



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

AUG 11 2011

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Chairman Levin:

I support the enclosed legislative proposal which was jointly developed by the Departments of Defense and Homeland Security and the Council of Governors. The Co-Chairmen of the Council, Governor Chris Gregoire (Washington) and Governor Terry Branstad (Iowa), formally transmitted the proposal to your Committee. I urge you to include it in the National Defense Authorization Act for Fiscal Year 2012.

If passed, this legislative proposal would provide me with the critically needed access to the thousands of Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve personnel living in thousands of communities across the Nation to assist the Federal Emergency Management Agency, the Governors, and the National Guard in responding to domestic disasters.

Sincerely,

A handwritten signature in black ink, appearing to be "John McCain", written over a horizontal line.

Enclosure:  
As stated

cc:  
The Honorable John McCain  
Ranking Member



**SEC. \_\_\_\_ . AUTHORITY TO ORDER ARMY RESERVE, NAVY RESERVE, MARINE  
CORPS RESERVE, AND AIR FORCE RESERVE TO ACTIVE DUTY TO  
PROVIDE ASSISTANCE IN RESPONSE TO A MAJOR DISASTER OR  
EMERGENCY.**

1 (a) AUTHORITY.—

2 (1) IN GENERAL.—Chapter 1209 of title 10, United States Code, is amended by  
3 inserting after section 12304 the following new section:

4 **“§ 12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve:**  
5 **order to active duty to provide assistance in response to a major disaster or**  
6 **emergency**

7 “(a) AUTHORITY.—Notwithstanding any other provision of law, when a governor  
8 requests Federal assistance in responding to a major disaster or emergency (as those terms are  
9 defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
10 (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected,  
11 order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army  
12 Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a  
13 continuous period of not more than 120 days to respond to the governor’s request.

14 “(b) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active  
15 duty under this section shall not be counted in computing authorized strength of members on  
16 active duty or members in grade under this title or any other law.

17 “(c) TERMINATION OF DUTY.—Whenever any unit or member of the Reserves is  
18 ordered to active duty under this section, the service of all units or members so ordered to active  
19 duty may be terminated by order of the Secretary of Defense or law.”

20 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such  
21 chapter is amended by inserting after the item relating to section 12304 the following new  
22 item:

“12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve: order to  
active duty to provide assistance in response to a major disaster or emergency.”.

23 (b) TREATMENT OF OPERATIONS AS CONTINGENCY OPERATIONS.—Section  
24 101(a)(13)(B) of such title is amended by inserting “12304a,” after “12304,”.

25 (c) USUAL AND CUSTOMARY ARRANGEMENT.

26 (1) When the armed forces and the National Guard are employed simultaneously  
27 in support of civil authorities in the United States, appointment of a commissioned officer  
28 as a dual-status commander serving on active duty and duty in, or with, the National  
29 Guard of a State under sections 315 or 325 of title 32, U.S. Code, as commander of  
30 Federal forces by Federal authorities and as commander of State National Guard forces  
31 by State authorities, should be the usual and customary command and control  
32 arrangement, including for missions involving a major disaster or emergency as those  
33 terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency  
34 Assistance Act (42 U.S.C. § 5122 of title 42, United States Code). The chain of  
35 command for the armed forces shall remain in accordance with sections 162(b) and  
36 164(c) of this title; and

37  
38 (2) When a major disaster or emergency occurs in any area subject to the laws of  
39 any State, Territory, or the District of Columbia, the Governor of the State affected  
40 normally should be the principal civil authority supported by the primary Federal agency  
41 and its supporting Federal entities, and the Adjutant General of the State or his or her

42 subordinate designee normally should be the principal military authority supported by the  
43 dual-status commander when acting in his or her State capacity.”

44 (d) Nothing in subsection (c) shall be construed to preclude or limit, in any way, the  
45 authorities of President, the Secretary of Defense, or the Governors to direct, control, and  
46 prescribe command and control arrangements for forces under their command.