

108TH CONGRESS
1ST SESSION

S. 215

To authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2003

Mrs. FEINSTEIN (for herself, Mr. BOND, Mr. LEAHY, Mr. LIEBERMAN, Mr. GREGG, Mrs. MURRAY, Mr. JOHNSON, Mrs. CLINTON, Mr. BREAUX, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

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 “Guaranteeing a United
5 and Resolute Defense Act of 2003” or the “GUARD Act
6 of 2003”.

1 **SEC. 2. FUNDING ASSISTANCE FOR HOMELAND SECURITY**
2 **ACTIVITIES OF THE NATIONAL GUARD.**

3 (a) IN GENERAL.—Chapter 1 of title 32, United
4 States Code, is amended by inserting after section 112 the
5 following new section:

6 **“§ 112a. Homeland security activities**

7 “(a) FUNDING ASSISTANCE.—(1) The Secretary of
8 Defense may provide funds to the Governor of a State who
9 submits to the Secretary a homeland security activities
10 plan satisfying the requirements of subsection (b).

11 “(2) To be eligible for assistance under this sub-
12 section, a State shall have a homeland security activities
13 plan in effect.

14 “(3) Any funds provided to a State under this sub-
15 section shall be used for the following:

16 “(A) Pay, allowances, clothing, subsistence, gra-
17 tuities, travel, and related expenses, as authorized by
18 State law, of personnel of the National Guard of the
19 State for service performed for the purpose of home-
20 land security while not in Federal service.

21 “(B) Operation and maintenance of the equip-
22 ment and facilities of the National Guard of the
23 State that are used for the purpose of homeland se-
24 curity.

25 “(C) Procurement of services and the purchase
26 or leasing of equipment for the National Guard of

1 the State for use for the purpose of homeland secu-
2 rity.

3 “(b) HOMELAND SECURITY ACTIVITIES PLAN RE-
4 QUIREMENTS.—The homeland security activities plan of
5 a State—

6 “(1) shall specify how personnel and equipment
7 of the National Guard of the State are to be used
8 in homeland security activities and include a detailed
9 explanation of the reasons why the National Guard
10 should be used for the specified activities;

11 “(2) shall describe in detail how any available
12 National Guard training facilities, including any dis-
13 tance learning programs and projects, are to be
14 used;

15 “(3) shall include the Governor’s certification
16 that the activities under the plan are to be con-
17 ducted at a time when the personnel involved are not
18 in Federal service;

19 “(4) shall include the Governor’s certification
20 that participation by National Guard personnel in
21 the activities under the plan is service in addition to
22 training required under section 502 of this title;

23 “(5) shall include a certification by the Attor-
24 ney General of the State (or, in the case of a State
25 with no position of Attorney General, a civilian offi-

1 cial of the State equivalent to a State attorney gen-
2 eral) that the use of the National Guard of the State
3 for the activities proposed under the plan is author-
4 ized by, and is consistent with, State law;

5 “(6) shall include the Governor’s certification
6 that the Governor or a civilian law enforcement offi-
7 cial of the State designated by the Governor has de-
8 termined that any activities to be carried out in con-
9 junction with Federal law enforcement agencies
10 under the plan serve a State law enforcement pur-
11 pose; and

12 “(7) may provide for the use of personnel and
13 equipment of the National Guard of that State to
14 assist the Directorate of Immigration Affairs of the
15 Department of Homeland Security in the transpor-
16 tation of aliens who have violated a Federal or State
17 law prohibiting terrorist acts.

18 “(c) EXAMINATION AND APPROVAL OF PLAN.—The
19 Secretary of Defense shall examine the adequacy of each
20 homeland security activities plan of a State and, if the
21 plan is determined adequate, approve the plan.

22 “(d) ANNUAL REPORT.—(1) The Secretary of De-
23 fense shall submit to Congress each year a report on the
24 assistance provided under this section during the pre-

1 ceding fiscal year, including the activities carried out with
2 such assistance.

3 “(2) The annual report under this subsection shall
4 include the following:

5 “(A) A description of the homeland security ac-
6 tivities conducted under the homeland security ac-
7 tivities plans with funds provided under this section.

8 “(B) An accounting of the funds provided to
9 each State under this section.

10 “(C) An analysis of the effects on military
11 training and readiness of using units and personnel
12 of the National Guard to perform activities under
13 the homeland security activities plans.

14 “(e) STATUTORY CONSTRUCTION.—Nothing in this
15 section shall be construed as limiting the authority of any
16 unit of the National Guard of a State, when such unit
17 is not in Federal service, to perform law enforcement func-
18 tions authorized to be performed by the National Guard
19 by the laws of the State concerned.

20 “(f) DEFINITIONS.—In this section:

21 “(1) The term ‘Governor’, in the case of the
22 District of Columbia, means the commanding gen-
23 eral of the National Guard of the District of Colum-
24 bia.

1 “(2) The term ‘homeland security activities’,
2 with respect to the National Guard of a State,
3 means the use of National Guard personnel, when
4 authorized by the law of the State and requested by
5 the Governor of the State, to prevent, deter, defend
6 against, and respond to an attack or threat of attack
7 on the people and territory of the United States.

8 “(3) The term ‘State’ includes the District of
9 Columbia, the Commonwealth of Puerto Rico,
10 Guam, and the Virgin Islands.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of chapter 1 of such title is amended by
13 inserting after the item relating to section 112 the fol-
14 lowing new item:

“112a. Homeland security activities.”.

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