

**Calendar No. 578**

114TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
114-307

NATIONAL URBAN SEARCH AND RESCUE  
RESPONSE SYSTEM ACT OF 2016

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 2971

TO AUTHORIZE THE NATIONAL URBAN SEARCH AND RESCUE  
RESPONSE SYSTEM



AUGUST 30, 2016.—Ordered to be printed  
Filed, under authority of the order of the Senate of July 14, 2016

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U.S. GOVERNMENT PUBLISHING OFFICE

59-010

WASHINGTON : 2016

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Mr. JOHNSON, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

**R E P O R T**

[To accompany S. 2971]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2971) to authorize the National Urban Search and Rescue Response System, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

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**I. PURPOSE AND SUMMARY**

The purpose of S. 2971, the National Urban Search and Rescue Response System Act of 2016, is to improve the National Urban Search and Rescue Response System (US&R System or System). This would be achieved through codifying the System’s operational requirements and codifying workers’ compensation and liability protections for its members while they are deployed. The legislation would also extend reemployment rights to System members and require the Administrator of the Federal Emergency Management Agency (FEMA) to assess and deliver a report to Congress on the

life-cycle replacement schedule and costs associated with maintaining System equipment, as recommended by the Government Accountability Office (GAO).

## II. BACKGROUND AND THE NEED FOR LEGISLATION

On March 27, 1964, the Prince William Sound region of Alaska was hit by a 9.2 magnitude earthquake, which killed a total of 131 people in Alaska, Oregon, and California.<sup>1</sup> Following the earthquake, the U.S. Geological Service (USGS) produced over 30 articles that reported on the earthquake and made recommendations to the Federal Government on responding to future earthquakes.<sup>2</sup> Congress later passed the Earthquake Hazards Reduction Act of 1977, which directed the President to designate responsible Federal agencies to organize emergency services and educate the public, state, and local officials to reduce the adverse consequences of an earthquake.<sup>3</sup> These efforts were to be coordinated through the National Earthquake Hazards Reduction Program (NEHRP) that was also established by the legislation.<sup>4</sup>

In 1980, Congress amended the Earthquake Hazards Reduction Act, requiring FEMA to serve as the lead for the NEHRP and submit an interagency coordination plan to Congress on earthquake hazard mitigation and response.<sup>5</sup> According to the Congressional Research Service (CRS), this was the first time “Congress authorized federal action and responsibility for disaster response efforts traditionally considered the jurisdiction of state and local governments.”<sup>6</sup>

Following the 1989 Loma Prieta earthquake, both Congress and FEMA reevaluated the overall scope of the NEHRP and established the US&R System, which encompasses a number of task forces whose mission it is to respond to “the location, rescue (extrication), and initial medical stabilization of individuals trapped in confined spaces.”<sup>7</sup> In 2004, Congress again amended the Earthquake Hazards Reduction Act to require the FEMA Administrator to “develop and coordinate the National Response Plan (NRP) and support state and local plans to ensure the availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability.”<sup>8</sup>

After Hurricane Katrina, a Bush Administration review on the Federal response to the storm found that under the NRP, FEMA was the primary agency authorized to coordinate US&R activities.<sup>9</sup> However, the review also determined that the NRP only focused on

<sup>1</sup> Alaska Earthquake Center, *The Great Alaska Earthquake of 1964*, Geophysical Institute of the University of Alaska at Fairbanks, [http://www.aeic.alaska.edu/quakes/Alaska\\_1964\\_earthquake.html](http://www.aeic.alaska.edu/quakes/Alaska_1964_earthquake.html) (last visited June 29, 2016).

<sup>2</sup> *Earthquake Hazards Program: Program History*, USGS, <http://earthquake.usgs.gov/aboutus/history.php> (last visited June 29, 2016).

<sup>3</sup> Keith Bea, Cong. Research Serv., RS21073, *Urban Search and Rescue Task Forces: Facts & Issues 2* (2005).

<sup>4</sup> Earthquake Hazards Reduction Act of 1977, Pub. L. No. 95-124.

<sup>5</sup> Keith Bea, Cong. Research Serv., RS21073, *Urban Search and Rescue Task Forces: Facts & Issues 2* (2005).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2-3; see also *Urban Search & Rescue Overview*, FEMA, <https://www.fema.gov/urban-search-rescue> (last visited June 29, 2016).

<sup>8</sup> Keith Bea, Cong. Research Serv., RS21073, *Urban Search and Rescue Task Forces: Facts & Issues 2* (2005); see also National Earthquake Hazards Reduction Program Reauthorization Act of 2004, Pub. L. No. 108-360.

<sup>9</sup> *The Federal Response to Hurricane Katrina: Lessons Learned*, The White House 38 (Feb. 2006), available at [http://www.floods.org/PDF/Katrina\\_Lessons\\_Learned\\_0206.pdf](http://www.floods.org/PDF/Katrina_Lessons_Learned_0206.pdf).

urban search and rescue (rescuing victims trapped in collapsed structures) and the US&R System did not have the adequate or consistent training and equipment required to perform water rescues.<sup>10</sup> As a result, the review found that during Hurricane Katrina, the NRP failed to anticipate, plan for, and integrate search and rescue assets from other Federal agencies, such as the Department of Interior (DOI) and United States Coast Guard (USCG).<sup>11</sup>

In 2006, the Post-Katrina Emergency Management Reform Act formally authorized the US&R System and addressed the limited scope of the NRP by expanding US&R activities to include a range of search and rescue activities.<sup>12</sup> Today, urban search and rescue activities are defined to include structural collapses, land search and rescues, and maritime, coastal, and waterborne search and rescue.<sup>13</sup>

As of 2016, 28 FEMA task forces located throughout the continental United States make up the US&R System.<sup>14</sup> These task forces are comprised of career and volunteer first responders, including firefighters, engineers, medical professionals, and canine/handler teams with specialized skillsets and training.<sup>15</sup> Urban search and rescue task forces support state and local emergency response efforts by conducting physical search and rescue operations; providing emergency medical care; assessing damage and providing feedback to local, state, and Federal officials; assessing and shutting off utilities; surveying and evaluating hazardous material threats; providing structural and hazard evaluations; stabilizing damaged structures; and carrying out search and rescue operations in a water environment.<sup>16</sup> In the event of an emergency or disaster, FEMA can deploy the three closest task forces within six hours of notification and additional teams as needed.<sup>17</sup> In addition to the individual task forces, there are three Incident Support Teams (IST) comprised of highly qualified specialists that manage and support the task forces.<sup>18</sup>

#### *Codifying operational requirements*

S. 2971 codifies the operational requirements of the US&R System, which includes affirming the FEMA Administrator's duty to continue to administer it; requiring the FEMA Administrator to provide for a national network of standardized search and rescue resources to assist state and local governments in responding to hazards; creating a task force designation process; and authorizing the FEMA Administrator to maintain management and technical

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295.

<sup>13</sup> *National Response Framework*, FEMA 33 (May 2013), available at [http://www.fema.gov/media-library-data/20130726-1914-25045-1246/final\\_national\\_response\\_framework\\_20130501.pdf](http://www.fema.gov/media-library-data/20130726-1914-25045-1246/final_national_response_framework_20130501.pdf).

<sup>14</sup> *National Urban Search & Rescue Response System: Task Force Locations*, FEMA, <http://www.fema.gov/task-force-locations> (last visited June 15, 2016).

<sup>15</sup> Gov't Accountability Office, GAO-16-87, *Disaster Response: FEMA Hhas Made Progress Implementing Key Programs, but Opportunities for Improvement Exist 5-6* (2016).

<sup>16</sup> *Urban Search & Rescue Participants*, FEMA, <https://www.fema.gov/urban-search-rescue-participants> (last visited June 15, 2016).

<sup>17</sup> *National Urban Search and Rescue Response System Operations Manual*, FEMA (September 2012), available at <http://www.usarcd.org/forms/manuals/Operations%20Manual%2012-001.pdf>.

<sup>18</sup> *Urban Search & Rescue Participants*, FEMA, <https://www.fema.gov/urban-search-rescue-participants> (last visited June 15, 2016).

teams as necessary to administer the System. The bill also authorizes such sums as are necessary to carry out the System for fiscal years 2017, 2018, and 2019.

*Codifying workers' compensation and selection of benefits*

Liability and other protections for official actions under the Federal Tort Claims Act (FTCA) and compensation for work injuries under the Federal Employees' Compensation Act have been interpreted to extend to System members when deployed temporarily into Federal service and are generally memorialized through memoranda and interagency guidance. For example, letters sent in 1996 from the Department of Justice to FEMA confirmed liability protections under the FTCA for US&R System personnel in advance of the 1996 Summer Olympics in Atlanta and in response to Hurricane Fran.<sup>19</sup> In addition, US&R Program Directive—2015–007 details the current policy in place between FEMA and the Department of Labor for workers' compensation protections.<sup>20</sup> FEMA has also published rules for temporarily appointing System members who are activated into the Federal service for the purposes of workers' compensation and liability protections.<sup>21</sup> However, without codifying these protections in Federal law, System members face uncertainty as the memoranda and interagency guidance could be rescinded or changed at any time.

S. 2971 covers System members appointed into Federal service for personal injury, illness, disability, or death as a result of an injury sustained while acting within the scope of the appointment. It entitles the System members (or, in the case of the death of the System member, the System member's dependent), by reason of personal injury, illness, disability, or death, to elect to receive certain benefits as if the person were a Federal employee or to receive any benefits for which a System member qualifies for from a State or local government. S. 2971 also provides that System members appointed into Federal service under the bill shall be considered to be an employee of the Federal Government under section 1346(b) of Title 28 of the United States Code and chapter 171 of that title, relating to tort claims procedure, while acting within the scope of employment.

*Extending reemployment rights to system members*

Some US&R System members, like medical doctors, engineers, and heavy riggers, have the necessary skillsets to rescue survivors during a disaster, but are not State or local employees. During a June 2016 survey of 27 of the 28 search and rescue task forces, FEMA determined that approximately 14 percent of the US&R System members were not employed by a State or local agency.<sup>22</sup> These System members do not have protections and safeguards to protect them from termination while they are deployed into the field for urban search and rescue operations. Because of this lack

<sup>19</sup> Letter from Jeffrey Axelrad, Director, Torts Branch, to John P. Carey, Gen. Counsel, FEMA (July 18, 1996) (on file with HSGAC staff); *see also* Letter from Jeffrey Axelrad, Director, Torts Branch, to John P. Carey, Gen. Counsel, FEMA (Sept. 4, 1996) (on file with HSGAC staff).

<sup>20</sup> Letter from National Urban Search & Rescue Response System Task Force Representatives, FEMA, to Fred Endrikat, Chief, Urban Search & Rescue Branch, FEMA (Nov. 16, 2015) (on file with HSGAC staff).

<sup>21</sup> 44 CFR § 208.11 (2014).

<sup>22</sup> Data provided by FEMA (June 13, 2016) (on file with Comm. staff).

of protections, US&R System members are at risk of losing their regular jobs after returning home from deployment. According to Mark Kramer, Assistant Chief/Operations, Orange County Fire Authority, Sponsoring Agency Chief, California Task Force 5, this unfortunately occurred in a past disaster—Hurricane Katrina—when a heavy rigger who “gave his heart and soul to the response,” was deployed to Louisiana and terminated by his employer upon returning home a couple weeks later.<sup>23</sup>

Currently, uniformed services and others covered under the Uniformed Services Employment and Reemployment Rights Act are protected from termination from their current position while serving in a military capacity. In the past, these protections have been extended to private sector members of the National Disaster Medical System<sup>24</sup> which, like the US&R System, is composed of a number of highly skilled individuals like medical doctors who are activated and deployed across the country, often without much notice, to respond to emergencies.<sup>25</sup> S. 2971 would provide that a US&R System member who is not a regular full-time employee of a sponsoring agency (a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System) or participating agency (a State or local government, non-profit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System), will be considered a member of the “uniformed services” and afforded the same rights and obligations as Federal service members with regard to assistance, enforcement actions, and investigations for the purposes of retaining their positions at their place of employment.

### *Report to Congress*

After the terrorist attacks on September 11, 2001, the US&R System developed operational capabilities to respond to chemical, biological, radiological, nuclear, and explosive environments.<sup>26</sup> Recently, task forces have reported challenges to fund the maintenance and replacement of their equipment caches.<sup>27</sup> Some of these items, like bandages, are low-cost and routinely replaced, whereas other items, such as the strut system used to support collapsed buildings, require regular maintenance and are costly to replace.<sup>28</sup> A February 2016 GAO report found that FEMA has not developed a comprehensive plan to prioritize and fund the replacement of all items in the equipment cache<sup>29</sup> and recommended that FEMA develop a comprehensive plan to correct this issue.<sup>30</sup> FEMA has concurred with this recommendation.<sup>31</sup> This bill requires the FEMA

<sup>23</sup> Testimony by Mark Kramer, Assistant Chief/Operations, Orange County Fire Authority, Sponsoring Agency Chief, California Task Force 5, *FEMA’s Urban Search & Rescue Program in Haiti: How to Apply Lessons Learned at Home: Hearing Before the Subcomm. on Economic Development, Public Buildings, and Emergency Management of the H. Comm. on Transportation and Infrastructure*, 111th Cong. (2010).

<sup>24</sup> See 42 U.S.C. § 300hh–11 and 20 CFR § 1002.5 (2005).

<sup>25</sup> National Disaster Medical System, U.S. Department of Health and Human Services, <http://www.phe.gov/Preparedness/responders/ndms/Pages/default.aspx>.

<sup>26</sup> Gov’t Accountability Office, GAO–16–87, *Disaster Response: FEMA has made Progress Implementing Key Programs, but opportunities for improvement exist* 5 (2016).

<sup>27</sup> *Id.* at 18.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 38.

<sup>31</sup> *Id.* at 39.

Administrator to report to Congress on the development of plans, including implementation steps and timeframes, to finance, maintain, and replace System equipment.

### III. LEGISLATIVE HISTORY

Representatives Louis Barletta, Andrew Carson, Bill Schuster, and Peter DeFazio introduced H.R. 1471, the FEMA Disaster Assistance Reform Act of 2015, on March 19, 2015, which was referred to the House Committee on Transportation and Infrastructure. The House Committee on Transportation and Infrastructure considered H.R. 1471 at a business meeting on February 29, 2016. On the same day, the bill passed the House of Representatives by voice vote and under suspension of the rules.

The act was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs on March 1, 2016.

On May 23, 2016, Senators Rob Portman, Ron Johnson, and Tom Carper introduced S. 2971, the National Urban Search and Rescue Response System Act of 2016, which was derived from Section 301 of H.R. 1471 as passed by the House of Representatives, and referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2971 at a business meeting on May 25, 2016. The Committee favorably reported the bill by voice vote. Senators present for the vote were: Johnson, Portman, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, McCaskill, Tester, Baldwin, Heitkamp, Booker, and Peters.

Consistent with the Committee's order on technical and conforming changes at the business meeting, the Committee reports the bill with a technical amendment by mutual agreement of the full Committee majority and minority staff.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section provides the bill's short title, the "National Urban Search and Rescue Response System Act of 2016."

#### *Section 2. National Urban Search and Rescue Response System*

Subsection (a) of Section 2 amends Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to add a new section for the US&R System.

Subsection (a) of the new section provides definitions for the following terms: "administrator," "agency," "hazard," "nonemployee system member," "participating agency," "sponsoring agency," "system," "system member," and "task force."

Subsection (b) of the new section requires the FEMA Administrator to continue to administer the emergency response system, known as the US&R System.

Subsection (c) of the new section requires the FEMA Administrator to provide for a national network of standardized search and rescue resources to assist State and local governments responding to hazards.

Subsection (d) of the new section requires the Administrator to designate task forces to participate in the System and allows the



Administrator to determine the criteria for participation as a task force.

Under subsection (e) of the new section, the FEMA Administrator is required to maintain management and technical teams as necessary to administer the System.

Subsection (f) of the new section allows the FEMA Administrator to appoint a US&R System member for a period of time so the System member can participate in exercises, pre-incident staging, major disaster and emergency response activities and training events sponsored or sanctioned by the FEMA Administrator. The subsection also clarifies that a System member appointed into the Federal service in this manner shall not be considered an employee of the United States for purposes other than those laid out in this section.

Subsection (g) of the new section describes the compensation available for US&R System members while appointed to Federal service. Specifically, this subsection requires the Administrator to reimburse employers of System members for compensation paid by the employer while the System member was appointed to Federal service, and to make payments to nonemployee System members on the task force for the period of time they are appointed into the Federal service.

Subsection (h) of the new section provides that a US&R System member appointed into the Federal service and who suffers injury, illness, disability, or death, as a result of an injury that occurred while acting in the scope of employment can elect to receive injury, illness, disability, or death benefits under subchapter I of chapter 81 of title 5 or such benefits from the State or local government. The subsection provides that if a member elects to receive such benefits from a State or local government, the Administrator shall reimburse the State and local government for such benefits.

Subsection (i) of the new section provides that a US&R System member appointed into the Federal service under this bill, while acting within the scope of the appointment, shall be considered to be a Federal employee under section 1346(b) and Chapter 171 of Title 28 of the United States Codes, relating to the tort claims procedure.

Subsection (j) of the new section makes a US&R System member, who is not a regular full-time employee of a sponsoring agency or participating agency, a member of the "uniformed services" and affords him or her the same rights and obligations as service members with regard to assistance, enforcement actions, and investigations, as well as preclusion of giving notice of absence from a position of employment under chapter 43 of title 38.

Under subsection (k) of the new section, a US&R System member holding a valid state license, certificate, or other permit, is considered to be performing Federal activities when rendering aid involving such skill or assistance during a period of appointment into Federal service.

Subsections (l) through (m) of the new section require the FEMA Administrator to enter into an annual preparedness cooperative agreement and a response cooperative agreement with each sponsoring agency, if funds are appropriated to cover the costs incurred by the sponsoring agency. The FEMA Administrator may reimburse costs for: training and exercises; the acquisition and mainte-

nance of equipment; and the medical monitoring required for responder safety and health.

Subsection (n) of the new section allows the FEMA Administrator to incur all necessary obligations to ensure the effectiveness of the US&R System.

Subsection (o) of the new section requires the FEMA Administrator to report to Congress, not later than 180 days after the date of enactment, on the development of plans, including implementation steps and timeframes, to finance, maintain, and replace US&R System equipment.

Subsection (p) of the new section authorizes such sums as are necessary to carry out the US&R System for fiscal years 2017, 2018, and 2019.

Subsection (b) of the bill makes conforming changes to statute to account for the new provisions provided in the bill.

#### V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

#### VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 14, 2016.

Hon. RON JOHNSON, *Chairman,*  
*Committee on Homeland Security and Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2971, the National Urban Search and Rescue Response System Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

#### *S. 2971—National Urban Search and Rescue Response System Act of 2016*

Summary: S. 2971 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specifically authorize operations of the National Urban Search and Rescue Response System through 2019. The bill would authorize the appropriation of such sums as may be necessary for the Federal Emergency Management Agency (FEMA) to continue to administer that system. Under current law, the system maintains and manages emergency search and rescue teams and coordinates with state and local governments to mobilize those teams in the case of a natural disaster, terrorist activity, or other emergency.

CBO estimates that implementing S. 2971 would cost \$110 million over the 2017–2021 period, assuming appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because enacting it would not affect direct spending or revenues.

CBO estimates that enacting S. 2971 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 2971 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by eliminating an existing right to seek compensation for damages and by requiring employers to allow members of the urban search and rescue response system to reclaim their jobs upon completing a deployment to a disaster. Based on information from FEMA, CBO estimates that the cost to comply with the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million, respectively, in 2016, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2971 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					2017–2021
	2017	2018	2019	2020	2021	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	36	37	38	40	40	111
Estimated Outlays .....	22	33	37	15	3	110

Basis of estimate: For this estimate, CBO assumes that S. 2971 will be enacted near the start of 2017 and that the necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for this program.

S. 2971 would authorize the appropriation of such sums as may be necessary through 2019 for FEMA to administer the National Urban Search and Rescue Response System. In 2016, the Congress provided \$35 million to operate that system. After accounting for anticipated increases in inflation, CBO estimates that implementing S. 2971 would cost \$110 million over the 2017–2021 period.

S. 2971 would require FEMA to reimburse state and local governments for the value of any benefits those governments pay to people who are injured while serving on an emergency search and rescue team. Under current law, people who are injured while serving on those teams are entitled to receive disability benefits from either the federal government or the applicable state or local government, but the federal government is not required to reimburse state and local governments. Based on information from FEMA about the number and type of injuries resulting from such service, CBO expects that any increase in federal costs from reimbursing state and local governments (which would be subject to appropriation) would be insignificant.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 2971 would not increase net direct spending

or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 2971 would impose intergovernmental and private-sector mandates, as defined in UMRA. CBO estimates that the cost to comply with the mandates to state, local, and tribal governments and the private sector would fall below the annual thresholds established in UMRA for such mandates (\$77 million and \$154 million, respectively, in 2016, adjusted annually for inflation).

Under current law, members of search and rescue task forces have protection from tort liability when participating in federal preparedness activities. The bill would expand that protection to include additional training exercises. Such protection would impose a mandate on public and private entities because it would eliminate an existing right to seek compensation for damages. According to FEMA, no claims for damage have been filed regarding a training exercise, nor does the agency expect that any such claims would be filed under current law. Therefore, CBO estimates that the costs, if any, of this mandate would be negligible.

The bill also would require employers to allow task force members who are deployed to a disaster to reclaim their jobs upon completion of their service. According to FEMA, there are currently about 5,500 workers in the system; the duration of deployment is usually less than one month; and in general, most employers currently allow workers to reclaim their positions. Thus, CBO estimates that the cost for public and private-sector employers to comply with the mandate would fall below the annual thresholds.

Estimate prepared by: Federal costs: Robert Reese; Impact on state, local, and tribal governments; Rachel Austin; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2971 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, 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 ADMINISTRATION**

\* \* \* \* \*

#### **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 emergency 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, 1 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. 3769b3796b), 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 spon-

soring 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 im-



plementation steps and timeframes, to finance, maintain, and replace System equipment.

(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the System and the provisions of this section such sums as are necessary for each of fiscal years 2017, 2018, and 2019.

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**UNITED STATES CODE**

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**TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES**

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**PART III—EMPLOYEES**

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**Subpart G—Insurance and Annuities**

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**CHAPTER 81—COMPENSATION FOR WORK INJURIES**

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**Subchapter I—Generally**

**SECTION 8101. DEFINITIONS**

For the purpose of this subchapter—

(1) “employee” means—

(A) \* \* \*

\* \* \* \* \*

(D) an individual employed by the government of the District of Columbia; [and]

(E) \* \* \*

(F) an individual selected pursuant to chapter 121 of title 28, [United States Code,] and serving as a petit or grand juror; and

(G) an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;”.

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**TITLE 38—VETERANS’ BENEFITS**

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**PART III—READJUSTMENT AND RELATED BENEFITS**

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**CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

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**Subchapter I—General**

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**SECTION 4304. DEFINITIONS**

For the purposes of this chapter—

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(13) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, *a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) \* \* \*

(15) \* \* \*

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and any other category of persons designated by the President in time of war or national emergency.

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