

DHS MEDICAL COUNTERMEASURES ACT

JUNE 1, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 3263]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3263) to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security a medical countermeasures program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 3263, the “DHS Medical Countermeasures Act,” requires the Department of Homeland Security (DHS) Secretary to establish a medical countermeasures program to facilitate personnel readiness and protection for the Department’s employees and working

animals in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic, and to support Department mission continuity.

BACKGROUND AND NEED FOR LEGISLATION

First introduced in the 114th Congress, and passed by the House of Representatives in the 115th Congress as part of H.R. 2825, the “Department of Homeland Security Authorization Act for Fiscal Years 2018 and 2019,” this legislation is responsive to findings of an August 2014 DHS Office of Inspector General (OIG) report entitled, “DHS Has Not Effectively Managed Pandemic Personal Protective Equipment and Antiviral Medical Countermeasures.” At the time, it was developed due to concern about the possibility of a severe pandemic that could cause illnesses, fatalities, and disrupt U.S. economic and social stability.

The concerns of the DHS OIG report were realized on December 31, 2019, when the World Health Organization (WHO) identified a media report from the Wuhan Municipal Health Commission in China regarding dozens of patients receiving treatment for a “viral pneumonia” from an unknown source.¹ The virus, “severe acute respiratory syndrome coronavirus 2” (SARS-CoV-2), causes Coronavirus Disease 2019 (COVID-19). Since the initial cases, COVID-19 has resulted in a global pandemic.² In the U.S. alone, the pandemic has resulted in the death of at least 590,000 people.³

COVID-19’s impact was felt within the DHS workforce, which stands at more than 240,000 employees.⁴ With nearly 85 percent of the DHS personnel working on the frontlines and unable to work remotely or practice social distancing, keeping personnel safe during the pandemic has had homeland security implications.

Early in the pandemic, the U.S. Strategic National Stockpile was completely inadequate to support a robust pandemic response.⁵ Additionally, huge global demand created supply shortages that left Federal, State, and local governments without critical personal protective equipment (PPE). DHS was no exception to the PPE shortage. Some personnel used expired respirators and others even forwent or reused PPE while working the frontlines of the pandemic.⁶ Instances such as the COVID-19 PPE shortage highlight the importance of DHS establishing countermeasures to keep front-line personnel safe. H.R. 3263 was introduced in response to the lessons learned during the COVID-19 pandemic.

¹World Health Organization, *Timeline of WHO’s response to COVID-19*, (June 29, 2020), available at <https://www.who.int/news-room/detail/29-06-2020-covidtimeline>.

²World Health Organization, *Naming the coronavirus disease (COVID-19) and the virus that causes it*, available at [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it).

³Centers for Disease Control and Prevention, *COVID-19 Mortality Overview*, available at <https://www.cdc.gov/nchs/covid19/mortality-overview.htm>.

⁴U.S. Department of Homeland Security, “About DHS,” available at <https://www.dhs.gov/about-dhs>.

⁵Patrice Taddonio, “Depleted National Stockpile Contributed to COVID PPE Shortage: ‘You Can’t Be Prepared If You’re Not Funded to Be Prepared,’” PBS, (Oct. 6, 2020), available at <https://www.pbs.org/wgbh/frontline/article/depleted-national-stockpile-contributed-to-covid-ppe-shortage/>.

⁶Nick Miroff, “U.S. government has 1.5 million expired N95 masks sitting in an Indiana warehouse,” *The Washington Post*, (Mar. 26, 2020), available at <https://www.washingtonpost.com/national/coronavirus-government-mask-stockpile/2020/03/26/89d729c8-6f5b-11ea-96a0-df4c5d9284af—story.html>.

HEARINGS

For the purposes of clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 3263:

The Committee did not hold a legislative hearing on H.R. 3263 in the 117th Congress. However, the legislation was informed by the following hearings in the 116th Congress:

On June 16, 2020, the Subcommittee on Oversight, Management, and Accountability held a hearing entitled, “Business as Usual? Assessing How DHS Can Resume Operations Safely.” The Subcommittee received testimony from Dr. Everett Kelley, National President, American Federation of Government Employees, AFL-CIO; Mr. Anthony M. Reardon, National President, National Treasury Employees Union; and Mr. Brandon Judd, National President, National Border Patrol Council.

On July 14, 2020, the Subcommittees on Emergency Preparedness, Response, and Recovery and Oversight, Management, and Accountability held a joint hearing entitled, “Reviewing Federal and State Pandemic Supply Preparedness and Response.” The Subcommittees received testimony from Hon. Craig Fugate, Senior Advisor, Blue Dot Strategies and Former Administrator, Federal Emergency Management Agency; Mr. Mark Ghilarducci, Director, Office of Emergency Services, Governor’s Office, California; and Mr. Chris Currie, Director, Homeland Security and Justice, U.S. Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on May 18, 2021, with a quorum being present, to consider H.R. 3263 and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

No amendments were offered during consideration of H.R. 3263.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3263.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET
AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of

Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3263 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the objectives of H.R. 3263 are to require the Secretary to establish a medical countermeasures program to facilitate personnel readiness; protection for the Department's employees and working animals in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic; and to support Department mission continuity.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS ADVISORY COMMITTEE STATEMENT

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3263 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section states that the Act may be cited as the "DHS Medical Countermeasures Act."

Sec. 2. Medical Countermeasures Program.

This section requires the Secretary of DHS to establish a medical countermeasures program to support DHS mission continuity and

facilitate the readiness and protection of DHS personnel and working animals in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic.

Additionally, it requires the Chief Medical Officer (CMO) of DHS to do the following: provide programmatic oversight of the Medical Countermeasures Program; establish a Medical Countermeasures Working Group comprised of relevant DHS components and offices to maintain medical countermeasure standards and consistent guidance; provide the Secretary of DHS an integrated logistics support plan for medical countermeasures; and utilize DHS chemical, biological, radiological, and nuclear risk assessments to determine the types and quantities of medical countermeasures included to stockpile.

Under this section, the DHS Secretary must provide a report to the House Committee on Homeland Security and the Senate Homeland Security and Governmental Affairs Committee not later than 180 days after the date of enactment on the progress in achieving the bill's requirements.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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TITLE XIX—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

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Subtitle C—Chief Medical Officer

Sec. 1931. Chief Medical Officer.

Sec. 1932. *Medical countermeasures.*

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TITLE XIX—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

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Subtitle C—Chief Medical Officer

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SEC. 1932. MEDICAL COUNTERMEASURES.

(a) *IN GENERAL.*—The Secretary shall establish a medical countermeasures program to facilitate personnel readiness, and protection for the Department's employees and working animals in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic, and to support Department mission continuity.

(b) *OVERSIGHT.*—The Chief Medical Officer of the Department shall provide programmatic oversight of the medical countermeasures program established pursuant to subsection (a), and shall—

(1) develop Department-wide standards for medical countermeasure storage, security, dispensing, and documentation;

(2) maintain a stockpile of medical countermeasures, including antibiotics, antivirals, and radiological countermeasures, as appropriate;

(3) preposition appropriate medical countermeasures in strategic locations nationwide, based on threat and employee density, in accordance with applicable Federal statutes and regulations;

(4) provide oversight and guidance regarding the dispensing of stockpiled medical countermeasures;

(5) ensure rapid deployment and dispensing of medical countermeasures in a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic;

(6) provide training to Department employees on medical countermeasure dispensing; and

(7) support dispensing exercises.

(c) *MEDICAL COUNTERMEASURES WORKING GROUP.*—The Chief Medical Officer shall establish a medical countermeasures working group comprised of representatives from appropriate components and offices of the Department to ensure that medical countermeasures standards are maintained and guidance is consistent.

(d) *MEDICAL COUNTERMEASURES MANAGEMENT.*—Not later than 120 days after the date of the enactment of this section, the Chief Medical Officer shall develop and submit to the Secretary an integrated logistics support plan for medical countermeasures, including—

(1) a methodology for determining the ideal types and quantities of medical countermeasures to stockpile and how frequently such methodology shall be reevaluated;

(2) a replenishment plan; and

(3) inventory tracking, reporting, and reconciliation procedures for existing stockpiles and new medical countermeasure purchases.

(e) *STOCKPILE ELEMENTS.*—In determining the types and quantities of medical countermeasures to stockpile under subsection (d), the Chief Medical Officer shall utilize, if available—

(1) Department chemical, biological, radiological, and nuclear risk assessments; and

(2) Centers for Disease Control and Prevention guidance on medical countermeasures.

(f) *REPORT.*—Not later than 180 days after the date of the enactment of this section, the Secretary shall submit to the Committee on

Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the plan developed in accordance with subsection (d) and brief such Committees regarding implementing the requirements of this section.

(g) *DEFINITION.—In this section, the term “medical countermeasures” means antibiotics, antivirals, radiological countermeasures, and other countermeasures that may be deployed to protect the Department’s employees and working animals in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, or pandemic.*

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