

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.**

**S. 2293**

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide certain employment rights to reservists of the Federal Emergency Management Agency, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civilian Reservist  
5 Emergency Workforce Act of 2021” or the “CREW Act”.

6 **SEC. 2. PERSONNEL PERFORMING SERVICE RESPONDING**  
7 **TO PRESIDENTIALLY DECLARED MAJOR DIS-**  
8 **ASTERS AND EMERGENCIES.**

9 Section 306 of the Robert T. Stafford Disaster Relief  
10 and Emergency Assistance Act (42 U.S.C. 5149) is  
11 amended by adding at the end the following:

1       “(d) PERSONNEL PERFORMING SERVICE RESPOND-  
2     ING TO DISASTERS AND EMERGENCIES.—

3               “(1) USERRA EMPLOYMENT AND REEMPLOY-  
4     MENT RIGHTS.—The protections, rights, benefits,  
5     and obligations provided under chapter 43 of title 38  
6     shall apply to intermittent personnel appointed pur-  
7     suant to subsection (b)(1) to perform service to the  
8     Federal Emergency Management Agency under sec-  
9     tions 401 and 501 or to train for such service.

10              “(2) NOTICE OF ABSENCE FROM POSITION OF  
11     EMPLOYMENT.—Preclusion of giving notice of serv-  
12     ice by necessity of service under subsection (b)(1) to  
13     perform service to the Federal Emergency Manage-  
14     ment Agency under sections 401 and 501 or to train  
15     for such service shall be considered preclusion by  
16     ‘military necessity’ for purposes of section 4312(b)  
17     of title 38, United States Code, pertaining to giving  
18     notice of absence from a position of employment. A  
19     determination of such necessity shall be made by the  
20     Administrator and shall not be subject to review in  
21     any judicial or administrative proceeding.”.

22     **SEC. 3. EXTENSION OF CERTAIN EMPLOYMENT AND REEM-**  
23               **PLOYMENT RIGHTS TO FEMA RESERVISTS.**

24              “(a) IN GENERAL.—Section 4303 of title 38, United  
25     States Code, is amended—

1           (1) in paragraph (13), by inserting before “,  
2           and a period” the following: “, a period for which  
3           a person is absent from a position of employment  
4           due to an appointment into service in the Federal  
5           Emergency Management Agency as intermittent per-  
6           sonnel under section 306(b)(1) of the Robert T.  
7           Stafford Disaster Relief and Emergency Assistance  
8           Act (42 U.S.C. 5149(b)(1))”;

9           (2) by redesignating the second paragraph (16)  
10          (relating to uniformed services) as paragraph (17);  
11          and

12          (3) in paragraph (17), as so redesignated, by  
13          inserting before “and any other category” the fol-  
14          lowing: “intermittent personnel who are appointed  
15          into Federal Emergency Management Agency service  
16          under section 306(b)(1) of the Robert T. Stafford  
17          Disaster Relief and Emergency Assistance Act (42  
18          U.S.C. 5149(b)(1)) or to train for such service,”.

19          (b) MODIFICATION OF EXCEPTION FOR REQUIRE-  
20          MENT FOR MEMBERS OF UNIFORMED SERVICES TO PRO-  
21          VIDE NOTICE TO EMPLOYERS TO OBTAIN CERTAIN EM-  
22          PLOYMENT AND REEMPLOYMENT RIGHTS.—Section  
23          4312(b) of title 38, United States Code, is amended—

24                 (1) by striking the second sentence;

25                 (2) by inserting “(1)” before “No notice”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(2) A determination of military necessity for pur-  
4 poses of paragraph (1) shall be made—

5           “(A) except as provided in subparagraphs (B)  
6 and (C), pursuant to regulations prescribed by the  
7 Secretary of Defense;

8           “(B) for persons performing service to the Fed-  
9 eral Emergency Management Agency under section  
10 327 of the Robert T. Stafford Disaster Relief and  
11 Emergency Assistance Act (42 U.S.C. 5165f) and as  
12 intermittent personnel under section 306(b)(1) of  
13 such Act (42 U.S.C. 5149(b)(1)), by the Adminis-  
14 trator of the Federal Emergency Management Agen-  
15 cy as described in sections 327(j)(2) and 306(d)(2)  
16 of such Act (42 U.S.C. 5165f(j)(2) and 5149(d)(2)),  
17 respectively; or

18           “(C) for intermittent disaster-response ap-  
19 pointees of the National Disaster Medical System,  
20 by the Secretary of Health and Human Services as  
21 described in section 2812(d)(3)(B) of the Public  
22 Health Service Act (42 U.S.C. 300hh-11(d)(3)(B)).

23           “(3) A determination of military necessity under  
24 paragraph (1) shall not be subject to judicial review.”.