 (1) a military installation; or
18 (2) any other property that is owned or oper-
19 ated by the Department of Defense.

20 (b) EXISTING REGULATIONS AND RECORDS.—

- 21 (1) REGULATIONS.—Any regulation promul-
22 gated before the date of enactment of this Act that
23 requires conduct prohibited by this section is null
24 and void and shall have no force or effect.