

**AMENDMENT TO H.R. 4350**  
**OFFERED BY MS. ESCOBAR OF TEXAS**

At the appropriate place in title X, insert the following:

1 **SEC. 10 \_\_\_\_ . LIMITATION ON DEPARTMENT OF DEFENSE**  
2 **TRANSFER OF PERSONAL PROPERTY TO**  
3 **LOCAL LAW ENFORCEMENT AGENCIES.**

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

6 (1) in subsection (a)—

7 (A) in paragraph (1)(A), by striking  
8 “counterdrug, counterterrorism, disaster-related  
9 emergency preparedness, and border security  
10 activities” and inserting “counterterrorism”;  
11 and

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

14 (2) in subsection (b)—

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

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

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

3 “(7) the recipient submits to the Department of  
4 Defense a description of how the recipient expects to  
5 use the property;

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

11 “(9) with respect to a recipient that is not a  
12 Federal agency, the recipient certifies to the Depart-  
13 ment of Defense that the recipient notified the local  
14 community of the request for personal property  
15 under this section by—

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

18 “(B) posting such notice at several promi-  
19 nent locations in the jurisdiction of the recipi-  
20 ent; and

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

24 “(10) the recipient has received the approval of  
25 the city council or other local governing body to ac-

1       quire the personal property sought under this sec-  
2       tion.”;

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

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

6             (5) by inserting after subsection (c) the fol-  
7       lowing new subsections:

8       “(d) ANNUAL CERTIFICATION ACCOUNTING FOR  
9       TRANSFERRED PROPERTY.—(1) For each fiscal year, the  
10      Secretary shall submit to Congress certification in writing  
11      that each Federal or State agency to which the Secretary  
12      has transferred property under this section—

13             “(A) has provided to the Secretary documenta-  
14      tion accounting for all controlled property, including  
15      arms and ammunition, that the Secretary has trans-  
16      ferred to the agency, including any item described in  
17      subsection (f) so transferred before the date of the  
18      enactment of the Stop Militarizing Law Enforce-  
19      ment Act; and

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

23       “(2) If the Secretary cannot provide a certification  
24      under paragraph (1) for a Federal or State agency, the

1 Secretary may not transfer additional property to that  
2 agency under this section.

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

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

12 “(A) Controlled firearms, ammunition, bayo-  
13 nets, grenade launchers, grenades (including stun  
14 and flash-bang) and explosives.

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

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

21 “(D) Controlled aircraft that—

22 “(i) are combat configured or combat  
23 coded; or

24 “(ii) have no established commercial flight  
25 application.

1 “(E) Silencers.

2 “(F) Long-range acoustic devices.

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

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

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

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

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

23 “(i) submit to Congress notice of the waiver,  
24 and post such notice on a public Internet website of

1 the Department, by not later than 30 days after the  
2 date on which the waiver is issued; and

3 “(ii) require, as a condition of the waiver, that  
4 the recipient of the vehicle for which the waiver is  
5 issued provides public notice of the waiver and the  
6 transfer, including the type of vehicle and the pur-  
7 pose for which it is transferred, in the jurisdiction  
8 where the recipient is located by not later than 30  
9 days after the date on which the waiver is issued.

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

15 “(6) The Secretary shall require, as a condition of  
16 any transfer of property under this section, that the Fed-  
17 eral or State agency that receives the property shall return  
18 the property to the Secretary if the agency—

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

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

23 “(g) **CONDITIONS FOR EXTENSION OF PROGRAM.—**  
24 Notwithstanding any other provision of law, amounts au-  
25 thorized to be appropriated or otherwise made available

1 for any fiscal year may not be obligated or expended to  
2 carry out this section unless the Secretary submits to Con-  
3 gress certification that for the preceding fiscal year that—

4 “(1) each Federal or State agency that has re-  
5 ceived controlled property transferred under this sec-  
6 tion has—

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

10 “(B) been suspended from the program  
11 pursuant to paragraph (4);

12 “(2) with respect to each non-Federal agency  
13 that has received controlled property under this sec-  
14 tion, the State coordinator responsible for each such  
15 agency has verified that the coordinator or an agent  
16 of the coordinator has conducted an in-person inven-  
17 tory of the property transferred to the agency and  
18 that 100 percent of such property was accounted for  
19 during the inventory or that the agency has been  
20 suspended from the program pursuant to paragraph  
21 (4);

22 “(3) with respect to each Federal agency that  
23 has received controlled property under this section,  
24 the Secretary of Defense or an agent of the Sec-  
25 retary has conducted an in-person inventory of the

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

5 “(4) the eligibility of any agency that has re-  
6 ceived controlled property under this section for  
7 which 100 percent of the property was not ac-  
8 counted for during an inventory described in para-  
9 graph (1) or (2), as applicable, to receive any prop-  
10 erty transferred under this section has been sus-  
11 pended; and

12 “(5) each State coordinator has certified, for  
13 each non-Federal agency located in the State for  
14 which the State coordinator is responsible that—

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

17 “(B) the eligibility of the agency to receive  
18 property transferred under this section has been  
19 suspended; and

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

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



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

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

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

13          “(j) NOTICE TO CONGRESS OF PROPERTY CANNIBAL-  
14   IZATION.—Before the Defense Logistics Agency author-  
15   izes the recipient of property transferred under this sec-  
16   tion to cannibalize the property, the Secretary shall submit  
17   to Congress notice of such authorization, including the  
18   name of the recipient requesting the authorization, the  
19   purpose of the proposed cannibalization, and the type of  
20   property proposed to be cannibalized.

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

1 “(1) REPORTS TO CONGRESS.—Not later than 30  
2 days after the last day of a fiscal year, the Secretary shall  
3 submit to Congress a report on the following for the pre-  
4 ceding fiscal year:

5 “(1) The percentage of equipment lost by re-  
6 cipients of property transferred under this section,  
7 including specific information about the type of  
8 property lost, the monetary value of such property,  
9 and the recipient that lost the property.

10 “(2) The transfer of any new (condition code  
11 A) property transferred under this section, including  
12 specific information about the type of property, the  
13 recipient of the property, the monetary value of each  
14 item of the property, and the total monetary value  
15 of all such property transferred during the fiscal  
16 year.”.

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

