

AMENDMENT TO RULES
COMMITTEE PRINT 118-36
OFFERED BY MR. AUSTIN SCOTT OF GEORGIA

At the end of subtitle B of title V, insert the following:

1 **SEC. 5___. ACTIVE GUARD AND RESERVE DUTY: STATE DIS-**
2 **ASTER RESPONSE; REIMBURSEMENT BY A**
3 **STATE.**

4 (a) IN GENERAL.—Section 328 of title 32, United
5 States Code, is amended—

6 (1) in subsection (a)—

7 (A) by striking “The Governor” and in-
8 serting “(1) Subject to paragraph (2), the Gov-
9 ernor”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(2) Subject to paragraphs (3) through (5), the Sec-
13 retary concerned may order a member of the National
14 Guard to perform Active Guard and Reserve duty under
15 paragraph (1) in response to, or in preparation for, a dis-
16 aster declared by a Governor of a State. Such duty—

17 “(A) shall be conducted on a reimbursable
18 basis, in accordance with paragraph (4); and

1 “(B) may not exceed 14 days per person per
2 calendar year, unless the Secretary of Defense, at
3 the request of the Governor—

4 “(i) before the end of the 14th such day,
5 authorizes not more than 21 additional days of
6 such duty; or

7 “(ii) authorizes not more than 60 addi-
8 tional days of such duty if the Secretary deter-
9 mines that the duty is in response to a cata-
10 strophic incident.

11 “(3) The Secretary concerned may not order a mem-
12 ber to perform duty under paragraph (2) in a State that
13 is more than 90 days in arrears in reimbursing the Sec-
14 retary concerned, under paragraph (4), for any previous
15 such duty, unless the Secretary of Defense determines
16 that the Governor of such State has obligated funds for
17 the amount in arrears.

18 “(4)(A) The Secretary concerned shall charge a State
19 for the fully burdened costs of personnel for each day of
20 duty performed in such State under paragraph (2).

21 “(B) The State may not pay such a charge with Fed-
22 eral funds.

23 “(C) Any amounts received by the Secretary con-
24 cerned under this paragraph shall be credited, at the dis-
25 cretion of the Secretary of Defense, to—

1 “(i) the appropriation, fund, or account used in
2 incurring the obligation; or

3 “(ii) an appropriate appropriation, fund, or ac-
4 count currently available for the purposes for which
5 the expenditures were made.

6 “(5) A member who performs duty under paragraph
7 (2) is not an instrumentality of the United States with
8 respect to any act or omission in performing such duty.
9 The United States shall not be responsible for any claim
10 or judgment arising from the use of a member of the Na-
11 tional Guard under such paragraph.”; and

12 (2) by adding at the end the following new sub-
13 section (d):

14 “(d) DEFINITIONS.—In this section:

15 “(1) The term ‘catastrophic incident’ has the
16 meaning given such term in section 501 of the
17 Homeland Security Act of 2002 (Public Law 107–
18 296; 6 U.S.C. 311).

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

21 (b) REGULATIONS.—The Secretary of Defense shall
22 prescribe regulations implementing the amendments made
23 by this section not later than 180 days after the date of
24 the enactment of this Act.

