

119TH CONGRESS
1ST SESSION

S. 3450

To provide authority and reimbursement for State disaster response duty,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2025

Mr. PETERS introduced the following bill; which was read twice and referred
to the Committee on Armed Services

A BILL

To provide authority and reimbursement for State disaster
response duty, and for other purposes.

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 “Emergency Response
5 Authority Act”.

6 **SEC. 2. NATIONAL GUARD: ACTIVE GUARD AND RESERVE**
7 **DUTY IN RESPONSE TO A STATE DISASTER.**

8 (a) IN GENERAL.—Chapter 3 of title 32, United
9 States Code, is amended by inserting after section 328 the
10 following new section:

1 **“§ 328a. Active Guard and Reserve duty: State dis-**
 2 **aster response duty**

3 “(a) **AUTHORITY.**—The chief executive of a State
 4 who has declared an emergency in such State due to a
 5 disaster, may, with the consent of the Secretary of De-
 6 fense, order a member of the National Guard of such
 7 State, who is performing Active Guard and Reserve duty
 8 pursuant to section 328 of this title, to perform duties
 9 in response to, or in preparation for, such disaster. Duty
 10 performed under this section shall be referred to as ‘State
 11 disaster response duty’.

12 “(b) **REQUIREMENTS.**—State disaster response duty
 13 performed pursuant to this section—

14 “(1) shall be on a reimbursable basis, in accord-
 15 ance with subsection (c);

16 “(2) may be performed to the extent that the
 17 performance of such duty does not interfere with the
 18 performance of the member’s primary Active Guard
 19 and Reserve duties of organizing, administering, re-
 20 cruiting, instructing, and training the reserve com-
 21 ponents; and

22 “(3) shall not exceed a total of 14 days per
 23 member per calendar year, except that the Secretary
 24 of Defense may, if the chief executive so requests be-
 25 fore the end of the 14th such day, authorize an ex-

1 tension of the duration of such duty, not to exceed
2 an additional—

3 “(A) 7 days, if the Secretary determines
4 that such extension is appropriate; and

5 “(B) 46 days if the Secretary determines
6 that such duty is in support of the response to
7 a catastrophic incident, as that term is defined
8 in section 501 of the Homeland Security Act of
9 2002 (6 U.S.C. 311).

10 “(c) REIMBURSEMENT.—(1) The Secretary of the
11 military department concerned shall charge a State for the
12 fully burdened costs of manpower for each day of State
13 disaster response duty performed pursuant to this section.

14 “(2) Such charges shall be paid from the funds of
15 the State of the requesting chief executive or from any
16 other non-Federal funds.

17 “(3) Any amounts received by a Secretary of a mili-
18 tary department under this section shall be credited, at
19 the discretion of the Secretary of Defense, to—

20 “(A) the appropriation, fund, or account used
21 to pay such costs; or

22 “(B) an appropriation, fund, or account avail-
23 able for the purposes for which such costs were in-
24 curred.

1 “(4) If the State of the requesting chief executive is
 2 more than 90 days in arrears in reimbursing the Secretary
 3 of the military department concerned for State disaster
 4 response duty performed pursuant to this section, such
 5 duty may not be performed—

6 “(A) unless authorized by the Secretary of De-
 7 fense; and

8 “(B) after the requesting chief executive obli-
 9 gates funds for the amount in arrears.

10 “(d) LIMITATION OF LIABILITY.—While performing
 11 State disaster response duty under this section, a member
 12 of the National Guard is not an instrumentality of the
 13 United States with respect to any act or omission in car-
 14 rying out such duty. The United States shall not be re-
 15 sponsible for any claim or judgment arising from the use
 16 of a member of the National Guard under this section.

17 “(e) DEFINITIONS.—In this section:

18 “(1) The term ‘Active Guard and Reserve duty’
 19 has the meaning given such term in section 101 of
 20 title 10.

21 “(2) The term ‘State’ has the meaning given
 22 such term in section 901 of this title.”.

23 “(b) REGULATIONS.—Not later than 180 days after
 24 the date of the enactment of this Act, the Secretary of

- 1 Defense shall prescribe regulations under section 328a of
- 2 such title, as added by subsection (a).

