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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of Georgia introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Militarizing Law
5 Enforcement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Under section 2576a of title 10, United
2 States Code, the Department of Defense is author-
3 ized to provide excess property to local law enforce-
4 ment agencies. The Defense Logistics Agency, ad-
5 ministers such section by operating the Law En-
6 forcement Support Office program.

7 (2) New and used material, including mine-re-
8 sistant ambush-protected vehicles and weapons de-
9 termined by the Department of Defense to be “mili-
10 tary grade” are transferred to Federal, Tribal,
11 State, and local law enforcement agencies through
12 the program.

13 (3) As a result local law enforcement agencies,
14 including police and sheriff’s departments, are ac-
15 quiring this material for use in their normal oper-
16 ations.

17 (4) As a result of the wars in Iraq and Afghani-
18 stan, military equipment purchased for, and used in,
19 those wars has become excess property and has been
20 made available for transfer to local and Federal law
21 enforcement agencies.

22 (5) In Fiscal Year 2017, \$504,000,000 worth
23 of property was transferred to law enforcement
24 agencies.

1 (6) More than \$6,800,000,000 worth of weap-
2 ons and equipment have been transferred to police
3 organizations in all 50 States and four territories
4 through the program.

5 (7) In May 2012, the Defense Logistics Agency
6 instituted a moratorium on weapons transfers
7 through the program after reports of missing equip-
8 ment and inappropriate weapons transfers.

9 (8) Though the moratorium was widely pub-
10 licized, it was lifted in October 2013 without ade-
11 quate safeguards.

12 (9) On January 16, 2015, President Barack
13 Obama issued Executive Order 13688 to better co-
14 ordinate and regulate the federal transfer of military
15 weapons and equipment to State, local, and Tribal
16 law enforcement agencies.

17 (10) In July, 2017, the Government Account-
18 ability Office reported that the program's internal
19 controls were inadequate to prevent fraudulent appli-
20 cants' access to the program.

21 (11) On August, 28, 2017, President Donald
22 Trump rescinded Executive Order 13688 despite a
23 July 2017 Government Accountability Office report
24 finding deficiencies with the administration of the
25 1033 program.

1 (12) As a result, Federal, State, and local law
2 enforcement departments across the country are eli-
3 gible again to acquire free “military-grade” weapons
4 and equipment that could be used inappropriately
5 during policing efforts in which people and taxpayers
6 could be harmed.

7 (13) The Department of Defense categorizes
8 equipment eligible for transfer under the 1033 pro-
9 gram as “controlled” and “un-controlled” equip-
10 ment. “Controlled equipment” includes weapons, ex-
11 plosives such as flash-bang grenades, mine-resistant
12 ambush-protected vehicles, long-range acoustic de-
13 vices, aircraft capable of being modified to carry ar-
14 mament that are combat coded, and silencers,
15 among other military grade items.

16 **SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANS-**
17 **FER OF PERSONAL PROPERTY TO LOCAL LAW**
18 **ENFORCEMENT AGENCIES.**

19 (a) IN GENERAL.—Section 2576a of title 10, United
20 States Code, is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1)(A), by striking
23 “counterdrug, counterterrorism, `disaster-re-
24 lated emergency preparedness, and border secu-

1 rity activities” and inserting “counterter-
2 rorism”; and

3 (B) in paragraph (2), by striking “, the
4 Director of National Drug Control Policy,”;
5 (2) in subsection (b)—

6 (A) in paragraph (5), by striking “and” at
7 the end;

8 (B) in paragraph (6), by striking the pe-
9 riod and inserting a semicolon; and

10 (C) by adding at the end the following new
11 paragraphs:

12 “(7) the recipient submits to the Department of
13 Defense a description of how the recipient expects to
14 use the property;

15 “(8) the recipient certifies to the Department of
16 Defense that if the recipient determines that the
17 property is surplus to the needs of the recipient, the
18 recipient will return the property to the Department
19 of Defense;

20 “(9) with respect to a recipient that is not a
21 Federal agency, the recipient certifies to the Depart-
22 ment of Defense that the recipient notified the local
23 community of the request for personal property
24 under this section by—

1 “(A) publishing a notice of such request on
2 a publicly accessible Internet website;

3 “(B) posting such notice at several promi-
4 nent locations in the jurisdiction of the recipi-
5 ent; and

6 “(C) ensuring that such notices were avail-
7 able to the local community for a period of not
8 less than 30 days; and

9 “(10) the recipient has received the approval of
10 the city council or other local governing body to ac-
11 quire the personal property sought under this sec-
12 tion.”;

13 (3) by striking subsections (d) and (e);

14 (4) by redesignating subsections (f) and (g) as
15 subsections (o) and (p), respectively; and

16 (5) by inserting after subsection (c) the fol-
17 lowing new subsections:

18 “(d) ANNUAL CERTIFICATION ACCOUNTING FOR
19 TRANSFERRED PROPERTY.—(1) For each fiscal year, the
20 Secretary shall submit to Congress certification in writing
21 that each Federal or State agency to which the Secretary
22 has transferred property under this section—

23 “(A) has provided to the Secretary documenta-
24 tion accounting for all controlled property, including
25 arms and ammunition, that the Secretary has trans-

1 ferred to the agency, including any item described in
2 subsection (f) so transferred before the date of the
3 enactment of the Stop Militarizing Law Enforce-
4 ment Act; and

5 “(B) with respect to a non-Federal agency, car-
6 ried out each of paragraphs (5) through (8) of sub-
7 section (b).

8 “(2) If the Secretary cannot provide a certification
9 under paragraph (1) for a Federal or State agency, the
10 Secretary may not transfer additional property to that
11 agency under this section.

12 “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-
13 fore making any property available for transfer under this
14 section, the Secretary shall annually submit to Congress
15 a description of the property to be transferred together
16 with a certification that the transfer of the property would
17 not violate this section or any other provision of law.

18 “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-
19 retary may not transfer to Federal, Tribal, State, or local
20 law enforcement agencies the following under this section:

21 “(A) Controlled firearms, ammunition, bayo-
22 nets, grenade launchers, grenades (including stun
23 and flash-bang) and explosives.

24 “(B) Controlled vehicles, highly mobile multi-
25 wheeled vehicles, mine-resistant ambush-protected

1 vehicles, trucks, truck dump, truck utility, and truck
2 carryall.

3 “(C) Drones that are armored, weaponized, or
4 both.

5 “(D) Controlled aircraft that—

6 “(i) are combat configured or combat
7 coded; or

8 “(ii) have no established commercial flight
9 application.

10 “(E) Silencers.

11 “(F) Long-range acoustic devices.

12 “(G) Items in the Federal Supply Class of
13 banned items.

14 “(2) The Secretary may not require, as a condition
15 of a transfer under this section, that a Federal or State
16 agency demonstrate the use of any small arms or ammuni-
17 tion.

18 “(3) The limitations under this subsection shall also
19 apply with respect to the transfer of previously transferred
20 property of the Department of Defense from one Federal
21 or State agency to another such agency.

22 “(4)(A) The Secretary may waive the applicability of
23 paragraph (1) to a vehicle described in subparagraph (B)
24 of such paragraph (other than a mine-resistant ambush-
25 protected vehicle), if the Secretary determines that such

1 a waiver is necessary for disaster or rescue purposes or
2 for another purpose where life and public safety are at
3 risk, as demonstrated by the proposed recipient of the ve-
4 hicle.

5 “(B) If the Secretary issues a waiver under subpara-
6 graph (A), the Secretary shall—

7 “(i) submit to Congress notice of the waiver,
8 and post such notice on a public Internet website of
9 the Department, by not later than 30 days after the
10 date on which the waiver is issued; and

11 “(ii) require, as a condition of the waiver, that
12 the recipient of the vehicle for which the waiver is
13 issued provides public notice of the waiver and the
14 transfer, including the type of vehicle and the pur-
15 pose for which it is transferred, in the jurisdiction
16 where the recipient is located by not later than 30
17 days after the date on which the waiver is issued.

18 “(5) The Secretary may provide for an exemption to
19 the limitation under subparagraph (D) of paragraph (1)
20 in the case of parts for aircraft described in such subpara-
21 graph that are transferred as part of regular maintenance
22 of aircraft in an existing fleet.

23 “(6) The Secretary shall require, as a condition of
24 any transfer of property under this section, that the Fed-

1 eral or State agency that receives the property shall return
2 the property to the Secretary if the agency—

3 “(A) is investigated by the Department of Jus-
4 tice for any violation of civil liberties; or

5 “(B) is otherwise found to have engaged in
6 widespread abuses of civil liberties.

7 “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—
8 Notwithstanding any other provision of law, amounts au-
9 thorized to be appropriated or otherwise made available
10 for any fiscal year may not be obligated or expended to
11 carry out this section unless the Secretary submits to Con-
12 gress certification that for the preceding fiscal year that—

13 “(1) each Federal or State agency that has re-
14 ceived controlled property transferred under this sec-
15 tion has—

16 “(A) demonstrated 100 percent account-
17 ability for all such property, in accordance with
18 paragraph (2) or (3), as applicable; or

19 “(B) been suspended from the program
20 pursuant to paragraph (4);

21 “(2) with respect to each non-Federal agency
22 that has received controlled property under this sec-
23 tion, the State coordinator responsible for each such
24 agency has verified that the coordinator or an agent
25 of the coordinator has conducted an in-person inven-

1 tory of the property transferred to the agency and
2 that 100 percent of such property was accounted for
3 during the inventory or that the agency has been
4 suspended from the program pursuant to paragraph
5 (4);

6 “(3) with respect to each Federal agency that
7 has received controlled property under this section,
8 the Secretary of Defense or an agent of the Sec-
9 retary has conducted an in-person inventory of the
10 property transferred to the agency and that 100 per-
11 cent of such property was accounted for during the
12 inventory or that the agency has been suspended
13 from the program pursuant to paragraph (4);

14 “(4) the eligibility of any agency that has re-
15 ceived controlled property under this section for
16 which 100 percent of the property was not ac-
17 counted for during an inventory described in para-
18 graph (1) or (2), as applicable, to receive any prop-
19 erty transferred under this section has been sus-
20 pended; and

21 “(5) each State coordinator has certified, for
22 each non-Federal agency located in the State for
23 which the State coordinator is responsible that—

24 “(A) the agency has complied with all re-
25 quirements under this section; or

1 “(B) the eligibility of the agency to receive
2 property transferred under this section has been
3 suspended; and

4 “(6) the Secretary of Defense has certified, for
5 each Federal agency that has received property
6 under this section that—

7 “(A) the agency has complied with all re-
8 quirements under this section; or

9 “(B) the eligibility of the agency to receive
10 property transferred under this section has been
11 suspended.

12 “(h) PROHIBITION ON OWNERSHIP OF CONTROLLED
13 PROPERTY.—A Federal or State agency that receives con-
14 trolled property under this section may never take owner-
15 ship of the property.

16 “(i) NOTICE TO CONGRESS OF PROPERTY DOWN-
17 GRADES.—Not later than 30 days before downgrading the
18 classification of any item of personal property from con-
19 trolled or Federal Supply Class, the Secretary shall submit
20 to Congress notice of the proposed downgrade.

21 “(j) NOTICE TO CONGRESS OF PROPERTY CANNIBAL-
22 IZATION.—Before the Defense Logistics Agency author-
23 izes the recipient of property transferred under this sec-
24 tion to cannibalize the property, the Secretary shall submit
25 to Congress notice of such authorization, including the

1 name of the recipient requesting the authorization, the
2 purpose of the proposed cannibalization, and the type of
3 property proposed to be cannibalized.

4 “(k) QUARTERLY REPORTS ON USE OF CONTROLLED
5 EQUIPMENT.—Not later than 30 days after the last day
6 of a fiscal quarter, the Secretary shall submit to Congress
7 a report on any uses of controlled property transferred
8 under this section during that fiscal quarter.

9 “(l) REPORTS TO CONGRESS.—Not later than 30
10 days after the last day of a fiscal year, the Secretary shall
11 submit to Congress a report on the following for the pre-
12 ceding fiscal year:

13 “(1) The percentage of equipment lost by re-
14 cipients of property transferred under this section,
15 including specific information about the type of
16 property lost, the monetary value of such property,
17 and the recipient that lost the property.

18 “(2) The transfer of any new (condition code
19 A) property transferred under this section, including
20 specific information about the type of property, the
21 recipient of the property, the monetary value of each
22 item of the property, and the total monetary value
23 of all such property transferred during the fiscal
24 year.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply with respect to any transfer of
3 property made after the date of the enactment of this Act.