

116TH CONGRESS  
2D SESSION

# H. R. 6662

To authorize the Administrator of the Federal Emergency Management Agency to become the sole owner and distributor of certain medical equipment in the event of a covered emergency, to establish a Joint Congressional Committee on Defense Production, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2020

Mr. BROWN of Maryland (for himself, Mr. CARBAJAL, Mr. CARSON of Indiana, Mr. CISNEROS, Mrs. HAYES, Ms. JACKSON LEE, Mr. TED LIEU of California, Ms. NORTON, Mr. PANETTA, and Mr. TRONE) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Transportation and Infrastructure, Energy and Commerce, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize the Administrator of the Federal Emergency Management Agency to become the sole owner and distributor of certain medical equipment in the event of a covered emergency, to establish a Joint Congressional Committee on Defense Production, 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 “Pandemic Response  
3 and Interstate Cost Equity Act” or the “PRICE Act”.

4 **SEC. 2. ADMINISTRATOR AS OWNER AND DISTRIBUTER OF**  
5 **CERTAIN MEDICAL EQUIPMENT.**

6       (a) IN GENERAL.—In the event of a covered emer-  
7 gency, the Administrator shall become the sole owner and  
8 distributor of medical equipment obtained by the Federal  
9 Government pursuant to this Act for which the prevailing  
10 market price exceeds the fair market price by more than  
11 15 percent and is required to address the covered emer-  
12 gency.

13       (b) ASSESSMENT OF MEDICAL EQUIPMENT.—To  
14 carry out subsection (a), the Secretary of Health and  
15 Human Services, in consultation with the Administrator  
16 and other Federal agencies or departments as considered  
17 necessary, shall conduct an assessment of available med-  
18 ical equipment, including—

19           (1) identifying the medical equipment required  
20 to address the covered emergency for which the pre-  
21 vailing market price exceeds the fair market price by  
22 more than 15 percent;

23           (2) assessing the amount of such medical equip-  
24 ment available to respond to the covered emergency,  
25 including the amount of such medical equipment  
26 available in the Strategic National Stockpile; and

1           (3) determining the amount of such medical  
2           equipment still needed to respond to the covered  
3           emergency.

4           (c) CONTRACT TO PRODUCE MEDICAL EQUIP-  
5           MENT.—Following the assessment under subsection (b),  
6           the Administrator, in consultation with the Secretary of  
7           Health and Human Services and the Secretary of Defense,  
8           shall—

9           (1) create and execute an indefinite delivery-in-  
10          definite quantity contract with all persons capable of  
11          producing such medical equipment to—

12                 (A) respond to the covered emergency; and

13                 (B) following the covered emergency, re-  
14          plenish the Strategic National Stockpile to a  
15          level acceptable to respond to a future public  
16          health emergency or other covered emergency;

17          (2) require that all contracts created and exe-  
18          cuted under this section supersede any existing con-  
19          tracts such persons have already created or exe-  
20          cuted; and

21          (3) establish a price for such medical equipment  
22          to be resold to the States or other persons.

23          (d) SALE OR DISTRIBUTION OF CERTAIN MEDICAL  
24          EQUIPMENT.—The Administrator shall sell or otherwise  
25          distribute medical equipment to the States or to persons

1 that request such medical equipment, giving consideration  
2 to—

3 (1) requests for medical equipment under sub-  
4 sections (e) and (f);

5 (2) the continuity of operations of the Federal  
6 government; and

7 (3) consultation with public health officials, as  
8 may be necessary.

9 (e) STATE REQUEST FOR MEDICAL EQUIPMENT.—

10 To request an allocation of medical equipment, a State  
11 shall submit to the Administrator a request for medical  
12 equipment, including—

13 (1) the number of impacted individuals in each  
14 State, disaggregated by condition and the severity of  
15 such condition—

16 (A) on the date the request is submitted to  
17 the Administrator;

18 (B) as projected at 14 days from the date  
19 the request is submitted to the Administrator;  
20 and

21 (C) as projected at 60 days from the date  
22 the request is submitted to the Administrator;

23 (2) existing health system medical equipment;

24 (3) medical equipment possessed by the State;

1           (4) an estimate of the quantity of medical  
2       equipment required to diagnose and treat the condi-  
3       tion for which the covered emergency is in effect;  
4       and

5           (5) any additional information as determined  
6       necessary by the Administrator.

7       (f) OTHER REQUESTS FOR MEDICAL EQUIPMENT.—  
8       The Administrator shall establish a process under which  
9       a person may request medical equipment to respond to the  
10      covered emergency.

11      (g) POST-EMERGENCY DISTRIBUTION OF MEDICAL  
12      EQUIPMENT.—Upon the termination of the covered emer-  
13      gency, the Administrator shall distribute any medical sup-  
14      plies not sold or otherwise distributed to the States or any  
15      person to the Strategic National Stockpile.

16      **SEC. 3. REPORTS TO THE CONGRESS.**

17      (a) BIWEEKLY REPORT.—

18           (1) IN GENERAL.—Not less than 14 days after  
19      the date a covered emergency is in effect, and not  
20      less than every 14 days thereafter until the date that  
21      is 30 days after the date on which the covered emer-  
22      gency is terminated, the Administrator shall submit  
23      to the Congress a report on the activities carried out  
24      under this Act.

1           (2) CONTENT.—The report required under  
2 paragraph (1) shall include—

3           (A) information on the number of im-  
4 pacted individuals, disaggregated by State, con-  
5 dition, and severity of such condition—

6           (i) on the date the report is submitted  
7 to the Congress;

8           (ii) as projected at 14 days from the  
9 date the report is submitted to the Con-  
10 gress; and

11          (iii) as projected at 60 days from the  
12 date the report is submitted to the Con-  
13 gress;

14          (B) the amount of medical equipment still  
15 needed to diagnose and treat the condition for  
16 which the covered emergency is in effect,  
17 disaggregated by State;

18          (C) requests submitted by the States or by  
19 persons under section 2;

20          (D) information on the contracts created  
21 and executed under section 2;

22          (E) the amount of medical equipment re-  
23 sold or distributed by the Federal Government,  
24 including the allocation and projected allocation

1 of government and existing health system med-  
2 ical equipment, disaggregated by State—

3 (i) on the date the report is submitted  
4 to the Congress;

5 (ii) as projected at 14 days from the  
6 date the report is submitted to the Con-  
7 gress; and

8 (iii) as projected at 60 days from the  
9 date the report is submitted to the Con-  
10 gress; and

11 (F) other Federal contracts for medical  
12 equipment entered into outside of section 2.

13 (b) FINAL REPORT.—

14 (1) IN GENERAL.—Not later than 60 days after  
15 the termination of the covered emergency, the Ad-  
16 ministrator shall submit to the Congress a report on  
17 the activities carried out under this Act.

18 (2) CONTENT.—The report required under  
19 paragraph (1) shall include—

20 (A) the content from the biweekly reports  
21 submitted to the Congress under subsection (a);

22 (B) the current status of the Strategic Na-  
23 tional Stockpile, including the inventory of med-  
24 ical equipment and the projected quantity of  
25 medical equipment required to mitigate a future

1 public health emergency or other covered emer-  
2 gency; and

3 (C) an assessment of actions that Federal,  
4 State, and local governments should take to  
5 build resiliency to prevent, detect, treat, and  
6 mitigate a public health emergency or other  
7 covered emergency.

8 **SEC. 4. FUNDING.**

9 Amounts available in the Defense Production Act  
10 Fund under section 304 of the Defense Production Act  
11 of 1950 (50 U.S.C. 4534) may be made available for pur-  
12 chases made under this section.

13 **SEC. 5. ESTABLISHMENT OF JOINT CONGRESSIONAL COM-**  
14 **MITTEE.**

15 (a) ESTABLISHMENT AND MEMBERSHIP.—

16 (1) IN GENERAL.—There is established a Joint  
17 Committee on Defense Production (referred to in  
18 this section as the “Committee”), to be composed  
19 of—

20 (A) five members of the Committee on Fi-  
21 nancial Services of the House of Representa-  
22 tives, with three members from the majority  
23 party and two from the minority party, to be  
24 appointed by the chairman of the Committee on  
25 Financial Services; and

1                   (B) five members of the Committee on  
2                   Banking, Housing, and Urban Affairs of the  
3                   Senate, with three members from the majority  
4                   party and two from the minority party, to be  
5                   appointed by the chairman of the Committee on  
6                   Banking, Housing, and Urban Affairs.

7                   (2) CHAIRMAN AND VICE CHAIRMAN.—The  
8                   Committee shall elect a chairman and a vice chair-  
9                   man from among its members, one of whom shall be  
10                  a member of the House of Representatives and the  
11                  other a member of the Senate.

12                  (3) VACANCY.—A vacancy in the membership of  
13                  the Committee shall be filled in the same manner as  
14                  the original selection.

15                  (b) POWERS.—The Committee, or any duly author-  
16                  ized subcommittee thereof, is authorized to hold such  
17                  hearings, to sit and act at such times and such places,  
18                  to require by subpoena (to be issued under the signature  
19                  of the chairman or vice chairman of the Committee) or  
20                  otherwise the attendance of such witnesses and the pro-  
21                  duction of such books, papers, and documents, to admin-  
22                  ister such oaths, to take such testimony, to procure such  
23                  printing and binding, and to make such expenditures as  
24                  it considers advisable.

1       (c) DUTIES.—The Committee shall be responsible for  
2 the continuous study of the programs authorized by this  
3 Act, and to review the progress achieved in the execution  
4 and administration of such programs. Upon request, the  
5 Committee shall aid the standing committees of the Con-  
6 gress having legislative jurisdiction over any part of the  
7 programs authorized by this Act; and it shall make a re-  
8 port to the House of Representatives and the Senate, from  
9 time to time, concerning the results of its studies, together  
10 with such recommendations as it may consider desirable.

11       (d) INFORMATION FROM FEDERAL AGENCIES AND  
12 DEPARTMENTS.—Any department, official, or agency ad-  
13 ministering any of such programs shall, at the request of  
14 the Committee, consult with the Committee, from time to  
15 time, with respect to their activities under this Act.

16       (e) EXPENSES.—The expenses of the Committee,  
17 which shall not exceed \$750,000 in any fiscal year, shall  
18 be paid one-half from the contingent fund of the House  
19 of Representatives and one-half from the contingent fund  
20 of the Senate upon vouchers signed by the chairman or  
21 vice chairman.

22 **SEC. 6. DEFINITIONS.**

23       In this Act:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Federal  
3           Emergency Management Agency.

4           (2) COVERED EMERGENCY.—The term “covered  
5           emergency” means a national emergency in which  
6           the President has declared a national emergency and  
7           determined that—

8                     (A) a disease or disorder presents an emer-  
9                     gency that affects the United States; or

10                    (B) a public health emergency exists, in-  
11                    cluding a significant outbreak of an infectious  
12                    disease or a bioterrorist attack.

13           (3) EXISTING HEALTH SYSTEM MEDICAL  
14           EQUIPMENT.—The term “existing health system  
15           medical equipment” means medical equipment  
16           owned by a hospital.

17           (4) FAIR MARKET PRICE.—The term “fair mar-  
18           ket price” means the average market price of med-  
19           ical equipment from the preceding calendar year.

20           (5) HOSPITAL.—The term “hospital” has the  
21           meaning given the term under section 1861(e) of the  
22           Social Security Act (42 U.S.C. 1395x(e)).

23           (6) IMPACTED INDIVIDUALS.—The term “im-  
24           pacted individuals” means an individual—

1 (A) diagnosed with a condition for which  
2 the public health emergency has been issued;

3 (B) that is experiencing symptoms con-  
4 sistent with the condition for which the covered  
5 emergency has been issued and is seeking a  
6 medical diagnosis;

7 (C) that has been identified as having been  
8 exposed to a bioterrorist attack; or

9 (D) otherwise meets criteria determined by  
10 the Administrator during the covered emer-  
11 gency period.

12 (7) INDEFINITE DELIVERY-INDEFINITE QUAN-  
13 TITY CONTRACT.—The term “indefinite delivery-in-  
14 definite quantity contract” means a contract to pro-  
15 vide for an indefinite quantity of materials or serv-  
16 ices for a fixed time.

17 (8) INDIAN TRIBE.—The term “Indian tribe”  
18 has the meaning given the term in section 4 of the  
19 Indian Self-Determination and Education Assistance  
20 Act (25 U.S.C. 5304).

21 (9) MEDICAL EQUIPMENT.—The term “medical  
22 equipment” means—

23 (A) N95 respirators;

24 (B) medical ventilators;

25 (C) face shields;

- 1 (D) medical exam gloves;
- 2 (E) surgical gowns;
- 3 (F) diagnostic tests; and
- 4 (G) such other medical equipment as the
- 5 Administrator determines to be necessary.

6 (10) NATIONAL EMERGENCY.—The term “na-  
7 tional emergency” means a national emergency de-  
8 clared by the President under the National Emer-  
9 gencies Act (50 U.S.C. 1601 et seq.).

10 (11) OPERATIONS OF THE FEDERAL GOVERN-  
11 MENT.—The term “operations of the Federal gov-  
12 ernment” means—

13 (A) the activities and operations of any  
14 Federal department or agency that is substan-  
15 tially concerned with the operations or activities  
16 required to respond to a public health emer-  
17 gency; and

18 (B) the activities and operations of the  
19 Armed Forces.

20 (12) PERSON.—The term “person” has the  
21 meaning given such term in section 702 of the De-  
22 fense Production Act of 1950 (50 U.S.C. 4552).

23 (13) PREVAILING MARKET PRICE.—The term  
24 “prevailing market price” means the average market  
25 price of medical equipment during the prior 30 days,

1 as determined by the Secretary of Health and  
2 Human Services.

3 (14) PUBLIC HEALTH EMERGENCY.—The term  
4 “public health emergency” means a public health  
5 emergency declared under section 319 of the Public  
6 Health Service Act (42 U.S.C. 247d).

7 (15) STATE.—The term “State” means each of  
8 the 50 States and the District of Columbia, each of  
9 the territories, and Indian tribes.

10 (16) STRATEGIC NATIONAL STOCKPILE.—The  
11 term “Strategic National Stockpile” means the  
12 stockpile established under section 319F–2 of the  
13 Public Health Service Act (42 U.S.C. 247d–6b).

14 (17) TERRITORY.—The term “territory” means  
15 the United States Virgin Islands, Puerto Rico,  
16 Guam, American Samoa, and the Commonwealth of  
17 the Northern Mariana Islands.

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