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S. 4521

To require the President to develop a strategy to ensure the health, safety, and general welfare of the civilian population of the United States in case of catastrophic incidents disabling 1 or more critical infrastructure sectors or significantly disrupting the critical functions of modern society, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2022

Mr. CORNYN (for himself and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the President to develop a strategy to ensure the health, safety, and general welfare of the civilian population of the United States in case of catastrophic incidents disabling 1 or more critical infrastructure sectors or significantly disrupting the critical functions of modern society, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keeping Everyone Safe
3 and Securing Lives by Emergency Readiness Act” or the
4 “KESSLER Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) the integration of connected technologies
8 has become essential to the operation of modern crit-
9 ical infrastructure;

10 (2) reliance on connected technologies and
11 interoperability across critical infrastructure sectors
12 create new vulnerabilities that may be used against
13 the United States;

14 (3) adversaries of the United States have tar-
15 geted critical infrastructure and are likely to in-
16 crease attacks on essential services in the United
17 States should global conflicts escalate;

18 (4) while strong defenses and mitigation meas-
19 ures are essential to the safety of the United States,
20 no strategy can stop all catastrophic events;

21 (5) the Federal Government must prepare Fed-
22 eral, State, and local governments, along with the
23 people of the United States, to promote the general
24 welfare of the civilian population of the United
25 States even if most or all critical infrastructure sec-
26 tors are impacted by catastrophic events; and

1 (6) such preparations must include coordination
2 with State, local, and Tribal governments, private
3 sector entities, and individual citizens.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) **BASIC NEED.**—The term “basic need”—

7 (A) means any good, service, or activity
8 necessary to protect the health, safety, and gen-
9 eral welfare of the civilian population of the
10 United States; and

11 (B) includes—

12 (i) food;

13 (ii) water;

14 (iii) shelter;

15 (iv) reliable energy;

16 (v) basic communication services; and

17 (vi) public safety.

18 (2) **CATASTROPHIC INCIDENT.**—The term “cat-
19 astrophic incident” means an incident, whether
20 caused by human or natural events, in which mul-
21 tiple levels of United States critical infrastructure
22 are destroyed, damaged, or interrupted in sufficient
23 magnitude to threaten the health, safety, or general
24 welfare of the civilian population of the United
25 States.

1 (3) CRITICAL INFRASTRUCTURE.—The term
2 “critical infrastructure” has the meaning given the
3 term in section 1016(e) of the Critical Infrastruc-
4 ture Protection Act of 2001 (42 U.S.C. 5195c(e)).

5 (4) NATIONAL EXERCISE.—The term “national
6 exercise” means a national exercise described in sec-
7 tion 648(b) of the Post-Katrina Emergency Manage-
8 ment Reform Act of 2006 (6 U.S.C. 748(b)).

9 (5) TRIBAL GOVERNMENT.—The term “Tribal
10 government” means the recognized governing body
11 of any Indian or Alaska Native Tribe, band, nation,
12 pueblo, village, community, component band, or com-
13 ponent reservation, that is individually identified (in-
14 cluding parenthetically) in the most recent list pub-
15 lished pursuant to section 104 of the Federally Rec-
16 ognized Indian Tribe List Act of 1994 (25 U.S.C.
17 5131).

18 **SEC. 4. STRATEGY TO ENSURE THE HEALTH, SAFETY, AND**
19 **GENERAL WELFARE OF THE CIVILIAN POPU-**
20 **LATION OF THE UNITED STATES.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, the President shall develop
23 and submit to Congress a strategy to—

1 (1) provide for the basic needs of the civilian
2 population of the United States that is impacted by
3 catastrophic incidents in the United States;

4 (2) coordinate response efforts with State and
5 local governments, the private sector, and nonprofit
6 relief organizations;

7 (3) promote personal and local readiness and
8 non-reliance on government relief during periods of
9 heightened tension or after catastrophic incidents;
10 and

11 (4) develop international partnerships with al-
12 lied nations for the provision of relief services and
13 goods.

14 (b) ELEMENTS OF THE STRATEGY.—The strategy
15 developed under subsection (a) shall include a description
16 of—

17 (1) actions the President will take to ensure the
18 basic needs of the civilian population of the United
19 States in a catastrophic incident are met;

20 (2) how the President will coordinate and facili-
21 tate agreements with non-Federal entities to mul-
22 tiply resources and enhance relief capabilities, in-
23 cluding—

24 (A) State and local governments;

25 (B) Tribal governments;

- 1 (C) State disaster relief agencies;
- 2 (D) State and local disaster relief man-
- 3 agers;
- 4 (E) State National Guards;
- 5 (F) law enforcement and first response en-
- 6 tities; and
- 7 (G) nonprofit relief services;
- 8 (3) actions the President will take to enhance
- 9 individual resiliency to the effects of a catastrophic
- 10 incident, which actions shall include—
- 11 (A) readiness alerts to the public during
- 12 periods of elevated threat;
- 13 (B) efforts to enhance domestic supply and
- 14 availability of critical goods and basic neces-
- 15 sities; and
- 16 (C) information campaigns to ensure the
- 17 public is aware of response plans and services
- 18 that will be activated when necessary;
- 19 (4) efforts the President will undertake and
- 20 agreements the President will seek with inter-
- 21 national allies to enhance the readiness of the
- 22 United States to provide for the general welfare;
- 23 (5) how the strategic plan will be implemented
- 24 should multiple levels of critical infrastructure be de-

1 destroyed or taken offline entirely for an extended pe-
2 riod of time;

3 (6) how the strategic plan will be made oper-
4 ational within the larger response strategy of the
5 United States; and

6 (7) the authorities the President would impli-
7 cate in responding to a catastrophic incident.

8 (c) ASSUMPTIONS.—In designing the strategy under
9 subsection (a), the President shall account for certain fac-
10 tors to make the strategy operationally viable, including
11 the assumption that—

12 (1) multiple levels of critical infrastructure have
13 been taken offline or destroyed by catastrophic inci-
14 dents or the effects of catastrophic incidents;

15 (2) impacted sectors may include—

16 (A) the transportation sector;

17 (B) the communication sector;

18 (C) the energy sector;

19 (D) the healthcare and public health sec-
20 tor;

21 (E) the water and wastewater sector; and

22 (F) the financial sector;

23 (3) State and local governments have been
24 equally affected or made largely inoperable by cata-

1 strophic incidents or the effects of catastrophic inci-
2 dents;

3 (4) the emergency has exceeded the response
4 capabilities of State and local governments under
5 the Robert T. Stafford Disaster Relief and Emer-
6 gency Assistance Act (42 U.S.C. 5121 et seq.) and
7 other relevant disaster response laws; and

8 (5) the United States military is sufficiently en-
9 gaged in armed or cyber conflict with State or non-
10 State adversaries, or is otherwise unable to augment
11 domestic response capabilities in a significant man-
12 ner due to a catastrophic incident.

13 (d) EXISTING PLANS.—The President may incor-
14 porate existing contingency plans in the strategy developed
15 under subsection (a) so long as those contingency plans
16 are amended to be operational in accordance with the re-
17 quirements under this section.

18 (e) AVAILABILITY.—The strategy developed under
19 subsection (a)—

20 (1) shall be made available to Congress and ap-
21 propriate government entities; and

22 (2) may include a classified, or other restricted,
23 annex.

1 (f) DELEGATION.—The President may delegate all or
2 some of the authority under this section to the Secretary
3 of Homeland Security or a designee thereof.

4 **SEC. 5. IMPLEMENTATION PLAN.**

5 Not later than 90 days after the issuance of the strat-
6 egy required under section 4, the President shall issue a
7 plan to implement and operationalize the strategy, which
8 shall include—

9 (1) steps the President will take to prepare im-
10 plicated entities for mobilization under the strategy;
11 and

12 (2) specific actions the President will take to—

13 (A) ensure the continued readiness of the
14 United States to implement the strategy;

15 (B) educate the public and non-Federal en-
16 tities on the strategy and the role individual
17 citizens should play to ensure the objectives of
18 the strategy are met;

19 (C) ensure the objectives of the strategy
20 are met; and

21 (D) ensure foreign adversaries are not able
22 to undermine the operationalization of the
23 strategy.

1 **SEC. 6. NATIONAL RESPONSE EXERCISE.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 issuance of the implementation plan required under sec-
4 tion 5, the Department of Homeland Security shall lead
5 a national exercise, in coordination with the appropriate
6 government agencies, to test and enhance the
7 operationalization of the implementation plan.

8 (b) REQUIREMENTS.—A national exercise conducted
9 under this section shall include participation from most
10 or all entities implicated by the strategy required under
11 section 4, including—

- 12 (1) State, local, and Tribal governments;
13 (2) information sharing and analysis centers;
14 and
15 (3) owners and operators of critical infrastruc-
16 ture.

17 **SEC. 7. RECOMMENDATIONS.**

18 (a) IN GENERAL.—The President shall provide rec-
19 ommendations to Congress for—

- 20 (1) actions that should be taken to prepare the
21 United States to implement the strategy required
22 under section 4, increase readiness, and address pre-
23 paredness gaps for responding to the impacts and
24 effects of catastrophic incidents on citizens of the
25 United States; and

