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114TH CONGRESS
2^D SESSION

S. 2971

[Report No. 114-307]

To authorize the National Urban Search and Rescue Response System.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2016

Mr. PORTMAN (for himself, Mr. JOHNSON, Mr. CARPER, Mr. BOOKER, Mr. MCCAIN, Mrs. FEINSTEIN, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

AUGUST 30, 2016

Reported under authority of the order of the Senate of July 14, 2016, by Mr. JOHNSON, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To authorize the National Urban Search and Rescue Response System.

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 “National Urban Search
5 and Rescue Response System Act of 2016”.

1 **SEC. 2. NATIONAL URBAN SEARCH AND RESCUE RESPONSE**
2 **SYSTEM.**

3 (a) IN GENERAL.—Title III of the Robert T. Stafford
4 Disaster Relief and Emergency Assistance Act (42 U.S.C.
5 5141 et seq.) is amended by adding at the end the fol-
6 lowing:

7 **“SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RE-**
8 **SPONSE SYSTEM.**

9 “(a) DEFINITIONS.—In this section, the following
10 definitions shall apply:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-
12 trator’ means the Administrator of the Federal
13 Emergency Management Agency.

14 “(2) AGENCY.—The term ‘Agency’ means the
15 Federal Emergency Management Agency.

16 “(3) HAZARD.—The term ‘hazard’ has the
17 meaning given the term in section 602.

18 “(4) NONEMPLOYEE SYSTEM MEMBER.—The
19 term ‘nonemployee System member’ means a System
20 member not employed by a sponsoring agency or
21 participating agency.

22 “(5) PARTICIPATING AGENCY.—The term ‘par-
23 ticipating agency’ means a State or local govern-
24 ment, nonprofit organization, or private organization
25 that has executed an agreement with a sponsoring
26 agency to participate in the System.

1 “(6) SPONSORING AGENCY.—The term ‘spon-
2 soring agency’ means a State or local government
3 that is the sponsor of a task force designated by the
4 Administrator to participate in the System.

5 “(7) SYSTEM.—The term ‘System’ means the
6 National Urban Search and Rescue Response Sys-
7 tem to be administered under this section.

8 “(8) SYSTEM MEMBER.—The term ‘System
9 member’ means an individual who is not a full-time
10 employee of the Federal Government and who serves
11 on a task force or on a System management or other
12 technical team.

13 “(9) TASK FORCE.—The term ‘task force’
14 means an urban search and rescue team designated
15 by the Administrator to participate in the System.

16 “(b) GENERAL AUTHORITY.—Subject to the require-
17 ments of this section, the Administrator shall continue to
18 administer the emergency response system known as the
19 National Urban Search and Rescue Response System.

20 “(c) FUNCTIONS.—In administering the System, the
21 Administrator shall provide for a national network of
22 standardized search and rescue resources to assist States
23 and local governments in responding to hazards.

24 “(d) TASK FORCES.—

1 “(1) DESIGNATION.—The Administrator shall
2 designate task forces to participate in the System.
3 The Administration shall determine the criteria for
4 such participation.

5 “(2) SPONSORING AGENCIES.—Each task force
6 shall have a sponsoring agency. The Administrator
7 shall enter into an agreement with the sponsoring
8 agency with respect to the participation of each task
9 force in the System.

10 “(3) COMPOSITION.—

11 “(A) PARTICIPATING AGENCIES.—A task
12 force may include, at the discretion of the spon-
13 soring agency, 1 or more participating agencies.
14 The sponsoring agency shall enter into an
15 agreement with each participating agency with
16 respect to the participation of the participating
17 agency on the task force.

18 “(B) OTHER INDIVIDUALS.—A task force
19 may also include, at the discretion of the spon-
20 soring agency, other individuals not otherwise
21 associated with the sponsoring agency or a par-
22 ticipating agency. The sponsoring agency of a
23 task force may enter into a separate agreement
24 with each such individual with respect to the
25 participation of the individual on the task force.

1 “(e) MANAGEMENT AND TECHNICAL TEAMS.—The
2 Administrator shall maintain such management teams and
3 other technical teams as the Administrator determines are
4 necessary to administer the System.

5 “(f) APPOINTMENT OF SYSTEM MEMBERS INTO
6 FEDERAL SERVICE.—

7 “(1) IN GENERAL.—The Administrator may ap-
8 point a System member into Federal service for a
9 period of service to provide for the participation of
10 the System member in exercises, preincident staging,
11 major disaster and emergency response activities,
12 and training events sponsored or sanctioned by the
13 Administrator.

14 “(2) NONAPPLICABILITY OF CERTAIN CIVIL
15 SERVICE LAWS.—The Administrator may make ap-
16 pointments under paragraph (1) without regard to
17 the provisions of title 5, United States Code, gov-
18 erning appointments in the competitive service.

19 “(3) RELATIONSHIP TO OTHER AUTHORI-
20 TIES.—The authority of the Administrator to make
21 appointments under this subsection shall not affect
22 any other authority of the Administrator under this
23 Act.

24 “(4) LIMITATION.—A System member who is
25 appointed into Federal service under paragraph (1)

1 shall not be considered an employee of the United
2 States for purposes other than those specifically set
3 forth in this section.

4 “(g) COMPENSATION.—

5 “(1) PAY OF SYSTEM MEMBERS.—Subject to
6 such terms and conditions as the Administrator may
7 impose by regulation, the Administrator shall make
8 payments to the sponsoring agency of a task force—

9 “(A) to reimburse each employer of a Sys-
10 tem member on the task force for compensation
11 paid by the employer to the System member for
12 any period during which the System member is
13 appointed into Federal service under subsection
14 (f)(1); and

15 “(B) to make payments directly to a non-
16 employee System member on the task force for
17 any period during which the nonemployee Sys-
18 tem member is appointed into Federal service
19 under subsection (f)(1).

20 “(2) REIMBURSEMENT FOR EMPLOYEES FILL-
21 ING POSITIONS OF SYSTEM MEMBERS.—

22 “(A) IN GENERAL.—Subject to such terms
23 and conditions as the Administrator may im-
24 pose by regulation, the Administrator shall
25 make payments to the sponsoring agency of a

1 task force to be used to reimburse each em-
2 ployer of a System member on the task force
3 for compensation paid by the employer to an
4 employee filling a position normally filled by the
5 System member for any period during which
6 the System member is appointed into Federal
7 service under subsection (f)(1).

8 “(B) LIMITATION.—Costs incurred by an
9 employer shall be eligible for reimbursement
10 under subparagraph (A) only to the extent that
11 the costs are in excess of the costs that would
12 have been incurred by the employer had the
13 System member not been appointed into Fed-
14 eral service under subsection (f)(1).

15 “(3) METHOD OF PAYMENT.—A System mem-
16 ber shall not be entitled to pay directly from the
17 Agency for a period during which the System mem-
18 ber is appointed into Federal Service under sub-
19 section (f)(1).

20 “(h) PERSONAL INJURY, ILLNESS, DISABILITY, OR
21 DEATH.—

22 “(1) IN GENERAL.—A System member who is
23 appointed into Federal service under subsection
24 (f)(1) and who suffers personal injury, illness, dis-
25 ability, or death as a result of a personal injury sus-

1 tained while acting in the scope of such appoint-
2 ment, shall, for the purposes of subchapter I of
3 chapter 81 of title 5, United States Code, be treated
4 as though the member were an employee (as defined
5 by section 8101 of that title) who had sustained the
6 injury in the performance of duty.

7 “(2) ELECTION OF BENEFITS.—

8 “(A) IN GENERAL.—A System member
9 (or, in the case of the death of the System
10 member, the System member’s dependent) who
11 is entitled under paragraph (1) to receive bene-
12 fits under subchapter I of chapter 81 of title 5,
13 United States Code, by reason of personal in-
14 jury, illness, disability, or death, and to receive
15 benefits from a State or local government by
16 reason of the same personal injury, illness, dis-
17 ability or death shall elect to—

18 “(i) receive benefits under such sub-
19 chapter; or

20 “(ii) receive benefits from the State or
21 local government.

22 “(B) DEADLINE.—A System member or
23 dependent shall make an election of benefits
24 under subparagraph (A) not later than 1 year
25 after the date of the personal injury, illness,

1 disability, or death that is the reason for the
2 benefits, or until such later date as the Sec-
3 retary of Labor may allow for reasonable cause
4 shown.

5 “(C) EFFECT OF ELECTION.—An election
6 of benefits made under this paragraph is irrev-
7 ocable unless otherwise provided by law.

8 “(3) REIMBURSEMENT FOR STATE OR LOCAL
9 BENEFITS.—Subject to such terms and conditions as
10 the Administrator may impose by regulation, if a
11 System member or dependent elects to receive bene-
12 fits from a State or local government under para-
13 graph (2)(A), the Administrator shall reimburse the
14 State or local government for the value of the bene-
15 fits.

16 “(4) PUBLIC SAFETY OFFICER CLAIMS.—Noth-
17 ing in this subsection shall be construed to bar any
18 claim by, or with respect to, any System member
19 who is a public safety officer, as defined in section
20 1204 of title I of the Omnibus Crime Control and
21 Safe Streets Act of 1968 (42 U.S.C. ~~3769b~~ 3796b),
22 for any benefits authorized under part L of title I
23 of that Act (42 U.S.C. 3796 et seq.).

24 “(i) LIABILITY.—A System member appointed into
25 Federal service under subsection (f)(1), while acting with-

1 in the scope of the appointment, shall be considered to
2 be an employee of the Federal Government under section
3 1346(b) of title 28, United States Code, and chapter 171
4 of that title, relating to tort claims procedure.

5 “(j) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—
6 With respect to a System member who is not a regular
7 full-time employee of a sponsoring agency or participating
8 agency, the following terms and conditions apply:

9 “(1) SERVICE.—Service as a System member
10 shall be considered to be ‘service in the uniformed
11 services’ for purposes of chapter 43 of title 38,
12 United States Code, relating to employment and re-
13 employment rights of individuals who have per-
14 formed service in the uniformed services (regardless
15 of whether the individual receives compensation for
16 such participation). All rights and obligations of
17 such persons and procedures for assistance, enforce-
18 ment, and investigation shall be as provided for in
19 such chapter.

20 “(2) PRECLUSION.—Preclusion of giving notice
21 of service by necessity of appointment under this
22 section shall be considered to be preclusion by ‘mili-
23 tary necessity’ for purposes of section 4312(b) of
24 title 38, United States Code, pertaining to giving no-
25 tice of absence from a position of employment. A de-

1 termination of such necessity shall be made by the
2 Administrator and shall not be subject to judicial re-
3 view.

4 “(k) LICENSES AND PERMITS.—If a System member
5 holds a valid license, certificate, or other permit issued by
6 any State or other governmental jurisdiction evidencing
7 the member’s qualifications in any professional, mechan-
8 ical, or other skill or type of assistance required by the
9 System, the System member is deemed to be performing
10 a Federal activity when rendering aid involving such skill
11 or assistance during a period of appointment into Federal
12 service under subsection (f)(1).

13 “(l) PREPAREDNESS COOPERATIVE AGREEMENTS.—
14 Subject to the availability of appropriations for such pur-
15 pose, the Administrator shall enter into an annual pre-
16 paredness cooperative agreement with each sponsoring
17 agency. Amounts made available to a sponsoring agency
18 under such a preparedness cooperative agreement shall be
19 for the following purposes:

20 “(1) Training and exercises, including training
21 and exercises with other Federal, State, and local
22 government response entities.

23 “(2) Acquisition and maintenance of equipment,
24 including interoperable communications and personal
25 protective equipment.

1 “(3) Medical monitoring required for responder
2 safety and health in anticipation of and following a
3 major disaster, emergency, or other hazard, as de-
4 termined by the Administrator.

5 “(m) RESPONSE COOPERATIVE AGREEMENTS.—The
6 Administrator shall enter into a response cooperative
7 agreement with each sponsoring agency, as appropriate,
8 under which the Administrator agrees to reimburse the
9 sponsoring agency for costs incurred by the sponsoring
10 agency in responding to a major disaster or emergency.

11 “(n) OBLIGATIONS.—The Administrator may incur
12 all necessary obligations consistent with this section in
13 order to ensure the effectiveness of the System.

14 “(o) EQUIPMENT MAINTENANCE AND REPLACE-
15 MENT.—Not later than 180 days after the date of enact-
16 ment of this section, the Administrator shall submit to the
17 appropriate congressional committees (as defined in sec-
18 tion 2 of the Homeland Security Act of 2002 (6 U.S.C.
19 101)) a report on the development of a plan, including
20 implementation steps and timeframes, to finance, main-
21 tain, and replace System equipment.

22 “(p) AUTHORIZATION OF APPROPRIATIONS.—There
23 is authorized to be appropriated to carry out the System
24 and the provisions of this section such sums as are nec-
25 essary for each of fiscal years 2017, 2018, and 2019.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) APPLICABILITY OF TITLE 5, UNITED
3 STATES CODE.—Section 8101(1) of title 5, United
4 States Code, is amended—

5 (A) in subparagraph (D), by striking
6 “and” at the end;

7 (B) by transferring subparagraph (F) to
8 between subparagraph (E) and the matter fol-
9 lowing subparagraph (E);

10 (C) in subparagraph (F)—

11 (i) by striking “United States Code,”;

12 and

13 (ii) by adding “and” at the end; and

14 (D) by inserting after subparagraph (F)
15 the following:

16 “(G) an individual who is a System mem-
17 ber of the National Urban Search and Rescue
18 Response System during a period of appoint-
19 ment into Federal service pursuant to section
20 327 of the Robert T. Stafford Disaster Relief
21 and Emergency Assistance Act;”.

22 (2) INCLUSION AS PART OF UNIFORMED SERV-
23 ICES FOR PURPOSES OF USERRA.—Section 4303 of
24 title 38, United States Code, is amended—

1 (A) in paragraph (13), by inserting “, a
2 period for which a System member of the Na-
3 tional Urban Search and Rescue Response Sys-
4 tem is absent from a position of employment
5 due to an appointment into Federal service
6 under section 327 of the Robert T. Stafford
7 Disaster Relief and Emergency Assistance Act”
8 before “, and a period”; and

9 (B) in paragraph (16), by inserting “Sys-
10 tem members of the National Urban Search
11 and Rescue Response System during a period of
12 appointment into Federal service under section
13 327 of the Robert T. Stafford Disaster Relief
14 and Emergency Assistance Act,” after “Public
15 Health Service,”.

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