



**CONGRESSIONAL BUDGET OFFICE  
PAY-AS-YOU-GO ESTIMATE**

July 8, 2002

**H.R. 3448  
Public Health Security and Bioterrorism Preparedness and Response  
Act of 2002**

*As cleared by the Congress on May 23, 2002, with corrections adopted in  
S. Con. Res. 117 on June 4, 2002, and signed by the President on June 12, 2002*

**SUMMARY**

H.R. 3448, enacted as Public Law 107-188, provides the Department of Health and Human Services and the Department of Agriculture with new authorities to regulate the possession, use, and transfer of certain biological agents and toxins. The act includes assessments of civil penalties of up to \$500,000 for violations of the regulations. In addition, the act creates criminal penalties for unlawful possession and unauthorized transfers of certain biological agents and toxins. Violators can be fined or imprisoned for up to five years, or both. The new criminal penalties will be deposited as revenues into the Crime Victims Fund and spent in subsequent years as direct spending. CBO estimates that the increase in civil and criminal penalties will not be significant in any year.

The act also grants new authority to the Secretary of the Department of Health and Human Services to temporarily waive certain requirements of Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP) during disasters declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act or a public health emergency declared by the Secretary under section 319 of the Public Health Service Act. CBO estimates that Medicare, Medicaid, and SCHIP costs attributable to the use of waiver authority will be about \$10 million over the 2003-2012 period.

**ESTIMATED COST TO THE FEDERAL GOVERNMENT**

CBO's estimate of the impact of H.R. 3448 on direct spending and revenues is shown in the following table. Only the estimated changes through fiscal year 2006 are counted for pay-as-you-go purposes. The costs of this legislation fall within budget functions 550 (health), 570 (Medicare), and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	1	1	1	1	1	1	1	1	1
Changes in receipts	0	0	0	0	0	0	0	0	0	0

## **BASIS OF ESTIMATE**

### **Civil Monetary Penalties and Criminal Penalties**

H.R. 3448 allows the Secretary of Health and Human Services and the Secretary of Agriculture to seek civil penalties against violators of standards and procedures governing the possession, use, and transfer of certain biological agents and toxins. Those penalties are limited to \$250,000 in the case of an individual and \$500,000 in the case of any other person. Civil penalties are recorded in the budget as governmental receipts (revenues). The bill also creates new criminal penalties, which will be deposited as revenues into the Crime Victims Fund and spent in subsequent years.

The Department of Health and Human Services already regulates the transfer of certain biological agents and toxins, but no criminal penalties have been imposed as a result. CBO expects that revenues from civil penalties under Public Law 107-188 will not be significant. Furthermore, CBO estimates that the increase in revenues and direct spending resulting from the provisions on criminal penalties will not be significant in any year.

### **Waiver of Medicare, Medicaid, and SCHIP law**

Under current law, health care providers that participate in federal health care programs must meet a range of requirements in order to receive reimbursement. Regardless of whether they fully comply with such requirements, physicians and other health care providers are likely to assist patients in a disaster or other public health emergency. For example, a vacationing physician may volunteer his services in a disaster that occurs in a state in which he is not licensed. In those circumstances, providers not meeting program participation requirements were technically not eligible for reimbursement under prior law. However, according to officials at the Center for Medicare and Medicaid Services, the Administration generally pays providers for services furnished to eligible beneficiaries in emergency circumstances.

CBO anticipates that the Secretary will use the waiver authority provided by the act in a range of circumstances, including natural disasters, a flu epidemic, or a biological terrorist incident. We expect that the act will encourage some providers to file claims for services provided during emergencies that they would not have filed under prior law because of an expectation that their services would not be reimbursed. Spending will increase by about \$1 million per year, and by \$10 million over the 2003-2012 period, CBO estimates.

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