

**AMENDMENT TO H.R. 1401, AS REPORTED
OFFERED BY MR. TRAFICANT OF OHIO**

At the end of subtitle C of title X (page 283, after line 6), insert the following new section:

1 **SEC. 1024. ASSIGNMENT OF MEMBERS TO ASSIST IMMIGRA-**
2 **TION AND NATURALIZATION SERVICE AND**
3 **CUSTOMS SERVICE.**

4 (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-
5 FENSE.—Chapter 18 of title 10, United States Code, is
6 amended by inserting after section 374 the following new
7 section:

8 **“§ 374a. Assignment of members to assist border pa-**
9 **trol and control**

10 “(a) ASSIGNMENT AUTHORIZED.—Upon submission
11 of a request consistent with subsection (b), the Secretary
12 of Defense may assign members of the Army, Navy, Air
13 Force, and Marine Corps to assist—

14 “(1) the Immigration and Naturalization Serv-
15 ice in preventing the entry of terrorists and drug
16 traffickers into the United States; and

17 “(2) the United States Customs Service in the
18 inspection of cargo, vehicles, and aircraft at points
19 of entry into the United States to prevent the entry
20 of weapons of mass destruction, components of

1 weapons of mass destruction, prohibited narcotics or
2 drugs, or other terrorist or drug trafficking items.

3 “(b) REQUEST FOR ASSIGNMENT.—The assignment
4 of members under subsection (a) may occur only if—

5 “(1) the assignment is at the request of the At-
6 torney General, in the case of an assignment to the
7 Immigration and Naturalization Service, or the Sec-
8 retary of the Treasury, in the case of an assignment
9 to the United States Customs Service; and

10 “(2) the request of the Attorney General or the
11 Secretary of the Treasury (as the case may be) is
12 accompanied by a certification by the President that
13 the assignment of members pursuant to the request
14 is necessary to respond to a threat to national secu-
15 rity posed by the entry into the United States of ter-
16 rorists or drug traffickers.

17 “(c) TRAINING PROGRAM.—If the assignment of
18 members is requested under subsection (b), the Attorney
19 General or the Secretary of the Treasury (as the case may
20 be), together with the Secretary of Defense, shall establish
21 a training program to ensure that members to be assigned
22 receive general instruction regarding issues affecting law
23 enforcement in the border areas in which the members will
24 perform duties under the assignment. A member may not
25 be deployed at a border location pursuant to an assign-

1 ment under subsection (a) until the member has success-
2 fully completed the training program.

3 “(d) CONDITIONS ON USE.—(1) Whenever a member
4 who is assigned under subsection (a) to assist the Immi-
5 gration and Naturalization Service or the United States
6 Customs Service is performing duties at a border location
7 pursuant to the assignment, a civilian law enforcement of-
8 ficer from the agency concerned shall accompany the
9 member.

10 “(2) Nothing in this section shall be construed to—

11 “(A) authorize a member assigned under sub-
12 section (a) to conduct a search, seizure, or other
13 similar law enforcement activity or to make an ar-
14 rest; and

15 “(B) supersede section 1385 of title 18 (popu-
16 larly known as the ‘Posse Comitatus Act’).

17 “(e) NOTIFICATION REQUIREMENTS.—The Attorney
18 General or the Secretary of the Treasury (as the case may
19 be) shall notify the Governor of the State in which mem-
20 bers are to be deployed pursuant to an assignment under
21 subsection (a), and local governments in the deployment
22 area, of the deployment of the members to assist the Im-
23 migration and Naturalization Service or the United States
24 Customs Service (as the case may be) and the types of
25 tasks to be performed by the members.

1 “(f) REIMBURSEMENT REQUIREMENT.—Section 377
2 of this title shall apply in the case of members assigned
3 under subsection (a).

4 “(g) TERMINATION OF AUTHORITY.—No assignment
5 may be made or continued under subsection (a) after Sep-
6 tember 30, 2002.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of such chapter is amended by inserting
9 after the item relating to section 374 the following new
10 item:

“374a. Assignment of members to assist border patrol and control.”.