

118TH CONGRESS
1ST SESSION

S. 3505

To amend title 10, United States Code, to authorize the ordering of units of the Selected Reserve to active duty to respond to significant cyber incidents, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2023

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

A BILL

To amend title 10, United States Code, to authorize the ordering of units of the Selected Reserve to active duty to respond to significant cyber incidents, 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 “Defense Support for
5 Cyber Emergencies Response Act of 2023”.

1 **SEC. 2. SELECTED RESERVE ORDER TO ACTIVE DUTY TO**
 2 **RESPOND TO A SIGNIFICANT CYBER INCI-**
 3 **DENT.**

4 Section 12304 of title 10, United States Code, is
 5 amended—

6 (1) in subsection (a), by striking “for any
 7 named operational mission”;

8 (2) by redesignating subsections (c) through (j)
 9 as subsections (d) through (k), respectively;

10 (3) by inserting after subsection (b) the fol-
 11 lowing new subsection:

12 “(c) **AUTHORITY RELATING TO SIGNIFICANT CYBER**
 13 **INCIDENTS.**—When the Secretary of Defense or the Sec-
 14 retary of the department in which the Coast Guard is op-
 15 erating determines that it is necessary to augment the ac-
 16 tive armed forces for the response of the Department of
 17 Defense or other department under which the Coast
 18 Guard is operating, respectively, to a covered incident,
 19 such Secretary may, without the consent of the member
 20 affected, order any unit, and any member not assigned
 21 to a unit organized to serve as a unit of the Selected Re-
 22 serve (as defined in section 10143(a) of this title), under
 23 the respective jurisdiction of such Secretary, to active duty
 24 for not more than 365 consecutive days.”;

1 (4) in paragraph (1) of subsection (d), as redese-
2 ignated by paragraph (2), by inserting “or sub-
3 section (c)” after “subsection (b)”;

4 (5) in subsection (g), as redesignated by para-
5 graph (2), by inserting “or subsection (c)” after
6 “subsection (a)”;

7 (6) by amending subsection (h), as redesignated
8 by paragraph (2), to read as follows:

9 “(h) TERMINATION OF DUTY.—(1) Whenever any
10 unit of the Selected Reserve or any member of the Selected
11 Reserve not assigned to a unit organized to serve as a
12 unit, or any member of the Individual Ready Reserve, is
13 ordered to active duty under authority of subsection (a),
14 the service of all units or members so ordered to active
15 duty may be terminated by—

16 “(A) order of the President; or

17 “(B) law.

18 “(2) Whenever any unit of the Selected Reserve or
19 any member of the Selected Reserve not assigned to a unit
20 organized to serve as a unit is ordered to active duty under
21 authority of subsection (c), the service of all units or mem-
22 bers so ordered to active duty may be terminated by—

23 “(A) order of the Secretary of Defense or, with
24 respect to the Coast Guard, the Secretary of the De-
25 partment in which the Coast Guard is operating; or

1 “(B) law.”; and

2 (7) in subsection (k), as redesignated by para-
3 graph (2)—

4 (A) by redesignating paragraphs (1) and
5 (2) as paragraphs (2) and (3), respectively; and

6 (B) by inserting after the matter preceding
7 paragraph (2), as so redesignated, the following
8 new paragraph:

9 “(1) The term ‘covered incident’ means—

10 “(A) a cyber incident involving a Depart-
11 ment of Defense information system, or a
12 breach of a Department of Defense system that
13 involves personally identifiable information, that
14 the Secretary of Defense determines is likely to
15 result in demonstrable harm to the national se-
16 curity interests, foreign relations, or the econ-
17 omy of the United States, or to the public con-
18 fidence, civil liberties, or public health and safe-
19 ty of the people of the United States;

20 “(B) a cyber incident involving a Depart-
21 ment of Homeland Security information system,
22 or a breach of a Department of Homeland Se-
23 curity system that involves personally identifi-
24 able information, that the Secretary of Home-
25 land Security determines is likely to result in

1 demonstrable harm to the national security in-
2 terests, foreign relations, or the economy of the
3 United States or to the public confidence, civil
4 liberties, or public health and safety of the peo-
5 ple of the United States;

6 “(C) a cyber incident, or collection of re-
7 lated cyber incidents, that the President deter-
8 mines is likely to result in demonstrable harm
9 to the national security interests, foreign rela-
10 tions, or economy of the United States or to the
11 public confidence, civil liberties, or public health
12 and safety of the people of the United States;

13 or

14 “(D) a significant incident declared pursu-
15 ant to section 2233 of the Homeland Security
16 Act of 2002 (6 U.S.C. 677b).”.

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