

TO AMEND SECTION 327 OF THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT TO CLARIFY THAT NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM TASK FORCES MAY INCLUDE FEDERAL EMPLOYEES

APRIL 2, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 639]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 639) to amend section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that National Urban Search and Rescue Response System task forces may include Federal employees, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

The purpose of H.R. 639 is to amend section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that National Urban Search and Rescue Response System task forces may include federal employees.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 639 is a technical correction which would amend section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to explicitly clarify that federal employees are able to participate in the National Urban Search and Rescue (USAR) Response System task forces coordinated by the Federal Emergency Management Agency (FEMA).

The FEMA has developed the National USAR Response System over the last several decades to act as a force multiplier for disaster rescue missions. The System is comprised of 28 task force teams from across the country and comprised of highly skilled volunteers who are constantly training for a variety of hazard scenarios, both man-made and natural, and task force teams have proven their effectiveness time and again.

Following enactment of the National Urban Search and Rescue Response System Act (P.L. 114–326), certain federal agencies that employ members of some of these task forces have been misinterpreting language which granted liability protections for non-federal task force members equal to federal first responders—only when their task force was called into federal service—resulting in an impediment to those federal employees serving on a task force.

HEARINGS

No hearings were held on H.R. 639 in the 116th Congress.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 639 was introduced in the House on January 17, 2019, by Mrs. Hartzler and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 639 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 639 on February 27, 2019.

The Committee met on February 27, 2019, to consider H.R. 639, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 639. A

motion to order H.R. 639 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 639 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 2019.

Hon. PETER A. DEFAZIO,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 639, a bill to amend section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that National Urban Search and Rescue Response System task forces may include Federal employees.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 639, a bill to amend section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that National Urban Search and Rescue Response System task forces may include Federal employees				
As ordered reported by the House Committee on Transportation and Infrastructure on February 27, 2019				
Millions of Dollars	Direct Spending	Revenues	Net Deficit Effect	Spending Subject to Appropriation
2019	0	0	0	0
2019-2024	0	0	0	*
2019-2029	0	0	0	n.a.
Pay-as-you-go procedures apply?	No	Mandate Effects		
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No	
		Contains private-sector mandate?	No	
n.a. = not applicable; * = between zero and -\$500,000.				

H.R. 639 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that federal employees may serve on task forces under the National Urban Search and Rescue Response System. That system consists of about 5,700 personnel—mostly state and local government employees—who serve on 28 task forces across the country and which are coordinated by the Federal Emergency Management Agency (FEMA). There are currently 60 federal employees serving on task forces.

Using information from FEMA, CBO estimates that implementing the bill would increase the number of federal employees serving on task forces and also would enhance the retention of those employees. Under current law, FEMA reimburses state and local governments, as well as federal employees serving on task forces, for the costs of activating members for federal service. Because the bill would not increase the total number of personnel serving on task forces who are compensated by the federal government—only the mix of federal and nonfederal employees—CBO estimates that the legislation would not increase federal spending on task forces. Federal agencies could incur costs to cover the regular activities of their employees while they are deployed on task forces, but CBO estimates that those costs would not be significant.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to clarify that National Urban Search and Rescue Response System task forces may include federal employees.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R.

639 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 639 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1. Federal Employees and National Urban Search and Rescue Response System Task Forces

This section amends Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that nothing in Section 327 shall be construed to mean that a task force may not include federal employees and that in the case of a federal employee detailed to a National Urban Search and Rescue Response System task force, the sponsoring agency shall enter into an agreement with the relevant employing federal agency.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (new matter is printed in italic and existing law in which no is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**ROBERT T. STAFFORD DISASTER RELIEF AND
EMERGENCY ASSISTANCE ACT**

* * * * *

**TITLE III—MAJOR DISASTER AND
EMERGENCY ASSISTANCE ADMINIS-
TRATION**

* * * * *

SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.

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

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) AGENCY.—The term “Agency” means the Federal Emergency Management Agency.

(3) HAZARD.—The term “hazard” has the meaning given the term in section 602.

(4) NONEMPLOYEE SYSTEM MEMBER.—The term “nonemployee System member” means a System member not employed by a sponsoring agency or participating agency.

(5) PARTICIPATING AGENCY.—The term “participating agency” means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

(6) SPONSORING AGENCY.—The term “sponsoring agency” means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

(7) SYSTEM.—The term “System” means the National Urban Search and Rescue Response System to be administered under this section.

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

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

(b) GENERAL AUTHORITY.—Subject to the requirements of this section, the Administrator shall continue to administer the emer-

gency response system known as the National Urban Search and Rescue Response System.

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

(d) TASK FORCES.—

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

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

(3) COMPOSITION.—

(A) PARTICIPATING AGENCIES.—A task force may include, at the discretion of the sponsoring agency, one or more participating agencies. The sponsoring agency shall enter into an agreement with each participating agency with respect to the participation of the participating agency on the task force.

(B) OTHER INDIVIDUALS.—A task force may also include, at the discretion of the sponsoring agency, other individuals not otherwise associated with the sponsoring agency or a participating agency. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

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

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

(1) IN GENERAL.—The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

(2) NONAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) RELATIONSHIP TO OTHER AUTHORITIES.—The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this Act.

(4) LIMITATION.—A System member who is appointed into Federal service under paragraph (1) shall not be considered an employee of the United States for purposes other than those specifically set forth in this section.

(g) COMPENSATION.—

(1) PAY OF SYSTEM MEMBERS.—Subject to such terms and conditions as the Administrator may impose by regulation, the

Administrator shall make payments to the sponsoring agency of a task force—

(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

(B) to make payments directly to a nonemployee System member on the task force for any period during which the nonemployee System member is appointed into Federal service under subsection (f)(1).

(2) REIMBURSEMENT FOR EMPLOYEES FILLING POSITIONS OF SYSTEM MEMBERS.—

(A) IN GENERAL.—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to be used to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

(B) LIMITATION.—Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

(3) METHOD OF PAYMENT.—A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal Service under subsection (f)(1).

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

(1) IN GENERAL.—A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment, shall, for the purposes of subchapter I of chapter 81 of title 5, United States Code, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.

(2) ELECTION OF BENEFITS.—

(A) IN GENERAL.—A System member (or, in the case of the death of the System member, the System member's dependent) who is entitled under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5, United States Code, by reason of personal injury, illness, disability, or death, and to receive benefits from a State or local government by reason of the same personal injury, illness, disability or death shall elect to—

- (i) receive benefits under such subchapter; or
- (ii) receive benefits from the State or local government.

(B) DEADLINE.—A System member or dependent shall make an election of benefits under subparagraph (A) not

later than 1 year after the date of the personal injury, illness, disability, or death that is the reason for the benefits, or until such later date as the Secretary of Labor may allow for reasonable cause shown.

(C) EFFECT OF ELECTION.—An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

(3) REIMBURSEMENT FOR STATE OR LOCAL BENEFITS.—Subject to such terms and conditions as the Administrator may impose by regulation, if a System member or dependent elects to receive benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of the benefits.

(4) PUBLIC SAFETY OFFICER CLAIMS.—Nothing in this subsection shall be construed to bar any claim by, or with respect to, any System member who is a public safety officer, as defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), for any benefits authorized under part L of title I of that Act (42 U.S.C. 3796 et seq.).

(i) LIABILITY.—A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, shall be considered to be an employee of the Federal Government under section 1346(b) of title 28, United States Code, and chapter 171 of that title, relating to tort claims procedure.

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

(1) SERVICE.—Service as a System member shall be considered to be “service in the uniformed services” for purposes of chapter 43 of title 38, United States Code, relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

(2) PRECLUSION.—Preclusion of giving notice of service by necessity of appointment under this section shall be considered to be preclusion by “military necessity” for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

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

(l) PREPAREDNESS COOPERATIVE AGREEMENTS.—Subject to the availability of appropriations for such purpose, the Administrator

shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

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

(2) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

(3) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

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

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

(o) EQUIPMENT MAINTENANCE AND REPLACEMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report on the development of a plan, including implementation steps and timeframes, to finance, maintain, and replace System equipment.

(p) FEDERAL EMPLOYEES.—*Nothing in this section shall be construed to mean that a task force may not include Federal employees. In the case of a Federal employee detailed to a task force, the sponsoring agency shall enter into an agreement with the relevant employing Federal agency.*

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