

107TH CONGRESS  
1ST SESSION

# H. R. 2333

To amend the Public Health Service Act to provide for a National Disaster Medical System, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2001

Mr. BURR of North Carolina (for himself, Mr. STUPAK, and Mr. CHAMBLISS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act to provide for a National Disaster Medical System, 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 “National Disaster  
5 Medical System Act”.

6 **SEC. 2. OFFICE OF EMERGENCY PREPAREDNESS; NA-**  
7 **TIONAL DISASTER MEDICAL SYSTEM.**

8 Part B of title III of the Public Health Service Act  
9 (42 U.S.C. 243 et seq.), as amended by section 102 of  
10 Public Law 106–505, is amended—

1 (1) by redesignating sections 319A through  
2 319G as sections 319B through 319H, respectively;  
3 and

4 (2) by inserting after section 319 the following  
5 section:

6 “OFFICE OF EMERGENCY PREPAREDNESS; NATIONAL  
7 DISASTER MEDICAL SYSTEM

8 “SEC. 319A. (a) OFFICE OF EMERGENCY PRE-  
9 PAREDNESS.—

10 “(1) IN GENERAL.—There is established within  
11 the Office of Public Health and Science an Office to  
12 be known as the Office of Emergency Preparedness,  
13 which shall be headed by a director appointed by the  
14 Secretary. The Secretary shall carry out paragraph  
15 (2) acting through such Director.

16 “(2) GENERAL DUTIES.—The Secretary shall  
17 coordinate the activities of the Department of  
18 Health and Human Services with respect to plan-  
19 ning for and responding to public health emergencies  
20 that burden the response capacity of State and local  
21 governments sufficient to require the assistance of  
22 the Federal Government in responding to the emer-  
23 gencies, including as applicable diseases or disorders  
24 that present public health emergencies; natural dis-  
25 asters; major transportation accidents; technological  
26 disasters; and disasters resulting from terrorism.

1 “(b) NATIONAL DISASTER MEDICAL SYSTEM.—

2 “(1) IN GENERAL.—There shall be operated in  
3 accordance with this section a system to be known  
4 as the National Disaster Medical System (in this  
5 section referred to as the ‘National System’). The  
6 National System shall be headed by the Secretary  
7 acting through the Director of the Office of Emer-  
8 gency Preparedness.

9 “(2) FEDERAL AND STATE COLLABORATIVE  
10 SYSTEM.—

11 “(A) IN GENERAL.—The National System  
12 shall be a coordinated effort by the Federal  
13 agencies specified in subparagraph (B), working  
14 in collaboration with the States and other ap-  
15 propriate public or private entities, to carry out  
16 the purposes described in paragraph (3).

17 “(B) PARTICIPATING FEDERAL AGEN-  
18 CIES.—The Federal agencies referred to in sub-  
19 paragraph (A) are the Department of Health  
20 and Human Services, the Federal Emergency  
21 Management Agency, the Department of De-  
22 fense, and the Department of Veterans Affairs.

23 “(3) PURPOSE OF SYSTEM.—

24 “(A) IN GENERAL.—The National System  
25 shall provide health services, health-related so-

1           cial services, other appropriate human services,  
2           and appropriate auxiliary services to respond to  
3           the needs of victims of a public health emer-  
4           gency declared by the Secretary under section  
5           319, if the Secretary activates the System in  
6           declaring the emergency. The National System  
7           shall carry out such ongoing activities as may  
8           be necessary to prepare for the provision of  
9           such services.

10           “(B) CERTAIN COMPONENTS.—The Na-  
11           tional System shall have the following compo-  
12           nents:

13                   “(i) Direct medical care.

14                   “(ii) Patient evacuation.

15                   “(iii) Non-Federal hospital beds.

16                   “(iv) Such other components as the  
17           Secretary determines to be appropriate.

18           “(c) TEMPORARY DISASTER-RESPONSE PER-  
19           SONNEL.—

20                   “(1) IN GENERAL.—For the purpose of assist-  
21           ing the Office of Emergency Preparedness and the  
22           National System in carrying out duties under this  
23           section, the Secretary may in accordance with this  
24           subsection appoint individuals to serve as temporary  
25           personnel of such Office or System. The Secretary

1 may make such appointments without regard to the  
2 provisions of title 5, United States Code, governing  
3 appointments in the competitive service, and without  
4 regard to the provisions of chapter 51 and sub-  
5 chapter III of chapter 53 of such title relating to  
6 classification and General Schedule pay rates.

7 “(2) TYPE AND DURATION OF SERVICE.—

8 “(A) TYPE.—An appointment under para-  
9 graph (1) shall be a temporary appointment or  
10 an appointment for intermittent services, and  
11 may not be considered to be for expert or con-  
12 sultant services within the meaning of section  
13 3109 of title 5, United States Code.

14 “(B) DURATION.—The term of service  
15 under a temporary appointment under para-  
16 graph (1) may not exceed four years. After the  
17 expiration of such a term of service, an indi-  
18 vidual may be reappointed. This subparagraph  
19 does not limit the number of reappointments of  
20 an individual, subject to each appointment  
21 being made in accordance with this subsection.

22 “(3) TRAVEL AND SUBSISTENCE.—An indi-  
23 vidual appointed under paragraph (1) shall, in ac-  
24 cordance with subchapter I of chapter 57 of title 5,  
25 United States Code, be eligible for travel, subsist-

1       ence, and other necessary expenses incurred in car-  
2       rying out the duties for which the individual was ap-  
3       pointed, including per diem in lieu of subsistence.

4           “(4) LIABILITY.—For purposes of section  
5       224(a) and the remedies described in such section,  
6       an individual appointed under paragraph (1) shall,  
7       while acting within the scope of such appointment,  
8       be considered to be an employee of the Public  
9       Health Service performing medical, surgical, dental,  
10      or related functions. Participation in training pro-  
11      grams carried out by the Office of Emergency Pre-  
12      paredness or Federal personnel of the National Sys-  
13      tem shall be considered within the scope of such an  
14      appointment (regardless of whether the individual  
15      receives compensation for such participation).

16      “(d) CRITERIA.—

17           “(1) IN GENERAL.—The Secretary shall by reg-  
18      ulation establish criteria for the operation of the Na-  
19      tional System.

20           “(2) EDUCATION AND TRAINING OF PER-  
21      SONNEL.—In carrying out paragraph (1), the Sec-  
22      retary shall establish criteria regarding the edu-  
23      cation and training of individuals who provide emer-  
24      gency services through the National System. In the  
25      case of positions in the System that involve signifi-

1 cant supervisory roles when the System is activated  
2 pursuant to subsection (b)(3)(A), the criteria shall  
3 require that individuals in such positions have com-  
4 pleted education or training programs that have  
5 been accredited by an entity recognized by the Sec-  
6 retary for purposes of this paragraph.

7 “(3) PARTICIPATION AGREEMENTS FOR NON-  
8 FEDERAL ENTITIES.—In carrying out paragraph (1),  
9 the Secretary shall establish criteria regarding the  
10 participation of States and private entities in the  
11 National System, including criteria regarding agree-  
12 ments for such participation. The criteria shall in-  
13 clude the following:

14 “(A) Provisions relating to the custody and  
15 use of Federal personal property by such enti-  
16 ties, which may in the discretion of the Sec-  
17 retary include authorizing the custody and use  
18 of such property on a reimbursable basis to re-  
19 spond to emergency situations that are not pub-  
20 lic health emergencies for which the National  
21 System has been activated pursuant to sub-  
22 section (b)(3)(A).

23 “(B) Provisions relating to circumstances  
24 in which an individual or entity has agreements  
25 with both the National System and another en-

1           tity regarding the provision of emergency serv-  
2           ices by the individual. Such provisions shall ad-  
3           dress the issue of priorities among the agree-  
4           ments involved.

5           “(e) DEFINITION.—For purposes of this section, the  
6 term ‘auxiliary services’ includes mortuary services and  
7 veterinary services.

8           “(f) AUTHORIZATION OF APPROPRIATIONS.—

9           “(1) IN GENERAL.—For the purpose of pro-  
10 viding for the Office of Emergency Preparedness  
11 and the National System, other than purposes for  
12 which amounts in the Public Health Emergency  
13 Fund under section 319 are available, there are au-  
14 thorized to be appropriated such sums as may be  
15 necessary for each of the fiscal years 2001 through  
16 2005.

17           “(2) COORDINATION OF FUNDING.—The au-  
18 thorization of appropriations established in para-  
19 graph (1) for a fiscal year applies with respect to  
20 appropriations made from allocations under section  
21 302(b) of the Congressional Budget Act of 1974 for  
22 the following subcommittees of the appropriations  
23 committees of the House of Representatives and the  
24 Senate:

1           “(A) The subcommittees relating to the  
2           Departments of Labor, Health and Human  
3           Services, and Education.

4           “(B) The subcommittees relating to the  
5           Departments of Veterans Affairs and Housing  
6           and Urban Development and to independent  
7           agencies.

8           “(C) The subcommittees relating to the  
9           Department of Defense.

10          “(3) LIMITATION ON OBLIGATION OF FUNDS.—  
11          The obligation of amounts appropriated for the Of-  
12          fice of Emergency Preparedness or the National  
13          System shall not be subject to any requirement that  
14          an operating plan be submitted to the House and  
15          Senate Committees on Appropriations.”.

16 **SEC. 3. CERTAIN EMPLOYMENT ISSUES REGARDING TEM-**  
17 **PORARY APPOINTMENTS FOR OFFICE OF**  
18 **EMERGENCY PREPAREDNESS OR NATIONAL**  
19 **DISASTER MEDICAL SYSTEM.**

20          (a) TEMPORARY DISASTER-RESPONSE AP-  
21          POINTEE.—For purposes of this section, the term “tem-  
22          porary disaster-response appointee” means an individual  
23          appointed by the Secretary of Health and Human Services  
24          under section 319A(c) of the Public Health Service Act  
25          (relating to appointments to provide temporary or inter-

1 mittent services in the Office of Emergency Preparedness  
2 or the National Disaster Medical System).

3 (b) COMPENSATION FOR WORK INJURIES.—To the  
4 extent provided in regulations promulgated by the Sec-  
5 retary of Health and Human Services (in this section re-  
6 ferred to as the “Secretary”), a temporary disaster-re-  
7 sponse appointee shall be deemed an employee, and an in-  
8 jury sustained by such an individual while actually serving  
9 or while participating in a uncompensated training exer-  
10 cise related to such service shall be deemed ‘in the per-  
11 formance of duty’, for purposes of chapter 81 of title 5,  
12 United States Code, pertaining to compensation for work  
13 injuries.

14 (c) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

15 (1) IN GENERAL.—To the extent provided in  
16 regulations promulgated by the Secretary, service as  
17 a temporary disaster-response appointee and partici-  
18 pation in a uncompensated training exercise related  
19 to such service shall be deemed ‘service in the uni-  
20 formed services’ for purposes of chapter 43 of title  
21 38, United States Code, pertaining to employment  
22 and reemployment rights of individuals who have  
23 performed service in the uniformed services.

24 (2) NOTICE OF ABSENCE FROM POSITION OF  
25 EMPLOYMENT.—Preclusion of giving notice of serv-

1 ice by disaster response necessity shall be deemed  
2 preclusion by ‘military necessity’ for purposes of sec-  
3 tion 4312(b) of title 38, United States Code, per-  
4 taining to giving notice of absence from a position  
5 of employment. A determination of disaster response  
6 necessity shall be made pursuant to regulations pre-  
7 scribed by the Secretary, in consultation with the  
8 Secretary of Defense, and shall not be subject to ju-  
9 dicial review.

10 (d) INAPPLICABILITY OF CERTAIN PROVISIONS.—

11 The following provisions shall not apply to temporary dis-  
12 aster-response appointees:

13 (1) Subchapter V of chapter 55 of title 5,  
14 United States Code (governing premium pay).

15 (2) Chapter 61 of such title 5 (governing hours  
16 of work).

17 (3) Chapter 63 of such title 5 (governing leave).

18 (4) Chapter 83 and 84 of such title 5 (gov-  
19 erning retirement).

20 (5) Chapter 85 of such title 5 (governing unem-  
21 ployment compensation).

22 (6) The Fair Labor Standards Act of 1938.

1 **SEC. 4. STUDY REGARDING SUPPORT OF LOCAL EMER-**  
2 **GENCY RESPONSE PERSONNEL.**

3       The Secretary of Health and Human Services, acting  
4 through the Director of the Office of Emergency Pre-  
5 paredness, shall conduct a study of best-practices methods  
6 to support the provision of emergency medical services  
7 through local governments (including through contractors  
8 and volunteers of such governments). Not later than 180  
9 days after the date of the enactment of this Act, the Sec-  
10 retary shall submit to the Congress a report describing  
11 the findings of the study.

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