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

March 4, 2015

Mr. Johnson of Georgia (for himself, Mr. Ellison, Ms. Norton, Mr. Scott of Virginia, Ms. Clark of Massachusetts, Ms. Chu of California, Ms. Speier, Mr. Clay, Mr. Nadler, Ms. Lee, Ms. Edwards, Mr. Van Hollen, Mr. Conyers, Mr. Rangel, Mr. David Scott of Georgia, Mr. Amash, Mr. Farr, Mr. Tonko, Ms. Lofgren, Mr. Perlmutter, Mr. Cárdenas, Mr. Blumenauer, Mr. Lowenthal, Ms. Jackson Lee, Mr. O’Rourke, Mr. Pallone, Mr. Serrano, Mr. Grijalva, Mr. Hastings, Mr. McDermott, Ms. Kaptur, Mr. Lewis, Mr. Rush, Mr. Honda, Ms. DeGette, Mr. Cummings, Mr. Deutch, Mr. Danny K. Davis of Illinois, Mr. Pocan, Ms. Maxine Waters of California, Mr. McClintock, Mr. Grayson, and Mr. Cohen) introduced the following bill; which was referred to the Committee on Armed Services

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.

Be it enacted by the Senate and House of Representa-
SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Under section 2576a of title 10, United States Code, the Department of Defense is authorized to provide excess property to local law enforcement agencies. The Defense Logistics Agency, administers such section by operating the Law Enforcement Support Office program.

(2) New and used material, including mine-resistant ambush-protected vehicles and weapons determined by the Department of Defense to be “military grade” are transferred to local and Federal law enforcement agencies through the program.

(3) As a result local law enforcement agencies, including police and sheriff’s departments, are acquiring this material for use in their normal operations.

(4) As a result of the wars in Iraq and Afghanistan, military equipment purchased for, and used in, those wars has become excess property and has been made available for transfer to local and Federal law enforcement agencies.
(5) According to public reports, approximately 12,000 police organizations across the country were able to procure nearly $500,000,000 worth of excess military merchandise including firearms, computers, helicopters, clothing, and other products, at no charge during fiscal year 2011 alone.

(6) More than $4,000,000,000 worth of weapons and equipment have been transferred to police organizations in all 50 states and four territories through the program.

(7) In May 2012, the Defense Logistics Agency instituted a moratorium on weapons transfers through the program after reports of missing equipment and inappropriate weapons transfers.

(8) Though the moratorium was widely publicized, it was lifted in October 2013 without adequate safeguards.

(9) As a result, Federal, State, and local law enforcement departments across the country are eligible again to acquire free “military-grade” weapons and equipment that could be used inappropriately during policing efforts in which citizens and taxpayers could be harmed.

(10) Pursuant to section III(J) of a Defense Logistics Agency memorandum of understanding,
property obtained through the program must be placed into use within one year of receipt, possibly providing an incentive for the unnecessary and potentially dangerous use of “military grade” equipment by local law enforcement.

(11) The Department of Defense categorizes equipment eligible for transfer under the 1033 program as “controlled” and “un-controlled” equipment. “Controlled equipment” includes weapons, explosives such as flash-bang grenades, mine resistant ambush protected vehicles, long range acoustic devices, aircraft capable of being modified to carry armament that are combat coded, and silencers, among other military grade items.

SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANSFER OF PERSONAL PROPERTY TO LOCAL LAW ENFORCEMENT AGENCIES.

(a) In General.—Section 2576a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking “counter-drug and”; and

(B) in paragraph (2), by striking “and the Director of National Drug Control Policy”;

(2) in subsection (b)—
(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

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

“(5) the recipient certifies to the Department of Defense that it has the personnel and technical capacity, including training, to operate the property;

“(6) the recipient submits to the Department of Defense a description of how the recipient expects to use the property;

“(7) the recipient certifies to the Department of Defense that if the recipient determines that the property is surplus to the needs of the recipient, the recipient will return the property to the Department of Defense; and

“(8) with respect to a recipient that is not a Federal agency, the recipient certifies to the Department of Defense that the recipient notified the local community of the request for personal property under this section by—

“(A) publishing a notice of such request on a publicly accessible Internet website;
“(B) posting such notice at several prominent locations in the jurisdiction of the recipient; and

“(C) ensuring that such notices were available to the local community for a period of not less than 30 days.”;

(3) by striking subsection (d); and

(4) by adding at the end the following new subsections:

“(d) Annual Certification Accounting for Transferred Property.—(1) For each fiscal year, the Secretary shall submit to Congress certification in writing that each Federal or State agency to which the Secretary has transferred property under this section—

“(A) has provided to the Secretary documentation accounting for all controlled personal property, including arms and ammunition, that the Secretary has transferred to the agency, including any item described in subsection (f) so transferred before the date of the enactment of the Stop Militarizing Law Enforcement Act; and

“(B) with respect to a non-Federal agency, carried out each of paragraphs (5) through (8) of subsection (b).
“(2) If the Secretary cannot provide a certification under paragraph (1) for a Federal or State agency, the Secretary may not transfer additional property to that agency under this section.

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

“(f) LIMITATIONS ON TRANSFERS.—(1) The Secretary may not transfer the following personal property of the Department of Defense under this section:

“(A) Controlled firearms, ammunition, grenades (including stun and flash-bang) and explosives.

“(B) Controlled vehicles, highly mobile multi-wheeled vehicles, mine-resistant ambush-protected vehicles, trucks, truck dump, truck utility, and truck carryall.

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

“(D) Controlled aircraft that—

“(i) are combat configured or combat coded; or
“(ii) have no established commercial flight application.

“(E) Silencers.

“(F) Long range acoustic devices.

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

“(2) The Secretary may not require, as a condition of a transfer under this section, that a Federal or State agency demonstrate the use of any small arms or ammunition.

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

“(4)(A) The Secretary may waive the applicability of paragraph (1) to a vehicle described in subparagraph (B) of such paragraph (other than a mine-resistant ambush-protected vehicle), if the Secretary determines that such a waiver is necessary for disaster or rescue purposes or for another purpose where life and public safety are at risk, as demonstrated by the proposed recipient of the vehicle.

“(B) If the Secretary issues a waiver under subparagraph (A), the Secretary shall—
“(i) submit to Congress notice of the waiver, and post such notice on a public Internet website of the Department, by not later than 30 days after the date on which the waiver is issued; and

“(ii) require, as a condition of the waiver, that the recipient of the vehicle for which the waiver is issued provides public notice of the waiver and the transfer, including the type of vehicle and the purpose for which it is transferred, in the jurisdiction where the recipient is located by not later than 30 days after the date on which the waiver is issued.

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

“(g) CONDITIONS FOR EXTENSION OF PROGRAM.—
(1) Notwithstanding any other provision of law, amounts authorized to be appropriated or otherwise made available for any fiscal year may not be obligated or expended to carry out this section unless the Secretary submits to Congress certification that for the preceding fiscal year that—

“(A) each Federal or State agency that has received covered property transferred under this section has—
“(i) demonstrated 100 percent accountability for all such property, in accordance with subparagraph (B) or (C), as applicable; or

“(ii) been suspended from the program pursuant to subparagraph (D);”

“(B) with respect to each non-Federal agency that has received covered property under this section, the State coordinator responsible for each such agency has verified that the coordinator or an agent of the coordinator has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended from the program pursuant to subparagraph (D);”

“(C) with respect to each Federal agency that has received covered property under this section, the Secretary of Defense or an agent of the Secretary has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended from the program pursuant to subparagraph (D);”

“(D) the eligibility of any agency that has received covered property under this section for which
100 percent of the property was not accounted for
during an inventory described in subparagraph (A)
or (B), as applicable, to receive any property trans-
ferred under this section has been suspended; and

"(E) each State coordinator has certified, for
each non-Federal agency located in the State for
which the State coordinator is responsible that—

"(i) the agency has complied with all re-
quirements under this section; or

"(ii) the eligibility of the agency to receive
property transferred under this section has been
suspended; and

"(F) the Secretary of Defense has certified, for
each Federal agency that has received property
under this section that—

"(i) the agency has complied with all re-
quirements under this section; or

"(ii) the eligibility of the agency to receive
property transferred under this section has been
suspended.

"(2) In this subsection, the term ‘covered property’
means property classified as controlled equipment.

"(h) PROHIBITION ON OWNERSHIP.—A Federal or
State agency that receives property classified as controlled
equipment under this section may never take ownership of the property.

“(i) WEBSITE.—The Defense Logistics Agency shall maintain an Internet website on which the following information shall be made publicly available:

“(1) A description of each transfer made under this section, including transfers made before and after the date of the enactment of the Stop Militarizing Law Enforcement Act, broken down by State, county, and recipient.

“(2) During the 30-day period preceding the date on which any property is transferred under this section, a description of the property to be transferred and the recipient of the transferred items.

“(3) Notice of any use of controlled equipment by the recipient of property transferred under this section as provided under subsection (l).

“(j) NOTICE TO CONGRESS OF PROPERTY DOWNGRADES.—Not later than 30 days before downgrading the classification of any item of personal property from controlled or Federal Supply Class, the Secretary shall submit to Congress notice of the proposed downgrade.

“(k) NOTICE TO CONGRESS OF PROPERTY CAN-NIBALIZATION.—Before the Defense Logistics Agency authorizes the recipient of property transferred under this
section to cannibalize the property, the Secretary shall submit to Congress notice of such authorization, including the name of the recipient requesting the authorization, the purpose of the proposed cannibalization, and the type of property proposed to be cannibalized.

“(l) Quarterly Reports on Use of Controlled Equipment.—Not later than 30 days after the last day of a fiscal quarter, the Secretary shall submit to Congress a report on any uses of controlled equipment transferred under this section during that fiscal quarter.

“(m) Reports to Congress.—Not later than 30 days after the last day of a fiscal year, the Secretary shall submit to Congress a report on the following for the preceding fiscal year:

“(1) The percentage of equipment lost by recipients of property transferred under this section, including specific information about the type of property lost, the monetary value of such property, and the recipient that lost the property.

“(2) The transfer of any new (condition code A) property transferred under this section, including specific information about the type of property, the recipient of the property, the monetary value of each item of the property, and the total monetary value
1 of all such property transferred during the fiscal
2 year.”.
3
4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply with respect to any transfer of
6 property made after the date of the enactment of this Act.